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SENATE—*Tuesday, December 11, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable JEAN CARNAHAN, a Senator from the State of Missouri.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Faithful Father, we place our trust in You. We say with the psalmist, "In You, O Lord, I put my trust."—Psalm 71:1. Things don't work out, You work out things. We entrust into Your care the worries and cares we may have brought to work with us today. We commit our loved ones and friends into Your protection. We pray for continued victory in the war against terrorism and pray for the safety of our men and women in the armed services. Here in the Senate family, we pray that our trust in You will make us trustworthy. Give us greater trust in one another. Free us of defensiveness and suspicion of those who may not share our party loyalties or particular persuasions. Bind us together in the oneness of a shared commitment to You, a passionate patriotism, and a loyal dedication to find Your solutions for the concerns that confront and often divide us. Bless the women and men of this Senate as they renew their ultimate trust in You and are faithful to the trust placed in them by the American people. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEAN CARNAHAN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 11, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEAN CARNAHAN, a Senator from the State of Missouri, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CARNAHAN thereupon assumed the chair as the Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will conduct three successive rollcall votes. Following that, the Senate will resume consideration of the farm bill. As has been the case for many months, the Senate will recess from 12:30 to 2:15 for the weekly party conferences.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JOHN D. BATES, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will go into executive session and proceed to Executive Calendar Nos. 586, 587, and 591.

The clerk will report Calendar No. 586.

The bill clerk read the nomination of John D. Bates, of Maryland, to be a U.S. District Judge for the District of Columbia.

Mr. HATCH. Madam President, I rise to express my enthusiastic support for the three judicial nominees the Senate is about to consider. All three are extremely well-qualified nominees who have distinguished themselves with hard work and great intellect. I think they will do great service for the citizens of our country.

One of the nominees we are considering today is John Bates. Mr. Bates has compiled an impressive resume during his 25-year legal career, having masterfully handled complex litigation in both the public and private sectors. He began his career with a federal district court clerkship, then joined the highly regarded Washington, D.C. firm of Steptoe & Johnson as an associate. In 1980, he left private practice to become an Assistant United States Attorney here in D.C. He developed a specialization in handling complex civil cases, eventually rising to become chief of the office's civil division.

After 15 years at the U.S. Attorney's Office and a detail to the Office of the Independent Counsel investigating Whitewater, Mr. Bates returned to the private sector in 1998, joining the D.C. firm of Miller & Chevalier as a member. Despite the demands of his legal practice, he has demonstrated a true commitment to his community through his service on the Board of Directors of the Washington Lawyers' Committee on Civil Rights and Urban Affairs. The breadth and depth of Mr. Bates's legal career will serve him well as a federal district court judge here in the District of Columbia.

Another one of our district court nominees is Kurt Engelhardt, who has been nominated to be a federal district judge in the Eastern District of Louisiana. During his 15-year legal career, Mr. Engelhardt has handled a wide array of civil litigation cases, including commercial litigation, bankruptcy, and casualty and professional malpractice defense work.

In 1995, the Conference of the Louisiana Court of Appeal Judges nominated Mr. Engelhardt to serve on the Judiciary Commission of Louisiana,

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

which is the body of the Louisiana Supreme Court responsible for hearing allegations of ethical violations by state judges and making disciplinary recommendations. This appointment reflects the high esteem in which Louisiana's judges hold Mr. Engelhardt. I am confident that his demonstrated exercise of sound judgment will bring honor and fairness to the federal bench.

Julie A. Robinson has been nominated for the federal bench in the District of Kansas. She graduated from the University of Kansas School of Law and then went to work as a law clerk to the Chief Bankruptcy Judge for the District of Kansas. She must have liked that clerkship for the last six years, she has been sitting as a Bankruptcy Judge on that very same court, and also currently serves as a Judge on the Tenth Circuit Bankruptcy Appellate Panel. In between, Judge Robinson gained a wealth of both criminal and civil experience as an Assistant U.S. Attorney in the District of Kansas. Judge Robinson is a Fellow of the American Bar Foundation and sits on many committees as a member of the National Conference of Bankruptcy Judges, the Kansas Bar Association, and as a past president of the Board of Governors for the University of Kansas School of Law. She is currently a Master of the Sam Crow Inn of Court. Judge Robinson's obvious skills, work ethic, and devotion to her profession make it clear that the people of Kansas will be well served with her on the District Court bench.

It is a pleasure to speak on behalf of these nominees prior to their votes. I encourage my colleagues to vote for their confirmation.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of John D. Bates, of Maryland, to be a U.S. District Judge for the District of Columbia? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Ohio (Mr. VOINOVICH), the Senator from Nebraska (Mr. HAGEL), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) would vote "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 361 Ex.]

YEAS—97

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—3

Hagel
Inhofe
Voinovich

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, I am about to make a unanimous consent request on these judges. I want people to know the three judicial nominations before us today fill vacancies in the District of Columbia, the eastern district of Louisiana, and Kansas. When we act favorably on these nominations, we will have confirmed 24 Federal judges since July, including 6 to the courts of appeals.

I mention that because when I became chairman of the Judiciary Committee in July, Federal court vacancies were rising to 111. Since July, we have worked very hard. The Senate has been cooperative. We have confirmed two dozen judges. We are lowering the number of vacancies. In fact, since I became chairman, we have had 19 additional vacancies arise. But we have not only outpaced this high level of attrition, we have lowered the vacancies to under 100. Of course, we would not have had nearly as many vacancies had the Senate confirmed the judges nominated by President Clinton.

We have made progress and outpaced attrition. We have filled vacancies. We are moving forward. I thank Senators on both sides of the aisle who have helped so much on this, who have worked with us even when we had to move out of the Senate office buildings because of anthrax attacks and the September 11 attacks. We have kept going. Contrary to what one person said on TV, inaccurately, and I assume by mistake, this weekend about not keeping up with attrition, we not only have kept up with attrition, we have outpaced attrition.

We will try to keep that number moving in the right direction. In spite of the upheavals we have experienced this year with the shifts in chairmanship, the delay in reorganizing the Senate and assigning Members to the committees, the vacancies that have arisen since this summer, the need to focus our attention on responsible action in the fight against international terrorism and the threats and dislocations of the anthrax attacks, we are making progress.

Far from taking a "time out," as Republicans were suggesting, this Committee has been in overdrive since July and we redoubled our efforts after September 11, 2001.

During the last 6½ years when a Republican majority controlled the process, the vacancies rose from 65 to at least 103, an increase of almost 60 percent.

Since July, we have been making strides to reverse that record and have worked hard to reduce vacancies below the 111 vacancies that existed in July.

In addition to the three nominations being considered by the Senate today, another three nominations to vacancies on the District Courts in New Mexico, Arizona and Georgia are on the Senate Executive Calendar, and another five nominations were included in a hearing last Wednesday.

If the Committee is able to report those nominations and the Senate acts favorably on them before recessing for the year, we will have confirmed 32 judges since July and 28 since the August recess. This is more judges than were confirmed after the August recess in any of the last 6½ years. It would be more judges than were confirmed in the first year of the Clinton administration and include twice as many judges to the Courts of Appeals as were confirmed that year.

It would be more than twice as many judges as were confirmed in the first year of the first Bush administration, including more judges to the Courts of Appeals.

The President has yet to send nominations to fill more than half of the current vacancies. This is a particular problem with the 71 District Court vacancies, for which 50—more than—70 percent—do not have nominations pending.

We have been able to reduce vacancies over the last 6 months through hard work and a rapid pace of scheduling hearings. Until I became Chairman of the Judiciary Committee, no judicial nominees had been given hearings this year. No judicial nominees had been considered by the Judiciary Committee or been voted upon by the Senate.

After almost a month's delay in the reorganization of the Senate in June while Republicans sought leverage to change the way judicial nominations had traditionally been considered and abruptly abandoned the practices that they had employed for the last 6½ years, I noticed our first hearing on judicial nominees within 10 minutes of the reorganization resolution being adopted by the Senate.

I have previously noted that during the 6½ years that the Republican majority most recently controlled the confirmation process, in 34 of those months they held no confirmations for any judicial nominees at all, and in 30 other months they conducted only a single confirmation hearing involving judicial nominees.

Since the Committee was assigned its members in early July, 2001, we have held confirmation hearings every month, including two in July, two during the August recess, two during December and three hearings during October. Only once during the previous 6½ years has the Committee held as many as three hearings in a single month.

On the other hand, on at least three occasions during the past 6½ years the Committee had gone more than five months without holding a single hearing on a pending judicial nominee. We have held more hearings involving judicial nominees since July 11, 2001 than our Republican predecessors held in all of 1996, 1997, 1999 or 2000. In the last six months of this extraordinarily challenging year, the Committee has held 11 hearings involving judicial nominees.

Last week the Committee held its tenth hearing on judicial nominations and yesterday I chaired our eleventh since the Committee was assigned its membership on July 10, 2001. During the three months since September 11, the Judiciary Committee has held seven judicial confirmation hearings—the same number that the Republican majority held in all of 1999 and one more than they held in all of 1996. Since July we have held hearings on 34 judicial nominees, including seven to the Courts of Appeals.

Since September 11 we have held hearings on 27 judicial nominees, including four to the Courts of Appeals.

Working with the Majority Leader and the Deputy Leader, I have adopted a practice for the second half of this year of working with all Senators and with the Administration to try to fill an many judicial vacancies as possible. To date we have succeeded in confirming 24 judges.

We have persevered through extraordinary circumstances during which the Senate building housing the Judiciary Committee hearing room was closed, as were the buildings housing the offices of all the Senators on the Committee. We persevered through a partisan filibuster preventing action on the bill that funds our nation's foreign policy initiatives and provides funds to help build the international coalition against terrorism.

We showed patience and resolve when at our November hearing a family member of one of the nominees grew faint and required medical attention. That hearing was completed after attending to those medical needs.

We have accomplished more, and at a faster pace, than in years past. Even with the time needed by the FBI to follow up on the allegations that arose regarding Judge Wooten in connection with his confirmation hearing, we have proceeded much more quickly than at any time during the last 6½ years. Thus, while the average time from nomination to confirmation grew to well over 200 days for the last several years, we have considered nominees much more promptly.

Measured from receipt of their ABA peer reviews, we have confirmed the judges this year, including the Court of Appeals nominees, on average in less than 60 days. So, we are working harder and faster than previously on judicial nominations, despite the difficulties being faced by the nation and the Senate.

We have also completed work on a number of judicial nominations in a more open manner than ever before.

For the first time, this Committee is making public the "blue slips" sent to home State Senators. Until my chairmanship, these matters were treated as confidential materials and restricted from public view. We have moved nominees with less time from hearings to the Committee's business meeting agenda, and then out to the floor, where nominees have received timely roll call votes and confirmations.

The past practices of extended unexplained anonymous holds on nominees after a hearing have not been evident in the last six months of this year as they were in the past. Indeed over the past 6½ years at least eight judicial nominees who completed a confirmation hearing were never considered by the Committee but left without action.

Likewise, the extended, unexplained, anonymous holds on the Senate Executive Calendar that characterized so much of the last 6½ years have not slowed the confirmation process this year. Majority Leader DASCHLE has moved swiftly on judicial nominees reported to the calendar.

Once those judicial nominees have been afforded a timely rollcall vote, the record shows that the only vote against any of President Bush's nominees to the federal courts to date was cast by the Republican Leader.

With respect to law enforcement, I have noted that the administration was quite slow in making United States Attorney nominations, although it had called for the resignations of United States Attorneys early in the year.

Since we began receiving nominations just before the August recess, we have been able to report, and the Senate has confirmed, 57 of these nominations. We have only a few more United States Attorney nominations received in November and December, and await approximately 30 nominations from the Administration. These are the President's nominees based on the standards that he and the Attorney General have devised.

I note, again, that it is most unfortunate that we still have not received even a single nomination for any of the United States Marshal positions. United States Marshals are often the top federal law enforcement officer in their district. They are an important front-line component in homeland security efforts across the country. We are near the end of the legislative year without a single nomination for these 94 critical law enforcement positions.

It will likely be impossible to confirm any United States Marshals this year having not received any nominations in the first 11 and one-half months of the year.

In the wake of the terrorist attacks on September 11, some of us have been seeking to join together in a bipartisan effort in the best interests of the country.

For those on the Committee who have helped in those efforts and assisted in the hard work to review and consider the scores of nominations we have reported this year, I thank them. As the facts establish and as our actions today and all year demonstrate, we are moving ahead to fill judicial vacancies with nominees who have strong bipartisan support. These include a number of very conservative nominees.

The nominations before the Senate today are John Bates for the District of Columbia, Julie Robinson for the District Court in Kansas, and Kurt Engelhardt for the District Court in the Eastern District of Louisiana.

Before I became Chairman, the last confirmation to the District Court for the District of Columbia was that of Judge Ellen Huvelle. Despite being a distinguished judge in the D.C. Superior Court for nearly a decade, her nomination was pending for almost seven months before she received a hearing. Judge Colleen Kollar-Kotelly had similar credentials and suffered even worse delays. Judge Kollar-Kotelly also served as a distinguished local judge. Her confirmation, nonetheless, required two nominations over two years before she was finally confirmed in 1997. She was not confirmed for eight months after her confirmation hearing. Of course, she has now replaced Judge Jackson as the judge in charge of proceedings on the government suit and proposed settlement of that legal action against Microsoft.

Despite nominees for vacancies on the District Court for the District of Columbia over the past several years, no nomination to this District Court had received a hearing in over two years. Things changed this July. First, we moved expeditiously to consider the nomination of Judge Reggie Walton to one of those longstanding vacancies. I chaired an unprecedented August recess hearing for Judge Walton and he was confirmed in September. Now we are proceeding, with the support of Representative Norton, to fill a second longstanding vacancy on the District Court for the District of Columbia.

John Bates will be the second confirmation to the United States District Court for the District of Columbia in the last three months, after years of inaction.

The vacancy that is being filled by Judge Robinson is one that existed before I became chairman. Indeed, last year the President had nominated Keith Gary Sebelius in anticipation of that vacancy.

In the last 6 months of last year Mr. Sebelius was not included in a hearing and his nomination died without Committee action and without Senate action when it was returned to the White House last December. Last year the Republican majority held only two hearings involving only seven District Court nominees in July and no hearings for any other judicial nominees in August, September, October, November or December, in spite of the vacancies and pending judicial nominations to fill them. This year, during the same time frame, the Committee has held 11 hearings involving 34 judicial nominations of which 27 have already been reported favorably to the Senate.

With respect to the vacancy in Kansas, Senators ROBERTS and BROWNBACK wrote to me in October enclosing a letter from the Chief Judge of that District indicating that the vacancy combined with medical leave for a senior Judge had created a serious problem in that District. Chief Judge Lungstrum noted in his letter to Senator ROBERTS that the District in Kansas was without an active judge it its Topeka division. Just as we responded quickly to the Chief Judge of the District Court in Montana and the Chief Judge of the District Court in the Eastern District of Kentucky, we have responded to Chief Judge Lungstrum. Judge Robinson was included in a hearing on November 7 and reported by the Committee last month.

With respect to the vacancy on the Eastern District of Louisiana, that vacancy predated my chairmanship, as well. I recall the nomination in 1997 of Judge Lemelle to a vacancy on that court, the hearing held on his nominations more than 11 months later and his confirmation later still that year. I am glad to work with Senators BREAUX and LANDRIEU to help fill another vacancy on that important court and to be able to do so within one-third the time it took to confirm the last judge to this District.

I am proud of the work the Committee has done on nominations, and I am proud that by the end of today we will have confirmed 24 judges. I hope that by the end of this session that total will rise to about 30 as the Committee continues its work on the nominations heard last week and the Senate confirms the additional three nominees previously reported by the Committee.

Mr. HATCH. Madam President, I wish to respond to remarks by my good friend and colleague, the distinguished Senator from Vermont, about the pace of moving judicial nominees. Now, at the outset, I should say I am pleased that we are moving the few judges we have moved to date. However, despite the confirmation of three Federal judges today, the number of vacancies in the Federal judiciary remains at nearly 100—not far from where it has hovered ever since the Democrats assumed control of the Judiciary Committee. This is no victory—the vacancy rate still stands at a staggering 11.3 percent.

In 1997, Senator LEAHY remarked:

> For the past several months I have spoken about the crisis being created by the almost 100 vacancies that are being perpetuated on the Federal courts around the country and the failure of the Senate to carry out its constitutional responsibilities to advise and consent to judicial confirmations. . . . Confirming Federal judges should not be a partisan issue. The administration of justice is not a political issue. Working together, the Senate should do our constitutionally mandated job and proceed to confirm the judges we need for the Federal system.

I couldn't agree more with these sentiments. One hundred vacancies in the Federal judiciary is nothing to brag about, especially when there are 40 nominees waiting to fill these gaps. Some of these nominees have been waiting for hearings as long as seven months, and it is evident that most, if not all, of them will not get a hearing and vote this year.

Maybe some of my colleagues forget that earlier in the year when we attempted to move the first of President Bush's judicial nominees, some on the other side of the aisle objected that we were moving too fast either they wanted the ABA to do an evaluation before they would allow us to move or it was a fight over the now infamous blue-slip process. I say this in response to claims that somehow it is the Republicans' fault for not confirming judges earlier this year.

I am not the only one who has noticed that the Committee is making slow work of its job this year. In a November 30 editorial, the Washington Post declared that the Committee should hold more judicial confirmation hearings, concluding that "[f]ailing to hold them in a timely fashion damages the judiciary, disrespects the president's power to name judges and is grossly unfair to often well-qualified nominees."

As chairman of the Judiciary Committee during 6 years of the Clinton Administration, I responded to the vacancies in the Federal judiciary by holding hearings and votes on judges. As a result, 377 Clinton appointees are sitting on the Federal bench today. So, in contrast to the claims I have heard today, the present vacancy rate is not the result of any failure to confirm Clinton nominees. Instead, it is a direct result of the failure to confirm Bush nominees.

What is important to note is that at the end of the 106th Congress, there were only 67 vacancies in the federal judiciary for which there was a total of 41 nominees—some of whom were not nominated until very late in the year. Today, of course, there are nearly 100 vacancies, but the Senate has confirmed only 24 judges. So I believe it's fair to say that the pace of confirmations has not kept up with attrition.

I am pleased that we are taking these steps with the confirmation of three federal district judges. There are three more judicial nominees awaiting floor votes, and seven more judicial nominees awaiting a Committee vote, including one circuit judge. I urge my Democratic colleagues to act to confirm at least these nominees before the end of the session, and work with us to move the roadblocks they have erected in the confirmation process of all the other nominees, particularly those circuit court nominees who have been pending since May.

I yield the floor.

Mr. LEAHY. Madam President, if nobody has any objection, I ask unanimous consent that we vacate the yeas and nays on the next two nominations and that the Chair put the question of each one of them separately to the body on a voice vote.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BYRD. Madam President, what was the request?

Mr. LEAHY. If I could respond to the distinguished Senator from West Virginia, my request is that we vacate the yeas and nays on the next two nominations and that we bring them up separately now and that the body be allowed to vote on them by voice vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF KURT D. ENGELHARDT, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA

The ACTING PRESIDENT pro tempore. The Senate will proceed to the nomination of Kurt D. Engelhardt, of Louisiana, which the clerk will report.

The bill clerk read the nomination of Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Mr. LEAHY. Madam President, I understand both of the Senators from Louisiana have returned blue slips in support of this nominee and I support the nominee.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana?

The nomination was confirmed.

Mr. LEAHY. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF JULIE A. ROBINSON, OF KANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF KANSAS

The ACTING PRESIDENT pro tempore. The Senate will proceed to the nomination of Julie A. Robinson, of Kansas, which the clerk will report.

The bill clerk read the nomination of Julie A. Robinson, of Kansas, to be United States District Judge for the District of Kansas.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, both of the distinguished Senators from Kansas have returned blue slips indicating their support for this nominee. The nominee is extraordinarily well qualified. And with their support, I also support the nominee and urge the Senate to confirm her.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWNBACK. Madam President, Julie Robinson is extraordinarily well qualified. She is the right person for the job. She has served as a bankruptcy judge. I have known of her and her work for a long period of time. Her family even years ago came to Kansas as Exodusters, freed slaves. So she really has had an extraordinary life. She is going to be an extraordinary judge.

I urge all my colleagues to support her nomination.

Thank you.

The ACTING PRESIDENT pro tempore. Is there further debate?

If not, the question is, Will the Senate advise and consent to the nomination of Julie A. Robinson, of Kansas, to be United States District Judge for the District of Kansas?

The nomination was confirmed.

Mr. LEAHY. I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Ms. CANTWELL). Under the previous order, the Senate will now return to legislative session.

Under the previous order, the Senate will now resume consideration of S. 1731, which the clerk will report.

Mr. LEAHY. Madam President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—S. 1499

Mr. KERRY. Madam President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may, at any time, at his selection, in conjunction with the minority leader, move to the consideration of Calendar No. 186, S. 1499; and that the bill would then be considered under limitations to be established in consultation between the two leaders.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. I object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Massachusetts.

Mr. KERRY. Madam President, I ask to be permitted to proceed for a moment to discuss the unanimous-consent request I just made.

Mr. KYL. Madam President, may I ask the Senator to withhold until I propound a unanimous-consent request.

Mr. KERRY. Madam President, I understand the Senator is asking me if I would simply yield for the purpose of his propounding a unanimous-consent request.

Mr. KYL. That is correct.

Mr. KERRY. I am happy to do so.

The PRESIDING OFFICER. The Senator from Arizona.

UNANIMOUS-CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. KYL. Madam President, as in executive session, I ask unanimous consent that the majority leader, after consultation with the Republican leader, proceed to executive session no later than December 14 to consider Calendar No. 471, the nomination of Eugene Scalia to be Solicitor for the Department of Labor, and I further ask unanimous consent that there be 3 hours for debate, with the time equally divided in the usual form, with no other motions in order; and I ask unanimous consent that following the use or yielding back of time, the Senate proceed to the vote on the confirmation of the nomination, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. Madam President, I believe I have the floor after the request.

The PRESIDING OFFICER. That is the understanding of the Chair.

The Senator from Massachusetts.

Mr. KERRY. I thank the Chair.

Madam President, I ask my colleague from Arizona, without losing my right to the floor, if his propounding of that request indicates that somehow his denial of the ability to proceed forward on the small business bill is linked to the request he just made regarding the nomination.

Mr. KYL. Madam President, I would be happy to respond to my colleague. The answer to the question is no. As the Senator from Massachusetts is aware, there are ongoing negotiations with the Senator as well as the Senator from Missouri and representatives of the administration in an effort to reach a compromise on the legislation, and the Senator's request related to my unanimous-consent request related to the importance of considering Eugene Scalia as Solicitor for the Department of Labor, and I believed as long as we were making unanimous-consent requests to proceed to other business, I would take the opportunity to do so for that nomination.

Mr. KERRY. Madam President, I thank the Senator from Arizona. I would like to respond and say a few words, if I may, about the small business bill.

Mr. DASCHLE. Madam President, I ask the Senator if he will yield for a unanimous-consent request for just a moment.

Mr. KERRY. I am pleased to yield.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I thank the Senator from Massachusetts very much.

ORDER OF PROCEDURE

Mr. DASCHLE. The pending business today is the farm bill, and we are awaiting the legislation to be introduced.

I ask unanimous consent that following the colloquy or the statement made by the Senator from Massachusetts, the Senate proceed to consideration of the bill itself for debate purposes only.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. Madam President, I thank the distinguished majority leader, and I thank the Chair.

SMALL BUSINESS RELIEF

Mr. KERRY. I ask unanimous consent that an article from the front page of yesterday's New York Times regarding the ripples of September 11 widening in retailing and the extraordinary impact of September 11, not just at ground zero but broadly across the country on small businesses, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 10, 2001]

RIPPLES OF SEPT. 11 WIDEN IN RETAILING

(By Edward Wyatt)

On West Eighth Street in Greenwich Village, shoe salesmen stand forlornly on the sidewalk in front of Leather&Shoes.com, smoking cigarettes and staring blankly into the distance, wondering where all the customers have gone.

Down the block, Raja Chaani, the manager of India Imports, and two of his employees sit on stools in a sprawling space chock-full of leather jackets, silk scarves and Indian curios but devoid of customers.

Across the street, at Man Plus, Sonny Shahani and three other salesmen spend their time rearranging sweaters and calculating how much their commissions have fallen. And at House of Nubian, no one but a few Internet shoppers is buying Negro League jackets and hats, or buttons with pictures of black leaders like Malcolm X and Haile Selassie.

While it was expected that small businesses near the site of the World Trade Center would suffer from the terrorist attack on Sept. 11, which displaced 100,000 potential customers from office buildings in the area and thousands more from their homes, wider economic damage from the attack is still rippling outward from ground zero.

The national economy, of course, was already slowing before Sept. 11. But the attack sent shudders through small businesses, not only in New York City but also across the nation. Some economic forecasters say they believe a wave of business failures in New York and elsewhere could come soon after the first of the year, as retailers and other entrepreneurs succumb to the continuing lack of new business in what is traditionally their busiest season.

"I've been on this street for 15 years, and it's never been this bad," said Kawal Bhatia, whose family owns Leather&Shoes.com, a shoe and leather goods store at 22 West Eighth Street which, despite its name, does not have a Web site. "In past years, no matter how bad it was the rest of the year, at least you knew you would cover all your losses with the holiday shoppers." But on a recent Friday, he said, "I did $25 worth of business."

Last week, Mr. Bhatia put up a new sign: "Store Closing."

Small businesses, including many retail establishments, account for two of every five jobs in New York City and roughly half of all jobs statewide, so the drought among small-business owners presages economic pain that is likely to spread far beyond Lower Manhattan. And while numerous grant and loan programs have sprung up to help small businesses recover from the disaster, business owners have complained, in a growing chorus, that the grants are too small to stem their losses and that loan agencies are not approving loans.

On Eighth Street between Fifth Avenue and Avenue of the Americas, for example, roughly two miles north of ground zero, businesses that depend on people who travel into the city to shop have been devastated. The block, the professed shoe district of Manhattan, has for decades served as a crucible for small businesses, a place where shoe and leather goods shops have mixed with funky clothing emporiums serving an eclectic mix of college students, tourists and New Yorkers in search of bargains. But tourists have stopped coming, and retail sales not just in the Village but across the city have been suffering.

Economists say it is too early to tell just how many small businesses are likely to end up closing or in Bankruptcy Court, but they say that the signs are not good.

"I think there is a strong likelihood that come the first quarter, small businesses that are holding on by the seat of their pants may not be able to hold on anymore without some outside assistance," said Ian E. Novos, senior director for economic consulting service of KPMG.

A report assessing the economic impact of Sept. 11 that was prepared for the New York City Partnership, by KPMG and SRI International, another consulting firm, predicted that for the next two years, small businesses' sales would continue to fall short of what was expected before the trade center attack. Employment among small businesses will continue to fall through the first quarter of next year, the report said.

During the recession of the early 1990's, in a downturn that was short-lived by historical standards, business failures in New York State peaked at more than 6,000 companies per year, according to Dun & Bradstreet. The failures involved less than 1 percent of the small businesses operating in the state. In 1997, the most recent year for which data is available, there were roughly 1.2 million small businesses operating in New York State, according to state statistics. (Federal data on small businesses, using different measurement criteria, put the number at about half that.)

The 1990's recession lacked some of the ingredients of today's problems—most important a cataclysmic event that sent jobs streaming away from Lower Manhattan, immediately closed off spigots of corporate spending and sent consumers into a kind of anti-spending shock. Since the disaster, the United States Small Business Administration has approved only about one in three applications for disaster loans. Those loans have provided $164 million to more than 2,000 businesses so far, but the approval rate is well below the rates of 50 percent to 64 percent that have followed other major disasters over the past decade.

Hector V. Barreto, the administrator of the S.B.A., told the House Committee on Small Business on Thursday that the loan approval statistics were a result of what was a very different disaster. But he also agreed to review all loan applications that had been rejected in New York so far, to see if the agency's loan standards, which often rely on cash flow and the value of tangible property, had been applied too rigidly.

Unlike earthquakes, hurricanes and floods, which inflict property damage mostly on homes and homeowners, the World Trade Center attack did most of its property damage in a small area around ground zero. Most of the loans requested and made have been for economic injury to businesses in a far wider geographic area, stretching over several counties near New York City.

Economic disaster loans to businesses account for three-quarters of the disaster loans approved so far, compared with 20 percent after events like the flooding of the Red River of the North, in North Dakota in 1997, and Tropical Storm Allison in Texas and Louisiana earlier this year. Economic injury loans require more documentation of losses and of a borrower's ability to repay them than property damage loans do.

A bill that would ease eligibility rules for disaster loans as well as create a grant program to go with the loan program was recently sent to the full House of Representatives by the House Committee on Small Business.

Representative Nydia M. Velazquez, whose district includes parts of Brooklyn, Manhattan and Queens and who is the ranking Democrat on that committee, said the current loan program needed to be revised as the bill would require because the existing loan program "is not suitable for the new reality of this disaster."

Some businesses that have been turned down for loans say they cannot fathom whom the loan program is supposed to help, if not them. Carla Behrle, who designs, manufactures and sells custom-made leather clothing from a shop on Franklin Street in TriBeCa, said she was told by S.B.A. officials that her application would be rejected because her business did not have enough cash flow to make the loan payments of $143 a month.

"Some people spend more than that on cigarettes," said Ms. Behrle (pronounced BURR-lee), who does not smoke. She said the agency did not seem to take into account her plans for the money, which included relocating her business, which had revenues of about $125,000 last year, and shifting her focus to wholesale sales, eliminating her retail store.

"I spent hours and hours filling out all this paperwork," she said. "If I had known what I know now, I would have put my energies elsewhere."

Other entrepreneurs complain that the city and state efforts to restore the economy are tailored to the needs of large corporations rather than to small businesses. They note that when Gov. George E. Pataki and Mayor Rudolph W. Giuliani appointed members of the Lower Manhattan Redevelopment Corporation last month, corporate and political interests were well represented, but no representatives of small business from downtown Manhattan were included.

Asked what he would say to people who operate small downtown businesses that are ailing, John C. Whitehead, the newly appointed chairman of the group, said: "I don't know what we say to them, but we want to keep them and we don't want them to be discouraged. I think there is assistance available for them."

Carl Weisbrod, president of the Downtown Alliance, which represents businesses in the financial district and around the trade center site, said the redevelopment agency's "primary mission is going to be repairing the infrastructure" and creating a physical environment that will draw customers back to small businesses downtown.

Whether small businesses downtown can wait for those improvements, which could easily take years, is uncertain. On West Eighth Street, merchants up and down the block who are not covering their expenses say their landlords have so far refused to give them a break on their rents.

At Mofa Shoes, Moses, the manager, who would not give his last name, spoke woefully of the outlook. "This used to be the shoe capital of the world," he said. "We'd get customers who came to Eighth Street from Italy, Brazil, Spain. Now, well, you see. The street is empty."

Mr. KERRY. Madam President, I heard the Senator from Arizona. I respect what he said in trying to characterize some discussions as negotiations. But I have been here for 18 years. Senator BOND has been here I think just about as long. He is the ranking member. He and I have worked together when he has been chairman and I, ranking member, and vice versa. The Small Business Committee is probably the least partisan committee of the

Senate. We don't do anything if it isn't broadly by consensus. Eighteen members of our committee are cosponsors of this legislation. Sixty-two Senators are cosponsors of this effort to bring emergency assistance to small businesses of this country. We have now been waiting for 2 months while this bill has been held up by the great process of rolling holds and rolling theories of objection.

While the Senator from Arizona politely characterizes it as a negotiation, there is nothing to negotiate based on what we have been offered. It is a basic gutting of the entire approach that is supposed to be in the form of a compromise. We are not to going to do that with 62 cosponsors of a piece of legislation that provides emergency assistance to businesses that need it.

Let me quote briefly from yesterday's New York Times. It said the following:

> While it was expected that small businesses near the site of the World Trade Center would suffer from the terrorist attack on Sept. 11, which displaced 100,000 potential customers from office buildings in the area and thousands more from their homes, wider economic damage from the attack is still rippling outward from ground zero. . . . Some economic forecasters say they believe a wave of business failures in New York and elsewhere could come soon after the first of the year, as retailers and other entrepreneurs succumb to the continuing lack of new business in what is traditionally their busiest season. . . . while numerous grant and loan programs have sprung up to help small businesses recover from the disaster, business owners have complained, in a growing chorus, that the grants are too small to stem their losses and that loan agencies are not approving loans. Since the disaster, the United States Small Business Administration has approved only about one in three applications for disaster loans . . . [an] approval rate well below the rates . . . [of] other major disasters over the past decade.
>
> Carla Behrle, who designs, manufactures and sells custom-made leather clothing from a shop on Franklin Street in TriBeCa, said she was told by SBA officials that her application would be rejected because her business did not have enough cash flow to make the loan payments of $143 a month. "Some people spend more than that on cigarettes," said Ms. Behrle, who does not smoke. She said the agency did not seem to take into account her plans for the money, which included relocating her business, which had revenues of about $125,000 last year, and shifting her focus to wholesale sales, eliminating her retail store. "I spent hours and hours filling out all this paperwork," she said. "If I had known what I know now, I would have put my energies elsewhere."

Clearly, the administration's approach is not working.

We have seen documented over the past months by a number of different articles from the Bureau of National Affairs and the Washington Post that this bill is being held up by the administration and by two colleagues in the Senate who are suggesting there are a series of different reasons for doing so. The last time there was an objection, Senator KYL said he would return to the floor and explain why later. He never returned, and he didn't explain why. But we have had a different set of explanations in the course of our conversations.

I have heard people say it is not that they really have an objection to the bill but they are acting as an agent, holding it so it can be reviewed, that they don't really have a hold on the bill but they have an objection to the process. Then we heard that it is duplicative of the administration's approach and it helps medium-sized and large businesses. Then we heard that perhaps the defaults will be too high.

My personal favorite excuse for the delay is that some people want to remove the hold but they can't get into the quarantined office in order to get the necessary paperwork to submit to remove the hold, and so on, and so on—anything to try to run out the clock.

The clock is running out on a lot of small businesses in the country. I believe that every single excuse offered to date for not proceeding forward on this bill is subject to an analysis that completely dismisses that particular excuse.

We need to pass S. 1499, the American Small Business Emergency Relief and Recovery Act of 2001. I emphasize that the key word is "emergency." Small businesses need help now. They have needed it since the terrorist attacks three months ago.

However, as documented in several articles over the past months, from the Bureau of National Affairs to the Washington Post, the Administration and two of our colleagues in the Senate do not see the problems of small business as urgent. They have played games with the livelihoods of small business owners and their employees by putting "holds" on S. 1499 and therefore blocking passage of legislation to help small businesses.

On November 27, I moved to bring S. 1499 up for a vote. Senator KYL objected and said that he would explain why later. He never returned to the floor. I hope that he will do so today.

Addressing the concerns of those opposed to this bill as reported in the press or told to small businesses calling to urge passage of S. 1499 is a moving target. One day it's too expensive. Next it's that they have no objection to the bill, but they are an "agent," holding it so it can be reviewed, or, they don't have a "hold" on the bill, "they have an objection to the process." Next it's duplicative of the administration's approach, and it helps medium-sized and large businesses. Then it's that defaults will be too high. My personal favorite is that they want to remove the hold but they can't get into their quarantined office to get the necessary paperwork to submit to remove the hold. And so on, and so on, and so on, anything to run out the clock.

Let me explain why these objections are not well-founded:

No. 1, Senator KYL and the administration contend that this bill costs too much. Senator KYL was quoted as saying in the Congressional Quarterly on November 28: "We have a debt situation in this country right now. This bill is a big deal. It costs too much." Let me just state the obvious—small business is not what caused our debt situation. Even leveraging money to provide loans and venture capital and counseling through the SBA is not what caused our debt situation. In fact, the SBA suffered disproportionately in budget reduction for FY2002 compared to other Departments. The President's fiscal year 2002 budget cut funding for the SBA anywhere from 26 to 40 percent depending on how you look at it.

Why the big difference? It is a 40-percent cut if you count the President's request to move the SBA disaster loan program out of SBA, SLASH the disaster loan part of the budget from $826 million to $300 million, and RAISE the interest rates on disaster victims. That's right, if the Bush administration's fiscal year 2002 budget had been implemented, the very program that Senator KYL and the administration are claiming is the answer to the problems of small businesses, would now be underfunded, and would be charging small business disaster victims 5.4 percent versus the current 4 percent. Luckily, Senator BOND and I were successful earlier this year in passing a budget amendment to restore that funding.

Let me go back to the comment, "This bill costs too much." This bill costs too much compared to what? Compared to the $15 billion that will be given to the airline industry? Compared to the estimated $4.75 billion that Senator KYL's S. 1500 would provide in tax credits for airplane tickets? Compared to the administration's approach of essentially declaring the entire Nation a disaster area and providing disaster loans nationwide?

The Congressional Budget Office has informally scored S. 1499 as costing $860 million. Compared to the Kerry-Bond approach, Senator KYL's bill costs 5.5 times more. Compared to the Kerry-Bond approach, the administration's approach through disaster loans costs almost 5 times more—4.67 times, to be exact.

The administration's approach through economic injury disaster loans has a subsidy rate—that's the net cost to the taxpayer of running the program—of anywhere from 14 percent to 17 percent, depending on whose estimate you use. The Kerry-Bond approach, which provides the majority of assistance through the 7(a) loans, has a subsidy rate of 3 percent. The Kerry-Bond approach is more cost-effective.

In practical terms, if we fully funded this bill, for $860 million we could leverage more than $25 billion in loans and venture capital to fill the market's gap in lending. To provide an equal amount of access to capital through the disaster loan program would cost taxpayers about $3.5 billion. These charts illustrate on a State-by-State basis how many small business will be helped by S. 1499 through 7(a) and 504 loans, and how much capital will become available in each state. For example, under this bill, more than 1,700 small business in Arizona could get loans to help recover from the terrorist attacks and the worsening economy. Under the administration's approach, only one small business has been helped in Arizona since September 11.

No. 2, Senator KYL contends this bill hasn't had sufficient review. According to the Washington Post, Senator KYL says "it is not a hold, but part of his role as chairman of the GOP steering committee to review bills that are being hustled through at the end of the session to make sure they have been properly 'vetted.' 'I'm just an agent,'" KYL said.

Let me set the record straight on the process. This bill hasn't been "hustled through." It was drafted with the input of small business organizations, trade associations and SBA's lending and counseling partners through more than 30 meetings and conference calls—conference calls because we couldn't ask folks to fly in the immediate weeks after the attacks. It is cosponsored by 18 of the Small Business Committee's members. And overall 62 Senators, including 20 Republicans, have joined me in cosponsoring S. 1499.

On October 15, S. 1499 was cleared by both cloakrooms. It would have passed by unanimous consent that night if OMB hadn't called at the last minute and asked the GOP leadership to put a hold on the bill so that SBA could introduce its own solution the next day. On October 16, the committee sat down with staff from the SBA and incorporated changes to S. 1499 to address their concerns. Nevertheless, when the GOP leadership lifted its hold, Senator KYL put a hold on the bill for the Republican Steering Committee. They have now held this emergency legislation for almost 2 months.

On the House side, the Committee on Small Business passed the companion to S. 1499 by unanimous consent. There's nothing hustled about this bill. It was moved quickly because it is emergency legislation. It is a good bill because it can do a lot of good for a lot of people. It is being held because of shameful politics. If Senator KYL and other members of the Republican Steering Committee want to vote against the bill, then we should give them the opportunity. I say let's bring this bill up for a vote. Small businesses have a right to know exactly who is working against them and who is working for them. And the Republican Steering Committee should know that blocking this emergency small business bill because of politics, or because they oppose the process, doesn't hurt me or Senator BOND, it doesn't hurt our Committee or the Democrats; it hurts small businesses and puts in jeopardy the jobs of thousands of Americans.

Has anyone looked at the unemployment rates? Over the past 2 months, the nation has lost 799,000 jobs. According to an article in the Christian Science Monitor yesterday, Monday, December 10, the jobless rate is now at 5.7 percent and economists expect it to peak out next year at between 6.5 and 7 percent.

No matter how many tax credits we provide, if people don't think they will have a paycheck and are pessimistic about job prospects, they're not going to spend. The Consumer Confidence Index has declined for 4 straight months. According to Lynn Franco, director of the Conference Board's Consumer Research Center: "Widespread layoffs and rising unemployment do not signal a rebound in confidence anytime soon. With the holiday season quickly approaching, there is little positive stimuli on the horizon."

No. 3, Senator KYL contends the defaults will be too high. If that were true, it would be reflected in the Congressional Budget Office's cost assessment of this bill. Subsidy rates for guarantee loan programs factor in not only fee income derived from the borrowers and lenders, but also the estimated defaults and recoveries. As I said earlier, the majority of loans to be made through this bill will be made through the SBA's 7(a) program. The subsidy rate for this program with incentives is estimated by CBO to be 3 percent. So, for every $100 loaned, it will cost $3. That does not indicate excessive default rates. And according to the administrator of SBA, the program is performing so well that in the President's fiscal year 2003 budget, OMB will reduce the subsidy rate for 7(a) loans by 50 percent.

No. 4, Senator KYL contends this bill is duplicative. It is not duplicative. The administration did adopt and implement a couple of provisions of the Kerry-Bond bill by expanding access to economic injury disaster loans through regulations. However, their approach is not comprehensive enough to help the range of small businesses with varying degrees of problems. As reported in the New York Times on October 31, "more than half of the small businesses in New York City that have applied for Federal disaster loans since the World Trade Center attack have had their applications rejected, resulting in one of the lowest loan-approval rates in recent years among communities that have had to grapple with large-scale disasters."

While I am glad that the administration finally acted to help small businesses, their approach is not getting at the problem. Their approach doesn't defer payments or allow refinancing. Ours does. The administration didn't meet with small business groups when shaping their approach. We did. The administration didn't sit down with Senators SCHUMER and CLINTON and ask how they could be of particular help to those businesses in ground zero. We did. Consequently, these are reasons why small business groups such as the U.S. Chamber of Commerce are pushing for passage of the Kerry-Bond bill.

Let me give you insight into the damage suffered by just one group of affected small businesses: the chauffeured ground transportation industry. That industry used to employ about a 160,000 people. Since September 11, they have laid off approximately 80,000—half the jobs. Again, that's just one of many industries in trouble. If Senator KYL's office, the members of the Republican Steering Committee and the administration listened to or read the letters from the United Motorcoach Association or the National Limousine Association, they would know that they need working capital to keep their businesses alive until they can restructure or until more normal business conditions return. And to have sufficient working capital, the ones in the New York and New Jersey that make their bread and butter from business from JFK Airport, La Guardia Airport, and Newark Airport need deferments. And they need to be able to refinance their debt. They aren't asking for hand-outs. They are asking for loans that they will pay back. The SBA is supposed to help small businesses. The administration's approach isn't working, so it is our responsibility to tailor SBA's programs so that together they can effectively address the needs of small businesses.

Let me read this quote from an article in the Wall Street Journal published on Tuesday, November 6, 2001. They are the words of Mr. John Rutledge, chairman of Rutledge Capital in New Canaan, CT, and a former economic advisor to the Reagan administration:

> Interest rate reductions alone are not enough to jump-start this economy. We need to make sure cheaper credit reaches the companies that need it . . . The Fed is cutting interest rates—but the money isn't reaching capital-starved small businesses because Treasury regulators are cracking down on bank loans. Credit rationing, not interest rates, is the real problem with the economy. . . . This problem didn't start on September 11. For more than a year U.S. banks have been closed for business lending. Unless the current Bush administration takes steps to restore bank lending to small businesses and heal the asset markets now, the economy will stay weak.

No. 5, Senator KYL contends this bill helps medium-sized and large businesses. This bill does not help medium-sized and large businesses. For 1 year only, S. 1499 allows businesses for certain industries in limited areas—the areas hardest hit—New York, Virginia and the contiguous areas designated as disasters—to be considered small for purposes of accessing disaster loan assistance. In addition, like the administration's own legislative request in the DoD appropriations bill now pending in conference, S. 1499 gives discretion to the Administrator to raise any size standards not named in this bill to respond to the higher costs in New York City. These businesses are included in those eligible for assistance in order to compensate for the unique magnitude of their damage and the expensive markets they are in. The ones named in this bill were created in cooperation with the New York City Economic Development Corporation through the offices of Senators SCHUMER and CLINTON. For example, S. 1499 raises the size standards for restaurants from $5 million to $8 million. Annual revenues of $5 million for a restaurant in States like Arizona or Massachusetts or Florida might seem like a medium-sized or large business, but according to Mayor Giuliani's staff, it could be merely a fancy coffee shop in Manhattan. In order to really help small businesses in New York City, the city recommended raising the size standard to $8 million. These are loans, not grants, and it makes sense to take advice from those experts who know the markets of their small businesses.

Travel agencies have been hard hit in all of our States. Raising the size standard from $1 million to $2 million is not excessive. In fact, the travel agents want to know why we can help the airlines but not them.

Size standards need to keep pace with inflation. The current standards are inadequate under normal market conditions, much less a disaster of this gravity and so unique in nature.

No. 6, the administration contends that the Kerry-Bond approach displaces the private sector. Weighing in on this bill for the first time in writing almost 2 months after S. 1499 was introduced, here's what the Administrator said to me in a letter dated November 30: "SBA is also concerned with Section 5 and Section 6 of S. 1499. . . . [because it] could make government guaranteed small business loans more attractive than conventional loans, potentially displacing private sector options."

I think the administration has our proposals confused. It is the Kerry-Bond approach that uses 5,000 plus private-sector lenders who are experienced at making SBA loans to help deliver this assistance to small businesses. It is the administration's approach that makes loans directly from the SBA, which cuts out the private sector.

This bill does not cost too much. This bill is not duplicative of what the administration has already put into place. This bill does not encourage defaults. This bill does not help big businesses. This bill does not cut out the private sector. This bill has not been rushed through the Senate. On the contrary, this emergency legislation has been blocked from being considered for 2 months.

I want to emphasize that this obstruction should not be blamed on all Republicans. My colleague Senator BOND has worked in earnest to pass this bill, and the bill has 20 Republican cosponsors. I greatly appreciate their cooperation, and I know small businesses, their employees and the groups that represent small business appreciate their support. If they really want to prove their support, before we adjourn for the holiday, they will vote in favor of invoking cloture, and they will vote in favor of the bill when it comes up for a final vote.

It ought to be the subject of a debate in the Senate. We ought to have a vote. Let the Senate do its work. We could dispense with this bill in 3, 4 hours or less. If someone wants to bring an amendment, let them bring an amendment. We have an opportunity to be able to do that.

The Senator from Arizona was quoted in the Congressional Quarterly on November 28 saying:

> We have a debt situation in the country right now. This bill is a big deal. It costs too much.

Let me state the obvious. Small business is not what caused the debt in this country. Even leveraging money to provide loans and venture capital and counseling through the SBA is not what caused our debt situation. In fact, the SBA suffered disproportionately in budget reductions for fiscal year 2002 compared to other departments. The President's budget cut the funding for SBA anywhere from 26 to 40 percent, depending on how you make the analysis.

Senator BOND and I came in with an amendment. I am pleased to say we were able to try to prevent that cut. But let me go back to the comment of the Senator from Arizona that it costs too much.

Mr. KYL. Might I ask the Senator from Massachusetts a question; will he yield for a question?

Mr. KERRY. I will yield for a question.

Mr. KYL. Since the Senator has invoked my name on several occasions and not made it clear when he was connecting various criticisms to my name, I would like the opportunity to respond. The problem is, as the Senator knows, we have a 10:30 briefing on a very important subject. I would like the opportunity prior to that time to be able to respond to the comments. Could the Senator advise if he thinks that might be possible before 10:30?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KERRY. Madam President, I want my colleagues to take part in this.

My colleague introduced a bill himself that provides tax credits for airplane tickets that costs five times this bill; $4.75 billion the Senator's bill costs. What are we talking about when we talk about "costs too much?" Let me ask the Senator from Arizona, could we bring this bill to the floor of the Senate within the next couple of days? I will curtail my comments, if we could get an agreement to bring this bill to the floor.

Mr. KYL. Madam President, I say to the Senator from Massachusetts that he knows very well the administration has significant objections to the bill as written, that the President announced almost immediately after September 11 emergency programs for small business loans, that the White House believes that is sufficient under the circumstances today, and that the bill is too expensive for the needs of the people about whom the Senator has talked.

Therefore, until there is more willingness than the Senator has expressed—and the Senator has made it clear there is no willingness to compromise—then the answer to the question is no.

I would also be pleased to talk about the other subject, the travel and tourism tax credit, as part of the stimulus package, if the Senator wished to further yield on that.

Mr. KERRY. Let me say to the Senator from Arizona, all of the analysts, all of the small business entities, the Chamber of Commerce of the United States and others, do not find what the administration is doing adequate. And the President did not, as you say, announce almost immediately after September 11 emergency programs for small business loans. The administration waited more than 1 month to act, and they did so after OMB put a hold on S. 1499. The consensus of the community is that the administration's response is simply not adequate.

They didn't sit down and talk with the same groups we did in putting this bill together. They didn't reach out to the Senators from New York to find out what the needs of the city were in doing this the way we did. We have done that, and we have even incorporated provisions into the bill to address concerns by the administration. The Senate deserves to have an appropriate debate notwithstanding. There are plenty of things we debate on that the President does not agree with, the White House does not agree with.

I ask my colleague from Missouri whether or not in his judgment he thinks what the administration is doing is adequate. Without losing my right to the floor, I ask him if he might respond to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Madam President, I concur wholeheartedly with my colleague from Massachusetts. The needs of small business are great. Not only the small businesses directly impacted in New York and in Virginia by the tragic terrorist actions, but many other small businesses throughout this country are suffering. I think every Member of this body can tell you about general aviation companies in their States who were shut down, put out of business for up to a month, some even longer because of the FAA restrictions. The bill we have sponsored is very modest, $851 million. We are talking about the need.

We just passed $40 billion in relief. We passed another $20 billion on Friday night, an allocation of $20 billion for antiterrorism. We are talking about a stimulus that could be anywhere from $40 to $80 billion.

The beauty of 1499 is that it only spends money if the small businesses that have been crippled as a result of this terrorist action will borrow the money and put it to work hiring people, buying goods, getting the economy moving again. It is absolutely critical. I ask my colleagues to let us debate the bill. Let us bring out the problems on the floor.

If the administration were ultimately to decide we have not made the case, then they still have the right to veto it. We cannot get into the details of this legislation. My last count was we had 64 Members—at least we have over 60 Members supporting the bill. It is something we need to do this month because small businesses may be out of business, if they are not already, by the time we get back next year. I urge my colleagues to let us debate the bill.

I also join with my colleague from Arizona in saying that it is absolutely unconscionable that we not act on the nomination of Eugene Scalia, ultimately qualified to be the lawyer for the Secretary of Labor. If people have objections to him, let them bring them to the floor. I don't think they will withstand the scrutiny of the light of day. We have just a few days remaining. It is very important that we act on the Secretary of Labor nomination, the lawyer the President selected, who is adequately qualified and deeply committed to this cause.

It is absolutely essential that we act now to provide small business the stimulus it needs by making it easier to get over the hurdles that have been caused by the terrorist acts of September 11 to borrow money to get back in business to expand their business. I hope we can vote on both of these measures.

I strongly support my colleague from Massachusetts on the need to move to 1499 and my colleague from Arizona on the need to move to the appointment of Eugene Scalia. I hope we can get on with both of them.

Mr. KERRY. I say to my colleague from Arizona, the administration's approach proceeds through the economic injury disaster loans. It has a subsidy rate—That is a net cost to the taxpayer of running the program—of anywhere from 14 to 17 percent, depending on whose estimate you use. The base is 14 percent.

The Kerry-Bond approach, which provides the majority of assistance through the 7(a) program loans, has a subsidy rate of 3 percent. So the administration's approach is a 14- to 17-percent cost to the taxpayer. Our approach is 3 percent to the taxpayer.

In practical terms, if you fully funded this bill, you could leverage more than $25 billion in loans and in venture capital to address the market gap in lending.

Let me say to the Senator from Arizona, under our bill, Arizona could make 1,700 small business loans right now. Under the administration's program, only one business in Arizona has had any help since September 11. That is the difference between the bills. The cost to the taxpayer is less and the coverage is greater. And the leverage is higher. It is a more effective and cost-effective piece of legislation.

While I am glad the administration finally acted on this program, their approach does not allow refinancing. The administration approach does not allow deferral of payments. I remember in 1991, when we had the RTC and the savings bank problem, we had a lot of programs that were falling.

I am sorry to see the Senator leave. I would love to see if we could get agreement to proceed forward.

Well, Madam President, I hope the record is clear that small businesses in this country could be significantly helped if we were to proceed forward with this legislation. We now understand that the administration and some in the Republican caucus—I regret to say it—are unwilling to proceed forward to help small businesses with a program that would be more effective than what is happening now.

Let me give an insight into some of the damage suffered. You can look at the ground transportation industry, at travel, and at others, all of which have viable industries, but they need help to be able to tide them over in order to proceed forward. It seems to me that providing them with working capital is an essential ingredient.

Let me quote from the Wall Street Journal of November 6. These are the words of John Rutledge, chairman of Rutledge Capital in New Canaan, CT, and a former economic adviser to President Reagan:

> Interest rate reductions alone are not enough to jump-start this economy. We need to make sure that cheaper credit reaches the companies that need it. . . . The Fed is cutting interest rates—but the money isn't reaching capital-starved small businesses because Treasury regulators are cracking down on bank loans. Credit rationing, not interest rates, is the real problem with the economy. . . .

That is exactly the same problem we faced in 1989, 1990, and 1991 when we had failures in the savings and loan and the banking industry, and we had an entity called Recall Management come in to try to process some of the small loan portfolios. What happened is a whole lot of viable businesses got lumped into the bad loans so that the viable businesses were, in effect, put into a category where they could not get the credit they needed simply to tide them over. We lost thousands of jobs. Viable business was liquidated because of bad judgment. That is precisely the situation in which we are now putting people. People who have a viable business, who simply need to ride out this momentary downturn, which all of us know was exacerbated by the events of September 11, need small amounts of working capital in order to be able to tide over their workers, to be able to pay the various legal obligations they have to stay in business.

If you don't want to create a cycle of self-fulfilling prophecy, where you drag your economy down as a consequence of not helping all of these small businesses to be able to sustain those jobs, this is the way to do it. If you provide emergency small business lending in a way that is in keeping with the emergency efforts in the past, the standards of the SBA will still be met. These are not throw-away loans. These are loans that can leverage some $25 billion of economic activity in the country. That is why this legislation has 62 cosponsors in the Senate.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001

The PRESIDING OFFICER. The Senate will resume consideration of Calendar No. 237, S. 1731, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1731) to strengthen agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, we are going to be in a posture very quickly where we will be able to start doing things other than just talking about the farm bill. Amendments will be offered and, hopefully, we will complete this most important legislation very quickly.

What I wanted to come to the floor today to talk about is what has appeared in newspapers all over America today, including a Washington Post editorial. Syndicated columns all over America are running articles today talking about something going on in Washington that is simply invalid. But I think, as far as I am concerned, kind of the culmination, or the synthesis of all these articles and columns and editorials in America today appeared in the New York Times this morning. That editorial has a headline: "Tom Daschle Isn't the Problem."

I will make no editorial comment about this editorial. I will read it:

> The closing days of this year's Congressional session have brought forth a wild Republican campaign to demonize Senator Tom Daschle. It almost seems as if the G.O.P. is holding a contest to see who can most often use the word "obstructionist" to describe him. The attacks—including ads in Mr. Daschle's home state of South Dakota featuring side-by-side photographs of him and Saddam Hussein—are a sure sign of the Senate majority leader's effectiveness in blocking President Bush's hard-right agenda. Today Mr. Bush meets with Mr. Daschle at the White House, where they can move beyond vilification to legislation.
>
> The word "obstructionist," voiced over the weekend by Vice President Dick Cheney, has an unreal ring. Perhaps Mr. Cheney was in a remote, secure location when, after Sept. 11 and with Mr. Daschle's help, Congress passed a use-of-force resolution, a $40 billion emergency spending bill, an airline bailout, a counterterrorism bill and an airport security bill. The Senate has also passed 13 appropriations bills and its own version of education reform and a patients' bill of rights. The two things that Mr. Cheney cited that the Senate had "obstructed" were legislation to drill for energy in the Arctic National Wildlife Refuge and a "stimulus" bill to give out huge tax breaks to corporations and rich people.
>
> Mr. Cheney and Mr. Bush have called for bipartisan cooperation in Congress. Yet when asked, the vice president declined to disavow the attack ads running in South Dakota that accused Mr. Daschle of helping the Iraqi dictator by blocking the destruction of the Alaska reserve.
>
> The suspicion is growing in some quarters in Washington that Mr. Bush may not really want economic stimulus legislation. How else to explain that the White House is sticking with a bill, passed by the House, that many Republicans say privately they would just as soon abandon? The effect of spending less than $100 billion to jolt a $10 trillion economy is likely to be small, and the unnecessary tax breaks aimed at corporations and the wealthy would make the nation's upcoming deficits even worse. But there are some good ideas in some versions of the stimulus bill that should be passed, irrespective of their large-scale economic impact. These pieces would provide unemployment and health benefits to laid off workers who desperately need help after Sept. 11.
>
> If Mr. Bush continues to be inflexible on the economic package, Mr. Daschle should switch tactics and attach the health and jobless benefits to some other bill before Congress adjourns near Christmas. It would be a travesty to ignore the real needs of the most vulnerable Americans at a time like this one. You might even say it was obstructionist.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. LUGAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Indiana.

Mr. REID. Will my friend yield for a parliamentary inquiry?

Mr. LUGAR. Yes, I will be happy to yield to the distinguished Senator.

Mr. REID. I say to the distinguished ranking member of the Senate Agriculture Committee, we would like to set a time for moving to the legislation. The leader, because some items were not ready, asked that it be debate only. I will wait until the Republican side checks, but I will propound a unanimous consent request that the debate only stop at 11 a.m. or 11:15 a.m. I wanted to alert my colleague, and I will check with his side to see if that is OK.

Mr. LUGAR. Let me respond to the distinguished leader. That will be fine as far as I am concerned. My understanding was we were going to commence the debate after the third rollcall vote. I point out the drafting of a new bill is not completed even as we speak. Legislative counsel is still working on it somewhere.

Whenever it does emerge, that is what we ought to do so we can finally offer amendments and get on with it. I am merely going to speak to the bill, given the instructions that we were going to have general debate on the agriculture bill until 11. Once the Senator propounds the request, I certainly will be agreeable.

Mr. REID. I will propound that as soon as we check with the Republican Cloakroom.

Mr. LUGAR. Madam President, I want to make general comments about the farm bill. I appreciate the distinguished chairman of our committee, Senator HARKIN, and others are even at this moment involved in drafting a new bill. At some point, my understanding is they will come forward with a substitute for the entire bill which is now before us. I am not supercritical of this procedure, although it does raise some questions on our side. We have not seen the new text and will not see the new text for some time, apparently. It is still in the hands of legislative counsel, I am advised, working its way through.

I make this point because this has characterized the procedure, unfortunately, in the committee and on the floor. Members may or may not wish to know what is in the farm bill. I think it is important. Very clearly, there are many Members who want to debate and pass the farm bill and fairly rapidly. They are joined by those outside this Chamber.

I cite, for example, the December 8, 2001, issue of Congressional Quarterly, in which the headline is "Fear of Budget Constraints and 2002 Galvanizes Farm Bill Supporters."

The article goes on to say:

> The specter of a tight Federal budget next year with less money for farm subsidies has agricultural lobbyists and their allies in Congress pushing for final action on a farm bill before lawmakers leave this month.
>
> Lobbyists fear that if Congress waits until 2002 when the current authorization bill expires, then the $73.5 billion in new spending for agricultural programs over the next 10 years that was set aside by this year's budget resolution might vanish. "We have never before had this hammer over our heads, like the loss of this money," said Mary Kay Thatcher, lobbyist for the American Farm Bureau Federation. However, with little time left lawmakers say finishing a bill could be difficult.

Indeed, it could, and the bill is not even available as of this moment. It was announced yesterday with a great deal of certainty that after three rollcall votes this morning, we would be on the farm bill, we would be offering amendments presumably to the text that came out of the Senate Agriculture Committee. As of this moment, we are not offering amendments because we are awaiting a new bill.

While we await the new bill, other things also are occurring outside. I note that CBO announced that the Federal deficit for October and November of this fiscal year, for 2 months—the fiscal year we are now in—unfortunately, amounted to $63 billion. That is $28 billion more in deficit than last year. It is the first time the Government has run a deficit this size since 1997, which was the last time the Federal Government ran a deficit for the entire fiscal year.

This simply underlines the fact that CBO is not alone in pointing out we are in a deficit year. We did not expect to be in such a predicament at the beginning of the year. Indeed, when the President of the United States gave his State of the Union Address to a joint session of the Congress, he talked about $3 trillion of surpluses over a 10-year period, and the allocation to solve Social Security and Medicare reform problems, and for a very generous education bill that he and many Members of this body were proposing.

In fact, CBO earlier in the year prophesied a potential surplus of over $300 billion, scaled down to something less than $200 billion by summertime, $50 billion as we proceeded in the post-September 11 period, and now it is apparent we are headed for a deficit.

That does not change the context of this debate one whit. Proponents of the bill, fastening on to a budget resolution adopted early this year, said we have pinned down $172 billion over 10 years, $73.5 billion over baseline, over the normal expenditures that have been occurring year by year in the agriculture bills. It is there.

I and others have pointed out it really is not there. Members may delude themselves that somehow, because this is December 11, we are unable to foresee the future and understand that life has changed; that we are in a deficit because of recession, because of war expenditures, because of all sorts of emergencies that still lie ahead of us as we try to meet these emergencies with our President.

Yet even in the face of this, as the Congressional Quarterly article points out, agricultural lobbyists, perhaps aided and abetted by even Senators on occasion, believe we need to have the debate and complete the debate to pin this money down, money which, in my judgment, is no longer there. There is an Alice-in-Wonderland quality about the debate.

I say simply that at some point, even though $63 billion of deficit has occurred in 2 months, another 2 months will pass and CBO will have another prophecy that will be even more bleak, in my judgment. At that point, however, in the event the Senate has acted, the Senate and House have conferred, and the President has signed a bill, whether we have the money or not, it will add to the deficit. That must be the calculation of those who are looking at this presently.

The administration has not really weighed in on the budget side thus far, and proponents of the bill will point that out, that essentially there have been plans offered, that the administration apparently supports, that seem equally as expensive as the chairman's bill.

At some point, however, all of us have to make judgments as to what is fiscally sound, where priorities ought to lie in this situation. Eventually, as we get into the bill, I want to ask Senators, as they are thinking about their preparation and how they size this up—I appreciate that many Senators will approach this bill on principle alone. Some would say—not many—some would say very frequently agriculture bills are very parochial bills. We each look after our own States, and that is what we ought to do.

If this is the case, I think it is important, as Gannett News Service pointed out in an article by Carl Weiser on December 6, 2001, that under the current legislation—which the new farm bill, of course, would revise—

> Six States—Iowa, Illinois, Texas, Kansas, Nebraska and Minnesota—collected almost half the payments in 1999.

It was not dissimilar in 2000, for that matter, according to GAO.

Farm bills, as they are now written, are subsidies, essentially, for the row crops—corn, wheat, cotton, rice, now with very generous loan rates for soybeans—and are concentrated on States that have that type of agriculture. By and large, the payments do not become very generous for those who are involved in livestock or in vegetables, in timber, and other situations.

I point out Senators may want to take a look at their chart which can be found on the Environmental Working Group Web site. For example, the State of California, with 74,126 farms, is second only to Missouri and Iowa on this chart, but in California, only 9 percent of all the 74,000 farm families receive Government subsidies. As a matter of fact, only 7 percent of farmers in Massachusetts, 9 percent in Nevada, 7 percent in New Jersey, and in the State of Washington only 20 percent of the 29,000 farmers in that State receive anything in these programs.

For example, if one were to take a look at the State of Iowa, 75 percent of farmers receive subsidies; in the State of Kansas, 65 percent; in my home State of Indiana, 52 percent. We are sort of fair to middling; half of us farmers receive subsidies, the other half do not.

As I pointed out earlier in the debate, roughly 40 percent of farmers benefit from these programs, while 60 percent do not. If you happen to represent a State in which, as in California's case, 91 percent do not participate, it is hard for me to understand how you would be enthusiastic about these formulas because essentially this is an income transfer from some persons in the United States—taxpayers—to a very few taxpayers who are the beneficiaries. In this case it is quite a large transfer. We are talking about $172 billion over 10 years of time. Not only are most of the payments concentrated, almost half of them in six States, but in those States the concentration is rather profound.

Mr. DASCHLE. Will the Senator from Indiana yield for a unanimous consent request?

Mr. LUGAR. I will be happy to yield to the distinguished leader.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I ask unanimous consent that the period under which the farm bill is being considered for debate purposes only end at the conclusion of the remarks of the Senator from Indiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I thank the distinguished leader and I appreciate his courtesy in allowing me to complete these remarks.

Madam President, I pointed out the concentration of these payments in six States. But within those States, the concentration is fairly substantial. For instance, in the State of the distinguished leader, 10 percent of the farmers who receive payments receive 55 percent of the money—just 10 percent. In my State of Indiana, the concentration is even greater. The top 10 percent receive 62 percent of the money. Not only is there concentration in a few States, but within States that are major beneficiaries, a concentration exists with a very few farms.

This is not the first time that proposition has been brought to the attention of the Senate and, indeed, as we began debate in the Senate Agriculture Committee this year, the distinguished chairman, Senator HARKIN, frequently talked about this problem of concentration. In fact, it bobbed up in all sorts of ways: Concentration of meat packers, concentration of supermarket chains, concentrations of authority all the way through the food chain, and, of course, very startlingly with regard to producers themselves.

But as the debate proceeded, somehow or other along the way the whole idea of concentration, when it came to payments to a very few farmers in a very few States, was lost by the wayside. This is why it came as a pleasant surprise to me to read an article by Peter Harriman in the Sioux Falls Argus Leader. This is on December 7:

> U.S. Sens. Tim Johnson, D-S.D., and Byron Dorgan, D-N.D., will introduce a farm bill amendment next week—

That is the week we are now in—

> that would drop commodity subsidies from a maximum $460,000 per individual per year now to about $275,000.
>
> The amendment also would require commodity-payment recipients to be actively involved in farming.

A quote from Senator JOHNSON:

> You can't use these corporate entities to expand the amount of benefits you get. . . .

One of the points that Senator JOHNSON goes on to make is:

> One of the deficiencies of the Senate farm bill is that it really didn't do much to target payments to typical farmers and ranchers. We thought the Senate bill could be strengthened by better redirection of resources to typical farmers. . . ."
>
> Dorgan added, "It has been increasingly frustrating over the years to see large corporate ag factories get very large checks, and there is not enough money left to provide a decent safety net for family farmers."
>
> Johnson said: "If people want to farm the whole township they can. There is nothing in this amendment to keep people from farming.
>
> But we are not asking taxpayers to subsidize a small handful of operations that are getting over $500,000."

I look forward to that amendment and the debate on that because it certainly has occupied a lot of time already of many of us in the committee who felt that, in fact, these payments really required some scrutiny. I ask some consideration in due course, Madam President, when I offer an amendment to the commodity title which, in fact, does provide a very substantial limit. My legislation provides 6 percent of the total farm bill, so it is not discriminatory but equal in all States—equal, really, to all types of farming. But it does finally limit these payments to $40,000. That seems to me to offer equity to every farmer in every State, every county, every crop. And it meets the needs of those who truly are small and struggling and have a very difficult time, given the concentration in agriculture that has been pointed out by so many.

So we will have an opportunity in due course to think through concentration and limitations and equity, a chance to move this from half of the money going to six States to an even distribution wherever there is farming of any sort in every State.

Madam President, I ask active consideration of Senators as they take a look at their own States, at their own farmers, at what farming occurs in their States, to support that general proposition as opposed to the one that lies before us in the bill that came out of the Agriculture Committee which, in fairness, essentially bumps along with the same type of distribution system that we have had for many years and which I and others have criticized in the course of this debate.

Finally, let me point out that we still have the problem of money. I believe at least we have a problem of money. Others on the Senate floor may disagree and may believe that we already are running into Federal deficits that are fairly large and that these payments to farmers are merely part of that proposition.

Some suggested yesterday that maybe even a stimulus package of sorts for rural America would stimulate the situation. If that is the proposition, it is very difficult to make it, given the figures I have just recited; namely, that all of the stimulus or half of it would be narrowed to six States. Even within those States, well over half of 10 percent of farmers is a relatively few thousand people. That is not very much of a general stimulus. In fact, it is a very pointed and very focused situation.

I can well understand why those who are beneficiaries of the past bill, or of the bill that Senator HARKIN has introduced, would be obsessed that we are taking a look either at the fact that we have a Federal deficit or that these are rather concentrated payments. There has been a general myth that has surrounded farm bills—that they are meant to save every family farmer; that somehow they make a difference in the lives of every family farmer.

I am here to tell you that, in fact, each bill and the bill that Senator HARKIN has proposed even concentrates this further with higher subsidies, higher target prices, and higher loans. The money goes to those who are the most efficient. One can ask: What is wrong with that? The most efficient are not always the largest but frequently they are because of the scale of size and unit costs involved. And the ability to produce, quite apart from the market, has led to their concentration. And it has continued each year. It will march ahead now. That is why I will oppose the bill that lies before us. We need to amend it constructively so that, in fact, we can proceed to good agricultural legislation.

I thank the Chair for this opportunity. I thank the distinguished majority leader for allowing me to complete my remarks under the unanimous consent.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The majority leader is recognized.

Mr. DASCHLE. Mr. President, I compliment the distinguished Senator from Indiana for the manner in which he has made his points this morning. While we may have some disagreement, I do not know of a Senator who has greater respect and whose views are more widely appreciated than the Senator from Indiana. I appreciate the opportunity to hear many of his comments this morning.

AMENDMENT NO. 2471

Mr. DASCHLE. Mr. President, on behalf of the Senator from Iowa, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

> The Senator from South Dakota [Mr. DASCHLE], for Mr. HARKIN, proposes an amendment numbered 2471.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments submitted and Proposed.")

Mr. DASCHLE. Mr. President, I will use some leader time to make comments as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STIMULUS

Mr. DASCHLE. Mr. President, I wanted to come to the Chamber for a few minutes to call to the attention of my colleagues an article that appeared in the Wall Street Journal this morning. The article is headlined "House GOP Ponders Scale-Backed Version Of Stimulus Package."

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOUSE GOP PONDERS SCALED-BACK VERSION OF STIMULUS PACKAGE

(By Shailagh Murray)

> WASHINGTON.—House GOP leaders may take a new, scaled-back economic stimulus package to the House floor if talks fail to produce a House-Senate compromise.
>
> Republican leaders said they would offer the bill as a last-ditch effort to revive the stimulus package, which is on life support due to protracted partisan squabbling. Officials hope to act on the matter before Congress adjourns for the holidays.
>
> House Majority Leader Richard Armey (R., Texas), one of two GOP House leaders appointed to negotiate a final package, said the version would include many of the most politically popular provisions on the table, some scaled back from levels that have been unacceptable to Senate Democrats. They include a depreciation bonus for new capital investments; higher expensing limits for small businesses; an extension of the net operating loss carry-back period to five years, from two; accelerated reductions in individual income-tax rates; $300 rebate checks for low-income workers; and extensions of tax breaks due to expire Dec. 31.
>
> The package also would feature at least $20 billion to extend unemployment benefits by 13 weeks and to help jobless workers buy health coverage. House Ways and Means Chairman Bill Thomas (R., Calif.) offered the beefed-up benefits package last week in an effort to win Democratic votes on trade negotiating authority.
>
> Mr. Armey said he would like to include corporate alternative-minimum tax repeal and capital-gains tax reductions, but acknowledged it could be an uphill battle because of strong Democratic resistance.
>
> The move would allow House Republicans to say that they made a good-faith effort to produce a stimulus package, should the talks fail. It also is intended back Democratic Senate leaders into a political corner, by forcing the stimulus bill's final fate into the hands of Senate Majority Leader Tom Daschle.
>
> "If Daschle wants to stop this process, he needs to reconcile that with the American people," Mr. Armey said. Mr. Daschle has countered that he is eager to complete the stimulus bill negotiations, especially to deliver the worker benefits.
>
> Stimulus-bill talks broke down during the weekend, when Democrats and Republicans accused each other of walking out on negotiations scheduled for Friday and Saturday. Mr. Armey said he hoped talks would begin again today, although no formal meetings were scheduled as of Monday evening. But Mr. Armey said House leaders, including Speaker Dennis Hastert, were "exploring other options" in the event that stalemate can't be broken. Senate Republicans say they also are seeking alternative ways of getting the stimulus package on track.

Mr. DASCHLE. Mr. President, the article provides new information about the current views of at least House leadership regarding the stimulus package that I find to be very encouraging. I will not read all of the article, but I will simply cite one paragraph. It says:

> House Majority Leader Richard Armey (R., Texas), one of two GOP House leaders appointed to negotiate a final package, said the version would include many of the most politically popular provisions on the table, some scaled back from levels that have been unacceptable to Senate Democrats. They include a depreciation bonus for new capital investments; higher expensing limits for small businesses; and extension of the net operating loss carry-back period to five years, from two; accelerated reductions in individual income-tax rates; $300 rebate checks for low-income workers; and extensions of tax breaks due to expire Dec. 31.

> The package also would feature at least $20 billion to extend unemployment benefits by 13 weeks and to help jobless workers buy health coverage.

My response to this article is two words: I accept. I accept.

I think this would go a long way in dealing with many of the concerns that Senate Democrats have expressed—concerns we have now had for some time.

There is one major caveat. The only major change we would have to have is that we would trade the accelerated rate cut proposal currently listed as part of the Republican package for the Domenici payroll tax holiday. In other words, we would propose a Republican tax proposal—one that is cosponsored by a lot of our Democratic colleagues—we would substitute the Republican payroll tax holiday for the rate cut acceleration, and, by and large, you have all the components of a deal. We don't need to go into more rooms in the back of the Capitol. We don't have to negotiate with a great deal of give and take here and procedural concerns about how we are going to address these issues. That would be it.

Let us take what the Republicans have said as their new proposal and let us substitute a Republican payroll tax holiday proposal for the rate cut acceleration, and you have a deal.

We want to clarify what it is we are talking about with regard to the unemployment compensation and health benefits. I think it is very important that the worker assistance package include extended unemployment benefits for all workers, especially the part-time workers and recent hires who would have to be part of the unemployment compensation package, a tax credit for employers and insurers to cover 75 percent of COBRA health care costs for laid off workers, an option for States to extend Medicaid coverage for those ineligible for COBRA, and a bipartisan National Governors Association proposal for State fiscal relief.

I assume when we talk about health care, that would be part of the health care proposal we would have on the table. The tax rebates that are listed would certainly be a part of it, tax incentives for business to create and invest in new jobs; we are willing to accept a 30-percent depreciation bonus.

These are clarifications, of course, of the proposals that the House Republicans say they would be prepared to put into an economic stimulus package.

There you have it.

Clarify what we are talking about with regard to unemployment compensation and medical benefits; let us make sure that part-time workers and recent hires are included; clarify health coverage so we are sure we are talking about the same thing here; and deal with the rebate checks; tax incentives for business for up to 30 percent of depreciation bonuses. All of that could be part of a plan that we could agree to today. All we have to do is substitute a Republican payroll tax holiday for the Republican accelerated rate cut idea and we have a deal. I hope my colleagues share the same enthusiasm.

I have one more caveat. Of course, this is an issue that I have already vetted with Senator BAUCUS and Senator ROCKEFELLER, our negotiators. I vetted it with our leadership this morning.

I am very confident that two-thirds of our caucus, at least—if not the whole caucus—will support something such as this. But I would want to present it to my caucus—and we will have a caucus meeting this afternoon at 12:30, as we do on Tuesdays. I would recommend it, as I know my negotiators would as well.

So, Senator BAUCUS, Senator ROCKEFELLER, our leadership, examined this and share our view that we have the makings here of an agreement. I hope we will not waste any time. I hope we can move forward with a proposal of this kind.

We could complete this stimulus package this week. It is my hope that we can do so, putting aside all of the procedural hurdles and all of the many differences and many of the accusations that have been made over the last several weeks.

Mr. DORGAN. I wonder if the majority leader will yield to me.

Mr. DASCHLE. I am happy to yield to the Senator from North Dakota, and then of course I will yield to the Senator from Indiana.

Mr. DORGAN. First of all, I compliment the majority leader for this proposal. I think there is a real urgency for us to do something to provide some lift or some stimulus to this country's economy. We are both at war and in a recession. I think we owe it to the American people to take a no-regrets policy here, to take steps in the right direction to try to deal with this weakened economy.

If I might just say, virtually every economist in this country believes that what you should do to provide a stimulant to this economy is to propose policies that are both temporary and immediate. And that which the majority leader has objected to, with respect to the acceleration of the rate cuts for the top two rates in the income tax code, does not give temporary and immediate help. They in fact cause longer term fiscal policy problems.

But I ask the majority leader, isn't it the case that all of the proposals you have reacted to, with respect to the announcement by the House and also the proposal offered by Senator DOMENICI, meet the test of being both temporary and immediate? Isn't it the case that that would represent the character of all of those elements of the plan you have just described that you would accept?

Mr. DASCHLE. The Senator is absolutely right. That is, of course, one of the really appealing features of this plan. We said at the beginning we would want this to be immediate, we would want it to be stimulative, and we would want it to be cost conscious. This meets all of those criteria. This is immediate, it is stimulative, and the Domenici proposal is less in cost than the accelerated rate cuts.

So we are in a very strong position to meet the criteria, to find the common ground that both sides have said they are looking for. That is why I wanted to come to the floor. I read about this proposal this morning with great enthusiasm because I do believe it represents movement here. I hope with that one change, and with the clarifications I have suggested are important to our caucus, we can reach an agreement.

I appreciate the Senator's views on this as well.

Mr. DORGAN. If the Senator would yield for one additional comment.

I hope, very much, this is a breakthrough. The majority leader has said we will accept, he will accept, our caucus will largely accept the proposals on the Republican side coming from the House, take one of the significant proposals from the Republican side in the Senate, package those together with a couple of small modifications, and try to embrace them as we deal with this country's economy. I hope this is a huge breakthrough.

If I might just say to the majority leader, I know there has been criticism in recent days about roadblocks here or there. It is sometimes very difficult to see who is manning the barricades in the Congress. But I must say, from personal knowledge, it has not been the majority leader who has ever wanted to block the stimulus package.

It is the case, is it not, I ask the majority leader, that you are the one who brought a stimulus package to the floor of the Senate for debate before it was so rudely interrupted by a point of order? Is that not the case?

Mr. DASCHLE. The Senator is correct. And I, again, like the Senator from North Dakota, do not want to go back to the old wars and battles if we are going to try to create a new environment here. But the Senator is right. We have made a lot of efforts on the floor, off the floor, in the effort to try to get a meeting. Procedurally, we had a number of obstacles that had to be overcome. We have done that. I have done everything I know how to do to bring this effort forward. And now, perhaps, with some movement on the other side, we are in a position to take full advantage of what could be some really new common ground.

Before I yield to the Senator from California, I will to yield to the Senator from Indiana.

Mr. LUGAR. I thank the majority leader. I appreciate his comments on the stimulus package. I want to go back, however, to the action taken just before that. As I understood, the leader offered an amendment that was identified by number. I just want to trace the parliamentary situation.

Was this amendment offered to the bill S. 1731? Does it stand as an amendment to that bill? The reason I ask—and let me clarify further—is that some thought was expressed, I believe, here on the floor, that this would be original text supplanting S. 1731. And, respectfully, my view would be—although the Parliamentarian might confirm this—that if the majority leader were to supplant all of this and make his amendment original text, you would need to ask unanimous consent to do that as opposed to the offering of simply an amendment in the straightforward way he did so.

The PRESIDING OFFICER. The amendment has been offered as a substitute. No further agreements are in place with respect to the amendment.

Mr. LUGAR. It was offered as a substitute but does not supplant the original text of the original bill?

The PRESIDING OFFICER. That is correct.

Mr. LUGAR. I thank the Chair and the leader for that clarification.

Mr. DASCHLE. I thank the Senator from Indiana for his question.

Mrs. BOXER. Will the majority leader yield for a question?

Mr. DASCHLE. Yes.

Mrs. BOXER. Mr. President, I say to Senator DASCHLE, I thank you for coming to the floor today and making a proposal that I do see as a breakthrough to, let's just say, some of the antagonism that has been on this floor and all over the news media.

I want to say to my friend, and then just very quickly ask him a question, that I believe personally a test of leadership is, when you are in a fire, how you behave. I think a leader who behaves in a positive way, such as you have this morning, after what I consider to be an onslaught of harsh words, says a lot about you as a human being and as a leader leading this country.

You are, in fact, the highest elected Democratic leader in the country today. This has made you a target. All I can say is, the way you stand up to this is coming to the floor and saying: Let's work together.

I see a little light at the end of the tunnel from the Republicans on the other side. They have dropped their alternative minimum tax retroactive rebate to the largest corporations. I know that pleases my friend because here is a time of recession, and the House bill gave $1.4 billion to a company, IBM, for example—that is just one example—that has earned $5, $6 billion. They have huge cash reserves. They are not going to spend that money to stimulate the economy. But people in the middle class are going to spend money.

Then my friend sees that Senator DOMENICI has made a proposal that is, in fact, progressive that will help get this economy going. And he does not seem to care that it is coming from a Republican. He is grabbing on to that.

So I first thank the majority leader. I just want to end with a question about your main difference with the new Republican proposal, and that is the acceleration of the rates. I would like to ask my leader why he believes this isn't good for the economy at this time to accelerate the rates of about 20 percent of the people, leaving 80 percent without any acceleration. If he could make that argument.

Mr. DASCHLE. I will answer the Senator from California after acknowledging her kind words. And I appreciate very much—as she always provides—the gracious support she has provided me.

Let me just say that our concern for the accelerated rate cut reduction at this point is based on three concerns.

First, it is not in keeping with the principles we laid out. We said it ought to be stimulative. We said it ought to be temporary. It is neither of these. So for those reasons, we are opposed to the accelerated rate reduction.

Second, we said it ought to be cost conscious. Of course, this is a very expensive proposal, at least $52 billion, and as much as about $125 billion depending on what kind of acceleration we are talking about. So there is a very significant cost associated with it. When we recognize that this money is coming from borrowed funds, the Social Security trust fund, that will be troubling.

Third, of course, is who benefits. What we want to do is put it into the hands of those who will benefit and who is most likely to spend the money so that there is something of consumptive value and whatever it is we are doing in an economic stimulus will be most appreciated.

This does not have much consumptive value. This does not have much value in terms of both economic as well as fairness factors and considerations. From that perspective as well, we have a lot of concerns.

I have to leave the floor at this time, but I do appreciate the comments and the question of the Senator from California. I hope this will open up a new opportunity for us to work together to find some resolution, sometime hopefully in the next day.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Let me speak a little bit about what has just occurred. We have had the Democratic leader, the majority leader of the Senate, offer a breakthrough on an economic stimulus plan by saying to our friends in the Republican Party: Save one item, we will be with you. We can craft a plan that will work, and substituting for that one item a payroll tax holiday for 1 month that was suggested by the ranking member on the Budget Committee, Senator DOMENICI.

All we need now to get it done is for the President to weigh in. He is very popular in his efforts in the tough period we are going through. I have supported him essentially down the line on his war on terrorism. But when it comes to here at home, we need the same kind of focus, the same kind of commitment, the same kind of attention, the same kind of steely resolve that he has shown in carrying out this war on terror. We need that same thing here at home.

After a weekend of being vilified by the Republican side all over the press, including the Vice President of the United States, who you would think would have better things to do than to attack the Democratic leader, he has come to this floor, turned the other cheek, as he always does, and said: I am ready to work. I see a light at the end of this tunnel.

I am very excited about this prospect. As a former stockbroker many, many years ago, I spent a lot of time looking at the economy. This economy is very confusing in the sense it is sending confusing signals. Will this be a long-term recession? Will we come out of it? How does the war on terror play in one way or the other?

These are difficult times, but we do know we need a response, a response that will give an immediate impetus to consumer spending in this country, a kind of response that will not have a long-term negative impact on our budget.

Senator DASCHLE's patience, his leadership, his willingness to take a punch or two and still come back and be positive, these are all qualities we need in leaders. I am very happy. I know we have a lot of work to do on the farm bill. I will not go on much longer, except to say this is certainly the start of a new day for the economic stimulus package. I hope the President will weigh in. I hope Senator DASCHLE and the President will talk today, very soon, and that the President will bring his energy and focus to this issue. I believe it could be resolved in 24 hours.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mrs. BOXER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I was hopeful there would be some talk on the farm bill. I am sure that will take place, with amendments being offered. I am confident that will take place.

I am gratified the leader came to the floor and put an end to this constant talk about his not wanting a stimulus package. He has wanted a stimulus package. And if the Chair would recall, the only reason there is a stimulus package still before the Senate is, we did not raise a point of order on the one that would have been granted on the House bill. That is still here in the Senate. If the leader had wanted to get rid of the stimulus, he could have raised a point of order, or any one of us could have, and that would be gone.

We had offered a number of unanimous consent requests when we were on the railroad retirement bill that if we could get off that during the postcloture proceedings, we would go back to the stimulus. They refused to do that. The minority would not allow us.

What the leader has said today is, he accepts what the Republicans have offered. Of course, it is in the press, not from an authenticated source. He has said, we accept what they offer with the one exception: rather than have the accelerated tax cuts, what we would do is accept what Senator DOMENICI has talked about for several weeks, agreed to by Senator LOTT and a number of Democrats; namely, that there would be a 1-month's moratorium on withholding taxes, which is what most people pay. Most people in America do not pay more in income taxes than they do withholding taxes. Withholding taxes is the burden on the American people. What Senator DOMENICI has said should happen is there would be a 1-month moratorium on paying withholding taxes, not only by the employee but the employer. This money would go immediately back into the economy.

It is a good idea. We accept that.

It seems to me we have a deal. We could have that deal by 3 this afternoon. It is very simple. It would be stimulative. It would meet all the requirements that everyone has talked about, including the President.

I hope then we can get past this name calling. As has been indicated a number of times today, it really is name calling—obstructionist. It is all directed toward the Democratic leader, Senator DASCHLE.

I don't think it is just by chance that this happened, that we have all the congressional leaders, we have the Vice President, and we have everyone directing the attention to Senator DASCHLE. I think it is probably as a result of the fact that the White House has done some polling, which indicates that all over America Senator DASCHLE is someone people trust. I go home to Nevada and people don't know Senator DASCHLE because he is from South Dakota, but they like Senator DASCHLE. On television and in his appearances on C-SPAN, to America he is somebody who comes across as trying to work things out. He is not shrill. He is reasonable. He comes across on television that way because that is how he is. He is the most patient person with whom I have ever worked. He is someone who never raises his voice. He has time for everybody. I have seen him—when I want to go home late at night, sometimes there are Members of the Senate who still want to see him. He is patient and he says: Come on over; I am happy to talk to you.

So what the American people see is what we see every day. I think the reason there has been this directed—I repeat—and concerted effort to get DASCHLE is because they realize he is an effective spokesperson for the Democratic Party. I think it would be a real stretch to say that he comes from some wild-eyed liberal State—the State of South Dakota. Some people are trying to correlate Senator DASCHLE with Saddam Hussein. That is what those ads, as we speak, are doing that are running in South Dakota.

I am tremendously disappointed in the Vice President. I served in the House of Representatives with him. I like DICK CHENEY. But on national television when he was asked if he supported those television ads, he did not respond that he did not support them. He gave every impression those ads were OK—that DASCHLE and Saddam Hussein should be pictured together. That is not good.

Mrs. BOXER. Will the Senator yield for a question?

Mr. REID. I am happy to yield for a question.

Mrs. BOXER. I say to the assistant leader that his comments are right on target. I find it so strange that at this time they are attacking the Democratic leader, who is not only the leader of the Democrats in the Senate but of everyone. He is, in fact, the majority leader. He leads the Senate. So at a time when we have tried to come together, we have been supportive of this administration in the war against terrorism. And it seems that if you disagree with one another on anything, you are a target for attack. The irony of that is, what we are truly fighting for in this war against terror is our right to have our democracy, our freedom, our differences, whether it is political differences, religious differences, diversity, or to fight for the rights of women. After all, we know that in Afghanistan, or in the Taliban, I would never be allowed to show my face—not that it would be so terrible for everybody, but it would not be very nice for me. I have tried on a burqa and it is a frightening thing.

When a Democrat in the Senate or in the House, steps out and says we think the President is doing a terrific job, but we have an opinion that it isn't smart to give retroactive tax cuts to the wealthiest corporations in America because, A, it won't stimulate the economy, B, it is unfair, and, C, it is going to hurt Social Security, somehow we are related to Saddam Hussein. Or if we don't want to drill in the Alaska wildlife refuge because we think it is pristine and a gift from God, we are criticized as playing into the hands of the terrorists. This is not right.

I think our leader has shown the grace today that leaders should show more of, which is to come to this Chamber without rancor and say—not even address all of that and just say: I see a little light here; let's get to work.

But does my friend not see the irony here of our being engaged in a war against people who don't want diversity of thought; yet when we step out here, we are criticized if we don't go down the line 100 percent?

Mr. REID. Well, the Democratic Party and Democratic Senators are about as diverse as a group of people could be. We have people who represent different constituencies and different States, of course, but we are a group of Senators with wide-ranging views. Senator DASCHLE works with each one of us. As I look around in this Chamber, there is a Senator from North Dakota, and Senators from New York, California, Nevada, and Georgia. We all have different views and experiences in life. We try to be together as much as we can.

Senator DASCHLE recognizes that we can't be together all the time, but he does a good job of holding us together, being our leader. I think it speaks volumes for what he has done when he comes to the floor today, and he has an article from the Wall Street Journal that lists in detail what the minority wants in a stimulus package. He says: I accept. The only thing I don't want is the retroactive tax cuts. We will take another Republican proposal and insert that instead—one supported by the former chairman of the Budget Committee and the former majority leader, Senator DOMENICI and Senator LOTT. I think it is a pretty good deal. I think it speaks that we want to get a stimulus package. It is here.

As I said earlier today, we can have it by 3 o'clock this afternoon. However long it takes the staff to write it up, we can do it and walk away from it.

Mr. SCHUMER. Will the Senator from Nevada yield for a question?

Mr. REID. I am happy to yield, with the prefatory statement: The Senators from the State of New York, more than any other Senators in the past 6 months, can talk about how the majority leader has led this Nation in a bipartisan effort to help the State most afflicted by the terrorist acts. So I am happy to yield to my friend.

Mr. SCHUMER. I thank my friend from Nevada. In terms of what I would like to ask him, he is certainly right. New York, without the majority leader, would be virtually nowhere. He has stood firm for us and he has tried in every way to help New York, whether it be on the DOD authorization bill, in terms of the financing we need, along with the Finance Committee, Chairman BAUCUS, and the majority whip. He has helped us look for tax cuts that keep businesses in New York. In fact, it has been this Senate, under his leadership, that has sort of had its finger in the dike. Have we gotten everything we wanted? No. Have we done very well because of TOM DASCHLE? You bet.

I would like to ask a question, and the Senator mentioned it as I rose. If this man were so obstructionist, why would he be proposing a comprehensive package that has a large number of the proposals that the folks from the other side came up with? The Domenici proposal is a tax cut. It is a tax cut that goes to business, it is a tax cut that creates jobs, and it seems to fit a lot of the guidelines for which many colleagues on the other side are asking. The majority leader of this side takes a giant step across the aisle and says, OK, we are going to take a lot of the things you have proposed, even though we might prefer actually to get the economy going in other ways, but this is a decent way to do it, so we are going to reach out to you. I think it is a brilliant step. I think it is a step that could break the logjam because, as my colleagues well know, we have had loggerheads here. The other side of the aisle has said the way to stimulate the economy is tax cuts. What on this side we have said primarily is that it has to be aimed at average folks, not the wealthiest who got their goodies back in the tax bill.

Well, the Domenici proposal, which Senator DASCHLE has embraced, does both. It is a tax cut on perhaps the most onerous tax—necessary but onerous because it funds Social Security—the payroll tax. Talk to small business as well as average workers and yet it is aimed at average folks. At least half of it is.

So doesn't it seem befuddling that the one person who seems to have put together a compromise, who has not said do it my way and that is the bipartisan way, which we seem to hear from a few colleagues on the other side—I don't hear Senator DASCHLE saying his way is bipartisan and the other way is not. But the one person who has put together a real proposal that has a chance of breaking the logjam, that does incorporate many ideas that came from the other side of the aisle seems to be our majority leader. Quite the contrary to what some of the editorials are saying, he is not being an obstructionist. He is being the most constructive Member of the entire Chamber. I have not heard a proposal that has more promise than the one he elucidated on the floor an hour ago.

I ask my good friend from Nevada, is this somebody who takes the proposal of the good Senator from New Mexico and makes it the linchpin, the centerpiece of what he could support, someone who could fairly be called obstructionist, or someone who seems genuinely trying to get money into the hands of the people even as we go into a recession, so we can get out of that recession and so people can start spending a little more and getting the economy going? Is my thinking on this out of touch? It seems to me so logical that I almost do not want to bring it up.

Mr. REID. The Senator from New York has answered his own question. Of course, it is clear Senator DASCHLE is not being an obstructionist, but it shows the kind of person he is, the peacemaker he is. He stood here half an hour ago and said: Let's not pass blame. Let's not talk about what went on in the past. Let's just talk about what is going on today, and I accept your proposal with the one caveat: Rather than accelerating tax cuts, let's go for the Domenici and Lott proposal and take that. There are some Democrats who accept that also, which is good. It seems to be bipartisan.

I repeat, it speaks well of our leader when, in responding to a question from one of us earlier today, he said: Enough said of what went on in the past. What I want to do is move forward. I think that is what this does.

As the Senator from New York has said, it breaks a logjam, and I hope our friends on the other side of the aisle will also not look backward. I think they should follow the advice, the suggestion of our friend from South Dakota, the majority leader, and say: Let's look forward; I accept your deal.

Mr. SCHUMER. I thank the Senator.

The PRESIDING OFFICER. Who seeks time?

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, after what I just said, this is in no way to direct blame toward anyone, but we are going to go into party conferences at 12:30 p.m. Because there was not anything going on, we talked a lot today on this side. I hope, though, we will move to the amendment process as soon as we can. At 11 o'clock, we were ready for amendments. We acknowledge we should have been ready to go a little earlier than that, but we were not. We did not hold things up that much because there were votes scheduled all morning and we were able to get that. We had only one recorded vote.

In short, I hope people will not say they have not had enough time to work on this bill. I hope colleagues will offer their amendments, if there are amendments to be offered. We want to finish this bill today. We want to get this bill to conference. It is an extremely important bill.

There are some who do not like the bill the way it is written. That is the way any legislation is. I am not as experienced in the Senate as my friend from Indiana, but I have been in Congress quite awhile. I have never had legislation that I introduced turn out the way I introduced it. I am sure that is what will happen with this legislation.

I hope we can move forward, get this legislation done, have a good debate, and go home for Christmas. We are beating around the bush here, I say to everyone within the sound of my voice. Christmas Eve is 2 weeks from yesterday. We are fast approaching Christmas. Two weeks from today is Christmas. We have to finish our work. People want to go home to get ready for Christmas. I do not know the experience of others, but it is a little hard to go Christmas shopping when you are here until after midnight on Friday night, when we have other things to do, and with travel that is necessary. I live almost 3,000 miles from here. I want to go home for Christmas.

I hope we can move forward with these amendments as quickly as possible and move on this legislation. I hope people do not complain that they have not had time to offer amendments. We have time now. After the conference, we will go to 6 o'clock tonight, 12 o'clock tonight. We want to finish this bill.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I share the eagerness of the distinguished leader in wanting to complete the bill. For the moment, I am awaiting the presence of the distinguished Senator from Idaho, Mr. CRAPO, who has one amendment on dairy. I anticipate his arrival imminently.

After he offers that amendment and in the event it is still in order, I will offer an amendment that will amend the commodity nutrition sections of the bill. To advance the process, I will discuss that amendment pending the arrival of the distinguished Senator from Idaho. If he does not arrive, I will offer the amendment and let it be the pending amendment.

As many of us have pointed out, current farm programs, including the program we adopted in 1996 and supplemental farm assistance programs we have adopted at least the last 3 years during the summertime, have encouraged overproduction of a small number of selected program crops: namely, wheat, corn, cotton, rice, and soybeans.

The effect of our farm bills, intended or unintended, has been to encourage those who are in the five row crops I have enumerated to plant more. This should not have come as a total surprise because we have set incentives in our bill which make it profitable to do that.

As I pointed out from my own experience in Indiana, if you send a bushel of corn to the elevator, you are guaranteed to get $1.89 because the last farm bill has a loan deficiency payment program that guarantees that. That has no relationship necessarily to the cost of production of an additional unit. So many farmers in Indiana, myself included, produce knowing that our cost for the marginal bushel is going to be less than what was meant to be the floor. The $1.89 was not to be touched.

Of course, as more and more of us produce more and more corn, the surpluses grow, the price predictably falls, and given the size of the surplus, it stays low. Then people come to the Senate Chamber and point out, correctly, that prices are very low and, as a result, we ought to do something about that. And farm bills are passed to do something about that.

The dilemma with the pending bill that came out of the Agriculture Committee is that, in my judgment, the incentives to produce even more have been increased substantially. Therefore, it is a large step in the wrong direction.

If we adopt the bill out of the Agriculture Committee, we will, in fact, have low prices. They are almost guaranteed.

Senators will say: But whether the low prices happen or not, that is the market. What we are talking about in this bill are payments for a bushel that have no relationship to the market because we are going to guarantee a payment that is well above the market, almost in perpetuity, whether it is a 5-year bill or a 10-year bill. That will provide new income to farmers, quite apart from what supply and demand either in this country or the world might suggest. I think that is the wrong course.

As a result, I simply want to point out that caught in this cycle of low commodity prices that reinforce themselves, I tried to think through a different way of approaching this; namely, one that in effect accepts that we have markets that work and people ought to produce for the market price. In the event the market price is not adequate, they ought to produce something else. They ought to have a mix in terms of their farm situations, as most farmers do, or become much more efficient so the costs become lower than the market price and they make a profit doing that.

I do not make that shift abruptly. There are a couple of years of phaseout. But the heart of the matter, in light of the amendment I am going to introduce, says instead of just the five row crops that are the focus of farm legislation and that lead to six States receiving close to 50 percent of all the payments, every person who is involved in farming, whether that person produces livestock or row crops or fruits and vegetables—whatever is produced on that farm, every dollar of that farm income counts. It is a level lie. We don't pick and chose, as historically we did from the New Deal days onward, for crops that became the so-called program crops, the focus of farm programs.

In the event we were to adopt my amendment, all States are equal. All farmers are equal. It doesn't make a difference what they produce and they have the freedom to produce whatever will make a profit. They look to the market for whatever that may be.

After they find that market, under my proposal, they add up—and their tax return will show—all the money that has come from all agricultural sources on their farm. They receive, up to a certain limit, a 6-percent credit or voucher from the Federal Government of the total value of what they produced. If their total production is $100,000 on the farm—say $40,000 from corn, $40,000 from soybeans, $20,000 from hogs—$100,000 of revenue, then they get a voucher for $6,000 with which to purchase a crop insurance—or really a whole farm insurance, more accurately, because now we are doing not only crops but livestock or anything else—whole farm insurance that guarantees that they will receive 80 percent of the average 5-year value that they produce.

In essence, it is a safety net. It doesn't guarantee 100 percent of their average year by year, but says in no case can they dip below 80 percent regardless of weather disaster or export/import disasters or all the things that can befall agriculture in America. In other words, we leave behind target prices, loan rates, prices that have no relationship to the market. People produce for markets. They get credit for everything they produce, unlike the current system. And they have sufficient money to buy insurance that makes them whole—at least 80 percent, a 20-percent reduction being the worst that can happen in any farm year with that kind of coverage.

I think this makes sense as a long-term farm policy for our country. It ends the cycle of overproduction, of stimulation from our farm bills. One could say this has not been all bad. In fact, if you own land then, in fact, it has been very good. Some agricultural economists do not prophesy a bubble in farmland, but many point out that the values of real estate, agricultural real estate, have leapt far beyond the income potential—largely stimulated, again, by Government payments and the certainty of these payments.

Unfortunately, 42 percent of farmers who are involved in this program rent land. They are out of luck because, essentially, our programs build value into the value of the land—into the heightening of the rent.

Mr. President, I am advised, happily, that the distinguished Senator from Idaho, Mr. CRAPO, is available. As I indicated as I began this discussion of my potential amendment, I am very pleased that he has an actual amendment that he is prepared to introduce and discuss for the benefit of all of us at this time. So, therefore, I am prepared to yield to the distinguished Senator from Idaho for the purpose of his offering an amendment and his discussion of that important amendment.

Mr. CRAPO. Mr. President, I have an amendment at the desk. I will call it up for its consideration.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I understand there now is a copy of the amendment at the desk.

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 2472

Mr. CRAPO. I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAPO], for himself, Mr. BINGAMAN, Mr. DOMENICI, Mr. BROWNBACK, Mr. CRAIG, and Mr. VOINOVICH, proposes an amendment numbered 2472.

Mr. CRAPO. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To replace the provision relating to the national dairy program with the provision from the bill passed by the House of Representatives)

Strike section 132 and insert the following:

SEC. 132. STUDY OF NATIONAL DAIRY POLICY.

(a) STUDY REQUIRED.—Not later than April 30, 2002, the Secretary of Agriculture shall submit to Congress a comprehensive economic evaluation of the potential direct and indirect effects of the various elements of the national dairy policy, including an examination of the effect of the national dairy policy on—

(1) farm price stability, farm profitability and viability, and local rural economies in the United States;

(2) child, senior, and low-income nutrition programs, including impacts on schools and institutions participating in the programs, on program recipients, and other factors; and

(3) the wholesale and retail cost of fluid milk, dairy farms, and milk utilization.

(b) NATIONAL DAIRY POLICY DEFINED.—In this section, the term "national dairy policy" means the dairy policy of the United

States as evidenced by the following policies and programs:

(1) Federal Milk Marketing Orders.

(2) Interstate dairy compacts (including proposed compacts described in H.R. 1827 and S. 1157, as introduced in the 107th Congress).

(3) Over-order premiums and State pricing programs.

(4) Direct payments to milk producers.

(5) Federal milk price support program.

(6) Export programs regarding milk and dairy products, such as the Dairy Export Incentive Program.

Mr. CRAPO. Mr. President, this amendment will strike section 132 from the farm bill and replace it with a study of the impact of our Federal dairy policy on producers and consumers. I am proud to be joined by Senators BINGAMAN, DOMENICI, BROWNBACK, CRAIG, and VOINOVICH. There will probably be others before we are finished with the debate.

There has been a lot of national attention provided to the issue of national dairy policy. As the provisions in the farm bill in the Senate dealing with dairy were first proposed, there was a very strong outcry across the country, which I supported. It is my understanding the proposals have been modified somewhat. What we first started out with was a proposal that would have increased the costs to our consumers, increased the costs—reduced the price to our farmers or our producers and created a national subsidy program for milk in the middle.

This would have resulted in our school lunch program, for example, paying millions more dollars nationwide, our Food Stamp Program paying millions of more dollars nationwide, and a reduction of the consumption of milk because of the increased price of milk that this new national dairy program would have required.

It has been modified somewhat but still achieves the same types of negative results in the managers' amendment that has been proposed as a substitute for the bill that is now on the floor. It is an ill-conceived attempt to create a national dairy program that is unfair, is unwanted, and untested.

This proposal is opposed by milk producer organizations that represent over 90 percent of the milk produced in this country. It is opposed by groups with an interest in our milk policy. And, it is opposed by taxpayer organizations.

The proposal we have before us today is the third iteration we have seen since it was first sprung upon us before the committee mark-up. While this version is a vast improvement over the milk tax created in S. 1628 and in the filed bill, it is still bad dairy policy and still harmful to the majority of dairy producers.

This proposal takes a relatively healthy domestic industry and forces $2 billion in government spending that will reduce overall farm income. That's right. This will reduce income.

The proposal creates artificial incentive to increase production. The law of supply and demand dictates the surplus milk will reduce the price paid to dairy farmers. For example: payments to milk producers could amount to more than $500 million per year, or the equivalent of a U.S. average price incentive of nearly 3 percent. Such a production incentive could lead to an increase in milk production of nearly 1 billion pounds of milk and a market price decline of 20 cents per hundredweight.

If you have a dairy farm larger than the cap, which is most of the West and major producers in every State, you lose money.

The price of milk goes down, and that subsidy, which this proposal in the farm bill now intends to make up the difference to farmers, only goes so far. So those who do not benefit from the new subsidy are going to lose income.

The special treatment in this bill for the Northeast is also going to have an additional effect on milk across the country. This proposal contains specific and special provisions for the Northeastern States.

The 12 Northeastern States identified in this proposal, which account for 18 percent of milk production, will receive 25 percent of the proposed benefits. So, the percentage increase in production in the 12 states is likely to be greater than the rest of the Nation. The market prices in the rest of the Nation would reflect a disproportionate reduction due to the higher payments paid to northeast producers.

In effect, a taxpayer subsidy to the Northeast is going to result in an increase in the production of milk to the detriment of dairy farmers around the rest of the country.

What's more, this $2 billion government outlay is just for the payments. It does not take into account the cost to the government when it has to purchase surplus milk products. Nonfat dry milk is currently being bought under the price support program, which helps to support class IV milk prices—butter and nonfat dry milk. USDA purchased over 20 million pounds of nonfat dry milk last week, bringing USDA uncommitted inventories to 655 million pounds, nearly a year's worth of U.S. production and far more than USDA can distribute over the next several years. The increased supply and decreased prices will lead to more government purchases and more cost to the taxpayer.

I also ask my colleagues what they expect to happen when the $2 billion is expended. We will have pushed market prices down and producers will actually need these payments in the future. We will have made our producers dependent on Federal payments, leading to more payments in the future.

We will have created a dependency, making our producers dependent on Federal payments, leading to more payments in the future and increased debates in these Halls of Congress about whether we can continue a subsidy program which we didn't need to establish in the first place.

What is the goal of this proposal? Supposedly it is to prevent the demise of small dairy farms.

Is there anyone who thinks producers will not make investments to produce the maximum amount they can get subsidized to produce? What will this do to the small dairy producers who can't afford to make those investments?

The subsidy programs in this bill—which I understand is to encourage production of up to 400 cows per farm—will end up in a Federal subsidy program stimulating the overproduction of milk in those areas and stimulating the increased size of dairy farms.

I urge my colleagues to vote with me to strike this provision. This is bad policy for the farms, it will be bad for the dairy industry, and it is bad policy for the country. Congress should favor policies that encourage growth and innovation in the industry, and not endorse plans that replace market paychecks with government subsidies. The study called for in my amendment will help us determine what those good policies should be.

As I indicated, by striking section 182 of the farm bill, we are proposing to replace it with a study. There has been a tremendous amount of debate over the past few years—in fact, over a number the past years—about what the proper milk policy in this country should be and what the impact on producers, processors, and those who consume the milk will be from different farm policies.

Although I am confident that the proposal to create a new Federal subsidy program and then impose floor prices in some parts of the country is not the right kind of farm policy, I also believe a study by Congress is necessary to help us get the actual data before us to make these critical decisions.

Let me explain for just a moment who in this country opposes this program. Again, as I indicated previously, dairy producers across this country representing over 90 percent of the dairy production oppose this new dairy proposal. Let me go through a little more specifically who opposes this proposal.

It is opposed by the National Milk Producers Federation, American Farm Bureau Federation, National Council of Farmer Cooperatives, Alliance of Western Milk Producers, Southeast Dairy Farmers Association, Western United Dairymen, Milk Producers Council of California, and the Dairy Producers of New Mexico, Idaho, Oregon, Texas, Utah, Washington, and Montana. It is opposed by the retailer processors and consumer food groups, including the

American Frozen Food Institute, Americans for Tax Reform, Chocolate Manufacturers Association, Council for Citizens Against Governmental Waste, Food Marketing Institute, Grocery Manufacturers of America, Independent Bakers Association, International Dairy Foods Association, National Confectioners Association, National Council of Chain Restaurants, National Food Processors Association, National Grocers Association, National Restaurant Association, and the National Taxpayers Union.

I went through that list to show the broad array of different kinds of groups that oppose this new proposal for a national dairy policy.

If you listened carefully, you will notice that there are groups in there whose dedicated purpose is to protect the American taxpayers, such as the National Taxpayers Union or Citizens Against Governmental Waste. There are groups in there that utilize milk and the milk processing industry, such as the chocolate manufacturers or grocery stores or retailers and restaurant associations. There are groups in there that produce the milk and many milk organizations that were identified. Whether one is on the production side or whether one is on the consumer side or the marketing side, it is recognized very broadly across this Nation that this new proposal to create a Federal subsidy program for dairy is not a wise direction for our dairy policy.

For these reasons, I encourage my colleagues to vote yes on this amendment to strike this provision from the farm bill.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise in support of the amendment of the distinguished Senator. I believe he has concisely pointed out the dilemma of subsidies in the dairy areas where a great deal of the problem has been created in the past.

The committee has wrestled over the course of time with dairy policy and has found vast regional and sectional differences, most recently exacerbated by the New England Dairy Compact and the debate that has surrounded that particular situation.

As a matter of fact, the Chair will recall when we last had an agriculture debate where there were a number of Members vitally interested in the dairy issue, although that was not ultimately a part of the supplement payments virtually made by that legislation last August.

But a great number of Members pointed out inequities they believed were created by Federal policy and created by the New England Dairy Compact. Even though the last farm bill indicated it should come to an end after a couple of years, it did not come to an end because of negotiations that surrounded appropriations bills at the end of the session.

Advocates for the New England Dairy Compact managed each year to do so by bumping it ahead another year beyond the termination of the farm bill that called for it.

The last farm bill also called for very substantial changes in dairy subsidies. Those likewise have been bumped ahead by other negotiations that do not deal directly with farm legislation most frequently but were tradeoffs by Senators whose votes were required at the end of the session on appropriations bills.

The compounding of these problems over the years leads us to this point and the need for some rationalization, some study of how there might be some degree of equity for dairy producers throughout the country, regardless of where they live and their income, both with regard to production and pricing as opposed to artificial constraints or boosts that the Federal Government gives.

Certainly, it is a way of bringing things back to where we thought we were in passing the 1996 act given the same troubles the Senator from Idaho has pointed out today. They were exacerbated then.

In addition to this, I presume, in an attempt not to hit the New England Dairy Compact issue head on, the Agriculture Committee, by passing a very generous dairy bill, indicated to many Senators that the additional subsidies and payments to dairymen would be fairly universal around the country.

At least one of the first attempts to do this in the farm bill—and the distinguished Presiding Officer listened to the debate, as well as the distinguished Democratic manager present, the Senator from Georgia—was to up the ante very substantially; one thought being that those who utilized dairy products might put money into a trust fund for the benefit of producers but at the expense of consumers.

It was estimated that this particular scheme might result in a payment of 26 cents per gallon more by all the consumers of milk regardless of income level, regardless of the WIC program, or the school lunch program.

Understandably, as word of this particular redistribution of the wealth got out, cries of outrage occurred. As a matter of fact, the dairy sections were not very compatible. Having warred with each other for all of these years, the thought that somehow the New England compact would be universalized with equity, even if paid for by others—namely, the consumers, ultimately, and 26 cents a gallon—did not set well. So as a result, it was apparent that the farm bill was being rewritten by committee staff.

Most Senators were never the wiser as to what changes the staff made in that particular area, but they were substantial, in part because the initial scoring by the Congressional Budget Office, and others, of the overall product of our Agriculture Committee sent it well beyond the limits that were still very generous in the budget situation. So it would have been subject to a point of order, and a lot of amending and rewriting went on.

That, of course, was not the end of it. I have no idea how many times the dairy section has been subsequently rewritten. I am advised that even this morning before we started this debate, once again, the dairy section was being rewritten. The reason for the delay of our debate this morning was, in fact, legislative counsel was working with the distinguished Democratic staff members on still another dairy amendment to the farm bill to supplant whatever was there, which bore no relationship to what we finally debated in committee.

I think the Senator's amendment is very constructive because neither he nor I have the slightest idea what is now in the farm bill that is before us, and particularly with regard to the dairy situation. We have scrambled, I admit to you, Mr. President, in terms of the amendment that I was about to offer and will offer subsequently to this dairy amendment, to find where, in relationship to the new bill that Senator DASCHLE has offered this morning, our amendment fits.

That is going to be a problem for everybody thinking about amendments today. I think we have rearranged the papers, but there are substantial numbers of new pages. I would estimate, just quickly, there are over 100 pages of new language, some of it pertaining to dairy—a lot of it, as a matter of fact, because that has been the major area of contention and scoring.

Fortunately, the Senator from Idaho, noting this situation, simply says, we just strike the dairy section, whatever its writing or reiteration. Whether it is the fourth or fifth or sixth try at this, we strike it, and we have a study of the situation, which is going to be much more healthy for every American consumer.

Any consumer of milk, listening to this debate, will be relieved that the cost of milk is not going to go up 26 cents a gallon or 5 cents or 10 cents a gallon or what have you. As a matter of fact, there will be a pretty economical milk situation without extraordinary subsidies piled on and redistributed in this way.

The Senator from Idaho has done a favor for every American consumer of milk, a humanitarian service for those who are poor, those who are being assisted in the Women, Infants and Children Program and the school lunch program. He certainly has assisted all of us as Senators to come out of the trenches of this sectional warfare over dairy, which has pitted Senators not only on the Agriculture Committee but on the floor in pitched battles for some time.

I can remember vividly 2 years ago this December when it was very difficult to close down the session of the Congress because the distinguished Senator from Wisconsin, Mr. KOHL, felt that somehow, despite his very best efforts, behind the scenes, somebody, trying to wind up the appropriations process, was, once again, renewing the New England Dairy Compact, which was supposed to be over at that point. The Senator's suspicions were correct. Amazingly, as we left town, the dairy compact was still alive. And Senator KOHL vowed that he would stop this sort of thing. He has tried valiantly to do so on behalf of Wisconsin dairymen and people from the Midwest but without visible success.

I would say to the distinguished Senator from Wisconsin, Mr. KOHL, if he had read the first dairy section coming out of the Agriculture Committee, he would have been even further outraged by the process. He may have read that and may have contributed, for all I know, to other iterations subsequently. But my hope is we will adopt the amendment offered by the distinguished Senator from Idaho. It is a clean-cut way of getting us back to some reality in the dairy area. Clearly, it will be useful for the Congress at this point—without the encumbrance of all of the layers of dairy programs that we have produced, plus some that we have not ever debated but have been produced somewhere else—to sort of clear the deck. The Senator's amendment does that magnificently and cleanly.

So I am hopeful that as we approach the time for final consideration of this amendment and a rollcall vote on the amendment, Senators will be found to have voted in the affirmative for it. I certainly will be. I commend the Senator for crafting this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WE MUST LIVE BY OUR PRINCIPLES

Mr. EDWARDS. Mr. President, today we are commemorating the anniversary of a despicable act against our country and against our people. We all pay tribute to those who died on September 11. At the same time, we salute those defending freedom today at home and halfway across the globe.

War brings out the best in America. The soldiers who stormed Omaha Beach are still our heroes. The firefighters who marched into the World Trade Center will be our grandchildren's heroes.

But the heat of battle and the crush of necessity can also bring out America's worst, especially here at home. And that is the risk I want to talk about today.

During World War II, one of our greatest Presidents authorized the internment of more than 100,000 innocent people, mostly United States citizens, simply on account of their ancestry.

Today, we are ashamed of that episode. And we are resolved that our actions should make our grandchildren proud, not ashamed.

President Bush himself has expressed that resolve. In his speech to the Congress on September 20, he said something that was very important. He said:

> We are in a fight for our principles, and our first responsibility is to live by them.

That is exactly right. One of our principles is vigorous debate. I was saddened when the Attorney General of the United States last week said that unidentified critics "aid terrorists" and "give ammunition to America's enemies." Mr. Ashcroft did not offer any evidence that terrorists benefit when Americans speak their mind.

In our American tradition, it is the responsibility of leaders to promote the free exchange of ideas, not stifle them. That responsibility carries over from peacetime to wartime. We don't encourage different ideas because we owe it to critics. We encourage different ideas because we owe it to ourselves. Robust debate has made America stronger for more than 200 years.

It is only because of open debate that we have a legal right to speak our minds at all. The way the Constitution was initially drafted back in 1787, there was no guarantee for free speech. There was no protection for religious freedom, for privacy, for individual liberty, for so many rights all Americans now take for granted. The original Constitution contained no Bill of Rights.

Without a Bill of Rights, many veterans of the American Revolution furiously opposed the original Constitution. My State of North Carolina flatly rejected it. The first Congress approved the Bill of Rights only after those patriots spoke their minds, spoke up and demanded it. Today, we are all grateful for their speaking their minds, for their patriotism that has meant so much to many Americans who followed.

A few years later, in the late 1790s, our Nation was on the brink of war. The French Government was torturing American soldiers and seizing American ships. At that point, an enraged Congress passed a sedition act criminalizing "scandalous" writing "against the Government." Chief among the opponents of that legislation was Vice President Thomas Jefferson. As he put it, the country's critics should be allowed to "stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it."

Closer to today, President Richard Nixon moved to expand the Subversive Activities Control Board's oversight of political protests during the Vietnam war. Sam Ervin, whose seat in the Senate I now hold, supported that war. But he challenged President Nixon's proposal. What he said on the floor echoed Jefferson:

> Our country has nothing to fear from the exercise of its freedoms as long as it leaves truth free to combat error.

I believe that is still true today. Like the vast majority of Americans, I strongly support America's war on terrorism overseas. Unlike some, I also support much of the administration's law enforcement effort here at home. We live in a new world after September 11. We simply must take steps that we would not have accepted 3 months ago.

I also believe that vigorously discussing each of those steps strengthens our war effort. Thanks to the courage and skill of our soldiers, we will win this war against al-Qaida. But there is a totally different question whether we will win the war for the minds and hearts of those around the world.

I believe we will do that if we hold true to our values—values such as justice, fairness, and the rule of law. Those are the values that make America the beacon of freedom for the rest of the world. And nothing reminds us of our values like open discussion.

The debate over military tribunals is a perfect example. The order of November 30 that authorized tribunals came with very little explanation. Many Americans, including many past Federal prosecutors, asked why our ordinary criminal justice system was not adequate. The administration responded with a much more detailed explanation for their action. That explanation built broad support for the use of tribunals in very narrow circumstances. In fact, I support the use of military tribunals under the right circumstances.

But even since that exchange, serious questions remained about the gap between the specific terms of the order and basic norms of fairness that Americans share and believe in deeply.

In answer to some of the questions last Thursday, Attorney General Ashcroft was able to clarify that many things apparently allowed on the face of the order will not happen. For example, secret trials, indefinite detentions, executive reversal of acquittals by the military tribunals.

Mr. Ashcroft could not rule out other disturbing possibilities. Could a lawful resident in this country be convicted and sentenced to death by a tribunal on a 2-to-1 vote? Could it happen under a burden of proof requiring only a 51-

percent likelihood of guilt; that is, a lawful resident of this country being convicted and receiving the death penalty on 51 percent of the evidence? And could it happen without an independent review to see whether there was evidence that should have been admitted that was not admitted, evidence that would have shown that this particular defendant did not commit the crime?

Members of Congress and members of the general public have much more than a right to raise those questions. We have a responsibility to raise those questions.

The give and take over military tribunals hardly helps terrorists. I believe that it undercuts America's enemies, for open exchange ensures that our actions reflect our commitments. It signals that a great nation fears nothing from peaceful debate. We should welcome that debate. It is a proud, necessary tradition, both in peace and in war.

I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. REID. Mr. President, there is presently in effect an order that we would go into recess for the party conferences at 12:30. I ask unanimous consent that we expedite that by 3 minutes and start the recess for our conferences now.

There being no objection, the Senate, at 12:27 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MILLER).

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

Mr. BINGAMAN. Mr. President, I start by thanking Senator HARKIN for his hard work on this farm bill. I know he has a difficult task pulling people together to craft a bill. As chairman of the committee, he and his staff need to be complimented for the fine work they have done on the bill. It is important legislation for farmers in New Mexico, and I hope the Senate can move ahead to complete action on the farm bill.

The bill has several provisions important to my State. I thank the chairman for working with me on those. I also thank Senator HARKIN for the strong efforts he has made to improve the conservation programs in the bill which are particularly important to my State.

However, all that being true, I wish to express a serious concern about the dairy provisions in the bill. As I understand it, the substitute bill creates a totally new dairy program. I believe the new dairy scheme in the bill is wrong for the Nation's dairy farmers and wrong for consumers as well. That is why I support Senator CRAPO's amendment to strike this provision and to instead have a study to determine which, if any, of the proposals that are currently floating in the Senate ought to be considered in the future.

I do appreciate the effort that Senator HARKIN and Senator DASCHLE and others, as well as our staffs, have made to come up with a balanced dairy policy. The latest version I have seen is a dramatic improvement over previous versions, and I appreciate that.

My State of New Mexico is the 10th largest dairy producing State and one of the fastest growing dairy producing States. Dairy production in my State has grown 200 percent in the past 10 years. We have large, efficient dairies which are clearly the big losers under this latest proposal. These are family-owned dairies, just as in other States. They are larger in my State because we have the land and the resources to support those larger dairies.

Because the latest version of the proposal has only been available a few hours, we do not know the full impact on milk prices and dairy farm income. However, I think it is fair to say that the legislation clearly favors certain regions and certain sizes of farms. Moreover, we do not know what the real impact will be on future production rates, prices the farmers receive for their milk, and nobody has had time to do proper analyses to consider all the complex ramifications of this dramatic change in policy.

We just received a very preliminary analysis of the new proposal. The analysis compares the subsidies to farmers in terms of Federal payments per hundred pounds of milk produced, and our analysis shows that States in the Northeast would receive on average a Federal payment of more than $2 per hundred pounds of milk. Farmers in my State would receive 40 cents, five times less than the Federal payments to farmers in the Northeast.

Based on this analysis, my State of New Mexico would be 50th out of 50 States in Federal payments per hundredweight. Arizona, Florida, Wyoming, California, Idaho, and Washington State would all receive less than $1 per hundredweight. Farmers in Georgia, North Carolina, Rhode Island, Louisiana, Oregon, and Arkansas would receive half as much as farmers in Northeastern States.

Mr. President, I ask unanimous consent that a table prepared for my office by Mr. Ben Yale be printed in the RECORD at the conclusion of my remarks. This table shows the Federal payments per hundred pounds of milk produced in each State. The table is based on the preliminary analysis performed by the Independent Food and Agriculture Policy Research Institute.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, I do not know of any other farm program that favors one region to this extent and has such a dramatic disparity in the use of taxpayers' dollars. In this case, one region will receive 25 percent of the Federal payments, though it produces less than 18 percent of the Nation's milk. Moreover, in one region, farmers are guaranteed a price of nearly $17 per hundredweight, while prices elsewhere are based on market rates and undoubtedly will be substantially lower.

In my view, this is not a balanced program. In addition, I am concerned that indirect payment schemes, such as that proposed here, would distort the market by encouraging overproduction. I know that is a point the Senator from Idaho made in his remarks. Overproduction drives down the prices that farmers receive for their milk. When there is overproduction, the Government will step in and purchase surplus dairy products in the form of cheese, butter, and nonfat dry milk.

We simply have not had the time to digest properly the dramatic new proposal and to make sure we know the implications of this new proposed scheme.

I do believe a market-oriented policy that includes a minimum dairy price support program and the Federal milk marketing orders is the basic approach we need for national dairy policy.

These are the programs that are currently in place. This amendment would simply ensure that these programs continue. I appreciate the efforts of the proponents of the new program to develop a national policy that benefits dairy farmers everywhere. I do not believe that what we have before us does that. I believe we should work toward a balanced national dairy policy that is fair to all farmers, not one that pits one State against another or one region against others. We need a policy that is fair to consumers and processors and promotes a market-oriented dairy policy, not a scheme that could dramatically affect milk prices and add new layers of Government regulation and control.

I want to continue working with Senator HARKIN, Senator LUGAR, and other interested Senators to ensure we end up with a dairy policy that is good for all regions of the country, and I am pleased to support the amendment Senator CRAPO is offering.

I ask unanimous consent that a letter from the National Milk Producers Federation in support of Senator CRAPO's amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL MILK PRODUCERS FEDERATION,
Arlington, VA, December 11, 2001.

DEAR SENATOR:

WE'RE STICKING TO OUR PRINCIPLES

The National Milk Producers Federation has represented the interests of America's dairy farmers for 85 years, and is the only national policy voice for U.S. milk producers.

During the past two years, through a meticulous, inclusive grassroots outreach process involving dairy farmers across the country, we have developed a set of policy principles to help our members work with Congress in the preparation of the next Farm Bill. From these national "Principles of Agreement," we developed a set of dairy-specific programs which have consistently guided our recommendations concerning the Farm Bill.

S. 1731 contains many of the programs that our members have identified as being important to them. These programs are national in scope and favorably impact dairy farmers in all regions of the country. They include:

Extending the Price Support Program;

Requiring importers to pay their fair share into National Dairy Promotion and Research Programs, as well as removing the sunset provision for the National Fluid Milk Promotion Program;

Extending the Dairy Export Incentive Program (DEIP).

Fixing the statutory mandatory inventory and price reporting language to prevent further costly reporting errors by the USDA, and;

Supporting increased Market Access Promotion (MAP) program funds.

These same provisions are also contained in the House version of the Farm Bill, and therefore we urge you to support their inclusion in the final version S. 1731.

It is our understanding that S. 1731 will also contain additional monies for dairy farmers beyond the House version. NMPF supports the authorization of added money *as long as those funds are equitably allocated*, and do not disrupt the orderly marketing of milk throughout the country. Since "equitable" is a relative term, NMPF has established the following principles to help assess whether a new dairy program meets that definition:

It must be national in scope.

It must not discriminate between states and regions.

It must not discriminate between farmers by limiting payments based on herd size.

It must not cause competitive disadvantages for advantages between dairy farmers.

It should not increase production to the point where overproduction eventually erodes the farm gate prices.

As you begin your debate on S. 1731, we urge you to apply these same principles that our dairy farmers are using in considering new programs. Otherwise, we fear that the additional money may do more harm than good.

We're sticking to our principles and we urge you to do the same!

Yours truly,

JERRY KOZAK,
President and CEO.

Mr. BINGAMAN. Mr. President, that letter makes some very strong points. The title of the letter is "We're Sticking to Our Principles." It says the National Milk Producers Federation established the following principles to help assess whether a new dairy program meets that definition:

No. 1, it must be national.

No. 2, it must not discriminate between States and regions.

No. 3, it must not discriminate between farmers by limiting payments based on herd size.

No. 4, it must not cause competitive disadvantages or advantages between dairy farmers.

And No. 5, it should not increase production to the point where overproduction eventually erodes the farm gate prices.

On that basis they believe the amendment offered by Senator CRAPO is the proper course. I urge that course of action on my colleagues.

EXHIBIT 1

ESTIMATED FEDERAL PAYMENT PER CWT

State	Total production—2000(1000 lbs) [1]	Total government payments (millions) [2]	Rate/cwt	Rank in cwt payment
Pennsylvania	11,101,000	283.5	2.5538	1
New Hampshire	319,000	8.1	2.5392	2
Vermont	2,756,000	65.7	2.3839	3
Maine	680,000	16.2	2.3824	4
New York	12,118,000	281.1	2.3197	5
Maryland	1,339,000	30.2	2.2554	6
Connecticut	502,000	10.8	2.1514	7
New Jersey	270,000	5.6	2.0741	8
West Virginia	272,000	5.6	2.0588	9
Indiana	2,314,000	46.2	1.9965	10
Montana	308,000	5.9	1.9156	11
Massachusetts	412,000	7.7	1.8689	12
Delaware	172,300	3	1.7411	13
Kansas	1,450,000	24.1	1.6621	14
Ohio	4,522,000	73.5	1.6254	15
Nevada	471,000	7.6	1.6136	16
Iowa	3,864,000	62.2	1.6097	17
Illinois	2,057,000	33.1	1.6091	18
Virginia	1,921,000	30.7	1.5981	19
Michigan	5,518,000	87.2	1.5803	20
Kentucky	1,693,000	26.7	1.5771	21
Wisconsin	23,186,000	365.6	1.5768	22
Nebraska	1,201,000	18.8	1.5654	23
Alaska	12,870	0.2	1.5540	24
Tennessee	1,410,000	21.1	1.4965	25
Minnesota	9,540,000	141.3	1.4811	26
Missouri	2,244,000	33.1	1.4750	27
South Dakota	1,572,000	23.1	1.4695	28
Mississippi	551,000	7.9	1.4338	29
Oklahoma	1,269,000	17.5	1.3790	30
South Carolina	368,000	5	1.3587	31
Utah	1,659,000	22.4	1.3502	32
Georgia	1,443,000	19.3	1.3375	33
North Carolina	1,207,000	16.1	1.3339	34
Rhode Island	30,200	0.4	1.3245	35
Louisiana	711,000	9.3	1.3080	36
Oregon	1,689,000	21.8	1.2907	37
Arkansas	530,000	6.6	1.2453	38
North Dakota	702,000	8.7	1.2393	39
Hawaii	116,700	1.4	1.1997	40
Texas	5,712,000	66.2	1.1590	41
Alabama	365,000	4.1	1.1233	42
Colorado	1,841,000	19.2	1.0429	43
Washington	5,595,000	52.9	0.9455	44
Idaho	6,887,000	61.5	0.8930	45
California	31,604,000	239.5	0.7578	46
Wyoming	81,300	0.6	0.7380	47
Florida	2,413,000	17.3	0.7169	48
Arizona	3,030,000	13	0.4290	49
New Mexico	4,999,000	19.4	0.3881	50

[1] Source: USDA.

[2] Source: FAPRI Analysis on Scenario D total of 2002–2005.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, we are going to move to a vote very shortly, and I will be moving to table the Crapo amendment. I am constrained to say I am a little, I guess—maybe I do not understand where my friend from New Mexico is coming from on this amendment.

Dairy is important. It is the second largest commodity produced in this country at a value of $23 billion, second only to beef. It is unique among all commodities because it is highly perishable. You cannot store it for long. A dairy farmer has to market it every day, regardless of the price. We have had a price support program for dairy over 50 years. Since 1949, we have had a price support program.

We have had market loss payments in each of the last 3 or 4 years for dairy. Every year we come in and we pass a market loss payment. On three occasions we have done that.

I would say to my friend from New Mexico and others, we made these market loss payments that went out nationwide. The last market loss payment that went out went to about 225 cows. That was it. We have put $2 billion more into this bill for dairy farmers all over the country. We took $500 million for the Northeast, everything west of Maryland, Delaware, northeast, to help them transition from the compact they have. They need that. Then we took the other $1.5 billion and we spread it around the country.

In working this out, in trying to make a balance between the smaller dairy farmers of Wisconsin and Michigan and Minnesota and places such as that, and the larger dairy farms in New Mexico and California and Idaho, places such as that, where they have these huge dairy herds of 10,000 cows, we tried to reach some level of balance. So if the market loss payments of the last 3 years were to 225 cows, we said, Where could we limit it? We went to 450 cows. We doubled, in this bill, the payments to dairy farmers on the cap from what it was last year—doubled it. That means the larger dairy farmers will get more.

Since we are working with a fixed pot of money, $1.5 billion, the more they get, the less someone else gets. So we had to reach some kind of balance. Obviously, if we had no caps at all, these large dairy farms in the West would get all the money and the dairy farmers in Michigan and Minnesota and Iowa and Wisconsin would get precious little. So we had to reach some balance.

Regarding the 450-cow limit we put in, I tell you a lot of Senators from the Midwest swallowed hard on it. They think it should be 225, where it was last year. We tried to make this balanced, so we raised the cap to 8 million pounds annual production, which I think is fair. It is equitable. I think it addresses needs all over the country.

Last, I do not understand what the Senator was saying in terms of New Mexico being last in the Nation. Frankly, New Mexico, I think, was going to get, in the next 3 years, $10.1 million in payments. As I look down the list of States, that is about right in the middle for the United States in terms of total payments. It is right in the middle of all the States.

California, I would point out, gets $143 million; New York gets $178 million; Pennsylvania gets $181 million; Wisconsin, $293 million. These are the big milk producing States and they get the most money. I understand that. But New Mexico is about right in the middle of all the States so I don't understand what he meant about it being last. It certainly is not in terms of the amount of money going to the individual States.

If there is no other debate, I was going to say to my friend from Idaho that I am prepared to move to table.

Mr. CRAPO. If the Senator will yield, I am aware of at least one other Senator who is trying to come to the floor who wants to say something. May we wait for a few minutes to see if he arrives?

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I rise to commend the Senate for bringing the farm bill to the floor today. For my State of Montana, there is no one single issue that is more important than to get the farm bill passed this year, particularly a farm bill that makes sense and helps address the issues that our producers are facing.

Producers have faced drought for a couple of years. I must say, if we do not get relief in a farm bill passed this year, it is truly a fact, I question whether some farmers are going to be able to hang on. It is that important.

I think the farm bill we passed out of the committee is a good bill. It is not a great bill, but it is a good step, a good step in the right direction. I am pleased we will now have the opportunity to continue our negotiations in the Senate Chamber to make the bill as comprehensive and as strong as possible.

We need to support our Nation's agriculture, that is clear—our farmers and our ranchers. Other countries support their farmers and their ranchers, agriculture in their country, I might add, more strongly than we do in ours, and I might add that is not right.

We have an obligation to help people fend for themselves—those who depend upon the weather and who depend upon the market to do a lot better job. We cannot wait until the current program expires next year. We rely upon producers for our food. We have the lowest food prices in the world. We have the most efficient producers in the world. They are now relying upon us for survival.

Our agricultural producers are in as tough shape as I have ever seen. Years of very low prices and extreme drought have made it nearly impossible for farmers and ranchers to break even. Some areas in my State of Montana are experiencing their sixth year of drought.

This summer, I traveled across the high line—the northern part of our State—where a lot of grain is produced. I was astounded, saddened, and stunned. I was just sick at seeing the land in such poor shape. Some of the grain has barely come up. Most of it is just dust for miles and miles. There is no crop because there is no moisture. It is devastating. In about a square 2,000 miles of cropland there is nothing. We have strip farming in Montana because we haven't had a lot of moisture year after year but drought. A large portion of my State is as bad as I have seen it. It is worse, in my judgment, than the drought back in 1988 which was extremely severe. For about 2,000 square miles of central Montana, I hardly saw a combine.

Low prices and drought is disastrous not only to producers but surrounding communities. When producers are hurting, obviously the communities are hurting. Farmers can't buy seed, fertilizer, and machinery, not to mention that they don't have much for clothes or for shoes. The whole economy suffers as well as farmers. The list goes on.

Agriculture is the No. 1 industry in my State. It has been for years. It is today. We are an agricultural State. When agriculture suffers, the entire State suffers. When agriculture suffers in America, the entire country suffers.

Often, agriculture leads to recession before other parts of the economy. Often agriculture tends to lead us out of recession. As we know, when the country is in recession and agriculture is also in recession, there is no way in the world one can say agriculture is leading our country out of recession. That is because they are in such bad shape.

Lenders and bankers in my State are cutting back. They are not granting that working capital to the farmer and to the rancher the way they were before. They are cutting back. Why? Because of the position of farmers.

The troubled agricultural economy not only affects our Nation but it also threatens relationships we have with other countries.

A strong domestic agricultural policy is the only way we are going to get a level playing field with our trading partners. We are at a disadvantage.

Eighty-some percent of the world's agricultural export subsidies are paid by the European Union. How are we going to get leverage to get those agricultural subsidies down so we have a level playing field? We cannot, unless we have leverage. The only leverage I know of is a very strong domestic agricultural policy where farmers are really strong. In fact, I think that is barely enough and is probably not enough if we are going to get the job done to get other countries to lower their agricultural export subsidies.

Clearly, if we don't pass this bill, and if our farmers are in a weakened position, that makes it even harder in world trade talks to get other countries to lower their export subsidies which very directly hurts American farmers.

The time has come to pass this bill, pass the changes in Freedom to Farm, which really turned out to be "freedom to fail." Farmers at that time when those laws were enacted were gambling. They had an idea Freedom to Farm would work pretty well the first few years, but not after a few years later. We are here a few years later. It is not working. Farmers are in difficult shape.

We need a bill that is a commonsense bill, one that is right for Montana, and that is right for America. We need to work together to get this done now because that is the least we can do for our farmers. Our farmers want some help. We should give them the help they need because they have been doing so much for us and so much for the world with the food they are supplying.

Let us get to work and pass a strong, stable, comprehensive farm bill this year.

HOLDING THE CALIFORNIA DAIRY INDUSTRY HARMLESS

Mrs. FEINSTEIN. Mr. President, I thank the chairman of the Senate Agriculture Committee for working with me to find a way that the California dairy industry can be held harmless by the dairy provisions in the farm bill.

California is the largest dairy State in the Nation. Last year, California dairy farmers produced 32.2 billion pounds of milk—over 19 percent of the Nation's supply. With over 2,100 dairy farms in the State, California leads the Nation in total number of milk cows at approximately 1.5 million.

I spoke on the floor last week about how devastating the original farm bill would have been to the California dairy industry. And I have said California cannot be left out of any dairy equation. The original bill would have cost California dairy farmers $1.5 billion over 9 years and driven up prices for consumers by $1.5 billion over 9 years. I thank the Chairman for recognizing how much better California fares under this substitute versus the original proposal. I am delighted that he has agreed to see to it that California can be held harmless.

Under the compromise in this bill, and according to an analysis by the University of Missouri's Food and Agricultural Policy Research Institute, California dairymen will receive a net benefit $143.1 million in payments until the end of fiscal year 2005. This means California dairy farmers will receive $78.1 million in fiscal year 2002, $70.7 million in fiscal year 2003, and $19.4 million in fiscal year 2004. If these numbers are not accurate projections for California, it is my understanding that the dairy provisions will be worked out in conference so that California is ultimately not adversely impacted by the dairy provisions in this bill.

Mr. HARKIN. I thank the Senator very much for working with me and other Senators on this. It is not the intention of this bill to put California dairy farmers at a disadvantage. We will work to ensure the California dairy industry will be held harmless.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank the Chair.

I rise in opposition to the milk pricing mechanism, the last one we have seen. It is very hard to analyze because we have had four since we started. I wish I could be more precise and specific about the latest. But I want to just talk generally.

I am pleased to be a co-sponsor of Mr. CRAPO's amendment which would eliminate all elements of a National Dairy Plan.

The amendment I support today would continue the $9.90/cwt. price support, which the New Mexico dairy interests strongly support. This is the third or fourth proposal we have seen with regard to dairy policy and it still caters to the Northeast at the expense of the other states. This most recent proposal resembles an expanded Northeast Dairy Compact. It is expanded to include Delaware, Maryland, New Jersey, New York, Pennsylvania, and West Virginia which were not originally in the northeast Compact.

Under this recent proposal, marketing assistance loans apply to every producer except those in "Participating States," which are Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia. The 12 States in the Northeast reap greater benefits than the other 38 dairy States. If we compare the numbers using today's payment rates, the Northeast States would get about 70 cents per hundredweight. Compare this to other States, such as New Mexico, which would receive only 40 to 60 cents per hundredweight.

Under this national plan as the rolling average decreases each year, the payments to producers decrease by about one-third. Yet under the same plan, payments to the northeast group stay the same. This is because there is a $16.94 target price built into the plan. It is time that the Senate understands that when it comes to setting dairy policy, it is not just Vermont versus the Upper Midwest. The West, including New Mexico, should have just as much to say about dairy policy.

New Mexico is currently the fifth largest diary State. Yet, under this new plan, estimates show New Mexico coming in dead last on payments. Policies that penalize the new and efficient while providing welfare to the inefficient are unacceptable. These are the types of policies that are being contemplated in the original Ag Committee bill. Additionally, policies intended to retard and reverse the growth of dairying in larger producing States such as New Mexico are also unacceptable.

We need to be setting sound policies that foster competition and the production of a good healthy product, not policies that are regionally divisive—pitting small-farm States against large-farm States—for example, West versus the East. Additionally, we should not be setting policies that punish consumers with higher prices for fluid milk. Decreased milk consumption is not helpful to any producer.

My colleague, Senator CRAPO, has done such a wonderful job in managing the opposition to this price fixing approach. He received a letter from the Secretary of Agriculture. It was gracious of him to ask me to put it in the RECORD. I will read one part of it, wherein the Secretary of Agriculture says:

> Consumers will pay billions in additional costs. By raising prices, S. 1731 will also further exacerbate dairy overproduction. The Federal Government currently owns about 600 million pounds of non-fat dry milk—nearly a year's supply. The bill's effect of increased supply and reduced demand will create an even more enormous surplus that would adversely impact dairy farmers for many years to come.

I ask unanimous consent that the letter which includes that paragraph from the Secretary of Agriculture to Senator CRAPO be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF AGRICULTURE,
Washington, DC, December 11, 2001.

Hon. MICHAEL CRAPO,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR CRAPO: We would like to commend the very constructive amendment you and Senator Bingaman are offering to the dairy title of S. 1731, the "Agriculture, Conservation and Rural Enhancement Act of 2001".

As you know, the Administration is strongly opposed to the dairy program proposed in S. 1731 as reported out of Committee. It will raise the cost of milk by 10-15 percent. In effect, this provision imposes a tax on each gallon of milk, which disproportionately impacts low and moderate-income American families. Consumers will pay billions in additional costs. By raising prices, S. 1731 will also further exacerbate dairy overproduction. The Federal government currently owns more than 600 million pounds of non-fat dry milk—nearly a year's supply. The bill's effect of increased supply and reduced demand will create an even more enormous surplus that would adversely impact dairy farmers for many years to come.

Your amendment to strike this section and provide for a study is consistent with the Administration's Statement of Administration Policy on S. 1731. We support forward-looking farm legislation that facilitates the long-term prosperity of our Nation's farmers and ranchers, promotes effective conservation efforts, and strengthens the nutrition safety net.

Sincerely,

ANN M. VENEMAN.

Mr. DOMENICI. Mr. President, I thank Senator CRAPO, a junior Member of the Senate. He is on the Agriculture Committee, and he is growing his way up from near the bottom in seniority. Today and yesterday, he has shown that he has a very good understanding of dairy and dairy prices in the United States.

I am very proud that he came to the floor and repeated his view of the remarks which Senator BINGAMAN of my State made.

I know if we were to ask the Senate to answer a quiz about dairy and milk production in America, they would never come close to an answer that said the State of New Mexico is the fifth largest producer of milk in America. Nobody would really think that because we don't look like a State that should produce a lot of milk. We are very dry. We are not a giant agricultural State. But what we have is a large group of dairy farmers who have moved to New Mexico with their families, and they have become very modern, entrepreneurial, and technologically ahead of the game in production of milk in the United States.

It is just an absolute joy to go see one of these dairy farms with 2,000 cows. It is unheard of in the parts of America where we are going to protect dairy and milk production with subsidies. We have many that have 1,000 head and many with 750 head. On average, we exceed 1,000 head per dairy farm. They produce large quantities of milk. In fact, year before last, the largest producing cow in America in terms of weight of milk was from the great State of New Mexico, which again causes people to wonder what are we doing right in New Mexico.

We have great competitive farmers. They are doing the right thing by way of matching entrepreneurial spirit, capitalism, and the production of dairy milk and milk-related products for America.

I think our national goal would be not to make it difficult or more difficult for that to happen as it is beginning to happen in the State of Idaho. We ought to encourage that. After all, what do we want? We want the cheapest price of solid, safe milk and related products coming from American dairy farmers for our children and for our families. We want a constant supply coming from competitive producers and marketers of milk.

Clearly, whether or not one understands the intimate details of the latest, the fourth amendment regarding dairy and milk production in America, it is clear that there is no intention to make it easier for those who are producing at competitive prices such as New Mexico and other States. If anything, there is a calculated effort to make their lives more difficult and to make the potential for them to grow and prosper less rather than more.

I can see where we ought to help one State versus another State if we have some really difficult problems on which they must have assistance. But just how much longer do we have to try to paint this picture, and then implement it, of trying to help one piece of America because they are having difficulty being competitive in the production of milk?

This has been going on for a long time. It is time that it end, not that it continue. It is time that that kind of allocation of American resources be on some kind of a slide that is going downward, not one that is going up, up, and away.

This year, the money that will be circulating around will exceed $2 billion, that will move from here to there and elsewhere in order to make one region, that obviously wants to continue producing milk but would have a difficult time competing, more assured of making money through the production of milk.

So I came to this Chamber to urge, when we vote in the Senate today, that we decide we are not going to pursue this policy any longer, that we are going to move in the opposite direction. If there is going to be a motion to table, which I think there is, I say to Senator CRAPO, I hope Senators will not vote to table and will leave this issue before us so we can have a vote on it.

I believe eventually an agriculture bill that has this provision in it—that is the latest, the fourth iteration of the amendment in the last few hours—if that is going to be in the bill, I think it is going to be difficult to pass this bill, get it through both Houses, and signed by the President. In fact, I do not see how that is possible.

So I am glad to be on what will ultimately be the right side. In the meantime, I yield the floor and wish the best for Americans in the future in terms of being able to supply plenty of milk to them at the most reasonable prices, coming from a competitive milk industry in the United States.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, to get to the point where we can vote, I ask unanimous consent the Senator from Louisiana be recognized for 2 minutes, the Senator from Idaho, the proponent of the amendment, be recognized for 2 minutes, and then I be recognized for a motion to table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, with all due respect, I rise to oppose the amendment offered by the Senator from Idaho and urge my colleagues to table this particular amendment.

I congratulate the chairman of the committee, the Senator from Iowa, Mr. HARKIN, for his hard work. It is not easy to put together any major piece of legislation, let alone, as I have learned in my few years in the Senate, legislation regarding agriculture because, in different ways, all of our States participate in the infrastructure of agriculture, some of us more as producers but all of us as consumers. Weighing those interests between the consumers, the producers, and the processors, and all the international trade implications is quite complicated. So I thank the chairman and the ranking member for their extraordinary work in trying to put a bill together to which we can generally agree.

Representing the South and Louisiana, and speaking for the dairy farmers, let me say that when the original bill came out, it did not work for southern dairy farmers. The national pooling concept was really not very fair to many regions, including the dairy farmers in Louisiana. And we have been suffering. We have lost over 25 percent of our farms. If we do not do something, we are going to lose even more.

It is not right to not address this issue. So we proposed a compact—the same as the Northeast has—for the South that would have worked beautifully. But, unfortunately, there were other regions of the country where that did not work. So we came up with yet another compromise.

In the underlying bill that we are considering, the Harkin-Lugar proposal, this compromise shows itself, and it is a countercyclical plan for dairy that will resemble the way we do countercyclical plans and proposals for other commodities that will work well for the majority of our dairy-producing States.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. LANDRIEU. Madam President, I ask unanimous consent for 30 more seconds to wrap up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Some of us have large dairy farms. Some of us have small and medium-sized dairy farms. I suggest that the proposal in the Harkin bill is one that benefits most of us most of the time, and I urge my colleagues to table the Crapo-Bingaman amendment. I support the committee compromise.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Madam President, today what we are being asked to do is adopt a massive new subsidy program in the dairy industry in the United States that will distort the price of milk, promote overproduction, and eventually cause dynamics in the economics of the dairy industry that will work to the detriment of dairy farmers nationwide.

I encourage everyone who comes to vote in a few minutes, when the vote will be called, to support the effort to strike section 132 from the farm bill and to oppose the motion to table.

I conclude by simply reading from correspondence we have received from the National Milk Producers Federation, which has already been made a part of the RECORD by the Senator from New Mexico. It clearly states what this entire debate is about.

They said they have established the following principles to help assess whether a new dairy program meets the needs of the dairy community in America and of the economy that we want to promote in the United States.

They state the program "must be national in scope. It must not discriminate between States and regions. It must not discriminate between farmers by limiting payments based on herd size. It must not cause competitive disadvantages or advantages between dairy farmers. It should not increase production [in America] to the point where overproduction eventually erodes the farm gate prices."

The provisions currently in the farm bill do not meet any of those objectives. The current provisions in the farm bill, in fact, create a managed economy for the dairy industry, establishing a floor price which is far above the market price in one region of the country, which will increase overproduction and promote a new subsidy program that benefits that region of the country much more than other regions of the country, to the detriment of farms in the other parts of the country. It is unfair to dairy producers nationwide. It is unfair to the consumers. We should strike these provisions from the farm bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I move to table the amendment offered by the Senator from Idaho, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Ohio (Mr. VOINOVICH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—51

Akaka
Baucus
Biden
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Torricelli
Wellstone
Wyden

NAYS—47

Allard
Allen
Bayh
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Hollings
Voinovich

The motion was agreed to.

Mr. GRAMM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MILLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

Mr. DASCHLE. I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, as I understand it, another amendment will be offered within the next half hour. I ask unanimous consent that the period between now and 4:30 be for debate only and divided equally between Republicans and Democrats, and that at that time the Senator from Indiana be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is we are in a period of general debate with no amendments to be offered. I wish to make a couple comments at this point that relate to some things that have been said during the debate on this farm bill.

First of all, I am pleased we are at this point. Many of us have struggled hard to make sure we get a farm bill on the floor of the Senate. We are here and we will have a good debate. My hope is we will be able to have some amendments offered and deal with those amendments. We have just had one amendment with a very close vote. I would like, very much, to see us finish this bill by at least tomorrow evening or the next evening and have a conference with the House of Representatives. I hope our goal might be to put a bill on the President's desk for signature before this Congress leaves for the year.

I know that is the goal of the Republican chairman of the House Agriculture Committee. He produced a bill in the House. He said very much that he wants to get to conference with us. So this would be a bipartisan effort with Chairman COMBEST in the House and those of us who wish to finish a farm bill this year in the Senate.

My hope is we can move forward very quickly. We should consider amendments, and have significant debate on amendments, but it will serve this country's best interests, and certainly the interests of farm families in America, if we produce a good farm bill.

Why are we here? We are here because we have a farm bill that does not work.

Freedom to Farm, which is now existing law, just doesn't work. Almost all of us concede this point. It is not unanimous, but it is about as close to unanimous as you can get on public policy. There are still a couple of discordant voices who will insist that Freedom to Farm does work. For the last 4 years, we have had to do emergency bills at the end of the year to try to deal with the shortfall in farm revenue because commodity prices have collapsed and collapsed dramatically. If we didn't do something to respond to that, we would not have family farmers left.

I suppose that requires answering the question: Does it matter whether we have family farmers? Some would say it doesn't matter who farms the land. But, that is kind of an antiseptic view of the culture we live in. They would say the organization of our food production is really pretty irrelevant. We could have the largest corporate agrifactories farming America from California to Maine. They would just drive a tractor one way all day and then back the next day. They would just plow furrows and plant seeds, and giant agrifactories will certainly produce food. That is true. But as they produce that food, something else will be dying: that is a part of American culture that is very important to our country.

The seed bed of family values has always moved from our family farms to our small towns to our big cities and nourished and refreshed America. That has always been the case. It is not only important for social and economic reasons, it is important for security reasons to maintain a network of family farms. Europe has done that. Europe has been hungry in the past, and it decided: We will not be hungry again. We will not rely on some huge mammoth operation. We will have a network of family farms dotting the landscape of rural Europe. And they do. They have price supports. That is the kind of economy they want. Those are the kinds of food producers they want—a broad dispersed network of producers, families living on the land.

Small towns in Europe are radically different than small towns in this country these days. In most of Europe, small towns are thriving and growing and alive and have a heartbeat. In this country, across so much of our heartland, small towns are shrinking. They are shrinking inevitably.

My home county in my hometown is exactly the mirror of what is happening in so much of our country, going from 5,000 people to 3,000 people in 25 years. Maybe it doesn't matter to some. Does it matter in public policy? I believe it does. We ought to have a farm plan that reflects decent price supports, reasonable price supports, that gives family farms an opportunity to make a living during tough times. That is what this is about.

The legislation brought to us by the Senate Agriculture Committee is good legislation. It is certainly not perfect. I intend to offer an amendment as soon as I have the opportunity that will further target some of the benefits so that we don't give an amount of benefits that are inappropriate to the largest producers in this country which has happened in the past. I hope we can prevent that from happening now. I do intend to offer an amendment. I suspect others will as well.

My goal is that we aggressively debate the amendments, call for a vote, and then try to see if we can't finish the bill and get to a conference with the House of Representatives.

It is interesting that the Department of Agriculture was created in the 1860s by Abraham Lincoln. When the Department of Agriculture was created, they had nine employees in the early 1860s. It is now a behemoth organization. My belief about the Department of Agriculture is, no matter who is in charge of the administration, Republican or Democrat, we don't need a department if the end goal is not to support this statement: It is our goal to foster and maintain a network of family-based food producers in this country.

If that is not the goal of our agricultural policy, we don't need a U.S. Department of Agriculture; just let happen whatever happens. But if you believe, as the Europeans do and I do and others, that the economy that you will get is the economy that you want and that you construct instead of just letting something happen, you can have an economy that fosters and maintains a network of family producers.

Our family farmers produce more than just food. They produce communities. They produce a value system that is important. Each farm out there that lives under a yard life, trying to raise a family, represents a blood vessel that flows into a network of vessels that creates communities and a rural lifestyle. That is very important.

It is not the case that family farming is somehow irrelevant these days. It is not the case that food production is irrelevant. A substantial portion of the people in this world go to bed hungry because they don't have enough to eat. I am told that 500 million people in this world go to bed every night with a powerful ache in their belly because it hurts to be hungry. Yet in my home State and many others, our farmers are hauling freight to the elevator only to be told that the food they produce in such abundance has no value. There is a powerful disconnection there.

If you take a look at producers, family farm producers, and what happens to the grain they produce, you discover it is not that there is not value to it. It is the question of who is able to get the proceeds from that value.

If you have a kernel of wheat and the farmer hauls it to the elevator, the grain trade says, this wheat doesn't have any value, what you have produced is pretty irrelevant to the world; then someone buys that wheat and puts it into a grocery manufacturing plant, a cereal plant; they puff it up and that kernel of wheat is now puffed wheat. It is put into some cellophane, put in a box, and sent through to a grocery store somewhere. And that little box is going to sell for $4.50 for a box of puffed wheat.

Who made the money? The person that bought the tractor, bought the seed, bought the fuel, bought the fertilizer, spent the nights and days planting and then hoping and then harvesting? Did that family farmer make the money? No, it was the manufacturing plant that puffed it and put it in a box and sold it as breakfast cereal. They made the money. For the farmer, that food dollar has been shrinking and shrinking. We have fewer and fewer family farmers and more expensive grocery cereals and more people hungry overseas.

Somehow this is a puzzle the pieces of which don't fit. We need to make sense of it in the Senate with a farm bill that recognizes the value and the worth of families that produce America's food and produce food for a hungry world.

I have been places in the world where people were hungry. I have leaned over the crib in a neonatal clinic of a terribly poor country and had a young child who was starving reach up to me because I was the only one that young child had. I was only going to be there a couple of minutes. The doctor said to me: That child is going to die. I have been to refugee camps and hospitals in the worst parts of the world. I have seen hunger. I have seen death.

It needn't happen in this world that the winds of hunger blow every day and 45,000 children die. It needn't happen if we decide that we are going to use what we produce in such great abundance to help produce a more stable world. We send weapons around the world. We are the arms merchant to the world. We send more weapons than any other country under any other circumstance year after year.

Somehow that which the world needs most, food, we are not able to connect very well to meet the needs of the world and the needs of those who produce it here at home.

My hope is that we can decide with this farm bill that family farmers matter, families who struggle to make a living matter, and we are going to do something to help them when grain prices collapse.

There may well be others who want to speak. I will not go on except to say this: My family came to the prairies of Hettinger County, ND, many years ago. Many years ago, a Norwegian immigrant, recently widowed with six children, decided to move to the prairies of western North Dakota, pitch a tent and build a house and start a farm. One can only begin to think of the courage it took for a widow who just lost her husband to a heart attack, who had come over from Norway to decide to get on a train with her children and go homestead, with the promise of the Federal Government saying if you go and improve that land and you build a farm on that land and do the things that are necessary, we will give you the 160 acres. That was the homestead plan.

That woman, named Caroline, did that and she had a son who had a daughter who had me. That is how I was born in southwestern North Dakota. But I will bet that many, many serving in this Chamber have exactly the same stories of their heritage—people who decided they wanted to stake their dream and their hope on trying to raise food from a family farm and raise a family on a family farm, be independent, and do the things they wanted to do to make that soil produce bountiful food supplies.

Now, what we have seen in recent years is so many broken dreams and so many families deciding that which they have invested their life savings to do is now gone and they can't continue. We can do better than that as a country. That is what this debate is about. Some say it is about this amount of money—no, it is not about that. It is about whether this country wants family farmers in its future. Does it believe the production of its food supply ought to be done by families? Does that contribute to this country and promote security and strengthen this country? I think it does. People look at family farms and say they are like the old diners who came and went. It is nice to think of it, but it is really not part of tomorrow's economy. They are wrong.

Family farming is not out of favor. It is an important part of what this country is and what it can be in the future. That is why we have to pass this farm bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota, Mr. CONRAD.

Mr. CONRAD. Mr. President, might I inquire about the parliamentary situation?

The PRESIDING OFFICER. There is time for debate until the hour of 4:30. All time remaining is under the control of the Senator from Indiana.

Mr. CONRAD. So there is no time on our side?

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. Mr. President, I would like to take a few minutes at this time. I don't want to use up the Senator's time.

Mr. LUGAR. I respond by saying I am pleased to yield time to the Senator. The allocation by the majority leader was equal time between the time he made the motion and 4:30. That is why we are in this particular situation. The previous speaker consumed the first half of the time. I will be recognized at 4:30 to offer an amendment, which I plan to do. I am pleased to yield to the Senator.

Mr. CONRAD. I thank the Senator for his courtesy. Once again, the Senator from Indiana demonstrates his generosity of spirit and the reason why he is held in high esteem by everyone. I thank him for his courtesy.

We have talked about why we are discussing a farm bill now, why it is critically important. I believe it is critically important because of the economic conditions we confront. We are faced with a circumstance in which the farm families I represent in the State of North Dakota are facing some of the most difficult times they have ever confronted.

I think this chart says it very well. This green line shows the prices the farmers have paid for the inputs they use to produce goods, what happened to those prices from 1991 to 2000. You can see that the prices farmers are paying have gone up considerably in this period. On the other hand, the red line shows the prices the farmers receive, and you can see what happened there. Since the 1996 farm bill, that line is almost straight down because prices have collapsed. That is the reality of what has happened in farm country. It is the reason why the new farm bill is so important to consider.

This shows the same pattern, just the prices that farmers have received for wheat. Again, we can see that the peak was at the time the last farm bill was considered. Look at what has happened. Since that time, since 1996, the red line shows the price of wheat over this period through and up until this moment. Wheat prices have absolutely collapsed. This black line is the cost of production for wheat at $4.26 a bushel. You can see we are at about $2.50. We are far below the cost of production. It is not just wheat, it is commodity after commodity.

One of the key reasons that agriculture in America is in crisis is because our major competitors are doing much more to support their producers than we are doing to support ours. This chart shows what the European Union is doing to support their farmers. This is support per acre. The red bar is what Europe is doing—$313 an acre of support. The blue bar on the chart represents what we are doing in the United States, which is $38 an acre. So they are outsupporting their farmers by a huge margin. By the way, these are not KENT CONRAD's numbers or the Agriculture Committee's numbers; those are the numbers of the Organization for Economic Cooperation and Development, the international scorekeepers. They are the recognized international scorekeepers. This tells the story. That is why it is so important we pass a new farm bill and that we do more to support our producers. If we want to level this playing field and we want our farmers not to be facing a stacked deck, then we have to act and act now.

It doesn't end there because this chart shows what has happened with world agricultural export subsidies. These are the most recent numbers worldwide. You can see that this pie chart represents all of the world's agricultural export subsidies. The blue part of the pie is Europe. They account for nearly 84 percent of all the world's agricultural export subsidies. The United States shares this tiny red piece of the pie, 2.7 percent—not 27 percent but 2.7 percent—less than 3 percent. So our friends in Europe are outsubsidizing us for exports by a factor of 28 to 1. It is no wonder there is hardship in American agriculture, when we see the Europeans buying markets that have traditionally been ours. They are going out and getting these markets the old-fashioned way. They are paying for them. Again, this is the World Trade Organization's information. It demonstrates conclusively what we are up against and the need for this farm bill to start to level the playing field.

There has been a lot of talk about the spending in this farm bill and that it represents an increase. This is the baseline for agricultural spending, this red line. You can see the baseline is coming down dramatically and would continue to decline under current law. This farm bill does represent an increase over the baseline. You can see that the green line here represents the Senate farm bill. But you can see that, while it is higher than current farm policy, it also will be in steady decline. Farm spending will take a smaller and smaller share of the Federal budget.

I might say, before we leave this chart, that while this is more money than current farm law provides, it is actually less money than current farm law plus the economic disaster payments we have made in each of the last 4 years.

This chart shows how important Government payments have become to farm income. If we look at each of these bars, the red part is Government payments as a part of overall farm income.

We can see back in 1992, farm income was just under $50 billion. In 1993, it actually went down. In 1994, it was about the same. In 1995, there was a big slip when prices were down. Then prices went up right at the time we wrote the last farm bill. Then we can see farm income started to decline, and decline quite markedly. As a result, Government payments increased as we passed in each of these 4 years economic disaster assistance to keep the farm sector from imploding, to keep the farm sector from mass bankruptcy.

We can see now what a big chunk of farm income is represented by Government payments. Again, that is the red part of each of these bars. Each of these bars represents net farm income, and we can see how critically important Government payments have been, again, largely as a result of what the Europeans are doing.

I believe we have arrived at the hour of 4:30 p.m. The agreement was we would turn to an additional amendment, so I will yield the floor. Again, I thank the Senator from Indiana, the ranking member of the Agriculture Committee, for his courtesy.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I thank the distinguished Senator for his remarks. He always makes an important contribution in the Agriculture Committee and, of course, now serves as chairman of our Budget Committee in the Senate and has made an additional contribution because of the importance of that responsibility.

Mr. President, before I offer my amendment, I ask for the yeas and nays on the pending substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2473

(Purpose: To provide a complete substitute for the commodity and nutrition titles)

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 2473.

Mr. LUGAR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LUGAR. Mr. President, I rise to offer an amendment to the Agriculture Committee-passed farm bill and to the substitute that has been submitted. By adopting my amendment, the Federal safety net for low-income Americans will be strengthened through improvements in the Federal nutrition programs and will create a more effective market-oriented and broad-based safety net program for U.S. farmers and ranchers. Therefore, my proposal amends the commodity title and the nutrition title of the bill.

Since joining the Senate Agriculture Committee, I have fought for Federal nutrition programs and worked closely with my colleagues on both sides of the aisle to make improvements to those programs and to safeguard their existing resources to improve the safety net for low-income Americans and to support the goals of welfare reform.

The last time we looked at significant changes in the Federal nutrition programs was during welfare reform. Since that time, significant changes have occurred which require adaptations and improvements in the program's policies and operations.

Over the course of the re-authorization process, we have been able to achieve remarkable consensus among the client advocates, the States, and the administration as to changes that should be made to Federal nutrition programs. This consensus was reflected in the nutrition title of S. 1571, the farm bill proposal which I introduced.

I am pleased that Chairman HARKIN of the Agriculture Committee adopted a number of these proposals in the chairman's mark, and many are included as part of the committee-passed legislation. However, I believe strongly we can and should do more in the nutrition area, and this amendment will accomplish just that.

The second part of my amendment reforms the safety net for U.S. farmers and ranchers. The Senate Agriculture Committee and the House of Representatives have each passed legislation expanding dramatically U.S. farm program subsidies. The bills are not only costly, but each represents a wholesale retreat from the important reforms begun under the last farm bill.

My amendment will expand the base of the agriculture safety net and will institute much needed market-oriented reforms so the U.S. farm policy will comport with economic reality.

Americans can take pride in the assistance programs created to provide a strong nutrition safety net. The Food Stamp Program is the foundation of this safety net, and its re-authorization warrants our thoughtful and serious attention.

In our post-welfare-reform environment, the Food Stamp Program is particularly important. As families leave behind cash assistance for employment, they typically encounter minimum wages and modest, if any, fringe benefits and often unstable jobs. In the year 2001, a family of four with earnings equivalent to a full-time minimum wage job and the earned income tax credit needs food stamps just to reach the poverty line.

Dr. Ron Haskins, a key architect of welfare reform legislation, has stated:

> There are millions of people who cannot earn enough to support their families. Even more than in the past, the Food Stamp Program has become a vital support to poor and low-income mothers who work.

Thus, one of the important questions we must address is whether or not the current Food Stamp Program effectively supports welfare reform goals.

There appears to be a number of indicators that point to the need for additional program changes. Some of these signals, such as the increased proportion of recipients who hold jobs, are clearly desirable but may suggest further steps to make the program more compatible with this evolving caseload profile.

Other findings, such as the decline in the percentage of financially eligible persons who participate, raise questions. Collectively, these shifts illustrate the need both to continue adapting and improving the Food Stamp Program.

As part of my farm bill proposal, I introduced a nutrition title embodying changes which would simplify food stamp rules for all stakeholders, increase State flexibility in administering the program, make the quality control system less punitive, support personal responsibility and work, and reduce the dependency of low-income persons on emergency food assistance.

This idea received public support from Michigan's Governor Engler when introduced, and the amendment which I offer today is intended to provide a more complete meal to low-income families in need of nutrition assistance and to States seeking administrative flexibility and simplicity.

I served as chairman of the Agriculture Committee in 1995 and 1996 when the committee wrote both the farm bill and the food stamp provisions of welfare reform. The committee faced a difficult budget reconciliation instruction for those years. The result was that spending on food stamps was significantly reduced.

For the years 1996 through 2001, the Congressional Budget Office (CBO) estimated that welfare reform would reduce food stamp spending by over $21 billion. Over that same time-frame, CBO estimated that farm program spending would be reduced by $2 billion due to the enactment of the 1996 farm bill.

Thus, over 90 percent of the budget cuts enacted in 1995 and 1996 pursuant to the Agriculture Committee's reconciliation instruction occurred in the Food Stamp Program. I make that point again because it is such a dramatic one. Reconciliation instructions came to our committee. We were compelled to act. The $23 billion of savings that was required came, $2 billion from farm commodity programs and $21 billion from food stamps.

As it turned out, CBO underestimated the effects of welfare reform on the Food Stamp Program. For the years 1996 through 2001, food stamp spending declined by about $50 billion, not the $21 billion CBO originally estimated or the $21 billion we anticipated as we responded to the reconciliation instruction. Around half of that reduction was due to the changes in law made by welfare reform and an economy that was stronger than CBO anticipated. The other half of the decline in food stamp participation occurred among eligible families and was due largely to the outdated restrictive nature of the current Food Stamp Program administration. Thus, food stamps provided the vast bulk of the savings needed in 1995 and 1996.

History has shown that the actual reductions were far bigger, in fact, dramatically larger than expected. Some of those reductions were reinstated in later bills. Specifically, about $2 billion has been restored to the Food Stamp Program, but an additional $30 billion has been added in commodity support over the same period. Given that such a large proportion of budget savings came from the Food Stamp Program, it seems equitable that with substantial new agricultural resources all of the legislation we are now considering, all the alternative bills produced, a significant share of the new money should go to restoration of a sound Food Stamp Program. I am not proposing that 90 percent, or even a majority of the new funding apparently available to the Agriculture Committee, go to the Food Stamp Program. The committee-reported bill, however, devotes only 7.6 percent of its spending to nutrition. I am proposing to spend 19.2 percent of these new resources for nutrition. It seems to me it is only fair and right to vote a little less than one-fifth of the bill's new resources to support Americans in poverty and to further the goals of welfare reform.

The nutrition title in my amendment spends $6.3 billion more in budget authority over the next 10 years than the nutrition title in the farm bill now before the Senate. Senator HARKIN's title spends $5.6 billion in budget authority over baseline; my amendment spends $11.9 billion, an increase of $6.3 billion over the committee-passed bill.

I make it clear that the spending I am talking about goes to support the goals of welfare reform in addition to the Food Stamp Program.

Collectively, my proposed nutrition policy serves to replace complex food stamp rules with simpler ones, better integrate the food stamp, Medicaid, and cash assistance programs, offer many opportunities for State flexibility, and attempt to make the program more compatible with the needs of working families.

The nutrition package is constructed to make sure the Food Stamp Program promotes welfare reform objectives conveyed in the title of that legislation.

First, responsibility and work opportunities: My proposal includes almost twice as many provisions to simplify the Food Stamp Program. They cover eligibility rules and procedures, income adjustments, and reporting requirements. Most of the differences between the two titles—that is, the committee-passed bill and my proposal—occur in the first two categories. My proposal excludes vehicles and dedicated retirement savings from the asset limit thus reflecting what a household needs to assume personal responsibility today and in the future. Making these changes also simplifies application and eligibility determination procedures by reducing the documentation households must provide and some of the fine distinctions case workers have to apply now as to which assets are and are not excluded. The result is a set of realistic and uniform asset policies across all States.

Both titles—that is, the farm bill proposal of Senator HARKIN and my proposal—create new opportunities for State flexibility and innovation. My proposal offers substantially more. States have provided an additional discretion for using food stamp employment and training funds, as well as additional dollars. The Lugar title also opens the door for States to test their own ideas on program simplification through changes to demonstration waiver rules on cost neutrality and by funding a set of systematically evaluated projects. The outcomes of the stated initiative should provide the basis for continuing welfare reforms.

Finally, my nutrition title allows States to move beyond their successful demonstration experience of integrating a food stamp eligibility decision with an application for SSI benefits to more routine implementation for the one-stop approach. The two nutrition titles are similar to one another and to the House proposal for modifying the food stamp quality control system. The proposed changes result in targeting penalties to those States with repeated and exceptionally high levels of benefit payment error.

Our proposals differ, however, with respect to rewarding States for exceptionally good performance. The Lugar proposal introduces a large number and variety of performance standards that allow many states the opportunity to be meaningfully rewarded for outstanding operations and service.

Other improvements to the Food Stamp Program are intended to reduce dependency on emergency food assistance. Both the Lugar and committee proposals selectively remove some of the restrictions on the participation of legal aliens and able-bodied adults in the Food Stamp Program, as well as provide a modest benefit increase through a more generous standard reduction to family income.

The Lugar bill proposes reasonable periods of U.S. residence, 5 years, or a history of 4 years at work. The proposal was carefully designed to balance our obligation to those who legally emigrate to this country and subsequently face economic hardship against the concern that assistance program policy should not be so generous as to provide benefits immediately upon arrival, nor to create that expectation.

Finally, both titles link the standard income deduction to the poverty line which results in indexing by family size and adjusting for inflation. Under either proposal, the absolute benefit gain per household is modest. For example, after full phase in over 10 years, my proposal entitles a family of four to an additional $16 in benefits each month.

This increase is more generous than the committee proposal in terms of the amount of the change and the rate at which the increase occurs.

Many different organizations have sent letters of endorsement to both Senator HARKIN and to myself. Public support includes the Food Research and Action Center, Second Harvest, the Center on Budget and Policy Priorities, the Evangelical Lutheran Church, the Bishop's Council, Farmers Market Advocates, United Jewish Communities, the Quakers, the National Council of La Raza, the National Governors Association, the National Conference of State Legislatures, and the American Public Human Services Association. These organizations acknowledge the important steps Chairman HARKIN and the Agriculture Committee have taken to build on the provisions of the House title. But these same organizations note that nutrition funds provided by the committee's package provide the minimum budget necessary to make a difference. Many also indicate their preference for both the proposed policies in, and the funding for, my nutrition title ideas.

Individual groups identify specific but different provisions that they view as critical to fully implementing welfare reform. With our country's wealth and agricultural bounty, there is no justification for anyone to experience hunger or even uncertainty about the next meal. The Food Stamp Program continues to be fundamental in meeting the nutrition needs of low-income persons and families. It is particularly important now, as food stamp benefits help support families who leave cash assistance for entry-level jobs with uncertain futures and at the same time provide a direct stimulus to the Nation's economy. It is also important that we listen to the States and to the Governors who have asked us to simplify this complex program.

That brings us to the second part of my amendment which is reforming the safety net for U.S. farmers and ranchers. As we debate the farm bill, it is important to understand the shortcomings of current farm policy. Virtually all agricultural subsidies go to producers of just five program crops: corn, wheat, soybeans, cotton, and rice. As a result, 60 percent, three-fifths, of all farms are excluded from Federal farm benefits. Agricultural subsidies have been distributed according to acreage. This has resulted in the bulk of payments being distributed, understandably, to large farming enterprises. In fact, 47 percent of all payments during 1996–2000 went to just 8 percent of farmers, a very focused concentration for payments.

The cost of U.S. agricultural policy to taxpayers has been large and unpredictable, even as it has failed to alleviate the difficulties it is intended to address. Even with an overall net cash farm income for this year of $61 billion, many producers, particularly small family farms, struggle to survive. But that is paradise. Despite the rhetoric that has been heard on occasion during our farm bill debate this year, the facts are that we are enjoying—if that is the proper word—the highest net cash farm income ever for any year in American agriculture—$61 billion. Even the often cited year of 1996 did not exceed that amount, and this year's farm income is substantially greater than the years subsequent to 1996.

Yet, as we have heard from testimony, and from Senators about constituent farmers, large numbers of farmers are obviously short in terms of income and many are growing short in terms of hope. I think the Chair and I understand that. We have heard from a good number of farmers in our States.

The problem of course is that the benefits of the program, by tradition and history—and now that history is about to be repeated—go predominantly to five crops, so that almost half of the payments go to just 8 percent of the farmers. It is very difficult to argue logically that the farm program—at least the one that came out of the Agriculture Committee this year or, for that matter, the one that came out of the Committee in 1996—is going to touch even a majority of farmers. It will certainly not reach a majority of those who are fairly small.

There may be an illusion that the program does this by chance, but there is certainly no program effort or focus involved. The current policy of Federal supports, in fact, defies economic logic. It perpetuates—I repeat that word—it perpetuates a cycle of low prices and overproduction, which is then reinforced by further emergency subsidies that create further low prices and overproduction. The history of these efforts to concentrate on five row crops and to attempt to guarantee prices that are clearly substantially above market prices, either in the United States or the world, creates incentives to produce for the Government program, not for the market. As a result, more is produced. Predictably, as demand in our country for major crops has not increased, the supplies overwhelm demand.

In the best of all worlds, we would have free flow of our agricultural commodities in world trade, but we do not. Someday we may. It is a very tough thing, as we have all found, to negotiate. Meanwhile, with the flow constricted abroad, supplies mounting at home, prices predictably go down. The bill that came out of committee, in my judgment, will pound them down further.

The promise of the committee bill, not economic reality, is, that notwithstanding what may be occurring in the market, farmers can count on prices that are much higher than the market and financed essentially by other taxpayers. So, in a 10-year period of time, it is estimated that with the so-called baseline expenditures plus the new expenditures, about $172 million will be transferred from all the taxpayers in the United States to a very few agricultural producers.

Why very few? Because 60 percent of farmers don't get anything at all. Most of the benefits go to six States. Within the six States, the same national averages are replicated; namely, 8 percent of the farms get half of the benefits.

There may be an illusion that somehow in agricultural America farms across all 50 States are being supported or rewarded by this bill. That simply is not the case. It has not been written that way this time nor has it been, really, since the New Deal days of the 1930s.

Large farm payments also have the faculty to inflate land values and cash rents derivative from that, particularly for program crop producing regions. Why there? Because, given the desire of the Federal Government to support prices that are well above the market, land values have an expectation of those sorts of returns. Country bankers have an expectation of those sorts of returns. Landowners become accustomed to those returns and increase the rents.

Why is that significant? Because 42 percent of farmers rent land. So they are losers in this process. So, on the one hand, we are hoping to boost income, while, in fact for the 42 percent of farmers who are renting, the land that is useful for farming program commodities increases in price and so does the rent for that land. This has especially unfortunate results for young farmers who typically must rent most of the land they farm unless they have inherited land or are part of a situation where they do not need the capital to buy in.

The commodity bill that came out of the Agriculture Committee increases the CCC Farm Program spending by an estimated total of $44 billion over 10 years. That bill raises nonrecourse marketing assistance loan rates significantly and across the board. The only exception is the soybean loan rate which would remain largely unchanged at its current high level.

These loan rights will be effective for 2002 through the 2006 crop.

Compared to current law adopted in 1996, the new Senate bill coming out of the committee raises marketing assistance loan rates by 16.2 percent for wheat, 10.1 percent for corn, 5.9 percent for cotton, and 5.1 percent for rice.

Without doubt, this will encourage even more production of these loan-eligible commodities given the attractive new loan rates that are available to those who produce them.

In addition, the committee-passed bill will provide direct and countercyclical payments for program crops based on updated acreage and yield history, in effect rewarding producers for recent decisions to increase production of these commodities, and, thus, encourage their production in the future regardless of market signals because of the guarantees that come quite apart from whatever is occurring in the market.

Altogether, these program crop provisions are expected to cost taxpayers about $34 billion in addition to the baseline expenditures over the next 10 years. Importantly, increased crop production will drive farm prices for these crops lower than they are today, thus further reducing crop market revenue received by farmers.

Dr. David Orden, professor of agriculture economics of Virginia Tech University, estimates that after including the production increasing effect of such subsidies, about 25 percent, or $8.5 billion—of the Senate Agriculture Committee's $34 billion—will be lost by crop farmers due to lower market revenues. That is an astonishing phenomenon that, on the one hand, we congratulate the committee for increasing farmers' income by $34 billion, but we fail to acknowledge that, even as we are overstimulating production, another $8.5 billion is being lost by crop farmers due to lower market revenue as prices are pounded down.

For the dairy industry, the committee-passed bill originally extended the milk price support at $9.90 per hundredweight through 2006. I say originally because, as with many, it has been hard to follow the changes and the chapters of this stock. I fear almost any figures that I quote from previous bills have been overtaken by events, perhaps even as we speak.

But, in any event, suffice it to say that with the programs and significant restructures and committee-approved bill, instead of newly constituted boards in each Federal marketing order region administering the program, it may now be administered by the Secretary through existing Federal milk marketing orders. Overall, the dairy provisions are expected to cost taxpayers $3 billion over the next 10 years.

A new target price and marketing loan support program is created in addition for peanut producers. The taxpayers' cost, therefore, is expected to be about $4.2 billion over 10 years, nearly $700 million more than the House-passed peanut provisions.

The distinguished occupant of the chair will recall discussions in the Committee on Agriculture in which some of our members were insistent for more attention to peanuts, and they received that. Peanut processors and manufacturers are expected to benefit substantially from lower farm prices for peanuts that will occur as a result of this taxpayer financed buyout but peanut users are not asked to share the cost.

The commodity title of this bill is expected to cost about $44 billion over baseline, and, if so, this would be only $4.8 billion less than the $48.8 billion the House spent on its commodity title over the same period.

Current farm programs, however, have some problems as well. Due to the current program's focus on program crops, as I mentioned, 60 percent of farmers are excluded from the program benefits. Furthermore, farm payments are distributed based largely on historical program crop acreage and yields in the case of the fixed payments, the so-called AMTA payments, and the volume of program crops produced in the case of the marketing assistance loan program and the sufficiency payment program.

I mentioned this because we have debated this issue during, as I recall, each of the three emergency or supplemental debates we had. Many Senators pointed out that technically a farmer might not now be farming but would receive an AMTA payment because the farmer was on the rolls in 1996 that established a history for program crops and, therefore, received the money.

The rationalization was made—I must confess I accepted this as a practical matter—that to reconstruct the rolls would be to eliminate any possibility for relief of the emergency that we are attempting to meet; namely, the only way that checks could be cut and money get to the farmers would be to use the AMTA payment rolls from 1996, recognizing that each year that history became more dated.

In fact, we are sort of back to square one in the bill out of the Committee on Agriculture. There is a thought about updating—not necessarily eliminating—that we still have the 1996 situation for some farmers who may or may not update. I gather that would be optional. And 47 percent of the payments now go to 8 percent of the largest farmers. It is not clear, but it would appear at least to some that concentration might increase, given the fact that the landowners who are involved in the situation have an opportunity to enhance their situation by updating the acreage—acreage that has been planted in response to the rewards of the program which, in my judgment, has contributed to an overproduction and lower prices. But those who have been increasing their production have, by and large, been among our most efficient farmers.

They say we ought not to be penalized for using the benefits of research of our land grant colleges. The fact that we are good at it means we are able to produce for less than the loan deficiency payment, and, thus, finding it profitable to the last bushel to do so ought not be a consideration.

I believe the bill which came out of the Committee on Agriculture does not deal with the shortcomings in policy that I have been discussing. Therefore, we tried to find an alternative that would not be production distorting, would not distort land values, and would not discourage young farmers and those who rent, but would, in fact, bring much greater equity not only to the program crops but to farmers who produce livestock, fruits, and vegetables, or various other things on their farms. The commodity title of my farm bill offers such an alternative.

As the Chair may recall, I offered in the bill that I submitted an entire farm bill. It was the will of the committee, in which I was pleased to cooperate, that most of the titles were ones that we were able to adopt in a bipartisan colloquy, and all things considered, fairly rapidly, given the comprehensive nature of going into farm credit and conservation, and some very large issues. For example, energy, this time, is a very important issue.

(Mr. DAYTON assumed the chair.)

Mr. LUGAR. Therefore, I do not want to dwell on the committee product in its entirety because I support, as I recall, eight of the titles, if I remember how many we dealt with. But all of us around the table knew we would have some differences on policy and results with the commodity title, and we did. So this is a part of that extended argument.

At the time of the adoption of the nutrition title, I offered an amendment in the committee which was narrowly defeated that, in fact, traces the additions I wish to offer today.

In essence, for those who are attempting to keep some scoring as to how this is paid for without breaking out of the budget balance, the savings I obtain in my commodity title are more than are required to do the additional things I have chosen to do in the nutrition title. In the proposal that I make, beginning in the year 2003—and I stress that; not this year or the next year, 2002, but in 2003—a farmer or rancher with at least $20,000 in annual gross farm income, and who provides 5 consecutive years of Federal tax return information related to his or her farm business, regardless of commodities produced—that is a very large "regardless"—for Senators or staff who may be listening to this debate, the question would be, for example, Does that mean strawberries? Yes, it does. Sheep and wool? Both. In essence, it means just what it says, all returns from farm business.

That total amount of revenue would qualify for a voucher to come from the Federal Government, redeemable to, first of all, help purchase a revenue insurance policy. This would not be crop insurance. This would be whole farm revenue insurance at an 80-percent level of coverage. Or it could be used to fund matching deposits for a farmer who chooses to participate in an income stabilization savings account. In essence, the farmer matches the voucher, and all of this goes into an interest-earning savings account for that farm family. Or it could be used to help purchase, in addition to the whole farm insurance idea, any other approved risk management tool, once again, to help insure 80 percent of normal market revenue.

An eligible farmer's annual voucher would be equal to 6 percent of the first $250,000 in average gross income from the farm from all sources. This would drop to 4 percent on the next $250,000 gross farm income up to $500,000, and 1 percent of the next $500,000 gross farm income up to $1 million, based on the tax return information as filed. Therefore, under this schedule, the maximum voucher would be $30,000.

I appreciate, for those listening to that figure, that is some distance from the estimates of the committee-passed bill that a farmer might, in fact, under some circumstances, gain as much as $500,000 from program subsidies.

Cynics, I point out to the Presiding Officer—and the Presiding Officer would not be one of these—but around the agriculture table in the past we have heard descriptions of what might be called "the Christmas tree theory" of the subsidies. In short, people who are very sophisticated point out that some farm families, who seem to have a lot of members, had so distributed their property into a number of farms, all of which seemed to qualify for the maximum amount. Ingenious Senators and Members of the House have tried to curtail this practice on occasion, but I do not see great success in doing that. Those who were able to contrive this had very good legal counsel and accounting counsel, as would befit the stature of the sums of money that were involved.

In any event, one of the arguments around the table for a long time has been a recognition that perhaps the payments were too concentrated, first of all, by crop, by certain States, to certain people. So as a result, in one fell swoop, my reform cures this.

First of all, every farmer in every State is on a level playing field. There are no historical program crops. A bushel of corn and revenue from that counts the same as a bushel of strawberries and the revenue that comes from that. I make that point because on the face of it the self-interests of Senators from most States would be to favor my bill.

Senators may not have studied my bill. That is why I am tedious in trying to make the case that they should. Because they will find that in many cases only a single digit of farmers receive any benefits in their State. California, for example—a very large agricultural State—only 9 percent of farmers in California receive anything from all of this.

So farmers in California, listening to this debate today, will know that the Lugar proposal means that they participate. Some farmers in California may say: We really don't want any of this in our lives. We have some testimony to that effect, that farm programs inevitably lead to more and more entrants into a market, overproduction, disastrous prices, and dependence on the Federal Government. So they would say: Thank goodness we were spared all of this.

So there may be Senators who have a majority of farmers who are asking to be spared the farm bill. But my recognition, at least during debates we have already had, is that many Senators have a different point of view. As a matter of fact, they want to know what is in any of this that may be helpful to their farm families.

So I am saying, first of all, all of your farm families, for the first time in American history, qualify for a farm program. And they all qualify on the same basis. Furthermore, we try to recognize it is important they qualify only to a certain extent; that is, that the purpose of these transfer payments, from all taxpayers to some taxpayers, is to bring about some income stability for family farmers.

You may say a 20-percent reduction in 1 year is not a great deal, but most of the arguments made to us come from people who have suffered weather disasters or trade disasters or extraordinary events in which really a much larger percentage of their income has been wiped out, and they hope to get some wholeness through emergency appropriations.

There are very few businesses in America that would be able to purchase whole business insurance and guarantee that their revenues would be at least 80 percent of their 5-year average, and to do so, in essence, with a premium paid for by the Federal Government.

That is the proposition. And it brings stability to every farmer regardless of size. It recognizes that the bulk of the money must go to those farmers who have revenues of $1 million or less—even more pointedly, $500,000 or less. But that covers a prohibitive percentage of farmers in America, even though current farm programs are really geared to the very small percentage that it does not cover.

This comprehensive revenue-based program would replace most traditional farm program supports, the latter of which my bill would phase out over the 3-year, 2002–2005 crop-year period. Essentially, the program that remains through this period is the loan deficiency payment program which has been the safety net of the 1996 bill. That is important so that while this transition is occurring, people are establishing the 5-year average. During the transition, they have some certainty that a national loan program for corn and other program commodities will continue at whatever the support may be at the local elevator in each of our States and counties.

The risk management program supposes that a producer operates a farm that has $100,000 in average gross farm income at the start of his plan. Let's say $94,000 of that came from crop and livestock market receipts and $6,000 in government payments. The latter is likely to occur because of the hangover of the last AMTA payment of this bill, 2002, or loan deficiency payments that may come in the program crops that have those payments. But in any event, this farmer would be eligible for a $6,000 voucher beginning in the year 2003. The farmer could use the voucher to purchase the 80-percent whole farm revenue insurance.

Let me say that the premium is based upon the fact that the current farm bill and the committee-passed bill continue the basic crop insurance program with changes that we made last year. It is already a very generous crop insurance program. I will not go into anecdotal material with the Chair, but as one who has argued in favor of the program and in full disclosure, I have indicated that I have utilized the farm insurance program. It is possible the family of the distinguished Senator from Iowa, Mr. GRASSLEY, has used the program; that is, we have paid premiums to a commercial insurer. I have no idea of Senator GRASSLEY's level of coverage, but in the current crop-year, I selected the 85-percent policy, which is a very substantial policy. There is no other business in America in which I could have purchased that kind of insurance before my crop was even in, which gave me then the ability to go into the futures markets and to sell thousands of bushels that had not yet been planned, a reckless gesture without, in fact, the safety net that this insurance gives and thus some possibility of selling to the markets as opposed to the loan deficiency payment at the end of the trail.

Other farmers in America have done that; as a matter of fact, many people who are much more involved than I am. But it is there. It remains there.

Given the fact that already that premium has a very high Federal subsidy, some would estimate maybe 48 percent already paid for by the Federal Government, the voucher that comes, the $6,000 to our hypothetical $100,000 revenue farmer, solidly pays for the 80 percent. As this all works out in the fullness of time, it may buy more than that. But we shall see. I believe it is a conservative estimate. If it doesn't or he doesn't need the $6,000 entirely to buy the whole farm insurance, then there is money left over for the savings account. It is not lost.

The whole purpose of all of this from the beginning was to bring some assurance, some stability, and some financial security to the family farmer.

The aspects of this are reasonably clear. Yet I know, as I explain a complex program to many for the first time, that some would say we would need to walk around. The problem, as we all recognize, is that we are now debating a farm bill. Whether we should be walking around it longer is not for me to say. I am attempting to manage, with the distinguished chairman, and to expedite the passage of a good bill in a constructive way.

But it is important that we recognize the need for the change in course that I have tried to identify because the failure to adopt what amounts to a substantially new course is to exacerbate the problems of the past, which I still believe are overproduction, low prices, greater instability, a built-in bubble in land values for which we shall pay at some point. It has been my good fortune as a farmer to have land that went way up in value in the 1970s. As I didn't either buy it or sell it in that period, I could watch happily, but then would watch with dismay a crash and burn scenario in the early 1980s, as that same land lost perhaps 60 percent of value, years entirely stripped off, a breathtaking, heart-stopping experience that was extended, however, not over 6 months but over 6 or 7 years, followed by a tedious movement back up the scale.

If, in fact, you have a family farm that has longevity and you have the good fortune to last through all of this, it is interesting to talk about anecdotally, but it does not really affect your material prospects except on paper.

Most farmers do not have that opportunity. As a matter of fact, we really have to gear programs for persons likewise who want to enter agriculture as well as to exit the scene as gracefully as possible.

In short, my amendment strengthens very substantially the Federal safety net for low-income Americans, as I illustrated in the earlier part of this presentation. It has been crafted with the very generous help of those involved in the hunger movements all over our country and those who have had great experience and with whom it has been my privilege to work for the past 25 years on this committee.

They come in year after year to advocate for the poor; to talk about the problems that a low-income person has with the administrative hassles of pages of estimates that would be very difficult for a sophisticated businessperson to give; the growing problems of persons who are hungry because they really could not figure out how to contact the system despite advocates for the poor who tried to guide them in; the inequities of the vehicle laws or the problems of savings or things that may seem incidental to people who have middle-income situations but are very tragic for others; on top of this, the welfare reform law, which had very good effects for many Americans but at the same time, as we now know and we heard testimony from Second Harvest about food banks and food pantries throughout the country. We have a counterintuitive situation of a nation in prosperity and yet a nation whose food banks frequently are running dry. These are problems that the Agriculture, Forestry, and Nutrition Committee has to think about.

The political excitement of this debate comes in thinking about producers, although in fairness, most of us are also interested in nutrition ideas.

It is important the degree to which we are interested. I pointed out earlier in my talk that we had tough times in 1995 and 1996 as a committee. Under the so-called reconciliation procedure at that time, we were ordered to cut spending by $23 billion. We solved it by cutting producer programs by $2 billion and food stamps by 21. Now, we have the good fortune of history that prosperity occurred in the country, so as a result many people left the Food Stamp Program and the savings eventually were $50 billion. Correspondingly, however, the $2 billion in cuts in the producer programs did not last for long, and we spent not plus-30, but negative 50. So the disparities in our responsibilities have been substantial.

Finally, let me once again offer what almost comes as a common scold, and that is that none of us could have predicted precisely that our country would enter a mild economic recession, and we pray that it is mild and short. Certainly, at the time we were discussing the budget at the beginning of this year, we heard the President of the United States in the State of the Union Address describe $3 trillion of surpluses over 10 years of time—the solution, perhaps, of Social Security disability, Medicare reform, of important educational advances, and much more; and we saw our own Congressional Budget Office, I recall, prophesying in the fiscal year we are now in that started October 1 a surplus of over $300 billion. By summer, that had been tempered down to 176 before we left for the August recess. After September 11, it tempered down to 50, double digits. Subsequently, a sober analysis has said, sadly enough, we will have a deficit this year.

This is reinforced by reports from the Treasury yesterday that in the first 2 months of the fiscal year, September and October, the deficit was $63 billion. In part, that is because of when receipts come and when expenditures come and not a chunk of income is coming in. But last year it was $35 billion in the same period. So that is $28 billion more.

There has not been this much of a rise in the first 2 months of the fiscal year in a long time. Last year, unfortunately, we suffered a budget deficit, year long. Perhaps we will recover, but most who are projecting say probably not for a few months.

This may not make any difference to Senators one way or another. The mood has changed because we have been talking about war expenditures, about expenditures for New York City and elsewhere, on rebuilding. We are talking on and off about a stimulus package that may contain everything from tax cuts to substantial safety net enhancements. Perhaps we are all now of a mood that, in fact, we are in deficit finance. Therefore, the problem of dealing with it is different. And farmers, after all, should not be discriminated if we are going to have deficit finance for other people. On the farm we ought to be thinking about that.

That would make more sense if this were a 1-year bill, but it is not. It is 5 years in the Senate version. The bill that passed the House is 10 years. I have no idea where the conference will come out on these things. We are not writing the final bill. The House bill assumes really a perpetual agricultural crisis for the entire decade. It was written with the thought that a portion of that $3 trillion surplus ought to be spoken for, and quickly, by agriculture. Many members on the House committee would still contend that if we do not speak quickly, it will be gone. We have had some testimony to that effect from Senators, and some tempering by the majority leader who said the other day, not right away.

We would have to act in a timely way, but on the other hand it would not disappear at midnight at the end of this year. Well, maybe not theoretically, but actually it is gone. We are in a deficit situation, and these will be expenditures on top of that.

Why do I bring all of this up? Because essentially the scoring by the budget authorities in the commodity section of the Harkin substitute is $27.6 billion for a 5-year bill—from 2002 to 2006. The Harkin substitute has about $1.8 billion on the nutrition side in that 5-year period.

Now, my bill has markedly different results, and I will try to explain some of them because this is not magic. My bill costs only $5.6 billion in the commodity title in the first 5 years—not 27.6, but 5.6. My nutrition section is $3.7 billion, roughly double the $1.8 billion in the Harkin substitute. The figure of 5.6 would seem dramatically low for any sort of safety net operation, but it comes through the scoring process because we are phasing out a number of agricultural subsidy programs. So with the cost of these 6-percent vouchers for every dollar of agricultural income, which mounts up to a lot of money, lots more people are being included, lots more States and farms. But as you subtract the cost of the current agricultural subsidy programs, the net of this comes down to 5.6 for the 5-year period of time.

I think that is an important contribution, in large part because I believe that theoretically my bill satisfies the safety net situation for more farmers and more States and more situations than does the Harkin substitute, however well motivated that might have been and generous in its payments. Clearly, demonstrably, tens of million of people are affected by this, and all the various States are going to be better off in the ripple effect of agricultural spending, farm families and farm communities.

Furthermore, I believe that at a fairly small cost in the aggregate of all of this, the humaneness of nutrition changes is very important. I believe they will lead to greater social justice as we continue with welfare reform and the thought that there ought to be a meal for every American, even as we try to work with Americans to find work and responsibility.

I appreciate the attention of the Chair to what has been an extended presentation. But this is a serious attempt to markedly change agricultural policy in this country. I appreciate that such changes are not easy to make, not easy to explain, and are worthy of a great deal of study. Nevertheless, I have attempted to do my best as one who has witnessed farm bills for 25 years and heard the debates and seen the results, and as one of perhaps a few Senators who actually experienced the results of these farm bills on my own farm property. It is not a large farm—604 acres, located now inside the city limits of Indianapolis, given the extension of our city on various occasions. But it is a corn farm, soybean farm, and a tree farm. It has made money for the last 45 years every year. We were fortunate. But, at the same time, I mention that because I will admit that the amount we have made is very small as a return on invested capital or what the farm was worth.

That is the problem for all farms in America. I recognize that acutely, as one whose small wealth is tied up in this sort of thing. A 4-percent return on invested capital is roughly what I see as sort of a gold standard that you work by. That is true whether it is the Lugar farm or all farm income in America. This past year was a bit over a trillion dollars, and with net-net farm income of something over $40 billion, the 4 percent bobs up even as you look at USDA's figures. That makes farming a difficult proposition, and it always will be.

These debates will continue because we are not talking about persons who are likely to be wealthy across the broad spectrum—a few cases, maybe deservedly so, from ingenuity, work, and perseverance—but the broad spectrum is mostly in difficulty.

Under those circumstances, I talk about a realistic safety net that I think can be perpetuated at fairly low cost and is unlikely to have the political reaction or re-reaction from other taxpayers at various points when they visit these programs.

Mr. President, I yield the floor, as others may have comments about this amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on behalf of the majority leader, I announce for the Senate there will be no more rollcall votes tonight.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I want to speak for a little bit on the amendment now before us offered by the ranking member of our committee, Senator LUGAR.

The nutrition title is one of the most important titles in our farm bill. This is a part of the farm bill that talks about who we are and what we are about as a nation. To the extent we help people in lower income brackets, people who may be out of work, the elderly, the disabled, newly arrived immigrants, those who qualify because of income or status to have better nutrition, it helps all of us. It helps our health care system because these people are not always going off to an emergency room to get help; their health is better. It lessens the load on our health care system.

Second, it helps in education. Kids who are fed, if they have a good nutritious breakfast, learn better. We know that. It also helps our farmers. This is a market. As one of my friends from my old days in the House—God rest him—Jerry Litton used to always say—he was a great Irishman. He died tragically in a plane crash. He represented a rural part of Missouri across the State line from my district. He used to say, if you are going to give a dollar to someone in this country, give it to someone who is poor. They will spend it on food and that helps my farmers and it helps all of the country. And that is still true today.

So to the extent we help these nutrition programs and bolster the nutrition programs, it helps our farmers. It is food. In any way you look at it, helping boost nutrition programs in this country is a win for everybody.

In light of some of the cuts we have had in spending, in light of the downturn in the economy that we are experiencing now, in many ways if you just looked at that, Senator LUGAR's proposal might make sense insofar as it expands spending on our nutrition programs. Keep in mind we have about $6.2 billion over 10 years for nutrition in our bill. The amount of money we have put in is about double what the House added in their nutrition program. I thought we did a good job in committee. Senator LUGAR's amendment doubles what we had. I can see a lot of people might want to support that. That is pretty enticing.

Keep in mind this bill is a balanced bill. We had to balance all the various interests with all the money we have. Therefore, when you look at that and try to balance the interests, you have to recognize you can't just boost one without drastically affecting the other. When you boost nutrition, it does help the farmers. But the Lugar amendment takes away loan rates. It phases them all out. Talk about something hurting our farmers, the occupant of the Chair knows how important loan rates are to farmers and to their livelihood. You cannot say, just by giving poor people more food this will more than make up for it. It will not.

The Lugar amendment also takes out all of the direct payments. We have to help farmers bolster their income. All of the price support programs for dairy, peanuts, sugar, will be phased out. Again, trying to keep a balance, we have to keep these programs for farmers, to help them and their families. We also have to meet our nutritional needs for low-income people. That is what we did in a responsible fashion in our bill.

Again, we have made changes. We opened it up more for immigrants, children, disabled, refugees, people seeking asylum. We have changed these things. We have opened it up and made it better. We had an increase in food stamp benefits to make up for the cuts that went on that we have endured over the last 5 years. Again, keep in mind the Food Stamp Program is an entitlement. If you qualify, you get it. Therefore, if there is more of a downturn in the economy and we have more people seeking assistance, they will not be denied food stamps.

There is no limit in our bill. We don't say just so much and no more. If you are entitled, you get it. I don't want anyone to think somehow if the recession deepens, if more people are out of work or they are out of work longer, that somehow they will be severely restricted in the food stamps they get. That is not so.

Mr. DORGAN. Will the Senator yield?

Mr. HARKIN. I am delighted to yield.

Mr. DORGAN. Mr. President, is it not the case that the piece of legislation that the Senator from Iowa brought to the floor of the Senate in both conservation and nutrition substantially improves what was written in the bill approved by the House of Representatives?

Mr. HARKIN. Doubles it.

Mr. DORGAN. If I might inquire further, the farm bill comes from the Senate Agriculture Committee, and in both areas of nutrition and conservation at a very substantial increase over present funding and over the funding of this proposal in the bill offered by the House of Representatives.

Mr. HARKIN. That is true.

Mr. DORGAN. Is it not the case that in the other area—we have nutrition, conservation, and then commodities—area, commodities, which is the support basically for that which the family farm is producing, that is the area where we need the help? The Senator from Iowa has produced a piece of legislation that in nutrition and conservation has substantial increases, and we are trying to preserve significant help for farmers who are out there trying to make a living during collapsed prices.

I ask, is it the belief of the Senator from Iowa that what we need to do is now make sure that we have a decent price support for family farmers during tough times, especially a countercyclical price support that kicks in when commodity prices collapse? Is that the Senator's intent?

Mr. HARKIN. I thank my friend from North Dakota for asking these questions. The Senator is absolutely right. We significantly increase both nutrition and conservation. As I mentioned earlier, we doubled it, and then we provided for a commodity program that has not only loan rates and direct payments but they are countercyclical. That is kind of a 50-cent word, but basically the prices really go down. We come in and help the farmers stay afloat. And we have a balance.

I believe we have met our responsibility in meeting the nutritional needs of the people of this country.

Senator LUGAR goes even farther, and I will talk a little bit more at length about that, but we have met our responsibility in nutrition. We have met it on conservation. As the Senator points out, we have to meet it on commodities. We have to meet our obligation to keep our family farmers afloat and in business all over this country. That is what we have done.

Quite frankly, the amendment of my friend from Indiana will phase out loan rates to zero. Not a little bit—to zero. It does away with all the direct payments that we had to our farmers, all price supports for dairy, peanuts, sugar—all are phased out. Everything is taken away. That is not in the best interests of people who are on food stamps or our kids who need nutrition. That is not in their best interests. We have to have a balance.

Mr. DORGAN. Mr. President, I know the Senator is in the middle of a presentation, but the description of the underlying amendment sounds very much like the current law, Freedom to Farm, which had at its roots the notion that farmers should essentially accept whatever the marketplace offers and we do not need a farm program, so they set up 7 years of declining payments, after which there is no farm program. The presumption was that this would "transition"—that was the operative word in Freedom to Farm—farmers out of a farm program.

The experience of the past 6 years is it has been a miserable failure. It does not work. It sounds like the proposition here is to do less of the same. The old "more of the same"—this is less of the same, and the same didn't work.

I ask the Senator from Iowa if he believes as I do that I do not give a hoot in terms of the commodity portion. I don't give a hoot about a bushel of grain. I care about a family who is trying to raise that grain or produce that grain on a farm. I care about the network of producers who represent family farmers living under this, trying to raise a family and raise a crop and whose hopes and dreams rest on the question of whether, when they get that crop off the field, everything is favorable that year when they take it to the elevator. It rests on the question, Is there a decent price somewhere above or near the cost of production? The answer in the past 5 or 6 years has been no. The more you sell, the more you raise; the more you produce, the more you are going to lose.

So isn't it the case that really, while conservation and nutrition are very important—and in my judgment no one fights harder for that than the Senator from Iowa; he takes a back seat to no one. But isn't it also the case that the so-called commodity title with respect to what it represents in support for families, support for those economic all-stars in America, family farmers, ranks right up there with all the other considerations? In my judgment, it is right at the top of the considerations of why we should do a farm bill. Would the Senator concur with that?

Mr. HARKIN. I like the way my friend from North Dakota has portrayed it because I think that is absolutely right, looking at both of them. I was just thinking about that when the Senator was asking the question.

When we think about the nutrition side of it, we think of the families; we think of the kids; we think of the people involved and what it does to help them in their lives. When we think of the commodity programs, we should not be thinking of a bushel of wheat or a bushel of corn or a bale of cotton or hundredweight of rice or whatever. We ought to be thinking about the families who are involved in production. What are they like? What are they doing? What are they doing for our country? How are they living? What are they doing for rural America? And what are we going to do if we lose them all? What happens when they get wiped out?

I think the Senator from North Dakota has really, again, pointed out that we have to have this balance in this bill. The commodity title is one that does not go to support it. The Senator is absolutely right. It doesn't go to support a bushel of corn or a bushel of wheat. It goes to support a family farmer—their spouse, their kids, their livelihood, their communities all over rural America. The Senator is absolutely right on that.

(Mrs. CLINTON assumed the chair.)

Mr. DORGAN. Madam President, if the Senator will yield for one additional question, the commodity title is important here. We have an amendment that is now pending and I believe another major amendment that will follow it at some point, offered by two of our other colleagues. Both of these amendments tend to chip away at the commodity title and support for family farmers. The amendment pending does that. The amendment pending just eviscerates price supports for family farmers. But there is another one coming that is a major initiative that also just squeezes down this price support in a way that really doesn't provide much help at all to family farmers.

It is very important, in my judgment, for us to turn back these two amendments because if we don't, we will be here scratching and clawing and debating a farm bill that doesn't really have much merit with respect to the livelihood of families who are trying to make a living on American farms.

So our job, it seems to me, is to try to defeat the amendments that, in the commodities title, shrink that support for families who are trying to live on this country's farms.

If I might, I held a hearing in the State of Iowa with my colleague, Senator HARKIN. We had testimony about the big crop farms and all the big agrifactories in this country that are growing up, the behemoth enterprises. Everyplace a family farmer looks, they see somebody buying their grain, somebody buying their livestock, somebody hauling their grain. If they look at the railroads, mostly they are looking at monopolies. They say to the farmer: By the way, here is the price. If you don't like it, tough luck.

If I might take one moment to say to the Senator from Iowa, Do you know a farmer in North Dakota, my State, pays more to ship grain from North Dakota to the west coast than a farmer from Iowa does moving grain from Iowa through North Dakota to the west coast? Why? Because the railroad says they have to.

A farmer from Bismarck, ND, puts a carload of grain on the track at Bismarck and ships it to Chicago—let me give you the breakdown on the transaction here. If he ships a carload of grain 400 miles, Bismarck to Minneapolis, they charge him $2,300. But if a farmer in Minneapolis puts a carload of wheat on the track in Minneapolis and ships it to Chicago, about the same distance—$2,300? No, $1,000. So the North Dakota farmer pays $2,300 to send a carload of wheat 400 miles, and the farmer on the next segment, Minneapolis to Chicago, pays $1,000—less than half.

Why? Because on the second segment there is competition; on the first there is not. The monopoly says: Here is what you are going to pay, and you will pay through the nose, and if you don't like it, tough luck.

For chemicals—spray, fertilizer—it is the same thing: Here is what you pay. Farm equipment, same thing. Virtually everywhere the farmer looks, grain trade—they ship that kernel of wheat and puff it up or crisp it or shred it and put it on the shelf, and they sell the grain the farmer got nothing for for $4 for a small cardboard box. It is just the farmer who doesn't get a due return, but the people who crisp it and puff it are making money hand over fist.

The only people losing their shirts for 6 years are the family farmers because commodity prices have collapsed. The family farmers have taken a financial bath. They are hanging on by their financial fingertips, and everybody who touches the product that farmers produce has been making money with it. The railroads are making big money hauling it. The cereal manufacturers are making big money crisping it and popping it. It is just the farmer. And people say it doesn't matter.

It matters to this country. This country's character is formed by who we are, what we have as elements of producers.

The fact is, we need family farmers as part of our culture. They create the family values that move from family farms to small towns to big cities and nourish and refresh this country. They are a very important part of our economy.

The Senator from Iowa has been very generous with his time, but I want to say on—I know he is speaking against this amendment—this amendment takes the commodity title and says we are going to reduce support for families. That is not the right approach; it is exactly the wrong direction; and it means we have not learned anything in the last 6 years. What we should have learned in the last 6 years is that we need countercyclical price supports. As the Senator said, that is a 50-cent word, but what it means is you provide help to the people who need help—not Freedom to Farm—which says we provide help no matter what the price is. When people need help, we lend a helping hand because they are helping this country mightily. They are our all-stars.

I thank the Senator for his leadership and his help in opposing this amendment.

Mr. HARKIN. I thank the Senator for his eloquence and for his focus on what this is all about.

I know a lot of what the Senator from North Dakota said about shipping of the grain is hard to follow. I understand that. But I hope the Senator from North Dakota makes the point time and time and time again here in this debate on this farm bill. That is that the family farmer is at sort of the end of the whip out there. If we don't have a good competition title and if we don't have something that helps those family farmers to have more bargaining power, they are lost. They are lost.

I thank the Senator from North Dakota for pointing that out. I hope he continues to do that. I say to my friend from North Dakota also, actually the amendment by the Senator from Indiana would be less than Freedom to Farm. There would be less support there for agriculture than Freedom to Farm.

I did want to correct the statement I made. I said the Lugar amendment would phase out all of the loan rates. I guess that is not quite right. I guess I didn't read it closely enough. Actually, by 2006 they would phase it down to 1 percent.

I guess that is about nothing, now that I think about it. But there is 1 percent of the previous 5-year average, which really is kind of laughable when you think about it. But it was pointed out to me it wasn't zero, it was 1 percent of the previous 5-year price. Right now we are at about 85 percent, if I am not mistaken. So you go from 85 percent of the previous 5 years to 1 percent.

I want the record to be clear, the Lugar amendment does not completely phase out loan rates. It brings it down to 1 percent. So there, I just wanted to make sure that was correct.

I also wanted to point out that in talking about the support for families, for low-income families, to make sure they get enough nutrition, our bill provides $780 million additional money for commodity purchases for food assistance. So there is three-quarters of a billion dollars more to purchase fruits and vegetables, things such as that, meats, meat products, that would go to help low-income families meet their nutritional needs.

The Lugar amendment has much less in it than I have in mine.

Mr. REID. Madam President, will the Senator yield for a unanimous consent request?

Mr. HARKIN. Yes.

Mr. REID. This has been cleared with the chairman and ranking member of the committee. Following this unanimous consent agreement, anyone who wants to talk on this amendment can talk as long as they wish tonight.

Madam President, I ask unanimous consent that when the Senate resumes consideration of S. 1731 tomorrow morning, Wednesday, December 12, there be 60 minutes of debate prior to a vote in relation to the Lugar amendment No. 2473 with the time equally divided and controlled in the usual form, that no second-degree amendments be in order, nor to the language proposed to be stricken prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I appreciate very much the Senator yielding for this important matter.

Mr. HARKIN. Madam President, I understand we will come in tomorrow morning and I will make my comments at that time on the Lugar amendment.

Mr. REID. Madam President, if the Senator will yield, the unanimous consent agreement didn't call for it, but the Senate will come in at 9:30 tomorrow morning, and the Senator from Iowa and the Senator from Indiana, Mr. LUGAR, will control the time.

Mr. HARKIN. There will be 1 hour for debate from 9:30 a.m. until 10:30 a.m. equally divided, and the vote will occur on the Lugar amendment at 10:30 tomorrow morning?

Mr. REID. Yes.

Mr. HARKIN. I thank the leader. I will have more to say about this tomorrow morning.

But the Lugar amendment takes away all of the programs that we have for farmers and gives them a voucher by which they can go out and purchase a whole farm revenue insurance program which will give them a guarantee of up to 80 percent. They can contribute an amount at least equal to the amount of the voucher to a risk management stabilization account, and they can redeem the voucher for cash payment and use the payment to carry out one or more risk management strategies that are sufficient to guarantee a net income from all agricultural enterprises of at least 80 percent.

That is pretty convoluted. Quite frankly, at a time when our farmers are just about at their wit's end right now to take what we carefully fashioned in a bipartisan fashion—and this is a bipartisan bill that we have on the floor—and just throw it out for an experiment, I think we just can't do that right now. That would disrupt all of agriculture and it would disrupt the markets. It would be chaos. The adoption of the Lugar amendment would just mean chaos. The markets would not know what to do. Farmers would not know what to do. Bankers would not know what to do. A farmer going in to get a loan early next year for seed and fertilizer or maybe to buy a piece of equipment or get the necessary funds to farm—that is the way people farm. They go in and get the credit. The banker says: I don't know what to do because I do not know what kind of program there is. With the Lugar amendment, they would have absolutely no idea what they would be doing.

I think the Lugar amendment is probably something you put out there to debate and people talk about it and they think about it. Maybe you massage it around for a while, but it is not something you just do all of a sudden and leap off the deep end.

We cannot take our loan rates down to 1 percent. We cannot do away with direct payments. We can't take away all of the price supports over the next 5 years for dairy and for peanuts, sugar and everything else. That would be catastrophic.

While I applaud Senator LUGAR for his strong support—and I know it is genuine and sincere—for nutrition and nutrition programs, the way he has gone about getting the money by devastating the commodity title is in no one's best interest. It is not in the best interests of low-income families; it is not in the best interests of our farm families; and certainly it is not in the best interests of our country.

I reserve my remarks for tomorrow morning. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I ask unanimous consent to be allowed to proceed as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. SESSIONS pertaining to the introduction of S. 1804 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SESSIONS. Madam President, I suggest the absence of a quorum.

Mr. PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the previous order with respect to the debate time on the Lugar amendment No. 2473 be modified to provide for a reduction of 10 minutes—5 minutes from each side—with the remaining provision remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, we will vote at approximately 10:20 tomorrow morning, maybe 10:25.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators allowed to speak therein for a period not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF COMMERCE, SCIENCE, AND TRANSPORTATION COMMITTEE RULES

Mr. HOLLINGS. Madam President, the Senate Committee on Commerce, Science, and Transportation has adopted modified rules governing its procedures for the 107th Congress. Pursuant to Rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator MCCAIN, I ask unanimous consent that a copy of the Committee rules be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF THE U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any Subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any Subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee, or any Subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any Subcommittee thereof, shall be scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

II. QUORUMS

1. A majority of members shall constitute a quorum for official action of the Committee when reporting a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

2. Eight members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any Subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the Subcommittee unless he or she is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

VI. CONSIDERATION OF BILLS AND RESOLUTIONS

It shall not be in order during a meeting of the Committee to move to proceed to the consideration of any bill or resolution unless the bill or resolution has been filed with the Clerk of the Committee not less than 48 hours in advance of the Committee meeting, in as many copies as the Chairman of the Committee prescribes. This rule may be waived with the concurrence of the Chairman and the ranking minority member of the full Committee.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in August 1991 in San Francisco, CA. A gay person was assaulted while walking in the city's Castro neighborhood. The assailants, both 17-year-old females, were later found guilty on all counts of felony assault and hate crime violations in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

IN MEMORY OF STAFF SERGEANT BRIAN CODY PROSSER

Mrs. BOXER. Madam President, on December 5, three American soldiers: Staff Sergeant Brian Cody Prosser, Master Sergeant Jefferson Donald Davis, and Sergeant First Class Daniel Henry Petithory, all members of the Fifth Special Forces Group, lost their lives near Kandahar, Afghanistan. My heart goes out to their families, their loved ones, and many friends for this sudden and unexpected loss.

Cody Prosser was from Frazier Park, a small mountain community in my home State of California, where he is remembered as an idealistic young man and natural soldier, a patriot destined for military service. He was a local hero and star athlete, known for his leadership qualities on and off the football field. Cody joined the Army's Special Forces shortly after his high school graduation, and had served his country with pride and distinction for 10 years.

Staff Sergeant Prosser paid the supreme price defending liberty and justice, and his sacrifice will never be forgotten. His name joins the ranks of other members of the armed forces who bravely died for our Nation.

As America continues to respond to the horrific events of September 11, I ask my colleagues to join me in recognizing Cody Prosser's outstanding, singular service and offering our heartfelt thanks to him and the others who gave their lives in defense of the freedoms we hold so dear.

I extend my deepest condolences and the thanks of a grateful Nation to the family he left behind, his beloved wife Shawna, his brothers Mike, Reed and Jarudd Prosser, and loving parents Brian and Ingrid.

NOMINATION OF JORGE L. ARRIZURIETA

Mr. ALLEN. Madam President, I rise today in strong support of President Bush's nominee to be U.S. Alternative Executive Director to the Inter-American Development Bank, Jorge L. Arrizurieta. I ask unanimous consent that letters of support for this nomination from our colleagues, Senator GRAHAM and Senator FRIST, as well as letters of support from Governor Bush of Florida, the Undersecretary of the Treasury for International Affairs, Mr. John Taylor, and the Special Assistant to the Assistant Attorney General, Mr. Jeffrey Ross, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. ALLEN. Mr. Arrizurieta's background represents a strong combination of public service at the Federal, State, and local levels. Previously, Mr. Arrizurieta worked for five years as the Director of State Projects for our former colleague Senator Mack where he did an outstanding job. He was also appointed by Governor Jeb Bush of Florida to the Post Secondary Education Planning Commission, where he was elected Vice Chairman by his colleagues.

For the past eight years, Mr. Arrizurieta has been closely associated with corporate ventures of Mr. Wayne Huizenga, a southern Florida entrepreneur. As Vice President of Public Affairs for Huizenga Holdings, Mr. Arrizurieta has had the opportunity to meet and work with a broad variety of government and business leaders throughout the country and the Western Hemisphere. In this capacity he has worked on developing extensive business development outreach efforts in the Latin American and Caribbean region.

Aside from these commitments, Mr. Arrizurieta has devoted his time and effort to many charitable, community and business organizations, including the Make A Wish Foundation, the Florida Chamber of Commerce, La Liga Contra el Cancer, and the Florida FTAA, Free Trade Area of the Americas, initiative as a founding member of its Board of Directors.

Jorge Arrizurieta is the son of Cuban immigrants, is fluent in Spanish, and has a strong understanding of Latin American culture. His government affairs and community relations background will serve him well in a position where people and diplomatic skills are highly valued to advance the interests of the United States, and the efficacy of the bank as a political institution.

I would like to note that a misimpression may have been left by questions raised at Mr. Arrizurieta's nomination hearing before the Committee on Foreign Relations, regarding a bank on whose board he serves. I call my colleagues' attention to the very helpful letter of clarification from the Department of Justice which I have entered into the RECORD and which should resolve any questions that arose during the Committee hearing.

The nomination of Mr. Arrizurieta will come before the Committee on Foreign Relations soon. I urge my colleagues on the Committee to join me in voting to favorably report this nomination. Once the nomination has been reported from the Committee, I urge the Majority Leader to bring the nomination promptly before the Senate so that President Bush and the American people will have the benefit of Mr. Arrizurieta's strong background and experience on the Inter-American Development Bank.

EXHIBIT 1

U.S. SENATE,
Washington, DC, November 27, 2001.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Foreign Relations Committee, Dirksen Building, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: I write today to support the Administration's nominee for U.S. Alternate Executive Director to the Inter-American Development Bank, Jorge Arrizurieta, and ask that you also support this nomination.

The son of Cuban immigrants, Jorge is a fellow Floridian, and an American success story. Coupled with his fluency in Spanish and strong understanding of the Latin American culture, Jorge has a strong background in government and community relations in Florida's large Latin-American community.

Mr. Arrizurieta's work with Senator Mack was well regarded and extremely valuable to the Senator and all Floridians. At the Huizenga organization he began his work as the Director of Community Relations for the Florida Marlins Baseball Club. The team's focus on marketing to Latin America and the Caribbean allowed Mr. Arrizurieta the opportunity to meet and work with many government and business leaders in the region and assist the team in their efforts to become "The Team of the Americas."

His current duties at Huizenga Holdings include managing the government relations for its business interests as diverse as the Miami Dolphins Football Club, Pro Player Stadium, and Autonation, Inc., the largest automotive retailer in the world.

Notwithstanding these responsibilities, Mr. Arrizurieta has continued to make time to give back to his community. His unselfish devotion to the Make A Wish Foundation, his work with the Annenberg Educational Challenge, his key role with the Florida FTAA (Free Trade Area of the Americas) effort as a member of its Board of Directors and his appointed position to the State of Florida's Post Secondary Education Planning Commission, where he was elected Vice Chairman by his colleagues, have prepared Mr. Arrizurieta very well for this important position.

Jorge Arrizurieta's proven background in community and government relations will serve him well in a position where people and diplomatic skills are highly valued to advance the partnership between the U.S. and in the Americas. I urge you to support his nomination.

Sincerely,

BOB GRAHAM,
U.S. Senator.

U.S. SENATE,
Washington, DC, December 5, 2001.

Hon. JOSEPH R. BIDEN, Jr.,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: I write today to support the Administration's nominee for U.S. Alternate Executive Director to the Inter-American Development Bank, Jorge Arrizurieta.

Mr. Arrizurieta is currently Vice-President of Public Affairs for Huizenga Holding, Inc., managing government relations for its business interests as diverse as The Miami Dolphins Football Club, Pro-Player Stadium, various real estate holdings, and AutoNation, Inc., the largest automotive retailer in the world.

In addition, Mr. Arrizurieta is no stranger to public service. He served as Senator Connie Mack's Director of State Projects, and was Vice-Chairman of the State of Florida's Post Secondary Education Planning Commission. Mr. Arrizurieta has always distinguished himself as an accomplished and trusted leader. His integrity and commitment to his community will serve him well.

Mr. Arrizurieta has the talents and skills required to be an effective and respected representative for the United States at the InterAmerican Development Bank, and I urge your favorable consideration of him for U.S. Alternative Executive Director.

Sincerely,

BILL FRIST,
U.S. Senator.

GOVERNOR OF THE STATE OF FLORIDA,
November 30, 2001.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Foreign Relations Committee, Dirksen Building, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: I write today to strongly support the nomination of Jorge Arrizurieta for US Alternate Executive Director of the InterAmerican Development Bank, and that you also support this nomination.

I have known Jorge for over 15 years. The Arrizurieta family was among the first families I came to know upon my move to Miami. I have watched Jorge for many years in a variety of political, business and community efforts. I can assure you Jorge has the ability, the integrity and dedication that will be required of him in this most important position.

Jorge's abilities and good work were very visible during his five years with Senator Connie Mack's office. For the last eight years he has been associated with Wayne Huizenga's organization in a variety of positions. From the Director of Community Relations position with the Florida Marlins, to the current position where he serves as the holding company's Vice President of Public Affairs, he has always been very effective and enjoyed the respect of his peers. These positions have prepared him very well for his return to public service.

I appointed Jorge to a position on the State's Post Secondary Education Planning Commission, where his colleagues elected him Vice Chairman. Here again he served successfully and with extreme dedication. Through his role on the commission, he was very helpful to our efforts in the reorganization of the state's education system.

Jorge has all the ingredients required to do an effective job in an area where diplomatic and business skills are required in equal measure. Jorge has always made me proud of his work and commitment to our nation. I know he will serve our country very successfully and effectively. I urge you to support this excellent nomination.

Sincerely,

JEB BUSH.

DEPARTMENT OF THE TREASURY,
Washington, DC, November 27, 2001.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Foreign Relations Committee, Dirksen Building, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: I write today to strongly support the Administration's nominee for U.S. Alternate Executive Director to the Inter-American Development Bank, Jorge Arrizurieta, and ask that you also support this nomination.

Mr. Arrizurieta's background is a strong combination of public service and government and community relations in Florida's Latin-American community. Previously, Mr. Arrizurieta performed public service in government as the Director of State Projects for Senator Connie Mack, in which I understand his work was extremely well regarded. He was also appointed to the State of Florida Post Secondary Education Planning Commission and was elected Vice Chairman by his colleagues.

Mr. Arrizurieta was also the Director of Community Relations for the Florida Marlins Baseball Club. The team's focus on marketing to Latin America and the Caribbean allowed Mr. Arrizurieta the opportunity to meet and work with many government and business leaders in the region and assist the team in their efforts to become "The Team of the Americas." In this capacity he worked in developing extensive business development outreach efforts in the Latin American and Caribbean region.

His responsibilities at Huizenga Holdings include managing the government relations for its business interests as diverse as the Miami Dolphins Football Club, Pro Player Stadium, Autonation, Inc. (the largest automotive retailer in the world) and Alamo and National Rental Car.

Notwithstanding these commitments, Mr. Arrizurieta has donated his time and effort to our society through his devotion to many charitable, community and business organizations—including the Make A Wish Foundation and the Florida FTAA (Free Trade Area of the Americas) effort as a founding member of its Board of Directors.

To sum up, Jorge Arrizurieta is an accomplished Hispanic-American. He is the son of Cuban immigrants, is fluent in Spanish, and has a strong understanding of the Latin American culture. His proven background in government affairs and community relations will serve him well in a position where people and diplomatic skills are highly valued to advance the interests and influence of the U.S. The Atlantic U.S. Executive Director to the Inter-American Development Bank takes policy direction from the Treasury Department, and I hope to have the opportunity to work, and achieve success with, Mr. Arrizurieta in this capacity.

If you or your staff would like to meet Mr. Arrizurieta, he is available at any time. I urge you to support this excellent nomination.

Sincerely,

JOHN B. TAYLOR,
Under Secretary for International Affairs.

U.S. DEPARTMENT OF JUSTICE,
CRIMINAL DIVISION,
Washington, DC, June 12, 1998.

Mr. JAVIER AGUIRRE,
Chairman of the Board and Chief Executive Officer, International Finance Bank, Miami, FL.

DEAR MR. AGUIRRE: The purpose of this letter is to correct any misimpressions that might have resulted from the May 20, 1998, joint U.S. Department of the Treasury and Department of Justice press release captioned: "Operation Casablanca Continues Its Sweep: Money Laundering Case Extends to Venezuela." The press release misidentified International Finance Bank as being a Venezuelan bank. Further, the press release should be read as stating only that accounts at International Finance Bank received funds wired through the undercover operation. Neither International Finance Bank nor any of its employees were the subject of the criminal indictments returned as a result of Operation Casablanca.

We understand that, despite this fact, you are concerned over downstream news accounts suggesting or even stating that your institution or its employees were involved in the laundering of drug money through accounts in your bank. The public material released from the Justice and Treasury Departments does not indicate that your bank or any bank employee was charged with any criminal wrongdoing. I know you feel the public may reach a contrary conclusion because the name of your bank was mentioned in public documents, but I again assure you that the indictment and public statements convey nothing more than a list of the Venezuelan banks through which undercover drug funds were laundered.

Please feel free to circulate the contents of this letter as you deem appropriate.

Sincerely,

L. JEFFREY ROSS,
Special Assistant to the Assistant Attorney General.

DEPARTMENT OF DEFENSE APPROPRIATIONS

Mr. BINGAMAN. Madam President, Last week I offered an amendment on behalf of Senator DOMENICI and myself. It authorizes State and local transit authorities that receive Federal transit assistance to purchase transit buses through the General Services Administration. Because of GSA's limited experience with transit buses, the amendment provides for the pilot program to be managed by the Federal Transit Administration.

Currently only the Washington Metropolitan Area Transit Authority has the option to purchase buses through the General Services Administration. The pilot program would open up that option to other public transit agencies around the country that also receive Federal transit assistance. However, the pilot program is limited only to heavy-duty transit buses and intercity coaches. The initial pilot program would end on December 31, 2003.

The General Services Administration currently offers three heavy-duty transit buses and two intercity coaches. GSA selected these suppliers as a result of competitive solicitations, and the companies had to bid attractive terms and prices in order to win those 5-year contracts.

GSA intends to expand its existing sources of simply to a full multiple-award schedule with a larger variety of vehicles and choices of optional equipment. GSA indicates this process will take 12 to 18 months. Therefore, our amendment directs GSA to complete the multiple-award schedule by December 31, 2003, and authorizes state and local transit authorities that receive Federal transit assistance to purchase heavy-duty transit buses and intercity coaches off these GSA schedules. This authority would expire on December 31, 2006.

Allowing additional public transit agencies the option to purchase these buses from GSA could result in substantial options and prices would help streamline the procurement process, which could be especially valuable to some of the smaller communities. Purchasing buses through GSA will help stretch each dollar of Federal transit funding a little bit farther.

I believe it is very important to point out that this pilot program is limited only to transit buses and intercity coaches. It has no effect on companies that supply other types of buses or vehicles, pharmaceuticals, or any other product that currently can be purchased through the General Services Administration. I believe transit buses are a unique situation. Purchases through the GSA should be allowed. There are only a few bus manufacturers in America today and most buses for public transit are purchased using Federal funds provided by the Federal Transit Administration.

Our bus manufacturers are not having an easy time. Our amendment will help expedite bus purchases by eliminating the cost of responding to myriad requests for proposals from public transit agencies. Our amendment will also help the public transit agencies by reducing the cost of preparing the requests for proposals and assessing the responses. I do believe this is a meritorious amendment. It is one I would very much like to see adopted as part of this legislation. I urge my colleagues to support it. The amendment has the support of the Federal Transit Administration, bus manufacturers, and public transit agencies across the Nation.

I ask unanimous consent that a letter from the American Public Transportation Association be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC TRANSPORTATION
ASSOCIATION,
Washington, DC, December 7, 2001.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I write regarding a provision the Senate is expected to take up as part of the defense appropriations bill that would allow recipients of funds under the federal transit program to purchase heavy-duty and intercity buses from the General Services Administration schedule of contracts.

The Business Member Board of Governors of the American Public Transportation Association (APTA) considered a similar provision in a meeting on Sunday, September 30, 2001. They voted in support of the measure.

Further, on December 7, 2001, APTA's Legislative Committee considered this new provision and unanimously agreed to support it. While APTA's governing body has not had an opportunity formally to consider the provision, our public transit members are supportive of measures that would simplify and standardize the federal procurement process, as this provision would do. We are particularly pleased to note that under the provision GSA, with assistance from the Federal Transit Administration, would be required to establish and publish a multiple award schedule for heavy-duty buses, which means that any heavy-duty or intercity bus manufacturer would be provided an opportunity to participate in the program.

Please have your staff contact Daniel Duff, APTA's Chief Counsel & Vice President, Government Affairs, should you have any questions about this matter. He may be reached at (202) 496-4860 or internet e-mail *dduff@apta.com.*

Sincerely yours,

WILLIAM W. MILLAR,
President.

D.C. FAMILY COURT REFORM

Ms. LANDRIEU. Madam President, I would like to take this opportunity to note for the record a few important points. As you may know, the fiscal year 2002 Appropriations Act for the District of Columbia, which is on its way to the President's desk as we speak, included a total of $24 million dollars for the purpose of funding the reforms provided for under the Family Court Reform Act of 2001. As Chairman and Ranking Member of the DC Appropriations Subcommittee, Senator DEWINE and I felt very strongly that these funds were a necessary prerequisite for the kind of change we envisioned. This money was provided to the Courts with the expectation that it would be used to affect this reform in the most immediate and effective way possible. Having worked with the Courts for the better part of this past year, we are confident that they will work diligently towards implementing a unified family court. staffed with highly trained and experienced judges, attorneys and court personnel. We expect that they will do their best to ensure that the this family court is structured in such a way as to reflect its founding principle, "One family, One Judge", a critical component in an effective child welfare system. And finally, we hope that the chief judge, the Child and Family Services Agency and others will go beyond the letter of the law and embrace its spirit, that the safety and well being of our children must remain our paramount concern.

With that said, I would like to make clear our intent in including language which restricts the total distribution of the $24 million until the family court reform plan is received and reviewed by Congress. It should be noted that one hundred percent of the DC Superior Court's operating budget is paid for with Federal funds. Therefore, Congress has a unique obligation to ensure that the day-to-day operations of this court reflect the best practices in each and every area of law under its jurisdiction. The Family Court Reform Act of 2001 lays out a broad set of guidelines for the reform of the family court in the District. Under the provisions of the DC Appropriations bill, within 90 days of the date of its enactment, the Courts are to submit to congress a plan for the immediate transition to a unified family court system. Within 30 days of receipt of this report, the General Accounting Office is to provide Congress with an independent review of this plan. Finally, after a 30 day review period in Congress, the funds earmarked for family court reform are to be distributed to the Court and to the Mayor to implement these reforms.

Our intent in arranging the distribution of funds in this way was to ensure that the money added to the Court's budget for the purpose of family court reform would remain available to carry out the reform plan. In the short time since the congress passed the DC Appropriations conference report, modification to the authorization bill have expedited the time in which the Court's are required to hire magistrate judges and their support personnel. The DC Courts have the ability to use funds from their general operating budget to hire magistrates, their staff, or any other activity, before the family court reform funds are available. We recognize that certain requirements of the family Court Reform Act of 2001 require immediate action and we encourage the Court to take the necessary steps to provide for a seamless transition.

If the constraints on family court reform funds contained in the DC Appropriations bill prove to be unfeasible, I am committed to revisiting those constraints when Congress reconvenes in January. The Senate Appropriations Committee does not intend to hinder the implementation of the Family Court Reform Act in any way. We hope that we can work with our colleagues in the House to clarify this issue if necessary.

THE 60TH ANNIVERSARY OF THE DOVER AIR FORCE BASE

Mr. BIDEN. Madam President, on December 20, 1941, the 112th Observation Squadron of the Ohio National Guard arrived in Dover, DE, to begin conducting anti-submarine patrols. It was the first military unit to serve at what is now known as the Dover Air Force Base.

The history of the Base actually goes back 2 years further, to 1939, when in response to the Nazi invasion of Poland, the Civilian Aviation Administration, CAA, offered State and local governments on both coasts financial help to build municipal airports. The CAA offered to build one airfield in each of Delaware's three counties; the State did not pursue the offer, but New Castle and Sussex Counties accepted. Kent County passed the issue to the city of Dover, our State capital, and the Dover leaders agreed and purchased the land for a new airfield, in what has been hailed many times since as "the best investment the city ever made."

In addition to the anti-submarine mission during World War II, Dover's airfield was used, once the Corps of Engineers had done some of its magic, to train fighter squadrons and then, in 1944, as the site for classified air-launched rocket tests, experiments that led to the use of air-to-surface rockets in both the European and the Pacific Theaters.

After the war, the airfield was placed on caretaker status, and although it remained inactive for the rest of the 1940s, the name was officially changed to Dover Air Force Base in January 13, 1948. Control of the Base was transferred to the Ninth Air Force in February 1949. In February 1951, the Dover Air Force Base was reactivated and put under the jurisdiction of the Air Defense Command, ADC, with different fighter squadrons using the airfield over the course of the next 7 years.

The foundation for a permanent mission was laid when, recognizing Dover's strategic location, the Military Air Transport Service, MATS, assumed control and began, with an appropriation from Congress, to transform the Base into the East Coast embarkation point and foreign clearing base. Four units of the Atlantic Division were organized at Dover: the 1607th Air Base Group, the 1607th Air Base Squadron, the 1607th Maintenance and Supply Squadron, and the 1607th Medical Group. In November 1953, the first two transport squadrons were assigned, forming the core of the 1607th Air Transport Wing, and in December of that year, the Secretary of the Air Force designated the Dover Air Force Base as a permanent military installation.

In 1955, the Aerial Port Mortuary responsibilities were transferred to Dover, and many Americans have become familiar with the Base for its prominence and exceptional service in fulfilling that duty. To offer an incomplete list, the Port Mortuary has received the remains of casualties of the war in Vietnam, a number of plane and helicopter crashes involving military personnel, the mass suicide in Guyana, the attack on the Marine barracks in Beirut, the *Challenger* explosion, the USS *Stark*, Pan Am 103, the USS *Iowa*, the Khobar Towers bombing, the 1998 bombing in Kenya, and most recently, victims of the September 11 attack on the Pentagon.

From the mid-1950s to the mid-Sixties, to offer another incomplete list, Dover Air Force Base participated in Project Ice Cube to construct a Defense Early Warning Network in Northern Canada; the airlift to help combat a polio outbreak in Argentina; Operation Good Hope to Jordan; the Amigo Airlift in response to a devastating earthquake in Chile; an airlift of relief supplies to Honduras after Hurricane Hattie; the airlift of United Nations peacekeepers to the Belgian Congo; the Cuban Missile Crisis; the relief airlift following the Great Alaskan Earthquake; and the delivery of supplies to Guadeloupe Island after Hurricane Cleo, as well as supporting the deepening involvement in Vietnam.

In January 1966, a reorganization led to the designation of the Military Airlift Command and the activation of the 436th Military Airlift Wing to assume command of the Base. The 436th, by the way, has its own proud history, going back to the famed 436th Troop Carrier Group, TCG, which participated in just about every major European campaign of World War II, from Normandy to Operation Market Garden to Bastogne to Operation Varsity.

In 1968, the 912th Military Airlift Group, Associate, along with the 326th Military Airlift, the 912th Support, and the 912th Material Squadrons, were activated at Dover, giving the Base a total of four active and one reserve military airlift squadrons. In 1973, the 512th Military Airlift Wing, A, which is now the 512th Airlift Wing, A, was activated as a replacement to the 912th and its subordinates; the 512th AW remains a key part of Dover's mission. From 1971 to 1973, the transition was undertaken to make Dover home to the first all C–5 equipped wing in the Air Force.

During the Vietnam war, Dover aircrews participated in, among others, Operation Blue Light in January 1966 and Operation Eagle Thrust in 1967, an incredibly ambitious military airlift into a combat zone for which Dover personnel received their first Air Force Outstanding Unit Award.

Among other most notable missions in which Dover crews have participated are Operation Nickel Grass, during which Dover's C–5s flew 71 missions, more than 2,000 hours, delivering more than 5,000 tons of cargo. That operation is considered by many to have been the first real test of the C–5 aircraft. Dover crews also successfully dropped and test-fired a Minuteman I ICBM in 1974, and delivered a 40-ton superconducting magnet to Moscow in 1977 as part of a joint energy research program. The mission to Moscow earned the crew the Mackay Trophy for the most meritorious flight of the year. Missions to Zaire and, in the cause of joint verification, another to the Soviet Union also earned Mackay Trophies for Dover captains and crews.

Dover crews helped evacuate Americans from Iran in 1978, and supported the Marine operation in Lebanon in 1983–84. Dover's C–5s flew 27 missions in the invasion on Grenada also in 1983, and assisted with the clean-up after the *Valdez* oil spill in 1989. Eighteen missions were flown by Dover crews in Operation Just Cause in Panama, and in Operations Desert Shield and Desert Storm, the Persian Gulf War, Dover's C–5s logged more than 30,000 flying hours. Since then, Dover crews have flown in Operation Restore Hope in Somalia; in Operation Joint Endeavor in Bosnia-Herzegovina, in Operations Desert Thunder and Desert Fox in 1998; and in Operation Allied Force against the military structure of Slobodan Milosevic.

Among recent humanitarian missions have been the airlift to Central America following Hurricane Mitch; Joint Task Force Shining Hope to aid Kosovar refugees; airlifts to Turkey following the earthquakes of 1999; the 436 AW also responded to the earthquake that same year in Taiwan; and Operation Atlas Response in Mozambique after the devastating flooding there last year.

And, of course, there is Operation Enduring Freedom, our common cause in which our military men and women bear so much of the burden, the risk and the sacrifice. Our prayers and thanks are with them every day, including the 200 men and women from the 512 Air Reserve Wing who have been activated. I would also note that the 436th Airlift Wing received its 13th Air Force Outstanding Unity Award in October.

I share this history with my colleagues and with the Nation today, not only because the 60th anniversary of the Dover Air Force Base represents our proud military tradition so well, but also because the history of the Dover Air Force Base is very much a part of the history of Delaware. We do not merely co-exist with the Base; it is a part of our State family, a part of our community of friends and neighbors. And so we are especially proud, and so very grateful to those who have served.

Congratulations to Colonel Scott Wuesthoff, the current Commander of the 436th Airlift Wing, to Colonel Bruce Davis, who just assumed command of the 512th Airlift Wing, and to all personnel who serve out of Dover, on the 60th anniversary of the Air Force Base, with the respect and thanks of your neighbors in Delaware, and of all your fellow citizens.

ADDITIONAL STATEMENTS

IDAHO TEACHER WINS PRESTIGIOUS AWARD

● Mr. CRAIG. Madam President, I rise today to recognize a teacher from Idaho who has achieved national recognition for her work in physical education. Danette Lansing, from Eagle, ID, has been chosen to receive the Disney American Teacher Award, one of only 36 teachers chosen for such an honor. In fact, she was chosen from among that select group as one of the top ten teachers in the Nation, and the top teacher in the "Wellness/Sports" category.

It is a great honor for the people of Idaho that a teacher from our State has won this award. It has always been my belief that the education system in Idaho is one of the finest in the Nation, and having a teacher from Idaho chosen for the Disney American Teacher Award only reinforces this belief. Our State has produced many fine teachers and students over the years, and this award is merely an outward indication of what Idahoans already know.

One look at her career shows why she was chosen for this award. As a physical education teacher, she has done much for the students of Eagle Elementary School to make them more active and increase their physical health. As Bart Roen of Disney said about Miss Lansing's selection: "If I had to pick one thing, it's the creativity . . . the kinds of things she does and how well it ties in with what she teaches the kids." For example, her success in creating a walking club at Eagle Elementary School has not only students walking during lunch, but also teachers and neighbors.

Not surprisingly, this is not the first award Miss Lansing has won. In 1999, she was named Idaho's Physical Education Teacher of the Year. However, these awards pale in comparison to the high praise her students have for her. In fact, one of my own staff members had children who were students of Miss Lansing's, and he reports that she was one of their favorite teachers. It has been obvious to the people of Eagle and the State of Idaho that she is a great teacher, now it will be obvious to the Nation.

As you can see, Danette Lansing is truly a treasure for her school, for Idaho, and indeed for the Nation in general. Teachers like Miss Lansing make education a rewarding experience for students and parents alike. I am proud that she was chosen for the American Teacher Award. She is a great example for the rest of the State and the Nation, and I hope this award gives her a platform so she can help other teachers to have the same success she has.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. 1803: An original bill to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal years 2002 and 2003, and for other purposes. (Rept. No. 107–122).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SARBANES for the Committee on Banking, Housing, and Urban Affairs.

*Eduardo Aguirre, Jr., of Texas, to be First Vice President of the Export-Import Bank of the United States for a term expiring January 20, 2005.

*J. Joseph Grandmaison, of New Hampshire, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2005.

Kenneth M. Donohue, Sr., of Virginia, to be Inspector General, Department of Housing and Urban Development.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 1795. A bill to suspend temporarily the duty on railway passenger coaches of stainless steel; to the Committee on Finance.

By Mr. BREAUX:

S. 1796. A bill to extend temporarily the duty on railway car body shells of stainless steel having an aggregate capacity of 140 passengers; to the Committee on Finance.

By Mr. BREAUX:

S. 1797. A bill to suspend temporarily the duty on railway car body shells for electric multiple unit gallery commuter coaches made of stainless steel; to the Committee on Finance.

By Mr. BREAUX:

S. 1798. A bill to extend temporarily the duty on railway car body shells of stainless steel; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. THOMPSON, and Mr. AKAKA):

S. 1799. A bill to strengthen the national security by encouraging and assisting in the expansion and improvement of educational programs to meet critical needs at the elementary, secondary, and higher education levels; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. THOMPSON, Mr. AKAKA, and Ms. COLLINS):

S. 1800. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; to the Committee on Governmental Affairs.

By Ms. LANDRIEU (for herself and Mr. BOND):

S. 1801. A bill to amend chapter 36 of title 39, United States Code, to provide for a permanent postal rate for certain educational bound printed matter, and for other purposes; to the Committee on Governmental Affairs.

By Ms. LANDRIEU:

S. 1802. A bill to accelerate the effective date for the expansion of adoption tax credit and the adoption assistance programs by 1 year; to the Committee on Finance.

By Mr. BIDEN:

S. 1803. An original bill to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal years 2002 and 2003, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. SESSIONS (for himself, Mr. ALLEN, Mr. HUTCHINSON, and Mr. SMITH of New Hampshire):

S. 1804. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for economic recovery and provide for the payment of emergency extended unemployment compensation; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. SCHUMER, Mr. VOINOVICH , Mrs. BOXER, Mr. WARNER, Mrs. CLINTON, Mr. ALLEN, Mrs. FEINSTEIN, Mr. FITZGERALD, and Mr. DURBIN):

S. 1805. A bill to convert certain temporary judgeships to permanent judgeships, extend a judgeship, and for other purposes; to the Committee on the Judiciary.

By Mr. REED (for himself, Mr. ENZI, Mr. JOHNSON, Mr. CHAFEE, Mr. GRAHAM, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, Mr. INOUYE, Mr. COCHRAN, and Mr. WELLSTONE):

S. 1806. A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH:

S. 1807. A bill to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN:

S. Res. 189. A resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 190. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

By Mr. HATCH (for himself, Mr. BIDEN, Mr. HELMS, Mr. KENNEDY, and Mr. SMITH of Oregon):

S. Con. Res. 92. A concurrent resolution recognizing Radio Free Europe/Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 170

At the request of Mr. REID, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 267

At the request of Mr. AKAKA, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 518

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 548, a bill to amend title XVIII of the Social Security Act to provide enhanced reimbursement for, and expanded capacity to, mammography services under the medicare program, and for other purposes.

S. 767

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 767, a bill to extend the Brady background checks to gun shows, and for other purposes.

S. 940

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 1125

At the request of Mr. MCCONNELL, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 1125, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1274

At the request of Mr. KENNEDY, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 1274, a bill to amend the Public Health Service Act to provide programs for the prevention, treatment, and rehabilitation of stroke.

S. 1478

At the request of Mr. SANTORUM, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1675

At the request of Mr. BROWNBACK, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1675, a bill to authorize the President to reduce or suspend duties on textiles and textile products made in Pakistan until December 31, 2004.

S. 1704

At the request of Mr. WELLSTONE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1704, a bill to amend the Clayton Act to make the antitrust laws applicable to the elimination or relocation of major league baseball franchises.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from Nevada (Mr. REID), the Senator from Alaska (Mr. MURKOWSKI), the Senator from South Dakota (Mr. DASCHLE), and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1752

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1752, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases.

S. 1779

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1779, a bill to authorize the establishment of "Radio Free Afghanistan", and for other purposes.

S. 1788

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1788, a bill to give the Federal Bureau of Investigation access to NICS records in law enforcement investigations, and for other purposes.

S. 1793

At the request of Ms. COLLINS, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from Kansas (Mr. ROBERTS), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1793, a bill to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. THOMPSON, Mr. AKAKA and Ms. COLLINS):

S. 1799. A bill to strengthen the national security by encouraging and assisting in the expansion and improvement of educational programs to meet critical needs at the elementary, secondary, and higher education levels; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. THOMPSON, Mr. AKAKA, and Ms. COLLINS):

S. 1800. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; to the Committee on Governmental Affairs.

Mr. DURBIN. Madam President, in the fall of 1957, the United States received a national wake-up call. The Soviet Union launched sputnik into orbit. The space race was on, and we were already behind. Not only were we caught off guard by sputnik, it was suddenly clear that major changes had to be made to preserve our national security and to pull ahead in scientific and technological innovation.

One year later, Congress passed landmark legislation, the National Defense Education Act. The purpose of the act was to "strengthen the national defense and to encourage and assist in the expansion and improvement of educational program to meet critical national needs." The National Defense Education Act provided assistance to State and local school systems to strengthen instruction in science, math, foreign languages, and other critical subjects. It also created low-interest student loan programs and fellowships to open the door to higher education to a greater number of young people. This coordinated national effort helped our Nation meet its goals.

By 1969, Americans had landed on the Moon. The United States was the most technologically advanced Nation in the world. A new generation of highly skilled mathematicians, scientists, and technology experts staffed laboratories, universities, and Federal agencies. Colleges and universities had established centers for foreign language study and research.

Sadly, this Nation received another wake-up call on September 11, 2001.

The week after the attacks, FBI Director Robert Mueller made a public plea for Arabic and Farsi speakers to assist as translators, illustrating the alarming deficiency in fluent speakers of languages crucial to our national security needs. It does our Nation no good to have sophisticated weapons programs if we don't have the scientists to back them up. It does our Nation no good to have expanded intelligence gathering capabilities if what we retrieve sits untranslated. The United States must have the brainpower to match its firepower.

Today I join Senators THOMPSON and AKAKA to introduce two initiatives that serve two important purposes, to meet the immediate needs of the Federal Government in areas of national security, and to make investments in our future through investments in education.

The Homeland Security Federal Workforce Act authorizes funds for key national security agencies to repay student loans for employees in national security positions who pledge to serve for a minimum of three years. This expands the existing loan forgiveness program for Federal employees by permitting these agencies to repay up to $10,000 per year in student loans.

The bill also establishes a National Security Fellowship Program for graduate students who agree to enter Federal service in a position key to national security upon the completion of their degree. The fellowship program will also be open to current Federal employees, encouraging the enhancement and development of their skills.

To give Federal employees more flexibility and experience, the bill creates a National Security Service Corps to allow Federal employees to serve in rotational assignments in other agencies with national security responsibilities.

Along with these immediate remedies, homeland security and preparedness depend on a well-educated citizenry who leave school with the tools they need to succeed in science, math, technology, and foreign languages. Unless broader education reforms are implemented, we will continue to find ourselves playing catch-up to secure the skilled professionals our government needs.

The Homeland Security Education Act would fund partnerships between local school districts and foreign language departments in institutions of higher education. These new foreign language partnerships will provide intensive professional development opportunities for foreign language teachers at every level from kindergarten to 12th grade. The partnerships will foster contact and communication between university faculty and K-12 teachers in order to improve teachers' knowledge of the languages they teach as well as their teaching skills. Partnerships would also use grant funds to recruit foreign language majors to the classroom. Our bill will give priority to partnerships that include high-need school districts and that put a focus on the less-commonly taught languages.

Our bill will encourage more undergraduates to complete degrees in mathematics, science, engineering, and the less-commonly taught foreign languages by establishing a program to forgive the interest on a borrower's student loans if he or she earns a degree in one of these subjects. The program aims to provide an incentive for students who are interested in these areas of study to earn their degrees.

The bill establishes grants for partnerships between school districts and private entities to help schools improve science and math curriculum, upgrade laboratory facilities, and purchase scientific equipment. In turn, the private sector partner will donate technology or equipment to the school district; provide scholarships for district students to study math, science, or engineering at college; establish internship or mentoring opportunities for district students; or sponsor programs aimed at young people who are underrepresented in the fields of math, science, and engineering.

In order to stay on top of innovations in science and technology, more professionals in these fields will have to also be proficient in a foreign language. This is imperative to our national security, even some scientific documents and articles in the public domain are beyond the translation capabilities of our government. The Homeland Security Education Act would make grants available to colleges and universities to establish programs in which students take courses in science, math and technology taught in a foreign language. Funds will also support immersion programs for students to take science and math courses in a non-English speaking country.

The Homeland Security Education Act authorizes $20 million for the National Flagship Language Initiative, which was funded as a one-year pilot program in this year's Defense Appropriations bill. The funds will be used to provide institutional grants to universities to graduate specific numbers of students with the foreign language proficiencies needed by the government. Participating institutions will make available a negotiated number of slots to student applicants who are Federal employees.

With these bills, we hope to address some of the gaps in homeland security that have been identified by numerous experts and panels, including the Hart-Rudman Commission on National Security in the 21st century. We must do everything possible to ensure that our intellectual preparedness is equal to that of our military preparedness. Without these investments, we may find that the war against terrorism is unwinnable, and our status in the global community severely diminished.

Our Nation has demonstrated that we have the moral resolve to fight a war to end terrorism. We must match that resolve with the willingness make investments in education and training that will pay off well into the next century.

Mr. AKAKA. Madam President, as chairman of the Subcommittee on International Security, Proliferation, and Federal Services, I am honored to work with my colleagues from the Governmental Affairs Committee, Senator DURBIN and Senator THOMPSON, to introduce the Homeland Security Federal Workforce Act and the Homeland Security Education Act.

Alarmed at the Soviet Union's successful launch of the first space vehicle, Congress passed the National Defense Education Act of 1958. Our country faced a changed national security landscape, and our Government was determined to make certain the United States never came up short again in the areas of math, science, technology and foreign languages.

Although we face new national security threats, our Government's response is built on the talents and dedication of our Federal workforce. Recently the U.S. Commission on National Security/21st Century, also known as the Hart-Rudman Commission, concluded that ". . . the excellence of American public servants is the foundation upon which an effective national security strategy must rest . . . because future success will require the mastery of advanced technology . . . as well as leading-edge concepts of governance."

The recent terrorist attacks strengthened our will and exposed the weaknesses of our great country. We were quickly reminded of the importance of our Federal Government and its workforce. For every essential service these attacks disrupted, we expected our government to respond quickly and effectively, and those in government did.

However, the events of September 11 and the anthrax attacks through the mails underscored how much government needs people with the critical skills to fill critical national security positions. We need to recruit the best people with the best skills and ensure that government service remains attractive. Our legislation does that.

The Homeland Security Federal Workforce Act and the Homeland Security Education Act provide needed tools and resources to agencies expressly for hiring new employees in critical national security positions and establishes a student loan repayment program and fellowships to future and current federal employees in exchange for government service.

It provides additional training opportunities for the great people already committed to the Federal service whose expertise guide agencies daily in meeting their missions. For example, Federal employees in national security positions will be eligible to apply for fellowships, which includes full tuition and a stipend, to pursue degrees in fields deemed critical to national security.

Our bills also respond to future national security needs by helping schools better prepare students for the demands of the 21st century. We must act now to identify and develop the right balance of skills in science, math, and foreign languages. We must make resources available to our schools and their teachers so that our students graduate with a greater proficiency in these areas.

The bills will strengthen the specific foreign language skills that the Government has identified as critical to our national security. We would help establish an advanced foreign language program that matches foreign language program efforts in leading universities with national security requirements.

I would like to note that the University of Hawaii is recognized as a model university in foreign language instruction and is noted for the strength of its faculty and curriculum particularly in Mandarin Chinese, Korean, and Japanese, language deemed important by the Defense Language Institute. The University of Hawaii is also an authority in the development of enhanced foreign language teaching methods.

I look forward to working with my colleagues to see that this bipartisan legislation is passed.

By Mr. SESSIONS (for himself, Mr. ALLEN, Mr. HUTCHINSON, and Mr. SMITH of New Hampshire):

S. 1804. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for economic recovery and provide for the payment of emergency extended unemployment compensation; to the Committee on Finance.

Mr. SESSIONS. Madam President, the economy has been struggling for about a year now. We have had a number of difficulties that have made our economy not as healthy as we would like it to be. Oddly enough, for the week of September 11, according to the hearing we had in the Joint Economic Committee, unemployment actually dropped. There was an increase in employment that week. So maybe our economy was moving in the right direction. But immediately after September 11, and the shock this Nation went through, we slipped back into what has now been called a recession.

Factories are closing in a number of places. Quite a few have closed in my State. It has been quite discouraging that this tends to happen more often in small towns where you have just a few businesses. That is where you see more of the closings than in the urban areas.

The National Bureau of Economic Research has declared that we have slipped into recession. And the terrorist attacks have hurt us in a lot of different ways involving jobs for families in America. So I have been pushing for some time that we make sure we complete this Congress with a good, healthy stimulus package.

I have raised that observation with quite a number of people. But we are not, to my knowledge, making any progress. I have referred to the people who I understand are working on it as "the masters of the universe." They are back there somewhere outside of this Chamber, working and manipulating and talking to people about what ought to be in the package. And, yes, they take input, and I have talked to them, and other people have talked to them—and I did not suggest it is not a tough job; it is a tough job—but we are getting close to the time when we should recess, and people are suggesting that we might even complete this Congress without a stimulus package. I think that would be a very bad mistake.

Even the most conservative economists have suggested we would have a one-half of 1 percent increase in the GDP if we have a stimulus package of $75 billion to $100 billion. I believe that is clearly worth the effort. That one-half of 1 percent, in an economy as large as ours, is very significant. It means many people will continue to have jobs that they would not have otherwise. It means that many people will be working and paying taxes to the Government which will help us with our deficit situation. It means many people will be working and taking care of their families and not going into debt and will be buying things, such as at the grocery store, that they would not otherwise be buying.

So I think we need to be sure we move in that direction. That is why I have offered today S. 1804, which is cosponsored by Senators TIM HUTCHINSON, GEORGE ALLEN, and BOB SMITH. And I intend to move this bill if we do not see progress. Really, I intend to seek a vote on it if it is in any way appropriate and possible this session.

Let me mention a few things that are in the bill which I think are common sense and would be good policy. One of the things I have been wrestling with is the earned-income tax credit. This is a program that began in 1975. It is now a $31 billion program that provides a tax credit to low-income working Americans. It is designed to make work more beneficial and more rewarding so that, particularly, families can live off of low-income jobs. In fact, the program is quite generous for a family of four or more who qualify appropriately. They can receive $4,000 a year. An average family with one qualifying child, that receives the earned-income tax credit, receives almost $2,000 a year. On average, it is over $1,900 per year that they receive.

This totals out, if you figure it on an hourly basis for the average family of four that receives the earned-income tax credit, to almost $1 an hour pay raise over whatever they are making. If they are making $6 an hour and they get another $1, that is a big increase. If you are at $5 an hour and you get $1 an hour, that is a 20-percent increase in your pay. It is more than that in take-home because you don't have any withholding out of a tax credit.

The way this thing has been working, however, is not healthy. The way this thing has been working is, the money goes to the worker when they fill out their income-tax return the next year. In February or March, when they fill out the tax return, they get this $1,900 in a lump sum check sometime in the spring after they worked.

Congress wrestled with that. They didn't believe that was furthering a policy of the Congress, and so they tried to provide the credit on the worker's paycheck. In years past, in the 1970s and all, when this passed, people didn't have the computers we have today, and requiring small businesses to calculate this and put it on the paycheck caused some grief. But today, because everything is automated, it is much easier to do.

In recent years, Congress tried to do something about it. In 1978, they passed legislation that said a worker could have it put on their paycheck if they want to. Oddly enough, only 5 percent of workers have chosen this or know they can.

Therein lies a problem, and there are several reasons. One, they probably don't know about it. Another one is that oftentimes they are told that if you get this advanced payment on your check instead of getting a refund next year, you may owe money to the Government next year. And that caused some to not take advantage of it. At any rate, only 5 percent of Americans are taking advantage of this policy.

I believe it ought to be the policy. I believe the policy was founded to begin with, with the idea of helping people, encouraging people to go to work. If you are not making much more than the minimum wage, sometimes people may wonder if they are not better staying at home on welfare. The money should be put on there. Most economists, most good public policy students of the situation believe that.

That is one of the points of this stimulus bill that I have. Let me tell you why it is such a good stimulus package. It is good because the money for people who have worked this year, who receive the benefit of the earned-income tax credit, they will get their refund next year.

What my proposal says is in January, they would begin to receive next year's $1,900, on their paycheck. Current law allows a recipient to get about 60 percent of their earned income tax credit in advance, on their paycheck. We calculate, of the $31 billion that is annually being spent on the earned income tax credit, this proposal would bring to the average worker, infused into the economy next fiscal year, $15 billion, a year before the time it would normally be in the economy. I believe that is good public policy. It is good to encourage work. It will help people who need money now to take care of their families. It will be coming to them in a regular way, and it will help them take care of their families.

That would be a good stimulus package. It would help us next year when we have to balance the budget because we would have $15 billion less to spend on the tax refunds because it would have been paid out throughout this fiscal year. It would help us get back into a balanced budget which is important. This year, we are not going to be in a balanced budget. We are going to be in deficit unfortunately. Next year, we have an opportunity to get out. This package in that regard would help us do so.

I strongly believe that is a good thing that should be considered. It would infuse money into the economy and have a net drain on the economy of zero over a 2-year period, except perhaps some interest loss to the Government.

Another matter that we believe should be in this package is a proposal for relief for those who are unemployed. Everybody has been talking about that. We ought to be able to reach agreement on that. Senator BAUCUS had a proposal. The House Republicans had a proposal that came out of that chamber. A centrist proposal has been put forward by Senators COLLINS, SMITH and LANDRIEU that hits the area about right. It increases the weeks for unemployment for up to 13 additional weeks, and it begins calculating that for anybody who was unemployed at the time of September 11. It is more expansive in that regard. We have a good bipartisan unemployment compensation package.

Another thing it is time for us to do would be to complete the reduction of the 27-percent tax bracket down to the 25-percent tax bracket. We committed to doing that over the 10-year tax plan. This would accelerate that next year, and working Americans would receive a little more take-home money every week as a result of a reduction in that tax rate. That has a lot of support.

One thing that has not been mentioned, but I strongly believe would be one of the most beneficial proposals, is to advance the child tax credit. Under our current 10-year tax reduction package that passed, we will increase the child tax credit for families to $1,000, but it will take nine years for it to become $1,000. I believe for next year alone we ought to do that. So every family who obviously is hurt the most in a recessionary environment would receive an additional $400 per child tax credit that they could use to help their families. That would be a good impact.

The cost of that is about $20 billion in terms of estimated revenue lost to the Government, but it is a real stimulus into the economy, into the hands of families who will be spending it on their children. It will help keep the economy moving in a healthy way. That is a good step. It is good public policy. Families trying to raise children would have additional income to take care of them.

A lot of people are at a point where they have had to cash in stocks and other investments that they have and have taken losses for it. For individuals, this allows them to deduct those losses on their tax return, but the limit on loss deductions is $3,000 per year. We believe that, particularly in light of the fact that many people may be cashing in investments, we should at least raise it up to $5,000 per year which could be helpful to people in desperate circumstances.

One other thing that is important—and Senator ALLEN has been a champion of this and has won me over—is the need to provide a tax credit to encourage American families to become technologically literate, to encourage American families to purchase computers for children who are in school so they will have a computer at home so they can become a part of the high-tech world that is all about us today. He has proposed, and we have put as a part of this bill, a $500 tax credit for the purchase of software or computer systems for a family. To really get a jolt out of it, we are only going to propose that for a 3-month period. And the computer companies, I am sure, and all the marketing companies and the stores will be promoting that you have a $500 rebate on your purchase of a computer for your family, if you have a student in school.

I think that is a good step. The computer industry has been hurting badly, and having this money available could get them off the ground, get them moving again and, at the same time, help children, help them become educated and to become an active part of the high-tech world in which we now live.

Some of the matters that are in the legislation we proposed, I don't believe there is a single thing in it that somebody could say is a special interest. It has a business provision. It has Senator BAUCUS's 10-percent advance depreciation, which would encourage businesses to purchase equipment and allow them to depreciate a little faster, and encourage them, perhaps, to recapitalize in their business. That was Senator BAUCUS's 1-year proposal.

I don't believe there is anything in this bill that does violence to fairness or justice. I don't think there is anything in this bill that in any way could be considered special interest or unfair. I believe we have a simple package—myself and the three Senators who have introduced this with me—that would infuse $75 billion into the economy, with virtually no bureaucracy, virtually no overhead, targeted to middle and lower income America—putting $75 billion into their hands early, allowing them to spend it and get this economy going again.

I am not sure businesses—and I have heard a number of economists say this—are in a mood to do a lot of investing in new equipment to produce a lot more product if there is nobody to buy. So I think that the way we proceed would be to allow people who have families and who work every day, and who need every dollar they get to survive—give them a little bit more to take home. If they do, they will spend it and help get the economy moving again. If nothing else, it will help them get by, whether it improves the economy or not.

Of course, we do have $5 billion in grant money to the States that would allow them to deal with emergency situations in their States for people who are hurting also. That has been a bipartisan project, and it has a little more than has been proposed in the President's request. We think that is a good figure that everybody can rally around.

I believe getting a tax stimulus package together and passed is not that hard. It doesn't have to be lockstep the way everybody is negotiating now. They have dug in on every position. Some of the issues in my package they are dealing with and some of them they are not considering. My provisions do the job just as well—in fact, better than what I am hearing discussed in a lot of ways.

I think the majority leader needs to be sure we don't get to the end of this session without time to bring this up. If they can't reach an agreement, we are going to have a problem. The bill was up and amendments were being offered. When debate and amendments were not shut off, the bill was pulled down. It has gone behind closed doors and we are sitting around here saying: Maybe they will reach an agreement; maybe they will not reach an agreement.

I have a bill that I think we need to vote on if we can't get some agreement with which I and other Members are comfortable. We need to vote on this bill because it is a good bill. It is not that complicated in any way to administer or put together.

I thank the Chair for her attention. I look forward to further discussions on this issue. I certainly look forward to making sure before this Congress recesses we bring up and pass legislation that will help this economy. I don't know how much it would take to do it. The experts say $75 billion is worth half a GDP percentage point in growth. That is good news. I think it is exactly the kind of shot that might be helpful.

If we don't pass something, that could be a sad event also. In fact, the markets and people might lose confidence even more than they have already if we don't pass a stimulus package. It is a double burden to move that forward.

I thank the Chair for listening. I thank my colleagues in the Senate for their consideration of this legislation. We look forward to making sure a stimulus package clears before we recess.

I yield the floor.

By Mr. REED (for himself, Mr. ENZI, Mr. JOHNSON, Mr. CHAFEE, Mr. GRAHAM, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, Mr. INOUYE, Mr. COCHRAN, and Mr. WELLSTONE):

S. 1806. A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Madam President, I rise today, joined by my colleagues, Senator JOHNSON of South Dakota and Senator ENZI of Wyoming, to introduce legislation that will address the growing shortage of pharmacists.

The Pharmacists Education Act takes a multi-faceted approach to the problem of workforce shortages in the pharmacy sector. In December 2000, the Health Resources and Services Administration, HRSA, Bureau of Health Professions published a report entitled, "The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists". This study considered the factors influencing the demand for pharmacists in the health care sector and also looked at the ability of our academic institutions to supply the quantity of pharmacy students required to meet this growing demand. The report concluded that there was indeed evidence of a shortage in the field, due primarily to the rapid increase in demand for pharmacists and the array of services they provide, coupled with a constrained ability to expand the number of pharmacy education programs to accommodate the need for more practicing pharmacists. The study also indicated that the shortage was unlikely to abate in the future without significant changes to the current system.

Pharmacists represent the third largest health professional group in the United States with about 190,000 active pharmacists last year. This figure is expected to grow to 224. 500 by 2010. Yet, despite this anticipated increase in the number of practicing pharmacists, the demand for the services is expected to continue to outpace supply. A recent employment survey conducted by the National Association of Chain Drug stores found that the number of vacancies among their member companies had increased by 1,000 positions in the last six months alone.

Remarkable advancements in medical science have made treatments for diseases once thought impossible to treat a reality. And what is possible is quickly what is practiced in the medical profession. Many of these dynamic breakthroughs have been in the area of pharmaceuticals.

These remarkable changes in health care have resulted in dramatic upswings in the number of retail prescriptions dispensed annually, from 1.9 billion in 1992 to 2.8 billion in 1999. Moreover, as medications become more complex and diverse, and our population becomes older and sicker, the role of the pharmacist in the health care setting has become evermore important. For these reasons, my colleagues and I felt it was very important that steps be taken to avert a more serious shortage of these critical health professionals.

The Pharmacy Education Act seeks to enhance not only the supply of pharmacists, by providing much needed support to Colleges of Pharmacy, it also aims to improve the distribution of pharmacists by building upon the National Health Service Corps. Specifically, the bill expands eligibility of certain existing Federal grant programs to Colleges of Pharmacy to upgrade and expand facilities and laboratory space and recruit and retain talented faculty to educate pharmacy students.

The bill also provides a number of new sources of financial aid to students interested in pursuing a career in pharmacy. First, the bill allows students entering pharmacy school and students who have graduated with a PharmD degree to apply for National Health Service Corps, NHSC, Scholarship and Loan Repayment funds. Second, it allows students who demonstrate financial need to apply for scholarships to qualifying schools of pharmacy.

This bill is endorsed by a number of organizations, including the American Association of Colleges of Pharmacy, the National Association of Chain Drug Stores, National Community Pharmacists Association, American College of Clinical Pharmacy and American Society of Health-System Pharmacists.

Increasing demand for pharmacists makes it imperative that a proactive response to current trends be undertaken before the situation becomes critical. I hope my colleagues will join me in seeking expeditious consideration and passage of this timely and important legislation.

I ask unanimous consent that the text of the Pharmacy Education Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pharmacy Education Aid Act of 2001".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Pharmacists are an important link in our Nation's health care system. A critical shortage of pharmacists is threatening the ability of pharmacies to continue to provide important prescription related services.

(2) In the landmark report entitled "*To Err is Human: Building a Safer Health System*", the Institute of Medicine reported that medication errors can be partially attributed to factors that are indicative of a shortage of pharmacists (such as too many customers, numerous distractions, and staff shortages).

(3) Congress acknowledged in the Healthcare Research and Quality Act of 1999 (Public Law 106-129) a growing demand for pharmacists by requiring the Secretary of Health and Human Services to conduct a study to determine whether there is a shortage of pharmacists in the United States and, if so, to what extent.

(4) As a result of Congress' concern about how a shortage of pharmacists would impact the public health, the Secretary of Health and Human Services published a report entitled "*The Pharmacist Workforce: A Study in Supply and Demand for Pharmacists*" in December of 2000.

(5) *The Pharmacist Workforce: A Study in Supply and Demand for Pharmacists*" found that "While the overall supply of pharmacists has increased in the past decade, there has been an unprecedented demand for pharmacists and for pharmaceutical care services, which has not been met by the currently available supply" and that the "evidence clearly indicates the emergence of a shortage of pharmacists over the past two years".

(6) The same study also found that "The factors causing the current shortage are of a nature not likely to abate in the near future without fundamental changes in pharmacy practice and education." The study projects that the number of prescriptions filled by community pharmacists will increase by 20 percent by 2004. In contrast, the number of community pharmacists is expected to increase by only 6 percent by 2005.

(7) The demand for pharmacists will increase as prescription drug use continues to grow.

SEC. 3. INCLUSION OF PRACTICE OF PHARMACY IN PROGRAM FOR NATIONAL HEALTH SERVICE CORPS.

(a) INCLUSION IN CORPS MISSION.—Section 331(a)(3) of the Public Health Service Act (42 U.S.C. 254d(a)(3)) is amended—

(1) in subparagraph (D), by adding at the end the following: "Such term includes pharmacist services."; and

(2) by adding at the end the following:

"(E)(i) The term 'pharmacist services' includes drug therapy management services furnished by a pharmacist, individually or on behalf of a pharmacy provider, and such services and supplies furnished incident to the pharmacist's drug therapy management services, that the pharmacist is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided for by State law).".

(b) SCHOLARSHIP PROGRAM.—Section 338A of the Public Health Service Act (42 U.S.C. 254*l*) is amended—

(1) in subsection (a)(1), by inserting "pharmacists," after "physicians,"; and

(2) in subsection (b)(1), by inserting "pharmacy" after "dentistry,".

(c) LOAN REPAYMENT PROGRAM.—Section 338B of the Public Health Service Act (42 U.S.C. 254*l*–1) is amended—

(1) in subsection (a)(1), by inserting "pharmacists," after "physicians,"; and

(2) in subsection (b)(1), by inserting "pharmacy," after "dentistry,".

(d) FUNDING.—Section 338H(b)(2) of the Public Health Service Act (42 U.S.C. 254q(b)(2)) is amended in subparagraph (A), by inserting before the period the following: ", which may include such contracts for individuals who are in a course of study or program leading to a pharmacy degree".

SEC. 4. CERTAIN HEALTH PROFESSIONS PROGRAMS REGARDING PRACTICE OF PHARMACY.

(a) IN GENERAL.—Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq) is amended—

(1) by redesignating section 770 as section 771; and

(2) by adding at the end the following subpart:

"Subpart 3—Certain Workforce Programs

"SEC. 771. PRACTICING PHARMACIST WORKFORCE.

"(a) RECRUITING AND RETAINING STUDENTS AND FACULTY.—

"(1) IN GENERAL.—The Secretary may make awards of grants or contracts to qualifying schools of pharmacy (as defined in subsection (f)) for the purpose of carrying out programs for recruiting and retaining students and faculty for such schools, including programs to provide scholarships for attendance at such schools to full-time students who have financial need for the scholarships and who demonstrate a commitment to becoming practicing pharmacists or faculty.

"(2) PREFERENCE IN PROVIDING SCHOLARSHIPS.—An award may not be made under paragraph (1) unless the qualifying school of pharmacy involved agrees that, in providing scholarships pursuant to the award, the school will give preference to students for whom the costs of attending the school would constitute a severe financial hardship.

"(b) LOAN REPAYMENT PROGRAM REGARDING FACULTY POSITIONS.—

"(1) IN GENERAL.—The Secretary may establish a program of entering into contracts with individuals described in paragraph (2) under which the individuals agree to serve as members of the faculties of qualifying schools of pharmacy in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals.

"(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals who—

"(A) have a doctoral degree in pharmacy or the pharmaceutical sciences; or

"(B) are enrolled in a school of pharmacy and are in the final academic year of such school in a program leading to such a doctoral degree.

"(3) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under paragraph (1) unless—

"(A) the individual involved has entered into a contract with a qualifying school of pharmacy to serve as a member of the faculty of the school for not less than 2 years;

"(B) the contract referred to in subparagraph (A) provides that, in serving as a member of the faculty pursuant to such subparagraph, the individual will—

"(i) serve full time; or

"(ii) serve as a member of the adjunct clinical faculty and in so serving will actively supervise pharmacy students for 25 academic weeks per year (or such greater number of academic weeks as may be specified in the contract); and

"(C) such contract provides that—

"(i) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year;

"(ii) the payments made by the school pursuant to clause (i) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty; and

"(iii) the school, in making a determination of the amount of compensation to be provided by the school to the individual for serving as a member of the faculty, will make the determination without regard to the amount of payments made (or to be made) to the individual by the Federal Government under paragraph (1).

"(4) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338C, 338G, and 338I shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and provisions regarding bankruptcy.

"(5) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in paragraph (3)(C) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved.

"(c) INFORMATION TECHNOLOGY.—The Secretary may make awards of grants or contracts to qualifying schools of pharmacy for the purpose of assisting such schools in acquiring and installing computer-based systems to provide pharmaceutical education. Education provided through such systems may be graduate education, professional education, or continuing education. The computer-based systems may be designed to provide on-site education, or education at remote sites (commonly referred to as distance learning), or both.

"(d) FACILITIES.—The Secretary may award grants under section 1610 for construction projects to expand, remodel, renovate, or alter existing facilities for qualifying schools of pharmacy or to provide new facilities for the schools.

"(e) REQUIREMENT REGARDING EDUCATION IN PRACTICE OF PHARMACY.—With respect to the qualifying school of pharmacy involved, the Secretary shall ensure that programs and activities carried out with Federal funds provided under this section have the goal of educating students to become licensed pharmacists, or the goal of providing for faculty to recruit, retain, and educate students to become licensed pharmacists.

"(f) QUALIFYING SCHOOL OF PHARMACY.—For purposes of this section, the term 'qualifying school of pharmacy' means a college or school of pharmacy (as defined in section 799B) that, in providing clinical experience for students, requires that the students serve in a clinical rotation in which pharmacist services (as defined in section 331(a)(3)(E)) are provided at or for—

"(1) a medical facility that serves a substantial number of individuals who reside in or are members of a medically underserved community (as so defined);

"(2) an entity described in any of subparagraphs (A) through (L) of section 340B(a)(4) (relating to the definition of covered entity);

"(3) a health care facility of the Department of Veterans Affairs or of any of the Armed Forces of the United States;

"(4) a health care facility of the Bureau of Prisons;

"(5) a health care facility operated by, or with funds received from, the Indian Health Service; or

"(6) a disproportionate share hospital under section 1923 of the Social Security Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.".

(b) TECHNICAL AND CONFORM AMENDMENTS.—Section 1610(a) of the Public Health Service Act (42 U.S.C. 300r(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i), by striking "or" at the end thereof;

(ii) in clause (ii), by striking the period and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) expand, remodel, renovate, or alter existing facilities for qualifying schools of pharmacy or to provide new facilities for the schools in accordance with section 771(d).";

(B) in subparagraph (B)—

(i) in clause (i), by striking "and" at the end thereof;

(ii) in clause (ii)(II), by striking the period and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) a qualifying school of pharmacy (as defined in section 771(f)).";

(2) by striking the first sentence of paragraph (3) and inserting the following: "There are authorized to be appropriated for grants under paragraph (1)(A)(iii), such sums as may be necessary."; and

(3) by adding at the end the following:

"(4) RECAPTURE OF PAYMENTS.—If, during the 20-year period beginning on the date of the completion of construction pursuant to a grant under paragraph (1)(A)(iii)—

"(A) the school of pharmacy involved, or other owner of the facility, ceases to be a public or nonprofit private entity; or

"(B) the facility involved ceases to be used for the purposes for which it was constructed (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the school or other owner from such obligation);

the United States is entitled to recover from the school or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.".

By Mr. HATCH:

S. 1807. A bill to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

Mr. HATCH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Police Coordination Amendment Act of 2001".

SEC. 2. PERMITTING ADDITIONAL FEDERAL LAW ENFORCEMENT AGENCY TO ENTER INTO COOPERATIVE AGREEMENTS WITH METROPOLITAN POLICE DEPARTMENT OF THE DISTRICT OF COLUMBIA.

Section 11712(d) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Code, sec. 4-192(d)) is amended by adding at the end the following:

"(33) Any other law enforcement agency of the Federal government that the Chief of the Metropolitan Police Department and the United States Attorney for the District of Columbia deem appropriate to enter into an agreement pursuant to this section.".

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 189—TO AMEND THE RULES OF THE SENATE TO IMPROVE LEGISLATIVE EFFICIENCY, AND FOR OTHER PURPOSES

Mr. MCCAIN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 189

Resolved, That rule XXV of the Standing Rules of the Senate is amended to read as follows:

"RULE XXV

"STANDING COMMITTEES

"1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

"(a)(1) **Committee on National Priorities,** to which committee shall be referred all concurrent resolutions on the budget (as defined in section 3(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to committee under titles III and IV of that Act, and messages, petitions, memorials, and other matters relating thereto.

"(2) Such committee shall have the duty—

"(A) to report the matters required to be reported by committee under titles III and IV of the Congressional Budget Act of 1974;

"(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

"(C) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and

"(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

"(b)(1) **Committee on Agricultural Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Agricultural economics and research.

"2. Agricultural extension services and experiment stations.

“3. Agricultural production, marketing, and stabilization of prices.

“4. Agriculture and agricultural commodities.

“5. Animal industry and diseases.

“6. Crop insurance and soil conservation.

“7. Farm credit and farm security.

“8. Food from fresh waters.

“9. Inspection of livestock, meat, and agricultural products.

“10. Pests and pesticides.

“11. Plant industry, soils, and agricultural engineering.

“12. Rural development, rural electrification, and watersheds.

“(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (b)(1), except as provided in subparagraph (a).

“(c)(1) **Committee on Defense Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

“1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.

“2. Common defense.

“3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.

“4. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.

“5. Military research and development.

“6. National security aspects of nuclear energy.

“7. Naval petroleum reserves, except those in Alaska.

“8. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.

“9. Selective Service system.

“10. Strategic and critical materials necessary for the common defense.

“(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (c)(1), except as provided in subparagraph (a).

“(d)(1) **Committee on Commercial Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

“1. Coast Guard.

“2. Coastal zone management.

“3. Communications.

“4. Construction and maintenance of highways, and highway safety.

“5. Inland waterways, except construction.

“6. Interstate commerce.

“7. Marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports.

“8. Marine fisheries.

“9. Merchant marine and navigation.

“10. Nonmilitary aeronautical and space sciences.

“11. Oceans, weather, and atmospheric activities.

“12. Regulation of consumer products and services, including testing related to toxic substances, other than pesticides.

“13. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.

“14. Science, engineering, and technology research and development and policy.

“15. Sports.

“16. Standards and measurement.

“17. Transportation.

“18. Transportation and commerce aspects of Outer Continental Shelf lands.

“19. Regional economic development.

“20. Financial aid to commerce and industry.

“21. Public works, bridges, and dams.

“(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (d)(1), except as provided in subparagraph (a).

“(e)(1) **Committee on Economic Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

“1. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.

“2. Deposits of public moneys.

“3. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.

“4. Revenue measures relating to the insular possessions.

“5. Banks, banking, and financial institutions.

“6. Deposit insurance.

“7. Federal monetary policy, including the Federal Reserve System.

“8. Issuance and redemption of notes.

“9. Money and credit, including currency and coinage.

“(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (e)(1), except as provided in subparagraph (a).

“(f)(1) **Committee on Energy Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

“1. Coal production, distribution, and utilization.

“2. Energy policy.

“3. Energy regulation and conservation.

“4. Energy-related aspects of deepwater ports.

“5. Energy research and development.

“6. Extraction of minerals from oceans and Outer Continental Shelf lands.

“7. Hydroelectric power, irrigation, and reclamation.

“8. Mining education and research.

“9. Mining, mineral lands, mining claims, and mineral conservation.

“10. Naval petroleum reserves in Alaska.

“11. Nonmilitary development of nuclear energy.

“12. Oil and gas production and distribution.

“13. Solar energy systems.

“(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (f)(1), except as provided in subparagraph (a).

“(g)(1) **Committee on Environmental Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

“1. Air pollution.

“2. Environmental aspects of Outer Continental Shelf lands.

“3. Environmental effects of toxic substances, other than pesticides.

“4. Environmental policy.

“5. Environmental research and development.

“6. Fisheries and wildlife.

“7. Flood control and improvements of rivers and harbors, including environmental aspects of deepwater ports.

“8. Noise pollution.

“9. Nonmilitary environmental regulation and control of nuclear energy.

“10. Ocean dumping.

“11. Solid waste disposal and recycling.

“12. Water pollution.

“13. Water resources.

“14. Forestry, and forest reserves and wilderness areas.

“15. National parks, recreation areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.

“16. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.

“(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (g)(1), except as provided in subparagraph (a).

“(h)(1) **Committee on Foreign Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

“1. Acquisition of land and buildings for embassies and legations in foreign countries.

“2. Boundaries of the United States.

“3. Diplomatic service.

“4. Foreign economic, military, technical, and humanitarian assistance.

“5. Foreign loans.

“6. International activities of the American Red Cross and the International Committee of the Red Cross.

“7. International aspects of nuclear energy, including nuclear transfer policy.

“8. International conferences and congresses.

“9. International law as it relates to foreign policy.

“10. International Monetary Fund and other international organizations established primarily for international monetary purposes.

“11. Intervention abroad and declarations of war.

“12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

“13. Trusteeships of the United States, including territorial possessions of the United States.

“14. Oceans and international environmental and scientific affairs as they relate to foreign policy.

“15. Protection of United States citizens abroad and expatriation.

"16. Relations of the United States with foreign nations generally.

"17. Treaties and executive agreements.

"18. United Nations and its affiliated organizations.

"19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance programs.

"20. Foreign trade promotion, export, and export controls.

"21. Interoceanic canals generally, unless otherwise provided.

"22. Customs and ports of entry and delivery.

"23. Reciprocal trade agreements.

"24. Tariffs and import quotas, and matters related thereto.

"25. Organization and management of United States nuclear export policy.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (h)(1), except as provided in subparagraph (a).

"(i)(1) **Committee on Governmental Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Archives of the United States.

"2. Budget and accounting measures, except as provided in the Congressional Budget Act of 1974.

"3. Census and collection of statistics, including economic and social statistics.

"4. Congressional organizations, except for any part of the matter that amends the rules of order of the Senate.

"5. Federal Civil Service.

"6. Government information.

"7. Intergovernmental relations.

"8. Municipal affairs of the District of Columbia.

"9. Organization and reorganization of the executive branch of the Government.

"10. Postal Service.

"11. Status of officers of the United States, including their classification, compensation, and benefits.

"12. Renegotiation of governmental contracts.

"13. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (i)(1), except as provided in subparagraph (a).

"(j)(1) **Committee on Judicial Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Apportionment of Representatives.

"2. Bankruptcy, mutiny, espionage, and counterfeiting.

"3. Civil liberties.

"4. Constitutional amendments.

"5. Federal courts and judges.

"6. Holidays and celebrations.

"7. Immigration and naturalization.

"8. Interstate compacts generally.

"9. Judicial proceedings, civil and criminal, generally.

"10. Local courts in the territories and possessions.

"11. Measures relating to claims against the United States.

"12. National penitentiaries.

"13. Patent Office.

"14. Patents, copyrights, and trademarks.

"15. Protection of trade and commerce against unlawful restraints and monopolies.

"16. Revisions and codification of the statutes of the United States.

"17. State and territorial boundary lines.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (j)(1), except as provided in subparagraph (a).

"(k)(1) **Committee on Social Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Measures relating to education, labor, health, and public welfare.

"2. Arts and humanities.

"3. Biomedical research and development.

"4. Child labor.

"5. Domestic activities of the American Red Cross.

"6. Equal employment opportunity.

"7. Gallaudet College, Howard University, and Saint Elizabeth's Hospital.

"8. Handicapped individuals.

"9. Labor standards.

"10. Mediation and arbitration of labor disputes.

"11. Occupational safety and health, including the welfare of miners.

"12. Private pension plans.

"13. Public health.

"14. Railroad retirement program.

"15. Regulation of foreign laborers.

"16. Student loans.

"17. Wages and hours of labor.

"18. Food stamp programs.

"19. Human nutrition.

"20. School nutrition programs.

"21. Public housing.

"22. Nursing homes including construction.

"23. National social security.

"24. Public health programs, including health programs under the Social Security Act.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (k)(1), except as provided in subparagraph (a).

"(l)(1) **Committee on Native American Programs,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to Native Americans generally, and Native American Programs.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of government programs, projects, or activities relating primarily to the subjects specified in paragraph (l)(1), except as provided in subparagraph (a).

"(m)(1) **Committee on Senior American Programs,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to senior Americans generally, and to the Older Americans Act.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (m)(1), except as provided in subparagraph (a).

"(n)(1) **Committee on Veteran American Programs,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Compensation of veterans.

"2. Life insurance issued by the Government on account of service in the Armed Forces.

"3. National cemeteries.

"4. Pensions of all wars of the United States, general and special.

"5. Readjustment of servicemen to civilian life.

"6. Soldiers and sailors civil relief.

"7. Veterans' hospitals, medical care and treatment of veterans.

"8. Veterans' measures generally.

"9. Vocational rehabilitation and education of veterans.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (n)(1), except as provided in subparagraph (a).

"(o)(1) **Committee on Entrepreneurial American Programs,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the Small Business Administration.

"(2) Any proposed legislation reported by such committee which relates to matters other than the functions of the Small Business Administration shall, at the request of any standing committee having jurisdiction over the subject matter extraneous to the functions of the Small Business Administration, be considered and reported by such standing committee prior to its consideration by the Senate; and likewise measures reported by other committees directly relating to the Small Business Administration shall, at the request of the Committee on Entrepreneurial American Programs for its consideration of any portions of the measure dealing with the Small Business Administration, be considered and reported by this committee prior to its consideration by the Senate.

"(3) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraphs (o)(1) and (o)(2), except as provided in subparagraph (a).

"(p)(1) **Committee on Senate Rules,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Administration of the Senate office buildings and the Senate wing of the Capitol, including the assignment of office space.

"2. Congressional organization relative to rules and procedures, and Senate rules and regulations, including floor and gallery rules.

"3. Corrupt practices.

"4. Credentials and qualifications of members of the Senate, contested elections, and acceptance of incompatible offices.

"5. Federal elections generally, including the election of the President, Vice President, and members of Congress.

"6. Government Printing Office, and the printing and correction of the Congressional Record, as well as those matters provided under rule XI.

"7. Meetings of the Congress and attendance of the members.

"8. Payments of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall first be referred to such committee).

"9. Presidential succession.

"10. Purchase of books and manuscripts and erection of monuments to the memory of individuals.

"11. Senate Library and statuary, art, and pictures in the Capitol and Senate office buildings.

"12. Services to the Senate, including the Senate restaurant.

"13. United States Capitol and congressional office buildings, the Library of Congress, the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (p)(1), except as provided in subparagraph (a).

"2. (a) Except as otherwise provided by paragraph 4 of this rule, the Leadership Committee, known as the Committee on National Priorities, shall consist of not less than 28 Senators nor more than 33 Senators.

"(b) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of not more than the number of Senators set forth in the following table on the line on which the name of that committee appears:

"LEGISLATIVE POLICY COMMITTEES

"Committee:	Members
Agricultural Policy	17
Defense Policy	17
Commercial Policy	17
Economic Policy	17
Energy Policy	17
Environmental Policy	17
Foreign Policy	17
Governmental Policy	17
Judicial Policy	17
Social Policy	17

"(c) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of not more than the number of Senators set forth in the following table on the line on which the name of that committee appears:

"LEGISLATIVE PROGRAM COMMITTEES

"Committee:	Members
Native American Programs	9
Veteran American Programs	11
Senior American Programs	19
Entrepreneurial American Programs	19

"(d) Except as otherwise provided by paragraph 4 of this rule, each of the following committees and standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"ADMINISTRATIVE COMMITTEES

"Committee:	Members
Senate Rules	15
Senate Ethics	6
Senate Intelligence	15

"3. (a) Notwithstanding the provisions of paragraph 4, and except as otherwise provided by this paragraph—

"(1) each Senator shall serve on no more than two committees listed in subparagraph 2(b).

"(2) each Senator serving as either a chairman or a ranking member of any committee listed in subparagraph 2(b) shall serve on the committee listed in subparagraph 2(a).

"(3) each Senator serving as either a chairman or a ranking member of any committee listed in subparagraph 2(c) shall also serve on the committee listed in subparagraph 2(a).

"(4) in addition to those Senators serving on the committee listed in subparagraph 2(a) by virtue of their serving as chairman or ranking member of a committee listed in subparagraph 2(b), not more than 5 Senators shall be appointed by the majority leader of the Senate to serve on the committee listed in subparagraph 2(a) for the purpose of making the overall balance of majority and minority members on the committee the same as the relative balance between the majority and minority members of the Senate.

"(5) service by a Senator on any committee listed in subparagraph 2(c) shall not limit the ability of such Senator to serve on any other committee or standing committee.

"(b) By agreement entered into by the majority leader and the minority leader, the membership of one or more standing committees may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. Members of the majority party in such numbers as may be required for that purpose may serve as members of three standing committees listed in subparagraph 2(b). No such temporary increase in the membership of any Standing committee under this subparagraph shall be continued in effect after the need therefore has ended. No standing committee may be increased in membership under this subparagraph by more than two members in excess of the number prescribed for that committee by paragraph 2(b).

"(c) No Senator shall serve at any one time as chairman of more than one subcommittee of each standing committee of the Senate.

"4. Notwithstanding any provision of rule XXIV of the Standing Rules of the Senate, the appointment of committees or standing committees as prescribed by this title shall be on the basis of each Senator's continuous service in the Senate, except that such appointment shall be in accordance with the following limitations:

"(a) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Agriculture, Nutrition, and Forestry or who were serving on the Subcommittee on Agriculture, Rural Development, and Related Agencies of the Committee on Appropriations may serve on the Committee on Agricultural Policy.

"(b) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Armed Services or who were serving on the Subcommittee on Defense or the Subcommittee on Military Construction of the Committee on Appropriations may serve on the Committee on Defense Policy.

"(c) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Commerce, Science, and Transportation or who were serving on the Subcommittee on Transportation and Related Agencies of the Committee on Appropriations may serve on the Committee on Commercial Policy.

"(d) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Finance or the Committee on Banking, Housing and Urban Affairs may serve on the Committee on Economic Policy.

"(e) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Energy and Natural Resources or who were serving on the Subcommittee on Energy and Water Development of the Committee on Appropriations, may serve on the Committee on Energy Policy.

"(f) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Environment and Public Works or who were serving on the Subcommittee on Interior and Related Agencies of the Committee on Appropriations may serve on the Committee on Environmental Policy.

"(g) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Foreign Relations or who were serving on the Subcommittee on Foreign Operations of the Committee on Appropriations may serve on the Committee on Foreign Policy.

"(h) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Governmental Affairs or who were serving on the Subcommittee on Treasury, Postal Service, and General Government or the Subcommittee on the District of Columbia or on the Subcommittee on HUD-Independent Agencies of the Committee on Appropriations may serve on the Committee on Governmental Policy.

"(i) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on the Judiciary or who were serving on the Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies of the Committee on Appropriations may serve on the Committee on Judicial Policy.

"(j) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Labor and Human Resources or who were serving on the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations, may serve on the Committee on Social Policy.

"(k) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Rules and Administration or who were serving on the Subcommittee on Legislative Branch of the Committee on Appropriations may serve on the Committee on Senate Policy.

"(l) Only those Senators who on the day preceding the effective date of this title were serving as members of the Select Committee on Indian Affairs may serve on the Committee on Native American Programs.

“(m) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Veterans' Affairs may serve on the Committee on Veteran Programs.

“(n) Only those Senators who on the day preceding the effective date of this title were serving as members of the Special Committee on Aging may serve on the Committee on Senior American Programs.

“(o) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Small Business may serve on the Committee on Senior American Programs.

“5. Upon the effective date of this title, the Select Committee on Ethics shall become the Committee on Senate Ethics, and the Select Committee on Intelligence shall become the Committee on Intelligence Oversight. However, the membership, functions, and duties of such committees shall remain unchanged.”.

Sec. 2. Paragraphs 1, 2, 3, 4, 6, and 7 of rule XVI of the Standing Rules of the Senate are repealed, and paragraphs 5 and 8 are renumbered as paragraphs “1” and “2”, respectively.

Sec. 3. Subparagraph (b) of paragraph 4 of rule XVII of the Standing Rules of the Senate is amended by striking out “(except the Committee on Appropriations)”.

Sec. 4. Rule XXVI of the Standing Rules of the Senate is amended—

(a) by striking out “(except the Committee on Appropriations)” in each instance where it appears,

(b) by striking out “(except the Committee on Appropriations and the Committee on the Budget)” in each instance where it appears, and inserting in lieu thereof the following “(except the Committee on National Priorities)”,

(c) by striking out “The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget.” in subparagraph 5(a) and inserting in lieu thereof “The prohibition contained in the preceding sentence shall not apply to the Committee on National Priorities.”,

(d) by striking out the last sentence of subparagraph 10(b), and

(e) by striking out “(except those by the Committee on Appropriations)” in subparagraph 11(b).

Sec. 5. The provisions of this resolution shall take effect on the first day of the first Congress following the date of its adoption by the Senate.

Mr. McCAIN. Madam President, for many years I have spoken at length, both on and off of the Senate floor, about the need to curb pork barrel spending and reduce overall government waste. Around this time each year, I often engage in lengthy debates over the latest excesses in the appropriations bills, which, almost invariably, are stuffed to the gills with earmarks and pet projects.

It was noted last week that H.R. 3338, this year's $317 billion Department of Defense Appropriations bill, was the most expensive appropriations bill to ever pass the United States Senate. Unlike some of my colleagues, I do not believe this is something for which we deserve praise. Bills like H.R. 3338, before it was modified due to the efforts of other Republican Senators who share my concern, are prime examples of how we are failing the American taxpayers who foot the bill for our excesses.

Time and again, I have called my colleagues' attention to the harmful practice of earmarking, of putting parochial interests before national ones, and of funding projects in an ad hoc manner devoid of a unifying policy or goal.

Last week, Secretary Rumsfeld, after briefing a group of Senators about the war effort, was asked what the Senate could do to help. One of several requests by the Secretary was that we in Senate stop funding projects the military did not ask for or need. As my colleague from Arizona, Senator Kyl, recounted last Friday night during debate on the DoD appropriations bill, the reaction to this statement was “other than that, what can we do?”

Today I offer an answer. It is premised on the recognition that part of the problem lies in the current structure of the Senate, which delegates to separate committees the functions of authorization and appropriating funds. Currently, there are no effective restrictions on funding projects that have not been considered by a single committee with technical expertise and broad policy perspective. I should mention that I do not necessarily think these are the authorizing committees.

To help provide a unified, uniform policy basis for our spending of taxpayers' money, I am introducing a resolution today to reorganize the committees of the United States Senate with the hope of helping to eliminate spending on unauthorized and unconsidered pet projects.

Under this Resolution most of the existing committees would be dissolved and reconstituted as policy, administrative, or leadership committees. The Resolution would merge the functions of the authorizing and appropriations committees by having members of the existing appropriations subcommittees serve with current members of the existing authorizing committee on newly created “policy committees” that correspond to the issues they currently cover.

This resolution is not a new idea. It was introduced during four previous Congresses by one of our former colleagues, Nancy Kassebaum. I was a proud cosponsor of this legislation then, and I find it particularly timely now. This is a sound proposal for real reform, and I hope that my colleagues will join me in supporting it.

SENATE RESOLUTION 190—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. DASCHLE (for himself and Mr. Lott) submitted the following resolution; which was considered and agreed to:

S. Res. 190

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Wednesday, January 23, 2002, at the hour of 2:30 p.m.

Sec. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

SENATE CONCURRENT RESOLUTION 92—RECOGNIZING RADIO FREE EUROPE/RADIO LIBERTY'S SUCCESS IN PROMOTING DEMOCRACY AND ITS CONTINUING CONTRIBUTION TO UNITED STATES NATIONAL INTERESTS

Mr. HATCH (for himself, Mr. Biden, Mr. Helms, Mr. Kennedy, and Mr. Smith of Oregon) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 92

Whereas on May 1, 1951, Radio Free Europe inaugurated its full schedule of broadcast services to the people of Eastern Europe and, subsequently, Radio Liberty initiated its broadcast services to the peoples of the Soviet Union on March 1, 1953, just before the death of Stalin;

Whereas now fifty years later, Radio Free Europe/Radio Liberty (in this concurrent resolution referred to as “RFE/RL”) continues to promote democracy and human rights and serve United States national interests by fulfilling its mission “to promote democratic values and institutions by disseminating factual information and ideas”;

Whereas Radio Free Europe and Radio Liberty were established in the darkest days of the cold war as a substitute for the free media which no longer existed in the communist-dominated countries of Central and Eastern Europe and the Soviet Union;

Whereas Radio Free Europe and Radio Liberty developed a unique form of international broadcasting known as surrogate broadcasting by airing local news about the countries to which they broadcast as well as providing regional and international news, thus preventing the communist governments from establishing a monopoly on the dissemination of information and providing an alternative to the state-controlled, party dominated domestic media;

Whereas the broadcast of uncensored news and information by Radio Free Europe and Radio Liberty was a critical element contributing to the collapse of the totalitarian communist governments of Central and Eastern Europe and the Soviet Union;

Whereas since the fall of the Iron Curtain, RFE/RL has continued to inform and therefore strengthen democratic forces in Central Europe and the countries of the former Soviet Union, and has contributed to the development of a new generation of political and economic leaders who have worked to strengthen civil society, free market economies, and democratic government institutions;

Whereas United States Government funding established and continues to support international broadcasting, including RFE/RL, and this funding is among the most useful and effective in promoting and enhancing the Nation's national security over the past half century;

Whereas RFE/RL has successfully downsized in response to legislative mandate and adapted its programming to the changing international broadcast environment in order to serve a broad spectrum of target audiences—people living in fledgling democracies where private media are still weak and do not enjoy full editorial independence, transitional societies where democratic institutions and practices are poorly developed, as well as countries which still have tightly controlled state media;

Whereas RFE/RL continues to provide objective news, analysis, and discussion of domestic and regional issues crucial to democratic and free-market transformations in emerging democracies as well as strengthening civil society in these areas;

Whereas RFE/RL broadcasts seek to combat ethnic, racial, and religious intolerance and promote mutual understanding among peoples;

Whereas RFE/RL provides a model for local media, assists in training to encourage media professionalism and independence, and develops partnerships with local media outlets in emerging democracies;

Whereas RFE/RL is a unique broadcasting institution long regarded by its audience as an alternative national media that provides both credibility and security for local journalists who work as its stringers and editors in the broadcast region; and

Whereas RFE/RL fosters closer relations between the United States and other democratic states, and the states of Central Europe and the former Soviet republics: Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the editors, journalists, and managers of Radio Free Europe/Radio Liberty on a half century of effort in promoting democratic values, and particularly their contribution to promoting freedom of the press and freedom of expression in areas of the world where such liberties have been denied or are not yet fully institutionalized; and

(2) recognizes the major contribution of Radio Free Europe/Radio Liberty to the growth of democracy throughout the world and its continuing efforts to advance the vital national interests of the United States in building a world community that is more peaceful, democratic, free, and stable.

Mr. HATCH. Madam President, amidst the focus and sustained attention we have all had on the matters of the first global war of the 21st century, we do not wish to miss the 50th year anniversary of one of the most important tools developed in our foreign policy arsenal in the 20th century. I am referring to the 50th anniversary of the inauguration of Radio Free Europe, which first broadcast its full schedule of radio programming into central and eastern Europe on May 1, International Workers' Day, one of the most famous communist holidays, in 1951.

Two years later, Radio Liberty began its broadcasting programs to the peoples of the Soviet Union. An era of puncturing the state-imposed silence of totalitarian regimes had begun.

Today, I am happy to submit a resolution commemorating the 50 years of the "Radios," as they have come to be known. I am happy to have as co-sponsors the chairman and the ranking member of the Senate Foreign Relations Committee, as well as Senator KENNEDY and Senator SMITH of Oregon.

The Radios were the main component in what some would call America's propaganda efforts. Along with the Voice of America, which broadcasts about American affairs throughout the world, revealing to audiences restricted from freedom of the media the real stories of this country, the Radios were a central tool in broadcasting local news and information back into the captive countries of central and eastern Europe and Eurasia.

Totalitarian communism required complete government control of every aspect of society, that is what totalitarianism is. In addition to controlling every aspect of an individual's life, totalitarianism required that all information, be it cultural, educational or informational, must also be controlled. Totalitarianism cannot function, communism cannot dominate, tyranny cannot succeed, if they must compete with independent media that promotes a free exchange of ideas and views.

That was the role of the Radios. It was an understanding of this basic dynamic of totalitarian communism which led our policymakers, 50 years ago, to realize that one of the most effective, in fact, most threatening, tools we could deploy was the use of a free media. And thus was born the Radios, Radio Free Europe for broadcasting to eastern and central Europe and Radio Liberty for broadcasting into the Soviet Union's realm.

When peoples' minds can grasp differing views, news not controlled by the state, then the state does not completely own them. When the state cannot own them, the state will eventually have to serve, not dominate, its citizens.

It is the freedom of information, wedded to technology, originally radio, then television, now the Internet, that gave hope, that sustained resistance and that ultimately made one of the central contributions to the collapse of these regimes against which we waged a Cold War through the latter half of the 20th century.

Now, 50 years after their inception, it is fitting that we pass this resolution to honor the Radios and their many contributors, editors, journalists, broadcasters and technicians, who staffed them through all of these years.

It is also worthwhile, as we pause to honor this mission, to recognize that the Radios had bipartisan support throughout these years. America's foreign policy, after all, is most vibrant, most dynamic, most successful, when it operates with bipartisan support. That is why our colleagues in the House passed this concurrent resolution with 404 votes.

It is also worthwhile to note that there are very valuable lessons to be learned from this successful aspect of American foreign policy, and to recognize that the supporters of the Radios have, in fact, applied these lessons to the new post-Cold War context.

Yes, it has become a cliche in the past 10 years that we are in a "post-Cold War" era. The question that has remained largely unanswered, however, is how does the U.S. respond to this era? Some have suggested that we reached an "end of history," where liberal democracy essentially triumphs around the globe. Some suggested that the end of geopolitical competition in a bipolar era would reduce America's role or obligations in the world.

In response, some have suggested, more caustically and in retrospect since that dark September 11 day, that America went on holiday for the last 10 years, eschewing our vigilance against global threats and riding on a historic wave of prosperity underlined by a false assumption that economic growth eliminated all global challenges and threats.

An American foreign policy expert noted, shortly after the end of the Cold War, that "the world has changed the way it looks, but not the way it works." I agree. There still remain regimes that oppress their peoples; there still remain movements that see the United States as their enemy; there still remain forces that seek to destroy us.

It is no coincidence that these regimes and movements depend on controlling and suppressing freedom of thought and expression wherever they hold sway. None of the countries on our terrorism list has free media. And certainly one of the most repressive regimes in recent memory was that of the now defunct and despicable Taliban regime.

Our colleagues have introduced legislation promoting a "Radio Free Afghanistan" to assist the transition to a post-Taliban era for that nation we abandoned and neglected for the last decade. My colleague, Senator BIDEN, in response to the September 11 attacks, has correctly noted that there is much, much more that we can do in terms of broadcasting accurate news and information to large parts of the Arab and Islamic world. Senator BIDEN has a long-standing dedication to these broadcasting tools of our foreign policy. I have seen his first proposal for an enhanced international broadcasting function, and am anxious to support it.

As those who have always supported the Radios know, a lot of the lessons for our future use of surrogate broadcasting comes from the lessons learned through the Radios since 1989. The Radios themselves have evolved. No longer broadcasting into closed societies, they have adapted their mission to the changed circumstances, they have become key players in these societies in transition. As a result of congressional oversight and the leadership of the Radios, the Radios have reshaped their missions to support the transition to democracy of the many nations of the former communist bloc, who are all in various stages of transition, some fully democratic, others struggling, and even others backsliding.

One of the most disturbing aspects of America's temporary retreat following the end of the Cold War was the notion that, with communism defeated, these societies of the former Soviet bloc would inevitably blossom into stable democracies. This has proved contrary to history, and, as we saw in many cases during the 1990s, was contrary to fact. While communism is defeated, a stable democratic society must be developed and nurtured, often by well-meaning citizens with little experience of the societies they seek to achieve. Central in effecting this transition is a free media, and I am happy to say that the Radios are playing a key role, a role carefully calibrated to their stages of political and economic development.

In societies still governed by repressive regimes, such as Belarus and Turkmenistan, the Radios continue to broadcast news that the local populations can trust and continue to puncture state-controlled media with fresh and objective analysis. In transition societies, such as Russia and Serbia, the Radios, in addition to providing useful news and analysis, provide a model of modern, professional media that these societies study and use to advance their own nascent media institutions.

America does not have all of the ideas, nor all of the solutions, to the problems of the world. But our system is based on the fundamental conviction that there must be a free exchange of ideas. And history has demonstrated that we have worked best, most productively, most peacefully, with nations that share this conviction. The Radios both emulated this fundamental principle and applied it to advance our national security. Let us pause for a moment and recognize this by passing this resolution commemorating their 50th anniversary.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2467. Mr. HUTCHINSON (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

SA 2468. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2469. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2470. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2471. Mr. DASCHLE (for Mr. HARKIN) proposed an amendment to the bill S. 1731, supra.

SA 2472. Mr. CRAPO (for himself, Mr. BINGAMAN, Mr. DOMENICI, Mr. BROWNBACK, Mr. CRAIG, and Mr. VOINOVICH) proposed an amendment to amendment SA 2471 proposed by Mr. DASCHLE to the bill (S. 1731) supra.

SA 2473. Mr. LUGAR (for himself and Mr. DOMENICI) proposed an amendment to amendment SA 2471 proposed by Mr. DASCHLE to the bill (S. 1731) supra.

SA 2474. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2475. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2476. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2477. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2478. Mr. REID (for Mr. LIEBERMAN (for himself and Mr. THOMPSON)) proposed an amendment to the bill H.R. 2336, An act to extend for 4 years, through December 31, 2005, the authority to redact financial disclosure statements of judicial employees and judicial officers.

SA 2479. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 2336, supra.

SA 2480. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 2199, to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes.

TEXT OF AMENDMENTS

SA 2467. Mr. HUTCHINSON (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumes abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of subtitle C of title X and insert the following:

SEC. 10 . ANIMAL AND PLANT HEALTH INSPECTION SERVICE.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Administrator of the Service.

(2) SERVICE.—The term "Service" means the Animal and Plant Health Inspection Service of the Department of Agriculture.

(b) EXEMPTION.—Notwithstanding any other provision of law, any migratory bird management carried out by the Secretary shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including regulations).

(c) PERMITS; MANAGEMENT.—An agent, officer, or employee of the Service that carries out any activity relating to migratory bird management may, under the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.)—

(1) issue a depredation permit to a stakeholder or cooperator of the Service; and

(2) manage and take migratory birds.

SA 2468. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . STUDY, EVALUATION AND REPORT ON THE CREATION OF A LITTER BANK BY THE DEPARTMENT OF AGRICULTURE AT THE UNIVERSITY OF ARKANSAS.

The Secretary shall conduct a study to evaluate and report back to Congress on the creation of a litter bank by the Department of Agriculture at the University of Arkansas for the purpose of enhancing health and viability of watersheds in areas with large concentrations of animal producing units. The Secretary shall evaluate the needs and means by which litter may be collected and distributed to other watersheds to reduce potential point source and non point source phosphorous pollution. The report shall be submitted to Congress no later than six months after the enactment of this Act.

SA 2469. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . OZARK FOOTHILLS RECREATION CONSERVATION & DEVELOPMENT COUNCIL FOR FOREST LANDOWNERS EDUCATION PROJECT IN BATESVILLE, ARKANSAS.

(a) AVAILABILITY OF FUNDS.—Of the amount authorized by this act, $200,000 is to be authorized for the Ozark Foothills Recreation Conservation & Development Council for the Forest Landowners Education Project in Batesville, Arkansas.

SA 2470. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —ANIMAL ENTERPRISE TERRORISM

SEC. 01. ANIMAL ENTERPRISE TERRORISM.

(a) IN GENERAL.—Section 43(a) of title 18, United States Code, is amended to read as follows:

"(a) OFFENSE.—

"(1) IN GENERAL.—Whoever—

"(A) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of causing physical disruption to the functioning of an animal enterprise; and

"(B) intentionally damages or causes the loss of any property (including animals or records) used by the animal enterprise, or conspires to do so,

shall be punished as provided for in subsection (b).

(b) PENALTIES.—Section 43(b) of title 18, United States Code, is amended to read as follows:

"(b) PENALTIES.—

"(1) ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage not exceeding $10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 6 months, or both.

"(2) MAJOR ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage exceeding $10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 3 years, or both.

"(3) SERIOUS BODILY INJURY.—Any person who, in the course of a violation of subsection (a), causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 20 years, or both.

"(4) DEATH.—Any person who, in the course of a violation of subsection (a), causes the death of an individual shall be fined under this title or imprisoned for life or for any term of years, or both.".

(c) RESTITUTION.—Section 43(c) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) for any other economic damage resulting from the offense.".

SEC. 02. NATIONAL ANIMAL TERRORISM INCIDENT CLEARINGHOUSE.

(a) DEFINITIONS.—In this section:

(1) ANIMAL ENTERPRISE.—The term "animal enterprise" has the same meaning as in section 43 of title 18, United States Code.

(2) CLEARINGHOUSE.—The term "clearinghouse" means the clearinghouse established under subsection (b).

(3) DIRECTOR.—The term "Director" means the Director of the Federal Bureau of Investigation.

(b) NATIONAL CLEARINGHOUSE.—The Director shall establish and maintain a national clearinghouse for information on incidents of violent crime and terrorism committed against or directed at any animal enterprise.

(c) CLEARINGHOUSE.—The clearinghouse shall—

(1) accept, collect, and maintain information on incidents described in subsection (b) that is submitted to the clearinghouse by Federal, State, and local law enforcement agencies, by law enforcement agencies of foreign countries, and by victims of such incidents;

(2) collate and index such information for purposes of cross-referencing; and

(3) upon request from a Federal, State, or local law enforcement agency, or from a law enforcement agency of a foreign country, provide such information to assist in the investigation of an incident described in subsection (b).

(d) SCOPE OF INFORMATION.—The information maintained by the clearinghouse for each incident shall, to the extent practicable, include—

(1) the date, time, and place of the incident;

(2) details of the incident;

(3) any available information on suspects or perpetrators of the incident; and

(4) any other relevant information.

(e) DESIGN OF CLEARINGHOUSE.—The clearinghouse shall be designed for maximum ease of use by participating law enforcement agencies.

(f) PUBLICITY.—The Director shall publicize the existence of the clearinghouse to law enforcement agencies by appropriate means.

(g) RESOURCES.—In establishing and maintaining the clearinghouse, the Director may—

(1) through the Attorney General, utilize the resources of any other department or agency of the Federal Government; and

(2) accept assistance and information from private organizations or individuals.

(h) COORDINATION.—The Director shall carry out the responsibilities of the Director under this section in cooperation with the Director of the Bureau of Alcohol, Tobacco, and Firearms.

SA 2471. Mr. DASCHLE (for Mr. HARKIN) proposed an amendment to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agriculture, Conservation, and Rural Enhancement Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—COMMODITY PROGRAMS

Sec. 101. Definitions.

Subtitle A—Direct and Counter-Cyclical Payments

Sec. 111. Direct and counter-cyclical payments.
Sec. 112. Violations of contracts.
Sec. 113. Planting flexibility.

Subtitle B—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

Sec. 121. Nonrecourse marketing assistance loans and loan deficiency payments.
Sec. 122. Eligible production.
Sec. 123. Loan rates.
Sec. 124. Term of loans.
Sec. 125. Repayment of loans.
Sec. 126. Loan deficiency payments.
Sec. 127. Special marketing loan provisions for upland cotton.

Subtitle C—Other Commodities

CHAPTER 1—DAIRY

Sec. 131. Milk price support program.
Sec. 132. National dairy program.
Sec. 133. Dairy export incentive and dairy indemnity programs.
Sec. 134. Fluid milk promotion.
Sec. 135. Dairy product mandatory reporting.
Sec. 136. Funding of dairy promotion and research program.
Sec. 137. Dairy studies.

CHAPTER 2—SUGAR

Sec. 141. Sugar program.
Sec. 142. Storage facility loans.
Sec. 143. Flexible marketing allotments for sugar.

CHAPTER 3—PEANUTS

Sec. 151. Peanut program.
Sec. 152. Termination of marketing quotas for peanuts and compensation to peanut quota holders.

Subtitle D—Administration

Sec. 161. Adjustment authority related to Uruguay Round compliance.
Sec. 162. Suspension of permanent price support authority.
Sec. 163. Commodity purchases.
Sec. 164. Hard white wheat incentive payments.
Sec. 165. Payment limitations.

TITLE II—CONSERVATION

Subtitle A—Conservation Security

Sec. 201. Conservation security program.
Sec. 202. Funding.
Sec. 203. Partnerships and cooperation.
Sec. 204. Administrative requirements for conservation programs.
Sec. 205. Reform and assessment of conservation programs.
Sec. 206. Conservation security program regulations.
Sec. 207. Conforming amendments.

Subtitle B—Program Extensions

Sec. 211. Comprehensive conservation enhancement program.
Sec. 212. Conservation reserve program.
Sec. 213. Environmental quality incentives program.
Sec. 214. Wetlands reserve program.
Sec. 215. Water conservation program.
Sec. 216. Resource conservation and development program.
Sec. 217. Wildlife habitat incentive program.
Sec. 218. Farmland protection program.
Sec. 219. Expansion of State marketing programs.
Sec. 220. Grassland reserve program.
Sec. 221. State technical committees.
Sec. 222. Use of symbols, slogans, and logos.

Subtitle C—Organic Farming

Sec. 231. Organic Agriculture Research Trust Fund.
Sec. 232. Establishment of National Organic Research Endowment Institute.

Subtitle D—Regional Equity

Sec. 241. Allocation of conservation funds by State.

Subtitle E—Advisory Council and Federal Interagency Working Group on Upper Mississippi River

Sec. 251. Definitions.

Sec. 252. Establishment of Advisory Council on the Upper Mississippi River Stewardship Initiative.
Sec. 253. Federal Interagency Working Group.
Sec. 254. Authorization of appropriations.

Subtitle F—Miscellaneous

Sec. 261. Cranberry acreage reserve program.
Sec. 262. Klamath Basin.

TITLE III—TRADE

Subtitle A—Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

Sec. 301. United States policy.
Sec. 302. Provision of agricultural commodities.
Sec. 303. Generation and use of currencies by private voluntary organizations and cooperatives.
Sec. 304. Levels of assistance.
Sec. 305. Food Aid Consultative Group.
Sec. 306. Maximum level of expenditures.
Sec. 307. Administration.
Sec. 308. Assistance for stockpiling and rapid transportation, delivery, and distribution of shelf-stable prepackaged foods.
Sec. 309. Sale procedure.
Sec. 310. Prepositioning.
Sec. 311. Expiration date.
Sec. 312. Micronutrient fortification program.
Sec. 313. Farmer-to-farmer program.

Subtitle B—Agricultural Trade Act of 1978

Sec. 321. Export credit guarantee program.
Sec. 322. Market access program.
Sec. 323. Export enhancement program.
Sec. 324. Foreign market development cooperator program.
Sec. 325. Food for progress and education programs.
Sec. 326. Exporter assistance initiative.

Subtitle C—Miscellaneous Agricultural Trade Provisions

Sec. 331. Bill Emerson Humanitarian Trust.
Sec. 332. Emerging markets.
Sec. 333. Biotechnology and agricultural trade program.
Sec. 334. Surplus commodities for developing or friendly countries.
Sec. 335. Agricultural trade with Cuba.
Sec. 336. Sense of Congress concerning agricultural trade.

TITLE IV—NUTRITION PROGRAMS

Sec. 401. Short title.

Subtitle A—Food Stamp Program

Sec. 411. Encouragement of payment of child support.
Sec. 412. Simplified definition of income.
Sec. 413. Increase in benefits to households with children.
Sec. 414. Simplified determination of housing costs.
Sec. 415. Simplified utility allowance.
Sec. 416. Simplified procedure for determination of earned income.
Sec. 417. Simplified determination of deductions.
Sec. 418. Simplified definition of resources.
Sec. 419. Alternative issuance systems in disasters.
Sec. 420. State option to reduce reporting requirements.
Sec. 421. Benefits for adults without dependents.
Sec. 422. Preservation of access to electronic benefits.
Sec. 423. Cost neutrality for electronic benefit transfer systems.
Sec. 424. Alternative procedures for residents of certain group facilities.
Sec. 425. Availability of food stamp program applications on the Internet.
Sec. 426. Simplified determinations of continuing eligibility.
Sec. 427. Clearinghouse for successful nutrition education efforts.
Sec. 428. Transitional food stamps for families moving from welfare.
Sec. 429. Delivery to retailers of notices of adverse action.
Sec. 430. Reform of quality control system.
Sec. 431. Improvement of calculation of State performance measures.
Sec. 432. Bonuses for States that demonstrate high performance.
Sec. 433. Employment and training program.
Sec. 434. Reauthorization of food stamp program and food distribution program on Indian reservations.
Sec. 435. Coordination of program information efforts.
Sec. 436. Expanded grant authority.
Sec. 437. Access and outreach pilot projects.
Sec. 438. Consolidated block grants and administrative funds.
Sec. 439. Assistance for community food projects.
Sec. 440. Availability of commodities for the emergency food assistance program.
Sec. 441. Innovative programs for addressing common community problems.
Sec. 442. Report on use of electronic benefit transfer systems.
Sec. 443. Vitamin and mineral supplements.

Subtitle B—Miscellaneous Provisions

Sec. 451. Reauthorization of commodity programs.
Sec. 452. Partial restoration of benefits to legal immigrants.
Sec. 453. Commodities for school lunch programs.
Sec. 454. Eligibility for free and reduced price meals.
Sec. 455. Eligibility for assistance under the special supplemental nutrition program for women, infants, and children.
Sec. 456. Seniors farmers' market nutrition program.
Sec. 457. Fruit and vegetable pilot program.
Sec. 458. Congressional Hunger Fellows Program.
Sec. 459. Nutrition information and awareness pilot program.
Sec. 460. Effective date.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

Sec. 501. Direct loans.
Sec. 502. Financing of bridge loans.
Sec. 503. Limitations on amount of farm ownership loans.
Sec. 504. Joint financing arrangements.
Sec. 505. Guarantee percentage for beginning farmers and ranchers.
Sec. 506. Guarantee of loans made under State beginning farmer or rancher programs.
Sec. 507. Down payment loan program.
Sec. 508. Beginning farmer and rancher contract land sales program.

Subtitle B—Operating Loans

Sec. 511. Direct loans.
Sec. 512. Amount of guarantee of loans for tribal farm operations; waiver of limitations for tribal farm operations and other farm operations.

Subtitle C—Administrative Provisions

Sec. 521. Eligibility of limited liability companies for farm ownership loans, farm operating loans, and emergency loans.
Sec. 522. Debt settlement.
Sec. 523. Temporary authority to enter into contracts; private collection agencies.
Sec. 524. Interest rate options for loans in servicing.
Sec. 525. Annual review of borrowers.
Sec. 526. Simplified loan applications.
Sec. 527. Inventory property.
Sec. 528. Definitions.
Sec. 529. Loan authorization levels.
Sec. 530. Interest rate reduction program.
Sec. 531. Options for satisfaction of obligation to pay recapture amount for shared appreciation agreements.
Sec. 532. Waiver of borrower training certification requirement.
Sec. 533. Annual review of borrowers.

Subtitle D—Farm Credit

Sec. 541. Repeal of burdensome approval requirements.
Sec. 542. Banks for cooperatives.
Sec. 543. Insurance Corporation premiums.
Sec. 544. Board of Directors of the Federal Agricultural Mortgage Corporation.

Subtitle E—General Provisions

Sec. 551. Inapplicability of finality rule.
Sec. 552. Technical amendments.
Sec. 553. Effective date.

TITLE VI—RURAL DEVELOPMENT

Subtitle A—Empowerment of Rural America

Sec. 601. National Rural Cooperative and Business Equity Fund.
Sec. 602. Rural business investment program.
Sec. 603. Full funding of pending rural development loan and grant applications.
Sec. 604. Rural Endowment Program.
Sec. 605. Enhancement of access to broadband service in rural areas.
Sec. 606. Value-added agricultural product market development grants.
Sec. 607. National Rural Development Information Clearinghouse.

Subtitle B—National Rural Development Partnership

Sec. 611. Short title.
Sec. 612. National Rural Development Partnership.

Subtitle C—Consolidated Farm and Rural Development Act

Sec. 621. Water or waste disposal grants.
Sec. 622. Rural business opportunity grants.
Sec. 623. Rural water and wastewater circuit rider program.
Sec. 624. Multijurisdictional regional planning organizations.
Sec. 625. Certified nonprofit organizations sharing expertise.
Sec. 626. Loan guarantees for certain rural development loans.
Sec. 627. Rural firefighters and emergency personnel grant program.
Sec. 628. Emergency community water assistance grant program.
Sec. 629. Water and waste facility grants for Native American tribes.
Sec. 630. Water systems for rural and native villages in Alaska.
Sec. 631. Rural cooperative development grants.
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TITLE I—COMMODITY PROGRAMS

SEC. 101. DEFINITIONS.

Section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202) is amended to read as follows:

"SEC. 102. DEFINITIONS.

"In this title:

"(1) AGRICULTURAL ACT OF 1949.—Except in section 171, the term 'Agricultural Act of 1949' means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171(b)(1).

"(2) CONSIDERED PLANTED.—The term 'considered planted' means any acreage on the farm that—

"(A) producers on a farm were prevented from planting to a crop because of drought, flood, or other natural disaster, or other condition beyond the control of the eligible owners and producers on the farm, as determined by the Secretary; and

"(B) was not planted to another contract commodity (other than a contract commodity produced under an established practice of double cropping).

"(3) CONTRACT.—The term 'contract' means a contract entered into under subtitle B.

"(4) CONTRACT ACREAGE.—The term 'contract acreage' means the contract acreage determined under section 111(f).

"(5) CONTRACT COMMODITY.—The term 'contract commodity' means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, and oilseeds.

"(6) CONTRACT PAYMENT.—The term 'contract payment' means a payment made under subtitle B pursuant to a contract.

"(7) DEPARTMENT.—The term 'Department' means the Department of Agriculture.

"(8) EXTRA LONG STAPLE COTTON.—The term 'extra long staple cotton' means cotton that—

"(A) is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

"(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

"(9) LOAN COMMODITY.—The term 'loan commodity' means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, oilseeds, wool, mohair, honey, dry peas, lentils, and chickpeas.

"(10) OILSEED.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, and, if designated by the Secretary, other oilseeds.

"(11) PAYMENT YIELD.—The term 'payment yield' means a payment yield determined under section 111(g).

"(12) PRODUCER.—

"(A) IN GENERAL.—The term 'producer' means an owner, operator, landlord, tenant, or sharecropper that—

"(i) shares in the risk of producing a crop; and

"(ii) is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

"(B) HYBRID SEED.—In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(14) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(15) UNITED STATES.—The term 'United States', when used in a geographical sense, means all of the States.".

Subtitle A—Direct and Counter-Cyclical Payments

SEC. 111. DIRECT AND COUNTER-CYCLICAL PAYMENTS.

Sections 111 through 114 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7211 through 7214) are amended to read as follows:

"SEC. 111. AUTHORIZATION FOR CONTRACTS.

"(a) IN GENERAL.—The Secretary shall offer to enter into a contract with an eligible owner or producer described in subsection (b) on a farm containing eligible cropland under which the eligible owner or producer will receive direct payments and counter-cyclical payments under sections 113 and 114, respectively.

"(b) ELIGIBLE OWNERS AND PRODUCERS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), an owner or producer on a farm shall be eligible to enter into a contract.

"(2) TENANTS.—

"(A) SHARE-RENT TENANTS.—A producer on eligible cropland that is a tenant with a share-rent lease of the eligible cropland, regardless of the length of the lease, shall be eligible to enter into a contract, if the owner of the eligible cropland enters into the same contract.

"(B) CASH-RENT TENANTS.—

"(i) CONTRACTS WITH LONG-TERM LEASES.—A producer on eligible cropland that cash rents the eligible cropland under a lease expiring on or after the termination of the contract shall be eligible to enter into a contract.

"(ii) CONTRACTS WITH SHORT-TERM LEASES.—

"(I) IN GENERAL.—A producer that cash rents the eligible cropland under a lease expiring before the termination of the contract shall be eligible to enter into a contract.

"(II) OWNER'S CONTRACT INTEREST.—The owner of the eligible cropland may also enter into the same contract.

"(III) CONSENT OF OWNER.—If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner shall be required for a valid contract.

"(3) CASH-RENT OWNERS.—

"(A) IN GENERAL.—An owner of eligible cropland that cash rents the eligible cropland under a lease term that expires before the end of 2006 crop year shall be eligible to enter into a contract if the tenant declines to enter into the contract.

"(B) CONTRACT PAYMENTS.—In the case of an owner covered by subparagraph (A), the Secretary shall not make contract payments to the owner under the contract until the lease held by the tenant terminates.

"(c) COMPLIANCE WITH CERTAIN REQUIREMENTS.—Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments—

"(1) to comply with applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

"(2) to comply with applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

"(3) to comply with the planting flexibility requirements of section 118; and

"(4) to use a quantity of land on the farm equal to the contract acreage, for an agricultural or conserving use or related activity, and not for a nonagricultural commercial or industrial use, as determined by the Secretary.

"(d) PROTECTION OF INTERESTS OF CERTAIN PRODUCERS.—

"(1) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(2) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the eligible producers on a farm on a fair and equitable basis.

"(e) ELIGIBLE CROPLAND.—

"(1) IN GENERAL.—Land shall be considered to be cropland eligible for coverage under a contract only if the land—

"(A) has with respect to a contract commodity—

"(i) contract acreage attributable to the land; and

"(ii) a payment yield; or

"(B) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with a term that expired, or was voluntarily terminated, on or after the date of enactment of this paragraph.

"(2) QUANTITY OF ELIGIBLE CROPLAND COVERED BY CONTRACT.—An eligible owner or producer may enroll as contract acreage under this subtitle all or a portion of the eligible cropland on the farm.

"(3) VOLUNTARY REDUCTION IN CONTRACT ACREAGE.—An eligible owner or producer that enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

"(f) CONTRACT ACREAGE.—

"(1) IN GENERAL.—Subject to subsection (h), for the purpose of making direct payments and counter-cyclical payments to eligible owners and producers on a farm, the Secretary shall provide the eligible owners and producers on the farm with an opportunity to elect 1 of the following methods as the method by which the contract acreages for the 2002 through 2006 crops of all contract commodities for a farm are determined:

"(A) The 4-year average of acreage planted or considered planted to a contract commodity for harvest, grazing, haying, silage, or other similar purposes during each of the 1998 through 2001 crop years.

“(B) The total of—

“(i) the contract acreage (as defined in section 102 (as in effect before the amendment made by section 101 of the Agriculture, Conservation, and Rural Enhancement Act of 2001)) that would have been used by the Secretary to calculate the payment for fiscal year 2002 under such section 102 for the contract commodity on the farm; and

“(ii) the 4-year average determined under subparagraph (A) for each oilseed produced on the farm.

“(C) In the case of land described in section 112(a)(3), land with eligible base, as determined by the Secretary.

“(2) Prevention of excess contract acreages.—

“(A) Required reduction.—If the total of the contract acreages for a farm, together with the acreage described in subparagraph (C), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of contract acreages for 1 or more contract commodities for the farm or peanut acres as necessary so that the total of the contract acreages and acreage described in subparagraph (C) does not exceed the actual cropland acreage of the farm.

“(B) Selection of acres.—The Secretary shall give the eligible owners and producers on the farm the opportunity to select the contract acreages or peanut acres against which the reduction will be made.

“(C) Other acreage.—For purposes of subparagraph (A), the Secretary shall include—

“(i) any peanut acres for the farm under chapter 3 of subtitle D;

“(ii) any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.); and

“(iii) any other acreage on the farm enrolled in a voluntary Federal conservation program under which production of any agricultural commodity is prohibited.

“(D) Double-cropped acreage.—In applying subparagraph (A), the Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm, as determined by the Secretary.

“(g) Payment Yields.—

“(1) In general.—Subject to paragraph (2) and subsection (h), an eligible owner or producer that has entered into a contract under this subtitle may make a 1-time election to have the payment yield for a payment for each of the 2002 through 2006 crops of all contract commodities for a farm be equal to—

“(A) an amount that is the greater of—

“(i) the average of the yield per harvested acre for the crop of the contract commodity for the farm for the 1998 through 2001 crop years, excluding—

“(I) any crop year for which the producers on the farm did not plant the contract commodity; and

“(II) at the option of the producers on the farm, 1 additional crop year; or

“(ii) the farm program payment yield described in subparagraph (B); or

“(B) the farm program payment yield established for the 1995 crop of a contract commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465), as adjusted by the Secretary to account for any additional yield payments made with respect to that crop under section 505(b)(2) of that Act.

“(2) Assigned yields.—In the case of a farm for which yield records are unavailable for a contract commodity (including land of a farm that is devoted to an oilseed under a former conservation reserve contract described in section 112(a)(3)), the Secretary shall establish an appropriate payment yield for the contract commodity on the farm taking in consideration the payment yields applicable to the contract commodity under paragraph (1) for similar farms in the area, taking into consideration the yield election for the farm under subsection (h).

“(h) Eligible Owner and Producer Election Options.—

“(1) In general.—In making elections under subsections (f), and (g), eligible owners and producers on a farm shall elect to have—

“(A)(i) contract acreage for the farm determined under subsection (f)(1)(A); and

“(ii) payment yields determined under subsection (g)(1)(A); or

“(B)(i) contract acreage for the farm determined under subsection (f)(1)(B); and

“(ii) payment yields determined under—

“(I) in the case of contract commodities other than oilseeds, subsection (g)(1)(B); and

“(II) in the case of oilseeds, subsection (g)(1)(A).

“(2) Single election; time for election.—

“(A) Single election.—The eligible owners and producers on a farm shall have 1 opportunity to make the election described in paragraph (1).

“(B) Time for election.—Subject to section 112(a)(3), not later than 180 days after the date of enactment of this subsection, the eligible owners and producers on a farm shall notify the Secretary of the election made by the eligible owners and producers on the farm under paragraph (1).

“(3) Effect of failure to make election.—If the producers on a farm fail to make the election under paragraph (1), or fail to timely notify the Secretary of the selected option as required by paragraph (2), the eligible owners and producers on the farm shall be deemed to have made the election described in paragraph (1)(B) for the purpose of determining the contract acreages for all contract commodities on the farm.

“(4) Application of election to all contract commodities.—The election made under paragraph (1) or deemed to be made under paragraph (3) with respect to a farm shall apply to all of the contract commodities produced on the farm.

“SEC. 112. ELEMENTS OF CONTRACTS.

“(a) Time for Contracting.—

“(1) Commencement.—To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after the date of enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001.

“(2) Deadline.—Except as provided in paragraph (3), the Secretary may not enter into a contract after the date that is 180 days after the date of enactment of that Act.

“(3) Conservation reserve land.—

“(A) In general.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that terminated after the date specified in paragraph (2) to enter into or expand a contract to cover the eligible cropland of the farm that was subject to the former conservation reserve contract.

“(B) Election.—For the fiscal year and crop year for which a contract acreage adjustment under subparagraph (A) is first made, the eligible owners and producers on the farm shall elect to receive—

“(i) direct payments and counter-cyclical payments under sections 113 and 114, respectively, with respect to the acreage added to the farm under this paragraph; or

“(ii) a prorated payment under the conservation reserve contract.

“(b) Duration of Contract.—

“(1) Beginning date.—The term of a contract shall begin with—

“(A) the 2002 crop of a contract commodity; or

“(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3), the date the contract was entered into or expanded to cover the acreage.

“(2) Ending date.—Subject to sections 116 and 117, the term of a contract shall extend through the 2006 crop, unless earlier terminated by the eligible owners or producers on a farm.

“SEC. 113. DIRECT PAYMENTS.

“(a) In General.—For each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments available to eligible owners and producers on a farm that have entered into a contract to receive payments under this section.

“(b) Payment Amount.—The amount of a direct payment to be paid to the eligible owners and producers on a farm for a contract commodity for a fiscal year under this section shall be obtained by multiplying—

“(1) the payment rate for the contract commodity specified in subsection (c);

“(2) the contract acreage attributable to the contract commodity for the farm; and

“(3) the payment yield for the contract commodity for the farm.

“(c) Payment Rate.—The payment rates used to make direct payments with respect to contract commodities for a fiscal year under this section are as follows:

“(1) Wheat.—In the case of wheat:

“(A) For each of fiscal years 2002 and 2003, $0.450 per bushel.

“(B) For each of fiscal years 2004 and 2005, $0.225 per bushel.

“(C) For fiscal year 2006, $0.113 per bushel.

“(2) Corn.—In the case of corn:

“(A) For each of fiscal years 2002 and 2003, $0.270 per bushel.

“(B) For each of fiscal years 2004 and 2005, $0.135 per bushel.

“(C) For fiscal year 2006, $0.068 per bushel.

“(3) Grain sorghum.—In the case of grain sorghum:

“(A) For the 2002 fiscal year, $0.310 per bushel.

“(B) For the 2003 fiscal year, $0.270 per bushel.

“(C) For each of fiscal years 2004 and 2005, $0.135 per bushel.

“(D) For fiscal year 2006, $0.068 per bushel.

“(4) Barley.—In the case of barley:

“(A) For each of fiscal years 2002 and 2003, $0.200 per bushel.

“(B) For each of fiscal years 2004 and 2005, $0.100 per bushel.

“(C) For fiscal year 2006, $0.050 per bushel.

“(5) Oats.—In the case of oats:

“(A) For each of fiscal years 2002 and 2003, $0.050 per bushel.

“(B) For each of fiscal years 2004 and 2005, $0.025 per bushel.

“(C) For fiscal year 2006, $0.013 per bushel.

“(6) Upland cotton.—In the case of upland cotton:

“(A) For each of fiscal years 2002 and 2003, $0.130 per pound.

“(B) For each of fiscal years 2004 and 2005, $0.065 per pound.

“(C) For fiscal year 2006, $0.0325 per pound.

“(7) Rice.—In the case of rice:

“(A) For each of fiscal years 2002 and 2003, $2.450 per hundredweight.

“(B) For each of fiscal years 2004 through 2006, $2.40 per hundredweight.

"(8) Soybeans.—In the case of soybeans:

"(A) For each of fiscal years 2002 and 2003, $0.550 per bushel.

"(B) For each of fiscal years 2004 and 2005, $0.275 per bushel.

"(C) For fiscal year 2006, $0.138 per bushel.

"(9) Oilseeds (other than soybeans).—In the case of oilseeds (other than soybeans):

"(A) For each of fiscal years 2002 and 2003, $0.010 per pound.

"(B) For each of fiscal years 2004 and 2005, $0.005 per pound.

"(C) For fiscal year 2006, $0.0025 per pound.

"(d) Time for Payments.—

"(1) Initial payment.—At the option of the eligible owners and producers on a farm, the Secretary shall pay 50 percent of the direct payment for a crop of a contract commodity for the eligible owners and producers on the farm on or after December 1 of the fiscal year, as determined by the Secretary.

"(2) Final payment.—The Secretary shall pay the final amount of the direct payment that is payable to the eligible owners and producers on a farm for a contract commodity under subsection (a) (less the amount of any initial payment made to the producers on the farm of the contract commodity under paragraph (1)) not later than September 30 of the fiscal year, as determined by the Secretary.

"SEC. 114. COUNTER-CYCLICAL PAYMENTS.

"(a) In General.—For each of the 2002 through 2006 crop years, the Secretary shall make counter-cyclical payments to eligible owners and producers on a farm of each contract commodity that have entered into a contract to receive payments under this section.

"(b) Payment Amount.—The amount of the payments made to eligible owners and producers on a farm for a crop of a contract commodity under this section shall equal the amount obtained by multiplying—

"(1) the payment rate for the contract commodity specified in subsection (c);

"(2) the contract acreage attributable to the contract commodity for the farm; and

"(3) the payment yield for the contract commodity for the farm.

"(c) Payment Rates.—

"(1) In general.—The payment rate for a crop of a contract commodity under subsection (b)(1) shall equal the difference between—

"(A) the income protection price for the contract commodity established under paragraph (2); and

"(B) the total of—

"(i) the higher of—

"(I) the average price of the contract commodity during the first 5 months of the marketing year of the contract commodity, as determined by the Secretary; and

"(II) the loan rate for the crop of the contract commodity under section 132; and

"(ii) the direct payment for the contract commodity under section 113 for the fiscal year that precedes the date of a payment under this section.

"(2) Income protection prices.—The income protection prices for contract commodities under paragraph (1)(A) are as follows:

"(A) Wheat, $3.45 per bushel.

"(B) Corn, $2.35 per bushel.

"(C) Grain sorghum, $2.35 per bushel.

"(D) Barley, $2.20 per bushel.

"(E) Oats, $1.55 per bushel.

"(F) Upland cotton, $0.680 per pound.

"(G) Rice, $9.30 per hundredweight.

"(H) Soybeans, $5.75 per bushel.

"(I) Oilseeds (other than soybeans), $0.105 per pound.

"(d) Time for Payment.—The Secretary shall make counter-cyclical payments for each of the 2002 through 2006 crop years not later than 190 days after the beginning of marketing year for the crop of the contract commodity.".

SEC. 112. VIOLATIONS OF CONTRACTS.

Section 116 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7216) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "subsection (b)" and inserting "subsections (b) and (e)"; and

(B) by striking "section 111(a)" and inserting "this subtitle";

(2) in subsection (b), by striking "If" and inserting "Except as provided in subsection (e), if"; and

(3) by adding at the end the following:

"(e) Planting Flexibility.—In the case of a first violation of section 118(b) by an eligible owner or producer that has entered into a contract and that acted in good faith, in lieu of terminating the contract under subsection (a), the Secretary shall require a refund or reduce a future contract payment under subsection (b) in an amount that does not exceed twice the amount otherwise payable under the contract on the number of acres involved in the violation.".

SEC. 113. PLANTING FLEXIBILITY.

Section 118(b) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7218(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Limitations.—The planting of the following agricultural commodities shall be prohibited on contract acreage:

"(A) Fruits.

"(B) Vegetables (other than lentils, mung beans, dry peas, and chickpeas).

"(C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice."; and

(2) in paragraph (2)(C), by striking "1991 through 1995" and inserting "1996 through 2001".

Subtitle B—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

SEC. 121. NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS.

(a) In General.—Sections 131(a) and 137 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231(a), 7237) are amended by striking "2002" each place it appears and inserting "2006".

(b) Upland Cotton.—Sections 134(e)(1), 136, and 136A(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7234(e)(1), 7236, 7236a(a)) are amended by striking "2003" each place it appears and inserting "2007".

SEC. 122. ELIGIBLE PRODUCTION.

Section 131 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231) is amended by striking subsection (b) and inserting the following:

"(b) Eligible Production.—The producers on a farm shall be eligible for a marketing loan under subsection (a) for any quantity of a loan commodity produced on the farm.".

SEC. 123. LOAN RATES.

(a) In General.—Section 132 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7232) is amended to read as follows:

"SEC. 132. LOAN RATES.

"(a) In General.—Subject to subsection (b), the loan rate for a marketing assistance loan under section 131 for a loan commodity shall be—

"(1) in the case of wheat, $3.00 per bushel;

"(2) in the case of corn, $2.08 per bushel;

"(3) in the case of grain sorghum, $2.08 per bushel;

"(4) in the case of barley, $2.00 per bushel;

"(5) in the case of oats, $1.50 per bushel;

"(6) in the case of upland cotton, $0.55 per pound;

"(7) in the case of extra long staple cotton, $0.7965 per pound;

"(8) in the case of rice, $6.50 per hundredweight;

"(9) in the case of soybeans, $5.20 per bushel;

"(10) in the case of oilseeds (other than soybeans), $0.095 per pound;

"(11) in the case of graded wool, $1.00 per pound;

"(12) in the case of nongraded wool, $.40 per pound;

"(13) in the case of mohair, $2.00 per pound;

"(14) in the case of honey, $.60 per pound;

"(15) in the case of dry peas, $6.78 per hundredweight;

"(16) in the case of lentils, $12.79 per hundredweight;

"(17) in the case of large chickpeas, $17.44 per hundredweight; and

"(18) in the case of small chickpeas, $8.10 per hundredweight.

"(b) Adjustments.—

"(1) In general.—The Secretary may make appropriate adjustments in the loan rates for any loan commodity for differences in grade, type, quality, location, and other factors.

"(2) Manner.—The adjustments under this subsection shall, to the maximum extent practicable, be made in such manner that the average loan rate for the loan commodity will, on the basis of the anticipated incidence of the factors described in paragraph (1), be equal to the loan rate provided under this section.".

(b) Conforming Amendment.—Section 162 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7282) is repealed.

SEC. 124. TERM OF LOANS.

Section 133 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7233) is amended to read as follows:

"SEC. 133. TERM OF LOANS.

"In the case of each loan commodity, a marketing loan under section 131 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.".

SEC. 125. REPAYMENT OF LOANS.

Section 134(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7234(a)) is amended—

(1) by striking "wheat, corn, grain sorghum, barley, oats, and oilseeds" and inserting "a loan commodity (other than upland cotton, rice, and extra long staple cotton)"; and

(2) in paragraph (2)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.".

SEC. 126. LOAN DEFICIENCY PAYMENTS.

Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) In General.—The Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the loan commodity in return for payments under this section."; and

(2) by striking subsections (e) and (f) and inserting the following:

"(e) Beneficial Interest.—

"(1) In general.—A producer shall be eligible for a payment for a loan commodity under this section only if the producer has a beneficial interest in the loan commodity, as determined by the Secretary.

"(2) Application.—The Secretary shall make a payment under this section to the producers on a farm with respect to a quantity of a loan commodity as of the earlier of—

"(A) the date on which the producers on the farm marketed or otherwise lost beneficial interest in the loan commodity, as determined by the Secretary; or

"(B) the date the producers on the farm request the payment.".

SEC. 127. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

Section 136(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7236(a)) is amended by adding at the end the following:

"(4) Application of threshold.—During the period beginning on the date of this paragraph and ending on July 31, 2003, the Secretary shall make the calculations under paragraphs (1)(A) and (2) and subsection (b)(1)(B) without regard to the 1.25 cent threshold provided under those paragraphs and subsection.".

Subtitle C—Other Commodities

CHAPTER 1—DAIRY

SEC. 131. MILK PRICE SUPPORT PROGRAM.

Section 141 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251) (as amended by section 772(a) of Public Law 107–76) is amended in subsections (b)(5) and (h) by striking "May 31, 2002" each place it appears and inserting "December 31, 2006".

SEC. 132. NATIONAL DAIRY PROGRAM.

The Federal Agriculture Improvement and Reform Act of 1996 (as amended by section 772(b) of Public Law 107–76) is amended by inserting after section 141 (7 U.S.C. 7251) the following:

"SEC. 142. NATIONAL DAIRY PROGRAM.

"(a) Dairy Market Loss Assistance Program.—

"(1) Definitions.—In this subsection:

"(A) Average price of milk.—The term 'average price of milk' means the blending of the prices of milk for use as fluid milk and in cheese, ice cream, butter, and nonfat dry milk in the marketing area where the milk was marketed, as determined by the Secretary.

"(B) Producer.—The term 'producer' means an individual or entity that directly or indirectly (as determined by the Secretary) shares in the risk of producing milk.

"(2) Program.—Subject to paragraph (8), the Secretary shall provide market loss assistance payments to producers on a dairy farm with respect to the production of milk in a State other than a participating State (as defined in subsection (b)(1)) that is marketed during the period beginning on December 1, 2001, and ending on September 30, 2005.

"(3) Amount.—Subject to paragraph (8), payments to a producer under this subsection shall be calculated by multiplying—

"(A) the payment quantity for the producer during the applicable quarter established under paragraph (4); by

"(B) the payment rate established under paragraph (5).

"(4) Payment quantity.—

"(A) In general.—Subject to subparagraph (B), the payment quantity for a producer during the applicable quarter under this subsection shall be equal to the quantity of milk produced and marketed by the producer during the quarter.

"(B) Limitation.—The payment quantity for a producer during the applicable fiscal year under this subsection shall not exceed the milk marketing base for the producer established under subsection (c).

"(5) Payment rate.—The payment rate for a payment under this subsection shall be calculated by multiplying (as determined by the Secretary)—

"(A) 40 percent; by

"(B) the amount by which—

"(i) the average price of milk during the applicable quarter; is less than

"(ii) the average price of milk for the same quarter during each of the previous 5 years.

"(6) Reporting of production.—The Secretary may require producers that receive payments under this subsection to report the quantity of milk produced and marketed by the producer on the dairy farm of the producer, in a manner determined by the Secretary.

"(7) Timing of payments.—

"(A) In general.—Except as provided in subparagraph (B), payments made under this subsection shall be made on a quarterly basis.

"(B) Payments for fiscal year 2002.—Payments under this subsection for fiscal year 2002 shall not be made before October 1, 2002.

"(8) Funding.—The Secretary shall use not more than $1,500,000,000 of funds of the Commodity Credit Corporation to carry out this subsection.

"(b) Northeast Dairy Market Loss Payments.—

"(1) Definitions.—In this subsection:

"(A) Class I milk.—The term 'Class I milk' means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

"(B) Eligible production.—The term 'eligible production' means milk produced by a producer in a participating State.

"(C) Federal milk marketing order.—The term 'Federal milk marketing order' means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

"(D) Participating state.—The term 'participating State' means Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia.

"(E) Producer.—The term 'producer' means an individual or entity that directly or indirectly (as determined by the Secretary)—

"(i) shares in the risk of producing milk; and

"(ii) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

"(2) Payments.—Subject to paragraph (9), the Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production in exchange for compliance on the farm with—

"(A) applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

"(B) applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

"(3) Amount.—Payments to a producer under this subsection shall be calculated by multiplying (as determined by the Secretary)—

"(A) the payment quantity for the producer during the applicable month established under paragraph (4);

"(B) the amount equal to—

"(i) $16.94 per hundredweight; less

"(ii) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

"(C) 45 percent.

"(4) Payment quantity.—

"(A) In general.—Subject to subparagraph (B), the payment quantity for a producer during the applicable month under this subsection shall be equal to the quantity of milk produced and marketed by the producer during the month.

"(B) Limitation.—The payment quantity for a producer during the applicable fiscal year under this subsection shall not exceed the milk marketing base for the producer established under subsection (c).

"(5) Payments.—A payment under a contract under this subsection shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

"(6) Signup.—The Secretary shall offer to enter into contracts under this subsection during the period beginning on December 1, 2001, and ending on September 30, 2005.

"(7) Duration of contract.—

"(A) In general.—Except as provided in subparagraph (B) and paragraph (8), any contract entered into by producers on a dairy farm under this subsection shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2005.

"(B) Violations.—If a producer violates the contract, the Secretary may—

"(i) terminate the contract and allow the producer to retain any payments received under the contract; or

"(ii) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

"(8) Transition rule.—In addition to any payment that is otherwise available under this subsection, if the producers on a dairy farm enter into a contract under this subsection by March 1, 2002, the Secretary shall make a payment under this subsection on the quantity of eligible production of the producer marketed during the period beginning on December 1, 2001, and ending on January 1, 2002.

"(9) Funding.—The Secretary shall use not more than $500,000,000 of funds of the Commodity Credit Corporation to carry out this subsection.

"(c) Milk Marketing Base.—

"(1) Definition of new producer.—In this subsection, the term 'new producer' means a producer of milk that did not have an interest in the production of milk during any of 1999 through 2001 fiscal years.

"(2) Established producers.—In the case of a producer of milk other than a new producer, the milk marketing base of a producer for a fiscal year under this section shall be equal to the lesser of—

"(A) the average quantity of milk marketed for commercial use in which the producer has had a direct or indirect interest during each of the 1999 through 2001 fiscal years; or

"(B) 8,000,000 pounds.

"(3) NEW PRODUCERS.—In the case of a new producer, the milk marketing base of the new producer under this section shall be equal to—

"(A) during each of the first 3 fiscal years of milk production by the new producer, 1,500,000 pounds; and

"(B) during each subsequent year of milk production, the lesser of—

"(i) the average quantity of milk marketed for commercial use in which the producer has had a direct or indirect interest during the first 3 years of milk production by the new producer; or

"(ii) 8,000,000 pounds.

"(4) ADJUSTMENTS.—The Secretary may provide for the adjustment of any milk marketing base of a producer under this subsection—

"(A) if the production of milk used to determine the milk marketing base of the producer has been adversely affected by damaging weather or a related condition (as determined by the Secretary); or

"(B) if the adjustment is necessary to provide fair and equitable treatment to tenants and sharecroppers.

"(5) TRANSFERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a producer that is assigned a milk marketing base under this subsection may not transfer the base to any person.

"(B) FAMILY MEMBERS.—A producer that is assigned a milk marketing base under this subsection may irrevocably transfer all or part of the base to a family member of the producer.

"(6) SCHEMES OR DEVICES.—If the Secretary determines that any producer has adopted a scheme or device to increase the milk marketing base of the producer under this subsection, the producer shall become ineligible for any milk marketing base under this subsection.".

SEC. 133. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.

(a) DAIRY EXPORT INCENTIVE PROGRAM.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking "2002" and inserting "2006".

(b) DAIRY INDEMNITY PROGRAM.—Section 3 of Public Law 90-484 (7 U.S.C. 450*l*) is amended by striking "1995" and inserting "2006".

SEC. 134. FLUID MILK PROMOTION.

(a) DEFINITION OF FLUID MILK PRODUCT.—Section 1999C of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402) is amended by striking paragraph (3) and inserting the following:

"(3) FLUID MILK PRODUCT.—The term 'fluid milk product' has the meaning given the term in—

"(A) section 1000.15 of title 7, Code of Federal Regulations, subject to such amendments as may be made by the Secretary; or

"(B) any successor regulation.".

(b) DEFINITION OF FLUID MILK PROCESSOR.—Section 1999C(4) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(4)) is amended by striking "500,000" and inserting "3,000,000".

(c) ELIMINATION OF ORDER TERMINATION DATE.—Section 1999O of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 135. DAIRY PRODUCT MANDATORY REPORTING.

Section 272(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637a(1)) is amended—

(1) by striking "means manufactured dairy products" and inserting "means—

"(A) manufactured dairy products";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(B) substantially identical products designated by the Secretary.".

SEC. 136. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) DEFINITIONS.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking "and" at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(m) the term 'imported dairy product' means any dairy product that is imported into the United States, including a dairy product imported into the United States in the form of—

"(1) milk, cream, and fresh and dried dairy products;

"(2) butter and butterfat mixtures;

"(3) cheese; and

"(4) casein and mixtures;

"(n) the term 'importer' means a person that imports an imported dairy product into the United States; and

"(o) the term 'Customs' means the United States Customs Service.".

(b) REPRESENTATION OF IMPORTERS ON BOARD.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(1) by inserting "NATIONAL DAIRY PROMOTION AND RESEARCH BOARD.—" after "(b)";

(2) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively, and indenting the paragraphs appropriately;

(3) in paragraph (2) (as so designated), by striking "Members" and inserting "Except as provided in paragraph (6), the members"; and

(4) by inserting after paragraph (5) (as so designated) the following:

"(6) IMPORTERS.—

"(A) REPRESENTATION.—The Secretary shall appoint not more than 2 members who represent importers of dairy products and are subject to assessments under the order, to reflect the proportion of domestic production and imports supplying the United States market, as determined by the Secretary on the basis of the average volume of domestic production of dairy products in proportion to the average volume of imports of dairy products in the United States during the immediately preceding 3 years.

"(B) ADDITIONAL MEMBERS; NOMINATIONS.—The members appointed under this paragraph—

"(i) shall be in addition to the total number of members appointed under paragraph (2); and

"(ii) shall be appointed from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.".

(c) IMPORTER ASSESSMENT.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended—

(1) by inserting "ASSESSMENTS.—" after "(g)";

(2) by designating the first through fifth sentences as paragraphs (1) through (5), respectively, and indenting appropriately; and

(3) by adding at the end the following:

"(6) IMPORTERS.—

"(A) IN GENERAL.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

"(B) TIME FOR PAYMENT.—

"(i) IN GENERAL.—The assessment on imported dairy products shall be—

"(I) paid by the importer to Customs at the time of the entry of the products into the United States; and

"(II) remitted by Customs to the Board.

"(ii) TIME OF ENTRY.—For purposes of this subparagraph, entry of the products into the United States shall be considered to have occurred when a dairy product is released from custody of Customs and introduced into the stream of commerce within the United States.

"(iii) IMPORTERS.—For purposes of this subparagraph, an importer includes—

"(I) a person that holds title to a dairy product produced outside the United States immediately on release by Customs; and

"(II) a person that acts on behalf of other persons, as an agent, broker, or consignee, to secure the release of a dairy product from Customs and introduce the released dairy product into the stream of commerce.

"(C) RATE.—The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

"(D) VALUE OF PRODUCTS.—For the purpose of determining the assessment on imported dairy products under subparagraph (C), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.

"(E) USE OF ASSESSMENTS ON IMPORTED DAIRY PRODUCTS.—Assessments collected on imported dairy products shall not be used for foreign market promotion of United States dairy products.".

(d) RECORDS.—Section 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(k)) is amended in the first sentence by striking "person receiving" and inserting "importer of imported dairy products, each person receiving".

(e) IMPORTER ELIGIBILITY TO VOTE IN REFERENDUM.—Section 116(b) of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4507(b)) is amended—

(1) in the first sentence, by inserting "and importers" after "producers" each place it appears; and

(2) in the second sentence, by inserting after "commercial use" the following: "and importers voting in the referendum (that have been engaged in the importation of dairy products into the United States during the applicable period, as determined by the Secretary)".

(f) CONFORMING AMENDMENTS.—Section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended—

(1) in the first sentence—

(A) by inserting after "commercial use" the following: "and on imported dairy products"; and

(B) by striking "products produced in the United States." and inserting "products."; and

(2) in the second sentence, by inserting after "produce milk" the following: "or the right of any person to import dairy products".

SEC. 137. DAIRY STUDIES.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct—

(1) a study of the effects of terminating all Federal programs relating to price support and supply management for milk and granting the consent of Congress to cooperative efforts by States to manage milk prices and supply; and

(2) a study of the effects of including in the standard of identity for fluid milk a required minimum protein content that is commensurate with the average nonfat solids content of bovine milk produced in the United States.

(b) Reports.—Not later than September 30, 2002, the Secretary shall submit to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry a report describing the results of each of the studies required under subsection (a).

CHAPTER 2—SUGAR

SEC. 141. SUGAR PROGRAM.

(a) Loan Rate Adjustments.—Section 156(c) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(c)) is amended—

(1) by striking “Reduction in Loan Rates” and inserting “Loan Rate Adjustments”; and

(2) in paragraph (1)—

(A) by striking “Reduction required” and inserting “In general”; and

(B) by striking “shall” and inserting “may”.

(b) Loan Type; Processor Assurances.—Section 156(e) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(e)) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) Processor assurances.—

“(A) In general.—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

“(B) Minimum payments.—

“(i) In general.—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

“(ii) Limitation.—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

“(C) Bankruptcy or insolvency of processors.—

“(i) In general.—The Secretary shall use funds of the Commodity Credit Corporation to pay a producer of sugar beets or sugarcane loan benefits described in clause (ii) if—

“(I) a processor that has entered into a contract with the producer has filed for bankruptcy protection or is otherwise insolvent;

“(II) the assurances under subparagraph (A) are not adequate to ensure compliance with subparagraph (A), as determined by the Secretary;

“(III) the producer demands payments of loan benefits required under this section from the processor; and

“(IV) the Secretary determines that the processor is unable to provide the loan benefits required under this section.

“(ii) Amount.—The amount of loan benefits provided to a producer under clause (i) shall be equal to—

“(I) the maximum amount of loan benefits the producer would have been entitled to receive under this section during the 30-day period beginning on the final settlement date provided for in the contract between the producer and processor; less

“(II) any such benefits received by the producer from the processor.

“(iii) Administration.—On payment to a producer under clause (i), the Secretary shall—

“(I) be subrogated to all claims of the producer against the processor and other persons responsible for nonpayment; and

“(II) have authority to pursue such claims as are necessary to recover the benefits not paid to the producer by the processor.”; and

(2) by adding at the end the following:

“(3) Administration.—The Secretary may not impose or enforce any prenotification or similar administrative requirement that has the effect of preventing a processor from electing to forfeit the loan collateral on the maturity of the loan.”.

(c) Termination of Marketing Assessment.—Effective October 1, 2001, section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended by striking subsection (f).

(d) Termination of Forfeiture Penalty.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended by striking subsection (g).

(e) In-Process Sugar.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) (as amended by subsections (c) and (d)) is amended by inserting after subsection (e) the following:

“(f) Loans for In-Process Sugar.—

“(1) Definition of in-process sugars and syrups.—In this subsection, the term ‘in-process sugars and syrups’ does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

“(2) Availability.—The Secretary shall make nonrecourse loans available to processors of a crop of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from the crop.

“(3) Loan rate.—The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, as determined by the Secretary on the basis of the source material for the in-process sugars and syrups.

“(4) Further processing on forfeiture.—

“(A) In general.—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

“(B) Transfer to corporation.—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

“(C) Payment to processor.—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

“(i) the difference between—

“(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

“(II) the loan rate the processor received under paragraph (3); by

“(ii) the quantity of sugar transferred to the Secretary.

“(5) Loan conversion.—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.”.

(f) Administration of Program.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) (as amended by subsection (e)) is amended by inserting after subsection (f) the following:

“(g) Avoiding Forfeitures; Corporation Inventory Disposition.—

“(1) In general.—Subject to subsection (e)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

“(2) Inventory disposition.—

“(A) In general.—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

“(B) Additional authority.—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.”.

(g) Information Reporting.—Section 156(h) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(h)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (1) the following:

“(2) Duty of producers to report.—

“(A) Proportionate share states.—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

“(B) Other states.—The Secretary may require each producer of sugarcane or sugar beets not covered by paragraph (1) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

“(3) Duty of importers to report.—

“(A) In general.—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

“(B) Tariff-rate quotas.—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.”; and

(3) in paragraph (5) (as redesignated by paragraph (1)), by striking “paragraph (1)” and inserting “this subsection”.

(h) Crops.—Section 156(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251(i)) is amended—

(1) by striking “(other than subsection (f))”; and

(2) by striking “2002” and inserting “2006”.

(i) Interest Rate.—Section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283) is amended—

(1) by inserting "(a) In General.—" before "Notwithstanding"; and

(2) by adding at the end the following:

"(b) Sugar.—For purposes of this section, raw cane sugar, refined beet sugar, and in-process sugar eligible for a loan under section 156 shall not be considered an agricultural commodity.".

SEC. 142. STORAGE FACILITY LOANS.

Chapter 2 of subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271 et seq.) is amended by adding at the end the following:

"SEC. 157. STORAGE FACILITY LOANS.

"(a) In General.—Notwithstanding any other provision of law and as soon as practicable after the date of enactment of this section, the Commodity Credit Corporation shall amend part 1436 of title 7, Code of Federal Regulations, to establish a sugar storage facility loan program to provide financing for processors of domestically-produced sugarcane and sugar beets to construct or upgrade storage and handling facilities for raw sugars and refined sugars.

"(b) Eligible Processors.—A storage facility loan shall be made available to any processor of domestically produced sugarcane or sugar beets that (as determined by the Secretary)—

"(1) has a satisfactory credit history;

"(2) has a need for increased storage capacity, taking into account the effects of marketing allotments; and

"(3) demonstrates an ability to repay the loan.

"(c) Term of Loans.—A storage facility loan shall—

"(1) have a minimum term of 7 years; and

"(2) be in such amounts and on such terms and conditions (including terms and conditions relating to downpayments, collateral, and eligible facilities) as are normal, customary, and appropriate for the size and commercial nature of the borrower.".

SEC. 143. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

(a) Information Reporting.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is repealed.

(b) Estimates.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) in the section heading—

(A) by inserting "**FLEXIBLE**" before "**MARKETING**"; and

(B) by striking "**AND CRYSTALLINE FRUCTOSE**";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "Before" and inserting "Not later than August 1 before";

(ii) by striking "1992 through 1998" and inserting "2002 through 2006";

(iii) in subparagraph (A), by striking "(other than sugar" and all that follows through "stocks";

(iv) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (E), respectively;

(v) by inserting after subparagraph (A) the following:

"(B) the quantity of sugar that would provide for reasonable carryover stocks;";

(vi) in subparagraph (C) (as so redesignated)—

(I) by striking "or" and all that follows through "beets"; and

(II) by striking "and" following the semicolon;

(vii) by inserting after subparagraph (C) (as so redesignated) the following:

"(D) the quantity of sugar that will be available from the domestic processing of sugarcane and sugar beets; and"; and

(viii) in subparagraph (E) (as so redesignated)—

(I) by striking "quantity of sugar" and inserting "quantity of sugars, syrups, and molasses";

(II) by inserting "human" after "imported for" the first place it appears;

(III) by inserting after "consumption" the first place it appears the following: "or to be used for the extraction of sugar for human consumption";

(IV) by striking "year" and inserting "year, whether such articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota"; and

(V) by striking "(other than sugar" and all that follows through "carry-in stocks";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) Exclusion.—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar."; and

(D) in paragraph (3) (as so redesignated)—

(i) in the paragraph heading, by striking "Quarterly reestimates" and inserting "Reestimates"; and

(ii) by inserting "as necessary, but" after "a fiscal year";

(3) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

"(1) In general.—By the beginning of each fiscal year, the Secretary shall establish for that fiscal year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar beets and from domestically-produced sugarcane at a level that the Secretary estimates will result in no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251)."; and

(B) in paragraph (2), by striking "or crystalline fructose";

(4) by striking subsection (c);

(5) by redesignating subsection (d) as subsection (c); and

(6) in subsection (c) (as so redesignated)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) in paragraph (2) (as so redesignated)—

(i) by striking "or manufacturer" and all that follows through "(2)"; and

(ii) by striking "or crystalline fructose".

(c) Establishment.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in the section heading, by inserting "**FLEXIBLE**" after "**OF**";

(2) in subsection (a), by inserting "flexible" after "establish";

(3) in subsection (b)—

(A) in paragraph (1)(A), by striking "1,250,000" and inserting "1,532,000"; and

(B) in paragraph (2), by striking "to the maximum extent practicable";

(4) by striking subsection (c) and inserting the following:

"(c) Marketing Allotment for Sugar Derived From Sugar Beets and Sugar Derived From Sugarcane.—The overall allotment quantity for the fiscal year shall be allotted between—

"(1) sugar derived from sugar beets by establishing a marketing allotment for a fiscal year at a quantity equal to the product of multiplying the overall allotment quantity for the fiscal year by 54.35 percent; and

"(2) sugar derived from sugarcane by establishing a marketing allotment for a fiscal year at a quantity equal to the product of multiplying the overall allotment quantity for the fiscal year by 45.65 percent.";

(5) by striking subsection (d) and inserting the following:

"(d) Filling Cane Sugar and Beet Sugar Allotments.—

"(1) Cane sugar.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane.

"(2) Beet sugar.—Each marketing allotment for beet sugar established under this section may only be filled with sugar domestically processed from sugar beets.";

(6) by striking subsection (e);

(7) by redesignating subsection (f) as subsection (e);

(8) in subsection (e) (as so redesignated)—

(A) by striking "The allotment" and inserting the following:

"(1) In general.—The allotment";

(B) in paragraph (1) (as so redesignated)—

(i) by striking "the 5" and inserting "the";

(ii) by inserting after "sugarcane is produced," the following: "after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe,"; and

(iii) by striking "on the basis of past marketings" and all that follows through "allotments" and inserting "as provided in this subsection and section 359d(a)(2)(A)(iv)"; and

(C) by inserting after paragraph (1) (as so designated) the following:

"(2) Offshore allotment.—

"(A) Collectively.—Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

"(B) Individually.—The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

"(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

"(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

"(iii) past processings of sugar from sugarcane based on the 3-year average of the 1998 through 2000 crop years.

"(3) Mainland allotment.—The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

"(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

"(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

"(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.";

(9) by inserting after subsection (e) (as so redesignated) the following:

"(f) FILLING CANE SUGAR ALLOTMENTS.—Except as provided in section 359e, a State cane sugar allotment established under subsection (e) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.";

(10) in subsection (g)—

(A) in paragraph (1), by striking "359b(a)(2)—" and all that follows through the comma at the end of subparagraph (C) and inserting "359b(a)(3), adjust upward or downward marketing allotments in a fair and equitable manner";

(B) in paragraph (2), by striking "359f(b)" and inserting "359f(c)"; and

(C) in paragraph (3)—

(i) in the paragraph heading, by striking "REDUCTIONS" and inserting "CARRY-OVER OF REDUCTIONS";

(ii) by inserting after "this subsection, if" the following: "at the time of the reduction";

(iii) by striking "price support" and inserting "nonrecourse";

(iv) by striking "206" and all that follows through "the allotment" and inserting "156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251),"; and

(v) by striking ", if any,"; and

(11) by striking subsection (h) and inserting the following:

"(h) SUSPENSION OF ALLOTMENTS.—Whenever the Secretary estimates or reestimates under section 359b(a), or has reason to believe, that imports of sugars, syrups or molasses for human consumption or to be used for the extraction of sugar for human consumption, whether under a tariff-rate quota or in excess or outside of a tariff-rate quota, will exceed 1,532,000 short tons (raw value equivalent), and that the imports would lead to a reduction of the overall allotment quantity, the Secretary shall suspend the marketing allotments established under this section until such time as the imports have been restricted, eliminated, or reduced to or below the level of 1,532,000 short tons (raw value equivalent).".

(d) ALLOCATION.—Section 359d(a)(2) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "The Secretary" and inserting the following:

"(i) IN GENERAL.—The Secretary";

(B) in the first sentence of clause (i) (as so designated)—

(i) by striking "interested parties" and inserting "the affected sugarcane processors and growers"; and

(ii) by striking "by taking" and all that follows through "allotment allocated." and inserting "under this subparagraph."; and

(C) by inserting after clause (i) the following:

"(ii) MULTIPLE PROCESSOR STATES.—Except as provided in clauses (iii) and (iv), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

"(I) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1996 through 2000 crops;

"(II) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year; and

"(III) past processings of sugar from sugarcane, based on the average of the 3 highest years of production during the 1996 through 2000 crop years.

"(iii) TALISMAN PROCESSING FACILITY.—In the case of allotments under clause (ii) attributable to the operations of the Talisman processing facility before the date of enactment of this clause, the Secretary shall allocate the allotment among processors in the State under clause (i) in accordance with the agreements of March 25 and 26, 1999, between the affected processors and the Secretary of the Interior.

"(iv) PROPORTIONATE SHARE STATES.—In the case of States subject to section 359f(c), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single state based on—

"(I) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1997 through 2001 crop years;

"(II) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and

"(III) past processings of sugar from sugarcane, based on the average of the 2 highest crop years of crop production during the 1997 through 2001 crop years.

"(v) NEW ENTRANTS.—

"(I) IN GENERAL.—Notwithstanding clauses (ii) and (iv), the Secretary, on application of any processor that begins processing sugarcane on or after the date of enactment of this clause, and after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, may provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located.

"(II) PROPORTIONATE SHARE STATES.—In the case of proportionate share States, the Secretary shall establish proportionate shares in a quantity sufficient to produce the sugarcane required to satisfy the allocations.

"(III) LIMITATION.—The allotment for a new processor under this clause shall not exceed 50,000 short tons (raw value).

"(vi) TRANSFER OF OWNERSHIP.—Except as otherwise provided in section 359f(c)(8), if a sugarcane processor is sold or otherwise transferred to another owner or closed as part of an affiliated corporate group processing consolidation, the Secretary shall transfer the allotment allocation for the processor to the purchaser, new owner, or successor in interest, as applicable, of the processor."; and

(2) in subparagraph (B)—

(A) in the first sentence, by striking "The Secretary" and inserting the following:

"(i) IN GENERAL.—The Secretary";

(B) in clause (i) (as so designated)—

(i) by striking "interested parties" and inserting "the affected sugar beet processors and growers"; and

(ii) by striking "processing capacity" and all that follows through "allotment allocated." and inserting the following: "the marketings of sugar processed from sugar beets of any or all of the 1996 through 2000 crops, and such other factors as the Secretary may consider appropriate after consultation with the affected sugar beet processors and growers."; and

(C) by adding at the end the following:

"(ii) NEW PROCESSORS.—In the case of any processor that has started processing sugar beets after January 1, 1996, the Secretary shall provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations.".

(e) REASSIGNMENT.—Section 359e(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking the "and" after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B) the following:

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the sale of any inventories of sugar held by the Commodity Credit Corporation; and"; and

(D) in subparagraph (D) (as so redesignated), by inserting "and sales" after "reassignments"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking the "and" after the semicolon;

(B) in subparagraph (B), by striking "reassign the remainder to imports." and inserting "use the estimated quantity of the deficit for the sale of any inventories of sugar held by the Commodity Credit Corporation; and"; and

(C) by inserting after subparagraph (B) the following:

"(C) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.".

(f) PRODUCER PROVISIONS.—Section 359f of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff) is amended—

(1) in subsection (a)—

(A) by striking "Whenever" and inserting the following:

"(1) IN GENERAL.—If";

(B) in the second sentence, by striking "processor's allocation" and inserting "allocation to the processor";

(C) by striking "Any dispute" and inserting the following:

"(2) ARBITRATION.—

"(A) IN GENERAL.—Any dispute"; and

(D) by adding at the end the following:

"(B) PERIOD.—The arbitration shall, to the maximum extent practicable, be—

"(i) commenced not more than 45 days after the request; and

"(ii) completed not more than 60 days after the request.";

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following:

"(b) SUGAR BEET PROCESSING FACILITY CLOSURES.—

"(1) IN GENERAL.—If a sugar beet processing facility is closed and the sugar beet growers that previously delivered beets to the facility elect to deliver their beets to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

"(2) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver their sugar beets, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

"(3) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

"(4) Timing.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition."; and

(4) in subsection (c) (as so redesignated)—

(A) in paragraph (3)(A), by striking "the preceding 5 years" and inserting "the 2 highest years from among the 1999, 2000, and 2001 crop years";

(B) in paragraph (4)(A), by striking "each" and all that follows through "in effect" and inserting "the 2 highest of the 1999, 2000, and 2001 crop years"; and

(C) by inserting after paragraph (7) the following:

"(8) Processing facility closures.—

"(A) In general.—If a sugarcane processing facility subject to this subsection is closed and the sugarcane growers that delivered sugarcane to the facility prior to closure elect to deliver their sugarcane to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

"(B) Increased allocation for processing company.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver the sugarcane, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

"(C) Decreased allocation for closed company.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

"(D) Timing.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.".

(g) Conforming Amendments.—

(1) Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 359aa et seq.) is amended by striking the part heading and inserting the following:

"PART VII—FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR".

(2) Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended by inserting before section 359a (7 U.S.C. 1359aa) the following:

"SEC. 359. DEFINITIONS.

"In this part:

"(1) Mainland state.—The term 'mainland State' means a State other than an offshore State.

"(2) Offshore state.—The term 'offshore State' means a sugarcane producing State located outside of the continental United States.

"(3) State.—Notwithstanding section 301, the term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(4) United states.—The term 'United States', when used in a geographical sense, means all of the States.".

(3) Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(A) by striking "359f" each place it appears and inserting "359f(c)";

(B) in the first sentence of subsection (b), by striking "3 consecutive" and inserting "5 consecutive"; and

(C) in subsection (c), by inserting "or adjusted" after "share established".

(4) Section 359j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359jj) is amended by striking subsection (c).

CHAPTER 3—PEANUTS

SEC. 151. PEANUT PROGRAM.

(a) In General.—Subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251 et seq.) is amended by adding at the end the following:

"CHAPTER 3—PEANUTS

"SEC. 158A. DEFINITIONS.

"In this chapter:

"(1) Counter-cyclical payment.—The term 'counter-cyclical payment' means a payment made to peanut producers on a farm under section 158D.

"(2) Direct payment.—The term 'direct payment' means a payment made to peanut producers on a farm under section 158C.

"(3) Effective price.—The term 'effective price' means the price calculated by the Secretary under section 158D for peanuts to determine whether counter-cyclical payments are required to be made under section 158D for a crop year.

"(4) Historical peanut producers on a farm.—The term 'historical peanut producers on a farm' means the peanut producers on a farm in the United States that produced or were prevented from planting peanuts during any of the 1998 through 2001 crop years.

"(5) Income protection price.—The term 'income protection price' means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

"(6) Payment acres.—The term 'payment acres' means 85 percent of the peanut acres on a farm, as established under section 158B, on which direct payments and counter-cyclical payments are made.

"(7) Peanut acres.—The term 'peanut acres' means the number of acres assigned to a particular farm for historical peanut producers on a farm pursuant to section 158B(b).

"(8) Payment yield.—The term 'payment yield' means the yield assigned to a farm by historical peanut producers on the farm pursuant to section 158B(b).

"(9) Peanut producer.—The term 'peanut producer' means an owner, operator, landlord, tenant, or sharecropper that—

"(A) shares in the risk of producing a crop of peanuts in the United States; and

"(B) is entitled to share in the crop available for marketing from the farm or would have shared in the crop had the crop been produced.

"SEC. 158B. PAYMENT YIELDS, PEANUT ACRES, AND PAYMENT ACRES FOR FARMS.

"(a) Payment Yields and Payment Acres.—

"(1) Average yield.—

"(A) In general.—The Secretary shall determine, for each historical peanut producer, the average yield for peanuts on all farms of the historical peanut producer for the 1998 through 2001 crop years, excluding any crop year during which the producers did not produce peanuts.

"(B) Assigned yields.—If, for any of the crop years referred to in subparagraph (A) in which peanuts were planted on a farm by the historical peanut producer, the historical peanut producer has satisfied the eligibility criteria established to carry out section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105-277), the Secretary shall assign to the historical peanut producer a yield for the farm for the crop year equal to 65 percent of the average yield for peanuts for the previous 5 crop years.

"(2) Acreage average.—Except as provided in paragraph (3), the Secretary shall determine, for the historical peanut producer, the 4-year average of—

"(A) acreage planted to peanuts on all farms for harvest during the 1998 through 2001 crop years; and

"(B) any acreage that was prevented from being planting to peanuts during the crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historical peanut producer, as determined by the Secretary.

"(3) Selection by producer.—If a county in which a historical peanut producer described in paragraph (2) is located is declared a disaster area during 1 or more of the 4 crop years described in paragraph (2), for purposes of determining the 4-year average acreage for the historical peanut producer, the historical peanut producer may elect to substitute, for not more than 1 of the crop years during which a disaster is declared—

"(A) the State average of acreage actually planted to peanuts; or

"(B) the average of acreage for the historical peanut producer determined by the Secretary under paragraph (2).

"(4) Time for determinations; factors.—

"(A) Timing.—The Secretary shall make the determinations required by this subsection not later than 90 days after the date of enactment of this section.

"(B) Factors.—In making the determinations, the Secretary shall take into account changes in the number and identity of historical peanut producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm when a historical peanut producer is no longer living or an entity composed of historical peanut producers has been dissolved.

"(b) Assignment of Yield and Acres to Farms.—

"(1) Assignment by historical peanut producers.—The Secretary shall provide each historical peanut producer with an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for the historical peanut producer to cropland on a farm.

"(2) Payment yield.—The average of all of the yields assigned by historical peanut producers to a farm shall be considered to be the payment yield for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

"(3) Peanut acres.—Subject to subsection (e), the total number of acres assigned by historical peanut producers to a farm shall be considered to be the peanut acres for the farm for the purpose of making direct payments and counter-cyclical payments under this chapter.

"(c) Election.—Not later than 180 days after the date of enactment of this section, a historical peanut producer shall notify the Secretary of the assignments described in subsection (b).

"(d) Payment Acres.—The payment acres for peanuts on a farm shall be equal to 85 percent of the peanut acres assigned to the farm.

"(e) Prevention of Excess Peanut Acres.—

"(1) Required reduction.—If the total of the peanut acres for a farm, together with the acreage described in paragraph (3), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the quantity of peanut acres for the farm or contract acreage for 1 or more covered commodities for the farm as necessary so that the total of the peanut acres and acreage described in paragraph (3) does not exceed the actual cropland acreage of the farm.

"(2) SELECTION OF ACRES.—The Secretary shall give the peanut producers on the farm the opportunity to select the peanut acres or contract acreage against which the reduction will be made.

"(3) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include—

"(A) any contract acreage for the farm under subtitle B;

"(B) any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.); and

"(C) any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

"(3) DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall take into account additional acreage as a result of an established double-cropping history on a farm, as determined by the Secretary.

"SEC. 158C. DIRECT PAYMENTS FOR PEANUTS.

"(a) IN GENERAL.—For each of the 2002 through 2006 fiscal years, the Secretary shall make direct payments to peanut producers on a farm with peanut acres under section 158B and a payment yield for peanuts under section 158B.

"(b) PAYMENT RATE.—The payment rate used to make direct payments with respect to peanuts for a fiscal year shall be equal to $0.018 per pound.

"(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the peanut producers on a farm for peanuts for a fiscal year shall be equal to the product obtained by multiplying—

"(1) the payment rate specified in subsection (b);

"(2) the payment acres on the farm; by

"(3) the payment yield for the farm.

"(d) TIME FOR PAYMENT.—

"(1) IN GENERAL.—The Secretary shall make direct payments—

"(A) in the case of the 2002 fiscal year, during the period beginning December 1, 2001, and ending September 30, 2002; and

"(B) in the case of each of the 2003 through 2006 fiscal years, not later than September 30 of the fiscal year.

"(2) ADVANCE PAYMENTS.—

"(A) IN GENERAL.—At the option of the peanut producers on a farm, the Secretary shall pay 50 percent of the direct payment for a fiscal year for the producers on the farm on a date selected by the peanut producers on the farm.

"(B) SELECTED DATE.—The selected date for a fiscal year shall be on or after December 1 of the fiscal year.

"(C) SUBSEQUENT FISCAL YEARS.—The peanut producers on a farm may change the selected date for a subsequent fiscal year by providing advance notice to the Secretary.

"(3) REPAYMENT OF ADVANCE PAYMENTS.—If any peanut producer on a farm that receives an advance direct payment for a fiscal year ceases to be eligible for a direct payment before the date the direct payment would have been made by the Secretary under paragraph (1), the peanut producer shall be responsible for repaying the Secretary the full amount of the advance payment.

"SEC. 158D. COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.

"(a) IN GENERAL.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make counter-cyclical payments with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the income protection price for peanuts.

"(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the total of—

"(1) the greater of—

"(A) the national average market price received by peanut producers during the 12-month marketing year for peanuts, as determined by the Secretary; or

"(B) the national average loan rate for a marketing assistance loan for peanuts under section 158G in effect for the 12-month marketing year for peanuts under this chapter; and

"(2) the payment rate in effect for peanuts under section 158C for the purpose of making direct payments with respect to peanuts.

"(c) INCOME PROTECTION PRICE.—For purposes of subsection (a), the income protection price for peanuts shall be equal to $520 per ton.

"(d) PAYMENT AMOUNT.—The amount of the counter-cyclical payment to be paid to the peanut producers on a farm for a crop year shall be equal to the product obtained by multiplying—

"(1) the payment rate specified in subsection (e);

"(2) the payment acres on the farm; by

"(3) the payment yield for the farm.

"(e) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to peanuts for a crop year shall be equal to the difference between—

"(1) the income protection price for peanuts; and

"(2) the effective price determined under subsection (b) for peanuts.

"(f) TIME FOR PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make counter-cyclical payments to peanut producers on a farm under this section for a crop of peanuts as soon as practicable after determining under subsection (a) that the payments are required for the crop year.

"(2) PARTIAL PAYMENT.—

"(A) IN GENERAL.—At the option of the Secretary, the peanut producers on a farm may elect to receive up to 40 percent of the projected counter-cyclical payment to be made under this section for a crop of peanuts on completion of the first 6 months of the marketing year for the crop, as determined by the Secretary.

"(B) REPAYMENT.—The peanut producers on a farm shall repay to the Secretary the amount, if any, by which the payment received by producers on the farm (including any partial payments) exceeds the counter-cyclical payment the producers on the farm are eligible for under this section.

"SEC. 158E. PRODUCER AGREEMENTS.

"(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

"(1) REQUIREMENTS.—Before the peanut producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the peanut producers on the farm shall agree during the fiscal year or crop year, respectively, for which the payments are received, in exchange for the payments—

"(A) to comply with applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

"(B) to comply with applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

"(C) to comply with the planting flexibility requirements of section 158F; and

"(D) to use a quantity of the land on the farm equal to the peanut acres, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary.

"(2) COMPLIANCE.—The Secretary may promulgate such regulations as the Secretary considers necessary to ensure peanut producer compliance with paragraph (1).

"(b) FORECLOSURE.—

"(1) IN GENERAL.—The Secretary shall not require the peanut producers on a farm to repay a direct payment or counter-cyclical payment if a foreclosure has occurred with respect to the farm and the Secretary determines that forgiving the repayment is appropriate to provide fair and equitable treatment.

"(2) COMPLIANCE WITH REQUIREMENTS.—

"(A) IN GENERAL.—This subsection shall not void the responsibilities of the peanut producers on a farm under subsection (a) if the peanut producers on the farm continue or resume operation, or control, of the farm.

"(B) APPLICABLE REQUIREMENTS.—On the resumption of operation or control over the farm by the peanut producers on the farm, the requirements of subsection (a) in effect on the date of the foreclosure shall apply.

"(c) TRANSFER OR CHANGE OF INTEREST IN FARM.—

"(1) TERMINATION.—Except as provided in paragraph (5), a transfer of (or change in) the interest of the peanut producers on a farm in peanut acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the peanut acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

"(2) EFFECTIVE DATE.—The termination takes effect on the date of the transfer or change.

"(3) TRANSFER OF PAYMENT BASE AND YIELD.—The Secretary shall not impose any restriction on the transfer of the peanut acres or payment yield of a farm as part of a transfer or change described in paragraph (1)..

"(4) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of subsection (a) if the modifications are consistent with the purposes of subsection (a), as determined by the Secretary.

"(5) EXCEPTION.—If a peanut producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary.

"(d) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this chapter, the Secretary shall require the peanut producers on a farm to submit to the Secretary acreage reports for the farm.

"(e) TENANTS AND SHARECROPPERS.—In carrying out this chapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(f) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the peanut producers on a farm on a fair and equitable basis.

"SEC. 158F. PLANTING FLEXIBILITY.

"(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on peanut acres on a farm.

"(b) LIMITATIONS AND EXCEPTIONS REGARDING CERTAIN COMMODITIES.—

"(1) LIMITATIONS.—The planting of the following agricultural commodities shall be prohibited on peanut acres:

"(A) Fruits.

"(B) Vegetables (other than lentils, mung beans, and dry peas).

"(C) In the case of the 2003 and subsequent crops of an agricultural commodity, wild rice.

"(2) Exceptions.—Paragraph (1) shall not limit the planting of an agricultural commodity specified in paragraph (1)—

"(A) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in paragraph (1), as determined by the Secretary, in which case the double-cropping shall be permitted;

"(B) on a farm that the Secretary determines has a history of planting agricultural commodities specified in paragraph (1) on peanut acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity; or

"(C) by the peanut producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in paragraph (1), except that—

"(i) the quantity planted may not exceed the average annual planting history of the agricultural commodity by the peanut producers on the farm during the 1996 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

"(ii) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to the agricultural commodity.

"SEC. 158G. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

"(a) Nonrecourse Loans Available.—

"(1) Availability.—For each of the 2002 through 2006 crops of peanuts, the Secretary shall make available to peanut producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

"(2) Terms and conditions.—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

"(3) Eligible production.—The producers on a farm shall be eligible for a marketing assistance loan under this section for any quantity of peanuts produced on the farm.

"(4) Treatment of certain commingled commodities.—In carrying out this section, the Secretary shall make loans to peanut producers on a farm that would be eligible to obtain a marketing assistance loan but for the fact the peanuts owned by the peanut producers on the farm are commingled with other peanuts of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the peanut producers on a farm obtaining the loan agree to immediately redeem the loan collateral in accordance with section 158E.

"(5) Options for obtaining loan.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the peanut producers on a farm through—

"(A) a designated marketing association of peanut producers that is approved by the Secretary;

"(B) the Farm Service Agency; or

"(C) a loan servicing agent approved by the Secretary.

"(b) Loan Rate.—The loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to $400 per ton.

"(c) Term of Loan.—

"(1) In general.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

"(2) Extensions prohibited.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

"(d) Repayment Rate.—The Secretary shall permit peanut producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

"(1) the loan rate established for peanuts under subsection (b), plus interest (as determined by the Secretary); or

"(2) a rate that the Secretary determines will—

"(A) minimize potential loan forfeitures;

"(B) minimize the accumulation of stocks of peanuts by the Federal Government;

"(C) minimize the cost incurred by the Federal Government in storing peanuts; and

"(D) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(e) Loan Deficiency Payments.—

"(1) Availability.—The Secretary may make loan deficiency payments available to the peanut producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for payments under this subsection.

"(2) Amount.—A loan deficiency payment under this subsection shall be obtained by multiplying—

"(A) the loan payment rate determined under paragraph (3) for peanuts; by

"(B) the quantity of the peanuts produced by the peanut producers on the farm, excluding any quantity for which the producers on the farm obtain a loan under subsection (a).

"(3) Loan payment rate.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan rate established under subsection (b); exceeds

"(B) the rate at which a loan may be repaid under subsection (d).

"(4) Time for payment.—The Secretary shall make a payment under this subsection to the peanut producers on a farm with respect to a quantity of peanuts as of the earlier of—

"(A) the date on which the peanut producers on the farm marketed or otherwise lost beneficial interest in the peanuts, as determined by the Secretary; or

"(B) the date the peanut producers on the farm request the payment.

"(f) Compliance With Conservation Requirements.—As a condition of the receipt of a marketing assistance loan under subsection (a), the peanut producers on a farm shall comply during the term of the loan with—

"(1) applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

"(2) applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

"(g) Reimbursable Agreements and Payment of Expenses.—To the maximum extent practicable, the Secretary shall implement any reimbursable agreements or provide for the payment of expenses under this chapter in a manner that is consistent with the implementation of the agreements or payment of the expenses for other commodities.

"SEC. 158H. QUALITY IMPROVEMENT.

"(a) Official Inspection.—

"(1) Mandatory inspection.—All peanuts placed under a marketing assistance loan under section 158G shall be officially inspected and graded by a Federal or State inspector.

"(2) Optional inspection.—Peanuts not placed under a marketing assistance loan may be graded at the option of the peanut producers on a farm.

"(b) Termination of Peanut Administrative Committee.—The Peanut Administrative Committee established under Marketing Agreement No. 1436, which regulates the quality of domestically produced peanuts under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is terminated.

"(c) Establishment of Peanut Standards Board.—

"(1) In general.—The Secretary shall establish a Peanut Standards Board for the purpose of assisting in the establishment of quality standards with respect to peanuts.

"(2) Composition.—The Secretary shall appoint members to the Board that, to the maximum extent practicable, reflect all regions and segments of the peanut industry.

"(3) Duties.—The Board shall assist the Secretary in establishing quality standards for peanuts.

"(d) Crops.—This section shall apply beginning with the 2002 crop of peanuts.".

(b) Conforming Amendments.—

(1) The chapter heading of chapter 2 of subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. prec. 7271) is amended by striking "**PEANUTS AND**".

(2) Section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) is repealed.

SEC. 152. TERMINATION OF MARKETING QUOTAS FOR PEANUTS AND COMPENSATION TO PEANUT QUOTA HOLDERS.

(a) Repeal of Marketing Quotas for Peanuts.—Effective beginning with the 2002 crop of peanuts, part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357 et seq.) is repealed.

(b) Compensation of Quota Holders.—

(1) Definitions.—In this subsection:

(A) Peanut quota holder.—

(i) In general.—The term "peanut quota holder" means a person or entity that owns a farm that—

(I) held a peanut quota established for the farm for the 2001 crop of peanuts under part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357 et seq.) (as in effect before the amendment made by subsection (a));

(II) if there was not such a quota established for the farm for the 2001 crop of peanuts, would be eligible to have such a quota established for the farm for the 2002 crop of peanuts, in the absence of the amendment made by subsection (a); or

(III) is otherwise a farm that was eligible for such a quota as of the effective date of the amendments made by this section.

(ii) Seed or experimental purposes.—The Secretary shall apply the definition of "peanut quota holder" without regard to temporary leases, transfers, or quotas for seed or experimental purposes.

(B) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(2) Contracts.—The Secretary shall offer to enter into a contract with peanut quota holders for the purpose of providing compensation for the lost value of quota as a result of the repeal of the marketing quota

program for peanuts under the amendment made by subsection (a).

(3) Payment period.—Under a contract, the Secretary shall make payments to an eligible peanut quota holder for each of fiscal years 2002 through 2006.

(4) Time for payment.—The payments required under the contracts shall be provided in 5 equal installments not later than September 30 of each of fiscal years 2002 through 2006.

(5) Payment amount.—The amount of the payment for a fiscal year to a peanut quota holder under a contract shall be equal to the product obtained by multiplying—

(A) $0.10 per pound; by

(B) the actual farm poundage quota (excluding any quantity for seed and experimental peanuts) established for the farm of a peanut quota holder under section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)) (as in effect prior to the amendment made by subsection (a)) for the 2001 marketing year.

(6) Assignment of payments.—

(A) In general.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to the payments made to peanut quota holders under the contracts.

(B) Notice.—The peanut quota holder making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this subsection.

(c) Conforming Amendments.—

(1) Administrative provisions.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "peanuts,".

(2) Adjustment of quotas.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(A) in the first sentence of subsection (a), by striking "peanuts,"; and

(B) in the first sentence of subsection (b), by striking "peanuts".

(3) Reports and records.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(A) in the first sentence of subsection (a)—

(i) by striking "peanuts," each place it appears;

(ii) by inserting "and" after "from producers,"; and

(iii) by striking "for producers, all" and all that follows through the period at the end of the sentence and inserting "for producers."; and

(B) in subsection (b), by striking "peanuts,".

(4) Eminent domain.—Section 378(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378(c)) is amended in the first sentence—

(A) by striking "cotton," and inserting "cotton and"; and

(B) by striking "and peanuts,".

(d) Crops.—This section and the amendments made by this section apply beginning with the 2002 crop of peanuts.

Subtitle D—Administration

SEC. 161. ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.

Section 161 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281) is amended by adding at the end the following:

"(e) Adjustment Authority Related to Uruguay Round Compliance.—If the Secretary determines that expenditures under subtitles A through D that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)), as in effect on the date of enactment of this subsection, will exceed the allowable levels for any applicable reporting period, the Secretary may make adjustments in the amount of the expenditures to ensure that the expenditures do not exceed, but are not less than, the allowable levels.".

SEC. 162. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

Section 171 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301) is amended—

(1) by striking "2002" each place it appears and inserting "2006"; and

(2) in subsection (a)(1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively.

SEC. 163. COMMODITY PURCHASES.

Section 191 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7331 et seq.) is amended to read as follows:

"SEC. 191. COMMODITY PURCHASES.

"(a) In General.—To purchase agricultural commodities under this section, the Secretary shall use funds of the Commodity Credit Corporation in an amount equal to—

"(1) for each of fiscal years 2002 and 2003, $130,000,000, of which not less than $100,000,000 shall be used for the purchase of specialty crops;

"(2) for fiscal year 2004, $150,000,000, of which not less than $120,000,000 shall be used for the purchase of specialty crops;

"(3) for fiscal year 2005, $170,000,000, of which not less than $140,000,000 shall be used for the purchase of specialty crops;

"(4) for fiscal year 2006, $200,000,000, of which not less than $170,000,000 shall be used for the purchase of specialty crops; and

"(5) for fiscal year 2007, $0.

"(b) Other Purchases.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

"(c) Purchases by Department of Defense for School Lunch Program.—The Secretary shall provide not less than $50,000,000 for each fiscal year of the funds made available under subsection (a) to the Secretary of Defense to purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) in a manner prescribed by the Secretary of Agriculture.

"(d) Purchases for Emergency Food Assistance Program.—The Secretary shall use not less than $40,000,000 for each fiscal year of the funds made available under subsection (a) to purchase agricultural commodities for distribution under the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).".

SEC. 164. HARD WHITE WHEAT INCENTIVE PAYMENTS.

Section 193 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1508) is amended to read as follows:

"SEC. 193. HARD WHITE WHEAT INCENTIVE PAYMENTS.

"(a) In General.—For the period of crop years 2003 through 2005, the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to provide incentive payments to producers of hard white wheat to ensure that hard white wheat, produced cn a total of not more than 2,000,000 acres, meets minimum quality standards established by the Secretary.

"(b) Application.—The amounts payable to producers in the form of payments under this section shall be determined through the submission of bids by producers in such manner as the Secretary may prescribe.

"(c) Demand for Wheat.—To be eligible to obtain a payment under this section, a producer shall demonstrate to the Secretary the availability of buyers and end-users for the wheat that is the covered by the payment.".

SEC. 165. PAYMENT LIMITATIONS.

Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) Limitation on direct and counter-cyclical payments.—The total amount of direct payments and counter-cyclical payments to a person during any fiscal year may not exceed $100,000, with a separate limitation for—

"(A) all contract commodities; and

"(B) peanuts.

"(2) Limitation on marketing loan gains and loan deficiency payments.—The total amount of the payments specified in paragraph (3) that a person shall be entitled to receive under title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.) for 1 or more loan commodities during any crop year may not exceed $150,000, with a separate limitation for—

"(A) all contract commodities;

"(B) wool and mohair;

"(C) honey; and

"(D) peanuts.

"(3) Description of payments subject to limitation.—The payments referred to in paragraph (2) are the following:

"(A) Any gain realized by a producer from repaying a marketing assistance loan under section 131 or 158G(a) of the Federal Agriculture Improvement and Reform Act of 1996 for a crop of any loan commodity or peanuts, respectively, at a lower level than the original loan rate established for the loan commodity or peanuts under section 132 or 158G(d) of that Act, respectively.

"(B) Any loan deficiency payment received for a loan commodity or peanuts under section 135 or 158G(e) of that Act, respectively.

"(4) Definitions.—In paragraphs (1) through (3):

"(A) Contract commodity.—The term 'contract commodity' has the meaning given the term in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202).

"(B) Counter-cyclical payment.—The term 'counter-cyclical payment" means a payment made under section 114 or 158D of that Act.

"(C) Direct payment.—The term 'direct payment' means a payment made under section 113 or 158C of that Act.

"(D) Loan commodity.—The term 'loan commodity' has the meaning given the term in section 102 of that Act.".

TITLE II—CONSERVATION

Subtitle A—Conservation Security

SEC. 201. CONSERVATION SECURITY PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by inserting after chapter 1 the following:

"CHAPTER 2—CONSERVATION SECURITY AND FARMLAND PROTECTION

"Subchapter A—Conservation Security Program

"SEC. 1238. DEFINITIONS.

"In this subchapter:

"(1). Base payment.—The term 'base payment' means the amount paid to an producer under a conservation security contract that is equal to the total of the amounts described in clauses (i) and (ii) of subparagraphs (C), (D), or (E) of section 1238C(b)(1), as appropriate.

“(2) BEGINNING FARMER OR RANCHER.—The term ‘beginning farmer or rancher’ has the meaning provided under section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999(a)).

“(3) BONUS AMOUNT.—The term ‘bonus amount’ means the amount paid to a producer under a conservation security contract that is equal to the total of the amounts described in clauses (iii) and (iv) of subparagraph (C), and of clause (iii) of subparagraph (D) or (E), of section 1238C(b)(1), as appropriate.

“(4) CONSERVATION PRACTICE.—The term ‘conservation practice’ means a land-based farming technique that—

“(A) requires planning, implementation, management, and maintenance; and

“(B) promotes 1 or more of the purposes described in section 1238A(a).

“(5) CONSERVATION SECURITY CONTRACT.—The term ‘conservation security contract’ means a contract described in section 1238A(e).

“(6) CONSERVATION SECURITY PLAN.—The term ‘conservation security plan’ means a plan described in section 1238A(c).

“(7) CONSERVATION SECURITY PROGRAM.—The term ‘conservation security program’ means the program established under section 1238A(a).

“(8) CONTINUOUS SIGNUP.—The term ‘continuous signup’, with respect to land, means land enrolled in a program described in section 1231(b)(6)(A) on which conservation practices are carried out.

“(9) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(10) NUTRIENT MANAGEMENT.—The term ‘nutrient management’ means management of the quantity, source, placement, form, and timing of the land application of nutrients and other additions to soil on land enrolled in the conservation security program—

“(A) to achieve or maintain adequate soil fertility for agricultural production;

“(B) to minimize the potential for loss of environmental quality, including soil, water, fish and wildlife habitat, and air and water quality; or

“(C) to reduce energy consumption.

“(11) PRODUCER.—

“(A) IN GENERAL.—The term ‘producer’ means an owner, operator, landlord, tenant, or sharecropper that—

“(i) shares in the risk of producing any crop or livestock; and

“(ii) is entitled to share in the crop or livestock available for marketing from a farm (or would have shared had the crop or livestock been produced).

“(B) HYBRID SEED GROWERS.—In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

“(12) RESOURCE OF CONCERN.—The term ‘resource of concern’ means a conservation priority of a State and locality under section 1238A(c)(3).

“(13) RESOURCE-CONSERVING CROP.—The term ‘resource-conserving crop’ means—

“(A) a perennial grass;

“(B) a legume grown for use as—

“(i) forage;

“(ii) seed for planting; or

“(iii) green manure;

“(C) a legume-grass mixture;

“(D) a small grain grown in combination with a grass or legume, whether interseeded or planted in succession; and

“(E) such other plantings, including trees and annual grasses, as the Secretary considers appropriate for a particular area.

“(14) RESOURCE-CONSERVING CROP ROTATION.—The term ‘resource-conserving crop rotation’ means a crop rotation that—

“(A) includes at least 1 resource-conserving crop;

“(B) reduces erosion;

“(C) improves soil fertility and tilth; and

“(D) interrupts pest cycles.

“(15) RESOURCE MANAGEMENT SYSTEM.—The term ‘resource management system’ means a system of conservation practices and management relating to land or water use that is designed to prevent resource degradation and permit sustained use of land and water, as defined in accordance with the technical guide of the Natural Resources Conservation Service.

“(16) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Natural Resources Conservation Service.

“(17) TIER I CONSERVATION PRACTICE.—The term ‘Tier I conservation practice’ means a conservation practice described in section 1238A(d)(4)(A)(ii).

“(18) TIER I CONSERVATION SECURITY CONTRACT.—The term ‘Tier I conservation security contract’ means a contract described in section 1238A(d)(4)(A).

“(19) TIER II CONSERVATION PRACTICE.—The term ‘Tier II conservation practice’ means a conservation practice described in section 1238A(d)(4)(B)(ii).

“(20) TIER II CONSERVATION SECURITY CONTRACT.—The term ‘Tier II conservation security contract’ means a contract described in section 1238A(d)(4)(B).

“(21) TIER III CONSERVATION PRACTICE.—The term ‘Tier III conservation practice’ means a conservation practice described in section 1238A(d)(4)(C)(ii).

“(22) TIER III CONSERVATION SECURITY CONTRACT.—The term ‘Tier III conservation security contract’ means a contract described in section 1238A(d)(4)(C).

“SEC. 1238A. CONSERVATION SECURITY PROGRAM.

“(a) IN GENERAL.—For each of fiscal years 2003 through 2006, the Secretary shall establish a conservation security program to assist owners and operators of agricultural operations to promote, as is applicable for each operation—

“(1) conservation of soil, water, energy, and other related resources;

“(2) soil quality protection and improvement;

“(3) water quality protection and improvement;

“(4) air quality protection and improvement;

“(5) soil, plant, or animal health and well-being;

“(6) diversity of flora and fauna;

“(7) on-farm conservation and regeneration of biological resources, including plant and animal germplasm;

“(8) wetland restoration, conservation, and enhancement;

“(9) wildlife habitat management, with special emphasis on species identified by any natural heritage program of the applicable State;

“(10) reduction of greenhouse gas emissions and enhancement of carbon sequestration;

“(11) environmentally sound management of invasive species; or

“(12) any similar conservation purpose (as determined by the Secretary).

“(b) ELIGIBILITY.—

“(1) ELIGIBLE OWNERS AND OPERATORS.—To be eligible to participate in the conservation security program (other than to receive technical assistance under section 1238C(g) for the development of conservation security contracts), a producer shall—

“(A) develop and submit to the Secretary, and obtain the approval of the Secretary of, a conservation security plan that meets the requirements of subsection (c)(1); and

“(B) enter into a conservation security contract with the Secretary to carry out the conservation security plan.

“(2) ELIGIBLE LAND.—

“(A) IN GENERAL.—Except as provided in subparagraph (C)(iii), private agricultural land (including cropland, grassland, prairie land, pasture land, and rangeland) and land under the jurisdiction of an Indian tribe shall be eligible for enrollment in the conservation security program.

“(B) FORESTED LAND.—Private forested land shall be eligible for enrollment in the conservation security program if the forested land is part of the agricultural land described in subparagraph (A), including land that is used for—

“(i) alley cropping;

“(ii) forest farming;

“(iii) forest buffers;

“(iv) windbreaks;

“(v) silvopasture systems; and

“(vi) such other integrated agroforestry uses as the Secretary may determine to be appropriate.

“(C) EXCLUSIONS.—

“(i) CONSERVATION RESERVE PROGRAM.—Land enrolled in the conservation reserve program under subchapter B of chapter 1 shall not be eligible for enrollment in the conservation security program except for land described in section 1231(b)(6).

“(ii) WETLANDS RESERVE PROGRAM.—Land enrolled in the wetlands reserve program established under subchapter C of chapter 1 shall not be eligible for enrollment in the conservation security program.

“(iii) CONVERSION TO CROPLAND.—Land that is used for crop production after the date of enactment of this subchapter that had not been in crop production for at least 3 of the 10 years preceding that date (except for land enrolled in the conservation reserve program under subchapter B of chapter 1) shall not be eligible for enrollment in the conservation security program.

“(3) SUSTAINABLE ECONOMIC USES.—The Secretary shall permit a producer to implement, with respect to eligible land covered by a conservation security plan, sustainable economic uses (including Tier II conservation practices) that—

“(A) maintain the agricultural nature of the land; and

“(B) are consistent with the natural resource and environmental benefits of the conservation security plan.

“(c) CONSERVATION SECURITY PLANS.—

“(1) IN GENERAL.—A conservation security plan shall—

“(A) identify the resources and designated land to be conserved under the conservation security plan;

“(B) describe—

“(i) the tier of conservation security contracts, and the particular conservation practices, to be implemented, maintained, or improved, in accordance with subsection (d) on the land covered by the conservation security contract for the specified term; and

“(ii) as appropriate for the land covered by the conservation security contract, at least, the minimum number and scope of conservation practices described in clause (i) that are required to be carried out on the land before the producer is eligible to receive—

“(I) a base payment; and

“(II) a bonus amount;

“(C) contain a schedule for the implementation, maintenance, or improvement of the conservation practices described in the conservation security plan during the term of the conservation security contract;

“(D) meet the highly erodible land and wetland conservation requirements of subtitles B and C; and

“(E) identify, and authorize the implementation of, sustainable economic uses described in subsection (b)(3).

“(2) COMPREHENSIVE PLANNING.—The Secretary shall encourage owners and operators that enter into conservation security contracts—

“(A) to undertake a comprehensive examination of the opportunities for conserving natural resources and improving the profitability, environmental health, and quality of life in relation to their entire agricultural operation;

“(B) to develop a long-term strategy for implementing, monitoring, and evaluating conservation practices and environmental results in the entire agricultural operation;

“(C) to participate in other Federal, State, local, or private conservation programs;

“(D) to maintain the agricultural integrity of the land; and

“(E) to adopt innovative conservation technologies and management practices.

“(3) STATE AND LOCAL CONSERVATION PRIORITIES.—

“(A) IN GENERAL.—To the maximum extent practicable and in a manner consistent with the conservation security program, each conservation security plan shall address, at least, the conservation priorities of the State and locality in which the agricultural operation is located.

“(B) ADMINISTRATION.—The conservation priorities of the State and locality in which the agricultural operation is located shall be—

“(i) determined by the State conservationist, in consultation with the State technical committee established under subtitle G and the local subcommittee of the State technical committee; and

“(ii) approved by the Secretary.

“(4) SUBMISSION OF PLAN.—

“(A) IN GENERAL.—During the development of a conservation security plan by a producer, at the request of the producer, the Secretary shall supply to the producer a statement of the minimum number, type, and scope of conservation practices described in paragraph (1)(B)(ii).

“(B) APPROVAL FOR BASE PAYMENTS.—If a conservation security plan submitted to the Secretary contains, at least, the conservation practices referred to in paragraph (1)(B)(ii)—

“(i) the Secretary shall approve the conservation security plan; and

“(ii) the producer of the conservation security plan, on approval of and compliance with the plan, as determined by the Secretary, shall be eligible to receive a base payment.

“(C) APPROVAL FOR BONUS AMOUNTS.—If a conservation security plan submitted to the Secretary contains a proposal for the implementation, maintenance, or improvement of a conservation practice that qualifies for a bonus amount under section 1238C(b)(1)(C)(iii), the Secretary may increase the base payment of the producer by such bonus amount as the Secretary determines is appropriate.

“(d) CONSERVATION CONTRACTS AND PRACTICES.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT OF TIERS.—The Secretary shall establish 3 tiers of conservation contracts under which a payment under this subchapter may be received.

“(B) ELIGIBLE CONSERVATION PRACTICES.—

“(i) IN GENERAL.—The Secretary shall make eligible for payment under a conservation security contract land management, vegetative, and structural practices that—

“(I) are necessary to achieve the purposes of the conservation security plan; and

“(II) primarily provide for, and have as a primary purpose, resource protection and environmental improvement.

“(ii) DETERMINATION.—

“(I) IN GENERAL.—Subject to subclause (II), in determining the eligibility of a practice described in clause (i), the Secretary shall require, to the maximum extent practicable, the lowest cost alternatives be used to fulfill the purposes of the conservation security plan, as determined by the Secretary.

“(II) INNOVATIVE TECHNOLOGIES.—Subclause (I) shall not apply, to the maximum extent practicable, to the adoption of innovative technologies.

“(2) ON-FARM RESEARCH AND DEMONSTRATION.—With respect to land enrolled in the conservation security program that will be maintained using a Tier II conservation practice or a Tier III conservation practice, the Secretary may approve a conservation security plan that includes on-farm conservation research and demonstration activities, including—

“(A) total farm planning;

“(B) total resource management;

“(C) integrated farming systems;

“(D) germplasm conservation and regeneration;

“(E) greenhouse gas reduction and carbon sequestration;

“(F) agroecological restoration and wildlife habitat restoration;

“(G) agroforestry;

“(H) invasive species control;

“(I) energy conservation and management;

“(J) farm and environmental results monitoring and evaluation; or

“(K) participation in research projects relating to water conservation and management through—

“(i) recycling or reuse of water; or

“(ii) more efficient irrigation of farmland.

“(3) USE OF HANDBOOK AND GUIDES.—

“(A) IN GENERAL.—In determining eligible conservation practices under the conservation security program, the Secretary shall use the National Handbook of Conservation Practices of the Natural Resources Conservation Service.

“(B) CONSERVATION PRACTICE STANDARDS.—To the maximum extent practicable, the Secretary shall establish guidance standards for implementation of eligible conservation practices that shall include measurable goals for enhancing and preventing degradation of resources.

“(C) ADJUSTMENTS.—

“(i) IN GENERAL.—After providing notice and an opportunity for public participation, the Secretary shall make such adjustments to the National Handbook of Conservation Practices, and the field office technical guides, of the Natural Resources Conservation Service as are necessary to carry out this chapter.

“(ii) EFFECT ON PLAN.—If the Secretary makes an adjustment to a practice under clause (i), the Secretary may require an adjustment to a conservation security plan in effect as of the date of the adjustment if the Secretary determines that the plan, without the adjustment, would significantly interfere with achieving the purposes of the conservation security program.

“(D) PILOT TESTING.—

“(i) IN GENERAL.—Under any of the 3 tiers of conservation practices established under paragraph (4), the Secretary may approve requests by a producer for pilot testing of new technologies and innovative conservation practices and systems.

“(ii) INCORPORATION INTO STANDARDS.—

“(I) IN GENERAL.—After evaluation by the Secretary and provision of notice and an opportunity for public participation, the Secretary may, as expeditiously as practicable, approve new technologies and innovative conservation practices and systems.

“(II) INCORPORATION.—If the Secretary approves a new technology or innovative conservation practice under subclause (I), the Secretary shall, as expeditiously as practicable, incorporate the technology or practice into the standards for implementation of conservation practices established under paragraph (3).

“(4) TIERS.—Subject to paragraph (5), to carry out this subsection, the Secretary shall establish the following 3 tiers of conservation contracts:

“(A) TIER I CONSERVATION CONTRACTS.—

“(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program under a Tier I conservation security contract shall be maintained using Tier I conservation practices and shall, at a minimum—

“(I) if applicable, address at least 1 resource of concern to the particular agricultural operation;

“(II) apply to the total agricultural operation or to a particular unit of the agricultural operation;

“(III) cover—

“(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

“(bb) conservation practices that are implemented after the date on which the conservation security contract is entered into; and

“(IV) meet applicable standards for implementation of conservation practices established under paragraph (3).

“(ii) CONSERVATION PRACTICES.—Tier I conservation practices shall consist of, as appropriate for the agricultural operation of a producer, 1 or more of the following basic conservation activities:

“(I) Nutrient management.

“(II) Integrated pest management.

“(III) Irrigation, water conservation, and water quality management.

“(IV) Grazing pasture and rangeland management.

“(V) Soil conservation, quality, and residue management.

“(VI) Invasive species management.

“(VII) Fish and wildlife habitat management, with special emphasis on species identified by any natural heritage program of the applicable State or the appropriate State agency.

“(VIII) Fish and wildlife conservation and enhancement.

“(IX) Air quality management.

“(X) Energy conservation measures.

“(XI) Biological resource conservation and regeneration.

“(XII) Animal health management.

"(XIII) Plant and animal germplasm conservation, evaluation, and development.

"(XIV) Contour farming.

"(XV) Strip cropping.

"(XVI) Cover cropping.

"(XVII) Sediment dams.

"(XVIII) Any other conservation practice that the Secretary determines to be appropriate and comparable to other conservation practices described in this clause.

"(iii) TIER II CONSERVATION CONTRACTS.—A conservation security plan for land enrolled in the conservation security program that will be maintained using Tier I conservation contracts may include Tier II conservation practices.

"(B) TIER II CONSERVATION PRACTICES.—

"(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program under a Tier II conservation security contract shall be maintained using Tier II conservation practices and shall, at a minimufm—

"(I) as applicable to the particular agricultural operation, address at least I resource of concern;

"(II) cover—

"(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

"(bb) conservation practices that are implemented after the date on which the conservation security contract is entered into; and

"(III) meet applicable resource management system criteria for 1 or more resources of concern of the agricultural operation, as specified in the conservation security contract.

"(ii) CONSERVATION PRACTICES.—Tier II conservation practices shall consist of, as appropriate for the agricultural operation of a producer, any of the Tier I conservation practices and 1 or more of the following land use adjustment or protection practices:

"(I) Resource-conserving crop rotations.

"(II) Controlled, rotational grazing.

"(III) Conversion of portions of cropland from a soil-depleting use to a soil-conserving use, including production of cover crops.

"(IV) Partial field conservation practices (including windbreaks, grass waterways, shelter belts, filter strips, riparian buffers, wetland buffers, contour buffer strips, living snow fences, crosswind trap strips, field borders, grass terraces, wildlife corridors, and critical area planting appropriate to the agricultural operation).

"(V) Fish and wildlife habitat conservation and restoration.

"(VI) Native grassland and prairie protection and restoration.

"(VII) Wetland protection and restoration.

"(VIII) Agroforestry practices and systems.

"(IX) Any other conservation practice involving modification of the use of land that the Secretary determines to be appropriate and comparable to other conservation practices described in this clause.

"(C) TIER III CONSERVATION CONTRACTS.—

"(i) IN GENERAL.—A conservation security plan for land enrolled in the conservation security program under a Tier III conservation security contract shall be maintained using Tier III conservation contracts and shall, at a minimum—

"(I) address all applicable resources of concern in the total agricultural operation;

"(II) cover—

"(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

"(bb) conservation practices that are implemented after the date on which the conservation security contract is entered into; and

"(III) meet applicable resource management system criteria for 1 or more resources of concern of the agricultural operation, as specified in the conservation security contract.

"(ii) CONSERVATION PRACTICES.—Tier III conservation practices shall consist of, as appropriate for the agricultural operation of a producer (in addition to appropriate Tier I conservation practices and Tier II conservation practices), development, implementation, and maintenance of a conservation security plan that, over the term of the conservation security contract—

"(I) integrates all necessary conservation practices to foster environmental enhancement and the long-term sustainability of the natural resource base of an agricultural operation; and

"(II) improves profitability and sustainability associated with the agricultural operation.

"(5) MINIMUM REQUIREMENTS.—The minimum requirements for each tier of conservation practices described in paragraph (4) shall be—

"(i) determined by the State conservationist, in consultation with the State technical committee established under subtitle G and the local subcommittee of the State technical committee; and

"(ii) approved by the Secretary.

"(e) CONSERVATION SECURITY CONTRACTS.—

"(1) CONTRACTS.—

"(A) IN GENERAL.—On approval of a conservation security plan of a producer, the Secretary shall enter into a conservation security contract with the producer to enroll the land covered by the conservation security plan in the conservation security program.

"(B) REQUIRED COMPONENTS.—A conservation security contract shall specifically describe the practices that are required under subsection (c)(1)(B).

"(2) TERM.—Subject to paragraphs (3) and (4)—

"(A) a conservation security contract for land enrolled in the conservation security program of a producer that will be maintained using 1 or more Tier I conservation contracts shall have a term of 5 years; and

"(B) a conservation security contract for land enrolled in the conservation security program that will be maintained using a Tier II conservation contract or Tier III conservation contract shall have a 5-year to 10-year term, as determined by the producer.

"(3) MODIFICATIONS.—

"(A) OPTIONAL MODIFICATIONS.—

"(i) IN GENERAL.—An owner or operator may apply to the Secretary to modify the conservation security plan to effectuate the purposes of the conservation security program.

"(ii) APPROVAL BY THE SECRETARY.—To be effective, any modification under clause (i)—

"(I) shall be approved by the Secretary; and

"(II) shall authorize the Secretary to redetermine, if necessary, the amount and timing of the payments under the conservation security contract and subsections (a) and (b) of section 1238C.

"(B) OTHER MODIFICATIONS.—

"(i) IN GENERAL.—The Secretary may, in writing, require a producer to modify a conservation security contract before the expiration of the conservation security contract if—

"(I) the Secretary determines that a change made to the type, size, management, or other aspect of the agricultural operation of the producer would, without the modification of the contract, significantly interfere with achieving the purposes of the conservation security program; or

"(II) the Secretary makes a change to the National Handbook of Conservation Practices of the Natural Resource Conservation Service under subsection (d)(3)(C).

"(ii) PAYMENTS.—The Secretary may adjust the amount and timing of the payment schedule under the conservation security contract to reflect any modifications made under this subparagraph.

"(iii) DEADLINE.—The Secretary may terminate a conservation security contract if a modification required under this subparagraph is not submitted to the Secretary in the form of an amended conservation security contract by the date that is 90 days after the date on which the Secretary issues a written request for the modification.

"(iv) TERMINATION.—a producer that is required to modify a conservation security contract under this subparagraph may, in lieu of modifying the contract—

"(I) terminate the conservation security contract; and

"(II) retain payments received under the conservation security contract, if the producer fully complied with the terms and conditions of the conservation security contract before termination of the contract.

"(4) RENEWAL.—

"(A) IN GENERAL.—At the option of a producer, the conservation security contract of the producer may be renewed, for a term described in subparagraph (B), if—

"(i) the producer agrees to any modification of the applicable conservation security contract that the Secretary determines to be necessary to achieve the purposes of the conservation security program;

"(ii) the Secretary determines that the producer has complied with the terms and conditions of the conservation security contract, including the conservation security plan; and

"(iii) in the case of a Tier I conservation security contract, the producer agrees to increase the conservation practices on land enrolled in the conservation security program by—

"(I) adopting new conservation practices; or

"(II) expanding existing practices to meet the resource management systems criteria.

"(B) TERMS OF RENEWAL.—Under subparagraph (A)—

"(i) a conservation security contract for land enrolled in the conservation security program that will be maintained using Tier I conservation contracts may be renewed for 5-year terms;

"(ii) in the case of a Tier II conservation security contract or a Tier III conservation security contract, the contract shall be renewed for 5-year to 10-year terms, at the option of the producer; and

"(iii) participation in the conservation security program prior to the renewal of the conservation security contract shall not bar renewal more than once.

"(f) NONCOMPLIANCE DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF PRODUCERS.—The Secretary shall include in the conservation security contract a provision, and may modify a conservation security contract under subsection (e)(3)(B), to ensure that a producer shall not be considered in violation of a conservation security contract for failure to comply with the conservation security contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary.

"SEC. 1238B. DUTIES OF PRODUCERS.

"Under a conservation security contract, a producer shall agree, during the term of the conservation security contract—

"(1) to implement the applicable conservation security plan approved by the Secretary;

"(2) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation security plan;

"(3) not to engage in any activity that would interfere with the purposes of the conservation security plan; and

"(4) on the violation of a term or condition of the conservation security contract—

"(A) if the Secretary determines that the violation warrants termination of the conservation security contract—

"(i) to forfeit all rights to receive payments under the conservation security contract; and

"(ii) to refund to the Secretary all or a portion of the payments received by the producer under the conservation security contract, including any advance payment and interest on the payments, as determined by the Secretary; or

"(B) if the Secretary determines that the violation does not warrant termination of the conservation security contract, to refund to the Secretary, or accept adjustments to, the payments provided to the producer, as the Secretary determines to be appropriate.

"SEC. 1238C. DUTIES OF THE SECRETARY.

"(a) Advance Payment.—At the time at which a producer enters into a conservation security contract, the Secretary shall, at the option of the producer, make an advance payment to the producer in an amount not to exceed—

"(1) in the case of a Tier I conservation security contract, the greater of—

"(A) $1,000; or

"(B) 20 percent of the value of the annual payment under the contract, as determined by the Secretary;

"(2) in the case of a Tier II conservation security contract, the greater of—

"(A) $2,000; or

"(B) 20 percent of the value of the annual payment under the contract, as determined by the Secretary; and

"(3) in the case of a Tier III conservation security contract, the greater of—

"(A) $3,000; or

"(B) 20 percent of the value of the annual payment under the contract, as determined by the Secretary.

"(b) Annual Payments.—

"(1) Criteria for determining amount of payments.—

"(A) Base rate.—In this paragraph, the term 'base rate' means the average county rental rate for the specific land use during the 2001 crop year, or another appropriate average county rate for the 2001 crop year, that ensures regional equity, as determined by the Secretary.

"(B) Payments.—A payment for a conservation practice under this paragraph shall be determined in accordance with subparagraphs (C) through (F).

"(C) Tier I conservation contracts.—The payment for a Tier I conservation security contract shall be comprised of the total of the following amounts:

"(i) An amount equal to 6 percent of the base rate for land covered by the contract.

"(ii) An amount equal to the following costs of practices covered by the conservation security contract, based on the average county costs for such practices for the 2001 crop year, as determined by the Secretary:

"(I) 100 percent of the cost of—

"(aa) the adoption of new management practices; and

"(bb) the maintenance of new and existing management practices.

"(II) 100 percent of the cost of maintenance of existing land-based structural practices approved by the Secretary.

"(III)(aa) 75 percent (or, in the case of a limited resource producer (as determined by the Secretary) or a beginning farmer or rancher, 90 percent) of the cost of adoption of new land-based structural practices; or

"(bb) 75 percent (or, in the case of a limited resource producer (as determined by the Secretary) or a beginning farmer or rancher, 90 percent) of the cost of the adoption of a structural practice for which a similar structural practice under the environmental quality incentives program established under chapter 4 would require maintenance, if the producer agrees to provide, without reimbursement, substantially equivalent maintenance.

"(iii) A bonus amount determined by the Secretary for implementing or adopting 1 or more of the following practices:

"(I) A practice adopted or maintained that maximizes the purposes of the conservation security program beyond the minimum requirements of the practices adopted or maintained.

"(II) A practice adopted or maintained to address eligible resource and conservation concerns beyond those identified as State or local conservation priorities.

"(III) A practice adopted or maintained to address national priority concerns, as determined by the Secretary.

"(IV) Participation by the producer in a conservation research, demonstration, or pilot project.

"(V) Participation by the producer in a watershed or regional resource conservation plan that involves at least 75 percent of producers in a targeted area.

"(VI) Recordkeeping, monitoring, and evaluation carried out by the producer that furthers the purposes of the conservation security program.

"(iv) A bonus amount determined by the Secretary that reflects the status of a producer as a beginning farmer or rancher.

"(D) Tier II conservation contracts.—The payment for a Tier II conservation security contract shall be comprised of the total of the following amounts:

"(i) An amount equal to 11 percent of the base rate for land covered by the conservation security contract.

"(ii) An amount equal to the cost of practices covered by the conservation security contract, based on the average county costs for practices for the 2001 crop year, described in subparagraph (C)(ii).

"(iii) A bonus amount determined by the Secretary in accordance with clauses (iii) and (iv) of subparagraph (C), except that the bonus amount under this clause may include any amount for the adoption or maintenance by the producer of any practice that exceeds resource management system standards.

"(E) Tier III conservation contracts.—The payment for a Tier III conservation security contract shall be comprised of the total of the following amounts:

"(i) An amount equal to 20 percent of the base rate for land covered by the conservation security contract.

"(ii) An amount equal to the cost of practices covered by the conservation security contract, based on the average county costs for practices for the 2001 crop year, described in subparagraph (C)(ii).

"(iii) A bonus amount determined by the Secretary in accordance with subparagraph (D)(iii).

"(F) Exclusion of costs for purchase or maintenance of equipment or non-land based structures.—A payment under this subchapter shall not include any amount for the purchase or maintenance of equipment or a non-land based structure.

"(2) Time of payment.—The Secretary shall provide payments under a conservation security contract as soon as practicable after October 1 of each fiscal year.

"(3) Limitation on payments.—

"(A) In general.—Subject to paragraphs (1), (2), (4), and (5), the Secretary shall, in amounts and for a term specified in a conservation security contract and taking into account any advance payments, make an annual payment, directly or indirectly, to the individual or entity covered by the conservation security contract in an amount not to exceed—

"(i) in the case of a Tier I conservation security contract, $20,000;

"(ii) in the case of a Tier II conservation security contract, $35,000; or

"(iii) in the case of a Tier III conservation security contract, $50,000.

"(B) Limitation on nonbonus payments.—In applying the payment limitation under each of clauses (i), (ii), and (iii) of subparagraph (A), an individual or entity may not receive, directly or indirectly, payments described in clauses (i) and (ii) of paragraph (1)(C), (1)(D), or (1)(E), as appropriate, in an amount that exceeds 75 percent of the applicable payment limitation.

"(C) Other USDA payments.—If a producer has the same practices on the same land enrolled in the conservation security program and 1 or more other conservation programs administered by the Secretary, the Secretary shall include all payments from the conservation security program and the other conservation programs, other than payments for conservation easements, in applying the annual payment limitations under this paragraph.

"(D) Non-USDA payments.—

"(i) In general.—A payment described in clause (ii) shall not be considered an annual payment for purposes of the annual payment limitations under this paragraph.

"(ii) Payment.—A payment referred to in clause (i) is a payment that—

"(I) is for the same practice on the same land enrolled in the conservation security program; and

"(II) is received from a Federal program that is not administered by the Secretary, or that is administered by any State, local, or private agricultural agency or organization.

"(E) Commensurate share.—To be eligible to receive a payment under this chapter, an individual or entity shall make contributions (including contributions of land, labor, management, equipment, or capital) to the operation of the farm that are at least commensurate with the share of the proceeds of the operation of the individual or entity.

"(4) Land enrolled in other conservation programs.—Notwithstanding any other provision of law, if a producer has land enrolled in another conservation program administered by the Secretary and has applied to enroll the same land in the conservation security program, the producer may elect to—

“(A) convert the contract under the other conservation program to a conservation security contract, without penalty, except that this subparagraph shall not apply to a contract entered into under—

“(i) the conservation reserve program under subchapter B of chapter 1; or

“(ii) the wetlands reserve program under subchapter C of chapter 1; or

“(B) have each annual payment to the producer under this subsection reduced to reflect payment for practices the producer receives under the other conservation program, except that the annual payment under this subsection shall not be reduced by the amount of any incentive received under a program referred to in section 1231(b)(6) for qualified practices that enhance or extend the conservation benefit achieved under the other conservation program.

“(5) Waste storage or treatment facilities.—A payment to a producer under this subchapter shall not be provided for the purpose of construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations.

“(c) Minimum Practice Requirement.—In determining a payment under subsection (a) or (b) for an owner, operator, or producer that receives a payment under another program administered by the Secretary that is contingent on complying with requirements under subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) relating to the use of highly erodible land or wetland, a payment under this chapter for 1 or more practices on land subject to those requirements shall be for practices that exceed minimum requirements for the owner, operator, or producer under those subtitles, as determined by the Secretary.

“(d) Regulations.—

“(1) In general.—The Secretary shall promulgate regulations that—

“(A) provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing payments, on a fair and equitable basis; and

“(B) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsections (a) and (b).

“(2) Penalties for schemes or devices.—

“(A) In general.—If the Secretary determines that an individual or entity has adopted a scheme or device to evade, or that has the purpose of evading, the regulations promulgated under paragraph (1), the individual or entity shall be ineligible to participate in the conservation security program for—

“(i) the year for which the scheme or device was adopted; and

“(ii) each of the following 5 years.

“(B) Fraud.—If the Secretary determines that fraud was committed in connection with the scheme or device, the individual or entity shall be ineligible to participate in the conservation security program for—

“(i) the year for which the scheme or device was adopted; and

“(ii) each of the following 10 years.

“(e) Termination.—

“(1) In general.—Subject to section 1238B, the Secretary shall allow a producer to terminate the conservation security contract.

“(2) Payments.—the producer may retain any or all payments received under a terminated conservation security contract if—

“(A) the producer is in full compliance with the terms and conditions (including any maintenance requirements) of the conservation security contract as of the date of the termination; and

“(B) the Secretary determines that termination of the contract will not defeat the purposes of the conservation security plan of the producer.

“(f) Transfer or Change of Interest in Land Subject to Conservation Security Contract.—

“(1) In general.—Except as provided in paragraph (2), the transfer, or change in the interest, of a producer in land subject to a conservation security contract shall result in the termination of the conservation security contract.

“(2) Transfer of duties and rights.—Paragraph (1) shall not apply if, not later than 60 days after the date of the transfer or change in the interest in land, the transferee of the land provides written notice to the Secretary that all duties and rights under the conservation security contract have been transferred to the transferee.

“(g) Technical Assistance.—

“(1) In general.—For each of fiscal years 2003 through 2006, the Secretary shall provide technical assistance to producers for the development and implementation of conservation security contracts, in an amount not to exceed 20 percent of amounts expended for the fiscal year.

“(2) Coordination by the secretary.—The Secretary shall provide overall technical coordination and leadership for the conservation security program, including final approval of all conservation security plans.

“(h) Conservation Security Pilot Program.—

“(1) In general.—Effective October 1, 2004, the Secretary, in cooperation with appropriate State agencies, may establish a program in 1 State to demonstrate and evaluate the implementation of a conservation security program by a State described in paragraph (2).

“(2) Eligible state.—The State referred to in paragraph (1) shall be a State selected by the Secretary—

“(A) in consultation with—

“(i) the Committee on Agriculture of the House of Representatives; and

“(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

“(B) after taking into consideration—

“(i) the percentage of private land in agricultural production in the State; and

“(ii) infrastructure in the State that is available to implement the pilot program under paragraph (1).”.

SEC. 202. FUNDING.

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by adding at the end the following:

“(c) Conservation Security Program.—Of the funds of the Commodity Credit Corporation, the Corporation shall make available for each of fiscal years 2002 through 2006 such sums as are necessary to carry out subchapter A of chapter 2 (including the provision of technical assistance).”.

SEC. 203. PARTNERSHIPS AND COOPERATION.

Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is amended by adding at the end the following:

“(f) Partnerships and Cooperation.—

“(1) In general.—In carrying out any program under subtitle D, the Secretary may designate special projects, as recommended by the State Conservationist, after consultation with the State technical committee, to enhance technical and financial assistance provided to owners, operators, and producers to address environmental issues affected by agricultural production with respect to—

“(A) meeting the purposes of—

“(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or comparable State laws in impaired or threatened watersheds;

“(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or comparable State laws in watersheds providing water for drinking water supplies; or

“(iii) the Clean Air Act (42 U.S.C. 7401 et seq.) or comparable State laws; or

“(B) watersheds of special significance, conservation priority areas described in section 1230(c), or other geographic areas of environmental sensitivity, such as wetland, including State or multi-State projects—

“(i) to facilitate surface and ground water conservation;

“(ii) to protect water quality;

“(iii) to protect endangered or threatened species or habitat, such as conservation corridors;

“(iv) to improve methods of irrigation;

“(v) to convert acreage from irrigated production; or

“(vi) to reduce nutrient loads of watersheds.”.

“(2) Incentives.—To realize the purposes of the special projects under paragraph (1), the Secretary may provide incentives to owners, operators, and producers participating in the special projects to encourage partnerships, enrollments of exceptional environmental value, and sharing of technical and financial resources among owners, operators, and producers and among owners, operators, and producers and governmental and nongovernmental organizations.

“(3) Flexibility.—

“(A) In general.—The Secretary may enter into agreements with States (including State agencies and units of local government) and nongovernmental organizations to allow greater flexibility to adjust the application of eligibility criteria, approved practices, innovative conservation practices, and other elements of the programs under this title to better reflect unique local circumstances and purposes in a manner that is consistent with—

“(i) environmental enhancement and long-term sustainability of the natural resource base; and

“(ii) the purposes of this title.

“(B) Plan.—Each party to an agreement under subparagraph (A) shall submit to the Secretary, for approval by the Secretary, a special project area or priority area program plan for each program to be carried out by the party that includes—

“(i) a description of the proposed adjustments to program implementation (including a description of how those adjustments will accelerate the achievement of environmental benefits);

“(ii) an analysis of the contribution those adjustments will make to the effectiveness of programs in achieving the purposes of the special project or priority area program;

“(iii) a timetable for reevaluating the need for or performance of the proposed adjustments;

“(iv) a description of non-Federal programs and resources that will contribute to achieving the purposes of the special project or priority area program; and

“(v) a plan for regular monitoring, evaluation, and reporting of progress toward the purposes of the special project or priority area program.

“(4) Purposes of special projects.—The Secretary may carry out special projects, the purposes of which are to encourage—

“(A) producers to cooperate in the installation and maintenance of conservation systems that affect multiple agricultural operations;

“(B) the sharing of information and technical and financial resources;

“(C) cumulative environmental benefits across operations of producers; and

“(D) the development and demonstration of innovative conservation methods.

“(5) FUNDING.—

“(A) IN GENERAL.—In addition to resources from programs under subtitle D, subject to subparagraph (B), the Secretary shall use 5 percent of the funds made available for each fiscal year under section 1241(b) to carry out activities that are authorized under the environmental quality incentives program established under chapter 4 of subtitle D.

“(B) UNUSED FUNDING.—Any funds made available for a fiscal year under subparagraph (A) that are not obligated by April 1 of the fiscal year may be used to carry out other activities under the environmental quality incentives program during the fiscal year in which the funding becomes available.”.

SEC. 204. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended by adding at the end the following:

“SEC. 1244. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

“(a) GOOD FAITH RELIANCE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, except as provided in paragraph (4), the Secretary shall provide equitable relief to an owner, operator, or producer that has entered into a contract under a conservation program administered by the Secretary, and that is subsequently determined to be in violation of the contract, if the owner, operator, or producer, in attempting to comply with the terms of the contract and enrollment requirements—

“(A) took actions in good faith reliance on the action or advice of an employee of the Secretary; and

“(B) had no knowledge that the actions taken were in violation of the contract.

“(2) TYPES OF RELIEF.—The Secretary shall—

“(A) to the extent the Secretary determines that an owner, operator, or producer has been injured by good faith reliance described in paragraph (1), allow the owner, operator, or producer—

“(i) to retain payments received under the contract;

“(ii) to continue to receive payments under the contract;

“(iii) to keep all or part of the land covered by the contract enrolled in the applicable program;

“(iv) to reenroll all or part of the land covered by the contract in the applicable program; or

“(v) to receive any other equitable relief the Secretary considers appropriate; and

“(B) require the owner, operator, or producer to take such actions as are necessary to remedy any failure to comply with the contract.

“(3) RELATIONSHIP TO OTHER LAW.—The authority to provide relief under this subsection shall be in addition to any other authority provided in this or any other Act.

“(4) EXCEPTIONS.—This section shall not apply to—

“(A) any pattern of conduct in which an employee of the Secretary takes actions or provides advice with respect to an owner, operator, or producer that the employee and the owner, operator, or producer know are inconsistent with applicable law (including regulations); or

“(B) an owner, operator, or producer takes any action, independent of any advice or authorization provided by an employee of the Secretary, that the owner, operator, or producer knows or should have known to be inconsistent with applicable law (including regulations).

“(5) APPLICABILITY OF RELIEF.—Relief under this section shall be available for contracts in effect on or after the date of enactment of this section.

“(b) EDUCATION, OUTREACH, MONITORING, AND EVALUATION.—In carrying out any conservation program administered by the Secretary, the Secretary—

“(1) shall provide education, outreach, training, monitoring, evaluation, technical assistance, and related services to agricultural producers (socially disadvantaged agricultural producers, beginning farmers and ranchers, Indian tribes (as those terms are defined in section 1238), and limited resource agricultural producers);

“(2) may enter into contracts with States (including State agencies and units of local government), private nonprofit, community-based organizations, and educational institutions with demonstrated experience in providing the services described in paragraph (1), to provide those services; and

“(3) shall use such sums as are necessary from funds of the Commodity Credit Corporation to carry out activities described in paragraphs (1) and (2).

“(c) BEGINNING FARMERS AND RANCHERS AND INDIAN TRIBES.—In carrying out any conservation program administered by the Secretary, the Secretary may provide to beginning farmers and ranchers and Indian tribes (as those terms are defined in section 1238) and limited resource agricultural producers incentives to participate in the conservation program to—

“(1) foster new farming opportunities; and

“(2) enhance environmental stewardship over the long term.

“(d) PROGRAM EVALUATION.—The Secretary shall maintain data concerning conservation security plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under conservation programs administered by the Secretary.

“(e) MEDIATION AND INFORMAL HEARINGS.—If the Secretary makes a decision under a conservation program administered by the Secretary that is adverse to an owner, operator, or producer, at the request of the owner, operator, or producer, the Secretary shall provide the owner, operator, or producer with mediation services or an informal hearing on the decision.

“(f) TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—Under any conservation program administered by the Secretary, subject to paragraph (2), technical assistance provided by persons certified under paragraph (3) (including farmers and ranchers) may include—

“(A) conservation planning;

“(B) design, installation, and certification of conservation practices;

“(C) conservation training for producers; and

“(D) such other conservation activities as the Secretary determines to be appropriate.

“(2) OUTSIDE ASSISTANCE.—

“(A) IN GENERAL.—The Secretary may contract directly with qualified persons not employed by the Department to provide conservation technical assistance.

“(B) PAYMENT BY SECRETARY.—Subject to subparagraph (C), the Secretary may provide a payment to an owner, operator, or producer enrolled in a conservation program administered by the Secretary if the owner, operator, or producer elects to obtain technical assistance from a person certified to provide technical assistance under this subsection.

“(C) NONPRIVATE PROVIDERS.—In determining whether to provide a payment under subparagraph (B) to a nonprivate provider, the Secretary shall provide a payment if the provision of the payment would result in an increase in the total amount of technical assistance available to producers, as determined by the Secretary.

“(3) CERTIFICATION OF PROVIDERS OF TECHNICAL ASSISTANCE.—

“(A) PROCEDURES.—

“(i) IN GENERAL.—The Secretary shall establish procedures for certifying persons not employed by the Department to provide technical assistance in planning, designing, or certifying activities to participate in any conservation program administered by the Secretary to agricultural producers and landowners participating, or seeking to participate, in conservation programs administered by the Secretary.

“(ii) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into a cooperative agreement with, a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or nongovernmental organization or person considered appropriate to assist in providing the technical assistance necessary to develop and implement conservation plans under this title.

“(B) STANDARDS.—The Secretary shall establish standards for the conduct of—

“(i) the certification process conducted by the Secretary; and

“(ii) periodic recertification by the Secretary of providers.

“(C) CERTIFICATION REQUIRED.—

“(i) IN GENERAL.—A provider may not provide to any producer technical assistance described in paragraph (3)(A)(i) unless the provider is certified by the Secretary.

“(ii) WAIVER.—The Secretary may exempt a provider from any requirement of this subparagraph if the Secretary determines that the provider has been certified or recertified to provide technical assistance through a program the standards of which meet or exceed standards established by the Secretary under subparagraph (B).

“(D) FEE.—

“(i) IN GENERAL.—In exchange for certification or recertification, a provider shall pay a fee to the Secretary in an amount determined by the Secretary.

“(ii) ACCOUNT.—A fee paid to the Secretary under clause (i) shall be—

“(I) credited to the account in the Treasury that incurs costs relating to implementing this subsection; and

“(II) made available to the Secretary for use for conservation programs administered by the Secretary, without further appropriation, until expended.

“(iii) WAIVER.—The Secretary may waive any requirement of any provider to pay a fee under this subparagraph if the provider qualifies for a waiver under subparagraph (C)(ii).

“(E) OTHER REQUIREMENTS.—The Secretary may establish such other requirements as the Secretary determines are necessary to carry out this subsection.

“(g) PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.—

“(1) INFORMATION RECEIVED FOR TECHNICAL AND FINANCIAL ASSISTANCE.—

“(A) IN GENERAL.—In accordance with section 1770 and section 552(b)(3) of title 5, United States Code, except as provided in subparagraph (C) and paragraph (3), information described in subparagraph (B)—

"(i) shall not be considered to be public information; and

"(ii) shall not be released to any person or Federal, State, local agency or Indian tribe (as defined in section 1238) outside the Department of Agriculture.

"(B) INFORMATION.—The information referred to in subparagraph (A) is information—

"(i) provided to, or developed by, the Secretary (including a contractor of the Secretary) for the purpose of providing technical or financial assistance to an owner, operator, or producer with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency; and

"(ii) that is proprietary to the agricultural operation or land that is a part of an agricultural operation of the owner, operator, or producer.

"(C) EXCEPTION.—Information compiled by the Secretary, such as a list of owners, operators, or producers that have received payments from the Secretary and the amounts received, shall be—

"(i) considered to be public information; and

"(ii) may be released to any—

"(I) person;

"(II) Indian tribe (as defined in section 1238); or

"(III) Federal, State, local agency outside the Department of Agriculture.

"(2) INVENTORY, MONITORING, AND SITE SPECIFIC INFORMATION.—Except as provided in paragraph (3) and notwithstanding any other provision of law, in order to maintain the personal privacy, confidentiality, and cooperation of owners, operators, and producers, and to maintain the integrity of sample sites, the specific geographic locations of data gathering sites of the National Resources Inventory of the Department of Agriculture, and the information generated by those sites—

"(A) shall not be considered to be public information; and

"(B) shall not be released to any person or Federal, State, local, or tribal agency outside the Department.

"(3) EXCEPTIONS.—

"(A) RELEASE AND DISCLOSURE FOR ENFORCEMENT.—The Secretary may release or disclose to the Attorney General information covered by paragraph (1) or (2) to the extent necessary to enforce the natural resources conservation programs referred to in paragraph (1).

"(B) DISCLOSURE TO COOPERATING PERSONS AND AGENCIES.—

"(i) IN GENERAL.—The Secretary may release or disclose information covered by paragraph (1) or (2) to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in providing technical and financial assistance described in paragraph (1)(B)(i) or collecting information from National Resources Inventory data gathering sites.

"(ii) USE OF INFORMATION.—The person or Federal, State, local, or tribal agency that receives information described in clause (i) may release the information only for the purpose of assisting the Secretary—

"(I) in providing the requested technical or financial assistance; or

"(II) in collecting information from National Resources Inventory data gathering sites.

"(C) STATISTICAL AND AGGREGATE INFORMATION.—Information covered by paragraph (1) or (2) may be disclosed to the public if the information has been transformed into a statistical or aggregate form that does not allow the identification of any—

"(i) individual owner, operator, or producer; or

"(ii) specific data gathering site.

"(D) CONSENT OF OWNER, OPERATOR, OR PRODUCER.—

"(i) IN GENERAL.—An owner, operator, or producer may consent to the disclosure of information described in paragraph (1) or (2).

"(ii) CONDITION OF OTHER PROGRAMS.—The participation of the owner, operator, or producer in, and the receipt of any benefit by the owner, operator, or producer under, this title or any other program administered by the Secretary may not be conditioned on the owner, operator, or producer providing consent under this paragraph.

"(4) VIOLATIONS; PENALTIES.—Section 1770(c) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this subsection.

"(h) INDIAN TRIBES.—In carrying out any conservation program administered by the Secretary on land under the jurisdiction of an Indian tribe (as defined in section 1238), the Secretary shall cooperate with the tribal government of the Indian tribe to ensure, to the maximum extent practicable, that the program is administered in a fair and equitable manner.".

SEC. 205. REFORM AND ASSESSMENT OF CONSERVATION PROGRAMS.

(a) IN GENERAL.—The Secretary of Agriculture shall develop a plan for—

(1) coordinating conservation programs administered by the Secretary that are targeted at agricultural land to—

(A) eliminate redundancy; and

(B) improve delivery;

(2) to the maximum extent practicable—

(A) designing forms that are applicable to all conservation programs administered by the Secretary;

(B) reducing and consolidating paperwork requirements for the programs;

(C) developing universal classification systems for all information obtained on the forms that can be used by other agencies of the Department of Agriculture;

(D) ensuring that the information and classification systems developed under this paragraph can be shared with other agencies of the Department through computer technologies used by agencies; and

(E) developing 1 format for a conservation plan that can be applied to all conservation programs targeted at agricultural land; and

(3) to the maximum extent practicable, improving the delivery of conservation programs to Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), including programs for the delivery of conservation programs to Indian tribes under plans carried out in conjunction with the Secretary of the Interior.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the plan developed under subsection (a), including any recommendations for implementation of the plan.

(c) NATIONAL CONSERVATION PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan and estimated budget for implementing the appraisal of the soil, water, and related resources of the United States contained in the national conservation program under sections 5 and 6 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004, 2005) as the primary vehicle for managing conservation on agricultural land in the United States.

(2) REPORT ON IMPLEMENTATION.—Not later than April 30, 2005, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(A) describes the status of the implementation of the plan described in paragraph (1);

(B) contains an evaluation of the scope, quality, and outcomes of the conservation practices carried out under the plan; and

(C) makes recommendations for achieving specific and quantifiable improvements for the purposes of programs covered by the plan.

(d) CONSERVATION PRACTICE STANDARDS.—The Secretary of Agriculture shall—

(1) revise standards and, if necessary, establish standards, for eligible conservation practices to include measurable goals for enhancing natural resources, including innovative practices;

(2) not later than 180 days after the date of enactment of this Act, revise the National Handbook of Conservation Practices and field office technical guides of the Natural Resources Conservation Service; and

(3) not less frequently than once every 5 years, update the Handbook and technical guides.

SEC. 206. CONSERVATION SECURITY PROGRAM REGULATIONS.

Beginning on the date of enactment of this Act, the Secretary of Agriculture may promulgate regulations and carry out other actions relating to the implementation of the conservation security program under subchapter A of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (as added by section 201).

SEC. 207. CONFORMING AMENDMENTS.

(a) Chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended in the chapter heading by striking "**ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM**" and inserting "**COMPREHENSIVE CONSERVATION ENHANCEMENT PROGRAM**".

(b) Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended—

(1) in the section heading, by striking "**ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM**" and inserting "**COMPREHENSIVE CONSERVATION ENHANCEMENT PROGRAM**";

(2) in subsection (a)(1), by striking "an environmental conservation acreage reserve program" and inserting "a comprehensive conservation enhancement program"; and

(3) by striking "ECARP" each place it appears and inserting "CCEP".

(c) Section 1230A of the Food Security Act of 1985 (16 U.S.C. 3830a) is repealed.

(d) Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is amended by striking the section heading and inserting the following:

"SEC. 1243. ADMINISTRATION OF CCEP.".

Subtitle B—Program Extensions

SEC. 211. COMPREHENSIVE CONSERVATION ENHANCEMENT PROGRAM.

(a) In General.—Section 1230(a) of the Food Security Act of 1985 (16 U.S.C. 3830(a)) is amended—

(1) in paragraph (1), by striking "2002" and inserting "2006"; and

(2) in paragraph (3)—

(A) in subparagraph (B), by striking "and" at the end; and

(B) by striking subparagraph (C) and inserting the following:

"(C) the grassland reserve program established under subchapter C of chapter 2;

"(D) the environmental quality incentives program established under chapter 4;

"(E) the wildlife habitat incentive program established under section 1240M; and

"(F) the program for conservation of private grazing land established under section 1240P.".

(b) Priority.—Section 1230(c) of the Food Security Act of 1985 (16 U.S.C. 3830(c)) is amended by adding at the end the following:

"(4) Priority.—In designating conservation priority areas under paragraph (1), the Secretary shall give priority to areas in which designated land would facilitate the most rapid completion of projects that—

"(A) are ongoing as of the date of the application; and

"(B) meet the purposes of a program established under this title.".

(c) Funding.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended—

(1) by striking "2002" and inserting "2006";

(2) by inserting "(including the provision of technical assistance)" after "the programs";

(3) in paragraph (2)—

(A) by striking "subchapter C" and inserting "subchapters C and D"; and

(B) by striking "and" at the end;

(4) in paragraph (3), by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following:

"(4) chapter 6 of subtitle D.".

SEC. 212. CONSERVATION RESERVE PROGRAM.

(a) Reauthorization.—

(1) In general.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended in subsections (a), (b)(3), and (d), by striking "2002" each place it appears and inserting "2006".

(2) Duties of owners and operators.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking "2002" and inserting "2006".

(b) Conservation Priority Areas.—

(1) Eligibility.—Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) highly erodible cropland that—

"(A)(i) if permitted to remain untreated could substantially reduce the production capability for future generations; or

"(ii) cannot be farmed in accordance with a conservation plan that complies with the requirements of subtitle B; and

"(B) the Secretary determines had a cropping history or was considered to be planted for 3 of the 6 years preceding the date of enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001 (except for land enrolled in the conservation reserve program as of that date);"; and

(B) by adding at the end the following:

"(5) the portion of land in a field not enrolled in the conservation reserve in a case in which more than 50 percent of the land in the field is enrolled as a buffer under a program described in paragraph (6)(A), if the land is enrolled as part of the buffer; and

"(6) land (including land that is not cropland) enrolled through continuous signup—

"(A) to establish conservation buffers as part of the program described in a notice issued on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; or

"(B) into the conservation reserve enhancement program described in a notice issued on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.".

(2) CRP priority areas.—Section 1231(f) of the Food Security Act of 1985 (16 U.S.C. 3831(f)) is amended by adding at the end the following:

"(5) Priority.—In designating conservation priority areas under paragraph (1), the Secretary shall give priority to areas in which designated land would facilitate the most rapid completion of projects that—

"(A) are ongoing as of the date of the application; and

"(B) meet the purposes of the program established under this subchapter.".

(c) Maximum Enrollment.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended by striking "36,400,000" and inserting "41,100,000".

(d) Duration of Contracts; Hardwood Trees.—Section 1231(e)(2) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(2)) is amended—

(1) by striking "In the" and inserting the following:

"(A) In general.—In the";

(2) by striking "The Secretary" and inserting the following:

"(B) Existing hardwood tree contracts.—The Secretary"; and

"(3) by adding at the end the following:

"(C) Extension of hardwood tree contracts.—

"(i) In general.—In the case of land devoted to hardwood trees under a contract entered into under this subchapter before the date of enactment of this subparagraph, the Secretary may extend the contract for a term of not more than 15 years.

"(ii) Rental payments.—The amount of a rental payment for a contract extended under clause (i)—

"(I) shall be determined by the Secretary; but

"(II) shall not exceed 50 percent of the rental payment that was applicable to the contract before the contract was extended.".

(e) Pilot Program for Enrollment of Wetland and Buffer Acreage in Conservation Reserve.—Section 1231(h) of the Food Security Act of 1985 (16 U.S.C. 3831(h)) is amended—

(1) in the subsection heading, by striking "Pilot";

(2) in paragraph (1), by striking "During the 2001 and 2002 calendar years, the Secretary shall carry out a pilot program" and inserting "During the 2002 through 2006 calendar years, the Secretary shall carry out a program";

(3) in paragraph (2), by striking "pilot"; and

(4) in paragraph (3)(D)(i), by striking "5 contiguous acres." and inserting "10 contiguous acres, of which—

"(I) not more than 5 acres shall be eligible for payment; and

"(II) all acres (including acres that are ineligible for payment) shall be covered by the conservation contract.".

(f) Irrigated Land.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end the following:

"(i) Irrigated Land.—Irrigated land shall be enrolled in the programs described in subsection (b)(6) at irrigated land rates unless the Secretary determines that other compensation is appropriate.".

(g) Vegetative Cover; Haying and Grazing; Wind Turbines.—Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by inserting "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(C) in the case of marginal pasture land, an owner or operator shall not be required to plant trees if the land is to be restored—

"(i) as wetland; or

"(ii) with appropriate native riparian vegetation;";

(2) in paragraph (7)—

(A) by striking "except that the Secretary—" and inserting "except that—";

(B) in subparagraph (A)—

(i) by striking "(A) may" and inserting "(A) the Secretary may"; and

(ii) by striking "and" at the end;

(C) in subparagraph (B)—

(i) by striking "(B) shall" and inserting "(B) the Secretary shall"; and

(ii) by striking the period at the end and inserting a semicolon;

(D) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(D) for maintenance purposes, the Secretary may permit harvesting or grazing or other commercial uses of forage, in a manner that is consistent with the purposes of this subchapter and a conservation plan approved by the Secretary, on acres enrolled—

"(i) to establish conservation buffers as part of the program described in a notice issued on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; and

"(ii) into the conservation reserve enhancement program described in a notice issued on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.";

(3) in paragraph (9), by striking "and" at the end;

(4) by redesignating paragraph (10) as paragraph (11); and

(5) by inserting after paragraph (9) the following:

"(10) with respect to any contract entered into after the date of enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001—

"(A) not to produce a crop for the duration of the contract on any other highly erodible land that the owner or operator owns unless the highly erodible land—

"(i) has a history of being used to produce a crop other than a forage crop, as determined by the Secretary; or

"(ii) is being used as a homestead or building site at the time of purchase; and

"(B) on a violation of a contract described in subparagraph (A), to be subject to the requirements of paragraph (5); and".

(h) Wind Turbines.—Section 1232 of the Food Security Act of 1985 (8906 U.S.C. 3832) is amended by adding at the end the following:

"(f) Wind Turbines.—

"(1) In general.—Subject to paragraph (2), the Secretary may permit an owner or operator of land that is enrolled in the conservation reserve program, but that is not enrolled under continuous signup (as described in section 1231(b)(6)), to install wind turbines on the land.

"(2) Number; location.—The Secretary shall determine the number and location of wind turbines that may be installed on a tract of land under paragraph (1), taking into account—

"(A) the location, size, and other physical characteristics of the land;

"(B) the extent to which the land contains wildlife and wildlife habitat; and

"(C) the purposes of the conservation reserve program.

"(3) PAYMENT LIMITATION.—Notwithstanding the amount of a rental payment limited by section 1234(c)(2) and specified in a contract entered into under this chapter, the Secretary shall reduce the amount of the rental payment paid to an owner or operator of land on which 1 or more wind turbines are installed under this subsection by an amount determined by the Secretary to be commensurate with the value of the reduction of benefit gained by enrollment of the land in the conservation reserve program.".

(i) ADDITIONAL ELIGIBLE PRACTICES.—Section 1234 of the Food Security Act of 1985 (16 U.S.C. 3834) is amended by adding at the end the following:

"(i) PAYMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide signing and practice incentive payments under the conservation reserve program to owners and operators that implement a practice under—

"(A) the program to establish conservation buffers described in a notice issued on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; or

"(B) the conservation reserve enhancement program described in a notice issued on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.

"(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.".

(j) PAYMENTS.—Section 1239C(f) of the Food Security Act of 1985 (16 U.S.C. 3839c(f)) is amended by adding at the end the following:

"(5) EXCEPTION.—Paragraph (1) shall not apply to any land enrolled in—

"(A) the program to establish conservation buffers described in a notice issued on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; or

"(B) the conservation reserve enhancement program described in a notice issued on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.".

(k) COUNTY PARTICIPATION.—Section 1243(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3843(b)(1)) is amended by striking "The Secretary" and inserting "Except for land enrolled under continuous signup (as described in section 1231(b)(6)), the Secretary".

(l) STUDY ON ECONOMIC EFFECTS.—Not later than 270 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the economic effects on rural communities resulting from the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

SEC. 213. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) IN GENERAL.—Chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) is amended to read as follows:

"SEC. 1240. PURPOSES.

"The purposes of the environmental quality incentives program established by this chapter are to promote agricultural production and environmental quality as compatible national goals, and to maximize environmental benefits per dollar expended, by—

"(1) assisting producers in complying with—

"(A) this title;

"(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(C) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

"(D) the Clean Air Act (42 U.S.C. 7401 et seq.); and

"(E) other Federal, State, and local environmental laws (including regulations);

"(2) avoiding, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, and local agencies;

"(3) providing flexible technical and financial assistance to producers to install and maintain conservation systems that enhance soil, water, related natural resources (including grazing land and wetland), and wildlife while sustaining production of food and fiber;

"(4) assisting producers to make beneficial, cost effective changes to cropping systems, grazing management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural land;

"(5) facilitating partnerships and joint efforts among producers and governmental and nongovernmental organizations; and

"(6) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals.

"SEC. 1240A. DEFINITIONS.

"In this chapter:

"(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning provided under section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999(a)).

"(2) COMPREHENSIVE NUTRIENT MANAGEMENT.—

"(A) IN GENERAL.—The term 'comprehensive nutrient management' means any combination of structural practices, land management practices, and management activities associated with crop or livestock production described in subparagraph (B) that collectively ensure that the purposes of crop or livestock production and preservation of natural resources (especially the preservation and enhancement of water quality) are compatible.

"(B) ELEMENTS.—For the purpose of subparagraph (A), structural practices, land management practices, and management activities associated with livestock production are—

"(i) manure and wastewater handling and storage;

"(ii) manure processing, composting, or digestion for purposes of capturing emissions, concentrating nutrients for transport, destroying pathogens or otherwise improving the environmental safety and beneficial uses of manure;

"(iii) land treatment practices;

"(iv) nutrient management;

"(v) recordkeeping;

"(vi) feed management; and

"(vii) other waste utilization options.

"(C) PRACTICE.—

"(i) PLANNING.—The development of a comprehensive nutrient management plan shall be a practice that is eligible for incentive payments and technical assistance under this chapter.

"(ii) IMPLEMENTATION.—The implementation of a comprehensive nutrient plan shall be accomplished through structural and land management practices identified in the plan.

"(3) ELIGIBLE LAND.—The term 'eligible land' means agricultural land (including cropland, grassland, rangeland, pasture, private nonindustrial forest land, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(4) INNOVATIVE TECHNOLOGY.—The term 'innovative technology' means a new conservation technology that, as determined by the Secretary—

"(A) maximizes environmental benefits;

"(B) complements agricultural production; and

"(C) may be adopted in a practical manner.

"(5) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, air quality management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect from degradation, in the most cost-effective manner, water, soil, or related resources.

"(6) LIVESTOCK.—The term 'livestock' means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as are determined by the Secretary.

"(7) MANAGED GRAZING.—The term 'managed grazing' means the application of 1 or more practices that involve the frequent rotation of animals on grazing land to—

"(A) enhance plant health;

"(B) limit soil erosion;

"(C) protect ground and surface water quality; or

"(D) benefit wildlife.

"(8) MAXIMIZE ENVIRONMENTAL BENEFITS PER DOLLAR EXPENDED.—

"(A) IN GENERAL.—The term 'maximize environmental benefits per dollar expended' means to maximize environmental benefits to the extent the Secretary determines is practicable and appropriate, taking into account the amount of funding made available to carry out this chapter.

"(B) LIMITATION.—The term 'maximize environmental benefits per dollar expended' does not require the Secretary—

"(i) to require the adoption of the least cost practice or technical assistance; or

"(ii) to require the development of a plan under section 1240E as part of an application for payments or technical assistance.

"(9) PRACTICE.—The term 'practice' means 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices.

"(10) PRODUCER.—

"(A) IN GENERAL.—The term 'producer' means an owner, operator, landlord, tenant, or sharecropper that—

"(i) shares in the risk of producing any crop or livestock; and

"(ii) is entitled to share in the crop or livestock available for marketing from a farm (or would have shared had the crop or livestock been produced).

"(B) Hybrid seed growers.—In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

"(11) Program.—The term 'program' means the environmental quality incentives program comprised of sections 1240 through 1240J.

"(12) Structural practice.—The term 'structural practice' means—

"(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, constructed wetland, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

"(B) the capping of abandoned wells on eligible land.

"SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) Establishment.—

"(1) In general.—During each of the 2002 through 2006 fiscal years, the Secretary shall provide technical assistance, cost-share payments, and incentive payments to producers that enter into contracts with the Secretary under the program.

"(2) Eligible practices.—

"(A) Structural practices.—A producer that implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

"(B) Land management practices.—A producer that performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

"(C) Comprehensive nutrient management planning.—A producer that develops a comprehensive nutrient management plan shall be eligible for any combination of technical assistance, incentive payments, and education.

"(3) Education.—The Secretary may provide conservation education at national, State, and local levels consistent with the purposes of the program to—

"(A) any producer that is eligible for assistance under the program; or

"(B) any producer that is engaged in the production of an agricultural commodity.

"(b) Application and Term.—With respect to practices implemented under the program—

"(1) a contract between a producer and the Secretary may—

"(A) apply to 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices; and

"(B) have a term of not less than 3, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract; and

"(2) a producer may not enter into more than 1 contract for structural practices involving livestock nutrient management during the period of fiscal years 2002 through 2006.

"(c) Application and Evaluation.—

"(1) In general.—The Secretary shall establish an application and evaluation process for awarding technical assistance, cost-share payments, and incentive payments to a producer in exchange for the performance of 1 or more practices that maximize environmental benefits per dollar expended.

"(2) Comparable environmental value.—

"(A) In general.—The Secretary shall establish a process for selecting applications for technical assistance, cost-share payments, and incentive payments in any case in which there are numerous applications for assistance for practices that would provide substantially the same level of environmental benefits.

"(B) Criteria.—The process under subparagraph (A) shall be based on—

"(i) a reasonable estimate of the projected cost of the proposals described in the applications; and

"(ii) the priorities established under the program, and other factors, that maximize environmental benefits per dollar expended.

"(3) Consent of owner.—If the producer making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the consent of the owner of the land with respect to the offer.

"(4) Bidding down.—If the Secretary determines that the environmental values of 2 or more applications for technical assistance, cost-share payments, or incentive payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program established under the program.

"(d) Cost-Share Payments.—

"(1) In general.—Except as provided in paragraph (2), the cost-share payments provided to a producer proposing to implement 1 or more practices under the program shall be not more than 75 percent of the cost of the practice, as determined by the Secretary.

"(2) Exceptions.—

"(A) Limited resource and beginning farmers.—The Secretary may increase the amount provided to a producer under paragraph (1) to not more than 90 percent if the producer is a limited resource or beginning farmer or rancher, as determined by the Secretary.

"(B) Cost-share assistance from other sources.—Except as provided in paragraph (3), any cost-share payments received by a producer from a State or private organization or person for the implementation of 1 or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under paragraph (1).

"(3) Other payments.—A producer shall not be eligible for cost-share payments for practices on eligible land under the program if the producer receives cost-share payments or other benefits for the same practice on the same land under chapter 1 and the program.

"(e) Incentive Payments.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more practices.

"(f) Technical Assistance.—

"(1) In general.—The Secretary shall allocate funding under the program for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year.

"(2) Amount.—The allocated amount may vary according to—

"(A) the type of expertise required;

"(B) the quantity of time involved; and

"(C) other factors as determined appropriate by the Secretary.

"(3) Limitation.—Funding for technical assistance under the program shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

"(4) Other authorities.—The receipt of technical assistance under the program shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

"(5) Incentive payments for technical assistance.—

"(A) In general.—A producer that is eligible to receive technical assistance for a practice involving the development of a comprehensive nutrient management plan may obtain an incentive payment that can be used to obtain technical assistance associated with the development of any component of the comprehensive nutrient management plan.

"(B) Purpose.—The purpose of the payment shall be to provide a producer the option of obtaining technical assistance for developing any component of a comprehensive nutrient management plan from a certified provider.

"(C) Payment.—The incentive payment shall be—

"(i) in addition to cost-share or incentive payments that a producer would otherwise receive for structural practices and land management practices;

"(ii) used only to procure technical assistance from a certified provider that is necessary to develop any component of a comprehensive nutrient management plan; and

"(iii) in an amount determined appropriate by the Secretary, taking into account—

"(I) the extent and complexity of the technical assistance provided;

"(II) the costs that the Secretary would have incurred in providing the technical assistance; and

"(III) the costs incurred by the private provider in providing the technical assistance.

"(D) Eligible practices.—The Secretary may determine, on a case by case basis, whether the development of a comprehensive nutrient management plan is eligible for an incentive payment under this paragraph.

"(E) Certification by secretary.—

"(i) In general.—Only persons that have been certified by the Secretary under section 1244(f)(3) shall be eligible to provide technical assistance under this subsection.

"(ii) Quality assurance.—The Secretary shall ensure that certified providers are capable of providing technical assistance regarding comprehensive nutrient management in a manner that meets the specifications and guidelines of the Secretary and that meets the needs of producers under the program.

"(F) Advance payment.—On the determination of the Secretary that the proposed comprehensive nutrient management of a producer is eligible for an incentive payment, the producer may receive a partial advance of the incentive payment in order to procure the services of a certified provider.

"(G) Final payment.—The final installment of the incentive payment shall be payable to a producer on presentation to the Secretary of documentation that is satisfactory to the Secretary and that demonstrates—

"(i) completion of the technical assistance; and

"(ii) the actual cost of the technical assistance.

"(g) Modification or Termination of Contracts.—

"(1) Voluntary modification or termination.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

"(A) the producer agrees to the modification or termination; and

‘‘(B) the Secretary determines that the modification or termination is in the public interest.

‘‘(2) Involuntary termination.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

“SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

‘‘(a) In General.—In evaluating applications for technical assistance, cost-share payments, and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

‘‘(1) maximize environmental benefits per dollar expended; and

‘‘(2)(A) address national conservation priorities, including—

‘‘(i) meeting Federal, State, and local environmental purposes focused on protecting air and water quality;

‘‘(ii) comprehensive nutrient management;

‘‘(iii) water quality, particularly in impaired watersheds;

‘‘(iv) soil erosion;

‘‘(v) air quality; or

‘‘(vi) pesticide and herbicide management or reduction;

‘‘(B) are provided in conservation priority areas established under section 1230(c);

‘‘(C) are provided in special projects under section 1243(f)(4) with respect to which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes; or

‘‘(D) an innovative technology in connection with a structural practice or land management practice.

“SEC. 1240D. DUTIES OF PRODUCERS.

‘‘To receive technical assistance, cost-share payments, or incentive payments under the program, a producer shall agree—

‘‘(1) to implement an environmental quality incentives program plan that describes conservation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary;

‘‘(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of the program;

‘‘(3) on the violation of a term or condition of the contract at any time the producer has control of the land—

‘‘(A) if the Secretary determines that the violation warrants termination of the contract—

‘‘(i) to forfeit all rights to receive payments under the contract; and

‘‘(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the contract, including any interest on the payments, as determined by the Secretary; or

‘‘(B) if the Secretary determines that the violation does not warrant termination of the contract, to refund to the Secretary, or accept adjustments to, the payments provided to the owner or operator, as the Secretary determines to be appropriate;

‘‘(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under the program, as determined by the Secretary;

‘‘(5) to supply information as required by the Secretary to determine compliance with the program plan and requirements of the program; and

‘‘(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the program plan.

“SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

‘‘(a) In General.—To be eligible to receive technical assistance, cost-share payments, or incentive payments under the program, a producer of a livestock or agricultural operation shall submit to the Secretary for approval a plan of operations that specifies practices covered under the program, and is based on such terms and conditions, as the Secretary considers necessary to carry out the program, including a description of the practices to be implemented and the purposes to be met by the implementation of the plan.

‘‘(b) Avoidance of duplication.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the program and comparable conservation programs.

“SEC. 1240F. DUTIES OF THE SECRETARY.

‘‘To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of a program plan by—

‘‘(1) providing technical assistance in developing and implementing the plan;

‘‘(2) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more practices, as appropriate;

‘‘(3) providing the producer with information, education, and training to aid in implementation of the plan; and

‘‘(4) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

“SEC. 1240G. LIMITATION ON PAYMENTS.

‘‘(a) In General.—An individual or entity may not receive, directly or indirectly, payments under the program that exceed—

‘‘(1) $50,000 for any fiscal year; or

‘‘(2) $150,000 for any multiyear contract.

‘‘(b) Verification.—The Secretary shall identify individuals and entities that are eligible for a payment under the program using social security numbers and taxpayer identification numbers, respectively.

“SEC. 1240H. CONSERVATION INNOVATION GRANTS.

‘‘(a) In General.—From funds made available to carry out the program, for each of the 2003 through 2006 fiscal years, the Secretary shall use not more than $100,000,000 for each fiscal year to pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging Federal investment in environmental enhancement and protection, in conjunction with agricultural production, through the program.

‘‘(b) Use.—The Secretary may award grants under this section to governmental and nongovernmental organizations and persons, on a competitive basis, to carry out projects that—

‘‘(1) involve producers that are eligible for payments or technical assistance under the program;

‘‘(2) implement innovative projects, such as—

‘‘(A) market systems for pollution reduction;

‘‘(B) promoting agricultural best management practices, including the storing of carbon in the soil;

‘‘(C) protection of source water for human consumption; and

‘‘(D) reducing nutrient loss through the reduction of nutrient inputs by an amount that is at least 15 percent less than the established agronomic application rate, as determined by the Secretary; and

‘‘(3) leverage funds made available to carry out the program with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production.

‘‘(c) Cost Share.—The amount of a grant made under this section to carry out a project shall not exceed 50 percent of the cost of the project.

‘‘(d) Unused Funding.—Any funds made available for a fiscal year under this section that are not obligated by April 1 of the fiscal year may be used to carry out other activities under this chapter during the fiscal year in which the funding becomes available.

“SEC. 1240I. SOUTHERN HIGH PLAINS AQUIFER GROUNDWATER CONSERVATION.

‘‘(a) Definitions.—In this section:

‘‘(1) Eligible activity.—

‘‘(A) In general.—The term ‘eligible activity’ means an activity carried out to conserve groundwater.

‘‘(B) Inclusions.—The term ‘eligible activity’ includes an activity to—

‘‘(i) improve an irrigation system;

‘‘(ii) reduce the use of water for irrigation (including changing from high-water intensity crops to low-water intensity crops); or

‘‘(iii) convert from farming that uses irrigation to dryland farming.

‘‘(2) Southern high plains aquifer.—The term ‘Southern High Plains Aquifer’ means the portion of the groundwater reserve under Kansas, New Mexico, Oklahoma, and Texas depicted as Figure 1 in the United States Geological Survey Professional Paper 1400–B, entitled ‘Geohydrology of the High Plains Aquifer in Parts of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming’.

‘‘(b) Conservation Measures.—

‘‘(1) In general.—Subject to paragraph (2), the Secretary shall provide cost-share payments, incentive payments, and groundwater education assistance to producers that draw water from the Southern High Plains Aquifer to carry out eligible activities.

‘‘(2) Limitations.—The Secretary shall provide a payment to a producer under this section only if the Secretary determines that the payment will result in a net savings in groundwater resources on the land of the producer.

‘‘(3) Cooperation.—In accordance with this subtitle, in providing groundwater education under this subsection, the Secretary shall cooperate with—

‘‘(A) States;

‘‘(B) land-grant colleges and universities;

‘‘(C) educational institutions; and

‘‘(D) private organizations.

‘‘(c) Funding.—

‘‘(1) In general.—Of the funds made available under section 1241(b)(1) to carry out the program, the Secretary shall use to carry out this section—

‘‘(A) $15,000,000 for fiscal year 2003;

‘‘(B) $25,000,000 for each of fiscal years 2004 and 2005;

‘‘(C) $35,000,000 for fiscal year 2006; and

‘‘(D) $0 for fiscal year 2007.

‘‘(2) Other funds.—Subject to paragraph (3), the funds made available under this subsection shall be in addition to any other funds provided under the program.

‘‘(3) Unused funding.—Any funds made available for a fiscal year under paragraph (1) that are not obligated by April 1 of the fiscal year shall be used to carry out other activities in other States under the program.

“SEC. 1240J. PILOT PROGRAMS.

‘‘(a) Drinking Water Suppliers Pilot Program.—

"(1) In general.—For each fiscal year, the Secretary may carry out, in watersheds selected by the Secretary, in cooperation with local water utilities, a pilot program to improve water quality.

"(2) Implementation.—The Secretary may select the watersheds referred to in paragraph (1), and make available funds (including funds for the provision of incentive payments) to be allocated to producers in partnership with drinking water utilities in the watersheds, if the drinking water utilities agree to measure water quality at such intervals and in such a manner as may be determined by the Secretary.

"(b) Nutrient Reduction Pilot Program.—

"(1) In general.—For each of fiscal years 2003 through 2006, the Secretary shall use funds made available to carry out the program, in the amounts specified in paragraph (3), in the Chesapeake Bay watershed to provide incentives for agricultural producers in each State to reduce negative effects on watersheds, including through the significant reduction in nutrient applications, as determined by the Secretary.

"(2) Payments.—Incentive payments made to a producer under paragraph (1) shall reflect the extent to which the producer reduces nutrient applications.

"(3) Funding.—

"(A) In general.—Of the amounts made available under section 1241(b) to carry out the program, the Secretary shall use to carry out this subsection—

"(i) $10,000,000 for fiscal year 2003;

"(ii) $15,000,000 for fiscal year 2004;

"(iii) $20,000,000 for fiscal year 2005;

"(iv) $25,000,000 for fiscal year 2006; and

"(v) $0 for fiscal year 2007.

"(B) Unexpended funds.—Any funds made available for a fiscal year under subparagraph (A) that are not obligated by April 1 of the fiscal year shall be used to carry out other activities outside the Chesapeake Bay watershed under this chapter.

"(c) Consistency With Watershed Plan.—In allocating funds for the pilot programs under subsections (a) and (b) and any other pilot programs carried out under the program, the Secretary shall take into consideration the extent to which an application for the funds is consistent with—

"(1) any applicable locally developed watershed plan; and

"(2) the factors established by section 1240C.

"(d) Contracts.—

"(1) In general.—In carrying out this section, in addition to other requirements under the program, the Secretary shall enter into contracts in accordance with this section with producers the activities of which affect water quality (including the quality of public drinking water supplies) to implement and maintain—

"(A) nutrient management;

"(B) pest management;

"(C) soil erosion practices; and

"(D) other conservation activities that protect water quality and human health.

"(2) Requirements.—A contract described in paragraph (1) shall—

"(A) describe the specific nutrient management, pest management, soil erosion, or other practices to be implemented, maintained, or improved;

"(B) contain a schedule of implementation for those practices;

"(C) to the maximum extent practicable, address water quality priorities of the watershed in which the operation is located; and

"(D) contain such other terms as the Secretary determines to be appropriate.".

(b) Funding.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by striking subsection (b) and inserting the following:

"(b) Environmental Quality Incentives Program.—Subject to section 241 of the Agriculture, Conservation, and Rural Enhancement Act of 2001, of the funds of the Commodity Credit Corporation, the Secretary shall make available to provide technical assistance, cost-share payments, incentive payments, bonus payments, grants, and education under the environmental quality incentives program under chapter 4 of subtitle D, to remain available until expended—

"(1) $500,000,000 for fiscal year 2002;

"(2) $1,300,000,000 for fiscal year 2003;

"(3) $1,450,000,000 for each of fiscal years 2004 and 2005;

"(4) $1,500,000,000 for fiscal year 2006; and

"(5) $850,00,000 for fiscal year 2007.".

(c) Reimbursements.—Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) is amended in the last sentence by inserting "but excluding transfers and allotments for conservation technical assistance" after "activities".

SEC. 214. WETLANDS RESERVE PROGRAM.

(a) Technical Assistance.—Section 1237(a) of the Food Security Act of 1985 (16 U.S.C. 3837(a)) is amended by inserting "(including the provision of technical assistance)" before the period at the end.

(b) Maximum Enrollment.—Section 1237(b) of the Food Security Act of 1985 (16 U.S.C. 3837(b)) is amended by striking paragraph (1) and inserting the following:

"(1) Maximum enrollment.—

"(A) In general.—The total number of acres enrolled in the wetlands reserve program shall not exceed 2,225,000 acres, of which, to the maximum extent practicable subject to subparagraph (B), the Secretary shall enroll 250,000 acres in each calendar year.

"(B) Wetlands reserve enhancement acreage.—Of the acreage enrolled under subparagraph (A) for a calendar year, not more than 25,000 acres may be enrolled in the wetlands reserve enhancement program described in subsection (h).".

(c) Reauthorization.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended by striking "2002" and inserting "2006".

(d) Wetlands Reserve Enhancement Program.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by adding at the end the following:

"(h) Wetlands Reserve Enhancement Program.—

"(1) In general.—Notwithstanding the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.), the Secretary may enter into cooperative agreements with State or local governments, and with private organizations, to develop, on land that is enrolled, or is eligible to be enrolled, in the wetland reserve established under this subchapter, wetland restoration activities in watershed areas.

"(2) Purpose.—The purpose of the agreements shall be to address critical environmental issues.

"(3) Relationship to other authorities.—Nothing in this subsection limits the authority of the Secretary to enter into a cooperative agreement with a party under which agreement the Secretary and the party—

"(A) share a mutual interest in the program under this subchapter; and

"(B) contribute resources to accomplish the purposes of that program.".

(e) Monitoring and Maintenance.—Section 1237C(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3837c(a)(2)) is amended by striking "assistance" and inserting "assistance (including monitoring and maintenance)".

SEC. 215. WATER CONSERVATION PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) is amended by adding at the end the following:

"CHAPTER 6—WATER CONSERVATION PROGRAM

"SEC. 1240R. DEFINITIONS.

"In this subchapter:

"(1) Eligible land.—The term 'eligible land' means any land the enrollment in the program of which will further the conservation of threatened and endangered species, or species which may become threatened or endangered if actions are not taken to conserve that species, and the habitat of such species.

"(2) Endangered species.—The term 'endangered species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(3) Landowner.—The term 'landowner' means an owner of eligible land.

"(4) Program.—The term 'program' means the water conservation program established under section 1240S(a).

"(5) Sensitive species.—The term 'sensitive species' has the meaning given the term 'candidate species' within the meaning of section 424.02(b) of title 50, Code of Federal Regulations (or a successor regulation) or a species which may become threatened or endangered if conservation actions are not taken to conserve that species.

"(6) Threatened species.—The term 'threatened species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(7) Water right.—The term 'water right' means any right or entitlement to water delivery that is—

"(A) exercised via contract, agreement, permit, license, or other arrangement; and

"(B) available for acquisition or transfer.

"SEC. 1240S. PROGRAM.

"(a) Establishment.—Effective for each of the 2003 through 2006 calendar years, the Secretary shall establish, and carry out the enrollment of eligible land described in subsection (b) through the use of contracts in, a water conservation program to provide for the acquisition and temporary transfer of water or water rights, or permanent acquisition of water or water rights, from willing sellers that would otherwise be entitled to use the water in accordance with a State-approved water right or a contract with the Secretary, or by other lawful means (including willing sellers in the San Francisco Bay-Delta, the Truckee-Carson Basin, and the Walker River Basin).

"(b) Enrollment of Eligible Land.—

"(1) CRP acreage limit.—The Secretary shall enroll in the program not more than 1,100,000 acres, which acreage shall count against the number of acres authorized to be enrolled in the conservation reserve program under section 1231(d).

"(2) Timing.—To the maximum extent practicable, an enrollment under paragraph (1) shall occur during the enrollment period for the conservation reserve program.

"(3) Priority in enrollment.—In enrolling eligible land in the program, the Secretary shall give priority to land with associated water or water rights that—

"(A) could be used to significantly advance the goals of Federal, State, Tribal and local fish, wildlife, and plant conservation plans, including—

"(i) plans that address multiple endangered species, sensitive species, or threatened species; or

"(ii) agreements entered into, or conservation plans submitted, under section 6 or 10(a)(2)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1535, 1539(a)(2)(A)), respectively; or

"(B) would benefit fish, wildlife, or plants of 1 or more refuges within the National Wildlife Refuge System.

"(4) ENROLLMENT AUTHORITY.—The priority system described in paragraph (3), and not the priority system and bidding system established by the Secretary under subchapter B of chapter 1, shall govern the enrollment of land in the program.

"SEC. 1240T. DURATION AND NATURE OF CONTRACTS.

"(a) IN GENERAL.—In enrolling eligible land in the program, the Secretary shall enter into a contract described in subparagraph (b) or (c), as appropriate, with a willing landowner.

"(b) TRANSFER OF WATER OR WATER RIGHTS.—In enrolling eligible land in the program, for the purpose of transferring water or water rights associated with eligible land or providing dry year options on such water or water rights, the Secretary shall, in accordance with the water law of the State in which eligible land sought to be enrolled is located—

"(1) except as provided in subsection (c), enter into a contract with the landowner for the transfer of those rights that has a term of not less than 1, nor more than 5, years; or

"(2) provide for a dry year option contract or other similar agreement that effectuates the purposes of this section.

"(c) PERMANENT ACQUISITION OF WATER OR WATER RIGHTS.—

"(1) IN GENERAL.—Subject to paragraph (2), in enrolling eligible land in the program, for the purpose of permanently acquiring water or water rights associated with the eligible land, the Secretary may enter into a contract or agreement for the acquisition of that water or those water rights with—

"(A) the landowner; and

"(B) to the extent that matching funds are provided for the acquisition of the water or water rights—

"(i) a State (including a political subdivision);

"(ii) a nonprofit organization; or

"(iii) an Indian tribe.

"(2) LIMITATION.—Of the acres of eligible land authorized to be enrolled in the program under section 1240S(b)(1)(A), not more than 200,000 acres may be enrolled for the permanent acquisition of water or water rights under paragraph (1).

"(d) TRANSFER OF PARTIAL WATER OR WATER RIGHTS.—A contract or agreement under this section may provide for the transfer or sale of a portion of the total acre-feet of water associated with land enrolled in the program if—

"(1) the landowner agrees in the contract or agreement to adopt a change in practice that reduces the use of water for agricultural purposes;

"(2) the transfer or sale meets the requirements of the program; and

"(3) the contract or agreement and the purchase price for enrollment of land in the program reflect the fact that only a portion of the water or water rights associated with the eligible land are being transferred or sold.

"SEC. 1240U. DUTIES OF LANDOWNERS.

"(a) IN GENERAL.—A landowner that is a party to a contract described in subsection (b) or (c) of section 1238B shall, in accordance with the contract—

"(1) agree to transfer to the Secretary water or water rights associated with enrolled eligible land;

"(2) agree to take no action that would interfere with the quantity or quality of water transferred or acquired under the contract; and

"(3) on violation of any term of the contract that the Secretary determines is of such a nature as to warrant termination of the contract—

"(A) forfeit all rights to receive payments under the contract; and

"(B) refund to the Secretary any payments received as of the date of the violation (including interest on the payments, as determined by the Secretary).

"(b) TRANSFER OF ELIGIBLE LAND BY LANDOWNER.—

"(1) IN GENERAL.—If a landowner transfers any right or interest in eligible land subject to a contract described in subsection (b) or (c) of section 1240T, the landowner shall—

"(A) forfeit all rights to receive payments under the contract; and

"(B)(i) refund to the Secretary any payments received as of the date of the violation (including interest on the payments, as determined by the Secretary); or

"(ii) accept such payment adjustments or make such refunds as the Secretary determines to be appropriate.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply in any case in which—

"(A) a transferee of eligible land or an interest in eligible land described in paragraph (1) agrees with the Secretary—

"(i) to assume all obligations under a contract described in subsection (b) or (c) of section 1240T to which the transferred eligible land is subject; or

"(ii) to modify the contract in a manner that is consistent with this section; or

"(B) eligible land or an interest in eligible land described in paragraph (1) is purchased by or for the United States Fish and Wildlife Service, an Indian tribe, or any other person (including a governmental agency).

"SEC. 1240V. DUTIES OF THE SECRETARY.

"(a) PAYMENTS.—The Secretary shall make payments for eligible land enrolled in the program in accordance with section 1240W.

"(b) USE OF WATER.—The Secretary may direct a landowner to use, or transfer or sell to an entity approved by the Secretary, water described in section 1240U(a)(1) to protect 1 or more endangered species, sensitive species, or threatened species.

"(c) STATE APPLICATIONS AND PROCESS.—At the request of a landowner, the Secretary shall submit any necessary State application, and complete any applicable State legal process, for the transfer or acquisition of water under a contract described in subsection (b) or (c) of section 1240T.

"SEC. 1240W. PAYMENTS.

"(a) IN GENERAL.—

"(1) TEMPORARY TRANSFER OF WATER OR WATER RIGHTS.—In a case in which the Secretary enters into a contract described in section 1240T(b), for each year of the term of the contract or agreement, the Secretary shall pay to the landowner a payment in such amount as the Secretary and the landowner jointly determine is appropriate to compensate the landowner for the use of the water or water rights transferred under the contract.

"(2) PERMANENT ACQUISITION OF WATER OR WATER RIGHTS.—In a case in which the Secretary enters into a contract described in section 1240T(c), the Secretary shall make a single payment to the landowner in such amount as the Secretary and the landowner jointly determine is appropriate to compensate for the acquisition of water or water rights associated with the enrolled eligible land.

"(b) TIMING.—The Secretary shall make payments for obligations incurred during the fiscal year by the Secretary under this section as soon as practicable after October 1 of the fiscal year.

"(c) DETERMINATION OF PAYMENT AMOUNT.—The Secretary may determine the amount to be paid to a landowner under paragraph (1) or (2) of subsection (a) by—

"(1) taking into consideration such minimum amount as the Secretary determines is necessary to encourage landowners to participate in the program;

"(2) soliciting and reviewing bids for enrollment contracts from landowners in such manner as the Secretary may prescribe, except that the bidding process for eligible land enrolled under the program shall be separate from the bidding process for eligible land under the conservation reserve program under section 1234; or

"(3) using such other means as the Secretary determines to be appropriate.

"(d) ACCEPTANCE OF CONTRACT OFFERS.—In determining whether to accept an offer for a contract from a landowner to enroll eligible land in the program, the Secretary shall—

"(1) to the maximum extent practicable as determined by the Secretary, subject to paragraphs (3) and (4) of section 1240S(b), incorporate the applicable provisions of priority system established under section 1230(c); and

"(2) explicitly encourage, and give priority to the permanent and long-term acquisition of water or water rights that accompany the eligible land to be enrolled in the program by providing enhanced payments for—

"(A) the permanent acquisition of water or water rights; or

"(B) the transfer of water or water rights for terms of 5 years.

"SEC. 1240X. CONSULTATION.

"In enrolling eligible land in the program, to ensure, to the maximum extent practicable, that all water and water rights transferred or acquired under this section are used to protect endangered species, sensitive species, and threatened species, the Secretary shall consult with—

"(1) the Secretary of the Interior;

"(2) the head of the lead water agency of the State in which the enrolled eligible land is located; and

"(3) any affected Indian tribes.

"SEC. 1240Y. ADDITIONAL PROVISIONS.

"(a) IN GENERAL.—The terms and conditions of subsections (e), (g), and (h) of section 1234 and subsections (a) through (d) of section 1235 apply to the enrollment of eligible land in the program, to the extent determined to be appropriate by the Secretary.

"(b) STATE WATER LAW.—

"(1) IN GENERAL.—Nothing in this chapter—

"(A) preempts any State water law;

"(B) affects any litigation concerning the entitlement to, or lack of entitlement to, water that is ongoing as of the date of enactment of this chapter; or

"(C) expands, changes, or otherwise affects the existence or scope of any water right of any individual.

"(2) IMPLEMENTATION.—In carrying out the program, the Secretary shall—

“(A) ensure, to the maximum extent practicable, that the program does not undermine the implementation of any law in effect as of the date of enactment of this chapter that concerns the transfer or acquisition of water or water rights on a permanent basis; and

“(B) implement the program in accordance with the purposes of such laws described in subparagraph (A) as are applicable.

“(c) Lease of Water and Water Rights in Klamath River Basin.—In accordance with the program, the Secretary may temporarily lease water or water rights in the Klamath River basin, Oregon and California, if the lease is consistent with State water law (including any provisions of State water law intended to protect water users from economic injury).

“SEC. 1240Z. TERMINATION OF AUTHORITY.

“The authority of the Secretary to enroll new acres under this chapter terminates on October 1, 2006.”.

SEC. 216. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.) is amended to read as follows:

“Subtitle H—Resource Conservation and Development Program

“SEC. 1528. DEFINITIONS.

“In this subtitle:

“(1) Area plan.—The term ‘area plan’ means a resource conservation and use plan that is developed by a council for a designated area of a State or States through a planning process and that includes 1 or more of the following elements:

“(A) A land conservation element, the purpose of which is to control erosion and sedimentation.

“(B) A water management element that provides 1 or more clear environmental or conservation benefits, the purpose of which is to provide for—

“(i) the conservation, use, and quality of water, including irrigation and rural water supplies;

“(ii) the mitigation of floods and high water tables;

“(iii) the repair and improvement of reservoirs;

“(iv) the improvement of agricultural water management; and

“(v) the improvement of water quality.

“(C) A community development element, the purpose of which is to improve—

“(i) the development of resources-based industries;

“(ii) the protection of rural industries from natural resource hazards;

“(iii) the development of adequate rural water and waste disposal systems;

“(iv) the improvement of recreation facilities;

“(v) the improvement in the quality of rural housing;

“(vi) the provision of adequate health and education facilities;

“(vii) the satisfaction of essential transportation and communication needs; and

“(viii) the promotion of food security, economic development, and education.

“(D) A land management element, the purpose of which is—

“(i) energy conservation;

“(ii) the protection of agricultural land, as appropriate, from conversion to other uses;

“(iii) farmland protection; and

“(iv) the protection of fish and wildlife habitats.

“(2) Board.—The term ‘Board’ means the Resource Conservation and Development Policy Advisory Board established under section 1533(a).

“(3) Council.—The term ‘council’ means a nonprofit entity (including an affiliate of the entity) operating in a State that is—

“(A) established by volunteers or representatives of States, local units of government, Indian tribes, or local nonprofit organizations to carry out an area plan in a designated area; and

“(B) designated by the chief executive officer or legislature of the State to receive technical assistance and financial assistance under this subtitle.

“(4) Designated area.—The term ‘designated area’ means a geographic area designated by the Secretary to receive technical assistance and financial assistance under this subtitle.

“(5) Financial assistance.—The term ‘financial assistance’ means a grant or loan provided by the Secretary (or the Secretary and other Federal agencies) to, or a cooperative agreement entered into by the Secretary (or the Secretary and other Federal agencies) with, a council, or association of councils, to carry out an area plan in a designated area, including assistance provided for planning, analysis, feasibility studies, training, education, and other activities necessary to carry out the area plan.

“(6) Indian tribe.—The term ‘Indian tribe’ has the meaning given the term by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(7) Local unit of government.—The term ‘local unit of government’ means—

“(A) any county, city, town, township, parish, village, or other general-purpose subdivision of a State; and

“(B) any local or regional special district or other limited political subdivision of a State, including any soil conservation district, school district, park authority, and water or sanitary district.

“(8) Nonprofit organization.—The term ‘nonprofit organization’ means any organization that is—

“(A) described in section 501(c) of the Internal Revenue Code of 1986; and

“(B) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

“(9) Planning process.—The term ‘planning process’ means actions taken by a council to develop and carry out an effective area plan in a designated area, including development of the area plan, goals, purposes, policies, implementation activities, evaluations and reviews, and the opportunity for public participation in the actions.

“(10) Project.—The term ‘project’ means a project that is carried out by a council to achieve any of the elements of an area plan.

“(11) Secretary.—The term ‘Secretary’ means the Secretary of Agriculture.

“(12) State.—The term ‘State’ means—

“(A) any State;

“(B) the District of Columbia; or

“(C) any territory or possession of the United States.

“(13) Technical assistance.—The term ‘technical assistance’ means any service provided by the Secretary or agent of the Secretary, including—

“(A) inventorying, evaluating, planning, designing, supervising, laying out, and inspecting projects;

“(B) providing maps, reports, and other documents associated with the services provided;

“(C) providing assistance for the long-term implementation of area plans; and

“(D) providing services of an agency of the Department of Agriculture to assist councils in developing and carrying out area plans.

“SEC. 1529. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

“The Secretary shall establish a resource conservation and development program under which the Secretary shall provide technical assistance and financial assistance to councils to develop and carry out area plans and projects in designated areas—

“(1) to conserve and improve the use of land, develop natural resources, and improve and enhance the social, economic, and environmental conditions in primarily rural areas of the United States; and

“(2) to encourage and improve the capability of State, units of government, Indian tribes, nonprofit organizations, and councils to carry out the purposes described in paragraph (1).

“SEC. 1530. SELECTION OF DESIGNATED AREAS.

“The Secretary shall select designated areas for assistance under this subtitle on the basis of the elements of area plans.

“SEC. 1531. POWERS OF THE SECRETARY.

“In carrying out this subtitle, the Secretary may—

“(1) provide technical assistance to any council to assist in developing and implementing an area plan for a designated area;

“(2) cooperate with other departments and agencies of the Federal Government, States, local units of government, local Indian tribes, and local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;

“(3) assist in carrying out an area plan approved by the Secretary for any designated area by providing technical assistance and financial assistance to any council; and

“(4) enter into agreements with councils in accordance with section 1532.

“SEC. 1532. ELIGIBILITY; TERMS AND CONDITIONS.

“(a) Eligibility.—Technical assistance and financial assistance may be provided by the Secretary under this subtitle to any council to assist in carrying out a project specified in an area plan approved by the Secretary only if—

“(1) the council agrees in writing—

“(A) to carry out the project; and

“(B) to finance or arrange for financing of any portion of the cost of carrying out the project for which financial assistance is not provided by the Secretary under this subtitle;

“(2) the project is included in an area plan and is approved by the council;

“(3) the Secretary determines that assistance is necessary to carry out the area plan;

“(4) the project provided for in the area plan is consistent with any comprehensive plan for the area;

“(5) the cost of the land or an interest in the land acquired or to be acquired under the plan by any State, local unit of government, Indian tribe, or local nonprofit organization is borne by the State, local unit of government, Indian tribe, or local nonprofit organization, respectively; and

“(6) the State, local unit of government, Indian tribe, or local nonprofit organization participating in the area plan agrees to maintain and operate the project.

“(b) Loans.—

“(1) In general.—Subject to paragraphs (2) and (3), a loan made under this subtitle shall be made on such terms and conditions as the Secretary may prescribe.

“(2) Term.—A loan for a project made under this subtitle shall have a term of not more than 30 years after the date of completion of the project.

"(3) Interest rate.—A loan made under this subtitle shall bear interest at the average rate of interest paid by the United States on obligations of a comparable term, as determined by the Secretary of the Treasury.

"(c) Approval by Secretary.—Technical assistance and financial assistance under this subtitle may not be made available to a council to carry out an area plan unless the area plan has been submitted to and approved by the Secretary.

"(d) Withdrawal.—The Secretary may withdraw technical assistance and financial assistance with respect to any area plan if the Secretary determines that the assistance is no longer necessary or that sufficient progress has not been made toward developing or implementing the elements of the area plan.

"(e) Use of Other Entities and Persons.—A council may use another person or entity to assist in developing and implementing an area plan and otherwise carrying out this subtitle.

"SEC. 1533. RESOURCE CONSERVATION AND DEVELOPMENT POLICY ADVISORY BOARD.

"(a) Establishment.—The Secretary shall establish within the Department of Agriculture a Resource Conservation and Development Policy Advisory Board.

"(b) Composition.—

"(1) In general.—The Board shall be composed of at least 7 employees of the Department of Agriculture selected by the Secretary.

"(2) Chairperson.—A member of the Board shall be designated by the Secretary to serve as chairperson of the Board.

"(c) Duties.—The Board shall advise the Secretary regarding the administration of this subtitle, including the formulation of policies for carrying out this subtitle.

"SEC. 1534. EVALUATION OF PROGRAM.

"(a) In General.—The Secretary, in consultation with councils, shall evaluate the program established under this subtitle to determine whether the program is effectively meeting the needs of, and the purposes identified by, States, units of government, Indian tribes, nonprofit organizations, and councils participating in, or served by, the program.

"(b) Report.—Not later than June 30, 2005, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation, together with any recommendations of the Secretary for continuing, terminating, or modifying the program.

"SEC. 1535. LIMITATION ON ASSISTANCE.

"In carrying out this subtitle, the Secretary shall provide technical assistance and financial assistance with respect to not more than 450 active designated areas.

"SEC. 1536. SUPPLEMENTAL AUTHORITY OF THE SECRETARY.

"The authority of the Secretary under this subtitle to assist councils in the development and implementation of area plans shall be supplemental to, and not in lieu of, any authority of the Secretary under any other provision of law.

"SEC. 1537. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be such sums as are necessary to carry out this subtitle.

"(b) Loans.—The Secretary shall not use more than $15,000,000 of any funds made available for a fiscal year to make loans under this subtitle.

"(c) Availability.—Funds appropriated to carry out this subtitle shall remain available until expended.".

SEC. 217. WILDLIFE HABITAT INCENTIVE PROGRAM.

(a) In General.—Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended to read as follows:

"CHAPTER 5—OTHER CONSERVATION PROGRAMS

"SEC. 1240M. WILDLIFE HABITAT INCENTIVE PROGRAM.

"(a) Definitions.—In this section:

"(1) Endangered species.—The term 'endangered species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(2) Program.—The term 'program' means the wildlife habitat incentive program established under subsection (b).

"(3) Sensitive species.—The term 'sensitive species' has the meaning given the term 'candidate species' within the meaning of section 424.02(b) of title 50, Code of Federal Regulations (or a successor regulation) or a species which may become threatened or endangered if conservation actions are not taken to conserve that species.

"(4) Threatened species.—The term 'threatened species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(b) Establishment.—In consultation with the State technical committees established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the Secretary shall establish the wildlife habitat incentive program.

"(c) Cost-Share Payments.—

"(1) In general.—Under the program, the Secretary shall make cost-share payments, and provide technical assistance, to landowners of eligible land to develop and enhance wildlife habitat approved by the Secretary.

"(2) Endangered and threatened species.—Of the funds made available to carry out this subsection, the Secretary shall use at least 15 percent to make cost-share payments to carry out projects and activities relating to endangered species, threatened species, and sensitive species.

"(d) Pilot Program for Essential Plant and Animal Habitat.—Under the program, the Secretary may establish procedures to use not more than 15 percent of funds made available to acquire and enroll eligible land for periods of at least 15 years to protect and restore essential (as determined by the Secretary) plant and animal habitat.

"(e) Eligible Parties.—After consulting, to the maximum extent practicable, with State wildlife officials, the Secretary may provide grants under this section to individuals and nonprofit organizations that lease public land.

"(f) Nexus to Private Land.—Funds from a grant provided under subsection (e) may be used, as determined by the Secretary, for a purpose on public land if the purpose benefits private land.

"(g) Funding.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section (including the provision of technical assistance), to remain available until expended—

"(1) $50,000,000 for fiscal year 2002;

"(2) $225,000,000 for fiscal year 2003;

"(3) $275,000,000 for fiscal year 2004;

"(4) $325,000,000 for fiscal years 2005;

"(5) $375,000 for fiscal year 2006; and

"(6) $50,000 for fiscal year 2007.".

"SEC. 1240N. WATERSHED RISK REDUCTION.

"(a) In General.—The Secretary, acting through the Natural Resources Conservation Service (referred to in this section as the 'Secretary'), in cooperation with landowners and land users, may carry out such projects and activities (including the purchase of floodplain easements for runoff retardation and soil erosion prevention) as the Secretary determines to be necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed in any case in which fire, flood, or any other natural occurrence has caused, is causing, or may cause a sudden impairment of that watershed.

"(b) Priority.—In carrying out this section, the Secretary shall give priority to any project or activity described in subsection (a) that is carried out on a floodplain adjacent to a major river, as determined by the Secretary.

"(c) Prohibition on Duplicative Funds.—No project or activity under subsection (a) that is carried out using funds made available under this section may be carried out using funds made available under any Federal disaster relief program administered by the Secretary relating to floods.

"(d) Funding.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2002 through 2006.

"SEC. 1240O. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.

"(a) In General.—The Secretary, in consultation with the Great Lakes Commission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army, may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the 'program').

"(b) Assistance.—In carrying out the program, the Secretary may—

"(1) provide project demonstration grants, provide technical assistance, and carry out information and education programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

"(2) provide a priority for projects and activities that directly reduce soil erosion or improve sediment control.

"(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2006.

"SEC. 1240P. CONSERVATION OF PRIVATE GRAZING LAND.

"(a) Findings.—Congress finds that—

"(1) private grazing land constitutes nearly ½ of the non-Federal land of the United States and is basic to the environmental, social, and economic stability of rural communities;

"(2) private grazing land contains a complex set of interactions among soil, water, air, plants, and animals;

"(3) grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water available for all of the many uses of the land;

"(4) private grazing land constitutes the most extensive wildlife habitat in the United States;

"(5) private grazing land can provide opportunities for improved nutrient management from land application of animal manures and other by-product nutrient resources;

"(6) landowners and managers of private grazing land need to continue to recognize conservation problems when the problems arise and receive sound technical assistance to improve or conserve grazing land resources to meet ecological and economic demands;

"(7) new science and technology must continually be made available in a practical manner so owners and managers of private grazing land may make informed decisions concerning vital grazing land resources;

"(8) agencies of the Department with private grazing land responsibilities are the agencies that have the expertise and experience to provide technical assistance, education, and research to owners and managers of private grazing land for the long-term productivity and ecological health of grazing land;

"(9) although competing demands on private grazing land resources are greater than ever before, assistance to private owners and managers of private grazing land is limited and does not meet the demand and basic need for adequately sustaining or enhancing the private grazing land resources; and

"(10) private grazing land can be enhanced to provide many benefits to all citizens of the United States through voluntary cooperation among owners and managers of the land, local conservation districts, and the agencies of the Department responsible for providing assistance to owners and managers of land and to conservation districts.

"(b) Purpose.—The purpose of this section is to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

"(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

"(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

"(3) conserving and improving wildlife habitat on private grazing land;

"(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

"(5) protecting and improving water quality;

"(6) improving the dependability and consistency of water supplies;

"(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

"(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

"(c) Definition of Private Grazing Land.—In this section, the term 'private grazing land land' means rangeland, pastureland, grazed forest land, hay land, and any other non-federally owned land that is—

"(1) private;

"(2) owned by a State; or

"(3) under the jurisdiction of an Indian tribe .

"(d) Private Grazing Land Conservation Assistance.—

"(1) In general.—Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

"(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

"(B) implementing grazing land management technologies;

"(C) managing resources on private grazing land, including—

"(i) planning, managing, and treating private grazing land resources;

"(ii) ensuring the long-term sustainability of private grazing land resources;

"(iii) harvesting, processing, and marketing private grazing land resources; and

"(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

"(D) protecting and improving the quality and quantity of water yields from private grazing land;

"(E) maintaining and improving wildlife and fish habitat on private grazing land;

"(F) enhancing recreational opportunities on private grazing land;

"(G) maintaining and improving the aesthetic character of private grazing land; and

"(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises.

"(2) Program elements.—

"(A) Funding.—Funds may be used to carry out this section only if the funds are provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

"(B) Technical assistance and education.—Personnel of the Department of Agriculture trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

"(e) Grazing Technical Assistance Self-Help.—

"(1) Findings.—Congress finds that—

"(A) there is a severe lack of technical assistance for farmers and ranchers that graze livestock;

"(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, levels of technical support; and

"(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

"(2) Establishment of grazing demonstration districts.—In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts on the recommendation of the grazing land conservation initiative steering committee.

"(3) Procedure.—

"(A) Proposal.—Within a reasonable time after the submission of a proposal of an organization of farmers or ranchers engaged in grazing in a district, subject to subparagraphs (B) through (F), the Secretary establish a grazing management district in accordance with the proposal.

"(B) Funding.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the farmers and ranchers engaged in grazing in the district.

"(C) Approval.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

"(i) is reasonable;

"(ii) will promote sound grazing practices; and

"(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 4 of the Beef Research and Information Act (7 U.S.C. 2903) in effect on April 4, 1996.

"(D) Area included.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of the proposal submitted by farmers or ranchers under subparagraph (A).

"(E) Authorization.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

"(F) Activities.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of farmers, ranchers, and technical experts.

"(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $60,000,000 for each of fiscal years 2002 through 2006.".

(b) Conforming Amendment.—Section 386 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 2005b) is repealed.".

SEC. 218. FARMLAND PROTECTION PROGRAM.

(a) In General.—Chapter 2 of the Food Security Act of 1985 (as added by section 201) is amended by adding at the end the following:

"Subchapter B—Farmland Protection Program

"SEC. 1238H. DEFINITIONS.

"In this subchapter:

"(1) Eligible land.—

"(A) In general.—The term 'eligible land' means land on a farm or ranch that—

"(i)(I) has prime, unique, or other productive soil; or

"(II) contains historical or archaeological resources; and

"(ii) is subject to a pending offer for purchase from—

"(I) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

"(II) any organization that—

"(aa) is organized for, and at all times since the formation of the organization, has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(bb) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; or

"(cc) is described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code.

"(B) Inclusions.—The term 'eligible land' includes—

"(i) cropland;

"(ii) rangeland;

"(iii) grassland;

"(iv) pasture land; and

"(iii) forest land that is part of an agricultural operation, as determined by the Secretary.

"(2) Indian tribe.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) Program.—The term 'program' means the farmland protection program established under section 1238I(a).

"SEC. 1238I. FARMLAND PROTECTION.

"(a) In General.—The Secretary shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in eligible land for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

"(b) Conservation Plan.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this subchapter shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

"SEC. 1238J. MARKET VIABILITY PROGRAM.

"For each year for which funds are made available to carry out this subchapter, the Secretary may use not more than $10,000,000 to provide matching market viability grants and technical assistance to farm and ranch operators that participate in the program.".

(b) Funding.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) (as amended by section 202) is amended by adding at the end the following:

"(d) Farmland Protection Program.—

"(1) In general.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out subchapter B of chapter 2 (including the provision of technical assistance), to remain available until expended—

"(1) $150,000,000 in fiscal year 2002;

"(2) $250,000,000 in fiscal year 2003;

"(3) $400,000,000 in fiscal year 2004;

"(4) $450,000,000 in fiscal year 2005;

"(5) $500,000,000 in fiscal year 2006; and

"(6) $100,000,000 in fiscal year 2007."

"(2) Cost sharing.—

"(A) Farmland protection.—

"(i) In general.—The share of the cost of purchasing a conservation easement or other interest described in section 1238I(a) provided under this subsection shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest.

"(ii) State and local contributions.—In a case in which a State or local government purchases an easement under section 1238I(a), not more than 25 percent of the share of the cost of the easement contributed by the State or local government may be provided—

"(I) by a private landowner; or

"(II) in the form of in-kind goods or services.

"(B) Market viability contributions.—As a condition of receiving a grant under section 1238J(a), a grantee shall provide funds in an amount equal to the amount of the grant.".

(c) Conforming Amendment.—

(1) In general.—Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note) is repealed.

(2) Effect on contracts.—The amendment made by paragraph (1) shall have no effect on any contract entered into under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note) that is in effect as of the date of enactment of this Act.

SEC. 219. EXPANSION OF STATE MARKETING PROGRAMS.

(a) In General.—Section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623) is amended by striking "such sums as he may deem appropriate" and inserting "$10,000,000 from the Commodity Credit Corporation for each of fiscal years 2003 through 2006".

(b) Market Development Grants.—Section 203(e)(1) of the Agricultural Marketing Act of 1964 (7 U.S.C. 1622(e)(1)) is amended by adding at the end the following: "The Secretary shall transfer to State departments of agriculture and other State marketing offices at least 10 percent of the funds appropriated for a fiscal year for this subsection to facilitate the development of local and regional markets for agricultural products, including direct farm-to-consumer markets.".

(c) Termination of Authority.—Subtitle A of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

"SEC. 209. TERMINATION OF AUTHORITY.

"The authority of the Secretary of Agriculture to make funds available under section 204, and to otherwise carry out this subtitle, terminates on October 1, 2006.".

SEC. 220. GRASSLAND RESERVE PROGRAM.

Chapter 2 of the Food Security Act of 1985 (as amended by section 218) is amended by adding at the end the following:

"Subchapter C—Grassland Reserve Program

"SEC. 1238N. GRASSLAND RESERVE PROGRAM.

"(a) Establishment.—The Secretary, acting through the Natural Resource Conservation Service, shall establish a grassland reserve program (referred to in this subchapter as the 'program') to assist owners in restoring and protecting eligible land described in subsection (c).

"(b) Enrollment Conditions.—

"(1) In general.—The Secretary shall enroll in the program, from willing owners, not less than—

"(A) 100 contiguous acres of land west of the 98th meridian; or

"(B) except as provided in paragraph (2), 40 contiguous acres of land east of the 98th meridian.

"(2) Maximum enrollment.—The total number of acres enrolled in the program shall not exceed 2,000,000 acres, of which not more than 500,000 acres shall be available for enrollment of tracts of native grassland of 40 acres or less.

"(3) Methods of enrollment.—The Secretary shall enroll land in the program through—

"(A) permanent easements or 30-year easements;

"(B) in a State that imposes a maximum duration for such an easement, an easement for the maximum duration allowed under State law; or

"(C) a 30-year rental agreement.

"(c) Eligible Land.—Land shall be eligible to be enrolled in the program if the Secretary determines that the land is private land that is—

"(1) natural grassland (including prairie and land that contains shrubs or forb) that is indigenous to the locality;

"(2) land that—

"(A) is located in an area that has been historically dominated by natural grassland; and

"(B) has potential to serve as habitat for animal or plant populations of significant ecological value if the land is restored to a natural condition; or

"(3) land that is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of an easement.

"SEC. 1238O. EASEMENTS AND AGREEMENTS.

"(a) In General.—To be eligible to enroll land in the program, the owner of the land shall enter into an agreement with the Secretary—

"(1) if the agreement is for an easement—

"(A) to grant an easement that applies to the land to the Secretary;

"(B) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

"(C) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

"(D) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement; and

"(E) to comply with the terms of the easement and restoration agreement; and

"(2) if the agreement is for a rental agreement described in section 1238N(b)(3)(C), that specifies the terms and conditions applicable to—

"(A) the Secretary; and

"(B) the owner of the land.

"(b) Terms of Easement of Rental Agreement.—An easement or rental agreement under subsection (a) shall—

"(1) permit—

"(A) grazing on the land in a manner that is consistent with maintaining the viability of natural grass, shrub, forb, and wildlife species indigenous to that locality;

"(B) haying (including haying for seed production) or mowing, except during the nesting and brood-rearing seasons for birds in the area that are in significant decline, as determined by the Natural Resources Conservation Service State conservationist, or are protected Federal or State law; and

"(C) fire rehabilitation, construction of fire breaks, and fences (including placement of the posts necessary for fences);

"(2) prohibit—

"(A) the production of row crops, fruit trees, vineyards, or any other agricultural commodity that requires breaking the soil surface; and

"(B) except as permitted under paragraph (1)(C), the conduct of any other activities that would disturb the surface of the land covered by the easement, including—

"(i) plowing; and

"(ii) disking; and

"(3) include such additional provisions as the Secretary determines are appropriate to carry out this subchapter or to facilitate the administration of this subchapter.

"(c) Evaluation and Ranking of Easement and Rental Agreement Applications.—

"(1) In general.—The Secretary, in conjunction with State technical committees, shall establish criteria to evaluate and rank applications for easements and rental agreements under this subchapter.

"(2) Criteria.—In establishing the criteria, the Secretary shall emphasize support for grazing operations, plant and animal biodiversity, and grassland and land containing shrubs or forb under the greatest threat of conversion.

"(d) Restoration Agreements.—

"(1) In general.—The Secretary shall prescribe the terms of a restoration agreement by which grassland and shrubland subject to an easement or rental agreement entered into under the program shall be restored.

"(2) Requirements.—The restoration agreement shall describe the respective duties of the owner and the Secretary (including paying the share of the cost of restoration provided by the Secretary and the provision of technical assistance).

"(e) Violations.—

"(1) In general.—On the violation of the terms or conditions of an easement, rental agreement, or restoration agreement entered into under this section—

"(A) the easement or rental agreement shall remain in force; and

"(B) the Secretary may require the owner to refund all or part of any payments received by the owner under this subchapter, with interest on the payments as determined appropriate by the Secretary.

"(2) Periodic inspections.—

"(A) In general.—After providing notice to the owner, the Secretary shall conduct periodic inspections of land subject to easements and rental agreements under this subchapter to ensure compliance with the terms of the easement, rental agreement, and applicable restoration agreement.

"(B) Limitation.—The Secretary may not prohibit the owner, or a representative of the owner, from being present during a periodic inspection.

"SEC. 1238P. DUTIES OF SECRETARY.

"(a) In General.—In return for the granting of an easement, or the execution of a rental agreement, by an owner under this subchapter, the Secretary shall, in accordance with this section—

"(1) make easement or rental agreement payments;

"(2) pay a share of the cost of restoration; and

"(3) provide technical assistance to the owner.

"(b) Payment Schedule.—

"(1) Easement payments.—

"(A) Amount.—In return for the granting of an easement by an owner under this subchapter, the Secretary shall make easement payments to the owner in an amount equal to—

"(i) in the case of a permanent easement, the fair market value of the land less the grazing value of the land encumbered by the easement; and

"(ii) in the case of a 30-year easement or an easement for the maximum duration allowed under applicable State law, 30 percent of the fair market value of the land less the grazing value of the land for the period during which the land is encumbered by the easement.

"(B) Schedule.—Easement payments may be provided in not less than 1 payment nor more than 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

"(2) Rental agreement payments.—

"(A) Amount.—If an owner enters into a 30-year rental agreement authorized under section 1238N(b)(3)(C), the Secretary shall make 30 annual rental payments to the owner in an amount that equals, to the maximum extent practicable, the 30-year easement payment amount under paragraph (1)(A)(ii).

"(B) Assessment.—Not less than once every 5 years throughout the 30-year rental period, the Secretary shall assess whether the value of the rental payments under subparagraph (A) equals, to the maximum extent practicable, the total amount of 30-year easement payments as of the date of the assessment.

"(C) Adjustment.—If on completion of the assessment under subparagraph (B), the Secretary determines that the rental payments do not equal, to the maximum extent practicable, the value of payments under a 30-year easement, the Secretary shall adjust the amount of the remaining payments to equal, to the maximum extent practicable, the value of a 30-year easement over the entire 30-year rental period.

"(c) Cost of Restoration.—The Secretary shall make payments to the owner of not more than 75 percent of the cost of carrying out measures and practices necessary to restore grassland and shrubland functions and values.

"(d) Technical Assistance.—The Secretary shall provide owners with technical assistance to execute easement documents and restore the grassland and shrubland.

"(e) Payments to Others.—If an owner that is entitled to a payment under this subchapter dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

"(f) Other Payments.—Easement or rental agreement payments received by an owner under this subchapter shall be in addition to, and not affect, the total amount of payments that the owner is otherwise eligible to receive under other Federal laws (except for funds provided to achieve similar purposes).

"(g) Regulations.—Not later than 180 days after the date of enactment of this subchapter, the Secretary shall promulgate such regulations as are necessary to carry out this subchapter.".

(b) Funding.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) (as amended by section 219(b)) is amended by adding at the end the following:

"(e) Grassland Reserve Program.—The Secretary shall use such sums of the Commodity Credit Corporation as are necessary to carry out subchapter C of chapter 2 (including the provision of technical assistance).".

SEC. 221. STATE TECHNICAL COMMITTEES.

Subtitle G of title XII of the Food Security Act of 1985 (16 U.S.C. 3861 et seq.) is amended to read as follows:

"Subtitle G—State Technical Committees

"SEC. 1261. ESTABLISHMENT.

"(a) In General.—The Secretary shall establish in each State a technical committee to assist the Secretary in the technical considerations relating to implementation of any private land conservation program administered by the Secretary.

"(b) Standards.—Not later than 180 days after the date of enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001, the Secretary shall develop standards to be used by each State technical committee in the development of technical guidelines under section 1262(b) for the implementation of the conservation programs under this title.

"(c) Composition.—Each State technical committee established under subsection (a) shall be composed of professional resource managers that represent a variety of disciplines in the soil, water, wetland, forest, and wildlife sciences, including representatives from among—

"(1) the Natural Resources Conservation Service (a representative of which shall serve as Chair of the Committee);

"(2) the Farm Service Agency;

"(3) the Forest Service;

"(4) the Extension Service;

"(5) the Fish and Wildlife Service;

"(6) such State departments and agencies as the Secretary determines to be appropriate, including—

"(A) a State fish and wildlife agency;

"(B) a State forester or equivalent State official;

"(C) a State water resources agency;

"(D) a State department of agriculture;

"(E) a State soil conservation agency;

"(F) a State association of soil and water conservation districts; and

"(G) land grant colleges and universities;

"(7) other individuals or agency personnel with expertise in soil, water, wetland, and wildlife or forest management as the Secretary determines to be appropriate;

"(8) agricultural producers with demonstrable conservation expertise;

"(9) nonprofit organizations with demonstrable conservation or forestry expertise;

"(10) persons knowledgeable about conservation or forestry techniques; and

"(11) agribusinesses.

"SEC. 1262. RESPONSIBILITIES.

"(a) Information.—

"(1) Provision.—

"(A) In general.—Each State technical committee established under section 1261 shall meet regularly to provide information, analyses, and recommendations to the Secretary.

"(B) Manner; form.—Information, analyses, and recommendations described in subparagraph (A) shall—

"(i) be provided in writing, in a manner that assists the Secretary in determining matters of fact, technical merit, or scientific question; and

"(ii) reflect the best professional information and judgment of the committee.

"(2) Coordination.—The Secretary shall coordinate activities conducted under this section with activities conducted under section 1628 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831).

"(3) Public participation.—Each State technical committee shall—

"(A) provide public notice of, and permit public attendance at, meetings considering issues of concern related to any program under this title; and

"(B) distribute meeting minutes to each person attending a meeting described in subparagraph (A).

"(4) Communication.—Each State conservationist shall communicate regularly with members of the State technical committee concerning status of action on recommendations of the committee.

"(b) Other Duties.—Each State technical committee shall provide assistance and offer recommendations with respect to the technical aspects of—

"(1) wetland protection, restoration, and mitigation requirements;

"(2) criteria to be used in evaluating bids for enrollment of environmentally-sensitive land in the conservation reserve program established under subchapter B of chapter 1;

"(3) guidelines for haying or grazing and the control of weeds to protect nesting wildlife on designated acreage relating to—

"(A) highly erodible land conservation under subtitle B;

"(B) wetland conservation under subtitle C; or

"(C) other conservation requirements

"(4) addressing common weed and pest problems and programs to control weeds and pests found on acreage enrolled in the conservation reserve program;

"(5) guidelines for planting perennial cover for water quality and wildlife habitat improvement on designated land;

"(6) establishing criteria and priorities for State initiatives under the environmental quality incentives program under chapter 4 of subtitle D;

"(7) establishing State and local conservation priorities under the conservation security program under subchapter A of chapter 2 of subtitle D;

"(8) establishing and maintaining natural resource indicators and conservation program monitoring and evaluation systems;

"(9) developing conservation program education and outreach activities;

"(10) evaluating innovative practices and systems under consideration for inclusion in the field office technical guides; and

"(11) other matters, as determined to be appropriate by the Secretary.

"(c) AUTHORITY.—

"(1) IN GENERAL.—Each State technical committee established under section 1261 shall—

"(A) serve in an advisory capacity; and

"(B) have no implementation or enforcement authority.

"(2) CONSIDERATION BY SECRETARY.—In carrying out any program under this title, the Secretary shall give strong consideration to the recommendations of a State technical committee (including factual, technical, or scientific findings and recommendations relating to areas in which the State technical committee bears responsibility).

"(d) FACA REQUIREMENTS.—A State technical committee established under section 1261 shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

"(e) ADVISORY SUBCOMMITTEES.—

"(1) IN GENERAL.—Any State or local work group, task force, or other advisory body authorized by any Federal law (including a regulation) to advise the Secretary on issues that are within the areas of responsibility of a State technical committee established under section 1261 shall be considered to be a subcommittee of the State technical committee.

"(2) COMPOSITION.—A person eligible to serve on a State technical committee under section 1261(c) shall also be eligible to serve on 1 or more subcommittees of a State technical committee.

"(3) LOCAL WORKING GROUPS.—A local working group shall be considered to be a subcommittee of a State technical committee established under section 1261.".

SEC. 222. USE OF SYMBOLS, SLOGANS, AND LOGOS.

Section 356 of the Federal Agriculture Improvement Act of 1996 (16 U.S.C. 5801 et seq.) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) on the written approval of the Secretary, to use, license, or transfer symbols, slogans, and logos of the Department;"; and

(2) in subsection (d), by adding at the end the following:

"(3) USE OF SYMBOLS, SLOGANS, AND LOGOS.—

"(A) IN GENERAL.—The Secretary may authorize the Foundation to use, license, or transfer symbols, slogans, and logos of the Department.

"(B) INCOME.—

"(i) IN GENERAL.—All revenue received by the Foundation from the use, licensing, or transfer of symbols, slogans, and logos of the Department shall be transferred to the Secretary.

"(ii) CONSERVATION OPERATIONS.—The Secretary shall transfer all revenue received under clause (i) to the account within the Natural Resources Conservation Service that is used to carry out conservation operations.".

Subtitle C—Organic Farming

SEC. 231. ORGANIC AGRICULTURE RESEARCH TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Organic Agriculture Research Trust Fund" (referred to in this section as the "Fund"), consisting of—

(1) such amounts as are transferred to the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund under subsection (d).

(b) TRANSFER TO FUND.—During fiscal year 2003, the Commodity Credit Corporation shall transfer $50,000,000 to the Fund, which shall remain available until expended.

(c) EXPENDITURES FROM FUND.—On request by the Secretary of Agriculture, the Secretary of the Treasury shall transfer from the Fund to the Secretary of Agriculture such amounts as the Secretary of Agriculture determines are necessary—

(1) to carry out section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b); and

(2) for the board of trustees of the National Organic Research Endowment Institute established under section 232(a) (referred to in this subtitle as the "Institute") to implement a program of organic products research designed by the Institute and approved by the Secretary.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—

(A) INVESTMENT.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(B) TYPES OF INVESTMENTS.—Investments may be made only in—

(i) an obligation of the United States or an agency of the United States;

(ii) a general obligation of a State or a political subdivision of a State;

(iii) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(iv) an obligation fully guaranteed as to principal and interest by the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest and dividends on, and the proceeds from the sale or redemption of, any obligations, interest-bearing accounts, or certificates of deposit held in the Fund shall be credited to and form a part of the Fund.

SEC. 232. ESTABLISHMENT OF NATIONAL ORGANIC RESEARCH ENDOWMENT INSTITUTE.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the National Organic Standards Board, shall establish in the Department of Agriculture an institute to be known as the "National Organic Research Endowment Institute" (referred to in this section as the "Institute").

(b) BOARD OF TRUSTEES.—The Institute shall be headed by a board of trustees composed of the members of the National Organic Promotion and Research Board.

(c) DUTIES.—The duties of the Institute shall be to aid the organically grown and processed agricultural commodities industry through the development and implementation of a plan for organic products research described in subsection (d)(1).

(d) IMPLEMENTATION OF PLAN.—

(1) IN GENERAL.—The board of trustees of the Institute shall implement a plan for organic products research, to be carried out using funds made available to the board of trustees of the Institute from the Organic Agriculture Research Trust Fund established by section 231.

(2) EXPANSION OF MARKETS.—In implementing the plan described in paragraph (1), the board of trustees of the Institute shall provide a permanent system for funding research activities (as defined in section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b).

(e) EXECUTIVE COMMITTEE.—

(1) IN GENERAL.—The board of trustees of the Institute may appoint an executive committee from among the members of the board.

(2) MEMBERSHIP.—The membership of the executive committee shall reflect equally each of the various regions in the United States in which organically grown and processed agricultural commodities are produced.

(3) DUTIES AND POWERS.—The executive committee shall have such duties and powers as are delegated to the executive committee by the board of trustees of the Institute.

(f) COMPENSATION OF MEMBERS.—A member of the board of trustees of the Institute shall serve without compensation.

(g) TRAVEL EXPENSES.—To the extent recommended by the board of trustees of the Institute and approved by the Secretary of Agriculture, a member of the board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Institute.

Subtitle D—Regional Equity

SEC. 241. ALLOCATION OF CONSERVATION FUNDS BY STATE.

(a) STATE ALLOCATION.—

(1) IN GENERAL.—To the maximum extent practicable, in each of fiscal years 2002 through 2006, the Secretary of Agriculture (referred to in this section as the "Secretary"), subject to requirements of the conservation programs administered by the Secretary, shall ensure that each State receives, at a minimum, the share of the funds made available under this title (and amendments made by this title) that equals, at a minimum, $12,000,000 for each State, for use in accordance with paragraph (2), for purposes consistent with this title.

(2) USE OF FUNDS.—Of the minimum amount made available to each State under paragraph (1)—

(A) $5,000,000 shall be used in accordance with the environmental quality incentives program under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); and

(B) $7,000,000 shall be used in accordance with other conservation programs administered by the Secretary.

(3) UNUSED FUNDING.—Any funds made available for a fiscal year under paragraph (1) that are not obligated by April 1 of the fiscal year may be used to carry out other activities under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

Subtitle E—Advisory Council and Federal Interagency Working Group on Upper Mississippi River

SEC. 251. DEFINITIONS.

In this subtitle:

(1) Advisory council.—The term "Advisory Council" means the Advisory Council on the Upper Mississippi River Stewardship Initiative established under section 252(a).

(2) Basin.—

(A) In general.—The term "Basin" means the watershed portion of the Upper Mississippi River and Illinois River basins, from Cairo, Illinois to the headwaters of the Mississippi River.

(B) Inclusion.—The term "Basin" includes—

(i) the Kaskaskia watershed along the Illinois River; and

(ii) the Meramec watershed along the Missouri River.

(3) Initiative.—The term "Initiative" means activities carried out to monitor and reduce nutrient and sediment loss in the Basin.

(4) Interagency working group.—The term "Interagency working group" means the Federal Interagency Working Group established under section 263(a).

(5) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 252. ESTABLISHMENT OF ADVISORY COUNCIL ON THE UPPER MISSISSIPPI RIVER STEWARDSHIP INITIATIVE.

(a) Establishment.—The Secretary, in consultation with the Governors specified in subsection (c), shall establish an advisory body, to be known as the "Advisory Council on the Upper Mississippi River Stewardship Initiative".

(b) Membership.—

(1) Voting members.—The Advisory Council shall be composed of at least 15 voting members, of which—

(A) 2 members that are representative of nongovernmental agricultural, natural resources, recreational, or environmental groups or other persons having an interest in the natural resources of the Basin shall be appointed by each of the Governors of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin; and

(B) 1 member representing each of the State Technical Committees established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861) for the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin shall be appointed by the Secretary.

(2) Nonvoting Members.—Each of the Governors referred to in paragraph (1)(A) shall appoint to the Advisory Council 1 nonvoting member to serve as a representative of the Governor.

(c) Chairperson.—

(1) In general.—Voting members of the Advisory Council shall elect 1 member appointed under subsection (b)(1) to serve as Chairperson of the Advisory Council.

(2) Term.—The Chairperson shall serve for a term of not to exceed 1 year.

(d) Duties.—The Advisory Council shall—

(1) serve as a means for coordination, communication, and information sharing with respect to issues concerning the Basin, including—

(A) science and technology concerning conservation practices;

(B) monitoring and modeling needs;

(C) strategies for implementing conservation assistance and programs;

(D) performance assessment; and

(E) evaluation and reporting;

(2)(A) prepare an annual report regarding publicly-financed efforts to reduce sediment and nutrient loss in the Basin; and

(B) submit the report to—

(i) the State legislatures of each of the States of Arkansas, Illinois, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Tennessee, and Wisconsin; and

(ii) the Upper Mississippi River Basin Association; and

(iii) Congress;

(3) establish (and, at the appropriate time, dissolve), in consultation with the Interagency Working Group and appropriate State agencies, such issue-specific task forces as are necessary to effectively carry out the responsibilities of the Advisory Council;

(4) hold annual public meetings, at which at least 2 or the 3 members of the Advisory Council from a State are present, in each of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin to develop recommendations and seek public input regarding methods and priorities to reduce sediment and nutrient loss in the Basin; and

(5) in cooperation with the Secretary, coordinate outreach activities in the Basin that relate to technologies and other methods to reduce sediment and nutrient loss.

(e) Staff Director.—

(1) In general.—The Secretary shall appoint an employee of the Natural Resources Conservation Service to serve as Staff Director of the Advisory Council.

(2) Duties.—The Staff Director shall work in conjunction with the Chairperson of the Advisory Council to assist in coordinating the activities of the Advisory Council.

(f) Travel Expenses.—A member of the Advisory Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(g) Policy.—The Secretary and the heads of other Federal agencies that are members of the Interagency Working Group shall give significant consideration to recommendations of the Advisory Council in administering any natural resource program in the Basin, despite the facts that the Advisory Council—

(1) has no implementation or enforcement authority; and

(2) is authorized to act only in an advisory capacity.

SEC. 253. FEDERAL INTERAGENCY WORKING GROUP.

(a) Establishment.—The Secretary of Agriculture and the Secretary of the Interior shall establish an Interagency Working Group to coordinate Federal nutrient and sediment reduction efforts carried out in the Basin under the Initiative.

(b) Chairperson; Additional Input and Participation.—The Secretary of Agriculture (or a designee of the Secretary)—

(1) shall serve as Chairperson of the Interagency Working Group; and

(2) may solicit input and participation by other Federal agencies engaged in sediment and nutrient reduction efforts in the Basin.

(c) Annual Work Plan and Budget.—The Interagency Working Group shall annually develop a coordinated work plan and budget for the Federal agencies participating in the Initiative—

(1) to better coordinate Federal efforts to address sediment and nutrient reduction in the Basin;

(2) to encourage Federal agencies responsible for sediment and nutrient reduction efforts to leverage Federal, State, and local resources;

(3) to identify deficiencies and redundancies in programs; and

(4) to better prioritize existing Federal spending to address major sources of sediment and nutrient loss.

(d) Coordination.—The Interagency Working Group shall coordinate any recommendations to be included in the work plan and budget under subsection (c) with any similar recommendations of individual member agencies.

(e) Submission of Work Plan and Budget.—Not later than September 15 of each year, the Interagency Working Group shall submit to the Office of Management and Budget the work plan and budget required by subsection (c).

SEC. 254. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $400,000 for each of fiscal years 2003 through 2006.

Subtitle F—Miscellaneous

SEC. 261. CRANBERRY ACREAGE RESERVE PROGRAM.

(a) Definitions.—In this section:

(1) Eligible area.—The term "eligible area" means a wetland or buffer strip adjacent to a wetland that, as determined by the Secretary—

(A)(i) is used, and has a history of being used, for the cultivation of cranberries; or

(ii) is an integral component of a cranberry-growing operation;

(B) is located in an environmentally sensitive area.

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(b) Program.—The Secretary shall establish a program to purchase permanent easements in eligible areas from willing sellers.

(c) Purchase Price.—The Secretary shall ensure, to the maximum extent practicable, that each easement purchased under this section is for an amount that appropriately reflects the range of values for agricultural and nonagricultural land in the region in which the eligible area subject to the easement is located (including whether that land is located in 1 or more environmentally sensitive areas, as determined by the Secretary).

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $10,000,000.

SEC. 262. KLAMATH BASIN.

(a) Definitions.—In this section:

(1) Task force.—The term "Task Force" means the Klamath Basin Interagency Task Force established under subsection (b).

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(b) Interagency Task Force.—

(1) Establishment.—

(A) In general.—The Secretary of Agriculture shall establish the Klamath Basin Interagency Task Force.

(B) Approval of member.—A decision of the Task Force that affects any area under the jurisdiction of a member of the Task Force described in paragraph (2) shall not be implemented without the consent of the member.

(2) Membership.—The Task Force shall include representatives of—

(A) the Natural Resources Conservation Service;

(B) the Farm Services Agency;

(C) the United States Fish and Wildlife Service;

(D) the Bureau of Reclamation;

(E) the National Marine Fisheries Service;

(F) the Council on Environmental Quality;

(G) the Bureau of Indian Affairs;

(H) the Federal Energy Regulatory Commission;

(I) the Environmental Protection Agency; and

(J) the United States Geological Survey.

(3) DUTIES.—The Task Force shall use conservation programs of the Department of Agriculture and other Federal programs in the Klamath Basin in Oregon and California for the purposes of—

(A) development of a coordinated Federal effort for the management of water resources throughout the Klamath Basin;

(B) water conservation and improved agricultural practices;

(C) aquatic ecosystem restoration;

(D) improvement of water quality and quantity;

(E) recovery and enhancement of endangered species, including anadromous fish species and resident fish species; and

(F) restoration of the national wildlife refuges.

(4) COOPERATIVE AGREEMENT.—The Secretary of Agriculture, Secretary of the Interior, and Secretary of Commerce shall enter into a cooperative agreement to—

(A) provide funding to the Task Force; and

(B) use conservation programs administered by the Secretary of Agriculture and other Federal programs administered by the Secretary of the Interior and Secretary of Commerce in carrying out the purposes described in subsection (b)(3).

(5) GRANT PROGRAM.—The Task Force shall establish a grant program (including appropriate cost-share, monitoring, and enforcement requirements) under which the Secretary of Agriculture, Secretary of the Interior, or Secretary of Commerce may enter into 1 or more agreements or contracts with non-Federal entities, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), environmental organizations, and water districts in the Klamath Basin to carry out the purposes described in subsection (b)(3).

(c) PLAN.—

(1) DEVELOPMENT.—

(A) DRAFT PLAN.—Not later than 180 days after the date of enactment of this Act, the Task Force shall develop, and provide public notice of and an opportunity for comment on, a draft 5-year plan to perform the duties of the Task Force under subsection (b)(3).

(B) FINAL PLAN.—Not later than 1 year after the date of enactment of this Act, the Task Force shall finalize the plan described in subparagraph (A).

(2) MATTERS TO BE CONSIDERED.—In developing the plan under paragraph (1), the Task Force shall consider—

(A) the purchase of water conservation easements;

(B) purchase of agricultural land from willing sellers, with priority given to land that will enhance water storage capabilities;

(C) benefits to the agricultural economy through incentives for the use of irrigation efficiency, water conservation, or other agricultural practices;

(D) wetland restoration;

(E) feasibility studies for alternative water storage, water conservation, demand reduction, and restoration of endangered species;

(F) improvement of upper Klamath Basin watershed and water quality;

(G) improvement of habitat on the Tule Lake National Wildlife Refuge, the Lower Klamath National Wildlife Refuge, and the Upper Klamath Lake National Wildlife Refuge;

(H) fish screening and water metering;

(I) other activities in the Basin that may significantly affect water resources in the Basin, as determined by the Task Force; and

(J) other matters that the Task Force considers appropriate.

(d) COOPERATION WITH NON-FEDERAL ENTITIES.—In carrying out the duties of the Task Force under this section, the Task Force shall—

(1) consult with—

(A) environmental, fishing, and agricultural interests; and

(B) on a government-to-government basis, the Klamath, Hoopa, Yurok, and Karuk Tribes; and

(2) provide appropriate opportunities for public participation.

(e) FUNDING.—

(1) IN GENERAL.—To carry out the purposes and activities described in subsection (b)(3), the Secretary shall use $175,000,000 of the funds of the Commodity Credit Corporation for the period of fiscal years 2003 through 2006, of which—

(A) $15,000,000 shall be made available to the Klamath, Yurok, Hoopa, and Karuk Tribes for use in the State of California; and

(B) $15,000,000 shall be made available to those Tribes for use in the State of Oregon.

(2) OTHER FUNDS.—The funds made available under subparagraphs (A) and (B) of paragraph (1) shall be in addition to funds available to the States of California and Oregon under other provisions of this Act (including amendments made by this Act).

(3) EXPIRATION OF AUTHORITY TO OBLIGATE FUNDS.—The Secretary may not obligate funds made available under this paragraph after September 30, 2006.

(4) UNUSED FUNDING.—Any funds made available for a fiscal year under paragraph (1) that are not obligated by April 1 of the fiscal year may be used to carry out other activities under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

(f) SAVINGS PROVISION.—Nothing in this section regarding the Klamath Basin affects any right or obligation of any party under any treaty or any provision of Federal or State law.

(g) COOPERATIVE AGREEMENTS.—Notwithstanding the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.), the Secretary may enter into cooperative agreements under this section.

TITLE III—TRADE

Subtitle A—Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

SEC. 301. UNITED STATES POLICY.

Section 2(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691(2)) is amended by inserting before the semicolon at the end the following: "and conflict prevention".

SEC. 302. PROVISION OF AGRICULTURAL COMMODITIES.

Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722) is amended—

(1) in subsection (b), by adding at the end the following:

"(3) PROGRAM DIVERSITY.—The Administrator shall—

"(A) encourage eligible organizations to propose and implement program plans to address 1 or more aspects of the program under section 201; and

"(B) consider proposals that incorporate a variety of program objectives and strategic plans based on the identification by eligible organizations of appropriate activities to assist development in foreign countries.";

(2) in subsection (e)(1), by striking "not less than $10,000,000, and not more than $28,000,000," and inserting "not less than 5 percent nor more than 10 percent of the funds"; and

(3) by adding at the end the following:

"(h) CERTIFIED INSTITUTIONAL PARTNERS.—

"(1) IN GENERAL.—The Administrator or the Secretary, as applicable, shall promulgate regulations and issue guidelines to permit private voluntary organizations and cooperatives to be certified as institutional partners.

"(2) REQUIREMENTS.—To become a certified institutional partner, a private voluntary organization or cooperative shall submit to the Administrator a certification of organizational capacity that describes—

"(A) the financial, programmatic, commodity management, and auditing abilities and practices of the organization or cooperative; and

"(B) the capacity of the organization or cooperative to carry out projects in particular countries.

"(3) MULTI-COUNTRY PROPOSALS.—A certified institutional partner shall be eligible to—

"(A) submit a single proposal for 1 or more countries that are the same as, or similar to, those countries in which the certified institutional partner has already demonstrated organizational capacity;

"(B) receive expedited review and approval of the proposal; and

"(C) receive commodities and assistance under this section for use in 1 or more countries.".

SEC. 303. GENERATION AND USE OF CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

Section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) is amended—

(1) in the section heading, by striking **"foreign"**;

(2) in subsection (a), by striking "the recipient country, or in a country" and inserting "1 or more recipient countries, or 1 or more countries";

(3) in subsection (b)—

(A) by striking "in recipient countries, or in countries" and inserting "1 or more recipient countries, or in 1 or more countries"; and

(B) by striking "foreign currency";

(4) in subsection (c)—

(A) by striking "foreign currency"; and

(B) by striking "the recipient country, or in a country" and inserting "1 or more recipient countries, or in 1 or more countries"; and

(5) in subsection (d)—

(A) by striking "Foreign currencies" and inserting "Proceeds";

(B) in paragraph (2)—

(i) by striking "income generating" and inserting "income-generating"; and

(ii) by striking "the recipient country or within a country" and inserting "1 or more recipient countries or within 1 or more countries"; and

(C) in paragraph (3)—

(i) by inserting a comma after "invested"; and

(ii) by inserting a comma after "used".

SEC. 304. LEVELS OF ASSISTANCE.

Section 204 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "that for each of fiscal years 1996 through 2002 is not less than 2,025,000 metric tons." and inserting "that is not less than—

"(A) 2,100,000 metric tons for fiscal year 2002;

"(B) 2,200,000 metric tons for fiscal year 2003;

"(C) 2,300,000 metric tons for fiscal year 2004;

"(D) 2,400,000 metric tons for fiscal year 2005; and

"(E) 2,500,000 metric tons for fiscal year 2006."; and

(B) in paragraph (2), by striking "1996 through 2002" and inserting "2002 through 2006"; and

(2) in subsection (b)(1), by inserting "(including crude degummed soybean oil)" after "bagged commodities".

SEC. 305. FOOD AID CONSULTATIVE GROUP.

Section 205 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1725) is amended—

(1) in subsection (a), by inserting ", policies, guidelines," after "regulations";

(2) in subsection (d), by inserting "policies," after "regulations," each place it appears; and

(3) in subsection (f), by striking "2002" and inserting "2006".

SEC. 306. MAXIMUM LEVEL OF EXPENDITURES.

Section 206(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726(a)) is amended by striking "$1,000,000,000" and inserting "$2,000,000,000".

SEC. 307. ADMINISTRATION.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by striking paragraph (1) and inserting the following:

"(1) Recipient countries.—A proposal to enter into a nonemergency food assistance agreement under this title shall identify the recipient country or countries that are the subject of the agreement.

"(2) Timing.—Not later than 120 days after the date of submission to the Administrator of a proposal submitted by an eligible organization under this title, the Administrator shall determine whether to accept the proposal.";

(2) in subsection (b), by striking "guideline" each place it appears and inserting "guideline or policy determination";

(3) in subsection (d), by striking "a United States field mission" and inserting "an eligible organization with an approved program under this title"; and

(4) by adding at the end the following:

"(e) Timely Approval.—

"(1) In general.—The Administrator shall finalize program agreements and resource requests for programs under this section before the beginning of each fiscal year.

"(2) Report.—Not later than December 1 of each year, the Administrator shall submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

"(A) a list of programs, countries, and commodities approved to date for assistance under this section; and

"(B) a statement of the total amount of funds approved to date for transportation and administrative costs under this section.

"(f) Direct Delivery.—In addition to practices in effect on the date of enactment of this subsection, the Secretary may approve an agreement that provides for direct delivery of agricultural commodities to milling or processing facilities more than 50 percent of the interest in which is owned by United States citizens in foreign countries, with the proceeds of transactions transferred in cash to eligible organizations described in section 202(d) to carry out approved projects.".

SEC. 308. ASSISTANCE FOR STOCKPILING AND RAPID TRANSPORTATION, DELIVERY, AND DISTRIBUTION OF SHELF-STABLE PREPACKAGED FOODS.

Section 208(f) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726b(f)) is amended by striking "and 2002" and inserting "through 2006".

SEC. 309. SALE PROCEDURE.

Section 403 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733) is amended by adding at the end the following:

"(l) Sale Procedure.—

"(1) In general.—Subsection (b) shall apply to sales of commodities in recipient countries to generate proceeds to carry out projects under—

"(A) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)); and

"(B) title VIII of the Agricultural Trade Act of 1978.

"(2) Currencies.—Sales of commodities described in paragraph (1) may be in United States dollars or in a different currency.

"(3) Sale price.—Sales of commodities described in paragraph (1) shall be made at a reasonable market price in the economy where the commodity is to be sold, as determined by the Secretary or the Administrator, as appropriate.".

SEC. 310. PREPOSITIONING.

Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended by striking "and 2002" and inserting "through 2006".

SEC. 311. EXPIRATION DATE.

Section 408 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b) is amended by striking "2002" and inserting "2006".

SEC. 312. MICRONUTRIENT FORTIFICATION PROGRAM.

Section 415 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736g-2) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "a micronutrient fortification pilot program" and inserting "micronutrient fortification programs"; and

(B) in the second sentence—

(i) by striking "the program" and inserting "a program";

(ii) in paragraph (1), by striking "and" at the end;

(iii) in paragraph (2)—

(I) by striking "whole"; and

(II) by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(3) encourage technologies and systems for the improved quality and safety of fortified grains and other commodities that are readily transferable to developing countries.";

(2) in the first sentence of subsection (c)—

(A) by striking "the pilot program, whole" and inserting "a program,";

(B) by striking "the pilot program may" and inserting "a program may"; and

(C) by striking "including" and inserting "such as"; and

(3) in subsection (d), by striking "2002" and inserting "2006".

SEC. 313. FARMER-TO-FARMER PROGRAM.

Section 501(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(c)) is amended—

(1) by striking "0.4" and inserting "0.5,"; and

(2) by striking "2002" and inserting "2006".

Subtitle B—Agricultural Trade Act of 1978

SEC. 321. EXPORT CREDIT GUARANTEE PROGRAM.

(a) Term of Supplier Credit Program.—Section 202(a)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(a)(2)) is amended by striking "180" and inserting "360".

(b) Processed and High-Value Products.—Section 202(k)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(k)(1)) is amended by striking ", 2001, and 2002" and inserting "through 2006".

(c) Report.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended by adding at the end the following:

"(l) Report on Agricultural Export Credit Programs.—

"(1) In general.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a report on the status of multilateral negotiations regarding agricultural export credit programs at the World Trade Organization and the Organization of Economic Cooperation and Development in fulfillment of Article 10.2 of the Agreement on Agriculture (as described in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2))).

"(2) Classified information.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.".

(d) Reauthorization.—Section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(b)(1)) is amended by striking "2002" and inserting "2006".

SEC. 322. MARKET ACCESS PROGRAM.

(a) In General.—Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking "The Commodity" and inserting the following:

"(1) In general.—The Commodity";

(3) by striking subparagraph (A) (as so redesignated) and inserting the following:

"(A) in addition to any funds that may be specifically appropriated to implement a market access program, not more than $100,000,000 for fiscal year 2002, $120,000,000 for fiscal year 2003, $140,000,000 for fiscal year 2004, $180,000,000 for fiscal year 2005, and $200,000,000 for fiscal year 2006, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation, except that this paragraph shall not apply to section 203(h); and"; and

(4) by adding at the end the following:

"(2) Program Priorities.—Of funds made available under paragraph (1)(A) in excess of $90,000,000 for any fiscal year, priority shall be given to proposals—

"(A) made by eligible trade organizations that have never participated in the market access program under this title; or

"(B) for market access programs in emerging markets.".

(b) United States Quality Export Initiative.—

(1) Findings.—Congress finds that—

(A) the market access program established under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) and foreign market development cooperator program established under title VII of that Act (7 U.S.C. 7251 et seq.) target generic and value-added agricultural products, with little emphasis on the high quality of United States agricultural products; and

(B) new promotional tools are needed to enable United States agricultural products to compete in higher margin, international markets on the basis of quality.

(2) INITIATIVE.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is amended by adding at the end the following:

"(h) UNITED STATES QUALITY EXPORT INITIATIVE.—

"(1) IN GENERAL.—Subject to the availability of appropriations, using the authorities under this section, the Secretary shall establish a program under which, on a competitive basis, using practical and objective criteria, several agricultural products are selected to carry the 'U.S. Quality' seal.

"(2) PROMOTIONAL ACTIVITIES.—Agricultural products selected under paragraph (1) shall be promoted using the 'U.S. Quality' seal at trade fairs in key markets through electronic and print media.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.".

SEC. 323. EXPORT ENHANCEMENT PROGRAM.

(a) IN GENERAL.—Section 301(e)(1)(G) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)(G)) is amended by striking "fiscal year 2002" and inserting "each of fiscal years 2002 through 2006".

(b) UNFAIR TRADE PRACTICES.—Section 102(5)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(5)(A)) is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting ", including, in the case of a state trading enterprise engaged in the export of an agricultural commodity, pricing practices that are not consistent with sound commercial practices conducted in the ordinary course of trade; or"; and

(3) by adding at the end the following:

"(iii) changes United States export terms of trade through a deliberate change in the dollar exchange rate of a competing exporter.".

SEC. 324. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

Section 703 of the Agricultural Trade Act of 1978 (7 U.S.C. 5723) is amended to read as follows:

"SEC. 703. FUNDING.

"(a) IN GENERAL.—To carry out this title, the Secretary shall use funds of the Commodity Credit Corporation, or commodities of the Commodity Credit Corporation of a comparable value, in the following amounts:

"(1) For fiscal year 2002, $37,500,000.

"(2) For fiscal year 2003, $40,000,000.

"(3) For fiscal year 2004 and each subsequent fiscal year, $42,500,000.

"(b) PROGRAM PRIORITIES.—Of funds or commodities provided under subsection (a) in excess of $35,000,000 for any fiscal year, priority shall be given to proposals—

"(1) made by eligible trade organizations that have never participated in the program established under this title; or

"(2) for programs established under this title in emerging markets.".

SEC. 325. FOOD FOR PROGRESS AND EDUCATION PROGRAMS.

(a) IN GENERAL.—The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

"TITLE VIII—FOOD FOR PROGRESS AND EDUCATION PROGRAMS

"SEC. 801. DEFINITIONS.

"In this title:

"(1) COOPERATIVE.—The term 'cooperative' means a private sector organization the members of which—

"(A) own and control the organization;

"(B) share in the profits of the organization; and

"(C) are provided services (such as business services and outreach in cooperative development) by the organization.

"(2) CORPORATION.—The term 'Corporation' means the Commodity Credit Corporation.

"(3) DEVELOPING COUNTRY.—The term 'developing country' means a foreign country that has—

"(A) a shortage of foreign exchange earnings; and

"(B) difficulty meeting all of the food needs of the country through commercial channels and domestic production.

"(4) ELIGIBLE COMMODITY.—The term 'eligible commodity' means an agricultural commodity (including vitamins and minerals) acquired by the Secretary or the Corporation for disposition in a program authorized under this title through—

"(A) commercial purchases; or

"(B) inventories of the Corporation.

"(5) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means a private voluntary organization, cooperative, nongovernmental organization, or foreign country, as determined by the Secretary.

"(6) EMERGING AGRICULTURAL COUNTRY.—The term 'emerging agricultural country' means a foreign country that—

"(A) is an emerging democracy; and

"(B) has made a commitment to introduce or expand free enterprise elements in the agricultural economy of the country.

"(7) FOOD SECURITY.—The term 'food security' means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

"(8) NONGOVERNMENTAL ORGANIZATION.—

"(A) IN GENERAL.—The term 'nongovernmental organization' means an organization that operates on a local level to solve development problems in a foreign country in which the organization is located.

"(B) EXCLUSION.—The term 'nongovernmental organization' does not include an organization that is primarily an agency or instrumentality of the government of a foreign country.

"(9) PRIVATE VOLUNTARY ORGANIZATION.—The term 'private voluntary organization' means a nonprofit, nongovernmental organization that—

"(A) receives—

"(i) funds from private sources; and

"(ii) voluntary contributions of funds, staff time, or in-kind support from the public;

"(B) is engaged in or is planning to engage in nonreligious voluntary, charitable, or development assistance activities; and

"(C) in the case of an organization that is organized under the laws of the United States or a State, is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code.

"(10) PROGRAM.—The term 'program' means a food or nutrition assistance or development initiative proposed by an eligible organization and approved by the Secretary under this title.

"(11) RECIPIENT COUNTRY.—The term 'recipient country' means an emerging agricultural country that receives assistance under a program.

"SEC. 802. FOOD FOR PROGRESS AND EDUCATION PROGRAMS.

"(a) IN GENERAL.—To provide agricultural commodities to support the introduction or expansion of free trade enterprises in national economies in recipient countries, and to provide food or nutrition assistance in recipient countries, the Secretary shall establish food for progress and education programs under which the Secretary may enter into agreements (including multiyear agreements and for programs in more than 1 country) with—

"(1) the governments of emerging agricultural countries;

"(2) private voluntary organizations;

"(3) nonprofit agricultural organizations and cooperatives;

"(4) nongovernmental organizations; and

"(5) other private entities.

"(b) CONSIDERATIONS.—In determining whether to enter into an agreement to establish a program under subsection (a), the Secretary shall take into consideration whether an emerging agricultural country is committed to carrying out, or is carrying out, policies that promote—

"(1) economic freedom;

"(2) private production of food commodities for domestic consumption; and

"(3) the creation and expansion of efficient domestic markets for the purchase and sale of those commodities.

"(c) INTERNATIONAL FOOD FOR EDUCATION AND NUTRITION PROGRAM.—

"(1) IN GENERAL.—In cooperation with other countries, the Secretary shall establish an initiative within the food for progress and education programs under this title to be known as the 'International Food for Education and Nutrition Program', through which the Secretary may provide to eligible organizations agricultural commodities and technical and nutritional assistance in connection with education programs to improve food security and enhance educational opportunities for preschool age and primary school age children in recipient countries.

"(2) AGREEMENTS.—In carrying out this subsection, the Secretary—

"(A) shall administer the programs under this subsection in manner that is consistent with this title; and

"(B) may enter into agreements with eligible organizations—

"(i) to purchase, acquire, and donate eligible commodities to eligible organizations to carry out agreements in recipient countries; and

"(ii) to provide technical and nutritional assistance to carry out agreements in recipient countries.

"(3) OTHER DONOR COUNTRIES.—The Secretary shall encourage other donor countries, directly or through eligible organizations—

"(A) to donate goods and funds to recipient countries; and

"(B) to provide technical and nutritional assistance to recipient countries.

"(4) PRIVATE SECTOR.—The President and the Secretary are urged to encourage the support and active involvement of the private sector, foundations, and other individuals and organizations in programs and activities assisted under this subsection.

"(5) GRADUATION.—An agreement with an eligible organization under this subsection shall include provisions—

"(A)(i) to sustain the benefits to the education, enrollment, and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under the program under this subsection terminates; and

"(ii) to estimate the period of time required until the recipient country or eligible organization is able to provide sufficient assistance without additional assistance under this subsection; or

"(B) to provide other long-term benefits to targeted populations of the recipient country.

"(6) ANNUAL REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report that describes—

"(A) the results of the implementation of this subsection during the year covered by the report, including the impact on the enrollment, attendance, and performance of children in preschools and primary schools targeted under the program under this subsection; and

"(B) the level of commitments by, and the potential for obtaining additional goods and assistance from, other countries for subsequent years.

"(d) TERMS.—

"(1) IN GENERAL.—The Secretary may provide agricultural commodities under this title on—

"(A) a grant basis; or

"(B) subject to paragraph (2), credit terms.

"(2) CREDIT TERMS.—Payment for agricultural commodities made available under this title that are purchased on credit terms shall be made on the same basis as payments made under section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703).

"(3) NO EFFECT ON DOMESTIC PROGRAMS.—The Secretary shall not make an agricultural commodity available for disposition under this section in any amount that will reduce the amount of the commodity that is traditionally made available through donations to domestic feeding programs or agencies, as determined by the Secretary.

"(e) REPORTS.—Each eligible organization that enters into an agreement under this title shall submit to the Secretary, at such time as the Secretary may request, a report containing such information as the Secretary may request relating to the use of agricultural commodities and funds provided to the eligible organization under this title.

"(f) COORDINATION.—To ensure that the provision of commodities under this section is coordinated with and complements other foreign assistance provided by the United States, assistance under this section shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

"(g) QUALITY ASSURANCE.—

"(1) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that each eligible organization participating in 1 or more programs under this section—

"(A) uses eligible commodities made available under this title—

"(i) in an effective manner;

"(ii) in the areas of greatest need; and

"(iii) in a manner that promotes the purposes of this title;

"(B) in using eligible commodities, assesses and takes into account the needs of recipient countries and the target populations of the recipient countries;

"(C) works with recipient countries, and indigenous institutions or groups in recipient countries, to design and carry out mutually acceptable programs authorized in subsection (h)(2)(C)(i);

"(D) monitors and reports on the distribution or sale of eligible commodities provided under this title using methods that, as determined by the Secretary, facilitate accurate and timely reporting;

"(E) periodically evaluates the effectiveness of the program of the eligible organization, including, as applicable, an evaluation of whether the development or food and nutrition purposes of the program can be sustained in a recipient country if the assistance provided to the recipient country is reduced and eventually terminated; and

"(F) considers means of improving the operation of the program of the eligible organization.

"(2) CERTIFIED INSTITUTIONAL PARTNERS.—

"(A) IN GENERAL.—The Secretary shall promulgate regulations and guidelines to permit private voluntary organizations and cooperatives to be certified as institutional partners.

"(B) REQUIREMENTS.—To become a certified institutional partner, a private voluntary organization or cooperative shall submit to the Secretary a certification of organizational capacity that describes—

"(i) the financial, programmatic, commodity management, and auditing abilities and practices of the organization or cooperative; and

"(ii) the capacity of the organization or cooperative to carry out projects in particular countries.

"(C) MULTICOUNTRY PROPOSALS.—A certified institutional partner shall be eligible to—

"(i) submit a single proposal for 1 or more countries that are the same as, or similar to, those countries in which the certified institutional partner has already demonstrated organizational capacity;

"(ii) receive expedited review and approval of the proposal; and

"(iii) request commodities and assistance under this section for use in 1 or more countries.

"(D) MULTIYEAR AGREEMENTS.—In carrying out this title, on request and subject to the availability of commodities, the Secretary is encouraged to approve agreements that provide for commodities to be made available for distribution on a multiyear basis, if the agreements otherwise meet the requirements of this title.

"(h) TRANSSHIPMENT AND RESALE.—

"(1) IN GENERAL.—The transshipment or resale of an eligible commodity to a country other than a recipient country shall be prohibited unless the transshipment or resale is approved by the Secretary.

"(2) MONETIZATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), an eligible commodity provided under this section may be sold for foreign currency or United States dollars or bartered, with the approval of the Secretary.

"(B) SALE OR BARTER OF FOOD ASSISTANCE.—The sale or barter of eligible commodities under this title may be conducted only within (as determined by the Secretary)—

"(i) a recipient country or country nearby to the recipient country; or

"(ii) another country, if—

"(I) the sale or barter within the recipient country or nearby country is not practicable; and

"(II) the sale or barter within countries other than the recipient country or nearby country will not disrupt commercial markets for the agricultural commodity involved.

"(C) HUMANITARIAN OR DEVELOPMENT PURPOSES.—The Secretary may authorize the use of proceeds or exchanges to reimburse, within a recipient country or other country in the same region, the costs incurred by an eligible organization for—

"(i)(I) programs targeted at hunger and malnutrition; or

"(II) development programs involving food security or education;

"(ii) transportation, storage, and distribution of eligible commodities provided under this title; and

"(iii) administration, sales, monitoring, and technical assistance.

"(D) EXCEPTION.—The Secretary shall not approve the use of proceeds described in subparagraph (C) to fund any administrative expenses of a foreign government.

"(E) PRIVATE SECTOR ENHANCEMENT.—As appropriate, the Secretary may provide eligible commodities under this title in a manner that uses commodity transactions as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing, and distribution of commodities.

"(i) DISPLACEMENT OF COMMERCIAL SALES.—In carrying out this title, the Secretary shall, to the maximum extent practicable consistent with the purposes of this title, avoid—

"(1) displacing any commercial export sale of United States agricultural commodities that would otherwise be made;

"(2) disrupting world prices of agricultural commodities; or

"(3) disrupting normal patterns of commercial trade of agricultural commodities with foreign countries.

"(j) DEADLINE FOR PROGRAM ANNOUNCEMENTS.—

"(1) IN GENERAL.—Before the beginning of the applicable fiscal year, the Secretary shall, to the maximum extent practicable—

"(A) make all determinations concerning program agreements and resource requests for programs under this title; and

"(B) announce those determinations.

"(2) REPORT.—Not later than November 1 of the applicable fiscal year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a list of programs, countries, and commodities, and the total amount of funds for transportation and administrative costs, approved to date under this title.

"(k) MILITARY DISTRIBUTION OF ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that agricultural commodities made available under this title are provided without regard to—

"(A) the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient; or

"(B) any other extraneous factors, as determined by the Secretary.

"(2) PROHIBITION ON HANDLING OF COMMODITIES BY THE MILITARY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall not enter into an agreement under this title to provide agricultural commodities if the agreement requires or permits the distribution, handling, or allocation of agricultural commodities by the military forces of any foreign government or insurgent group.

“(B) Exception.—The Secretary may authorize the distribution, handling, or allocation of commodities by the military forces of a country in exceptional circumstances in which—

“(i) nonmilitary channels are not available for distribution, handling, or allocation;

“(ii) the distribution, handling, or allocation is consistent with paragraph (1); and

“(iii) the Secretary determines that the distribution, handling, or allocation is necessary to meet the emergency health, safety, or nutritional requirements of the population of a recipient country.

“(3) Encouragement of safe passage.—In entering into an agreement under this title that involves 1 or more areas within a recipient country that is experiencing protracted warfare or civil unrest, the Secretary shall, to the maximum extent practicable, encourage all parties to the conflict to—

“(A) permit safe passage of the commodities and other relief supplies; and

“(B) establish safe zones for—

“(i) medical and humanitarian treatment; and

“(ii) evacuation of injured persons.

“(l) Level of Assistance.—The cost of commodities made available under this title, and the expenses incurred in connection with the provision of those commodities shall be in addition to the level of assistance provided under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

“(m) Commodity Credit Corporation.—

“(1) In general.—Subject to paragraphs (6) through (8), the Secretary may use the funds, facilities, and authorities of the Corporation to carry out this title.

“(2) Minimum tonnage.—Subject to paragraphs (5) and (7)(B), not less than 400,000 metric tons of commodities may be provided under this title for each of fiscal years 2002 through 2006.

“(3) Authorization of appropriations.—In addition to tonnage authorized under paragraph (2), there are authorized to be appropriated such sums as are necessary to carry out this title.

“(4) Title i funds.—In addition to tonnage and funds authorized under paragraphs (2), (3), and (7)(B), the Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.)) in carrying out this section with respect to commodities made available under this title.

“(5) International food for education and nutrition program.—

“(A) In general.—Of the funds that would be available to carry out paragraph (2), the Secretary may use not more than $200,000,000 for each fiscal year to carry out the initiative established under subsection (c).

“(B) Reallocation.—Tons not allocated under subsection (c) by June 30 of each fiscal year shall be made available for proposals submitted under the food for progress and education programs under subsection (a).

“(6) Limitation on purchases of commodities.—The Corporation may purchase agricultural commodities for disposition under this title only if Corporation inventories are insufficient to satisfy commitments made in agreements entered into under this title.

“(7) Eligible costs and expenses.—

“(A) In general.—Subject to subparagraph (B), with respect to an eligible commodity made available under this title, the Corporation may pay—

“(i) the costs of acquiring the eligible commodity;

“(ii) the costs associated with packaging, enriching, preserving, and fortifying of the eligible commodity;

“(iii) the processing, transportation, handling, and other incidental costs incurred before the date on which the commodity is delivered free on board vessels in United States ports;

“(iv) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

“(v) the costs associated with transporting the eligible commodity from United States ports to designated points of entry abroad in a case in which—

“(I) a recipient country is landlocked;

“(II) ports of a recipient country cannot be used effectively because of natural or other disturbances;

“(III) carriers to a specific country are unavailable; or

“(IV) substantial savings in costs or time may be gained by the use of points of entry other than ports;

“(vi) the transportation and associated distribution costs incurred in moving the commodity (including repositioned commodities) from designated points of entry or ports of entry abroad to storage and distribution sites;

“(vii) in the case of an activity under subsection (c), the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the Secretary determines that payment of the costs is appropriate and that the recipient country is a low income, net food-importing country that—

“(I) meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference; and

“(II) has a national government that is committed to or is working toward, through a national action plan, the World Declaration on Education for All convened in 1990 in Jomtien, Thailand, and the followup Dakar Framework for Action of the World Education Forum in 2000;

“(viii) the charges for general average contributions arising out of the ocean transport of commodities transferred; and

“(ix) the costs, in addition to costs authorized by clauses (i) through (viii), of providing—

“(I) assistance in the administration, sale, and monitoring of food assistance activities under this title; and

“(II) technical assistance for monetization programs.

“(B) Funding.—Except for costs described in subparagraph (A)(i), not more than $80,000,000 of funds that would be made available to carry out paragraph (2) may be used to cover costs under this paragraph unless authorized in advance in an appropriation Act.

“(8) Payment of administrative costs.—An eligible organization that receives payment for administrative costs through monetization of the eligible commodity under subsection (h)(2) shall not be eligible to receive payment for the same administrative costs through direct payments under paragraph (7)(A)(ix)(I).”.

(b) Conforming Amendments.—

(1) Section 416(b)(7)(D)(iii) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(iii)) is amended by striking “the Food for Progress Act of 1985” and inserting “title VIII of the Agricultural Trade Act of 1978”.

(2) The Act of August 19, 1958 (7 U.S.C. 1431 note; Public Law 85-683) is amended by striking “the Food for Progress Act of 1985” and inserting “title VIII of the Agricultural Trade Act of 1978”.

(3) Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is repealed.

SEC. 326. EXPORTER ASSISTANCE INITIATIVE.

(a) Findings.—Congress find that—

(1) information in the possession of Federal agencies other than the Department of Agriculture that is necessary for the export of agricultural commodities and products is available only from multiple disparate sources; and

(2) because exporters often need access to information quickly, exporters lack the time to search multiple sources to access necessary information, and exporters often are unaware of where the necessary information can be located.

(b) Initiative.—Title I of the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

“SEC. 107. EXPORTER ASSISTANCE INITIATIVE.

“(a) In General.—In order to create a single source of information for exports of United States agricultural commodities, the Secretary shall develop a website on the Internet that collates onto a single website all information from all agencies of the Federal Government that is relevant to the export of United States agricultural commodities.

“(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out subsection (a)—

“(1) $1,000,000 for each of fiscal years 2002 through 2004; and

“(2) $500,000 for each of fiscal years 2005 and 2006.”.

Subtitle C—Miscellaneous Agricultural Trade Provisions

SEC. 331. BILL EMERSON HUMANITARIAN TRUST.

Section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1) is amended by striking “2002” each place it appears in subsection (b)(2)(B)(i) and paragraphs (1) and (2) of subsection (h) and inserting “2006”.

SEC. 332. EMERGING MARKETS.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101-624) is amended by striking “2002” each place it appears in subsections (a) and (d)(1)(A)(i) and inserting “2006”.

SEC. 333. BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101-624) is amended by adding at the end the following:

“(g) Biotechnology and Agricultural Trade Program.—

“(1) In general.—The Secretary of Agriculture shall establish a program to enhance foreign acceptance of agricultural biotechnology and United States agricultural products developed through biotechnology.

“(2) Focus.—The program shall address the continuing and increasing market access, regulatory, and marketing issues relating to export commerce of United States agricultural biotechnology products.

“(3) Education and outreach.—

“(A) Foreign markets.—Support for United States agricultural market development organizations to carry out education and other outreach efforts concerning biotechnology shall target such educational initiatives directed toward—

“(i) producers, buyers, consumers, and media in foreign markets through initiatives in foreign markets; and

“(ii) government officials, scientists, and trade officials from foreign countries through exchange programs.

"(B) FUNDING FOR EDUCATION AND OUTREACH.—Funding for activities under subparagraph (A) may be—

"(i) used through—

"(I) the emerging markets program under this section; or

"(II) the Cochran Fellowship Program under section 1543; or

"(ii) applied directly to foreign market development cooperators through the foreign market development cooperator program established under section 702.

"(4) RAPID RESPONSE.—

"(A) IN GENERAL.—The Secretary shall assist exporters of United States agricultural commodities in cases in which the exporters are harmed by unwarranted and arbitrary barriers to trade due to—

"(i) marketing of biotechnology products;

"(ii) food safety;

"(iii) disease; or

"(iv) other sanitary or phytosanitary concerns.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $1,000,000 for each of fiscal years 2002 through 2006.

"(5) FUNDING.—

"(A) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection (other than paragraph (4)).

"(B) FUNDING AMOUNT.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection (other than paragraph (4)) $15,000,000 for each of fiscal years 2002 through 2006.".

SEC. 334. SURPLUS COMMODITIES FOR DEVELOPING OR FRIENDLY COUNTRIES.

(a) USE OF CURRENCIES.—Section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)) is amended—

(1) in clauses (i) and (iii), by striking "foreign currency" each place it appears;

(2) in clause (ii)—

(A) in the first sentence, by striking "Foreign currencies" and inserting "Proceeds"; and

(B) in the second sentence, by striking "foreign currency"; and

(3) in clause (iv)—

(A) by striking "Foreign currency proceeds" and inserting "Proceeds"; and

(B) by striking "; or" and all that follows and inserting a period.

(b) IMPLEMENTATION OF AGREEMENTS.—Section 416(b)(8) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(8)) is amended by striking "(8)(A)" and all that follows through "(B) The Secretary" and inserting the following:

"(8) ADMINISTRATIVE PROVISIONS.—

"(A) DIRECT DELIVERY.—In addition to practices in effect on the date of enactment of this subparagraph, the Secretary may approve an agreement that provides for direct delivery of eligible commodities to milling or processing facilities more than 50 percent of the interest in which is owned by United States citizens in recipient countries, with the proceeds of transactions transferred in cash to eligible organizations to carry out approved projects.

"(B) REGULATIONS.—The Secretary".

(c) CERTIFIED INSTITUTIONAL PARTNERS.—Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by adding at the end the following:

"(c) CERTIFIED INSTITUTIONAL PARTNERS.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations and guidelines to permit private voluntary organizations and cooperatives to be certified as institutional partners.

"(2) REQUIREMENTS.—To become a certified institutional partner, a private voluntary organization or cooperative shall submit to the Secretary a certification of organizational capacity that describes—

"(A) the financial, programmatic, commodity management, and auditing abilities and practices of the organization or cooperative; and

"(B) the capacity of the organization or cooperative to carry out projects in particular countries.

"(3) MULTI-COUNTRY PROPOSALS.—A certified institutional partner shall be eligible to—

"(A) submit a single proposal for 1 or more countries that are the same as, or similar to, those countries in which the certified institutional partner has already demonstrated organizational capacity;

"(B) receive expedited review and approval of the proposal; and

"(C) request commodities and assistance under this section for use in 1 or more countries.".

SEC. 335. AGRICULTURAL TRADE WITH CUBA.

(a) IN GENERAL.—Section 908 of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2001 (22 U.S.C. 7207), is amended by striking subsection (b).

(b) CONFORMING AMENDMENTS.—Section 908(a) of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2001 (22 U.S.C. 7207(a)) (as amended by subsection (a)), is amended—

(1) by striking "(a)" and all that follows through "Notwithstanding" and inserting the following:

"(a) IN GENERAL.—Notwithstanding";

(2) by striking "(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1)" and inserting the following:

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (a)"; and

(3) by striking "(3) WAIVER.—The President may waive the application of paragraph (1)" and inserting the following:

"(c) WAIVER.—The President may waive the application of subsection (a)".

SEC. 336. SENSE OF CONGRESS CONCERNING AGRICULTURAL TRADE.

(a) AGRICULTURE TRADE NEGOTIATING OBJECTIVES.—It is the sense of Congress that the principal negotiating objective of the United States with respect to agricultural trade in all multilateral, regional, and bilateral negotiations is to obtain competitive opportunities for the export of United States agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of agricultural trade in bulk and value-added commodities by—

(1) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for the export of United States agricultural commodities, giving priority to United States agricultural commodities that are subject to significantly higher tariffs or subsidy regimes of major producing countries;

(2) immediately eliminating all export subsidies on agricultural commodities worldwide while maintaining bona fide food aid and preserving United States agricultural market development and export credit programs that allow the United States to compete with other foreign export promotion efforts;

(3) leveling the playing field for United States agricultural producers by disciplining domestic supports such that no other country can provide greater support, measured as a percentage of total agricultural production value, than the United States does while preserving existing green box category to support conservation activities, family farms, and rural communities;

(4) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities for United States agricultural commodities or distort agricultural markets to the detriment of the United States, including—

(A) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on—

(i) requiring price transparency in the operation of state trading enterprises and such other mechanisms; and

(ii) ending discriminatory pricing practices for agricultural commodities that amount to de facto export subsidies so that the enterprises or other mechanisms do not (except in cases of bona fide food aid) sell agricultural commodities in foreign markets at prices below domestic market prices or prices below the full costs of acquiring and delivering agricultural commodities to the foreign markets;

(B) unjustified trade restrictions or commercial requirements affecting new agricultural technologies, including biotechnology;

(C) unjustified sanitary or phytosanitary restrictions, including restrictions that are not based on scientific principles, in contravention of the Agreement on the Application of Sanitary and Phytosanitary Measures (as described in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3)));

(D) other unjustified technical barriers to agricultural trade; and

(E) restrictive and nontransparent rules in the administration of tariff rate quotas;

(5) improving import relief mechanisms to recognize the unique characteristics of perishable agricultural commodities;

(6) taking into account whether a party to negotiations with respect to trading in an agricultural commodity has—

(A) failed to adhere to the provisions of an existing bilateral trade agreement with the United States;

(B) circumvented obligations under a multilateral trade agreement to which the United States is a signatory; or

(C) manipulated its currency value to the detriment of United States agricultural producers or exporters; and

(7) otherwise ensuring that countries that accede to the World Trade Organization—

(A) have made meaningful market liberalization commitments in agriculture; and

(B) make progress in fulfilling those commitments over time.

(b) PRIORITY FOR AGRICULTURE TRADE.—It is the sense of Congress that—

(1) reaching a successful agreement on agriculture should be the top priority of United States negotiators in World Trade Organization talks; and

(2) if the primary export competitors of the United States fail to reduce their trade distorting domestic supports and eliminate export subsidies in accordance with the negotiating objectives expressed in this section, the United States should take steps to increase the leverage of United States negotiators and level the playing field for United States producers, within existing World Trade Organization commitments.

(c) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—It is the sense of Congress that—

(1) before the United States Trade Representative negotiates a trade agreement that would reduce tariffs on agricultural commodities or require a change in United States agricultural law, the United States Trade Representative should consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(2) not less than 48 hours before initialing an agreement relating to agricultural trade negotiated under the auspices of the World Trade Organization, the United States Trade Representative should consult closely with the committees referred to in paragraph (1) regarding—

(A) the details of the agreement;

(B) the potential impact of the agreement on United States agricultural producers; and

(C) any changes in United States law necessary to implement the agreement; and

(3) any agreement or other understanding (whether verbal or in writing) that relates to agricultural trade that is not disclosed to Congress before legislation implementing a trade agreement is introduced in either the Senate or the House of Representatives should not be considered to be part of the agreement approved by Congress and should have no force and effect under Unites States law or in any dispute settlement body.

TITLE IV—NUTRITION PROGRAMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Food Stamp Reauthorization Act of 2001".

Subtitle A—Food Stamp Program

SEC. 411. ENCOURAGEMENT OF PAYMENT OF CHILD SUPPORT.

(a) EXCLUSION.—Section 5(d)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(6)) is amended by adding at the end the following: "and child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments,".

(b) SIMPLIFIED PROCEDURE.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e), by striking paragraph (4) and inserting the following:

"(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

"(A) IN GENERAL.—In lieu of providing an exclusion for legally obligated child support payments made by a household member under subsection (d)(6), a State agency may elect to provide a deduction for the amount of the payments.

"(B) ORDER OF DETERMINING DEDUCTIONS.—A deduction under this paragraph shall be determined before the computation of the excess shelter expense deduction under paragraph (6)."; and

(2) by adding at the end the following:

"(n) STATE OPTIONS TO SIMPLIFY DETERMINATION OF CHILD SUPPORT PAYMENTS MADE BY HOUSEHOLD MEMBERS.—

"(1) IN GENERAL.—Regardless of whether a State agency elects to provide a deduction under subsection (e)(4), the Secretary shall establish simplified procedures to allow State agencies, at the option of the State agencies, to determine the amount of the legally obligated child support payments made, including procedures to allow the State agency to rely on information from the agency responsible for implementing the program under part D of title IV of the Social Security Act (42 U.S.C. 661 et seq.) concerning payments made in prior months in lieu of obtaining current information from the household.

"(2) DURATION OF DETERMINATION OF AMOUNT OF SUPPORT PAYMENTS.—If a State agency makes a determination of the amount of support payments of a household under paragraph (1), the State agency may provide that the amount of the exclusion or deduction for the household shall not change until the eligibility of the household is next redetermined under section 11(e)(4).".

SEC. 412. SIMPLIFIED DEFINITION OF INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking "and (15)" and inserting "(15)"; and

(2) by inserting before the period at the end the following: ", (16) at the option of the State agency, any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like (other than loans, grants, scholarships, fellowships, veterans' educational benefits, and the like excluded under paragraph (3)), to the extent that they are required to be excluded under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), (17) at the option of the State agency, any State complementary assistance program payments that are excluded for the purpose of determining eligibility for medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u-1), and (18) at the option of the State agency, any types of income that the State agency does not consider when determining eligibility for (A) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or the amount of such assistance, or (B) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u-1), except that this paragraph does not authorize a State agency to exclude wages or salaries, benefits under title I, II, IV, X, XIV, or XVI of the Social Security Act (42 U.S.C. 1381 et seq.), regular payments from a government source (such as unemployment benefits and general assistance), worker's compensation, child support payments made to a household member by an individual who is legally obligated to make the payments, or such other types of income the consideration of which the Secretary determines by regulation to be essential to equitable determinations of eligibility and benefit levels".

SEC. 413. INCREASE IN BENEFITS TO HOUSEHOLDS WITH CHILDREN.

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:

"(1) STANDARD DEDUCTION.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall allow for each household a standard deduction that is equal to the greater of—

"(i) the applicable percentage specified in subparagraph (D) of the applicable income standard of eligibility established under subsection (c)(1); or

"(ii) the minimum deduction specified in subparagraph (E).

"(B) GUAM.—The Secretary shall allow for each household in Guam a standard deduction that is—

"(i) equal to the applicable percentage specified in subparagraph (D) of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

"(ii) not less than the minimum deduction for Guam specified in subparagraph (E).

"(C) HOUSEHOLDS OF 6 OR MORE MEMBERS.—The income standard of eligibility established under subsection (c)(1) for a household of 6 members shall be used to calculate the standard deduction for each household of 6 or more members.

"(D) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (A), the applicable percentage shall be—

"(i) 8 percent for each of fiscal years 2002 through 2007;

"(ii) 8.25 percent for fiscal year 2008;

"(iii) 8.5 percent for each of fiscal years 2009 and 2010; and

"(iv) 9 percent for fiscal year 2011 and each fiscal year thereafter.

"(E) MINIMUM DEDUCTION.—The minimum deduction shall be $134, $229, $189, $269, and $118 for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, respectively.".

SEC. 414. SIMPLIFIED DETERMINATION OF HOUSING COSTS.

(a) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended—

(1) in subparagraph (A)—

(A) by striking "A household" and inserting the following:

"(i) IN GENERAL.—A household"; and

(B) by adding at the end the following:

"(ii) INCLUSION OF CERTAIN PAYMENTS.—In determining the shelter expenses of a household under this paragraph, the State agency shall include any required payment to the landlord of the household without regard to whether the required payment is designated to pay specific charges."; and

(2) by adding at the end the following:

"(D) HOMELESS HOUSEHOLDS.—

"(i) ALTERNATIVE DEDUCTION.—In lieu of the deduction provided under subparagraph (A), a State agency may elect to allow a household in which all members are homeless, individuals, but that is not receiving free shelter throughout the month, to receive a deduction of $143 per month.

"(ii) INELIGIBILITY.—The State agency may make a household with extremely low shelter costs ineligible for the alternative deduction under clause (i).".

(b) CONFORMING AMENDMENTS.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e)—

(A) by striking paragraph (5); and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(2) in subsection (k)(4)(B), by striking "subsection (e)(7)" and inserting "subsection (e)(6)".

SEC. 415. SIMPLIFIED UTILITY ALLOWANCE.

Section 5(e)(6)(C)(iii) of the Food Stamp Act of 1977 (as amended by section 414(b)(1)(B)) is amended—

(1) in subclause (I)(bb), by inserting "(without regard to subclause (III))" after "Secretary finds"; and

(2) by adding at the end the following:

"(III) INAPPLICABILITY OF CERTAIN RESTRICTIONS.—Clauses (ii)(II) and (ii)(III) shall not apply in the case of a State agency that has made the use of a standard utility allowance mandatory under subclause (I).".

SEC. 416. SIMPLIFIED PROCEDURE FOR DETERMINATION OF EARNED INCOME.

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by adding at the end the following:

"(C) SIMPLIFIED DETERMINATION OF EARNED INCOME.—

"(i) IN GENERAL.—A State agency may elect to determine monthly earned income by multiplying weekly income by 4 and biweekly income by 2.

"(ii) Adjustment of earned income deduction.—A State agency that makes an election described in clause (i) shall adjust the earned income deduction under subsection (e)(2)(B) to the extent necessary to prevent the election from resulting in increased costs to the food stamp program, as determined consistent with standards promulgated by the Secretary.".

SEC. 417. SIMPLIFIED DETERMINATION OF DEDUCTIONS.

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) (as amended by section 416) is amended by adding at the end the following:

"(D) Simplified determination of deductions.—

"(i) In general.—Except as provided in clause (ii), for the purposes of subsection (e), a State agency may elect to disregard until the next redetermination of eligibility under section 11(e)(4) 1 or more types of changes in the circumstances of a household that affect the amount of deductions the household may claim under subsection (e).

"(ii) Changes that may not be disregarded.—Under clause (i), a State agency may not disregard—

"(I) any reported change of residence; or

"(II) under standards prescribed by the Secretary, any change in earned income.".

SEC. 418. SIMPLIFIED DEFINITION OF RESOURCES.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(6) Exclusion of types of financial resources not considered under certain other federal programs.—

"(A) In general.—Subject to subparagraph (B), the Secretary shall promulgate regulations under which a State agency may, at the option of the State agency, exclude from financial resources under this subsection any types of financial resources that the State agency does not consider when determining eligibility for—

"(i) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1).

"(B) Limitations.—Subparagraph (A) does not authorize a State agency to exclude—

"(i) cash;

"(ii) licensed vehicles;

"(iii) amounts in any account in a financial institution that are readily available to the household; or

"(iv) any other similar type of resource the inclusion in financial resources of which the Secretary determines by regulation to be essential to equitable determinations of eligibility under the food stamp program, except to the extent that any of those types of resources are excluded under another paragraph of this subsection.".

SEC. 419. ALTERNATIVE ISSUANCE SYSTEMS IN DISASTERS.

Section 5(h)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(3)(B)) is amended—

(1) in the first sentence, by inserting "issuance methods and" after "shall adjust"; and

(2) in the second sentence, by inserting ", any conditions that make reliance on electronic benefit transfer systems described in section 7(i) impracticable," after "personnel".

SEC. 420. STATE OPTION TO REDUCE REPORTING REQUIREMENTS.

Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended—

(1) in subparagraph (B), by striking "on a monthly basis"; and

(2) by adding at the end the following:

"(D) Frequency of reporting.—

"(i) In general.—Except as provided in subparagraphs (A) and (C), a State agency may require households that report on a periodic basis to submit reports—

"(I) not less often than once each 6 months; but

"(II) not more often than once each month.

"(ii) Reporting by households with excess income.—A household required to report less often than once each 3 months shall, notwithstanding subparagraph (B), report in a manner prescribed by the Secretary if the income of the household for any month exceeds the standard established under section 5(c)(2).".

SEC. 421. BENEFITS FOR ADULTS WITHOUT DEPENDENTS.

(a) In General.—Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C)—

(i) by striking "subsection (d)(4)," and inserting "subsection (d)(4)"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) a job search program or job search training program if—

"(i) the program meets standards established by the Secretary to ensure that the participant is continuously and actively seeking employment in the private sector; and

"(ii) no position is currently available for the participant in an employment or training program that meets the requirements of subparagraph (C).";

(2) in paragraph (2)—

(A) by striking "36-month" and inserting "24-month"; and

(B) by striking "3" and inserting "6";

(3) by striking paragraph (5) and inserting the following:

"(5) Eligibility of individuals while meeting work requirement.—Notwithstanding paragraph (2), an individual who would otherwise be ineligible under that paragraph shall be eligible to participate in the food stamp program during any period in which the individual meets the work requirement of subparagraph (A), (B), or (C) of that paragraph."; and

(4) in paragraph (6)(A)(ii)—

(A) in subclause (III), by adding "and" at the end;

(B) in subclause (IV)—

(i) by striking "3" and inserting "6"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking subclause (V).

(b) Implementation of Amendments.—For the purpose of implementing the amendments made by subsection (a), a State agency shall disregard any period during which an individual received food stamp benefits before the effective date of this title.

SEC. 422. PRESERVATION OF ACCESS TO ELECTRONIC BENEFITS.

(a) In General.—Section 7(i)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended by adding at the end the following:

"(E) Access to EBT systems.—

"(i) In general.—No benefits shall be taken off-line or otherwise made inaccessible because of inactivity until at least 180 days have elapsed since a household last accessed the account of the household.

"(ii) Notice to household.—In a case in which benefits are taken off-line or otherwise made inaccessible, the household shall be sent a notice that—

"(I) explains how to reactivate the benefits; and

"(II) offers assistance if the household is having difficulty accessing the benefits of the household.".

(b) Applicability.—The amendment made by subsection (a) shall apply with respect to each State agency beginning on the date on which the State agency, after the date of enactment of this Act, enters into a contract to operate an electronic benefit transfer system.

SEC. 423. COST NEUTRALITY FOR ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 7(i)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(2)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively.

SEC. 424. ALTERNATIVE PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.

(a) In General.—Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) Simplified Procedures for Residents of Certain Group Facilities.—

"(1) In general.—At the option of the State agency, allotments for residents of facilities described in subparagraph (B), (C), (D), or (E) of section 3(i)(5) may be determined and issued under this subsection in lieu of subsection (a).

"(2) Amount of allotment.—The allotment for each eligible resident described in paragraph (1) shall be calculated in accordance with standardized procedures established by the Secretary that take into account the allotments typically received by residents of facilities described in paragraph (1).

"(3) Issuance of allotment.—

"(A) In general.—The State agency shall issue an allotment determined under this subsection to the administration of a facility described in paragraph (1) as the authorized representative of the residents of the facility.

"(B) Adjustment.—The Secretary shall establish procedures to ensure that a facility described in paragraph (1) does not receive a greater proportion of a resident's monthly allotment than the proportion of the month during which the resident lived in the facility.

"(4) Departures of covered residents.—

"(A) Notification.—Any facility described in paragraph (1) that receives an allotment for a resident under this subsection shall—

"(i) notify the State agency promptly on the departure of the resident; and

"(ii) notify the resident, before the departure of the resident, that the resident—

"(I) is eligible for continued benefits under the food stamp program; and

"(II) should contact the State agency concerning continuation of the benefits.

"(B) Issuance to departed residents.—On receiving a notification under subparagraph (A)(i) concerning the departure of a resident, the State agency—

"(i) shall promptly issue the departed resident an allotment for the days of the month after the departure of the resident (calculated in a manner prescribed by the Secretary) unless the departed resident reapplies to participate in the food stamp program; and

"(ii) may issue an allotment for the month following the month of the departure (but not any subsequent month) based on this subsection unless the departed resident reapplies to participate in the food stamp program.

"(C) STATE OPTION.—The State agency may elect not to issue an allotment under subparagraph (B)(i) if the State agency lacks sufficient information on the location of the departed resident to provide the allotment.

"(D) EFFECT OF REAPPLICATION.—If the departed resident reapplies to participate in the food stamp program, the allotment of the departed resident shall be determined without regard to this subsection.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended—

(A) by striking "(i) 'Household' means (1) an" and inserting the following:

"(i)(1) 'Household' means—

"(A) an";

(B) in the first sentence, by striking "others, or (2) a group" and inserting the following: "others; or

"(B) a group";

(C) in the second sentence, by striking "Spouses" and inserting the following:

"(2) Spouses";

(D) in the third sentence, by striking "Notwithstanding" and inserting the following:

"(3) Notwithstanding";

(E) in paragraph (3) (as designated by subparagraph (D)), by striking "the preceding sentences" and inserting "paragraphs (1) and (2)";

(F) in the fourth sentence, by striking "In no event" and inserting the following:

"(4) In no event";

(G) in the fifth sentence, by striking "For the purposes of this subsection, residents" and inserting the following:

"(5) For the purposes of this subsection, the following persons shall not be considered to be residents of institutions and shall be considered to be individual households:

"(A) Residents"; and

(H) in paragraph (5) (as designated by subparagraph (G))—

(i) by striking "Act, or are individuals" and inserting the following: "Act.

"(B) Individuals";

(ii) by striking "such section, temporary" and inserting the following: "that section.

"(C) Temporary";

(iii) by striking "children, residents" and inserting the following: "children.

"(D) Residents";

(iv) by striking "coupons, and narcotics" and inserting the following: "coupons.

"(E) Narcotics"; and

(v) by striking "shall not" and all that follows and inserting a period.

(2) Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "the third sentence of section 3(i)" each place it appears and inserting "section 3(i)(4)".

(3) Section 8(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2017(e)(1)) is amended by striking "the last sentence of section 3(i)" and inserting "section 3(i)(5)".

(4) Section 17(b)(1)(B)(iv)(III)(aa) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(iv)(III)(aa)) is amended by striking "the last 2 sentences of section 3(i)" and inserting "paragraphs (4) and (5) of section 3(i)".

SEC. 425. AVAILABILITY OF FOOD STAMP PROGRAM APPLICATIONS ON THE INTERNET.

Section 11(e)(2)(B)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(2)(B)(ii)) is amended—

(1) by inserting "(I)" after "(ii)";

(2) in subclause (I) (as designated by paragraph (1)), by adding "and" at the end; and

(3) by adding at the end the following:

"(II) if the State agency maintains a website for the State agency, shall make the application available on the website in each language in which the State agency makes a printed application available;".

SEC. 426. SIMPLIFIED DETERMINATIONS OF CONTINUING ELIGIBILITY.

(a) IN GENERAL.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4)(A) that the State agency shall periodically require each household to cooperate in a redetermination of the eligibility of the household.

"(B) A redetermination under subparagraph (A) shall—

"(i) be based on information supplied by the household; and

"(ii) conform to standards established by the Secretary.

"(C) The interval between redeterminations of eligibility under subparagraph (A) shall not exceed the eligibility review period;" and

(2) in paragraph (10)—

(A) by striking "within the household's certification period"; and

(B) by striking "or until" and all that follows through "occurs earlier".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended—

(A) by striking "Certification period" and inserting "Eligibility review period"; and

(B) by striking "certification period" each place it appears and inserting "eligibility review period".

(2) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(A) in subsection (d)(2), by striking "in the certification period which" and inserting "that"; and

(B) in subsection (e) (as amended by section 414(b)(1)(B))—

(i) in paragraph (5)(B)(ii)—

(I) in subclause (II), by striking "certification period" and inserting "eligibility review period"; and

(II) in subclause (III), by striking "has been anticipated for the certification period" and inserting "was anticipated when the household applied or at the most recent redetermination of eligibility for the household"; and

(ii) in paragraph (6)(C)(iii)(II), by striking "the end of a certification period" and inserting "each redetermination of the eligibility of the household".

(3) Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(A) in subsection (c)(1)(C)(iv), by striking "certification period" each place it appears and inserting "interval between required redeterminations of eligibility"; and

(B) in subsection (d)(1)(D)(v)(II), by striking "a certification period" and inserting "an eligibility review period".

(4) Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(A) in the second sentence of paragraph (1), by striking "within a certification period"; and

(B) in paragraph (2)(B), by striking "expiration of" and all that follows through "during a certification period," and inserting "termination of benefits to the household,".

(5) Section 11(e)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(16)) is amended by striking "the certification or recertification" and inserting "determining the eligibility".

SEC. 427. CLEARINGHOUSE FOR SUCCESSFUL NUTRITION EDUCATION EFFORTS.

Section 11(f) of the Food Stamp Act of 1977 (7 U.S.C. 2020(f)) is amended by striking paragraph (2) and inserting the following:

"(2) NUTRITION EDUCATION CLEARINGHOUSE.—The Secretary shall—

"(A) request State agencies to submit to the Secretary descriptions of successful nutrition education programs designed for use in the food stamp program and other nutrition assistance programs;

"(B) make the descriptions submitted under subparagraph (A) available on the website of the Department of Agriculture; and

"(C) inform State agencies of the availability of the descriptions on the website.".

SEC. 428. TRANSITIONAL FOOD STAMPS FOR FAMILIES MOVING FROM WELFARE.

(a) IN GENERAL.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(s) TRANSITIONAL BENEFITS OPTION.—

"(1) IN GENERAL.—A State agency may provide transitional food stamp benefits to a household that ceases to receive cash assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(2) TRANSITIONAL BENEFITS PERIOD.—Under paragraph (1), a household may continue to receive food stamp benefits for a period of not more than 6 months after the date on which cash assistance is terminated.

"(3) AMOUNT OF BENEFITS.—During the transitional benefits period under paragraph (2), a household shall receive an amount of food stamp benefits equal to the allotment received in the month immediately preceding the date on which cash assistance was terminated, adjusted for—

"(A) the change in household income as a result of the termination of cash assistance; and

"(B) any changes in circumstances that may result in an increase in the food stamp allotment of the household and that the household elects to report.

"(4) DETERMINATION OF FUTURE ELIGIBILITY.—In the final month of the transitional benefits period under paragraph (2), the State agency may—

"(A) require the household to cooperate in a redetermination of eligibility; and

"(B) initiate a new eligibility review period for the household without regard to whether the preceding eligibility review period has expired.

"(5) LIMITATION.—A household shall not be eligible for transitional benefits under this subsection if the household—

"(A) loses eligibility under section 6;

"(B) is sanctioned for a failure to perform an action required by Federal, State, or local law relating to a cash assistance program described in paragraph (1); or

"(C) is a member of any other category of households designated by the State agency as ineligible for transitional benefits.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by adding at the end the following: "The limits specified in this section may be extended until the end of any transitional benefit period established under section 11(s).".

(2) Section 6(c) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)) is amended by striking "No household" and inserting "Except in a

case in which a household is receiving transitional benefits during the transitional benefits period under section 11(s), no household".

SEC. 429. DELIVERY TO RETAILERS OF NOTICES OF ADVERSE ACTION.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended by striking paragraph (2) and inserting the following:

"(2) Delivery of notices.—A notice under paragraph (1) shall be delivered by any form of delivery that the Secretary determines will provide evidence of the delivery.".

SEC. 430. REFORM OF QUALITY CONTROL SYSTEM.

(a) In General.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) is amended—

(1) in paragraph (1)—

(A) by striking "enhances payment accuracy" and all that follows through "(A) the Secretary" and inserting the following: "enhances payment accuracy and that has the following elements:

"(A) Enhanced administrative funding.—With respect to fiscal year 2001, the Secretary";

(B) in subparagraph (A)—

(i) by striking "one percentage point to a maximum of 60" and inserting "½ of 1 percentage point to a maximum of 55"; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) by striking subparagraph (B) and all that follows and inserting the following:

"(B) Investigation and initial sanctions.—

"(i) Investigation.—Except as provided under subparagraph (C), for any fiscal year in which the Secretary determines that a 95 percent statistical probability exists that the payment error rate of a State agency exceeds the national performance measure for payment error rates announced under paragraph (6) by more than 1 percentage point, other than for good cause shown, the Secretary shall investigate the administration by the State agency of the food stamp program unless the Secretary determines that sufficient information is already available to review the administration by the State agency.

"(ii) Initial sanctions.—If an investigation under clause (i) results in a determination that the State agency has been seriously negligent (as determined under standards promulgated by the Secretary), the State agency shall pay the Secretary an amount that reflects the extent of such negligence (as determined under standards promulgated by the Secretary), not to exceed 5 percent of the amount provided to the State agency under subsection (a) for the fiscal year.

"(C) Additional sanctions.—If, for any fiscal year, the Secretary determines that a 95 percent statistical probability exists that the payment error rate of a State agency exceeds the national performance measure for payment error rates announced under paragraph (6) by more than 1 percentage point, other than for good cause shown, and that the State agency was sanctioned under this paragraph or was the subject of an investigation or review under subparagraph (B)(i) for each of the 2 immediately preceding fiscal years, the State agency shall pay to the Secretary an amount equal to the product obtained by multiplying—

"(i) the value of all allotments issued by the State agency in the fiscal year;

"(ii) the lesser of—

"(I) the ratio that—

"(aa) the amount by which the payment error rate of the State agency for the fiscal year exceeds by more than 1 percentage point the national performance measure for the fiscal year; bears to

"(bb) 10 percent; or

"(II) 1; and

"(iii) the amount by which the payment error rate of the State agency for the fiscal year exceeds by more than 1 percentage point the national performance measure for the fiscal year.

"(D) Corrective action plans.—The Secretary shall foster management improvements by the States by requiring State agencies to develop and implement corrective action plans to reduce payment errors.";

(2) in paragraph (2)(A), by inserting before the semicolon the following: ", as adjusted downward as appropriate under paragraph (10)";

(3) in paragraph (4), by striking "(4)" and all that follows through the end of the first sentence and inserting the following:

"(4) Reporting requirements.—The Secretary may require a State agency to report any factors that the Secretary considers necessary to determine a State agency's payment error rate, enhanced administrative funding, claim for payment error under paragraph (1), or performance under the performance measures under paragraph (11).";

(4) in paragraph (5), by striking "(5)" and all that follows through the end of the second sentence and inserting the following:

"(5) Procedures.—To facilitate the implementation of this subsection, each State agency shall expeditiously submit to the Secretary data concerning the operations of the State agency in each fiscal year sufficient for the Secretary to establish the payment error rate for the State agency for the fiscal year, to comply with paragraph (10), and to determine the amount of enhanced administrative funding under paragraph (1)(A), high performance bonus payments under paragraph (11), or claims under subparagraph (B) or (C) of paragraph (1).";

(5) in paragraph (6)—

(A) in the first and third sentences, by striking "paragraph (5)" each place it appears and inserting "paragraph (8)"; and

(B) in the first sentence, by inserting "(but determined without regard to paragraph (10))" before "times that"; and

(6) by adding at the end the following:

"(10) Adjustments of payment error rate.—

"(A) Fiscal year 2002.—

"(i) Adjustment for higher percentage of households with earned income.—Subject to subparagraph (B), with respect to fiscal year 2002, in applying paragraph (1), the Secretary shall adjust the payment error rate determined under paragraph (2)(A) as necessary to take into account any increases in errors that result from the State agency's serving a higher percentage of households with earned income than the lesser of—

"(I) the percentage of households with earned income that receive food stamps in all States; or

"(II) the percentage of households with earned income that received food stamps in the State in fiscal year 1992.

"(ii) Adjustment for higher percentage of households with noncitizen members.—Subject to subparagraph (B), with respect to fiscal year 2002, in applying paragraph (1), the Secretary shall adjust the payment error rate determined under paragraph (2)(A) as necessary to take into account any increases in errors that result from the State agency's serving a higher percentage of households with 1 or more members who are not United States citizens than the lesser of—

"(I) the percentage of households with 1 or more members who are not United States citizens that receive food stamps in all States; or

"(II) the percentage of households with 1 or more members who are not United States citizens that received food stamps in the State in fiscal year 1998.

"(B) Expanded applicability to State agencies subject to sanctions.—In the case of a State agency subject to sanctions for fiscal year 2001 or any fiscal year thereafter under paragraph (1), the adjustments described in subparagraph (A) shall apply to the State agency for the fiscal year.

"(C) Additional adjustments.—For fiscal year 2003 and each fiscal year thereafter, the Secretary may make such additional adjustments to the payment error rate determined under paragraph (2)(A) as the Secretary determines to be consistent with achieving the purposes of this Act.".

(b) Applicability.—Except as otherwise provided in the amendments made by subsection (a), the amendments made by subsection (a) shall apply to fiscal year 2001 and each fiscal year thereafter.

SEC. 431. IMPROVEMENT OF CALCULATION OF STATE PERFORMANCE MEASURES.

(a) In General.—Section 16(c)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)(8)) is amended—

(1) in subparagraph (B), by striking "180 days after the end of the fiscal year" and inserting "the first May 31 after the end of the fiscal year referred to in subparagraph (A)"; and

(2) in subparagraph (C), by striking "30 days thereafter" and inserting "the first June 30 after the end of the fiscal year referred to in subparagraph (A)".

(b) Effective Date.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 432. BONUSES FOR STATES THAT DEMONSTRATE HIGH PERFORMANCE.

(a) In General.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) (as amended by section 430(a)(6)) is amended by adding at the end the following:

"(11) High performance bonus payments.—

"(A) In general.—The Secretary shall—

"(i) with respect to fiscal year 2002 and each fiscal year thereafter, measure the performance of each State agency with respect to each of the performance measures specified in subparagraph (B); and

"(ii) in fiscal year 2003 and each fiscal year thereafter, subject to subparagraphs (C) and (D), make high performance bonus payments to the State agencies with the highest or most improved performance with respect to those performance measures.

"(B) Performance measures.—The performance measures specified in this subparagraph are—

"(i) the ratio, expressed as a percentage, that—

"(I) the number of households in the State that—

"(aa) receive food stamps;

"(bb) have incomes less than 130 percent of the poverty line (as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

"(cc) have annual earnings equal to at least 1000 times the Federal minimum hourly rate under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.); and

"(dd) have children under age 18; bears to

"(II) the number of households in the State that meet the criteria specified in items (bb) through (dd) of subclause (I); and "(ii) 4 additional performance measures, established by the Secretary in consultation with the National Governors Association, the American Public Human Services Association, and the National Conference of State Legislatures not later than 180 days after the date of enactment of this paragraph, of which not less than 1 performance measure shall relate to provision of timely and appropriate services to applicants for and recipients of food stamp benefits.

"(C) HIGH PERFORMANCE BONUS PAYMENTS.—

"(i) DEFINITION OF CASELOAD.—In this subparagraph, the term 'caseload' has the meaning given the term in section 6(o)(6)(A).

"(ii) AMOUNT OF PAYMENTS.—

"(I) IN GENERAL.—In fiscal year 2003 and each fiscal year thereafter, the Secretary shall—

"(aa) make 1 high performance bonus payment of $6,000,000 for each of the 5 performance measures under subparagraph (B); and

"(bb) allocate the high performance bonus payment with respect to each performance measure in accordance with subclauses (II) and (III).

"(II) PAYMENTS FOR PERFORMANCE MEASURES.—In fiscal year 2003 and each fiscal year thereafter, the Secretary shall allocate, in accordance with subclause (III), the high performance bonus payment made for each performance measure under subparagraph (B) among the 6 State agencies with, as determined by the Secretary by regulation—

"(aa) the greatest improvement in the level of performance with respect to the performance measure between the 2 most recent years for which the Secretary determines that reliable data are available;

"(bb) the highest performance in the performance measure for the most recent year for which the Secretary determines that reliable data are available; or

"(cc) a combination of the greatest improvement described in item (aa) and the highest performance described in item (bb).

"(III) ALLOCATION AMONG STATE AGENCIES ELIGIBLE FOR PAYMENTS.—A high performance bonus payment under subclause (II) made for a performance measure shall be allocated among the 6 State agencies eligible for the payment in the ratio that—

"(aa) the caseload of each of the 6 State agencies eligible for the payment; bears to

"(bb) the caseloads of the 6 State agencies eligible for the payment.

"(D) PROHIBITION ON RECEIPT OF HIGH PERFORMANCE BONUS PAYMENTS BY STATE AGENCIES SUBJECT TO SANCTIONS.—If, for any fiscal year, a State agency is subject to a sanction under paragraph (1), the State agency shall not be eligible for a high performance bonus payment for the fiscal year.

"(E) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to make a high performance bonus payment under this paragraph shall not be subject to judicial review.".

(b) APPLICABILITY.—The amendment made by subsection (a) takes effect on the date of enactment of this Act.

SEC. 433. EMPLOYMENT AND TRAINING PROGRAM.

(a) LEVELS OF FUNDING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ", to remain available until expended."; and

(B) by striking clause (vii) and inserting the following:

"(vii) for each of fiscal years 2002 through 2006, $90,000,000, to remain available until expended.";

(2) by striking subparagraph (B) and inserting the following:

"(B) ALLOCATION.—Funds made available under subparagraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—

"(i) is determined and adjusted by the Secretary; and

"(ii) takes into account the number of individuals who are not exempt from the work requirement under section 6(o)."; and

(3) by striking subparagraphs (E) through (G) and inserting the following:

"(E) ADDITIONAL ALLOCATIONS FOR STATES THAT ENSURE AVAILABILITY OF WORK OPPORTUNITIES.—

"(i) IN GENERAL.—In addition to the allocations under subparagraph (A), from funds made available under section 18(a)(1), the Secretary shall allocate not more than $25,000,000 for each of fiscal years 2002 through 2006 to reimburse a State agency that is eligible under clause (ii) for the costs incurred in serving food stamp recipients who—

"(I) are not eligible for an exception under section 6(o)(3); and

"(II) are placed in and comply with a program described in subparagraph (B) or (C) of section 6(o)(2).

"(ii) ELIGIBILITY.—To be eligible for an additional allocation under clause (i), a State agency shall—

"(I) exhaust the allocation to the State agency under subparagraph (A) (including any reallocation that has been made available under subparagraph (C)); and

"(II) make and comply with a commitment to offer a position in a program described in subparagraph (B) or (C) of section 6(o)(2) to each applicant or recipient who—

"(aa) is in the last month of the 6-month period described in section 6(o)(2);

"(bb) is not eligible for an exception under section 6(o)(3);

"(cc) is not eligible for a waiver under section 6(o)(4); and

"(dd) is not eligible for an exemption under section 6(o)(6).".

(b) RESCISSION OF CARRYOVER FUNDS.—Notwithstanding any other provision of law, funds provided under section 16(h)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)(A)) for any fiscal year before fiscal year 2002 shall cease to be available on the date of enactment of this Act, unless obligated by a State agency before that date.

(c) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(I)(i)(I)) is amended by striking "$25 per month" and inserting "$50 per month".

(d) FEDERAL REIMBURSEMENT.—Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended by striking "$25" and inserting "$50".

(e) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 434. REAUTHORIZATION OF FOOD STAMP PROGRAM AND FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.

(a) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(3)) is amended—

(1) in the first sentence of subparagraph (A), by striking "2002" and inserting "2006"; and

(2) in subparagraph (B)(ii), by striking "2002" and inserting "2006".

(b) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended by striking "2002" and inserting "2006".

(c) GRANTS TO IMPROVE FOOD STAMP PARTICIPATION.—Section 17(i)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(i)(1)(A)) is amended in the first sentence by striking "2002" and inserting "2006".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking "2002" and inserting "2006".

SEC. 435. COORDINATION OF PROGRAM INFORMATION EFFORTS.

Section 16(k)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(5)) is amended—

(1) in subparagraph (A), by striking "No funds" and inserting "Except as provided in subparagraph (C), no funds"; and

(2) by adding at the end the following:

"(C) FOOD STAMP INFORMATIONAL ACTIVITIES.—Subparagraph (A) shall not apply to any funds or expenditures described in clause (i) or (ii) of subparagraph (B) used to pay the costs of any activity that is eligible for reimbursement under subsection (a)(4).".

SEC. 436. EXPANDED GRANT AUTHORITY.

Section 17(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(a)(1)) is amended—

(1) by striking ", by way of making contracts with or grants to public or private organizations or agencies," and inserting "enter into contracts with or make grants to public or private organizations or agencies under this section to"; and

(2) by adding at the end the following: "The waiver authority of the Secretary under subsection (b) shall extend to all contracts and grants under this section.".

SEC. 437. ACCESS AND OUTREACH PILOT PROJECTS.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (h) and inserting the following:

"(h) ACCESS AND OUTREACH PILOT PROJECTS.—

"(1) IN GENERAL.—The Secretary shall make grants to State agencies and other entities to pay the Federal share of the eligible costs of projects to improve—

"(A) access by eligible individuals to benefits under the food stamp program; or

"(B) outreach to individuals eligible for those benefits.

"(2) FEDERAL SHARE.—The Federal share shall be 75 percent.

"(3) TYPES OF PROJECTS.—To be eligible for a grant under this subsection, a project may consist of—

"(A) establishing a single site at which individuals may apply for—

"(i) benefits under the food stamp program; and

"(ii)(I) supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(II) benefits under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(III) benefits under the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

"(IV) benefits under the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); or

"(V) benefits under such other programs as the Secretary determines to be appropriate;

"(B) developing forms that allow an individual to apply for more than 1 of the programs referred to in subparagraph (A);

"(C) dispatching State agency personnel to conduct outreach and enroll individuals in the food stamp program and other programs in nontraditional venues (such as shopping malls, schools, community centers, county fairs, clinics, food banks, and job training centers);

"(D) developing systems to enable increased participation in the provision of benefits under the food stamp program through farmers' markets, roadside stands, and other community-supported agriculture programs, including wireless electronic benefit transfer systems and other systems appropriate to open-air settings where farmers and other vendors sell directly to consumers;

"(E) allowing individuals to submit applications for the food stamp program by means of the telephone or the Internet, in particular individuals who live in rural areas, elderly individuals, and individuals with disabilities;

"(F) encouraging consumption of fruit and vegetables by developing a cost-effective system for providing discounts for purchases of fruit and vegetables made through use of electronic benefit transfer cards;

"(G) reducing barriers to participation by individuals, with emphasis on working families, eligible immigrants, elderly individuals, and individuals with disabilities;

"(H) developing training materials, guidebooks, and other resources to improve access and outreach;

"(I) conforming verification practices under the food stamp program with verification practices under other assistance programs; and

"(J) such other activities as the Secretary determines to be appropriate.

"(4) SELECTION.—

"(A) IN GENERAL.—The Secretary shall develop criteria for selecting recipients of grants under this subsection that include the consideration of—

"(i) the demonstrated record of a State agency or other entity in serving low-income individuals;

"(ii) the ability of a State agency or other entity to reach hard-to-serve populations;

"(iii) the level of innovative proposals in the application of a State agency or other entity for a grant; and

"(iv) the development of partnerships between public and private sector entities and linkages with the community.

"(B) PREFERENCE.—In selecting recipients of grants under paragraph (1), the Secretary shall provide a preference to any applicant that consists of a partnership between a State and a private entity, such as—

"(i) a food bank;

"(ii) a community-based organization;

"(iii) a public school;

"(iv) a publicly-funded health clinic;

"(v) a publicly-funded day care center; and

"(vi) a nonprofit health or welfare agency.

"(C) GEOGRAPHICAL DISTRIBUTION OF RECIPIENTS.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall select, from all eligible applications received, at least 1 recipient to receive a grant under this subsection from—

"(I) each region of the Department of Agriculture administering the food stamp program; and

"(II) each additional rural or urban area that the Secretary determines to be appropriate.

"(ii) EXCEPTION.—The Secretary shall not be required to select grant recipients under clause (i) to the extent that the Secretary determines that an insufficient number of eligible grant applications has been received.

"(5) PROJECT EVALUATIONS.—

"(A) IN GENERAL.—The Secretary shall conduct evaluations of projects funded by grants under this subsection.

"(B) LIMITATION.—Not more than 10 percent of funds made available to carry out this subsection shall be used for project evaluations described in subparagraph (A).

"(6) MAINTENANCE OF EFFORT.—A State agency or other entity shall provide assurances to the Secretary that funds provided to the State agency or other entity under this subsection will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended to carry out access and outreach activities in the State under this Act.

"(7) FUNDING.—There is authorized to be appropriated to carry out this subsection $3,000,000 for the period of fiscal years 2003 through 2005.".

SEC. 438. CONSOLIDATED BLOCK GRANTS AND ADMINISTRATIVE FUNDS.

(a) CONSOLIDATED FUNDING.—Section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "the Commonwealth of Puerto Rico" and inserting "governmental entities specified in subparagraph (D)";

(B) in clause (ii), by striking "and" at the end; and

(C) by striking clause (iii) and all that follows and inserting the following:

"(iii) for fiscal year 2002, $1,356,000,000; and

"(iv) for each of fiscal years 2003 through 2006, the amount provided in clause (iii), as adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(o)(4) between June 30, 2001, and June 30 of the immediately preceding fiscal year;

to pay the expenditures for nutrition assistance programs for needy persons as described in subparagraphs (B) and (C).";

(2) in subparagraph (B)—

(A) by striking "(B) The" and inserting the following:

"(B) MAXIMUM PAYMENTS TO COMMONWEALTH OF PUERTO RICO.—

"(i) IN GENERAL.—The";

(B) by inserting "of Puerto Rico" after "Commonwealth" each place it appears; and

(C) by adding at the end the following:

"(ii) EXCEPTION FOR EXPENDITURES FOR CERTAIN SYSTEMS.—Notwithstanding subparagraph (A) and clause (i), the Commonwealth of Puerto Rico may spend not more than $6,000,000 of the amount required to be paid to the Commonwealth for fiscal year 2002 under subparagraph (A) to pay 100 percent of the costs of—

"(I) upgrading and modernizing the electronic data processing system used to carry out nutrition assistance programs for needy persons;

"(II) implementing systems to simplify the determination of eligibility to receive that nutrition assistance; and

"(III) operating systems to deliver benefits through electronic benefit transfers."; and

(3) by adding at the end the following:

"(C) AMERICAN SAMOA.—For each fiscal year, the Secretary shall reserve 0.4 percent of the funds made available under subparagraph (A) for payment to American Samoa to pay 100 percent of the expenditures for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).

"(D) GOVERNMENTAL ENTITY.—A governmental entity specified in this subparagraph is—

"(i) the Commonwealth of Puerto Rico; and

"(ii) for fiscal year 2003 and each fiscal year thereafter, American Samoa.".

(b) CONFORMING AMENDMENT.—Section 24 of the Food Stamp Act of 1977 (7 U.S.C. 2033) is repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 2002.

(2) EXCEPTION FOR EXPENDITURES FOR CERTAIN SYSTEMS.—The amendments made by subsection (a)(2) take effect on the date of enactment of this Act.

SEC. 439. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

Section 25 of the Food Stamp Act of 1977 (7 U.S.C. 2034) is amended—

(1) in subsection (b)(2)(B), by striking "2002" and inserting "2006";

(2) in subsection (d)—

(A) in paragraph (3), by striking "or" at the end; and

(B) by striking paragraph (4) and inserting the following:

"(4) encourage long-term planning activities, and multisystem, interagency approaches with multistakeholder collaborations, that build the long-term capacity of communities to address the food and agriculture problems of the communities, such as food policy councils and food planning associations; or

"(5) meet, as soon as practicable, specific neighborhood, local, or State food and agriculture needs, including needs for—

"(A) infrastructure improvement and development;

"(B) planning for long-term solutions; or

"(C) the creation of innovative marketing activities that mutually benefit farmers and low-income consumers."; and

(3) in subsection (e)(1), by striking "50" and inserting "75".

SEC. 440. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036) is amended—

(1) in subsection (a)—

(A) by striking "1997 through 2002" and inserting "2002 through 2006"; and

(B) by striking "$100,000,000" and inserting "$110,000,000"; and

(2) by adding at the end the following:

"(c) USE OF FUNDS FOR RELATED COSTS.—

"(1) IN GENERAL.—For each of fiscal years 2002 through 2006, the Secretary shall use $10,000,000 of the funds made available under subsection (a) to pay the direct and indirect costs of States relating to the processing, storing, transporting, and distributing to eligible recipient agencies of—

"(A) commodities purchased by the Secretary under subsection (a); and

"(B) commodities acquired from other sources, including commodities acquired by gleaning (as defined in section 111(a) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note; Public Law 100–435)).

"(2) ALLOCATION OF FUNDS.—The amount required to be used in accordance with paragraph (1) shall be allocated in accordance with section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).".

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 441. INNOVATIVE PROGRAMS FOR ADDRESSING COMMON COMMUNITY PROBLEMS.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 28. INNOVATIVE PROGRAMS FOR ADDRESSING COMMON COMMUNITY PROBLEMS.

"(a) In General.—The Secretary shall offer to enter into a contract with a nongovernmental organization described in subsection (b) to coordinate with Federal agencies, States, political subdivisions, and nongovernmental organizations (referred to in this section as 'targeted entities') to develop, and recommend to the targeted entities, innovative programs for addressing common community problems, including loss of farms, rural poverty, welfare dependency, hunger, the need for job training, juvenile crime prevention, and the need for self-sufficiency by individuals and communities.

"(b) Nongovernmental Organization.—The nongovernmental organization referred to in subsection (a)—

"(1) shall be selected on a competitive basis; and

"(2) as a condition of entering into the contract—

"(A) shall be experienced in working with targeted entities, and in organizing workshops that demonstrate programs to targeted entities;

"(B) shall be experienced in identifying programs that effectively address problems described in subsection (a) that can be implemented by other targeted entities;

"(C) shall agree—

"(i) to contribute in-kind resources toward the establishment and maintenance of programs described in subsection (a); and

"(ii) to provide to targeted entities, free of charge, information on the programs;

"(D) shall be experienced in, and capable of, receiving information from, and communicating with, targeted entities throughout the United States; and

"(E) shall be experienced in operating a national information clearinghouse that addresses 1 or more of the problems described in subsection (a).

"(c) Audits.—The Secretary shall establish auditing procedures and qtherwise ensure the effective use of funds made available under this section.

"(d) Funding.—

"(1) In general.—Not later than 30 days after the date of enactment of this section, and on October 1, 2002, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section $200,000, to remain available until expended.

"(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.".

SEC. 442. REPORT ON USE OF ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress a report on—

(1) difficulties relating to use of electronic benefit transfer systems in issuance of food stamp benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(2) the extent to which there exists fraud, and the types of fraud that exist, in use of the electronic benefit transfer systems; and

(3) the efforts being made by the Secretary of Agriculture, retailers, electronic benefit transfer system contractors, and States to address the problems described in paragraphs (1) and (2).

SEC. 443. VITAMIN AND MINERAL SUPPLEMENTS.

(a) In General.—Section 3(g)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2012(g)(1)) is amended by striking "or food product" and inserting ", food product, or dietary supplement that provides exclusively 1 or more vitamins or minerals".

(b) Impact Study.—

(1) In general.—Not later than April 1, 2003, the Secretary of Agriculture shall enter into a contract with a scientific research organization to study and develop a report on the technical issues, economic impacts, and health effects associated with allowing individuals to use benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to purchase dietary supplements that provide exclusively 1 or more vitamins or minerals (referred to in this subsection as "vitamin-mineral supplements").

(2) Required elements.—At a minimum, the study shall examine—

(A) the extent to which problems arise in the purchase of vitamin-mineral supplements with electronic benefit transfer cards;

(B) the extent of any difficulties in distinguishing vitamin-mineral supplements from herbal and botanical supplements for which food stamp benefits may not be used;

(C) whether participants in the food stamp program spend more on vitamin-mineral supplements than nonparticipants;

(D) to what extent vitamin-mineral supplements are substituted for other foods purchased with use of food stamp benefits;

(E) the proportion of the average food stamp allotment that is being used to purchase vitamin-mineral supplements; and

(F) the extent to which the quality of the diets of participants in the food stamp program has changed as a result of allowing participants to use food stamp benefits to purchase vitamin-mineral supplements.

(3) Report.—The report required under paragraph (1) shall be submitted to the Secretary of Agriculture not later than 2 years after the date on which the contract referred to in that paragraph is entered into.

(4) Authorization of appropriatiqns.—There is authorized to be appropriated $3,000,000 to carry out this subsection.

Subtitle B—Miscellaneous Provisions

SEC. 451. REAUTHORIZATION OF COMMODITY PROGRAMS.

(a) Commodity Distribution Program.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended in the first sentence by striking "2002" and inserting "2006".

(b) Commodity Supplemental Food Program.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Grants Per Assigned Caseload Slot.—

"(1) In general.—In carrying out the program under section 4 (referred to in this section as the 'commodity supplemental food program'), for each of fiscal years 2003 through 2006, the Secretary shall provide to each State agency from funds made available to carry out that section (including any such funds remaining available from the preceding fiscal year), a grant per assigned caseload slot for administrative costs incurred by the State agency and local agencies in the State in operating the commodity supplemental food program.

"(2) Amount of grants.—For each of fiscal years 2003 through 2006, the amount of each grant per caseload slot shall be equal to $50, adjusted by the percentage change between—

"(A) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

"(B) the value of that index for the 12-month period ending June 30 of the preceding fiscal year."; and

(2) in subsection (d)(2), by striking "2002" each place it appears and inserting "2006".

(c) Distribution of Surplus Commodities to Special Nutrition Projects.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking "2002" and inserting "2006".

(d) Emergency Food Assistance.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking "2002" and inserting "2006";

(2) by striking "administrative"; and

(3) by inserting "storage," after "processing,".

SEC. 452. PARTIAL RESTORATION OF BENEFITS TO LEGAL IMMIGRANTS.

(a) Restoration of Benefits to All Qualified Alien Children.—

(1) In general.—Section 402(a)(2)(J) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(J)) is amended by striking "who" and all that follows through "is under" and inserting "who is under".

(2) Conforming amendments.—

(A) Section 403(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)) is amended by adding at the end the following:

"(L) Assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).".

(B) Section 421(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(d)) is amended by adding at the end the following:

"(3) This section shall not apply to assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to the extent that a qualified alien is eligible under section 402(a)(2)(J).".

(C) Section 5(i)(2)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2014(i)(2)(E)) is amended by inserting before the period at the end the following: ", or to any alien who is under 18 years of age".

(3) Applicability.—The amendments made by this subsection shall apply to fiscal year 2004 and each fiscal year thereafter.

(b) Work Requirement for Legal Immigrants.—

(1) Working immigrant families.—Section 402(a)(2)(B)(ii)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(B)(ii)(I)) is amended by striking "40" and inserting "40 (or 16, in the case of the specified Federal program described in paragraph (3)(B))".

(2) Conforming amendments.—

(A) Section 213A(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1183a(a)(3)(A)) is amended by striking "40" and inserting "40 (or 16, in the case of the specified Federal program described in section 402(a)(3)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(3)(B)))".

(B) Section 421(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(b)(2)(A)) is amended by striking "40" and inserting "40 (or 16, in the case of the specified Federal program described in section 402(a)(3)(B))".

(c) Restoration of Benefits to Refugees and Asylees.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity

Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended—

(1) in subparagraph (A), by striking "programs described in paragraph (3)" and inserting "program described in paragraph (3)(A)"; and

(2) by adding at the end the following:

"(L) Food stamp exception for refugees and asylees.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to an alien with respect to which an action described in subparagraph (A) was taken and was not revoked.".

(d) Restoration of Benefits to Disabled Aliens.—Section 402(a)(2)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(F)) is amended by striking "(i) was" and all that follows through "(II) in the case" and inserting the following:

"(i) in the case of the specified Federal program described in paragraph (3)(A)—

"(I) was lawfully residing in the United States on August 22, 1996; and

"(II) is blind or disabled, as defined in paragraph (2) or (3) of section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a)); and

"(ii) in the case".

SEC. 453. COMMODITIES FOR SCHOOL LUNCH PROGRAMS.

(a) In General.—Section 6(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking "2001" and inserting "2003".

(b) Effective Date.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 454. ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS.

(a) In General.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

"(7) Exclusion of certain military housing allowances.—For each of fiscal years 2002 and 2003, the amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this Act.".

(b) Effective Date.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 455. ELIGIBILITY FOR ASSISTANCE UNDER THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) In General.—Section 17(d)(2)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(B)(i)) is amended—

(1) by striking "basic allowance for housing" and inserting the following: "basic allowance—

"(I) for housing";

(2) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following:

"(II) provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law; and".

(b) Effective Date.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 456. SENIORS FARMERS' MARKET NUTRITION PROGRAM.

(a) Establishment.—The Secretary of Agriculture shall carry out and expand a seniors farmers' market nutrition program.

(b) Program Purposes.—The purposes of the seniors farmers' market nutrition program are—

(1) to provide to low-income seniors resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs from farmers' markets, roadside stands, and community-supported agriculture programs;

(2) to increase domestic consumption of agricultural commodities by expanding or assisting in the expansion of domestic farmers' markets, roadside stands, and community-supported agriculture programs; and

(3) to develop or aid in the development of new farmers' markets, roadside stands, and community-supported agriculture programs.

(c) Regulations.—The Secretary of Agriculture may promulgate such regulations as the Secretary considers necessary to carry out the seniors farmers' market nutrition program under this section.

(d) Funding.—

(1) In general.—Not later than 30 days after the date of enactment of this Act, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section $15,000,000.

(2) Receipt and acceptance.—The Secretary of Agriculture shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

SEC. 457. FRUIT AND VEGETABLE PILOT PROGRAM.

(a) In General.—In the school year beginning July 2002, the Secretary of Agriculture shall use funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to conduct a pilot program to make available to students, in 25 elementary or secondary schools in each of 4 States, and in elementary or secondary schools on 1 Indian reservation, free fruits and vegetables throughout the school day in—

(1) a cafeteria;

(2) a student lounge; or

(3) another designated room of the school.

(b) Publicity.—A school that participates in the pilot program shall widely publicize within the school the availability of free fruits and vegetables under the pilot program.

(c) Evaluation of Pilot Program.—

(1) In general.—The Secretary of Agriculture shall conduct an evaluation of the results of the pilot program to determine—

(A) whether students took advantage of the pilot program;

(B) whether interest in the pilot program increased or lessened over time; and

(C) what effect, if any, the pilot program had on vending machine sales.

(2) Funding.—The Secretary shall use $200,000 of the funds described in subsection (a) to carry out the evaluation under this subsection.

SEC. 458. CONGRESSIONAL HUNGER FELLOWS PROGRAM.

(a) Short Title.—This section may be cited as the "Congressional Hunger Fellows Act of 2001".

(b) Findings.—Congress finds that—

(1) there are—

(A) a critical need for compassionate individuals who are committed to assisting people who suffer from hunger; and

(B) a need for those individuals to initiate and administer solutions to the hunger problem;

(2) Bill Emerson, the distinguished late Representative from the 8th District of Missouri, demonstrated—

(A) his commitment to solving the problem of hunger in a bipartisan manner;

(B) his commitment to public service; and

(C) his great affection for the institution and the ideals of Congress;

(3) George T. (Mickey) Leland, the distinguished late Representative from the 18th District of Texas, demonstrated—

(A) his compassion for individuals in need;

(B) his high regard for public service; and

(C) his lively exercise of political talents;

(4) the special concern that Mr. Emerson and Mr. Leland demonstrated during their lives for the hungry and poor was an inspiration for others to work toward the goals of equality and justice for all; and

(5) since those 2 outstanding leaders maintained a special bond of friendship regardless of political affiliation and worked together to encourage future leaders to recognize and provide service to others, it is especially appropriate to honor the memory of Mr. Emerson and Mr. Leland by establishing a fellowship program to develop and train the future leaders of the United States to pursue careers in humanitarian service.

(c) Definitions.—In this section:

(1) Appropriate congressional committees.—The term "appropriate congressional committees" means—

(A) the Committee on Agriculture and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

(2) Board.—The term "Board" means the Board of Trustees of the Program.

(3) Fund.—The term "Fund" means the Congressional Hunger Fellows Trust Fund established by subsection (g).

(4) Program.—The term "Program" means the Congressional Hunger Fellows Program established by subsection (d).

(d) Establishment.—There is established as an independent entity of the legislative branch of the United States Government an entity to be known as the "Congressional Hunger Fellows Program".

(e) Board of Trustees.—

(1) In general.—The Program shall be subject to the supervision and direction of a Board of Trustees.

(2) Members of the board.—

(A) Appointment.—

(i) In general.—The Board shall be composed of 6 voting members appointed under clause (ii) and 1 nonvoting ex-officio member designated by clause (iii).

(ii) Voting members.—The voting members of the Board shall be the following:

(I) 2 members appointed by the Speaker of the House of Representatives.

(II) 1 member appointed by the minority leader of the House of Representatives.

(III) 2 members appointed by the majority leader of the Senate.

(IV) 1 member appointed by the minority leader of the Senate.

(iii) Nonvoting member.—The Executive Director of the Program shall serve as a nonvoting ex-officio member of the Board.

(B) Terms.—

(i) In general.—Each member of the Board shall serve for a term of 4 years.

(ii) Incomplete term.—If a member of the Board does not serve the full term of the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(C) Vacancy.—A vacancy on the Board—

(i) shall not affect the powers of the Board; and

(ii) shall be filled in the same manner as the original appointment was made.

(D) Chairperson.—As the first order of business of the first meeting of the Board, the members shall elect a Chairperson.

(E) Compensation.—

(i) In general.—Subject to clause (ii), a member of the Board shall not receive compensation for service on the Board.

(ii) Travel.—A member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(3) Duties.—

(A) Bylaws.—

(i) Establishment.—The Board shall establish such bylaws and other regulations as are appropriate to enable the Board to carry out this section, including the duties described in this paragraph.

(ii) Contents.—Bylaws and other regulations established under clause (i) shall include provisions—

(I) for appropriate fiscal control, accountability for funds, and operating principles;

(II) to prevent any conflict of interest, or the appearance of any conflict of interest, in—

(aa) the procurement and employment actions taken by the Board or by any officer or employee of the Board; and

(bb) the selection and placement of individuals in the fellowships developed under the Program;

(III) for the resolution of a tie vote of the members of the Board; and

(IV) for authorization of travel for members of the Board.

(iii) Submission to congress.—Not later than 90 days after the date of the first meeting of the Board, the Chairperson of the Board shall submit to the appropriate congressional committees a copy of the bylaws established by the Board.

(B) Budget.—For each fiscal year in which the Program is in operation—

(i) the Board shall determine a budget for the Program for the fiscal year; and

(ii) all spending by the Program shall be in accordance with the budget unless a change is approved by the Board.

(C) Process for selection and placement of fellows.—The Board shall review and approve the process established by the Executive Director for the selection and placement of individuals in the fellowships developed under the Program.

(D) Allocation of funds to fellowships.—The Board shall determine—

(i) the priority of the programs to be carried out under this section; and

(ii) the amount of funds to be allocated for the fellowships established under subsection (f)(3)(A).

(f) Purposes; Authority of Program.—

(1) Purposes.—The purposes of the Program are—

(A) to encourage future leaders of the United States to pursue careers in humanitarian service;

(B) to recognize the needs of people who are hungry and poor;

(C) to provide assistance and compassion for people in need;

(D) to increase awareness of the importance of public service; and

(E) to provide training and development opportunities for the leaders through placement in programs operated by appropriate entities.

(2) Authority.—The Program may develop fellowships to carry out the purposes of the Program, including the fellowships described in paragraph (3).

(3) Fellowships.—

(A) In general.—The Program shall establish and carry out the Bill Emerson Hunger Fellowship and the Mickey Leland Hunger Fellowship.

(B) Curriculum.—

(i) In general.—The fellowships established under subparagraph (A) shall provide experience and training to develop the skills and understanding necessary to improve the humanitarian conditions and the lives of individuals who suffer from hunger, including—

(I) training in direct service to the hungry in conjunction with community-based organizations through a program of field placement; and

(II) experience in policy development through placement in a governmental entity or nonprofit organization.

(ii) Focus.—

(I) Bill emerson hunger fellowship.—The Bill Emerson Hunger Fellowship shall address hunger and other humanitarian needs in the United States.

(II) Mickey leland hunger fellowship.—The Mickey Leland Hunger Fellowship shall address international hunger and other humanitarian needs.

(iii) Work plan.—To carry out clause (i) and to assist in the evaluation of the fellowships under paragraph (4), the Program shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including the specific duties and responsibilities relating to the objectives.

(C) Period of fellowship.—

(i) Emerson fellowship.—A Bill Emerson Hunger Fellowship awarded under this paragraph shall be for a period of not more than 1 year.

(ii) Leland fellowship.—A Mickey Leland Hunger Fellowship awarded under this paragraph shall be for a period of not more than 2 years, of which not less than 1 year shall be dedicated to fulfilling the requirement of subparagraph (B)(i)(I).

(D) Selection of fellows.—

(i) In general.—A fellowship shall be awarded through a nationwide competition established by the Program.

(ii) Qualification.—A successful applicant shall be an individual who has demonstrated—

(I) an intent to pursue a career in humanitarian service and outstanding potential for such a career;

(II) leadership potential or leadership experience;

(III) diverse life experience;

(IV) proficient writing and speaking skills;

(V) an ability to live in poor or diverse communities; and

(VI) such other attributes as the Board determines to be appropriate.

(iii) Amount of award.—

(I) In general.—Each individual awarded a fellowship under this paragraph shall receive a living allowance and, subject to subclause (II), an end-of-service award as determined by the Program.

(II) Requirement for successful completion of fellowship.—Each individual awarded a fellowship under this paragraph shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service as determined by the Executive Director.

(iv) Recognition of fellowship award.—

(I) Emerson fellow.—An individual awarded a Bill Emerson Hunger Fellowship shall be known as an "Emerson Fellow".

(II) Leland fellow.—An individual awarded a Mickey Leland Hunger Fellowship shall be known as a "Leland Fellow".

(4) Evaluations.—

(A) In general.—The Program shall conduct periodic evaluations of the Bill Emerson and Mickey Leland Hunger Fellowships.

(B) Required elements.—Each evaluation shall include—

(i) an assessment of the successful completion of the work plan of each fellow;

(ii) an assessment of the impact of the fellowship on the fellows;

(iii) an assessment of the accomplishment of the purposes of the Program; and

(iv) an assessment of the impact of each fellow on the community.

(g) Trust Fund.—

(1) Establishment.—There is established in the Treasury of the United States a fund to be known as the "Congressional Hunger Fellows Trust Fund", consisting of—

(A) amounts appropriated to the Fund under subsection (k);

(B) any amounts earned on investment of amounts in the Fund under paragraph (2); and

(C) amounts received under subsection (i)(3)(A).

(2) Investment of amounts.—

(A) In general.—

(i) Authority to invest.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(ii) Types of investments.—Each investment may be made only in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary of the Treasury in consultation with the Board, has a maturity suitable for the Fund.

(B) Acquisition of obligations.—For the purpose of investments under subparagraph (A), obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

(C) Sale of obligations.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(D) Credits to fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(3) Transfers of amounts.—

(A) In general.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(B) Adjustments.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(h) Expenditures; Audits.—

(1) In general.—The Secretary of the Treasury shall transfer to the Program from the amounts described in subsections (g)(2)(D) and (i)(3)(A) such sums as the Board

determines to be necessary to enable the Program to carry out this section.

(2) LIMITATION.—The Secretary may not transfer to the Program the amounts appropriated to the Fund under subsection (k).

(3) USE OF FUNDS.—Funds transferred to the Program under paragraph (1) shall be used—

(A) to provide a living allowance for the fellows;

(B) to defray the costs of transportation of the fellows to the fellowship placement sites;

(C) to defray the costs of appropriate insurance of the fellows, the Program, and the Board;

(D) to defray the costs of preservice and midservice education and training of fellows;

(E) to pay staff described in subsection (i);

(F) to make end-of-service awards under subsection (f)(3)(D)(iii)(II); and

(G) for such other purposes as the Board determines to be appropriate to carry out the Program.

(4) AUDIT BY COMPTROLLER GENERAL.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct an annual audit of the accounts of the Program.

(B) BOOKS.—The Program shall make available to the Comptroller General all books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Program and necessary to facilitate the audit.

(C) REPORT TO CONGRESS.—The Comptroller General shall submit to the appropriate congressional committees a copy of the results of each audit under subparagraph (A).

(i) STAFF; POWERS OF PROGRAM.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall appoint an Executive Director of the Program who shall—

(i) administer the Program; and

(ii) carry out such other functions consistent with this section as the Board shall prescribe.

(B) RESTRICTION.—The Executive Director may not serve as Chairperson of the Board.

(C) COMPENSATION.—The Executive Director shall be paid at a rate not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—

(A) IN GENERAL.—With the approval of a majority of the Board, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers necessary to carry out this section.

(B) COMPENSATION.—An individual appointed under subparagraph (A) shall be paid at a rate not to exceed the rate payable for level GS-15 of the General Schedule.

(3) POWERS.—

(A) GIFTS.—

(i) IN GENERAL.—The Program may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Program.

(ii) USE OF GIFTS.—Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall—

(I) be deposited in the Fund; and

(II) be available for disbursement on order of the Board.

(B) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—To carry out this section, the Program may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay payable for level GS-15 of the General Schedule.

(C) CONTRACT AUTHORITY.—To carry out this section, the Program may, with the approval of a majority of the members of the Board, contract with and compensate Government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) OTHER NECESSARY EXPENDITURES.—

(i) IN GENERAL.—Subject to clause (ii), the Program may make such other expenditures as the Program considers necessary to carry out this section.

(ii) PROHIBITION.—The Program may not expend funds to develop new or expanded projects at which fellows may be placed.

(j) REPORT.—Not later than December 31 of each year, the Board shall submit to the appropriate congressional committees a report on the activities of the Program carried out during the preceding fiscal year that includes—

(1) an analysis of the evaluations conducted under subsection (f)(4) during the fiscal year; and

(2) a statement of—

(A) the total amount of funds attributable to gifts received by the Program in the fiscal year under subsection (i)(3)(A); and

(B) the total amount of funds described in subparagraph (A) that were expended to carry out the Program in the fiscal year.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $18,000,000.

(l) EFFECTIVE DATE.—This section takes effect on October 1, 2002.

SEC. 459. NUTRITION INFORMATION AND AWARENESS PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture may establish, in not more than 15 States, a pilot program to increase the domestic consumption of fresh fruits and vegetables.

(b) PURPOSE.—The purpose of the program shall be to provide funds to States to assist eligible public and private sector entities with cost-share assistance to carry out demonstration projects—

(1) to increase fruit and vegetable consumption; and

(2) to convey related health promotion messages.

(c) PRIORITY.—To the maximum extent practicable, the Secretary shall—

(1) establish the program in States in which the production of fruits or vegetables is a significant industry, as determined by the Secretary; and

(2) base the program on strategic initiatives, including—

(A) health promotion and education interventions;

(B) public service and paid advertising or marketing activities;

(C) health promotion campaigns relating to locally grown fruits and vegetables; and

(D) social marketing campaigns.

(d) PARTICIPANT ELIGIBILITY.—In selecting States to participate in the program, the Secretary shall take into consideration, with respect to projects and activities proposed to be carried out by the State under the program—

(1) experience in carrying out similar projects or activities;

(2) innovation; and

(3) the ability of the State—

(A) to conduct marketing campaigns for, promote, and track increases in levels of, produce consumption; and

(B) to optimize the availability of produce through distribution of produce.

(e) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds provided under this section shall be 50 percent.

(f) USE OF FUNDS.—Funds made available to carry out this section shall not be made available to any foreign for-profit corporation.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2002 through 2006.

SEC. 460. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title take effect on September 1, 2002, except that a State agency may, at the option of the State agency, elect not to implement any or all of the amendments until October 1, 2002.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 501. DIRECT LOANS.

Section 302(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922(b)(1)) is amended by striking “operated” and inserting “participated in the business operations of”.

SEC. 502. FINANCING OF BRIDGE LOANS.

Section 303(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923(a)(1)) is amended—

(1) in subparagraph (C), by striking “or” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(E) refinancing, during a fiscal year, a short-term, temporary bridge loan made by a commercial or cooperative lender to a beginning farmer or rancher for the acquisition of land for a farm or ranch, if—

“(i) the Secretary approved an application for a direct farm ownership loan to the beginning farmer or rancher for acquisition of the land; and

“(ii) funds for direct farm ownership loans under section 346(b) were not available at the time at which the application was approved.”.

SEC. 503. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP LOANS.

Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—The Secretary shall not make or insure a loan under section 302, 303, 304, 310D, or 310E that would cause the unpaid indebtedness under those sections of any 1 borrower to exceed the lesser of—

“(1) the value of the farm or other security; or

“(2)(A) in the case of a loan made by the Secretary—

“(i) to a beginning farmer or rancher, $250,000, as adjusted (beginning with fiscal year 2003) by the inflation percentage applicable to the fiscal year in which the loan is made; or

“(ii) to a borrower other than a beginning farmer or rancher, $200,000; or

“(B) in the case of a loan guaranteed by the Secretary, $700,000, as—

“(i) adjusted (beginning with fiscal year 2000) by the inflation percentage applicable to the fiscal year in which the loan is guaranteed; and

“(ii) reduced by the amount of any unpaid indebtedness of the borrower on loans under subtitle B that are guaranteed by the Secretary.”.

SEC. 504. JOINT FINANCING ARRANGEMENTS.

Section 307(a)(3)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(D)) is amended—

(1) by striking "If" and inserting the following:

"(i) IN GENERAL.—Subject to clause (ii), if"; and

(2) by adding at the end the following:

"(ii) BEGINNING FARMERS AND RANCHERS.—The interest rate charged a beginning farmer or rancher for a loan described in clause (i) shall be 50 basis points less than the rate charged farmers and ranchers that are not beginning farmers or ranchers.".

SEC. 505. GUARANTEE PERCENTAGE FOR BEGINNING FARMERS AND RANCHERS.

Section 309(h)(6) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)(6)) is amended by striking "GUARANTEED UP" and all that follows through "more than" and inserting "GUARANTEED AT 95 PERCENT.—The Secretary shall guarantee".

SEC. 506. GUARANTEE OF LOANS MADE UNDER STATE BEGINNING FARMER OR RANCHER PROGRAMS.

Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end the following:

"(j) GUARANTEE OF LOANS MADE UNDER STATE BEGINNING FARMER OR RANCHER PROGRAMS.—The Secretary may guarantee under this title a loan made under a State beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond for land or property described in section 144(a)(12)(B)(ii) of the Internal Revenue Code of 1986.".

SEC. 507. DOWN PAYMENT LOAN PROGRAM.

Section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "30 percent" and inserting "40 percent"; and

(B) in paragraph (3), by striking "10 years" and inserting "20 years"; and

(2) in subsection (c)(3)(B), by striking "10-year" and inserting "20-year".

SEC. 508. BEGINNING FARMER AND RANCHER CONTRACT LAND SALES PROGRAM.

Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) is amended by adding at the end the following:

"SEC. 310F. BEGINNING FARMER AND RANCHER CONTRACT LAND SALES PROGRAM.

"(a) IN GENERAL.—Not later than October 1, 2002, the Secretary shall carry out a pilot program in not fewer than 10 geographically dispersed States, as determined by the Secretary, to guarantee up to 5 loans per State in each of fiscal years 2003 through 2006 made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a contract land sale basis, if the loan meets applicable underwriting criteria and a commercial lending institution agrees to serve as escrow agent.

"(b) DATE OF COMMENCEMENT OF PROGRAM.—The Secretary shall commence the pilot program on making a determination that guarantees of contract land sales present a risk that is comparable with the risk presented in the case of guarantees to commercial lenders.".

Subtitle B—Operating Loans

SEC. 511. DIRECT LOANS.

Section 311(c)(1)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c)(1)(A)) is amended by striking "who has not" and all that follows through "5 years".

SEC. 512. AMOUNT OF GUARANTEE OF LOANS FOR TRIBAL FARM OPERATIONS; WAIVER OF LIMITATIONS FOR TRIBAL OPERATIONS AND OTHER OPERATIONS.

(a) AMOUNT OF GUARANTEE OF LOANS FOR TRIBAL OPERATIONS.—Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended—

(1) in paragraph (4), by striking "paragraphs (5) and (6)" and inserting "paragraphs (5), (6), and (7)"; and

(2) by adding at the end the following:

"(7) AMOUNT OF GUARANTEE OF LOANS FOR TRIBAL OPERATIONS.—In the case of an operating loan made to a farmer or rancher who is a member of an Indian tribe and whose farm or ranch is within an Indian reservation (as defined in section 335(e)(1)(A)(ii)), the Secretary shall guarantee 95 percent of the loan.".

(b) WAIVER OF LIMITATIONS.—Section 311(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c)) is amended—

(1) in paragraph (1), by striking "paragraph (3)" and inserting "paragraphs (3) and (4)"; and

(2) by adding at the end the following:

"(4) WAIVERS.—

"(A) TRIBAL FARM AND RANCH OPERATIONS.—The Secretary shall waive the limitation under paragraph (1)(C) or (3) for a direct loan made under this subtitle to a farmer or rancher who is a member of an Indian tribe and whose farm or ranch is within an Indian reservation (as defined in section 335(e)(1)(A)(ii)) if the Secretary determines that commercial credit is not generally available for such farm or ranch operations.

"(B) OTHER FARM AND RANCH OPERATIONS.—On a case-by-case determination not subject to administrative appeal, the Secretary may grant a borrower a waiver, 1 time only for a period of 2 years, of the limitation under paragraph (1)(C) or (3) for a direct operating loan if the borrower demonstrates to the satisfaction of the Secretary that—

"(i) the borrower has a viable farm or ranch operation;

"(ii) the borrower applied for commercial credit from at least 2 commercial lenders;

"(iii) the borrower was unable to obtain a commercial loan (including a loan guaranteed by the Secretary); and

"(iv) the borrower successfully has completed, or will complete within 1 year, borrower training under section 359 (from which requirement the Secretary shall not grant a waiver under section 359(f)).".

Subtitle C—Administrative Provisions

SEC. 521. ELIGIBILITY OF LIMITED LIABILITY COMPANIES FOR FARM OWNERSHIP LOANS, FARM OPERATING LOANS, AND EMERGENCY LOANS.

(a) IN GENERAL.—Sections 302(a), 311(a), and 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922(a), 1941(a), 1961(a)) are amended by striking "and joint operations" each place it appears and inserting "joint operations, and limited liability companies".

(b) CONFORMING AMENDMENT.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking "or joint operations" each place it appears and inserting "joint operations, or limited liability companies".

SEC. 522. DEBT SETTLEMENT.

Section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) is amended by striking "carried out—" and all that follows through "(B) after" and inserting "carried out after".

SEC. 523. TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS; PRIVATE COLLECTION AGENCIES.

(a) IN GENERAL.—Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by striking subsections (d) and (e).

(b) APPLICATION.—The amendment made by subsection (a) shall not apply to a contract entered into before the effective date of this Act.

SEC. 524. INTEREST RATE OPTIONS FOR LOANS IN SERVICING.

Section 331B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981b) is amended—

(1) by striking "lower of (1) the" and inserting the following: "lowest of—

"(1) the"; and

(2) by striking "original loan or (2) the" and inserting the following: "original loan;

"(2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time at which the borrower applies for a deferral, consolidation, rescheduling, or reamortization; or

"(3) the".

SEC. 525. ANNUAL REVIEW OF BORROWERS.

Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended by striking paragraph (2) and inserting the following:

"(2) except with respect to a loan under section 306, 310B, or 314—

"(A) an annual review of the credit history and business operation of the borrower; and

"(B) an annual review of the continued eligibility of the borrower for the loan;".

SEC. 526. SIMPLIFIED LOAN APPLICATIONS.

Section 333A(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(g)(1)) is amended by striking "of loans the principal amount of which is $50,000 or less" and inserting "of farmer program loans the principal amount of which is $100,000 or less".

SEC. 527. INVENTORY PROPERTY.

Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) in clause (i), by striking "75 days" and inserting "135 days"; and

(ii) by adding at the end the following:

"(iv) COMBINING AND DIVIDING OF PROPERTY.—To the maximum extent practicable, the Secretary shall maximize the opportunity for beginning farmers and ranchers to purchase real property acquired by the Secretary under this title by combining or dividing inventory parcels of the property in such manner as the Secretary determines to be appropriate."; and

(B) in subparagraph (C)—

(i) by striking "75 days" and inserting "135 days"; and

(ii) by striking "75-day period" and inserting "135-day period";

(2) by striking paragraph (2) and inserting the following:

"(2) PREVIOUS LEASE.—In the case of real property acquired before April 4, 1996, that the Secretary leased before April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1)."; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)"; and

(B) by adding at the end the following:

"(C) OFFER TO SELL OR GRANT FOR FARMLAND PRESERVATION.—For the purpose of farmland preservation, the Secretary shall—

"(i) in consultation with the State Conservationist of each State in which inventory property is located, identify each parcel of inventory property in the State that should be preserved for agricultural use; and

"(ii) offer to sell or grant an easement, restriction, development right, or similar legal right to each parcel identified under clause (i) to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.".

SEC. 528. DEFINITIONS.

(a) Qualified Beginning Farmer or Rancher.—Section 343(a)(11)(F) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)(F)) is amended by striking "25 percent" and inserting "30 percent".

(b) Debt Forgiveness.—Section 343(a)(12) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(12)) is amended by striking subparagraph (B) and inserting the following:

"(B) Exceptions.—The term 'debt forgiveness' does not include—

"(i) consolidation, rescheduling, reamortization, or deferral of a loan; or

"(ii) any write-down provided as part of a resolution of a discrimination complaint against the Secretary.".

SEC. 529. LOAN AUTHORIZATION LEVELS.

Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

"(1) In general.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 for not more than $3,750,000,000 for each of fiscal years 2002 through 2006, of which, for each fiscal year—

"(A) $750,000,000 shall be for direct loans, of which—

"(i) $200,000,000 shall be for farm ownership loans under subtitle A; and

"(ii) $550,000,000 shall be for operating loans under subtitle B; and

"(B) $3,000,000,000 shall be for guaranteed loans, of which—

"(i) $1,000,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(ii) $2,000,000,000 shall be for guarantees of operating loans under subtitle B."; and

(B) in paragraph (2)(A)(ii), by striking "farmers and ranchers" and all that follows and inserting "farmers and ranchers 35 percent for each of fiscal years 2002 through 2006."; and

(2) in subsection (c), by striking the last sentence.

SEC. 530. INTEREST RATE REDUCTION PROGRAM.

Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(1) in subsection (a)—

(A) by striking "Program.—" and all that follows through "The Secretary" and inserting "Program.—The Secretary"; and

(B) by striking paragraph (2);

(2) by striking subsection (c) and inserting the following:

"(c) Amount of Interest Rate Reduction.—

"(1) In general.—In return for a contract entered into by a lender under subsection (b) for the reduction of the interest rate paid on a loan, the Secretary shall make payments to the lender in an amount equal to not more than 100 percent of the cost of reducing the annual rate of interest payable on the loan, except that such payments shall not exceed the cost of reducing the rate by more than—

"(A) in the case of a borrower other than a beginning farmer or rancher, 3 percent; and

"(B) in the case of a beginning farmer or rancher, 4 percent.

"(2) Beginning farmers and ranchers.—The percentage reduction of the interest rate for which payments are authorized to be made for a beginning farmer or rancher under paragraph (1) shall be 1 percent more than the percentage reduction for farmers and ranchers that are not beginning farmers or ranchers."; and

(3) in subsection (e), by striking paragraph (2) and inserting the following:

"(2) Maximum amount of funds.—

"(A) In general.—The total amount of funds used by the Secretary to carry out this section for a fiscal year shall not exceed $750,000,000.

"(B) Beginning farmers and ranchers.—

"(i) In general.—The Secretary shall reserve not less than 25 percent of the funds used by the Secretary under subparagraph (A) to make payments for guaranteed loans made to beginning farmers and ranchers.

"(ii) Duration of reservation of funds.—Funds reserved for beginning farmers or ranchers under clause (i) for a fiscal year shall be reserved only until April 1 of the fiscal year.".

SEC. 531. OPTIONS FOR SATISFACTION OF OBLIGATION TO PAY RECAPTURE AMOUNT FOR SHARED APPRECIATION AGREEMENTS.

(a) In General.—Section 353(e)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)(7)) is amended—

(1) in subparagraph (C), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the margins appropriately;

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the margins appropriately;

(3) by striking the paragraph heading and inserting the following:

"(7) Options for satisfaction of obligation to pay recapture amount.—

"(A) In general.—As an alternative to repaying the full recapture amount at the end of the term of the shared appreciation agreement (as determined by the Secretary in accordance with this subsection), a borrower may satisfy the obligation to pay the amount of recapture by—

"(i) financing the recapture payment in accordance with subparagraph (B); or

"(ii) granting the Secretary an agricultural use protection and conservation easement on the property subject to the shared appreciation agreement in accordance with subparagraph (C).

"(B) Financing of recapture payment.—"; and

(4) by adding at the end the following:

"(C) Agricultural use protection and conservation easement.—

"(i) In general.—Subject to clause (iii), the Secretary shall accept an agricultural use protection and conservation easement from the borrower for all of the real security property subject to the shared appreciation agreement in lieu of payment of the recapture amount.

"(ii) Term.—The term of an easement accepted by the Secretary under this subparagraph shall be 25 years.

"(iii) Conditions.—The easement shall require that the property subject to the easement shall continue to be used or conserved for agricultural and conservation uses in accordance with sound farming and conservation practices, as determined by the Secretary.

"(iv) Replacement of method of satisfying obligation.—A borrower that has begun financing of a recapture payment under subparagraph (B) may replace that financing with an agricultural use protection and conservation easement under this subparagraph.".

(b) Applicability.—The amendments made by subsection (a) shall apply to a shared appreciation agreement entered into under section 353(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)) that—

(1) matures on or after the date of enactment of this Act; or

(2) matured before the date of enactment of this Act, if—

(A) the recapture amount was reamortized under section 353(e)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)(7)) (as in effect on the day before the date of enactment of this Act); or

(B)(i) the recapture amount had not been paid before the date of enactment of this Act because of circumstances beyond the control of the borrower; and

(ii) the borrower acted in good faith (as determined by the Secretary) in attempting to repay the recapture amount.

SEC. 532. WAIVER OF BORROWER TRAINING CERTIFICATION REQUIREMENT.

Section 359 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006a) is amended by striking subsection (f) and inserting the following:

"(f) Waivers.—

"(1) In general.—The Secretary may waive the requirements of this section for an individual borrower if the Secretary determines that the borrower demonstrates adequate knowledge in areas described in this section.

"(2) Criteria.—The Secretary shall establish criteria providing for the application of paragraph (1) consistently in all counties nationwide.".

SEC. 533. ANNUAL REVIEW OF BORROWERS.

Section 360(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006b(d)(1)) is amended by striking "biannual" and inserting "annual".

Subtitle D—Farm Credit

SEC. 541. REPEAL OF BURDENSOME APPROVAL REQUIREMENTS.

(a) Banks for Cooperatives.—Section 3.1(11)(B) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)) is amended—

(1) by striking clause (iii); and

(2) by redesignating clause (iv) as clause (iii).

(b) Other System Banks; Associations.—Section 4.18A of the Farm Credit Act of 1971 (12 U.S.C. 2206a) is amended—

(1) in subsection (a)(1), by striking "3.1(11)(B)(iv)" and inserting "3.1(11)(B)(iii)"; and

(2) by striking subsection (c).

SEC. 542. BANKS FOR COOPERATIVES.

Section 3.7(b) of the Farm Credit Act of 1971 (12 U.S.C. 2128(b)) is amended—

(1) in paragraphs (1) and (2)(A)(i), by striking "farm supplies" each place it appears and inserting "agricultural supplies"; and

(2) by adding at the end the following:

"(4) Definition of agricultural supply.—In this subsection, the term 'agricultural supply' includes—

"(A) a farm supply; and

"(B)(i) agriculture-related processing equipment;

"(ii) agriculture-related machinery; and

"(iii) other capital goods related to the storage or handling of agricultural commodities or products.".

SEC. 543. INSURANCE CORPORATION PREMIUMS.

(a) REDUCTION IN PREMIUMS FOR GSE-GUARANTEED LOANS.—

(1) IN GENERAL.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4) is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "government-guaranteed loans provided for in subparagraph (C)" and inserting "loans provided for in subparagraphs (C) and (D)";

(II) in subparagraph (B), by striking "and" at the end;

(III) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(IV) by adding at the end the following:

"(D) the annual average principal outstanding for such year on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans made by the bank that are in accrual status, multiplied by a factor, not to exceed 0.0015, determined by the Corporation at the sole discretion of the Corporation."; and

(ii) by adding at the end the following:

"(4) DEFINITION OF GOVERNMENT SPONSORED ENTERPRISE-GUARANTEED LOAN.—In this section and sections 1.12(b) and 5.56(a), the term 'Government Sponsored Enterprise-guaranteed loan' means a loan or credit, or portion of a loan or credit, that is guaranteed by an entity that is chartered by Congress to serve a public purpose and the debt obligations of which are not explicitly guaranteed by the United States, including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, and the Federal Agricultural Mortgage Corporation, but not including any other institution of the Farm Credit System."; and

(B) in subsection (e)(4)(B), by striking "government-guaranteed loans described in subsection (a)(1)(C)" and inserting "loans described in subparagraph (C) or (D) of subsection (a)(1)".

(2) CONFORMING AMENDMENTS.—

(A) Section 1.12(b) of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

(i) in paragraph (1), by inserting "and Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4)) provided for in paragraph (4)" after "government-guaranteed loans (as defined in section 5.55(a)(3)) provided for in paragraph (3)";

(ii) in paragraph (2), by striking "and" at the end;

(iii) in paragraph (3), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(4) the annual average principal outstanding for such year on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans (as so defined) made by the association, or by the other financing institution and funded by or discounted with the Farm Credit Bank, that are in accrual status, multiplied by a factor, not to exceed 0.0015, determined by the Corporation for the purpose of setting the premium for such guaranteed portions of loans under section 5.55(a)(1)(D).".

(B) Section 5.56(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-5(a)) is amended—

(i) in paragraph (1), by inserting "and Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4))" after "government-guaranteed loans";

(ii) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(iii) by inserting after paragraph (3) the following:

"(4) the annual average principal outstanding on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4)) that are in accrual status;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date on which Farm Credit System Insurance Corporation premiums are due from insured Farm Credit System banks under section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4) for calendar year 2001.

SEC. 544. BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 8.2(b) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-2(b)) is amended—

(1) in paragraph (2)—

(A) by striking "15" and inserting "17";

(B) in subparagraph (A), by striking "common stock" and all that follows and inserting "Class A voting common stock;";

(C) in subparagraph (B), by striking "common stock" and all that follows and inserting "Class B voting common stock;";

(D) by redesignating subparagraph (C) as subparagraph (D); and

(E) by inserting after subparagraph (B) the following:

"(C) 2 members shall be elected by holders of Class A voting common stock and Class B voting common stock, 1 of whom shall be the chief executive officer of the Corporation and 1 of whom shall be another executive officer of the Corporation; and";

(2) in paragraph (3), by striking "(2)(C)" and inserting "(2)(D)";

(3) in paragraph (4)—

(A) in subparagraph (A), by striking "(A) or (B)" and inserting "(A), (B), or (C)"; and

(B) in subparagraph (B), by striking "(2)(C)" and inserting "(2)(D)";

(4) in paragraph (5)(A)—

(A) by inserting "executive officers of the Corporation or" after "from among persons who are"; and

(B) by striking "such a representative" and inserting "such an executive officer or representative";

(5) in paragraph (6)(B), by striking "(A) and (B)" and inserting "(A), (B), and (C)";

(6) in paragraph (7), by striking "8 members" and inserting "Nine members";

(7) in paragraph (8)—

(A) in the paragraph heading, by inserting "OR EXECUTIVE OFFICERS OF THE CORPORATION" after "EMPLOYEES"; and

(B) by inserting "or executive officers of the Corporation" after "United States"; and

(8) by striking paragraph (9) and inserting the following:

"(9) CHAIRPERSON.—

"(A) ELECTION.—The permanent board shall annually elect a chairperson from among the members of the permanent board.

"(B) TERM.—The term of the chairperson shall coincide with the term served by elected members of the permanent board under paragraph (6)(B).".

Subtitle E—General Provisions

SEC. 551. INAPPLICABILITY OF FINALITY RULE.

Section 281(a)(1) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7001(a)(1)) is amended—

(1) by striking "This subsection" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection"; and

(2) by adding at the end the following:

"(B) AGRICULTURAL CREDIT DECISIONS.—This subsection shall not apply with respect to an agricultural credit decision made by such a State, county, or area committee, or employee of such a committee, under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).".

SEC. 552. TECHNICAL AMENDMENTS.

(a) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking "Disaster Relief and Emergency Assistance Act" each place it appears and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)".

(b) Section 336(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1986(b)) is amended in the second sentence by striking "provided for in section 332 of this title".

(c) Section 359(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006a(c)(1)) is amended by striking "established pursuant to section 332,".

(d) Section 360(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006b(a)) is amended by striking "established pursuant to section 332".

SEC. 553. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) and section 543(b), this title and the amendments made by this title take effect on October 1, 2001.

(b) BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.—The amendments made by section 544 take effect on the date of enactment of this Act.

TITLE VI—RURAL DEVELOPMENT

Subtitle A—Empowerment of Rural America

SEC. 601. NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle G—National Rural Cooperative and Business Equity Fund

"SEC. 383A. SHORT TITLE.

"This subtitle may be cited as the 'National Rural Cooperative and Business Equity Fund Act'.

"SEC. 383B. PURPOSE.

"The purpose of this subtitle is to revitalize rural communities and enhance farm income through sustainable rural business development by providing Federal funds and credit enhancements to a private equity fund in order to encourage investments by institutional and noninstitutional investors for the benefit of rural America.

"SEC. 383C. DEFINITIONS.

"In this subtitle:

"(1) AUTHORIZED PRIVATE INVESTOR.—The term 'authorized private investor' means an individual, legal entity, or affiliate or subsidiary of an individual or legal entity that—

"(A) is eligible to receive a loan guarantee under this title;

"(B) is eligible to receive a loan guarantee under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);

"(C) is created under the National Consumer Cooperative Bank Act (12 U.S.C. 3011 et seq.);

"(D) is an insured depository institution subject to section 383E(b)(2);

"(E) is a Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)); or

"(F) is determined by the Board to be an appropriate investor in the Fund.

"(2) BOARD.—The term 'Board' means the board of directors of the Fund established under section 383G.

"(3) FUND.—The term 'Fund' means the National Rural Cooperative and Business Equity Fund established under section 383D.

"(4) GROUP OF SIMILAR AUTHORIZED PRIVATE INVESTORS.—The term 'group of similar investors' means any 1 of the following:

"(A) Insured depository institutions with total assets of more than $250,000,000.

“(B) Insured depository institutions with total assets equal to or less than $250,000,000.

“(C) Farm Credit System institutions described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)).

“(D) Cooperative financial institutions (other than Farm Credit System institutions).

“(E) Private investors, other than those described in subparagraphs (A) through (D), authorized by the Secretary.

“(F) Other nonprofit organizations, including credit unions.

“(5) Insured depository institution.—The term ‘insured depository institution’ means any bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.).

“(6) Rural business.—The term ‘rural business’ means a rural cooperative, a value-added agricultural enterprise, or any other business located or locating in a rural area.

“SEC. 383D. ESTABLISHMENT.

“(a) Authority.—

“(1) In general.—On certification by the Secretary that, to the maximum extent practicable, the parties proposing to establish a fund provide a broad representation of all of the groups of similar authorized private investors described in subparagraphs (A) through (F) of section 383C(4), the parties may establish a non-Federal entity under State law to purchase shares of, and manage a fund to be known as the ‘National Rural Cooperative and Business Equity Fund’, to generate and provide equity capital to rural businesses.

“(2) Ownership.—

“(A) In general.—To the maximum extent practicable, equity ownership of the Fund shall be distributed among authorized private investors representing all of the groups of similar authorized private investors described in subparagraphs (A) through (F) of section 383C(4).

“(B) Exclusion of groups.—No group of authorized private investors shall be excluded from equity ownership of the Fund during any period during which the Fund is in existence if an authorized private investor representative of the group is able and willing to invest in the Fund.

“(b) Purposes.—The purposes of the Fund shall be—

“(1) to strengthen the economy of rural areas;

“(2) to further sustainable rural business development;

“(3) to encourage—

“(A) start-up rural businesses;

“(B) increased opportunities for small and minority-owned rural businesses; and

“(C) the formation of new rural businesses;

“(4) to enhance rural employment opportunities;

“(5) to provide equity capital to rural businesses, many of which have difficulty obtaining equity capital; and

“(6) to leverage non-Federal funds for rural businesses.

“(c) Articles of Incorporation and Bylaws.—The articles of incorporation and bylaws of the Fund shall set forth purposes of the Fund that are consistent with the purposes described in subsection (b).

“SEC. 383E. INVESTMENT IN THE FUND.

“(a) In General.—Of the funds made available under section 383H, the Secretary shall—

“(1) subject to subsection (b)(1), make available to the Fund $150,000,000;

“(2) subject to subsection (c), guarantee 50 percent of each investment made by an authorized private investor in the Fund; and

“(3) subject to subsection (d), guarantee the repayment of principal of, and accrued interest on, debentures issued by the Fund to authorized private investors.

“(b) Private Investment.—

“(1) Matching requirement.—Under subsection (a)(1), the Secretary shall make an amount available to the Fund only after an equal amount has been invested in the Fund by authorized private investors in accordance with this subtitle and the terms and conditions set forth in the bylaws of the Fund.

“(2) Insured depository institutions.—

“(A) In general.—Subject to subparagraphs (B) and (C)—

“(i) an insured depository institution may be an authorized private investor in the Fund; and

“(ii) an investment in the Fund may be considered to be part of the record of an institution in meeting the credit needs of the community in which the institution is located under any applicable Federal law.

“(B) Investment limit.—The total investment in the Fund of an insured depository institution shall not exceed 5 percent of the capital and surplus of the institution.

“(C) Regulatory authority.—An appropriate Federal banking agency may, by regulation or order, impose on any insured depository institution investing in the Fund, any safeguard, limitation, or condition (including an investment limit that is lower than the investment limit under subparagraph (B)) that the Federal banking agency considers to be appropriate to ensure that the institution operates—

“(i) in a financially sound manner; and

“(ii) in compliance with all applicable law.

“(c) Guarantee of Private Investments.—

“(1) In general.—The Secretary shall guarantee, under terms and conditions determined by the Secretary, 50 percent of any loss of the principal of an investment made in the Fund by an authorized private investor.

“(2) Maximum total guarantee.—The aggregate potential liability of the Secretary with respect to all guarantees under paragraph (1) shall not apply to more than $300,000,000 in private investments in the Fund.

“(3) Redemption of guarantee.—

“(A) Date.—An authorized private investor in the Fund may redeem a guarantee under paragraph (1), with respect to the total investments in the Fund and the total losses of the authorized private investor as of the date of redemption—

“(i) on the date that is 5 years after the date of the initial investment by the authorized private investor; or

“(ii) annually thereafter.

“(B) Effect of redemption.—On redemption of a guarantee under subparagraph (A)—

“(i) the shares in the Fund of the authorized private investor shall be redeemed; and

“(ii) the authorized private investor shall be prohibited from making any future investment in the Fund.

“(d) Debt Securities.—

“(1) In general.—The Fund may, at the discretion of the Board, generate additional capital through—

“(A) the issuance of debt securities; and

“(B) other means determined to be appropriate by the Board.

“(2) Guarantee of debt by Secretary.—

“(A) In general.—The Secretary shall guarantee 100 percent of the principal of, and accrued interest on, debentures issued by the Fund that are approved by the Secretary.

“(B) Maximum debt guaranteed by Secretary.—The outstanding value of debentures issued by the Fund and guaranteed by the Secretary shall not exceed the lesser of—

“(i) the amount equal to twice the value of the assets held by the Fund; or

“(ii) $500,000,000.

“(C) Recapture of guarantee payments.—If the Secretary makes a payment on a debt security issued by the Fund as a result of a guarantee of the Secretary under this paragraph, the Secretary shall have priority over other creditors for repayment of the debt security.

“(3) Authorized private investors.—An authorized private investor may purchase debt securities issued by the Fund.

“SEC. 383F. INVESTMENTS AND OTHER ACTIVITIES OF THE FUND.

“(a) Investments.—

“(1) In general.—

“(A) Types.—Subject to subparagraphs (B) and (C), the Fund may—

“(i) make equity investments in a rural business that meets—

“(I) the requirements of paragraph (6); and

“(II) such other requirements as the Board may establish; and

“(ii) extend credit to the rural business in—

“(I) the form of mezzanine debt or subordinated debt; or

“(II) any other form of quasi-equity.

“(B) Limitations on investments.—

“(i) Total investments by a single rural business.—Subject to clause (ii), investment by the Fund in a single rural business shall not exceed the greater of—

“(I) an amount equal to 7 percent of the capital of the Fund; or

“(II) $2,000,000.

“(ii) Waiver.—The Secretary may waive the limitation in clause (i) in any case in which an investment exceeding the limits specified in clause (i) is necessary to preserve prior investments in the rural business.

“(iii) Total nonequity investments.—Except in the case of a project to assist a rural cooperative, the total amount of nonequity investments described in subparagraph (A)(ii) that may be provided by the Fund shall not exceed 20 percent of the total investments of the Fund in the project.

“(C) Limitation.—Notwithstanding subparagraph (B), the amount of any investment by the Fund in a rural business shall not exceed the aggregate amount invested in like securities by other private entities in that rural business.

“(2) Procedures.—The Fund shall implement procedures to ensure that—

“(A) the financing arrangements of the Fund meet the Fund's primary focus of providing equity capital; and

“(B) the Fund does not compete with conventional sources of credit.

“(3) Diversity of projects.—The Fund—

“(A) shall seek to make equity investments in a variety of viable projects, with a significant share of investments—

“(i) in smaller enterprises (as defined in section 384A) in rural communities of diverse sizes; and

“(ii) in cooperative and noncooperative enterprises; and

“(B) shall be managed in a manner that diversifies the risks to the Fund among a variety of projects.

“(4) Limitation on rural businesses assisted.—The Fund shall not invest in any rural business that is primarily retail in nature (as determined by the Board), other than a purchasing cooperative.

"(5) INTEREST RATE LIMITATIONS.—Returns on investments in and by the Fund and returns on the extension of credit by participants in projects assisted by the Fund, shall not be subject to any State or Federal law establishing a maximum allowable interest rate.

"(6) REQUIREMENTS FOR RECIPIENTS.—

"(A) OTHER INVESTMENTS.—Any recipient of amounts from the Fund shall make or obtain a significant investment from a source of capital other than the Fund.

"(B) SPONSORSHIP.—To be considered for an equity investment from the Fund, a rural business investment project shall be sponsored by a regional, State, or local sponsoring or endorsing organization such as—

"(i) a financial institution;

"(ii) a development organization; or

"(iii) any other established entity engaging or assisting in rural business development, including a rural cooperative.

"(b) TECHNICAL ASSISTANCE.—The Fund, under terms and conditions established by the Board, shall use not less than 2 percent of capital provided by the Federal Government to provide technical assistance to rural businesses seeking an equity investment from the Fund.

"(c) ANNUAL AUDIT.—

"(1) IN GENERAL.—The Board shall authorize an annual audit of the financial statements of the Fund by a nationally recognized auditing firm using generally accepted accounting principles.

"(2) AVAILABILITY OF AUDIT RESULTS.—The results of the audit required by paragraph (1) shall be made available to investors in the Fund.

"(d) ANNUAL REPORT.—The Board shall prepare and make available to the public an annual report that—

"(1) describes the projects funded with amounts from the Fund;

"(2) specifies the recipients of amounts from the Fund;

"(3) specifies the coinvestors in all projects that receive amounts from the Fund; and

"(4) meets the reporting requirements, if any, of the State under the law of which the Fund is established.

"(e) OTHER AUTHORITIES.—

"(1) IN GENERAL.—The Board may exercise such other authorities as are necessary to carry out this subtitle.

"(2) OVERSIGHT.—The Secretary shall enter in to a contract with the Administrator of the Small Business Administration under which the Administrator of the Small Business Administration shall be responsible for the routine duties of the Secretary in regard to the Fund.

"SEC. 383G. GOVERNANCE OF THE FUND.

"(a) IN GENERAL.—The Fund shall be governed by a board of directors that represents all of the authorized private investors in the Fund and the Federal Government and that consists of—

"(1) a designee of the Secretary;

"(2) 2 members who are appointed by the Secretary and are not Federal employees, including—

"(A) 1 member with expertise in venture capital investment; and

"(B) 1 member with expertise in cooperative development;

"(3) 8 members who are elected by the authorized private investors with investments in the Fund; and

"(4) 1 member who is appointed by the Board and who is a community banker from an insured depository institution that has—

"(A) total assets equal to or less than $250,000,000; and

"(B) an investment in the Fund.

"(b) LIMITATION ON VOTING CONTROL.—No individual investor or group of authorized investors may control more than 25 percent of the votes on the Board.

"SEC. 383H. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this subtitle.".

SEC. 602. RURAL BUSINESS INVESTMENT PROGRAM.

The Consolidated Farm and Rural Development Act (as amended by section 601) is amended by adding at the end the following:

"Subtitle H—Rural Business Investment Program

"SEC. 384A. DEFINITIONS.

"In this subtitle:

"(1) ARTICLES.—The term 'articles' means articles of incorporation for an incorporated body or the functional equivalent or other similar documents specified by the Secretary for other business entities.

"(2) DEVELOPMENTAL VENTURE CAPITAL.—The term 'developmental venture capital' means capital in the form of equity capital investments in Rural Business Investment Companies with an objective of fostering economic development in rural areas.

"(3) EMPLOYEE WELFARE BENEFIT PLAN; PENSION PLAN.—

"(A) IN GENERAL.—The terms 'employee welfare benefit plan' and 'pension plan' have the meanings given the terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

"(B) INCLUSIONS.—The terms 'employee welfare benefit plan' and 'pension plan' include—

"(i) public and private pension or retirement plans subject to this subtitle; and

"(ii) similar plans not covered by this subtitle that have been established and that are maintained by the Federal Government or any State (including by a political subdivision, agency, or instrumentality of the Federal Government or a State) for the benefit of employees.

"(4) EQUITY CAPITAL.—The term 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features.

"(5) LEVERAGE.—The term 'leverage' includes—

"(A) debentures purchased or guaranteed by the Secretary;

"(B) participating securities purchased or guaranteed by the Secretary; and

"(C) preferred securities outstanding as of the date of enactment of this subtitle.

"(6) LICENSE.—The term 'license' means a license issued by the Secretary as provided in section 384D(c).

"(7) LIMITED LIABILITY COMPANY.—The term 'limited liability company' means a business entity that is organized and operating in accordance with a State limited liability company law approved by the Secretary.

"(8) MEMBER.—The term 'member' means, with respect to a Rural Business Investment Company that is a limited liability company, a holder of an ownership interest or a person otherwise admitted to membership in the limited liability company.

"(9) OPERATIONAL ASSISTANCE.—The term 'operational assistance' means management, marketing, and other technical assistance that assists a rural business concern with business development.

"(10) PARTICIPATION AGREEMENT.—The term 'participation agreement' means an agreement, between the Secretary and a Rural Business Investment Company granted final approval under section 384D(d), that requires the Rural Business Investment Company to make investments in smaller enterprises in rural areas.

"(11) PRIVATE CAPITAL.—

"(A) IN GENERAL.—The term 'private capital' means the total of—

"(i) the paid-in capital and paid-in surplus of a corporate Rural Business Investment Company, the contributed capital of the partners of a partnership Rural Business Investment Company, or the equity investment of the members of a limited liability company Rural Business Investment Company; and

"(ii) unfunded binding commitments, from investors that meet criteria established by the Secretary to contribute capital to the Rural Business Investment Company, except that unfunded commitments may be counted as private capital for purposes of approval by the Secretary of any request for leverage, but leverage shall not be funded based on the commitments.

"(B) EXCLUSIONS.—The term 'private capital' does not include—

"(i) any funds borrowed by a Rural Business Investment Company from any source;

"(ii) any funds obtained through the issuance of leverage; or

"(iii) any funds obtained directly or indirectly from the Federal Government or any State (including by a political subdivision, agency, or instrumentality of the Federal Government or a State), except for—

"(I) 50 percent of funds from the National Rural Cooperative and Business Equity Fund;

"(II) funds obtained from the business revenues (excluding any governmental appropriation) of any federally chartered or government-sponsored enterprise established prior to the date of enactment of this subtitle;

"(III) funds invested by an employee welfare benefit plan or pension plan; and

"(IV) any qualified nonprivate funds (if the investors of the qualified nonprivate funds do not control, directly or indirectly, the management, board of directors, general partners, or members of the Rural Business Investment Company).

"(12) QUALIFIED NONPRIVATE FUNDS.—The term 'qualified nonprivate funds' means any—

"(A) funds directly or indirectly invested in any applicant or Rural Business Investment Company on or before the date of enactment of this subtitle, by any Federal agency, other than the Department of Agriculture, under a provision of law explicitly mandating the inclusion of those funds in the definition of the term 'private capital'; and

"(B) funds invested in any applicant or Rural Business Investment Company by 1 or more entities of any State (including by a political subdivision, agency, or instrumentality of the State and including any guarantee extended by those entities) in an aggregate amount that does not exceed 33 percent of the private capital of the applicant or Rural Business Investment Company.

"(13) RURAL BUSINESS CONCERN.—The term 'rural business concern' means—

"(A) a public, private, or cooperative for-profit or nonprofit organization;

"(B) a for-profit or nonprofit business controlled by an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group; or

"(C) any other person or entity;

that primarily operates in a rural area, as determined by the Secretary.

"(14) RURAL BUSINESS INVESTMENT COMPANY.—The term 'Rural Business Investment Company' means a company that—

"(A) has been granted final approval by the Secretary under section 384D(d); and

"(B) has entered into a participation agreement with the Secretary.

"(15) SMALLER ENTERPRISE.—The term 'smaller enterprise' means any rural business concern that, together with its affiliates—

"(A) has—

"(i) a net financial worth of not more than $6,000,000, as of the date on which assistance is provided under this subtitle to the rural business concern; and

"(ii) an average net income for the 2-year period preceding the date on which assistance is provided under this subtitle to the rural business concern, of not more than $2,000,000, after Federal income taxes (excluding any carryover losses) except that, for purposes of this clause, if the rural business concern is not required by law to pay Federal income taxes at the enterprise level, but is required to pass income through to the shareholders, partners, beneficiaries, or other equitable owners of the business concern, the net income of the business concern shall be determined by allowing a deduction in an amount equal to the total of—

"(I) if the rural business concern is not required by law to pay State (and local, if any) income taxes at the enterprise level, the net income (determined without regard to this clause), multiplied by the marginal State income tax rate (or by the combined State and local income tax rates, as applicable) that would have applied if the business concern were a corporation; and

"(II) the net income (so determined) less any deduction for State (and local) income taxes calculated under subclause (I), multiplied by the marginal Federal income tax rate that would have applied if the rural business concern were a corporation; or

"(B) satisfies the standard industrial classification size standards established by the Administrator of the Small Business Administration for the industry in which the rural business concern is primarily engaged.

"SEC. 384B. PURPOSES.

"The purposes of the Rural Business Investment Program established under this subtitle are—

"(1) to promote economic development and the creation of wealth and job opportunities in rural areas and among individuals living in those areas by encouraging developmental venture capital investments in smaller enterprises primarily located in rural areas; and

"(2) to establish a developmental venture capital program, with the mission of addressing the unmet equity investment needs of small enterprises located in rural areas, by authorizing the Secretary—

"(A) to enter into participation agreements with Rural Business Investment Companies;

"(B) to guarantee debentures of Rural Business Investment Companies to enable each Rural Business Investment Company to make developmental venture capital investments in smaller enterprises in rural areas; and

"(C) to make grants to Rural Business Investment Companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by Rural Business Investment Companies.

"SEC. 384C. ESTABLISHMENT.

"In accordance with this subtitle, the Secretary shall establish a Rural Business Investment Program, under which the Secretary may—

"(1) enter into participation agreements with companies granted final approval under section 384D(d) for the purposes set forth in section 384B;

"(2) guarantee the debentures issued by Rural Business Investment Companies as provided in section 384E; and

"(3) make grants to Rural Business Investment Companies, and to other entities, under section 384H.

"SEC. 384D. SELECTION OF RURAL BUSINESS INVESTMENT COMPANIES.

"(a) ELIGIBILITY.—A company shall be eligible to apply to participate, as a Rural Business Investment Company, in the program established under this subtitle if—

"(1) the company is a newly formed for-profit entity or a newly formed for-profit subsidiary of such an entity;

"(2) the company has a management team with experience in community development financing or relevant venture capital financing; and

"(3) the company will invest in enterprises that will create wealth and job opportunities in rural areas, with an emphasis on smaller businesses.

"(b) APPLICATION.—To participate, as a Rural Business Investment Company, in the program established under this subtitle, a company meeting the eligibility requirements of subsection (a) shall submit an application to the Secretary that includes—

"(1) a business plan describing how the company intends to make successful developmental venture capital investments in identified rural areas;

"(2) information regarding the community development finance or relevant venture capital qualifications and general reputation of the management of the company;

"(3) a description of how the company intends to work with community organizations and to seek to address the unmet capital needs of the communities served;

"(4) a proposal describing how the company intends to use the grant funds provided under this subtitle to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company intends to use licensed professionals, when necessary, on the staff of the company or from an outside entity;

"(5) with respect to binding commitments to be made to the company under this subtitle, an estimate of the ratio of cash to in-kind contributions;

"(6) a description of the criteria to be used to evaluate whether and to what extent the company meets the purposes of the program established under this subtitle;

"(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the business plan of the company; and

"(8) such other information as the Secretary may require.

"(c) ISSUANCE OF LICENSE.—

"(1) SUBMISSION OF APPLICATION.—Each applicant for a license to operate as a Rural Business Investment Company under this subtitle shall submit to the Secretary an application, in a form and including such documentation as may be prescribed by the Secretary.

"(2) PROCEDURES.—

"(A) STATUS.—Not later than 90 days after the initial receipt by the Secretary of an application under this subsection, the Secretary shall provide the applicant with a written report describing the status of the application and any requirements remaining for completion of the application.

"(B) APPROVAL OR DISAPPROVAL.—Within a reasonable time after receiving a completed application submitted in accordance with this subsection and in accordance with such requirements as the Secretary may prescribe by regulation, the Secretary shall—

"(i) approve the application and issue a license for the operation to the applicant, if the requirements of this section are satisfied; or

"(ii) disapprove the application and notify the applicant in writing of the disapproval.

"(3) MATTERS CONSIDERED.—In reviewing and processing any application under this subsection, the Secretary—

"(A) shall determine whether—

"(i) the applicant meets the requirements of subsection (d); and

"(ii) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this subtitle;

"(B) shall take into consideration—

"(i) the need for and availability of financing for rural business concerns in the geographic area in which the applicant is to commence business;

"(ii) the general business reputation of the owners and management of the applicant; and

"(iii) the probability of successful operations of the applicant, including adequate profitability and financial soundness; and

"(C) shall not take into consideration any projected shortage or unavailability of grant funds or leverage.

"(d) APPROVAL; DESIGNATION.—The Secretary may approve an applicant to operate as a Rural Business Investment Company under this subtitle and designate the applicant as a Rural Business Investment Company, if—

"(1) the Secretary determines that the application satisfies the requirements of subsection (b);

"(2) the area in which the Rural Business Investment Company is to conduct its operations, and establishment of branch offices or agencies (if authorized by the articles), are approved by the Secretary; and

"(3) the applicant enters into a participation agreement with the Secretary.

"SEC. 384E. DEBENTURES.

"(a) IN GENERAL.—The Secretary may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any Rural Business Investment Company.

"(b) TERMS AND CONDITIONS.—The Secretary may make guarantees under this section on such terms and conditions as the Secretary considers appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

"(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—Section 381H(i) shall apply to any guarantee under this section.

"(d) MAXIMUM GUARANTEE.—Under this section, the Secretary may—

"(1) guarantee the debentures issued by a Rural Business Investment Company only to the extent that the total face amount of outstanding guaranteed debentures of the Rural Business Investment Company does not exceed 300 percent of the private capital of the Rural Business Investment Company, as determined by the Secretary; and

"(2) provide for the use of discounted debentures.

“SEC. 384F. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

“(a) Issuance.—The Secretary may issue trust certificates representing ownership of all or a fractional part of debentures issued by a Rural Business Investment Company and guaranteed by the Secretary under this subtitle, if the certificates are based on and backed by a trust or pool approved by the Secretary and composed solely of guaranteed debentures.

“(b) Guarantee.—

“(1) In general.—The Secretary may, under such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Secretary or agents of the Secretary for purposes of this section.

“(2) Limitation.—Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

“(3) Prepayment or default.—

“(A) In general.—In the event a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest the prepaid debenture represents in the trust or pool.

“(B) Interest.—Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Secretary only through the date of payment of the guarantee.

“(C) Redemption.—At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

“(c) Full Faith and Credit of the United States.—Section 381H(i) shall apply to any guarantee of a trust certificate issued by the Secretary under this section.

“(d) Subrogation and Ownership Rights.—

“(1) Subrogation.—If the Secretary pays a claim under a guarantee issued under this section, the claim shall be subrogated fully to the rights satisfied by the payment.

“(2) Ownership rights.—No Federal, State, or local law shall preclude or limit the exercise by the Secretary of the ownership rights of the Secretary in a debenture residing in a trust or pool against which 1 or more trust certificates are issued under this section.

“(e) Management and Administration.—

“(1) Registration.—The Secretary shall provide for a central registration of all trust certificates issued under this section.

“(2) Creation of pools.—The Secretary may—

“(A) maintain such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this subtitle; and

“(B) issue trust certificates to facilitate the creation of those trusts or pools.

“(3) Fidelity bond or insurance requirement.—Any agent performing functions on behalf of the Secretary under this paragraph shall provide a fidelity bond or insurance in such amount as the Secretary considers to be necessary to fully protect the interests of the United States.

“(4) Regulation of brokers and dealers.—The Secretary may regulate brokers and dealers in trust certificates issued under this section.

“(5) Electronic registration.—Nothing in this subsection prohibits the use of a book-entry or other electronic form of registration for trust certificates issued under this section.

“SEC. 384G. FEES.

“(a) In General.—The Secretary may charge such fees as the Secretary considers appropriate with respect to any guarantee or grant issued under this subtitle.

“(b) Trust Certificate.—Notwithstanding subsection (a), the Secretary shall not collect a fee for any guarantee of a trust certificate under section 384F, except that any agent of the Secretary may collect a fee approved by the Secretary for the functions described in section 384F(e)(2).

“(c) License.—

“(1) In general.—The Secretary may prescribe fees to be paid by each applicant for a license to operate as a Rural Business Investment Company under this subtitle.

“(2) Use of amounts.—Fees collected under this subsection—

“(A) shall be deposited in the account for salaries and expenses of the Secretary; and

“(B) are authorized to be appropriated solely to cover the costs of licensing examinations.

“SEC. 384H. OPERATIONAL ASSISTANCE GRANTS.

“(a) In General.—

“(1) Authority.—In accordance with this section, the Secretary may make grants to Rural Business Investment Companies and to other entities, as authorized by this subtitle, to provide operational assistance to smaller enterprises financed, or expected to be financed, by the entities.

“(2) Terms.—Grants made under this subsection shall be made over a multiyear period (not to exceed 10 years) under such other terms as the Secretary may require.

“(3) Use of funds.—The proceeds of a grant made under this paragraph may be used by the Rural Business Investment Company receiving the grant only to—

“(A) provide operational assistance in connection with an equity investment (made with capital raised after the effective date of this subtitle) in a business located in a rural area; or

“(B) pay operational expenses of the Rural Business Investment Company.

“(4) Submission of plans.—A Rural Business Investment Company shall be eligible for a grant under this section only if the Rural Business Investment Company submits to the Secretary, in such form and manner as the Secretary may require, a plan for use of the grant.

“(5) Grant amount.—

“(A) Rural business investment companies.—The amount of a grant made under this subsection to a Rural Business Investment Company shall be equal to the lesser of—

“(i) 50 percent of the amount of resources (in cash or in kind) raised by the Rural Business Investment Company; or

“(ii) $1,000,000.

“(B) Other entities.—The amount of a grant made under this subsection to any entity other than a Rural Business Investment Company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to Rural Business Investment Companies under this subtitle.

“(b) Supplemental Grants.—

“(1) In general.—The Secretary may make supplemental grants to Rural Business Investment Companies and to other entities, as authorized by this subtitle under such terms as the Secretary may require, to provide additional operational assistance to smaller enterprises financed, or expected to be financed, by the Rural Business Investment Companies and other entities.

“(2) Matching requirement.—The Secretary may require, as a condition of any supplemental grant made under this subsection, that the Rural Business Investment Company or entity receiving the grant provide from resources (in cash or in kind), other than resources provided by the Secretary, a matching contribution equal to the amount of the supplemental grant.

“SEC. 384I. RURAL BUSINESS INVESTMENT COMPANIES.

“(a) Organization.—For the purpose of this subtitle, a Rural Business Investment Company shall—

“(1) be an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities authorized by this subtitle;

“(2)(A) if incorporated, have succession for a period of not less than 30 years unless earlier dissolved by the shareholders of the Rural Business Investment Company; and

“(B) if a limited partnership or a limited liability company, have succession for a period of not less than 10 years; and

“(3) possess the powers reasonably necessary to perform the functions and conduct the activities.

“(b) Articles.—The articles of any Rural Business Investment Company—

“(1) shall specify in general terms—

“(A) the purposes for which the Rural Business Investment Company is formed;

“(B) the name of the Rural Business Investment Company;

“(C) the area or areas in which the operations of the Rural Business Investment Company are to be carried out;

“(D) the place where the principal office of the Rural Business Investment Company is to be located; and

“(E) the amount and classes of the shares of capital stock of the Rural Business Investment Company;

“(2) may contain any other provisions consistent with this subtitle that the Rural Business Investment Company may determine appropriate to adopt for the regulation of the business of the Rural Business Investment Company and the conduct of the affairs of the Rural Business Investment Company; and

“(3) shall be subject to the approval of the Secretary.

“(c) Capital Requirements.—

“(1) In general.—Except as provided in paragraph (2), the private capital of each Rural Business Investment Company shall be not less than—

“(A) $5,000,000; or

“(B) $10,000,000, with respect to each Rural Business Investment Company authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Secretary under this subtitle.

“(2) Exception.—The Secretary may, in the discretion of the Secretary and based on a showing of special circumstances and good cause, permit the private capital of a Rural Business Investment Company described in paragraph (1)(B) to be less than $10,000,000, but not less than $5,000,000, if the Secretary determines that the action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

“(3) Adequacy.—In addition to the requirements of paragraph (1), the Secretary shall—

“(A) determine whether the private capital of each Rural Business Investment Company is adequate to ensure a reasonable prospect that the Rural Business Investment Company will be operated soundly and profitably, and managed actively and prudently in accordance with the articles of the Rural Business Investment Company;

"(B) determine that the Rural Business Investment Company will be able to comply with the requirements of this subtitle; and

"(C) require that at least 75 percent of the capital of each Rural Business Investment Company is invested in rural business concerns.

"(d) Diversification of Ownership.—The Secretary shall ensure that the management of each Rural Business Investment Company licensed after the date of enactment of this subtitle is sufficiently diversified from and unaffiliated with the ownership of the Rural Business Investment Company so as to ensure independence and objectivity in the financial management and oversight of the investments and operations of the Rural Business Investment Company.

"SEC. 384J. FINANCIAL INSTITUTION INVESTMENTS.

"(a) In General.—Except as otherwise provided in this section and notwithstanding any other provision of law, the following banks, associations, and institutions may invest in any Rural Business Investment Company or in any entity established to invest solely in Rural Business Investment Companies:

"(1) Any national bank.

"(2) Any member bank of the Federal Reserve System.

"(3) Any Federal savings association.

"(4) Any Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)).

"(5) Any insured bank that is not a member of the Federal Reserve System, to the extent permitted under applicable State law.

"(b) Limitation.—No bank, association, or institution described in subsection (a) may make investments described in subsection (a) that are greater than 5 percent of the capital and surplus of the bank, association, or institution.

"(c) Limitation on Rural Business Investment Companies Controlled by Farm Credit System Institutions.—If a Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)) holds more than 30 percent of the voting shares of a Rural Business Investment Company, either alone or in conjunction with other System institutions (or affiliates), the Rural Business Investment Company shall not provide equity investments in, or provide other financial assistance to, entities that are not otherwise eligible to receive financing from the Farm Credit System under that Act (12 U.S.C. 2001 et seq.).

"SEC. 384K. REPORTING REQUIREMENT.

"Each Rural Business Investment Company that participates in the program established under this subtitle shall provide to the Secretary such information as the Secretary may require, including—

"(1) information relating to the measurement criteria that the Rural Business Investment Company proposed in the program application of the Rural Business Investment Company; and

"(2) in each case in which the Rural Business Investment Company under this subtitle makes an investment in, or a loan or grant to, a business that is not located in a rural area, a report on the number and percentage of employees of the business who reside in those areas.

"SEC. 384L. EXAMINATIONS.

"(a) In General.—Each Rural Business Investment Company that participates in the program established under this subtitle shall be subject to examinations made at the direction of the Secretary in accordance with this section.

"(b) Assistance of Private Sector Entities.—An examination under this section may be conducted with the assistance of a private sector entity that has the qualifications and the expertise necessary to conduct such an examination.

"(c) Costs.—

"(1) In general.—The Secretary may assess the cost of an examination under this section, including compensation of the examiners, against the Rural Business Investment Company examined.

"(2) Payment.—Any Rural Business Investment Company against which the Secretary assesses costs under this paragraph shall pay the costs.

"(d) Deposit of Funds.—Funds collected under this section shall—

"(1) be deposited in the account that incurred the costs for carrying out this section;

"(2) be made available to the Secretary to carry out this section, without further appropriation; and

"(3) remain available until expended.

"SEC. 384M. INJUNCTIONS AND OTHER ORDERS.

"(a) In General.—

"(1) Application by secretary.—Whenever, in the judgment of the Secretary, a Rural Business Investment Company or any other person has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of a provision of this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), the Secretary may apply to the appropriate district court of the United States for an order enjoining the act or practice, or for an order enforcing compliance with the provision, rule, regulation, order, or participation agreement.

"(2) Jurisdiction; relief.—The court shall have jurisdiction over the action and, on a showing by the Secretary that the Rural Business Investment Company or other person has engaged or is about to engage in an act or practice described in paragraph (1), a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

"(b) Jurisdiction.—

"(1) In general.—In any proceeding under subsection (a), the court as a court of equity may, to such extent as the court considers necessary, take exclusive jurisdiction over the Rural Business Investment Company and the assets of the Rural Business Investment Company, wherever located.

"(2) Trustee or receiver.—The court shall have jurisdiction in any proceeding described in paragraph (1) to appoint a trustee or receiver to hold or administer the assets.

"(c) Secretary As Trustee or Receiver.—

"(1) Authority.—The Secretary may act as trustee or receiver of a Rural Business Investment Company.

"(2) Appointment.—On the request of the Secretary, the court shall appoint the Secretary to act as a trustee or receiver of a Rural Business Investment Company unless the court considers the appointment inequitable or otherwise inappropriate by reason of any special circumstances involved.

"SEC. 384N. ADDITIONAL PENALTIES FOR NONCOMPLIANCE.

"(a) In General.—With respect to any Rural Business Investment Company that violates or fails to comply with this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), the Secretary may, in accordance with this section—

"(1) void the participation agreement between the Secretary and the Rural Business Investment Company; and

"(2) cause the Rural Business Investment Company to forfeit all of the rights and privileges derived by the Rural Business Investment Company under this subtitle.

"(b) Adjudication of Noncompliance.—

"(1) In general.—Before the Secretary may cause a Rural Business Investment Company to forfeit rights or privileges under subsection (a), a court of the United States of competent jurisdiction must find that the Rural Business Investment Company committed a violation, or failed to comply, in a cause of action brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of the Rural Business Investment Company is located.

"(2) Parties authorized to file causes of action.—Each cause of action brought by the United States under this subsection shall be brought by the Secretary or by the Attorney General.

"SEC. 384O. UNLAWFUL ACTS AND OMISSIONS; BREACH OF FIDUCIARY DUTY.

"(a) Parties Deemed To Commit a Violation.—Whenever any Rural Business Investment Company violates this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), by reason of the failure of the Rural Business Investment Company to comply with this subtitle or by reason of its engaging in any act or practice that constitutes or will constitute a violation of this subtitle, the violation shall also be deemed to be a violation and an unlawful act committed by any person that, directly or indirectly, authorizes, orders, participates in, causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions that constitute or will constitute, in whole or in part, the violation.

"(b) Fiduciary Duties.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of a Rural Business Investment Company to engage in any act or practice, or to omit any act or practice, in breach of the fiduciary duty of the officer, director, employee, agent, or participant if, as a result of the act or practice, the Rural Business Investment Company suffers or is in imminent danger of suffering financial loss or other damage.

"(c) Unlawful Acts.—Except with the written consent of the Secretary, it shall be unlawful—

"(1) for any person to take office as an officer, director, or employee of any Rural Business Investment Company, or to become an agent or participant in the conduct of the affairs or management of a Rural Business Investment Company, if the person—

"(A) has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

"(B) has been found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud, or breach of trust; and

"(2) for any person to continue to serve in any of the capacities described in paragraph (1), if—

"(A) the person is convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

"(B) the person is found civilly liable in damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

"SEC. 384P. REMOVAL OR SUSPENSION OF DIRECTORS OR OFFICERS.

"Using the procedures established by the Secretary for removing or suspending a director or an officer of a Rural Business Investment Company, the Secretary may remove or suspend any director or officer of any Rural Business Investment Company.

"SEC. 384Q. CONTRACTING OF FUNCTIONS.

"Notwithstanding any other provision of law, the Secretary shall enter into an interagency agreement with the Administrator of the Small Business Administration to carry out, on behalf of the Secretary, the day-to-day management and operation of the program authorized by this subtitle.

"SEC. 384R. REGULATIONS.

"The Secretary may promulgate such regulations as the Secretary considers necessary to carry out this subtitle.

"SEC. 384S. FUNDING.

"(a) In General.—Not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture—

"(1) such sums as may be necessary for the cost of guaranteeing $350,000,000 of debentures under this subtitle; and

"(2) $50,000,000 to make grants under this subtitle.

"(b) Receipt and Acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

"(c) Availability of Funds.—Funds transferred under subsection (a) shall remain available until expended.".

SEC. 603. FULL FUNDING OF PENDING RURAL DEVELOPMENT LOAN AND GRANT APPLICATIONS.

(a) Definition of Application.—In this section, the term "application" does not include an application for a loan, loan guarantee, or grant that, as of the date of enactment of this Act, is in the preapplication phase of consideration under regulations of the Secretary of Agriculture in effect on the date of enactment of this Act.

(b) Account.—There is established in the Treasury of the United States an account to be known as the "Rural America Infrastructure Development Account" (referred to in this section as the "Account") to fund rural development loans, loan guarantees, and grants described in subsection (d) that are pending on the date of enactment of this Act.

(c) Funding.—

(1) In general.—Not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture such sums as are necessary to carry out this section, to remain available until expended.

(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

(d) Use of Funds.—

(1) Eligible programs.—Subject to paragraph (2), the Secretary shall use the funds in the Account to provide funds for applications that are pending on the date of enactment of this Act for—

(A) community facility direct loans under section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1));

(B) community facility grants under paragraph (19), (20), or (21) of section 306(a) of that Act (7 U.S.C. 1926(a));

(C) water or waste disposal grants or direct loans under paragraph (1) or (2) of section 306(a) of that Act (7 U.S.C. 1926(a));

(D) rural water or wastewater technical assistance and training grants under section 306(a)(14) of that Act (7 U.S.C. 1926(a)(14));

(E) emergency community water assistance grants under section 306A of that Act (7 U.S.C. 1926a);

(F) business and industry guaranteed loans authorized under section 310B(a)(1)(A) of that Act (7 U.S.C. 1932(a)(1)(A)); and

(G) solid waste management grants under section 310B(b) of that Act (7 U.S.C. 1932(b)).

(2) Limitations.—

(A) Appropriated amounts.—Funds in the Account shall be available to the Secretary to provide funds for pending applications for loans, loan guarantees, and grants described in paragraph (1) only to the extent that funds for the loans, loan guarantees, and grants appropriated in the annual appropriations Act for fiscal year 2002 have been exhausted.

(B) Program requirements.—The Secretary may use the Account to provide funds for a pending application for a loan, loan guarantee, or grant described in paragraph (1) only if the Secretary processes, reviews, and approves the application in accordance with regulations in effect on the date of enactment of this Act.

SEC. 604. RURAL ENDOWMENT PROGRAM.

(a) In General.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by section 602) is amended by adding at the end the following:

"Subtitle I—Rural Endowment Program

"SEC. 385A. PURPOSE.

"The purpose of this subtitle is to provide rural communities with technical and financial assistance to implement comprehensive community development strategies to reduce the economic and social distress resulting from poverty, high unemployment, outmigration, plant closings, agricultural downturn, declines in the natural resource-based economy, or environmental degradation.

"SEC. 385B. DEFINITIONS.

"In this subtitle:

"(1) Comprehensive community development strategy.—The term 'comprehensive community development strategy' means a community development strategy described in section 385C(e).

"(2) Eligible rural area.—

"(A) In general.—The term 'eligible rural area' means an area with a population of 25,000 inhabitants or less, as determined by the Secretary using the most recent decennial census.

"(B) Exclusions.—The term 'eligible rural area' does not include—

"(i) any area designated by the Secretary as a rural empowerment zone or rural enterprise community; or

"(ii) an urbanized area immediately adjacent to an incorporated city or town with a population of more than 25,000 inhabitants.

"(3) Endowment fund.—The term 'endowment fund' means a long-term fund that an approved program entity is required to establish under section 385C(f)(3).

"(4) Performance-based benchmarks.—The term 'performance-based benchmarks' means a set of annualized goals and tasks established by a recipient of a grant under the Program, in collaboration with the Secretary, for the purpose of measuring performance in meeting the comprehensive community development strategy of the recipient.

"(5) Program.—The term 'Program' means the Rural Endowment Program established under section 385C(a).

"(6) Program entity.—The term 'program entity' means—

"(A) a private nonprofit community-based development organization;

"(B) a unit of local government (including a multijurisdictional unit of local government);

"(C) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

"(D) a consortium comprised of an organization described in subparagraph (A) and a unit of local government; or

"(E) a consortium of entities specified in subparagraphs (A) through (D);

that serves an eligible rural area.

"(7) Program-related investment.—The term 'program-related investment' means—

"(A) a loan, loan guarantee, grant, payment of a technical fee, or other expenditure provided for an affordable housing, community facility, small business, environmental improvement, or other community development project that is part of a comprehensive community development strategy; and

"(B) support services relating to a project described in subparagraph (A).

"SEC. 385C. RURAL ENDOWMENT PROGRAM.

"(a) Establishment.—

"(1) In general.—The Secretary may establish a program, to be known as the 'Rural Endowment Program', to provide approved program entities with assistance in developing and implementing comprehensive community development strategies for eligible rural areas.

"(2) Purposes.—The purposes of the Program are—

"(A) to enhance the ability of an eligible rural area to engage in comprehensive community development;

"(B) to leverage private and public resources for the benefit of community development efforts in eligible rural areas;

"(C) to make available staff of Federal agencies to directly assist the community development efforts of an approved program entity or eligible rural area; and

"(D) to strengthen the asset base of an eligible rural area to further long-term, ongoing community development.

"(b) Applications.—

"(1) In general.—To receive an endowment grant under the Program, the eligible entity shall submit an application at such time, in such form, and containing such information as the Secretary may require.

"(2) Regional applications.—

"(A) In general.—Where appropriate, the Secretary shall encourage regional applications from program entities serving more than 1 eligible rural area.

"(B) Criteria for applications.—To be eligible for an endowment grant for a regional application, the program entities that submit the application shall demonstrate that—

"(i) a comprehensive community development strategy for the eligible rural areas is best accomplished through a regional approach; and

"(ii) the combined population of the eligible rural areas covered by the comprehensive community development strategy is 75,000 inhabitants or less.

"(C) Amount of endowment grants.—For the purpose of subsection (f)(2), 2 or more program entities that submit a regional application shall be considered to be a single program entity.

"(3) Preference.—The Secretary shall give preference to a joint application submitted by a private, nonprofit community development corporation and a unit of local government.

"(c) Entity Approval.—The Secretary shall approve a program entity to receive grants under the Program, if the program entity meets criteria established by the Secretary, including the following:

"(1) Distressed rural area.—The program entity shall serve a rural area that suffers from economic or social distress resulting from poverty, high unemployment, outmigration, plant closings, agricultural downturn, declines in the natural resource-based economy, or environmental degradation.

"(2) Capacity to implement strategy.—The program entity shall demonstrate the capacity to implement a comprehensive community development strategy.

"(3) Goals.—The goals described in the application submitted under subsection (b) shall be consistent with this section.

"(4) Participation process.—The program entity shall demonstrate the ability to convene and maintain a multi-stakeholder, community-based participation process.

"(d) Planning Grants to Conditionally Approved Program Entities.—

"(1) In general.—The Secretary may award supplemental grants to approved program entities to assist the approved program entities in the development of a comprehensive community development strategy under subsection (e).

"(2) Eligibility for supplemental grants.—In determining whether to award a supplemental grant to an approved program entity, the Secretary shall consider the economic need of the approved program entity.

"(3) Limitations on amount of grants.—Under this subsection, an approved program entity may receive a supplemental grant in an amount of not more than $100,000.

"(e) Endowment Grant Award.—

"(1) In general.—To be eligible for an endowment grant under the Program, an approved program entity shall develop, and obtain the approval of the Secretary for, a comprehensive community development strategy that—

"(A) is designed to reduce economic or social distress resulting from poverty, high unemployment, outmigration, plant closings, agricultural downturn, declines in the natural resource-based economy, or environmental degradation;

"(B) addresses a broad range of the development needs of a community, including economic, social, and environmental needs, for a period of not less than 10 years;

"(C) is developed with input from a broad array of local governments and business, civic, and community organizations;

"(D) specifies measurable performance-based outcomes for all activities; and

"(E) includes a financial plan for achieving the outcomes and activities of the comprehensive community development strategy that identifies sources for, or a plan to meet, the requirement for a non-Federal share under subsection (f)(4)(B).

"(2) Final approval.—

"(A) In general.—An approved program entity shall receive final approval if the Secretary determines that—

"(i) the comprehensive community development strategy of the approved program entity meets the requirements of this section;

"(ii) the management and organizational structure of the approved program entity is sufficient to oversee fund and development activities;

"(iii) the approved program entity has established an endowment fund; and

"(iv) the approved program entity will be able to provide the non-Federal share required under subsection (f)(4)(B).

"(B) Conditions.—As part of the final approval, the approved program entity shall agree to—

"(i) achieve, to the maximum extent practicable, performance-based benchmarks; and

"(ii) comply with the terms of the comprehensive community development strategy for a period of not less than 10 years.

"(f) Endowment Grants.—

"(1) In general.—Under the Program, the Secretary may make endowment grants to approved program entities with final approval to implement an approved comprehensive community development strategy.

"(2) Amount of grants.—An endowment grant to an approved program entity shall be in an amount of not more than $6,000,000, as determined by the Secretary based on—

"(A) the size of the population of the eligible rural area for which the endowment grant is to be used;

"(B) the size of the eligible rural area for which the endowment grant is to be used;

"(C) the extent of the comprehensive community development strategy to be implemented using the endowment grant award; and

"(D) the extent to which the community suffers from economic or social distress resulting from—

"(i) poverty;

"(ii) high unemployment;

"(iii) outmigration;

"(iv) plant closings;

"(v) agricultural downturn;

"(vi) declines in the natural resource-based economy; or

"(vii) environmental degradation.

"(3) Endowment funds.—

"(A) Establishment.—On notification from the Secretary that the program entity has been approved under subsection (c), the approved program entity shall establish an endowment fund.

"(B) Funding of endowment.—Federal funds provided in the form of an endowment grant under the Program shall—

"(i) be deposited in the endowment fund;

"(ii) be the sole property of the approved program entity;

"(iii) be used in a manner consistent with this subtitle; and

"(iv) be subject to oversight by the Secretary for a period of not more than 10 years.

"(C) Interest.—Interest earned on Federal funds in the endowment fund shall be—

"(i) retained by the grantee; and

"(ii) treated as Federal funds are treated under subparagraph (B).

"(D) Limitation.—The Secretary shall promulgate regulations on matching funds and returns on program-related investments only to the extent that such funds or proceeds are used in a manner consistent with this subtitle.

"(4) Conditions.—

"(A) Disbursement.—

"(i) In general.—Each endowment grant award shall be disbursed during a period not to exceed 5 years beginning during the fiscal year containing the date of final approval of the approved program entity under subsection (e)(3).

"(ii) Manner of disbursement.—Subject to subparagraph (B), the Secretary may disburse a grant award in 1 lump sum or in incremental disbursements made each fiscal year.

"(iii) Incremental disbursements.—If the Secretary elects to make incremental disbursements, for each fiscal year after the initial disbursement, the Secretary shall make a disbursement under clause (i) only if the approved program entity—

"(I) has met the performance-based benchmarks of the approved program entity for the preceding fiscal year; and

"(II) has provided the non-Federal share required for the preceding fiscal year under subparagraph (B).

"(iv) Advance disbursements.—The Secretary may make disbursements under this paragraph notwithstanding any provision of law limiting grant disbursements to amounts necessary to cover expected expenses on a term basis.

"(B) Non-Federal share.—

"(i) In general.—Except as provided in clause (ii), for each disbursement under subparagraph (A), the Secretary shall require the approved program entity to provide a non-Federal share in an amount equal to 50 percent of the amount of funds received by the approved program entity under the disbursement.

"(ii) Lower non-Federal share.—In the case of an approved program entity that serves a small, poor rural area (as determined by the Secretary), the Secretary may—

"(I) reduce the non-Federal share to not less than 20 percent; and

"(II) allow the non-Federal share to be provided in the form of in-kind contributions.

"(iii) Binding commitments; plan.—For the purpose of meeting the non-Federal share requirement with respect to the first disbursement of an endowment grant award to the approved program entity under the Program, an approved program entity shall—

"(I) have, at a minimum, binding commitments to provide the non-Federal share required with respect to the first disbursement of the endowment grant award; and

"(II) if the Secretary is making incremental disbursements of a grant, develop a viable plan for providing the remaining amount of the required non-Federal share.

"(C) Limitations.—

"(i) In general.—Subject to clause (ii), of each disbursement, an approved program entity shall use—

"(I) not more than 10 percent for administrative costs of carrying out program-related investments;

"(II) not more than 20 percent for the purpose of maintaining a loss reserve account; and

"(III) the remainder for program-related investments contained in the comprehensive community development strategy.

"(ii) Loss reserve account.—If all disbursed funds available under a grant are expended in accordance with clause (i) and the grant recipient has no expected losses to cover for a fiscal year, the recipient may use funds in the loss reserve account described in clause (i)(II) for program-related investments described in clause (i)(III) for which no reserve for losses is required.

"(g) Federal Agency Assistance.—Under the Program, the Secretary shall provide and coordinate technical assistance for grant recipients by designated field staff of Federal agencies.

"(h) Private Technical Assistance.—

"(1) In general.—Under the Program, the Secretary may make grants to qualified intermediaries to provide technical assistance and capacity building to approved program entities under the Program.

"(2) DUTIES.—A qualified intermediary that receives a grant under this subsection shall—

"(A) provide assistance to approved program entities in developing, coordinating, and overseeing investment strategy;

"(B) provide technical assistance in all aspects of planning, developing, and managing the Program; and

"(C) facilitate Federal and private sector involvement in rural community development.

"(3) ELIGIBILITY.—To be considered a qualified intermediary under this subsection, an intermediary shall—

"(A) be a private, nonprofit community development organization;

"(B) have expertise in Federal or private rural community development policy or programs; and

"(C) have experience in providing technical assistance, planning, and capacity building assistance to rural communities and nonprofit entities in eligible rural areas.

"(4) MAXIMUM AMOUNT OF GRANTS.—A qualified intermediary may receive a grant under this subsection of not more than $100,000.

"(5) FUNDING.—Of the amounts made available under section 385D, the Secretary may use to carry out this subsection not more than $2,000,000 for each of not more than 2 fiscal years.

"SEC. 385D. FUNDING.

"(a) FISCAL YEARS 2002 AND 2003.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this subtitle, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subtitle $82,000,000 for the period of fiscal years 2002 and 2003, to remain available until expended.

"(2) SCHEDULE FOR OBLIGATIONS.—Of the amounts made available under paragraph (1)—

"(A) not more than $5,000,000 shall be obligated to carry out section 385C(d);

"(B) not less than $75,000,000 shall be obligated to carry out section 385C(f); and

"(C) not less than $2,000,000 shall be obligated to carry out section 385C(h).

"(3) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subtitle the funds transferred under paragraph (1), without further appropriation.

"(b) FISCAL YEARS 2004 THROUGH 2006.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle for each of fiscal years 2004 through 2006.".

SEC. 605. ENHANCEMENT OF ACCESS TO BROADBAND SERVICE IN RURAL AREAS.

The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

"TITLE VI—RURAL BROADBAND ACCESS

"SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

"(a) PURPOSE.—The purpose of this section is to provide grants, loans, and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities.

"(b) DEFINITIONS.—In this section:

"(1) BROADBAND SERVICE.—The term 'broadband service' means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, or video.

"(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any incorporated or unincorporated place that—

"(A) has not more than 20,000 inhabitants, based on the most recent available population statistics of the Bureau of the Census; and

"(B) is not located in an area designated as a standard metropolitan statistical area.

"(c) GRANTS.—The Secretary shall make grants to eligible entities described in subsection (e) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities.

"(d) LOANS AND LOAN GUARANTEES.—The Secretary shall make or guarantee loans to eligible entities described in subsection (e) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities.

"(e) ELIGIBLE ENTITIES.—To be eligible to obtain a grant under this section, an entity must—

"(1) be eligible to obtain a loan or loan guarantee to furnish, improve, or extend a rural telecommunications service under this Act; and

"(2) submit to the Secretary a proposal for a project that meets the requirements of this section.

"(f) BROADBAND SERVICE.—The Secretary shall, from time to time as advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).

"(g) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether or not to make a grant, loan, or loan guarantee for a project under this section, the Secretary shall not take into consideration the type of technology proposed to be used under the project.

"(h) TERMS AND CONDITIONS FOR LOANS AND LOAN GUARANTEES.—A loan or loan guarantee under subsection (d) shall—

"(1) be made available in accordance with the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.);

"(2) bear interest at an annual rate of, as determined by the Secretary—

"(A) 4 percent per annum; or

"(B) the current applicable market rate; and

"(3) have a term not to exceed the useful life of the assets constructed, improved, or acquired with the proceeds of the loan or extension of credit.

"(i) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this Act, the proceeds of any loan made by the Secretary under this Act may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this Act if the use of the proceeds for that purpose will further the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities.

"(j) FUNDING.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section $100,000,000, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

"(3) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—From amounts made available for each fiscal year under paragraph (1), the Secretary shall—

"(i) establish a national reserve for grants, loans, and loan guarantees to eligible entities in States under this section; and

"(ii) allocate amounts in the reserve to each State for each fiscal year for grants, loans, and loan guarantees to eligible entities in the State.

"(B) AMOUNT.—The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as the number of communities with a population of 2,500 inhabitants or less in the State bears to the number of communities with a population of 2,500 inhabitants or less in all States, as determined on the basis of the last available census.

"(C) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make grants, loans, and loan guarantees under this section to eligible entities in any State, as determined by the Secretary

"(k) TERMINATION OF AUTHORITY.—

"(1) IN GENERAL.—No grant, loan, or loan guarantee may be made under this section after September 30, 2006.

"(2) EFFECT ON VALIDITY OF GRANT, LOAN, OR LOAN GUARANTEE.—Notwithstanding paragraph (1), any grant, loan, or loan guarantee made under this section before the date specified in paragraph (1) shall be valid.".

SEC. 606. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

Section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively;

(2) by striking subsection (a) and inserting the following:

"(a) DEFINITION OF VALUE-ADDED AGRICULTURAL PRODUCT.—The term 'value-added agricultural product' means any agricultural commodity or product that—

"(1)(A) has undergone a change in physical state; or

"(B) was produced in a manner that enhances the value of the agricultural commodity or product, as demonstrated through a business plan that shows the enhanced value, as determined by the Secretary; and

"(2) as a result of the change in physical state or the manner in which the agricultural commodity or product was produced—

"(A) the customer base for the agricultural commodity or product has been expanded; and

"(B) a greater portion of the revenue derived from the processing of the agricultural commodity or product is available to the producer of the commodity or product.

"(b) GRANT PROGRAM.—

"(1) PURPOSES.—The purposes of this subsection are—

“(A) to increase the share of the food and agricultural system profit received by agricultural producers;

“(B) to increase the number and quality of rural self-employment opportunities in agriculture and agriculturally-related businesses and the number and quality of jobs in agriculturally-related businesses;

“(C) to help maintain a diversity of size in farms and ranches by stabilizing the number of small and mid-sized farms;

“(D) to increase the diversity of food and other agricultural products available to consumers, including nontraditional crops and products and products grown or raised in a manner that enhances the value of the products to the public; and

“(E) to conserve and enhance the quality of land, water, and energy resources, wildlife habitat, and other landscape values and amenities in rural areas.

“(2) GRANTS.—From amounts made available under paragraph (6), the Secretary shall make award competitive grants—

“(A) to an eligible independent producer (as determined by the Secretary) of a value-added agricultural product to assist the producer—

“(i) to develop a business plan for viable marketing opportunities for the value-added agricultural product; or

“(ii) to develop strategies that are intended to create marketing opportunities for the producer; and

“(B) to an eligible nonprofit entity (as determined by the Secretary) to assist the entity—

“(i) to develop a business plan for viable marketing opportunities in emerging markets for a value-added agricultural product; or

“(ii) to develop strategies that are intended to create marketing opportunities in emerging markets for the value-added agricultural product.

“(3) AMOUNT OF GRANT.—

“(A) IN GENERAL.—The total amount provided under this subsection to a grant recipient may not exceed $500,000.

“(B) PRIORITY.—The Secretary shall give priority to grant proposals for less than $200,000 submitted under this subsection.

“(4) GRANTEE STRATEGIES.—A grantee under paragraph (2) shall use the grant—

“(A) to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a value-added agricultural product; or

“(B) to provide capital to establish alliances or business ventures that allow the producer of the value-added agricultural product to better compete in domestic or international markets.

“(5) GRANTS FOR MARKETING OR PROCESSING CERTIFIED ORGANIC AGRICULTURAL PRODUCTS.—

“(A) IN GENERAL.—Out of any amount that is made available to the Secretary for a fiscal year under paragraph (2), the Secretary shall use not less than 5 percent of the amount for grants to assist producers of certified organic agricultural products in post-farm marketing or processing of the products through a business or cooperative ventures that—

“(i) expand the customer base of the certified organic agricultural products; and

“(ii) increase the portion of product revenue available to the producers.

“(B) CERTIFIED ORGANIC AGRICULTURAL PRODUCT.—For the purposes of this paragraph, a certified organic agricultural product does not have to meet the requirements of the definition of ‘value-added agricultural product’ under subsection (a).

“(C) INSUFFICIENT APPLICATIONS.—If, for any fiscal year, the Secretary receives an insufficient quantity of applications for grants described in subparagraph (A) to use the funds reserved under subparagraph (A), the Secretary may use the excess reserved funds to make grants for any other purpose authorized under this subsection.

“(6) FUNDING.—

“(A) IN GENERAL.—Not later than 30 days after the date of enactment of this paragraph, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection $75,000,000, to remain available until expended.

“(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.”;

(3) in subsection (c)(1) (as redesignated)—

(A) by striking “subsection (a)(2)” and inserting “subsection (b)(2)”;

(B) by striking “$5,000,000” and inserting “7.5 percent”; and

(C) by striking “subsection (a)” and inserting “subsection (b)”; and

(4) in subsection (d) (as redesignated), by striking “subsections (a) and (b)” and inserting “subsections (b) and (c)”.

SEC. 607. NATIONAL RURAL DEVELOPMENT INFORMATION CLEARINGHOUSE.

Section 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b) is amended to read as follows:

“SEC. 2381. NATIONAL RURAL DEVELOPMENT INFORMATION CLEARINGHOUSE.

“(a) ESTABLISHMENT.—The Secretary shall establish and maintain, within the rural development mission area of the Department of Agriculture, a National Rural Development Information Clearinghouse (referred to in this section as the ‘Clearinghouse’) to perform the functions specified in subsection (b).

“(b) FUNCTIONS.—The Clearinghouse shall collect information and data from, and disseminate information and data to, any person or public or private entity about programs and services provided by Federal, State, local, and tribal agencies, institutions of higher education, and private, for-profit, and nonprofit organizations and institutions under which a person or public or private entity residing or operating in a rural area may be eligible for any kind of financial, technical, or other assistance, including business, venture capital, economic, credit and community development assistance, health care, job training, education, and emotional and financial counseling.

“(c) MODES OF COLLECTION AND DISSEMINATION OF INFORMATION.—In addition to other modes for the collection and dissemination of the types of information and data specified under subsection (b), the Secretary shall ensure that the Clearinghouse maintains an Internet website that provides for dissemination and collection, through voluntary submission or posting, of the information and data.

“(d) FEDERAL AGENCIES.—On request of the Secretary and to the extent permitted by law, the head of a Federal agency shall provide to the Clearinghouse such information as the Secretary may request to enable the Clearinghouse to carry out this section.

“(e) STATE, LOCAL, AND TRIBAL AGENCIES, INSTITUTIONS OF HIGHER EDUCATION, AND NONPROFIT AND FOR-PROFIT ORGANIZATIONS.—The Secretary shall request State, local, and tribal agencies, institutions of higher education, and private, for-profit, and nonprofit organizations and institutions to provide to the Clearinghouse information concerning applicable programs or services described in subsection (b).

“(f) PROMOTION OF CLEARINGHOUSE.—The Secretary prominently shall promote the existence and availability of the Clearinghouse in all activities of the Department of Agriculture relating to rural areas of the United States.

“(g) FUNDING.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall use to operate and maintain the Clearinghouse not more than $600,000 of the funds available to the Rural Housing Service, the Rural Utilities Service, and the Rural Business-Cooperative Service for each fiscal year.

“(2) LIMITATION.—Funds available to the Rural Housing Service, the Rural Utilities Service, and the Rural Business-Cooperative Service for the payment of loan costs (as defined in section 502 of Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) shall not be used to operate and maintain the Clearinghouse.”.

Subtitle B—National Rural Development Partnership

SEC. 611. SHORT TITLE.

This subtitle may be cited as the “National Rural Development Partnership Act of 2001”.

SEC. 612. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following:

“SEC. 377. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

“(a) DEFINITIONS.—In this section:

“(1) AGENCY WITH RURAL RESPONSIBILITIES.—The term ‘agency with rural responsibilities’ means any executive agency (as defined in section 105 of title 5, United States Code) that—

“(A) implements Federal law targeted at rural areas, including—

“(i) the Act of April 24, 1950 (commonly known as the ‘Granger-Thye Act’) (64 Stat. 82, chapter 9);

“(ii) the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098);

“(iii) section 41742 of title 49, United States Code;

“(iv) the Rural Development Act of 1972 (86 Stat. 657);

“(v) the Rural Development Policy Act of 1980 (94 Stat. 1171);

“(vi) the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);

“(vii) amendments made to section 334 of the Public Health Service Act (42 U.S.C. 254g) by the Rural Health Clinics Act of 1983 (97 Stat. 1345); and

“(viii) the Rural Housing Amendments of 1983 (97 Stat. 1240) and the amendments made by the Rural Housing Amendments of 1983 to title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.); or

“(B) administers a program that has a significant impact on rural areas, including—

“(i) the Appalachian Regional Commission;

“(ii) the Department of Agriculture;

“(iii) the Department of Commerce;

“(iv) the Department of Defense;

“(v) the Department of Education;

“(vi) the Department of Energy;

“(vii) the Department of Health and Human Services;

“(viii) the Department of Housing and Urban Development;

“(ix) the Department of the Interior;

“(x) the Department of Justice;

“(xi) the Department of Labor;

“(xii) the Department of Transportation;

“(xiii) the Department of the Treasury;

“(xiv) the Department of Veterans Affairs;

“(xv) the Environmental Protection Agency;

“(xvi) the Federal Emergency Management Administration;

“(xvii) the Small Business Administration;

“(xviii) the Social Security Administration;

“(xix) the Federal Reserve System;

“(xx) the United States Postal Service;

“(xxi) the Corporation for National Service;

“(xxii) the National Endowment for the Arts and the National Endowment for the Humanities; and

“(xxiii) other agencies, commissions, and corporations.

“(2) COORDINATING COMMITTEE.—The term ‘Coordinating Committee’ means the National Rural Development Coordinating Committee established by subsection (c).

“(3) PARTNERSHIP.—The term ‘Partnership’ means the National Rural Development Partnership continued by subsection (b).

“(4) STATE RURAL DEVELOPMENT COUNCIL.—The term ‘State rural development council’ means a State rural development council that meets the requirements of subsection (d).

“(b) PARTNERSHIP.—

“(1) IN GENERAL.—The Secretary shall continue the National Rural Development Partnership composed of—

“(A) the Coordinating Committee; and

“(B) State rural development councils.

“(2) PURPOSES.—The purposes of the Partnership are—

“(A) to empower and build the capacity of States and rural communities within States to design unique responses to their own special rural development needs, with local determinations of progress and selection of projects and activities;

“(B) to encourage participants to be flexible and innovative in establishing new partnerships and trying fresh, new approaches to rural development issues, with responses to rural development that use different approaches to fit different situations; and

“(C) to encourage all partners in the Partnership (Federal, State, local, and tribal governments, the private sector, and nonprofit organizations) to be fully engaged and share equally in decisions.

“(3) GOVERNING PANEL.—

“(A) IN GENERAL.—A panel consisting of representatives of the Coordinating Committee and State rural development councils shall be established to lead and coordinate the strategic operation, policies, and practices of the Partnership.

“(B) ANNUAL REPORTS.—In conjunction with the Coordinating Committee and State rural development councils, the panel shall prepare and submit to Congress an annual report on the activities of the Partnership.

“(4) ROLE OF FEDERAL GOVERNMENT.—The role of the Federal Government in the Partnership shall be that of a partner and facilitator, with Federal agencies authorized—

“(A) to cooperate with States to implement the Partnership;

“(B) to provide States with the technical and administrative support necessary to plan and implement tailored rural development strategies to meet local needs;

“(C) to ensure that the head of each agency referred to in subsection (a)(1)(B) designates a senior-level agency official to represent the agency on the Coordinating Committee and directs appropriate field staff to participate fully with the State rural development council within the jurisdiction of the field staff; and

“(D) to enter into cooperative agreements with, and to provide grants and other assistance to, State rural development councils.

“(5) ROLE OF PRIVATE AND NONPROFIT SECTOR ORGANIZATIONS.—Private and nonprofit sector organizations are encouraged—

“(A) to act as full partners in the Partnership and State rural development councils; and

“(B) to cooperate with participating government organizations in developing innovative approaches to the solution of rural development problems.

“(c) NATIONAL RURAL DEVELOPMENT COORDINATING COMMITTEE.—

“(1) ESTABLISHMENT.—The Secretary shall establish a National Rural Development Coordinating Committee.

“(2) COMPOSITION.—The Coordinating Committee shall be composed of—

“(A) 1 representative of each agency with rural responsibilities that elects to participate in the Coordinating Committee; and

“(B) representatives, approved by the Secretary, of—

“(i) national associations of State, regional, local, and tribal governments and intergovernmental and multijurisdictional agencies and organizations;

“(ii) national public interest groups;

“(iii) other national nonprofit organizations that elect to participate in the activities of the Coordinating Committee; and

“(iv) the private sector.

“(3) DUTIES.—The Coordinating Committee shall—

“(A) provide support for the work of the State rural development councils;

“(B) facilitate coordination among Federal programs and activities, and with State, local, tribal, and private programs and activities, affecting rural development;

“(C) enhance the effectiveness, responsiveness, and delivery of Federal programs in rural areas;

“(D) gather and provide to Federal authorities information and input for the development and implementation of Federal programs impacting rural economic and community development;

“(E) notwithstanding any other provision of law, review and comment on policies, regulations, and proposed legislation that affect or would affect rural areas;

“(F) provide technical assistance to State rural development councils for the implementation of Federal programs;

“(G) notwithstanding any other provision of law, develop and facilitate strategies to reduce or eliminate administrative and regulatory impediments; and

“(H) require each State receiving funds under this section to submit an annual report on the use of the funds by the State, including a description of strategic plans, goals, performance measures, and outcomes for the State rural development council of the State.

“(4) ELECTION NOT TO PARTICIPATE.—An agency with rural responsibilities that elects not to participate in the Partnership and the Coordinating Committee shall submit to Congress a report that describes—

“(A) how the programmatic responsibilities of the Federal agency that target or have an impact on rural areas are better achieved without participation by the agency in the Partnership; and

“(B) a more effective means of partnership-building and collaboration to achieve the programmatic responsibilities of the agency.

“(d) STATE RURAL DEVELOPMENT COUNCILS.—

“(1) ESTABLISHMENT.—Notwithstanding chapter 63 of title 31, United States Code, each State may elect to participate in the Partnership by entering into an agreement with the Secretary to establish a State rural development council.

“(2) STATE DIVERSITY.—Each State rural development council shall—

“(A) have a nonpartisan membership that is broad and representative of the economic, social, and political diversity of the State; and

“(B) carry out programs and activities in a manner that reflects the diversity of the State.

“(3) DUTIES.—A State rural development council shall—

“(A) facilitate collaboration among Federal, State, local, and tribal governments and the private and nonprofit sectors in the planning and implementation of programs and policies that target or have an impact on rural areas of the State;

“(B) enhance the effectiveness, responsiveness, and delivery of Federal and State programs in rural areas of the State;

“(C) gather and provide to the Coordinating Committee and other appropriate organizations information on the condition of rural areas in the State;

“(D) monitor and report on policies and programs that address, or fail to address, the needs of the rural areas of the State;

“(E) provide comments to the Coordinating Committee and other appropriate organizations on policies, regulations, and proposed legislation that affect or would affect the rural areas of the State;

“(F) notwithstanding any other provision of law, in conjunction with the Coordinating Committee, facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of Federal, State, local, and tribal governments;

“(G) use grant or cooperative agreement funds provided by the Partnership under an agreement entered into under paragraph (1) to—

“(i) retain an Executive Director and such support staff as are necessary to facilitate and implement the directives of the State rural development council; and

“(ii) pay expenses associated with carrying out subparagraphs (A) through (F); and

“(H)(i) provide to the Coordinating Committee an annual plan with goals and performance measures; and

“(ii) submit to the Coordinating Committee an annual report on the progress of the State rural development council in meeting the goals and measures.

“(4) AUTHORITIES.—A State rural development council may—

“(A) solicit funds to supplement and match funds provided under paragraph (3)(G); and

“(B) engage in activities, in addition to those specified in paragraph (3), appropriate to accomplish the purposes for which the State rural development council is established.

“(5) COMMENTS OR RECOMMENDATIONS.—A State rural development council may provide comments and recommendations to an agency with rural responsibilities related to the activities of the State rural development council within the State.

“(6) ACTIONS OF STATE RURAL DEVELOPMENT COUNCIL MEMBERS.—When carrying out a program or activity authorized by a State rural development council or this subtitle, a member of the council shall be regarded as a full-time employee of the Federal Government for purposes of chapter 171 of title 28, United States Code, and the Federal Advisory Committee Act (5 U.S.C. App.).

"(7) FEDERAL PARTICIPATION IN STATE RURAL DEVELOPMENT COUNCILS.—

"(A) IN GENERAL.—The State Director for Rural Development of a State, other employees of the Department of Agriculture, and employees of other Federal agencies that elect to participate in the Partnership shall fully participate in the governance and operations of State rural development councils on an equal basis with other members of the State rural development councils.

"(B) CONFLICTS.—A Federal employee who participates in a State rural development council shall not participate in the making of any council decision if the agency represented by the Federal employee has any financial or other interest in the outcome of the decision.

"(C) FEDERAL GUIDANCE.—The Office of Government Ethics, in consultation with the Attorney General, shall issue guidance to all Federal employees that participate in State rural development councils that describes specific decisions that—

"(i) would constitute a conflict of interest for the Federal employee; and

"(ii) from which the Federal employee must recuse himself or herself.

"(e) ADMINISTRATIVE SUPPORT OF THE PARTNERSHIP.—

"(1) DETAIL OF EMPLOYEES.—

"(A) IN GENERAL.—In order to provide experience in intergovernmental collaboration, the head of an agency with rural responsibilities that elects to participate in the Partnership may, and is encouraged to, detail an employee of the agency with rural responsibilities to the Partnership without reimbursement for a period of up to 12 months.

"(B) CIVIL SERVICE STATUS.—The detail shall be without interruption or loss of civil service status or privilege.

"(2) ADDITIONAL SUPPORT.—The Secretary shall provide for any additional support staff to the Partnership as the Secretary determines to be necessary to carry out the duties of the Partnership.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this section.

"(B) AMOUNT OF FINANCIAL ASSISTANCE.—In providing financial assistance to State rural development councils, the Secretary and heads of other Federal agencies shall provide assistance that, to the maximum extent practicable, is—

"(i) uniform in amount; and

"(ii) targeted to newly created State rural development councils.

"(C) FEDERAL SHARE.—The Secretary shall develop a plan to decrease, over time, the Federal share of the cost of the core operations of State rural development councils.

"(2) FEDERAL AGENCIES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law limiting the ability of an agency to provide funds to the Partnership with other agencies, in order to carry out the purposes described in subsection (b)(2), the Partnership shall be eligible to receive grants, gifts, contributions, or technical assistance from, or enter into contracts with, any Federal agency.

"(B) ASSISTANCE.—Federal agencies are encouraged to use funds made available for programs that target or have an impact on rural areas to provide assistance to, and enter into contracts with, the Partnership, as described in subparagraph (A).

"(3) CONTRIBUTIONS.—The Partnership may accept private contributions.

"(4) FEDERAL FINANCIAL SUPPORT FOR STATE RURAL DEVELOPMENT COUNCILS.—Notwithstanding any other provision of law, a Federal agency may use funds made available under paragraph (1) or (2) to enter into a cooperative agreement, contract, or other agreement with a State rural development council to support the core operations of the State rural development council, regardless of the legal form of organization of the State rural development council.

"(g) MATCHING REQUIREMENTS FOR STATE RURAL DEVELOPMENT COUNCILS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State rural development council shall provide matching funds, or in-kind goods or services, to support the activities of the State rural development council in an amount that is not less than 33 percent of the amount of Federal funds received under an agreement under subsection (d)(1).

"(2) EXCEPTIONS TO MATCHING REQUIREMENT FOR CERTAIN FEDERAL FUNDS.—Paragraph (1) shall not apply to funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or technical assistance received by a State rural development council from a Federal agency that are used—

"(A) to support 1 or more specific program or project activities; or

"(B) to reimburse the State rural development council for services provided to the Federal agency providing the funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or technical assistance.

"(h) TERMINATION.—The authority provided under this section shall terminate on the date that is 5 years after the date of enactment of this section.".

Subtitle C—Consolidated Farm and Rural Development Act

SEC. 621. WATER OR WASTE DISPOSAL GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended—

(1) by striking "(2) The" and inserting the following:

"(2) WATER, WASTE DISPOSAL, AND WASTEWATER FACILITY GRANTS.—

"(A) AUTHORITY.—

"(i) IN GENERAL.—The";

(2) by striking "$590,000,000" and inserting "$1,500,000,000";

(3) by striking "The amount" and inserting the following:

"(ii) AMOUNT.—The amount";

(4) by striking "paragraph" and inserting "subparagraph";

(5) by striking "The Secretary shall" and inserting the following:

"(iii) GRANT RATE.—The Secretary shall"; and

(6) by adding at the end the following:

"(B) REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS.—

"(i) IN GENERAL.—The Secretary may make grants to qualified private, nonprofit entities to capitalize revolving funds for the purpose of providing loans to eligible borrowers for—

"(I) predevelopment costs associated with proposed water and wastewater projects or with existing water and wastewater systems; and

"(II) short-term costs incurred for replacement equipment, small-scale extension services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

"(ii) ELIGIBLE BORROWERS.—To be eligible to obtain a loan from a revolving fund under clause (i), a borrower shall be eligible to obtain a loan, loan guarantee, or grant under paragraph (1) or this paragraph.

"(iii) MAXIMUM AMOUNT OF LOANS.—The amount of a loan made to an eligible borrower under this subparagraph shall not exceed—

"(I) $100,000 for costs described in clause (i)(I); and

"(II) $100,000 for costs described in clause (i)(II).

"(iv) TERM.—The term of a loan made to an eligible borrower under this subparagraph shall not exceed 10 years.

"(v) ADMINISTRATION.—The Secretary shall limit the amount of grant funds that may be used by a grant recipient for administrative costs incurred under this subparagraph.

"(vi) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subparagraph $30,000,000 for each of fiscal years 2002 through 2006.".

SEC. 622. RURAL BUSINESS OPPORTUNITY GRANTS.

Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended by striking "2002" and inserting "2006".

SEC. 623. RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by added at the end the following:

"(22) RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish a national rural water and wastewater circuit rider program that is based on the rural water circuit rider program of the National Rural Water Association that (as of the date of enactment of this paragraph) receives funding from the Secretary, acting through the Rural Utilities Service.

"(B) RELATIONSHIP TO EXISTING PROGRAM.—The program established under subparagraph (A) shall not affect the authority of the Secretary to carry out the circuit rider program for which funds are made available under the heading "RURAL COMMUNITY ADVANCEMENT PROGRAM" of title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $15,000,000 for each of fiscal years 2003 through 2006.".

SEC. 624. MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 623) is amended by added at the end the following:

"(23) MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS.—

"(A) GRANTS.—The Secretary shall provide grants to multijurisdictional regional planning and development organizations to pay the Federal share of the cost of providing assistance to local governments to improve the infrastructure, services, and business development capabilities of local governments and local economic development organizations.

"(B) PRIORITY.—In determining which organizations will receive a grant under this paragraph, the Secretary shall provide a priority to an organization that—

"(i) serves a rural area that, during the most recent 5-year period—

"(I) had a net out-migration of inhabitants, or other population loss, from the rural area that equals or exceeds 5 percent of the population of the rural area; or

"(II) had a median household income that is less than the nonmetropolitan median household income of the applicable State; and

"(ii) has a history of providing substantive assistance to local governments and economic development organizations.

"(C) FEDERAL SHARE.—A grant provided under this paragraph shall be for not more than 75 percent of the cost of providing assistance described in subparagraph (A).

"(D) MAXIMUM AMOUNT OF GRANTS.—The amount of a grant provided to an organization under this paragraph shall not exceed $100,000.

"(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $30,000,000 for each of fiscal years 2003 through 2006.".

SEC. 625. CERTIFIED NONPROFIT ORGANIZATIONS SHARING EXPERTISE.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 624) is amended by added at the end the following:

"(24) CERTIFIED NONPROFIT ORGANIZATIONS SHARING EXPERTISE.—

"(A) CERTIFIED ORGANIZATIONS.—

"(i) IN GENERAL.—To be certified by the Secretary to provide technical assistance in 1 or more rural development fields, an organization shall—

"(I) be a nonprofit organization (which may include an institution of higher education) with experience in providing technical assistance in the applicable rural development field;

"(II) develop a plan, approved by the Secretary, describing the manner in which grant funds will be used and the source of non-Federal funds; and

"(III) meet such other criteria as the Secretary may establish, based on the needs of eligible entities for the technical assistance.

"(iii) LIST.—The Secretary shall make available to the public a list of certified organizations in each area that the Secretary determines have substantial experience in providing the assistance described in subparagraph (B).

"(B) GRANTS.—The Secretary may provide grants to certified organizations to pay for costs of providing technical assistance to local governments and nonprofit entities to improve the infrastructure, services, and business development capabilities of local governments and local economic development organizations.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $20,000,000 for each of fiscal years 2003 through 2006.".

SEC. 626. LOAN GUARANTEES FOR CERTAIN RURAL DEVELOPMENT LOANS.

(a) LOAN GUARANTEES FOR WATER, WASTEWATER, AND ESSENTIAL COMMUNITY FACILITIES LOANS.—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925(a)) (as amended by section 625) is amended by adding at the end the following:

"(25) LOAN GUARANTEES FOR WATER, WASTEWATER, AND ESSENTIAL COMMUNITY FACILITIES LOANS.—

"(A) IN GENERAL.—The Secretary may guarantee under this title a loan made to finance a community facility or water or waste facility project, including a loan financed by the net proceeds of a bond described in section 144(a)(12)(B)(ii) of the Internal Revenue Code of 1986.

"(B) REQUIREMENTS.—To be eligible for a loan guarantee under subparagraph (A), an individual or entity offering to purchase the loan must demonstrate to the Secretary that the person has—

"(i) the capabilities and resources necessary to service the loan in a manner that ensures the continued performance of the loan, as determined by the Secretary; and

"(ii) the ability to generate capital to provide borrowers of the loan with the additional credit necessary to properly service the loan.".

(b) LOAN GUARANTEES FOR CERTAIN LOANS.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

"(h) LOAN GUARANTEE FOR CERTAIN LOANS.—The Secretary may guarantee loans made in subsection (a) to finance the issuance of bonds for the projects described in section 306(a)(25).".

SEC. 627. RURAL FIREFIGHTERS AND EMERGENCY PERSONNEL GRANT PROGRAM.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 626(a)) is amended by adding at the end the following:

"(26) RURAL FIREFIGHTERS AND EMERGENCY MEDICAL PERSONNEL GRANT PROGRAM.—

"(A) IN GENERAL.—The Secretary may make grants to units of general local government and Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) to pay the cost of training firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous materials and bioagents in rural areas.

"(B) USE OF FUNDS.—

"(i) SCHOLARSHIPS.—

"(I) IN GENERAL.—Not less than 60 percent of the amounts made available for competitively awarded grants under this paragraph shall be used to provide grants to fund partial scholarships for training of individuals at training centers approved by the Secretary.

"(II) PRIORITY.—In awarding grants under this clause, the Secretary shall give priority to grant applicants with relatively low transportation costs considering the location of the grant applicant and the proposed location of the training.

"(ii) GRANTS FOR TRAINING CENTERS.—

"(I) EXISTING CENTERS.—

"(aa) IN GENERAL.—A grant under subparagraph (A) may be used to provide financial assistance to State and regional centers that provide training for firefighters and emergency medical personnel for improvements to the training facility, equipment, curricula, and personnel.

"(bb) LIMITATION.—Not more than $2,000,000 shall be provided to any single training center for any fiscal year under this subclause.

"(II) ESTABLISHMENT OF NEW CENTERS.—

"(aa) IN GENERAL.—A grant under subparagraph (A) may be used to provide the Federal share of the costs of establishing a regional training center for firefighters and emergency medical personnel.

"(bb) FEDERAL SHARE.—The amount of a grant under this subclause for a training center shall not exceed 50 percent of the cost of establishing the training center.

"(C) FUNDING.—

"(i) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this paragraph—

"(I) not later than 30 days after the date of enactment of this Act, $10,000,000; and

"(II) on October 1, 2002, and each October 1 thereafter through October 1, 2005, $30,000,000.

"(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under clause (i), without further appropriation.

"(iii) AVAILABILITY OF FUNDS.—Funds transferred under clause (i) shall remain available until expended.".

SEC. 628. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

Section 306A(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a(i)) is amended by striking "2002" and inserting "2006".

SEC. 629. WATER AND WASTE FACILITY GRANTS FOR NATIVE AMERICAN TRIBES.

Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c(e)) is amended by striking subsection (e) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), there is authorized to be appropriated—

"(A) for grants under this section, $30,000,000 for each fiscal year;

"(B) for loans under this section, $30,000,000 for each fiscal year; and

"(C) for grants under this section to benefit Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), $20,000,000 for each fiscal year.

"(2) EXCEPTION.—An entity eligible to receive funding through a grant made under section 306D shall not be eligible for a grant from funds made available under subparagraph (1)(C).".

SEC. 630. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

Section 306D(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d(d)(1)) is amended by striking "and 2002" and inserting "through 2006".

SEC. 631. RURAL COOPERATIVE DEVELOPMENT GRANTS.

Section 310B(e)(9) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)(9)) is amended by striking "2002" and inserting "2006".

SEC. 632. GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2002 through 2006.".

SEC. 633. BUSINESS AND INDUSTRY LOAN MODIFICATIONS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by striking subsection (g) and inserting the following:

"(g) BUSINESS AND INDUSTRY DIRECT AND GUARANTEED LOANS.—

"(1) LOAN GUARANTEES FOR THE PURCHASE OF COOPERATIVE STOCK.—

"(A) NEW AND EXPANDING COOPERATIVES.—

"(i) IN GENERAL.—The Secretary may guarantee a loan under subsection (a) to farmers, ranchers, or cooperatives for the purpose of purchasing start-up capital stock for the expansion or creation of a cooperative venture that will process agricultural commodities or otherwise process value-added agricultural products.

"(ii) FINANCIAL CONDITION.—In determining the appropriateness of a loan guarantee under this subparagraph, the Secretary—

"(I) shall fully review the feasibility and other relevant aspects of the cooperative venture to be established;

"(II) may not require a review of the financial condition or statements of any individual farmer or rancher involved in the cooperative, other than the applicant for a guarantee under this subparagraph; and

"(III) shall base any guarantee, to the maximum extent practicable, on the merits of the cooperative venture to be established.

"(iii) COLLATERAL.—As a condition of making a loan guarantee under this subparagraph, the Secretary may not require additional collateral by a farmer or rancher, other than stock purchased or issued pursuant to the loan and guarantee of the loan.

"(iv) ELIGIBILITY.—To be eligible for a loan guarantee under this subparagraph, a farmer or rancher must produce the agricultural commodity that will be processed by the cooperative.

"(v) PROCESSING CONTRACTS DURING INITIAL PERIOD.—The cooperative, for which a farmer or rancher receives a guarantee to purchase stock under this subparagraph, may contract for services to process agricultural commodities, or otherwise process value-added agricultural products, during the 5-year period beginning on the date of the startup of the cooperative in order to provide adequate time for the planning and construction of the processing facility of the cooperative.

"(B) EXISTING COOPERATIVES.—The Secretary may guarantee a loan under subsection (a) to a farmer or rancher to join a cooperative in order to sell the agricultural commodities or products produced by the farmer or rancher.

"(C) FINANCIAL INFORMATION.—Financial information required by the Secretary from a farmer or rancher as a condition of making a loan guarantee under this paragraph shall be provided in the manner generally required by commercial agricultural lenders in the area.

"(2) LOANS TO COOPERATIVES.—

"(A) IN GENERAL.—The Secretary may make or guarantee a loan under subsection (a) to a cooperative that is headquartered in a metropolitan area if the loan is used for a project or venture described in subsection (a) that is located in a rural area.

"(B) REFINANCING.—A cooperative organization owned by farmers or ranchers that is eligible for a business and industry loan under made or guaranteed under subsection (a) shall be eligible to refinance an existing loan with a lender if—

"(i) the cooperative organization—

"(I) is current and performing with respect to the existing loan; and

"(II) is not, and has not been, in default with respect to the existing loan; and

"(ii) there is adequate security or full collateral for the refinanced loan.

"(3) BUSINESS AND INDUSTRY LOAN APPRAISALS.—The Secretary may require that any appraisal made in connection with a business and industry loan made or guaranteed under subsection (a) be conducted by a specialized appraiser that uses standards that are similar to standards used for similar purposes in the private sector, as determined by the Secretary.

"(4) FEES.—The Secretary may assess a 1-time fee for any loan guaranteed under subsection (a) in an amount that does not exceed 2 percent of the guaranteed principal portion of the loan.".

SEC. 634. VALUE-ADDED INTERMEDIARY RELENDING PROGRAM.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) (as amended by section 626(b)) is amended by adding at the end the following:

"(i) VALUE-ADDED INTERMEDIARY RELENDING PROGRAM.—

"(1) IN GENERAL.—In accordance with this subsection, the Secretary shall make loans under the terms and conditions of the intermediary relending program established under section 1323(b)(2)(C) of the Food Security Act of 1985 (7 U.S.C. 1932 note; Public Law 99–198).

"(2) LOANS.—Using funds made available to carry out this subsection, the Secretary shall make loans to eligible intermediaries to make loans to ultimate recipients, under the terms and conditions of the intermediary relending program, for projects to establish, enlarge, and operate enterprises that add value to agricultural commodities and products of agricultural commodities.

"(3) ELIGIBLE INTERMEDIARIES.—Intermediaries that are eligible to receive loans under paragraph (2) shall include State agencies.

"(4) PREFERENCE FOR BIOENERGY PROJECTS.—In making loans using loan funds made available under paragraph (2), an eligible intermediary shall give preference to bioenergy projects in accordance with regulations promulgated by the Secretary.

"(5) COMPOSITION OF CAPITAL.—The capital for a project carried out by an ultimate recipient and assisted with loan funds made available under paragraph (2) shall be comprised of—

"(A) not more than 15 percent of the total cost of a project; and

"(B) not less than 50 percent of the equity funds provided by agricultural producers.

"(6) LOAN CONDITIONS.—

"(A) TERMS OF LOANS.—A loan made to an intermediary using loan funds made available under paragraph (2) shall have a term of not to exceed 30 years.

"(B) INTEREST.—The interest rate on such a loan shall be—

"(i) in the case of each of the first 2 years of the loan period, 0 percent; and

"(ii) in the case of each of the remaining years of the loan period, 2 percent.

"(7) LIMITATIONS ON AMOUNT OF LOAN FUNDS PROVIDED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an intermediary or ultimate recipient shall be eligible to receive not more than $2,000,000 of the loan funds made available under paragraph (2).

"(B) STATE AGENCIES.—Subparagraph (A) shall not apply in the case of a State agency with respect to loan funds provided to the State agency as an intermediary.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2003 through 2006.".

SEC. 635. USE OF RURAL DEVELOPMENT LOANS AND GRANTS FOR OTHER PURPOSES.

Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by section 508) is amended by adding at the end the following:

"SEC. 310G. USE OF RURAL DEVELOPMENT LOANS AND GRANTS FOR OTHER PURPOSES.

"If, after making a loan or a grant described in section 381E(d), the Secretary determines that the circumstances under which the loan or grant was made have sufficiently changed to make the project or activity for which the loan or grant was made available no longer appropriate, the Secretary may allow the loan borrower or grant recipient to use property (real and personal) purchased or improved with the loan or grant funds, or proceeds from the sale of property (real and personal) purchased with such funds, for another project or activity that (as determined by the Secretary)—

"(1) will be carried out in the same area as the original project or activity;

"(2) meets the criteria for a loan or a grant described in section 381E(d); and

"(3) satisfies such additional requirements as are established by the Secretary.".

SEC. 636. SIMPLIFIED APPLICATION FORMS FOR LOAN GUARANTEES.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) (as amended by section 526) is amended by striking subsection (g) and inserting the following:

"(g) SIMPLIFIED APPLICATION FORMS FOR LOAN GUARANTEES.—

"(1) IN GENERAL.—The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of—

"(A) farmer program loans the principal amount of which is $100,000 or less; and

"(B) business and industry guaranteed loans under section 310B(a)(1) the principal amount of which is—

"(i) in the case of a loan guarantee made during fiscal year 2002 or 2003, $400,000 or less; and

"(ii) in the case of a loan guarantee made during any subsequent fiscal year—

"(I) $400,000 or less; or

"(II) if the Secretary determines that there is not a significant increased risk of a default on the loan, $600,000 or less.

"(2) WATER AND WASTE DISPOSAL GRANTS AND LOANS.—The Secretary shall develop an application process that accelerates, to the maximum extent practicable, the processing of applications for water and waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 306(a) the grant award amount or principal loan amount, respectively, of which is $300,000 or less.

"(3) ADMINISTRATION.—In developing an application under this subsection, the Secretary shall—

"(A) consult with commercial and cooperative lenders; and

"(B) ensure that—

"(i) the form can be completed manually or electronically, at the option of the lender;

"(ii) the form minimizes the documentation required to accompany the form;

"(iii) the cost of completing and processing the form is minimal; and

"(iv) the form can be completed and processed in an expeditious manner.".

SEC. 637. DEFINITION OF RURAL AND RURAL AREA.

(a) IN GENERAL.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended by adding at the end the following:

"(13) RURAL AND RURAL AREA.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.

"(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1) and (2) of section 306(a), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

"(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), and (21) of section 306(a), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 50,000 inhabitants.

"(D) BUSINESS AND INDUSTRY DIRECT AND GUARANTEED LOANS.—For the purpose of business and industry direct and guaranteed loans under section 310B(a)(1), the terms 'rural' and 'rural area' mean any area other than a city or town that has a population of greater than 50,000 inhabitants and the immediately adjacent urbanized area of such city or town.

"(E) MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS; NATIONAL RURAL DEVELOPMENT PARTNERSHIP.—In sections 306(a)(23) and 377, the term 'rural area' means—

"(i) all the territory of a State that is not within the boundary of any standard metropolitan statistical area; and

"(ii) all territory within any standard metropolitan statistical area within a census tract having a population density of less than 20 persons per square mile, as determined by the Secretary according to the most recent census of the United States as of any date.

"(F) RURAL ENTREPRENEURS AND MICROENTERPRISE ASSISTANCE PROGRAM; NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND.—In section 378 and subtitle G, the term 'rural area' means an area that is located—

"(i) outside a standard metropolitan statistical area; or

"(ii) within a community that has a population of 50,000 inhabitants or less.".

(b) CONFORMING AMENDMENTS.—

(1) Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by striking paragraph (7).

(2) Section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 638. RURAL ENTREPRENEURS AND MICROENTERPRISE ASSISTANCE PROGRAM.

Subtitle D of the Consolidated Farm and Rural Development Act (as amended by section 612) is amended by adding at the end the following:

"SEC. 378. RURAL ENTREPRENEURS AND MICROENTERPRISE ASSISTANCE PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ECONOMICALLY DISADVANTAGED MICROENTREPRENEUR.—The term 'economically disadvantaged microentrepreneur' means an owner, majority owner, or developer of a microenterprise that has the ability to compete in the private sector but has been impaired due to diminished capital and credit opportunities, as compared to other microentrepreneurs in the industry.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) INTERMEDIARY.—The term 'intermediary' means a private, nonprofit entity that provides assistance—

"(A) to a microenterprise development organization; or

"(B) for a microenterprise development program.

"(4) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means an individual with an income (adjusted for family size) of not more than the greater of—

"(A) 80 percent of median income of an area; or

"(B) 80 percent of the statewide nonmetropolitan area median income.

"(5) MICROCREDIT.—The term 'microcredit' means a business loan or loan guarantee of not more than $35,000 provided to a rural entrepreneur.

"(6) MICROENTERPISE.—The term 'microenterprise' means a sole proprietorship, joint enterprise, limited liability company, partnership, corporation, or cooperative that—

"(A) has 5 or fewer employees; and

"(B) is unable to obtain sufficient credit, equity, or banking services elsewhere, as determined by the Secretary.

"(7) MICROENTERPRISE DEVELOPMENT ORGANIZATION.—

"(A) IN GENERAL.—The term 'microenterprise development organization' means a nonprofit entity that provides training and technical assistance to rural entrepreneurs and access to capital or another service described in subsection (c) to rural entrepreneurs.

"(B) INCLUSIONS.—The term 'microenterprise development organization' includes an organization described in subparagraph (A) with a demonstrated record of delivering services to economically disadvantaged microentrepreneurs.

"(8) MICROENTERPRISE DEVELOPMENT PROGRAM.—The term 'microenterprise development organization' means a program administered by a organization serving a rural area.

"(9) MICROENTREPRENEUR.—The term 'microentrepreneur' means the owner, operator, or developer of a microenterprise.

"(10) PROGRAM.—The term 'program' means the rural entrepreneur and microenterprise program established under subsection (b)(1).

"(11) QUALIFIED ORGANIZATION.—The term 'qualified organization' means—

"(A) a microenterprise development organization or microenterprise development program that has a demonstrated record of delivering microenterprise services to rural entrepreneurs, as demonstrated by the development of an effective plan of action and the possession of necessary resources to deliver microenterprise services to rural entrepreneurs effectively, as determined by the Secretary;

"(B) an intermediary that has a demonstrated record of delivery assistance to microenterprise development organizations or microenterprise development programs;

"(C) a microenterprise development organization or microenterprise development program that—

"(i) serves rural entrepreneurs; and

"(ii) enters into an agreement with a local community, in conjunction with a State or local government or Indian tribe, to provide assistance described in subsection (c);

"(D) an Indian tribe, the tribal government of which certifies to the Secretary that no microenterprise development organization or microenterprise development program exists under the jurisdiction of the Indian tribe; or

"(E) a group of 2 or more organizations or Indian tribes described in subparagraph (A), (B), (C), or (D) that agree to act jointly as a qualified organization under this section.

"(12) RURAL CAPACITY BUILDING SERVICE.—The term 'rural capacity building service' means a service provided to an organization that—

"(A) is, or is in the process of becoming, a microenterprise development organization or microenterprise development program; and

"(B) serves rural areas for the purpose of enhancing the ability of the organization to provide training, technical assistance, and other related services to rural entrepreneurs.

"(13) RURAL ENTREPRENEUR.—The term 'rural entrepreneur' means a microentrepreneur, or prospective microentrepreneur—

"(A) the principal place of business of which is in a rural area; and

"(B) that is unable to obtain sufficient training, technical assistance, or microcredit elsewhere, as determined by the Secretary.

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Rural Business-Cooperative Service.

"(15) TRAINING AND TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The term 'training and technical assistance' means assistance provided to rural entrepreneurs to develop the skills the rural entrepreneurs need to plan, market, and manage their own business.

"(B) INCLUSIONS.—The term 'training and technical assistance' includes assistance provided for the purpose of—

"(i) enhancing business planning, marketing, management, or financial management skills; and

"(ii) obtaining microcredit.

"(16) TRIBAL GOVERNMENT.—The term 'tribal government' means the governing body of an Indian tribe.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—From amounts made available under subsection (h), the Secretary shall establish a rural entrepreneur and microenterprise program.

"(2) PURPOSE.—The purpose of the program shall be to provide low- and moderate-income individuals with—

"(A) the skills necessary to establish new small businesses in rural areas; and

"(B) continuing technical assistance as the individuals begin operating the small businesses.

"(c) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may make a grant under this section to a qualified organization to—

"(A) provide training, technical assistance, or microcredit to a rural entrepreneur;

"(B) provide training, operational support, or a rural capacity building service to a qualified organization to assist the qualified organization in developing microenterprise training, technical assistance, and other related services;

"(C) assist in researching and developing the best practices in delivering training, technical assistance, and microcredit to rural entrepreneurs; and

"(D) to carry out such other projects and activities as the Secretary determines are consistent with the purposes of this section.

"(2) ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the amount of funds made available for a fiscal year to make grants under this section, the Secretary shall ensure that—

"(i) not less than 75 percent of funds are used to carry out activities described in paragraph (1)(A); and

"(ii) not more than 25 percent of the funds are used to carry out activities described in subparagraphs (B) through (D) of paragraph (1).

"(B) LIMITATION ON GRANT AMOUNT.—No single qualified organization may receive more than 10 percent of the total funds that are made available for a fiscal year to carry out this section.

"(C) ADMINISTRATIVE EXPENSES.—Not more than 15 percent of assistance received by a qualified organization for a fiscal year under this section may be used for administrative expenses.

"(d) SUBGRANTS.—Subject to such regulations as the Secretary may promulgate, a qualified organization that receives a grant under this section may use the grant to provide assistance to other qualified organizations, such as small or emerging qualified organizations.

"(e) LOW-INCOME INDIVIDUALS.—The Secretary shall ensure that not less than 50 percent of the grants made under this section is used to benefit low-income individuals identified by the Secretary, including individuals residing on Indian reservations.

"(f) DIVERSITY.—In making grants under this section, the Secretary shall ensure, to the maximum extent practicable, that grant recipients include qualified organizations—

"(1) of varying sizes; and

"(2) that serve racially and ethnically diverse populations.

"(g) COST SHARING.—

"(1) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds from a grant under this section shall be 75 percent.

"(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of a project described in paragraph (1) may be provided—

"(A) in cash (including through fees, grants (including community development block grants), and gifts); or

"(B) in kind.

"(h) FUNDING.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section $10,000,000, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.".

SEC. 639. RURAL SENIORS.

(a) INTERAGENCY COORDINATING COMMITTEE FOR RURAL SENIORS.—Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 638) is amended by adding at the end the following:

"SEC. 379. INTERAGENCY COORDINATING COMMITTEE FOR RURAL SENIORS.

"(a) IN GENERAL.—The Secretary shall establish an interagency coordinating committee (referred to in this section as the 'Committee') to examine the special problems of rural seniors.

"(b) MEMBERSHIP.—The Committee shall be comprised of—

"(1) the Undersecretary of Agriculture for Rural Development, who shall serve as chairperson of the Committee;

"(2) 2 representatives of the Secretary of Health and Human Services, of whom—

"(A) 1 shall have expertise in the field of health care; and

"(B) 1 shall have expertise in the field of programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

"(3) 1 representative of the Secretary of Housing and Urban Development;

"(4) 1 representative of the Secretary of Transportation; and

"(5) representatives of such other Federal agencies as the Secretary may designate.

"(c) DUTIES.—The Committee shall—

"(1) study health care, transportation, technology, housing, accessibility, and other areas of need of rural seniors;

"(2) identify successful examples of senior care programs in rural communities that could serve as models for other rural communities; and

"(3) not later than 1 year after the date of enactment of this section, submit to the Secretary, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate recommendations for legislative and administrative action.

"(d) FUNDING.—Funds available to any Federal agency may be used to carry out interagency activities under this section.".

(b) GRANTS FOR PROGRAMS FOR RURAL SENIORS.—Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

"SEC. 379A. GRANTS FOR PROGRAMS FOR RURAL SENIORS.

"(a) IN GENERAL.—The Secretary shall make grants to nonprofit organizations (including cooperatives) to pay the Federal share of the cost of programs that—

"(1) provide facilities, equipment, and technology for seniors in a rural area; and

"(2) may be replicated in other rural areas.

"(b) FEDERAL SHARE.—The Federal share of a grant under this section shall be not more than 20 percent of the cost of a program described in subsection (a).

"(c) LEVERAGING.—In selecting programs to receive grants under section, the Secretary shall give priority to proposals that leverage resources to meet multiple rural community goals.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2006.".

(c) RESERVATION OF COMMUNITY FACILITIES PROGRAM FUNDS FOR SENIOR FACILITIES.—Section 306(a)(19) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)) is amended by adding at the end the following:

"(C) RESERVATION OF FUNDS FOR SENIOR FACILITIES.—

"(i) IN GENERAL.—For each fiscal year, not less than 12.5 percent of the funds made available to carry out this paragraph shall be reserved for grants to pay the Federal share of the cost of developing and constructing senior facilities, or carrying out other projects that mainly benefit seniors, in rural areas.

"(ii) RELEASE.—Funds reserved under clause (i) for a fiscal year shall be reserved only until April 1 of the fiscal year.".

SEC. 640. CHILDREN'S DAY CARE FACILITIES.

Section 306(a)(19) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)) (as amended by section 639(c)) is amended by adding at the end the following:

"(D) RESERVATION OF FUNDS FOR CHILDREN'S DAY CARE FACILITIES.—

"(i) IN GENERAL.—For each fiscal year, not less than 10 percent of the funds made available to carry out this paragraph shall be reserved for grants to pay the Federal share of the cost of developing and constructing day care facilities for children in rural areas.

"(ii) RELEASE.—Funds reserved under clause (i) for a fiscal year shall be reserved only until April 1 of the fiscal year.".

SEC. 641. RURAL TELEWORK.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 639(b)) is amended by adding at the end the following:

"SEC. 379B. RURAL TELEWORK.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means a nonprofit entity, an educational institution, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or any other organization that meets the requirements of this section and such other requirements as are established by the Secretary.

"(2) INSTITUTE.—The term 'institute' means a regional rural telework institute established using a grant under subsection (b).

"(3) TELEWORK.—The term 'telework' means the use of telecommunications to perform work functions at a rural work center located outside the place of business of an employer.

"(b) RURAL TELEWORK INSTITUTE.—

"(1) IN GENERAL.—The Secretary shall make a grant to an eligible organization to pay the Federal share of the cost of establishing and operating a national rural telework institute to carry out projects described in paragraph (4).

"(2) ELIGIBLE ORGANIZATIONS.—The Secretary shall establish criteria that an organization shall meet to be eligible to receive a grant under this subsection.

"(3) DEADLINE FOR INITIAL GRANT.—Not later than 1 year after the date on which funds are first made available to carry out this subsection, the Secretary shall make the initial grant under this subsection.

"(4) PROJECTS.—The institute shall use grant funds obtained under this subsection to carry out a 5-year project—

"(A) to serve as a clearinghouse for telework research and development;

"(B) to conduct outreach to rural communities and rural workers;

"(C) to develop and share best practices in rural telework throughout the United States;

"(D) to develop innovative, market-driven telework projects and joint ventures with the private sector that employ workers in rural areas in jobs that promote economic self-sufficiency;

"(E) to share information about the design and implementation of telework arrangements;

"(F) to support private sector businesses that are transitioning to telework;

"(G) to support and assist telework projects and individuals at the State and local level; and

"(H) to perform such other functions as the Secretary considers appropriate.

"(5) NON-FEDERAL SHARE.—

"(A) IN GENERAL.—As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to—

"(i) during each of the first, second, and third years of a project, 50 percent of the amount of the grant; and

"(ii) during each of the fourth and fifth years of the project, 100 percent of the amount of the grant.

"(B) INDIAN TRIBES.—Notwithstanding subparagraph (A), an Indian tribe may use Federal funds made available to the tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

"(C) FORM.—The non-Federal contributions required under subparagraph (A) may be in the form of in-kind contributions, including office equipment, office space, and services.

"(c) TELEWORK GRANTS.—

“(1) In general.—Subject to paragraphs (2) through (5), the Secretary shall make grants to eligible entities to pay the Federal share of the cost of—

“(A) obtaining equipment and facilities to establish or expand telework locations in rural areas; and

“(B) operating telework locations in rural areas.

“(2) Eligible organizations.—To be eligible to receive a grant under this subsection, an eligible entity shall—

“(A) be a nonprofit organization or educational institution in a rural area; and

“(B) submit to, and receive the approval of, the Secretary of an application for the grant that demonstrates that the eligible entity has adequate resources and capabilities to establish or expand a telework location in a rural area.

“(3) Non-federal share.—

“(A) In general.—As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to 50 percent of the amount of the grant.

“(B) Indian tribes.—Notwithstanding subparagraph (A), an Indian tribe may use Federal funds made available to the tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

“(C) Sources.—The non-Federal contributions required under subparagraph (A)—

“(i) may be in the form of in-kind contributions, including office equipment, office space, and services; and

“(ii) may not be made from funds made available for community development block grants under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

“(4) Duration.—The Secretary may not provide a grant under this subsection to establish, expand, or operate a telework location in a rural area after the date that is 2 years after the establishment of the telework location.

“(5) Maximum amount of grant.—The amount of a grant provided to an eligible entity under this subsection shall not exceed $500,000.

“(d) Applicability of Certain Federal Law.—An entity that receives funds under this section shall be subject to the provisions of Federal law (including regulations), administered by the Secretary of Labor or the Equal Employment Opportunity Commission, that govern the responsibilities of employers to employees.

“(e) Regulations.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

“(f) Authorization of Appropriation.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2002 through 2006, of which $5,000,000 shall be provided to establish an institute under subsection (b).”.

SEC. 642. HISTORIC BARN PRESERVATION.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 641) is amended by adding at the end the following:

“SEC. 379C. HISTORIC BARN PRESERVATION.

“(a) Definitions.—In this section:

“(1) Barn.—The term ‘barn’ means a building (other than a dwelling) on a farm, ranch, or other agricultural operation for—

“(A) housing animals;

“(B) storing or processing crops;

“(C) storing and maintaining agricultural equipment; or

“(D) serving an essential or useful purpose related to agriculture on the adjacent land.

“(2) Eligible applicant.—The term ‘eligible applicant’ means—

“(A) a State department of agriculture (or a designee);

“(B) a national or State nonprofit organization that—

“(i) is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986; and

“(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, preservation, or protection of historic barns; and

“(C) a State historic preservation office.

“(3) Historic barn.—The term ‘historic barn’ means a barn that—

“(A) is at least 50 years old;

“(B) retains sufficient integrity of design, materials, and construction to clearly identify the barn as an agricultural building; and

“(C) meets the criteria for listing on National, State, or local registers or inventories of historic structures.

“(4) Secretary.—The term ‘Secretary’ means the Secretary, acting through the Undersecretary of Rural Development.

“(b) Program.—The Secretary shall establish a historic barn preservation program—

“(1) to assist States in developing a listing of historic barns;

“(2) to collect and disseminate information on historic barns;

“(3) to foster educational programs relating to the history, construction techniques, rehabilitation, and contribution to society of historic barns; and

“(4) to sponsor and conduct research on—

“(A) the history of barns; and

“(B) best practices to protect and rehabilitate historic barns from the effects of decay, fire, arson, and natural disasters.

“(c) Grants.—

“(1) In general.—The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to carry out an eligible project under paragraph (2).

“(2) Eligible projects.—A grant under this subsection may be made to an eligible entity for a project—

“(A) to rehabilitate or repair a historic barn;

“(B) to preserve a historic barn through—

“(i) the installation of a fire protection system, including fireproofing or fire detection system and sprinklers; and

“(ii) the installation of a system to prevent vandalism; and

“(C) to identify, document, and conduct research on a historic barn to develop and evaluate appropriate techniques or best practices for protecting historic barns.

“(3) Requirements.—An eligible applicant that receives a grant for a project under this subsection shall comply with any standards established by the Secretary of the Interior for historic preservation projects.

“(d) Funding.—There is authorized to be appropriated to carry out this section, $25,000,000 for the period of fiscal years 2002 through 2006, to remain available until expended.”.

SEC. 643. GRANTS FOR EMERGENCY WEATHER RADIO TRANSMITTERS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 642)) is amended by adding at the end the following:

“SEC. 379D. GRANTS FOR EMERGENCY WEATHER RADIO TRANSMITTERS.

“(a) In General.—The Secretary, acting through the Administrator of the Rural Utilities Service, may make grants to public and nonprofit entities for the Federal share of the cost of acquiring radio transmitters to increase coverage of rural areas by the emergency weather radio broadcast system of the National Oceanic and Atmospheric Administration.

“(b) Eligibility.—To be eligible for a grant under this section, an applicant shall provide to the Secretary—

“(1) a binding commitment from a tower owner to place the transmitter on a tower; and

“(2) a description of how the tower placement will increase coverage of a rural area by the emergency weather radio broadcast system of the National Oceanic and Atmospheric Administration.

“(c) Federal Share.—A grant provided under this section shall be not more than 75 percent of the cost of acquiring a radio transmitter described in subsection (a).

“(d) Authorization.—There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2002 through 2006.”.

SEC. 644. BIOENERGY AND BIOCHEMICAL PROJECTS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 643) is amended by adding at the end the following:

“SEC. 379E. BIOENERGY AND BIOCHEMICAL PROJECTS.

“In carrying out rural development loan, loan guarantee, and grant programs under this title, the Secretary shall provide a priority for bioenergy and biochemical projects.”.

SEC. 645. DELTA REGIONAL AUTHORITY.

(a) Authorization of Appropriations.—Section 382M(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-12(a)) is amended by striking “2002” and inserting “2006”.

(b) Termination of Authority.—Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-13) is amended by striking “2002” and inserting “2006”.

SEC. 646. SEARCH GRANTS FOR SMALL COMMUNITIES.

The Consolidated Farm and Rural Development Act (as amended by section 604) is amended by adding at the end the following:

“Subtitle J—SEARCH Grants for Small Communities

“SEC. 386A. DEFINITIONS.

“In this subtitle:

“(1) Council.—The term ‘council’ means an independent citizens’ council established by section 386B(d).

“(2) Environmental project.—

“(A) In general.—The term ‘environmental project’ means a project that—

“(i) improves environmental quality; and

“(ii) is necessary to comply with an environmental law (including a regulation).

“(B) Inclusion.—The term ‘environmental project’ includes an initial feasibility study of a project.

“(3) Region.—The term ‘region’ means a geographic area of a State, as determined by the Governor of the State.

“(4) SEARCH grant.—The term ‘SEARCH grant’ means a grant for special environmental assistance for the regulation of communities and habitat awarded under section 386B(e)(3).

"(5) SMALL COMMUNITY.—The term 'small community' means an incorporated or unincorporated rural community with a population of 2,500 inhabitants or less.

"(6) STATE.—The term 'State' has the meaning given the term in section 381A(1).

"SEC. 386B. SEARCH GRANT PROGRAM.

"(a) IN GENERAL.—There is established the SEARCH Grant Program.

"(b) APPLICATION.—

"(1) IN GENERAL.—Not later than October 1 of each fiscal year, a State may submit to the Secretary an application to receive a grant under subsection (c) for the fiscal year.

"(2) REQUIREMENTS.—An application under paragraph (1) shall contain—

"(A) a certification by the State that the State has appointed members to the council of the State under subsection (c)(2)(C); and

"(B) such information as the Secretary may reasonably require.

"(c) GRANTS TO STATES.—

"(1) IN GENERAL.—Not later than 60 days after the date on which the Office of Management and Budget apportions any amounts made available under this subtitle, for each fiscal year after the date of enactment of this subtitle, the Secretary shall, on request by a State—

"(A) determine whether any application submitted by the State under subsection (b) meets the requirements of subsection (b)(2); and

"(B) subject to paragraph (2), subsection (e)(4)(B)(ii), and section 386D(b), if the Secretary determines that the application meets the requirements of subsection (b)(2), award a grant of not to exceed $1,000,000 to the State, to be used by the council of the State to award SEARCH grants under subsection (e).

"(2) GRANTS TO CERTAIN STATES.—The aggrégate amount of grants awarded to States other than Alaska, Hawaii, or 1 of the 48 contiguous States, under this subsection shall not exceed $1,000,000 for any fiscal year.

"(d) INDEPENDENT CITIZENS' COUNCIL.—

"(1) ESTABLISHMENT.—There is established in each State an independent citizens' council to carry out the duties described in this section.

"(2) COMPOSITION.—

"(A) IN GENERAL.—Each council shall be composed of 9 members, appointed by the Governor of the State.

"(B) REPRESENTATION; RESIDENCE.—Each member of a council shall—

"(i) represent an individual region of the State, as determined by the Governor of the State in which the council is established;

"(ii) reside in a small community of the State; and

"(iii) be representative of the populations of the State.

"(C) APPOINTMENT.—Before a State receives funds under this subtitle, the State shall appoint members to the council for the fiscal year, except that not more than 1 member shall be an agent, employee, or official of the State government.

"(D) CHAIRPERSON.—Each council shall select a chairperson from among the members of the council, except that a member who is an agent, employee, or official of the State government shall not serve as chairperson.

"(E) FEDERAL REPRESENTATION.—

"(i) IN GENERAL.—An officer, employee, or agent of the Federal Government may participate in the activities of the council—

"(I) in an advisory capacity; and

"(II) at the invitation of the council.

"(ii) RURAL DEVELOPMENT STATE DIRECTORS.—On the request of the council of a State, the State Director for Rural Development of the State shall provide advice and consultation to the council.

"(3) SEARCH GRANTS.—

"(A) IN GENERAL.—Each council shall review applications for, and recommend awards of, SEARCH grants to small communities that meet the eligibility criteria under subsection (e).

"(B) RECOMMENDATIONS.—In awarding a SEARCH grant, a State—

"(i) shall follow the recommendations of the council of the State;

"(ii) shall award the funds for any recommended environmental project in a timely and expeditious manner; and

"(iii) shall not award a SEARCH grant to a grantee or project in violation of any law of the State (including a regulation).

"(C) NO MATCHING REQUIREMENT.—A small community that receives a SEARCH grant under this section shall not be required to provide matching funds.

"(e) SEARCH GRANTS FOR SMALL COMMUNITIES.—

"(1) ELIGIBILITY.—A SEARCH grant shall be awarded under this section only to a small community for 1 or more environmental projects for which the small community—

"(A) needs funds to carry out initial feasibility or environmental studies before applying to traditional funding sources; or

"(B) demonstrates, to the satisfaction of the council, that the small community has been unable to obtain sufficient funding from traditional funding sources.

"(2) APPLICATION.—

"(A) DATE.—The council shall establish such deadline by which small communities shall submit applications for grants under this section as will permit the council adequate time to review and make recommendations relating to the applications.

"(B) LOCATION OF APPLICATION.—A small community shall submit an application described in subparagraph (A) to the council in the State in which the small community is located.

"(C) CONTENT OF APPLICATION.—An application described in subparagraph (A) shall include—

"(i) a description of the proposed environmental project (including an explanation of how the project would assist the small community in complying with an environmental law (including a regulation));

"(ii) an explanation of why the project is important to the small community;

"(iii) a description of all actions taken with respect to the project, including a description of any attempt to secure funding and a description of demonstrated need for funding for the project, as of the date of the application; and

"(iv) a SEARCH grant application form provided by the council, completed and with all required supporting documentation.

"(3) REVIEW AND RECOMMENDATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not later than March 5 of each fiscal year, each council shall—

"(i) review all applications received under paragraph (2); and

"(ii) recommend for award SEARCH grants to small communities based on—

"(I) an evaluation of the eligibility criteria under paragraph (1); and

"(II) the content of the application.

"(B) EXTENSION OF DEADLINE.—The State may extend the deadline described in subparagraph (A) by not more than 10 days in a case in which the receipt of recommendations from a council under subparagraph (A)(ii) is delayed because of circumstances beyond the control of the council, as determined by the State.

"(4) UNEXPENDED FUNDS.—

"(A) IN GENERAL.—If, for any fiscal year, any unexpended funds remain after SEARCH grants are awarded under subsection (d)(3)(B), the council may repeat the application and review process so that any remaining funds may be recommended for award, and awarded, not later than July 30 of the fiscal year.

"(B) RETENTION OF FUNDS.—

"(i) IN GENERAL.—Any unexpended funds that are not awarded under subsection (d)(3)(B) or subparagraph (A) shall be retained by the State for award during the following fiscal year.

"(ii) LIMITATION.—A State that accumulates a balance of unexpended funds described in clause (i) of more than $3,000,000 shall be ineligible to apply for additional funds for SEARCH grants until such time as the State expends the portion of the balance that exceeds $3,000,000.

"SEC. 386C. REPORT.

"Not later than September 1 of the first fiscal year for which a SEARCH grant is awarded by a council, and annually thereafter, the council shall submit to the Secretary a report that—

"(1) describes the number of SEARCH grants awarded during the fiscal year;

"(2) identifies each small community that received a SEARCH grant during the fiscal year;

"(3) describes the project or purpose for which each SEARCH grant was awarded, including a statement of the benefit to public health or the environment of the environmental project receiving the grant funds; and

"(4) describes the status of each project or portion of a project for which a SEARCH grant was awarded, including a project or portion of a project for which a SEARCH grant was awarded for any fiscal year before the fiscal year in which the report is submitted.

"SEC. 386D. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 386B(c) $51,000,000, of which not to exceed $1,000,000 shall be used to make grants under section 386B(c)(2).

"(b) ACTUAL APPROPRIATION.—If funds to carry out section 386B(c) are made available for a fiscal year in an amount that is less than the amount authorized under subsection (a) for the fiscal year, the appropriated funds shall be divided equally among the 50 States.

"(c) UNUSED FUNDS.—If, for any fiscal year, a State does not apply, or does not qualify, to receive funds under section 386B(b), the funds that would have been made available to the State under section 386B(c) on submission by the State of a successful application under section 386B(b) shall be redistributed for award under this subtitle among States, the councils of which awarded 1 or more SEARCH grants during the preceding fiscal year.

"(d) OTHER EXPENSES.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subtitle (other than section 386B(c)).".

SEC. 647. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

The Consolidated Farm and Rural Development Act (as amended by section 646) is amended by adding at the end the following:

"Subtitle K—Northern Great Plains Regional Authority

"SEC. 387A. DEFINITIONS.

"In this subtitle:

“(1) AUTHORITY.—The term ‘Authority’ means the Northern Great Plains Regional Authority established by section 387B.

“(2) FEDERAL GRANT PROGRAM.—The term ‘Federal grant program’ means a Federal grant program to provide assistance in—

“(A) acquiring or developing land;

“(B) constructing or equipping a highway, road, bridge, or facility; or

“(C) carrying out other economic development activities.

“(3) REGION.—The term ‘region’ means the States of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

“SEC. 387B. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established the Northern Great Plains Regional Authority.

“(2) COMPOSITION.—The Authority shall be composed of—

“(A) a Federal member, to be appointed by the President, with the advice and consent of the Senate; and

“(B) the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority.

“(3) COCHAIRPERSONS.—The Authority shall be headed by—

“(A) the Federal member, who shall serve—

“(i) as the Federal cochairperson; and

“(ii) as a liaison between the Federal Government and the Authority; and

“(B) a State cochairperson, who—

“(i) shall be a Governor of a participating State in the region; and

“(ii) shall be elected by the State members for a term of not less than 1 year.

“(b) ALTERNATE MEMBERS.—

“(1) STATE ALTERNATES.—The State member of a participating State may have a single alternate, who shall be—

“(A) a resident of that State; and

“(B) appointed by the Governor of the State.

“(2) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal cochairperson.

“(3) QUORUM.—A State alternate shall not be counted toward the establishment of a quorum of the Authority in any instance in which a quorum of the State members is required to be present.

“(4) DELEGATION OF POWER.—No power or responsibility of the Authority specified in paragraphs (2) and (3) of subsection (c), and no voting right of any Authority member, shall be delegated to any person—

“(A) who is not an Authority member; or

“(B) who is not entitled to vote in Authority meetings.

“(c) VOTING.—

“(1) IN GENERAL.—A decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.

“(2) QUORUM.—A quorum of State members shall be required to be present for the Authority to make any policy decision, including—

“(A) a modification or revision of an Authority policy decision;

“(B) approval of a State or regional development plan; and

“(C) any allocation of funds among the States.

“(3) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals shall be—

“(A) a responsibility of the Authority; and

“(B) conducted in accordance with section 387I.

“(4) VOTING BY ALTERNATE MEMBERS.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State representative for which the alternate member is an alternate.

“(d) DUTIES.—The Authority shall—

“(1) develop, on a continuing basis, comprehensive and coordinated plans and programs to establish priorities and approve grants for the economic development of the region, giving due consideration to other Federal, State, and local planning and development activities in the region;

“(2) not later than 220 days after the date of enactment of this subtitle, establish priorities in a development plan for the region (including 5-year regional outcome targets);

“(3) assess the needs and assets of the region based on available research, demonstrations, investigations, assessments, and evaluations of the region prepared by Federal, State, and local agencies, universities, local development districts, and other nonprofit groups;

“(4) formulate and recommend to the Governors and legislatures of States that participate in the Authority forms of interstate cooperation;

“(5) work with State and local agencies in developing appropriate model legislation;

“(6)(A) enhance the capacity of, and provide support for, local development districts in the region; or

“(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

“(7) encourage private investment in industrial, commercial, and other economic development projects in the region; and

“(8) cooperate with and assist State governments with economic development programs of participating States.

“(e) ADMINISTRATION.—In carrying out subsection (d), the Authority may—

“(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Authority as the Authority considers appropriate;

“(2) authorize, through the Federal or State cochairperson or any other member of the Authority designated by the Authority, the administration of oaths if the Authority determines that testimony should be taken or evidence received under oath;

“(3) request from any Federal, State, or local department or agency such information as may be available to or procurable by the department or agency that may be of use to the Authority in carrying out duties of the Authority;

“(4) adopt, amend, and repeal bylaws and rules governing the conduct of Authority business and the performance of Authority duties;

“(5) request the head of any Federal department or agency to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

“(6) request the head of any State department or agency or local government to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

“(7) provide for coverage of Authority employees in a suitable retirement and employee benefit system by—

“(A) making arrangements or entering into contracts with any participating State government; or

“(B) otherwise providing retirement and other employee benefit coverage;

“(8) accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property;

“(9) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out Authority duties, including any contracts, leases, or cooperative agreements with—

“(A) any department, agency, or instrumentality of the United States;

“(B) any State (including a political subdivision, agency, or instrumentality of the State); or

“(C) any person, firm, association, or corporation; and

“(10) establish and maintain a central office and field offices at such locations as the Authority may select.

“(f) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

“(1) cooperate with the Authority; and

“(2) provide, on request of the Federal cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

“(g) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—Administrative expenses of the Authority (except for the expenses of the Federal cochairperson, including expenses of the alternate and staff of the Federal cochairperson, which shall be paid solely by the Federal Government) shall be paid—

“(A) by the Federal Government, in an amount equal to 50 percent of the administrative expenses; and

“(B) by the States in the region participating in the Authority, in an amount equal to 50 percent of the administrative expenses.

“(2) STATE SHARE.—

“(A) IN GENERAL.—The share of administrative expenses of the Authority to be paid by each State shall be determined by the Authority.

“(B) NO FEDERAL PARTICIPATION.—The Federal cochairperson shall not participate or vote in any decision under subparagraph (A).

“(C) DELINQUENT STATES.—If a State is delinquent in payment of the State's share of administrative expenses of the Authority under this subsection—

“(i) no assistance under this subtitle shall be furnished to the State (including assistance to a political subdivision or a resident of the State); and

“(ii) no member of the Authority from the State shall participate or vote in any action by the Authority.

“(h) COMPENSATION.—

“(1) FEDERAL COCHAIRPERSON.—The Federal cochairperson shall be compensated by the Federal Government at level III of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

“(2) ALTERNATE FEDERAL COCHAIRPERSON.—The alternate Federal cochairperson—

“(A) shall be compensated by the Federal Government at level V of the Executive Schedule described in paragraph (1); and

“(B) when not actively serving as an alternate for the Federal cochairperson, shall perform such functions and duties as are delegated by the Federal cochairperson.

“(3) STATE MEMBERS AND ALTERNATES.—

“(A) IN GENERAL.—A State shall compensate each member and alternate representing the State on the Authority at the rate established by law of the State.

"(B) NO ADDITIONAL COMPENSATION.—No State member or alternate member shall receive any salary, or any contribution to or supplementation of salary from any source other than the State for services provided by the member or alternate to the Authority.

"(4) DETAILED EMPLOYEES.—

"(A) IN GENERAL.—No person detailed to serve the Authority under subsection (e)(6) shall receive any salary or any contribution to or supplementation of salary for services provided to the Authority from—

"(i) any source other than the State, local, or intergovernmental department or agency from which the person was detailed; or

"(ii) the Authority.

"(B) VIOLATION.—Any person that violates this paragraph shall be fined not more than $5,000, imprisoned not more than 1 year, or both.

"(C) APPLICABLE LAW.—The Federal cochairperson, the alternate Federal cochairperson, and any Federal officer or employee detailed to duty on the Authority under subsection (e)(5) shall not be subject to subparagraph (A), but shall remain subject to sections 202 through 209 of title 18, United States Code.

"(5) ADDITIONAL PERSONNEL.—

"(A) COMPENSATION.—

"(i) IN GENERAL.—The Authority may appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Authority to carry out the duties of the Authority.

"(ii) EXCEPTION.—Compensation under clause (i) shall not exceed the maximum rate for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

"(B) EXECUTIVE DIRECTOR.—The executive director shall be responsible for—

"(i) the carrying out of the administrative duties of the Authority;

"(ii) direction of the Authority staff; and

"(iii) such other duties as the Authority may assign.

"(C) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of the Authority (except the Federal cochairperson of the Authority, the alternate and staff for the Federal cochairperson, and any Federal employee detailed to the Authority under subsection (e)(5)) shall be considered to be a Federal employee for any purpose.

"(i) CONFLICTS OF INTEREST.—

"(1) IN GENERAL.—Except as provided under paragraph (2), no State member, alternate, officer, or employee of the Authority shall participate personally and substantially as a member, alternate, officer, or employee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other matter in which, to knowledge of the member, alternate, officer, or employee—

"(A) the member, alternate, officer, or employee;

"(B) the spouse, minor child, partner, or organization (other than a State or political subdivision of the State) of the member, alternate, officer, or employee, in which the member, alternate, officer, or employee is serving as officer, director, trustee, partner, or employee; or

"(C) any person or organization with whom the member, alternate, officer, or employee is negotiating or has any arrangement concerning prospective employment;

has a financial interest.

"(2) DISCLOSURE.—Paragraph (1) shall not apply if the State member, alternate, officer, or employee—

"(A) immediately advises the Authority of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter presenting a potential conflict of interest;

"(B) makes full disclosure of the financial interest; and

"(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the Authority that the interest is not so substantial as to be likely to affect the integrity of the services that the Authority may expect from the State member, alternate, officer, or employee.

"(3) VIOLATION.—Any person that violates this subsection shall be fined not more than $10,000, imprisoned not more than 2 years, or both.

"(j) VALIDITY OF CONTRACTS, LOANS, AND GRANTS.—The Authority may declare void any contract, loan, or grant of or by the Authority in relation to which the Authority determines that there has been a violation of any provision under subsection (h)(4), subsection (i), or sections 202 through 209 of title 18, United States Code.

"SEC. 387C. ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.

"(a) IN GENERAL.—The Authority may approve grants to States, local governments, and public and nonprofit organizations for projects, approved in accordance with section 387I—

"(1) to develop the transportation and telecommunication infrastructure of the region for the purpose of facilitating economic development in the region (except that grants for this purpose may only be made to States, local governments, and nonprofit organizations);

"(2) to assist the region in obtaining the job training, employment-related education, and business development (with an emphasis on entrepreneurship) that are needed to build and maintain strong local economies;

"(3) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for improving basic public services;

"(4) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for equipping industrial parks and related facilities; and

"(5) to otherwise achieve the purposes of this subtitle.

"(b) FUNDING.—

"(1) IN GENERAL.—Funds for grants under subsection (a) may be provided—

"(A) entirely from appropriations to carry out this section;

"(B) in combination with funds available under another Federal or Federal grant program; or

"(C) from any other source.

"(2) PRIORITY OF FUNDING.—To best build the foundations for long-term economic development and to complement other Federal and State resources in the region, Federal funds available under this subtitle shall be focused on the activities in the following order or priority:

"(A) Basic public infrastructure in distressed counties and isolated areas of distress.

"(B) Transportation and telecommunication infrastructure for the purpose of facilitating economic development in the region.

"(C) Business development, with emphasis on entrepreneurship.

"(D) Job training or employment-related education, with emphasis on use of existing public educational institutions located in the region.

"(3) FEDERAL SHARE IN GRANT PROGRAMS.—Notwithstanding any provision of law limiting the Federal share in any grant program, funds appropriated to carry out this section may be used to increase a Federal share in a grant program, as the Authority determines appropriate.

"SEC. 387D. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

"(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

"(1) they lack the economic resources to meet the required matching share; or

"(2) there are insufficient funds available under the applicable Federal grant law authorizing the program to meet pressing needs of the region.

"(b) FEDERAL GRANT PROGRAM FUNDING.—In accordance with subsection (c), the Federal cochairperson may use amounts made available to carry out this subtitle, without regard to any limitations on areas eligible for assistance or authorizations for appropriation under any other Act, to fund all or any portion of the basic Federal contribution to a project or activity under a Federal grant program in the region in an amount that is above the fixed maximum portion of the cost of the project otherwise authorized by applicable law, but not to exceed 90 percent of the costs of the project (except as provided in section 387F(b)).

"(c) CERTIFICATION.—

"(1) IN GENERAL.—In the case of any program or project for which all or any portion of the basic Federal contribution to the project under a Federal grant program is proposed to be made under this section, no Federal contribution shall be made until the Federal official administering the Federal law authorizing the contribution certifies that the program or project—

"(A) meets the applicable requirements of the applicable Federal grant law; and

"(B) could be approved for Federal contribution under the law if funds were available under the law for the program or project.

"(2) CERTIFICATION BY AUTHORITY.—

"(A) IN GENERAL.—The certifications and determinations required to be made by the Authority for approval of projects under this subtitle in accordance with section 387I—

"(i) shall be controlling; and

"(ii) shall be accepted by the Federal agencies.

"(B) ACCEPTANCE BY FEDERAL COCHAIRPERSON.—Any finding, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of any Federal grant program shall be accepted by the Federal cochairperson with respect to a supplemental grant for any project under the program.

"SEC. 387E. LOCAL DEVELOPMENT DISTRICTS; CERTIFICATION AND ADMINISTRATIVE EXPENSES.

"(a) DEFINITION OF LOCAL DEVELOPMENT DISTRICT.—In this section, the term 'local development district' means an entity that—

"(1) is—

"(A) a planning district in existence on the date of enactment of this subtitle that is recognized by the Economic Development Administration of the Department of Commerce; or

"(B) where an entity described in subparagraph (A) does not exist—

"(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

"(ii) governed by a policy board with at least a simple majority of members consisting of elected officials or employees of a general purpose unit of local government who have been appointed to represent the government;

"(iii) certified to the Authority as having a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region—

"(I) by the Governor of each State in which the entity is located; or

"(II) by the State officer designated by the appropriate State law to make the certification; and

"(iv)(I) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

"(II) a nonprofit agency or instrumentality of a State or local government;

"(III) a public organization established before the date of enactment of this subtitle under State law for creation of multi-jurisdictional, area-wide planning organizations; or

"(IV) a nonprofit association or combination of bodies, agencies, and instrumentalities described in subclauses (I) through (III); and

"(2) has not, as certified by the Federal cochairperson—

"(A) inappropriately used Federal grant funds from any Federal source; or

"(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

"(b) Grants to Local Development Districts.—

"(1) In general.—The Authority may make grants for administrative expenses under this section.

"(2) Conditions for grants.—

"(A) Maximum amount.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the local development district receiving the grant.

"(B) Maximum period.—No grant described in paragraph (1) shall be awarded to a State agency certified as a local development district for a period greater than 3 years.

"(C) Local share.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

"(c) Duties of Local Development Districts.—A local development district shall—

"(1) operate as a lead organization serving multicounty areas in the region at the local level; and

"(2) serve as a liaison between State and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens that—

"(A) are involved in multijurisdictional planning;

"(B) provide technical assistance to local jurisdictions and potential grantees; and

"(C) provide leadership and civic development assistance.

"SEC. 387F. DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.

"(a) Designations.—Not later than 90 days after the date of enactment of this subtitle, and annually thereafter, the Authority, in accordance with such criteria as the Authority may establish, shall designate—

"(1) as distressed counties, counties in the region that are the most severely and persistently distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration;

"(2) as nondistressed counties, counties in the region that are not designated as distressed counties under paragraph (1); and

"(3) as isolated areas of distress, areas located in nondistressed counties (as designated under paragraph (2)) that have high rates of poverty, unemployment, or outmigration.

"(b) Distressed Counties.—

"(1) In general.—The Authority shall allocate at least 75 percent of the appropriations made available under section 387M for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

"(2) Funding limitations.—The funding limitations under section 387D(b) shall not apply to a project providing transportation or telecommunication or basic public services to residents of 1 or more distressed counties or isolated areas of distress in the region.

"(c) Nondistressed Counties.—

"(1) In general.—Except as provided in this subsection, no funds shall be provided under this subtitle for a project located in a county designated as a nondistressed county under subsection (a)(2).

"(2) Exceptions.—

"(A) In general.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 387E(b).

"(B) Multicounty projects.—The Authority may waive the application of the funding prohibition under paragraph (1) to—

"(i) a multicounty project that includes participation by a nondistressed county; or

"(ii) any other type of project;

if the Authority determines that the project could bring significant benefits to areas of the region outside a nondistressed county.

"(C) Isolated areas of distress.—For a designation of an isolated area of distress for assistance to be effective, the designation shall be supported—

"(i) by the most recent Federal data available; or

"(ii) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

"(d) Transportation, Telecommunication, and Basic Public Infrastructure.—The Authority shall allocate at least 50 percent of any funds made available under section 387M for transportation, telecommunication, and basic public infrastructure projects authorized under paragraphs (1) and (3) of section 387C(a).

"SEC. 387G. DEVELOPMENT PLANNING PROCESS.

"(a) State Development Plan.—In accordance with policies established by the Authority, each State member shall submit a development plan for the area of the region represented by the State member.

"(b) Content of Plan.—A State development plan submitted under subsection (a) shall reflect the goals, objectives, and priorities identified in the regional development plan developed under section 387B(d)(2).

"(c) Consultation With Interested Local Parties.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State may—

"(1) consult with—

"(A) local development districts; and

"(B) local units of government; and

"(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

"(d) Public Participation.—

"(1) In general.—The Authority and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.

"(2) Regulations.—The Authority shall develop guidelines for providing public participation described in paragraph (1), including public hearings.

"SEC. 387H. PROGRAM DEVELOPMENT CRITERIA.

"(a) In General.—In considering programs and projects to be provided assistance under this subtitle, and in establishing a priority ranking of the requests for assistance provided by the Authority, the Authority shall follow procedures that ensure, to the maximum extent practicable, consideration of—

"(1) the relationship of the project or class of projects to overall regional development;

"(2) the per capita income and poverty and unemployment and outmigration rates in an area;

"(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

"(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same funds;

"(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area served by the project; and

"(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

"(b) No Relocation Assistance.—No financial assistance authorized by this subtitle shall be used to assist a person or entity in relocating from one area to another, except that financial assistance may be used as otherwise authorized by this title to attract businesses from outside the region to the region.

"(c) Reduction of Funds.—Funds may be provided for a program or project in a State under this subtitle only if the Authority determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within the region, will not be reduced as a result of funds made available by this subtitle.

"SEC. 387I. APPROVAL OF DEVELOPMENT PLANS AND PROJECTS.

"(a) In General.—A State or regional development plan or any multistate subregional plan that is proposed for development under this subtitle shall be reviewed by the Authority.

"(b) Evaluation by State Member.—An application for a grant or any other assistance for a project under this subtitle shall be made through and evaluated for approval by the State member of the Authority representing the applicant.

"(c) Certification.—An application for a grant or other assistance for a project shall be approved only on certification by the State member that the application for the project—

"(1) describes ways in which the project complies with any applicable State development plan;

"(2) meets applicable criteria under section 387H;

"(3) provides adequate assurance that the proposed project will be properly administered, operated, and maintained; and

"(4) otherwise meets the requirements of this subtitle.

"(d) Votes for Decisions.—On certification by a State member of the Authority of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Authority under section 387B(c) shall be required for approval of the application.

"SEC. 387J. CONSENT OF STATES.

"Nothing in this subtitle requires any State to engage in or accept any program under this subtitle without the consent of the State.

"SEC. 387K. RECORDS.

"(a) Records of the Authority.—

"(1) In general.—The Authority shall maintain accurate and complete records of all transactions and activities of the Authority.

"(2) Availability.—All records of the Authority shall be available for audit and examination by the Comptroller General of the United States and the Inspector General of the Department of Agriculture (including authorized representatives of the Comptroller General and the Inspector General of the Department of Agriculture).

"(b) Records of Recipients of Federal Assistance.—

"(1) In general.—A recipient of Federal funds under this subtitle shall, as required by the Authority, maintain accurate and complete records of transactions and activities financed with Federal funds and report on the transactions and activities to the Authority.

"(2) Availability.—All records required under paragraph (1) shall be available for audit by the Comptroller General of the United States, the Inspector General of the Department of Agriculture, and the Authority (including authorized representatives of the Comptroller General, the Inspector General of the Department of Agriculture, and the Authority).

"(c) Annual Audit.—The Inspector General of the Department of Agriculture shall audit the activities, transactions, and records of the Authority on an annual basis.

"SEC. 387L. ANNUAL REPORT.

"Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subtitle.

"SEC. 387M. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There is authorized to be appropriated to the Authority to carry out this subtitle $30,000,000 for each of fiscal years 2002 through 2006, to remain available until expended.

"(b) Administrative Expenses.—Not more than 5 percent of the amount appropriated under subsection (a) for a fiscal year shall be used for administrative expenses of the Authority.

"(c) Minimum State Share of Grants.—Notwithstanding any other provision of this subtitle, for any fiscal year, the aggregate amount of grants received by a State and all persons or entities in the State under this subtitle shall be not less than ⅓ of the product obtained by multiplying—

"(1) the aggregate amount of grants under this subtitle for the fiscal year; and

"(2) the ratio that—

"(A) the population of the State (as determined by the Secretary of Commerce based on the most recent decennial census for which data are available); bears to

"(B) the population of the region (as so determined).

"SEC. 387N. TERMINATION OF AUTHORITY.

"This subtitle and the authority provided under this subtitle expire on October 1, 2006.".

Subtitle D—Food, Agriculture, Conservation, and Trade Act of 1990

SEC. 651. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

(a) Repeal of Corporation Authorization.—Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.) is repealed.

(b) Disposition of Assets.—On the date of enactment of this Act—

(1) the assets, both tangible and intangible, of the Alternative Agricultural Research and Commercialization Corporation (referred to in this section as the "Corporation"), including the funds in the Alternative Agricultural Research and Commercialization Revolving Fund as of the date of enactment of this Act, are transferred to the Secretary of Agriculture; and

(2) notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary shall have authority to manage and dispose of the assets transferred under paragraph (1) in a manner that, to the maximum extent practicable, provides the greatest return on investment.

(c) Use of Assets.—

(1) In general.—Funds transferred under subsection (b), and any income from assets or proceeds from the sale of assets transferred under subsection (b), shall be deposited into an account in the Treasury, and shall remain available to the Secretary until expended, without further appropriation, to pay—

(A) any outstanding claims or obligations of the Corporation; and

(B) the costs incurred by the Secretary in carrying out this section.

(2) Final disposition.—On final disposition of all assets transferred under subsection (b), any funds remaining in the account described in paragraph (1) shall be transferred into miscellaneous receipts in the Treasury.

(d) Conforming Amendments.—

(1) The following provisions are repealed:

(A) Section 730 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 5902 note; Public Law 104–127).

(B) Section 9101(3)(Q) of title 31, United States Code.

(2) Section 401(c) of the Agricultural Research, Education, and Extension Reform Act of 1998 (7 U.S.C. 7621(c)) is amended by striking paragraph (1) and inserting the following:

"(1) Critical emerging issues.—Subject to paragraph (2), the Secretary shall use the funds in the Account for research, extension, and education grants (referred to in this section as 'grants') to address critical emerging agricultural issues related to—

"(A) future food production;

"(B) environmental quality and natural resource management; or

"(C) farm income.".

(3) Section 793(c)(1)(A)(ii)(II) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f(c)(1)(A)(ii)(II)) is amended by striking "subtitle G of title XVI and".

SEC. 652. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

(a) In General.—Section 2335A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa–5) is amended by striking "2002" and inserting "2006".

(b) Conforming Amendment.—Section 1(b) of Public Law 102–551 (7 U.S.C. 950aaa note) is amended by striking "1997" and inserting "2006".

Subtitle E—Rural Electrification Act of 1936

SEC. 661. BIOENERGY AND BIOCHEMICAL PROJECTS.

Title I of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

"SEC. 20. BIOENERGY AND BIOCHEMICAL PROJECTS.

"In carrying out rural electric loan, loan guarantee, and grant programs under this Act, the Secretary shall provide a priority for bioenergy and biochemical projects.".

SEC. 662. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.

(a) In General.—The Rural Electrification Act of 1936 is amended by inserting after section 313 (7 U.S.C. 940c) the following:

"SEC. 313A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.

"(a) In General.—Subject to subsection (b), the Secretary shall guarantee payments on bonds or notes issued by cooperative or other lenders organized on a not-for-profit basis if the proceeds of the bonds or notes are used for electrification or telephone projects eligible for assistance under this Act, including the refinancing of bonds or notes issued for such projects.

"(b) Limitations.—

"(1) Outstanding loans.—A lender shall not receive a guarantee under this section for a bond or note if, at the time of the guarantee, the total principal amount of such guaranteed bonds or notes outstanding of the lender would exceed the principal amount of outstanding loans of the lender for electrification or telephone purposes that have been made concurrently with loans approved for such purposes under this Act.

"(2) Generation of electricity.—The Secretary shall not guarantee payment on a bond or note issued by a lender, the proceeds of which are used for the generation of electricity.

"(3) Qualifications.—The Secretary may deny the request of a lender for the guarantee of a bond or note under this section if the Secretary determines that—

"(A) the lender does not have appropriate expertise or experience or is otherwise not qualified to make loans for electrification or telephone purposes;

"(B) the bond or note issued by the lender is not of reasonable and sufficient quality; or

"(C) the lender has not provided sufficient evidence that the proceeds of the bond or note are used for eligible projects described in subsection (a).

"(4) Interest rate reduction.—

"(A) In general.—Except as provided in subparagraph (B), a lender may not use any amount obtained from the reduction in funding costs as a result of the guarantee of a bond or note under this section to reduce the interest rate on a new or outstanding loan.

"(B) Concurrent loans.—A lender may use any amount described in subparagraph (A) to reduce the interest rate on a loan if the loan is—

"(i) made by the lender for electrification or telephone projects that are eligible for assistance under this Act; and

"(ii) made concurrently with a loan approved by the Secretary under this Act for such a project, as provided in section 307.

"(c) Fees.—

"(1) In general.—A lender that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary.

"(2) Amount.—The amount of an annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

"(3) Payment.—A lender shall pay the fees required under this subsection on a semiannual basis.

"(4) Rural economic development subaccount.—Subject to subsection (e)(2), fees collected under this subsection shall be—

"(A) deposited into the rural economic development subaccount maintained under section 313(b)(2)(A), to remain available until expended; and

"(B) used for the purposes described in section 313(b)(2)(B).

"(d) Guarantees.—

"(1) In general.—A guarantee issued under this section shall—

"(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

"(B) be fully assignable and transferable; and

"(C) represent the full faith and credit of the United States.

"(2) Limitation.—To ensure that the Secretary has the resources necessary to properly examine the proposed guarantees, the Secretary may limit the number of guarantees issued under this section if the number of such guarantees exceeds 5 per year.

"(3) Department opinion.—On the timely request of an eligible lender, the General Counsel of the Department of Agriculture shall provide the Secretary with an opinion regarding the validity and authority of a guarantee issued to the lender under this section.

"(e) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated such sums as are necessary to carry out this section.

"(2) Fees.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use up to ⅓ of the fees collected under subsection (c) for the cost of providing guarantees of bonds and notes under this section before depositing the remainder of the fees into the rural economic development subaccount maintained under section 313(b)(2)(A).

"(f) Termination.—The authority provided under this section shall terminate on September 30, 2006.".

(b) Administration of Cushion of Credit Payments Program.—Section 313(b)(2)(B) of the Rural Electrification Act of 1936 (7 U.S.C. 940c)(b)(2)(B)) is amended by inserting ", acting through the Rural Utilities Service," after "Secretary".

(c) Administration.—

(1) Regulations.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to carry out the amendments made by this section.

(2) Implementation.—Not later than 240 days after the date of enactment of this Act, the Secretary shall implement the amendment made by this section.

SEC. 663. EXPANSION OF 911 ACCESS.

Title III of the Rural Electrification Act of 1936 (7 U.S.C. 931 et seq.) is amended by adding the following:

"SEC. 315. EXPANSION OF 911 ACCESS.

"(a) In General.—Subject to such terms and conditions as the Secretary may prescribe, the Secretary may make telephone loans under this title to State or local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or other public entities for facilities and equipment to expand 911 access in underserved rural areas.

"(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

TITLE VII—AGRICULTURAL RESEARCH, EDUCATION, AND EXTENSION AND RELATED MATTERS

Subtitle A—National Agricultural Research, Extension, and Teaching Policy Act of 1977

SEC. 701. DEFINITIONS.

(a) In General.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) by redesignating paragraphs (10) through (17) as paragraphs (11) through (18), respectively;

(2) by inserting after paragraph (9) the following:

"(10) Insular area.—The term 'insular area' means—

"(A) the Commonwealth of Puerto Rico;

"(B) Guam;

"(C) American Samoa;

"(D) the Commonwealth of the Northern Mariana Islands;

"(E) the Federated States of Micronesia;

"(F) the Republic of the Marshall Islands;

"(G) the Republic of Palau; and

"(H) the Virgin Islands of the United States."; and

(3) by striking paragraph (13) (as so redesignated) and inserting the following:

"(13) State.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) any insular area.".

(b) Effect of Amendments.—The amendments made by subsection (a) shall not affect any basis for distribution of funds by formula (in effect on the date of enactment of this Act) to—

(1) the Federated States of Micronesia;

(2) the Republic of the Marshall Islands; or

(3) the Republic of Palau.

SEC. 702. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

Section 1408(h) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(h)) is amended by striking "2002" and inserting "2006".

SEC. 703. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) in subsection (a)—

(A) by striking "and" after "economics,"; and

(B) by inserting ", and rural economic, community, and business development" before the period;

(2) in subsection (b)—

(A) in paragraph (1), by inserting ", or in rural economic, community, and business development" before the semicolon;

(B) in paragraph (2), by inserting ", or in rural economic, community, and business development" before the semicolon;

(C) in paragraph (3), by inserting ", or teaching programs emphasizing rural economic, community, and business development" before the semicolon;

(D) in paragraph (4), by inserting ", or programs emphasizing rural economic, community, and business development," after "programs"; and

(E) in paragraph (5), by inserting ", or professionals in rural economic, community, and business development" before the semicolon;

(3) in subsection (d)—

(A) in paragraph (1), by inserting ", or in rural economic, community, and business development," after "sciences"; and

(B) in paragraph (2), by inserting ", or in the rural economic, community, and business development workforce," after "workforce"; and

(4) in subsection (l), by striking "2002" and inserting "2006".

SEC. 704. COMPETITIVE RESEARCH FACILITIES GRANT PROGRAM.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1417 (7 U.S.C. 3152) the following:

"SEC. 1417A. COMPETITIVE RESEARCH FACILITIES GRANT PROGRAM.

"(a) Authority.—The Secretary may award grants to eligible institutions on a competitive basis for the construction, acquisition, modernization, renovation, alteration, and remodeling of food and agricultural research facilities such as buildings, laboratories, and other capital facilities (including acquisition of fixtures and equipment) in accordance with this section.

"(b) Eligible Institutions.—The following institutions are eligible to compete for grants under subsection (a):

"(1) A State cooperative institution.

"(2) A Hispanic-serving institution.

"(c) Criteria for Award.—The Secretary shall award grants to support the national research purposes specified in section 1402 in a manner determined by the Secretary.

"(d) Matching.—

"(1) In general.—The Secretary may establish such matching requirements for grants under subsection (a) as the Secretary considers appropriate.

"(2) Form of match.—Matching requirements established by the Secretary may be met with unreimbursed indirect costs and in-kind contributions.

"(3) Evaluation preference.—The Secretary may include an evaluation preference for projects for which the applicant proposes funds for the direct costs of a project to meet the required match.

"(e) Targeted Institutions.—The Secretary may determine that a portion of funds made available to carry out this section shall be targeted to particular eligible institutions to enhance the capacity of the eligible institutions to carry out research.

"(f) Administration.—

"(1) Regulations.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

"(2) STATES WITH MORE THAN 1 ELIGIBLE INSTITUTION.—In a State having more than 1 eligible institution, the Secretary shall establish procedures in accordance with the purposes specified in section 1402 to ensure that the facility proposals of the eligible institutions in the State provide for a coordinated food and agricultural research program among eligible institutions in the State.

"(g) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this section.

"(h) ADVISORY BOARD.—In carrying out this section, the Secretary shall consult with the Advisory Board.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2006.".

SEC. 705. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) is amended by striking "2002" and inserting "2006".

SEC. 706. POLICY RESEARCH CENTERS.

Section 1419A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155) is amended—

(1) in subsection (c)(3), by striking "collect and analyze" and inserting "collect, analyze, and disseminate"; and

(2) in subsection (d), by striking "2002" and inserting "2006".

SEC. 707. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

Section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) is amended by striking "2002" and inserting "2006".

SEC. 708. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.

Section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) is amended by striking "2002" and inserting "2006".

SEC. 709. NUTRITION EDUCATION PROGRAM.

Section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) is amended by striking "2002" and inserting "2006".

SEC. 710. ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS.

Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended in the first sentence by striking "2002" and inserting "2006".

SEC. 711. RESEARCH ON NATIONAL OR REGIONAL PROBLEMS.

Section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) is amended by striking "2002" and inserting "2006".

SEC. 712. EDUCATION GRANTS PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

Section 1455(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241(c)) is amended by striking "2002" and inserting "2006".

SEC. 713. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.

Section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b(c)) is amended by striking "2002" and inserting "2006".

SEC. 714. INDIRECT COSTS.

Section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Except";

(2) by striking "19 percent" and all that follows and inserting "the negotiated indirect cost rate established for an institution by the cognizant Federal audit agency for the institution."; and

(3) by adding at the end the following:

"(b) EXCEPTION.—Subsection (a) shall not apply to a grant awarded competitively under section 9 of the Small Business Act (15 U.S.C. 638).".

SEC. 715. RESEARCH EQUIPMENT GRANTS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1462 (7 U.S.C. 3310) the following:

"SEC. 1462A. RESEARCH EQUIPMENT GRANTS.

"(a) IN GENERAL.—The Secretary may make competitive grants for the acquisition of special purpose scientific research equipment for use in the food and agricultural sciences programs of eligible institutions described in subsection (b).

"(b) ELIGIBLE INSTITUTIONS.—The Secretary may make a grant under this section to—

"(1) a college or university; or

"(2) a State cooperative institution.

"(c) MAXIMUM AMOUNT.—The amount of a grant made to an eligible institution under this section may not exceed $500,000.

"(d) PROHIBITION ON CHARGE OF EQUIPMENT AS INDIRECT COSTS.—The cost of acquisition or depreciation of equipment purchased with a grant under this section shall not be—

"(1) charged as an indirect cost against another Federal grant; or

"(2) included as part of the indirect cost pool for purposes of calculating the indirect cost rate of an eligible institution.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2002 through 2006.".

SEC. 716. AGRICULTURAL RESEARCH PROGRAMS.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended—

(1) in subsection (a), by striking "$850,000,000 for each of the fiscal years 1991 through 2002" and inserting "$1,500,000,000 for each of fiscal years 2002 through 2006"; and

(2) in subsection (b), by striking "2002" and inserting "2006".

SEC. 717. EXTENSION EDUCATION.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "$420,000,000" and all that follows and inserting the following: "$500,000,000 for each of fiscal years 2002 through 2006.".

SEC. 718. AVAILABILITY OF COMPETITIVE GRANT FUNDS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1469 (7 U.S.C. 3315) the following:

"SEC. 1469A. AVAILABILITY OF COMPETITIVE GRANT FUNDS.

"Except as otherwise provided by law, funds made available to the Secretary to carry out a competitive agricultural research, education, or extension grant program under this or any other Act shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.".

SEC. 719. JOINT REQUESTS FOR PROPOSALS.

(a) PURPOSES.—The purposes of this section are—

(1) to reduce the duplication of administrative functions relating to grant awards and administration among Federal agencies conducting similar types of research, education, and extension programs;

(2) to maximize the use of peer review resources in research, education, and extension programs; and

(3) to reduce the burden on potential recipients that may offer similar proposals to receive competitive grants under different Federal programs in overlapping subject areas.

(b) AUTHORITY.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473A (7 U.S.C. 3319a) the following:

"SEC. 1473B. JOINT REQUESTS FOR PROPOSALS.

"(a) IN GENERAL.—In carrying out any competitive agricultural research, education, or extension grant program authorized under this or any other Act, the Secretary may cooperate with 1 or more other Federal agencies (including the National Science Foundation) in issuing joint requests for proposals, awarding grants, and administering grants, for similar or related research, education, or extension projects or activities.

"(b) TRANSFER OF FUNDS.—

"(1) SECRETARY.—The Secretary may transfer funds to, or receive funds from, a cooperating Federal agency for the purpose of carrying out the joint request for proposals, making awards, or administering grants.

"(2) COOPERATING AGENCY.—The cooperating Federal agency may transfer funds to, or receive funds from, the Secretary for the purpose of carrying out the joint request for proposals, making awards, or administering grants.

"(3) LIMITATIONS.—Funds transferred or received under this subsection shall be—

"(A) used only in accordance with the laws authorizing the appropriation of the funds; and

"(B) made available by grant only to recipients that are eligible to receive the grant under the laws.

"(c) ADMINISTRATION.—

"(1) SECRETARY.—The Secretary may delegate authority to issue requests for proposals, make grant awards, or administer grants, in whole or in part, to a cooperating Federal agency.

"(2) COOPERATING FEDERAL AGENCY.—The cooperating Federal agency may delegate to the Secretary authority to issue requests for proposals, make grant awards, or administer grants, in whole or in part.

"(d) REGULATIONS; RATES.—The Secretary and a cooperating Federal agency may agree to make applicable to recipients of grants—

"(1) the post-award grant administration regulations and indirect cost rates applicable to recipients of grants from the Secretary; or

"(2) the post-award grant administration regulations and indirect cost rates applicable to recipients of grants from the cooperating Federal agency.

"(e) JOINT PEER REVIEW PANELS.—Subject to section 1413B, the Secretary and a cooperating Federal agency may establish joint peer review panels for the purpose of evaluating grant proposals.".

SEC. 720. SUPPLEMENTAL AND ALTERNATIVE CROPS.

Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking "2002" and inserting "2006".

SEC. 721. AQUACULTURE.

Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended in the first sentence by striking "2002" and inserting "2006".

SEC. 722. RANGELAND RESEARCH.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking "2002" and inserting "2006".

SEC. 723. BIOSECURITY PLANNING AND RESPONSE PROGRAMS.

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy-Act of 1977 (7 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"Subtitle N—Biosecurity

"CHAPTER 1—AGRICULTURE INFRASTRUCTURE SECURITY

"SEC. 1484. DEFINITIONS.

"In this chapter:

"(1) AGRICULTURAL RESEARCH FACILITY.—The term 'agricultural research facility' means a facility—

"(A) at which agricultural research is regularly carried out or proposed to be carried out; and

"(B) that is—

"(i)(I) an Agricultural Research Service facility;

"(II) a Forest Service facility; or

"(III) an Animal and Plant Health Inspection Service facility;

"(ii) a Federal agricultural facility in the process of being planned or being constructed; or

"(iii) any other facility under the full control of the Secretary.

"(2) COMMISSION.—The term 'Commission' means the Agriculture Infrastructure Security Commission established under section 1486.

"(2) FUND.—The term 'Fund' means the Agriculture Infrastructure Security Fund Account established by section 1485.

"SEC. 1485. AGRICULTURE INFRASTRUCTURE SECURITY FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account, to be known as the 'Agriculture Infrastructure Security Fund Account', consisting of funds appropriated to, or deposited into, the Fund under subsection (c).

"(b) PURPOSES.—The purposes of the Fund are to provide funding to protect and strengthen the Federal food safety and agricultural infrastructure that—

"(1) safeguards against animal and plant diseases and pests;

"(2) ensures the safety of the food supply; and

"(3) ensures sound science in support of food and agricultural policy.

"(c) DEPOSITS INTO FUND.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Fund such sums as are necessary for each of fiscal years 2002 through 2006.

"(2) CONTRIBUTIONS AND OTHER PROCEEDS.—The Secretary shall deposit into the Fund any funds received—

"(A) as proceeds from the sale of assets under subsection (e); or

"(B) as gifts under subsection (f).

"(3) AVAILABILITY OF FUNDS.—Amounts in the Fund shall remain available until expended without further Act of appropriation.

"(4) ADDITIONAL FUNDS.—Funds made available under paragraph (1) shall be in addition to funds otherwise available to the Secretary to receive gifts and bequests or dispose of property (real, personal, or intangible).

"(d) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, and the Secretary shall accept and use without further appropriation, such amounts as the Secretary determines to be necessary to pay—

"(A) the costs of planning, design, development, construction, acquisition, modernization, leasing, and disposal of facilities, equipment, and technology used by the Department in carrying out programs relating to the purposes specified in subsection (b), notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other law that prescribes procedures for the procurement, use, or disposal of property or services by a Federal agency;

"(B) the costs of specialized services relating to the purposes specified in subsection (b);

"(C) the costs of cooperative arrangements authorized to be entered into (notwithstanding chapter 63 of title 31, United States Code) with State, local and tribal governments, and other public and private entities, to carry out programs relating to the purposes specified in subsection (b); and

"(D) administrative costs incurred in carrying out subparagraphs (A) through (C).

"(2) LIMITATIONS.—

"(A) FEDERAL EMPLOYEES.—Amounts in the Fund shall not be used to create any new full or part-time permanent Federal employee position.

"(B) ADMINISTRATIVE EXPENSES.—Beginning in fiscal year 2003, not more than 1 percent of the amounts in the Fund on October 1 of a fiscal year may be used in the fiscal year for administrative expenses of the Secretary in carrying out the activities described in paragraph (1).

"(e) SALE OF ASSETS.—

"(1) DISPOSAL AUTHORITY.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary by sale may dispose of all or any part of any right or title in land (excluding National Forest System land), facilities, or equipment in the full control of the Department (including land and facilities at the Beltsville Agricultural Research Center) used for the purposes specified in subsection (b).

"(2) DISPOSITION OF PROCEEDS.—Proceeds from any sale conducted by the Secretary under paragraph (1) shall be deposited into the Fund in accordance with subsection (c)(2)(A).

"(f) GIFTS.—

"(1) IN GENERAL.—To carry out the purposes specified in subsection (b), the Secretary may accept gifts and bequests of funds, property (real, personal, and intangible), equipment, services, and other in-kind contributions from State, local, and tribal governments, colleges and universities, individuals, and other public and private entities.

"(2) PROHIBITED SOURCE.—

"(A) IN GENERAL.—For the purposes of this subsection, the Secretary shall not consider a State or local government, Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), other public entity, or college or university, to be a prohibited source under any Department rule or policy that prohibits the acceptance of gifts from individuals and entities that do business with the Department.

"(B) EXCEPTION.—Notwithstanding any Department rule or policy that prohibits the acceptance of gifts by the Department from individuals or private entities that do business with the Department or that, for any other reason, are considered to be prohibited sources, the Secretary may accept gifts under this subsection if the Secretary determines that it is in the public interest to accept the gift.

"(3) DISPOSITION OF GIFTS.—The Secretary shall deposit any gift of funds under this subsection into the Fund in accordance with subsection (c)(2)(B).

"SEC. 1486. AGRICULTURE INFRASTRUCTURE SECURITY COMMISSION.

"(a) ESTABLISHMENT.—The Secretary shall establish a commission to be known as the 'Agriculture Infrastructure Security Commission' to carry out the duties described in subsection (f).

"(b) MEMBERSHIP.—

"(1) APPOINTMENT.—

"(A) VOTING MEMBERS.—

"(i) IN GENERAL.—The Commission shall be composed of 15 voting members, appointed by the Secretary in accordance with clause (ii), based on nominations solicited from the public.

"(ii) QUALIFICATIONS.—The Secretary shall appoint members that—

"(I) represent a balance of the public and private sectors; and

"(II) have combined expertise in—

"(aa) facilities development, modernization, construction, security, consolidation, and closure;

"(bb) plant diseases and pests;

"(cc) animal diseases and pests;

"(dd) food safety;

"(ee) biosecurity;

"(ff) the needs of farmers and ranchers;

"(gg) public health;

"(hh) State, local, and tribal government; and

"(ii) any other area related to agriculture infrastructure security, as determined by the Secretary.

"(B) NONVOTING MEMBERS.—The Commission shall be composed of the following nonvoting members:

"(i) The Secretary.

"(ii) 4 representatives appointed by the Secretary of Health and Human Services, 1 each from—

"(I) the Public Health Service;

"(II) the National Institutes of Health;

"(III) the Centers for Disease Control and Prevention; and

"(IV) the Food and Drug Administration.

"(iii) 1 representative appointed by the Attorney General.

"(iv) 1 representative appointed by the Director of Homeland Security.

"(v) Not more than 4 representatives of the Department appointed by the Secretary.

"(2) DATE OF APPOINTMENT.—The appointment of each member of the Commission shall be made not later than 90 days after the date of enactment of this subtitle.

"(c) TERM; VACANCIES.—

"(1) TERM.—The term of office of a member of the Commission shall be 4 years, except that the members initially appointed shall be appointed to serve staggered terms (as determined by the Secretary).

"(2) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as the original appointment was made.

"(d) MEETINGS.—

‘‘(1) In General.—The Commission shall meet at the call of—

‘‘(A) the Chairperson;

‘‘(B) a majority of the voting members of the Commission; or

‘‘(C) the Secretary.

‘‘(2) Federal Advisory Committee Act.—

‘‘(A) In General.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the Commission.

‘‘(B) Open Meetings; Records.—Subject to subparagraph (C)—

‘‘(i) a meeting of the Commission shall be—

‘‘(I) publicly announced in advance; and

‘‘(II) open to the public; and

‘‘(ii) the Commission shall—

‘‘(I) keep detailed minutes of each meeting and other appropriate records of the activities of the Commission; and

‘‘(II) make the minutes and records available to the public on request.

‘‘(C) Exception.—When required in the interest of national security—

‘‘(i) the Chairperson may choose not to give public notice of a meeting;

‘‘(ii) the Chairperson may close all or a portion of any meeting to the public, and the minutes of the meeting, or portion of a meeting, shall not be made available to the public; and

‘‘(iii) by majority vote, the Commission may redact the minutes of a meeting that was open to the public.

‘‘(e) Chairperson.—The Secretary shall select a Chairperson from among the voting members of the Commission.

‘‘(f) Duties.—

‘‘(1) In General.—The Commission shall—

‘‘(A) advise the Secretary on the uses of the Fund;

‘‘(B) review all agricultural research facilities for—

‘‘(i) research importance; and

‘‘(ii) importance to agriculture infrastructure security;

‘‘(C) identify any agricultural research facility that should be closed, realigned, consolidated, or modernized to carry out the research agenda of the Secretary and protect agriculture infrastructure security;

‘‘(D) develop recommendations concerning agricultural research facilities; and

‘‘(E)(i) evaluate the agricultural research facilities acquisition and modernization system (including acquisitions by gift, grant, or any other form of agreement) used by the Department; and

‘‘(ii) based on the evaluation, recommend improvements to the system.

‘‘(2) Strategic Plan.—To assist the Commission in carrying out the duties described in paragraph (1), the Commission shall use the 10-year strategic plan prepared by the Strategic Planning Task Force established under section 4 of the Research Facilities Act (7 U.S.C. 390b).

‘‘(3) Report.—

‘‘(A) In General.—Not later than 240 days after the date of enactment of this subtitle, and each June 1 thereafter, the Commission shall prepare and submit to the Secretary, the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report on the findings and recommendations under paragraph (1).

‘‘(B) Written Response.—Not later than 90 days after the date of receipt of a report from the Commission under subparagraph (A), the Secretary shall provide to the Commission a written response concerning the manner and extent to which the Secretary will implement the recommendations in the report.

‘‘(C) Public Availability.—

‘‘(i) In General.—Subject to clause (ii), the report submitted by the Commission, and any response made by the Secretary, under this subsection shall be available to the public.

‘‘(ii) Exception.—

‘‘(I) National Security.—The Commission or the Secretary may determine that any report or response, or any portion of a report or response, shall not be publicly released in the interest of national security.

‘‘(II) Freedom of Information Act.—On such a determination, the report or response, a portion of the report or response, or any records relating to the report or response, shall not be released under section 552 of title 5, United States Code.

‘‘(g) Commission Personnel Matters.—

‘‘(1) Compensation of Members.—

‘‘(A) Non-Federal Employees.—A voting member of the Commission who is not a regular full-time employee of the Federal Government shall, while attending meetings of the Commission or otherwise engaged in the business of the Commission (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the daily equivalent of the annual rate specified at the time of such service under GS–15 of the General Schedule established under section 5332 of title 5, United States Code.

‘‘(B) Travel Expenses.—A voting member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

‘‘(2) Staff.—The Secretary shall provide the Commission with any personnel and other resources as the Secretary determines appropriate.

‘‘(h) Funding.—

‘‘(1) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2002 through 2006.

‘‘(2) Agriculture Infrastructure Security Fund.—For the purpose of establishing the Commission, the Secretary shall use such sums from the Fund as the Secretary determines to be appropriate.

“CHAPTER 2—OTHER BIOSECURITY PROGRAMS

“SEC. 1487. SPECIAL AUTHORIZATION FOR BIOSECURITY PLANNING AND RESPONSE.

‘‘(a) Authorization of Appropriations.—In addition to amounts for agricultural research, extension, and education under this Act, there are authorized to be appropriated for agricultural research, education, and extension activities for biosecurity planning and response such sums as are necessary for each of fiscal years 2002 through 2006.

‘‘(b) Use of Funds.—Using any authority available to the Secretary, the Secretary shall use funds made available under this section to carry out agricultural research, education, and extension activities (including through competitive grants) necessary—

‘‘(1) to reduce the vulnerability of the United States food and agricultural system to chemical or biological attack;

‘‘(2) to continue joint research initiatives between the Agricultural Research Service, universities, and industry on counterbioterrorism efforts (including continued funding of a consortium in existence on the date of enactment of this subtitle of which the Agricultural Research Service and universities are members);

‘‘(3) to make competitive grants to universities and qualified research institutions for research on counterbioterrorism; and

‘‘(4) to counter or otherwise respond to chemical or biological attack.

“SEC. 1488. AGRICULTURE BIOTERRORISM RESEARCH FACILITIES.

‘‘(a) Definitions.—In this section:

‘‘(1) Construction.—The term ‘construction’ includes—

‘‘(A) the construction of new buildings; and

‘‘(B) the expansion, renovation, remodeling, and alteration of existing buildings.

‘‘(2) Cost.—

‘‘(A) In General.—The term ‘cost’ means any construction cost, including architects' fees.

‘‘(B) Exclusions.—The term ‘cost’ does not include the cost of—

‘‘(i) acquiring land or an interest in land; or

‘‘(ii) constructing any offsite improvement.

‘‘(3) Eligible Entity.—The term ‘eligible entity’ means a college or university that—

‘‘(A) is a land grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)); and

‘‘(B) as determined by the Secretary, has—

‘‘(i) demonstrated expertise in the area of animal and plant diseases;

‘‘(ii) substantial animal and plant diagnostic laboratories; and

‘‘(iii) well-established working relationships with—

‘‘(I) the agricultural industry; and

‘‘(II) farm and commodity organizations.

‘‘(b) Modernization and Construction of Facilities.—

‘‘(1) In General.—To enhance the security of agriculture in the United States against threats posed by bioterrorism, the Secretary shall make construction grants, on a competitive basis, to eligible entities.

‘‘(2) Limitation on Grants.—An eligible entity shall not receive grant funds under this section that, in any fiscal year, exceed $10,000,000.

‘‘(c) Requirements for Grants.—

‘‘(1) In General.—The Secretary shall make a grant to an eligible entity under this section only if, with respect to any facility constructed using grant funds, the eligible entity—

‘‘(A) submits to the Secretary, in such form, in such manner, and containing such agreements, assurances, and information as the Secretary may require, an application for the grant;

‘‘(B) is determined by the Secretary to be competent to engage in the type of research for which the facility is proposed to be constructed;

‘‘(C) provides such assurances as the Secretary determines to be satisfactory that—

‘‘(i) for not less than 20 years after the date of completion of the facility, the facility shall be used for the purposes of the research for which the facility was constructed, as described in the grant application;

‘‘(ii) sufficient funds are available to pay the non-Federal share of the cost of constructing the facility;

‘‘(iii) sufficient funds will be available, as of the date of completion of the construction, for the effective use of the facility for the purposes of the research for which the facility was constructed; and

"(iv) the proposed construction—

"(I) will increase the capability of the eligible entity to conduct research for which the facility was constructed; or

"(II) is necessary to improve or maintain the quality of the research of the eligible entity;

"(D) meets such reasonable qualifications as may be established by the Secretary with respect to—

"(i) the relative scientific and technical merit of the applications, and the relative effectiveness of facilities proposed to be constructed, in expanding the quality of, and the capacity of eligible entities to carry out, biosecurity research;

"(ii) the quality of the research to be carried out in each facility constructed;

"(iii) the need for the research activities to be carried out within the facility as those activities relate to research needs of the United States in securing, and ensuring the safety of, the food supply of the United States;

"(iv) the age and condition of existing research facilities of the eligible entity; and

"(v) biosafety and biosecurity requirements necessary to protect facility staff, members of the public, and the food supply; and

"(E) has demonstrated a commitment to enhancing and expanding the research productivity of the eligible entity.

"(2) Priority.—In providing grants under this section, the Secretary shall give priority to an eligible entity that, as determined by the Secretary, has demonstrated expertise in—

"(A) animal and plant disease prevention;

"(B) pathogen and toxin mitigation;

"(C) cereal disease resistance;

"(D) grain milling and processing;

"(E) livestock production practices;

"(F) vaccine development;

"(G) meat processing;

"(H) pathogen detection and control; or

"(I) food safety.

"(d) Amount of Grant.—The amount of a grant awarded under this section shall be determined by the Secretary.

"(e) Federal Share.—The Federal share of the cost of any construction carried out using funds from a grant provided under this section shall not exceed 50 percent.

"(f) Guidelines.—Not later than 180 days after the date of enactment of this subtitle, the Secretary shall issue guidelines with respect to the provision of grants under this section.

"(g) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2003 through 2005.".

(b) Sense of Congress on Increasing Capacity for Research on Biosecurity and Animal and Plant Health Diseases.—It is the sense of Congress that funding for the Agricultural Research Service, the Animal and Plant Health Inspection Service, and other agencies of the Department of Agriculture with responsibilities for biosecurity should be increased as necessary to improve the capacity of the agencies to conduct research and analysis of, and respond to, bioterrorism and animal and plant diseases.

Subtitle B—Food, Agriculture, Conservation, and Trade Act of 1990

SEC. 731. NATIONAL GENETIC RESOURCES PROGRAM.

Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking "2002" and inserting "2006".

SEC. 732. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH.

Section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921) is amended—

(1) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Grant Priority.—In selecting projects for which grants shall be made under this section, the Secretary shall give priority to public and private research or educational institutions and organizations the goals of which include—

"(1) formation of interdisciplinary teams to review or conduct research on the environmental effects of the release of new genetically modified agricultural products;

"(2) conduct of studies relating to biosafety of genetically modified agricultural products;

"(3) evaluation of the cost and benefit for development of an identity preservation system for genetically modified agricultural products;

"(4) establishment of international partnerships for research and education on biosafety issues; or

"(5) formation of interdisciplinary teams to renew and conduct research on the nutritional enhancement and environmental benefits of genetically modified agricultural products.".

SEC. 733. HIGH-PRIORITY RESEARCH AND EXTENSION INITIATIVES.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended

(1) in subsection (e), by adding at the end the following:

"(25) Animal infectious diseases research and extension.—

"(A) In general.—Research and extension grants may be made under this section for the purpose of developing—

"(i) prevention and control methodologies for animal infectious diseases that impact trade, including vesicular stomatitis, bovine tuberculosis, transmissible spongiform encephalopathy, brucellosis, and E. coli 0157:H7 infection;

"(ii) laboratory tests for quicker detection of infected animals and presence of diseases among herds;

"(iii) prevention strategies, including vaccination programs; and

"(iv) rapid diagnostic techniques for, and evaluation of, animal disease agents considered to be risks for agricultural bioterrorism attack.

"(B) Collaboration.—Research under subparagraph (A) may be conducted in collaboration with scientists from the Department, other Federal agencies, universities, and industry.

"(C) Evaluation of diagnostic techniques and vaccines.—Any research on or evaluation of diagnostic techniques and vaccines under subparagraph (A) shall include evaluation of diagnostic techniques and vaccines under field conditions in countries in which the animal disease occurs.

"(26) Program to combat childhood obesity.—Research and extension grants may be made under this section to consortia of institutions of higher education that specialize in obesity and nutrition research to develop and implement effective strategies to reduce the incidence of childhood obesity.

"(27) Integrated pest management.—Research and extension grants may be made under this section to land grant colleges and universities, other Federal agencies, and other interested persons to coordinate and improve research, education, and outreach on, and implementation on farms of, integrated pest management.

"(28) Beef cattle genetics.—

"(A) In general.—Research and extension grants for beef cattle genetics evaluation research may be made under this section to institutions of higher education, or consortia of institutions of higher education, that—

"(i) have expertise in beef cattle genetic evaluation research and technology; and

"(ii) have been actively involved, for at least 20 years, in the estimation and prediction of progeny differences for publication and use by seed stock producer breed associations.

"(B) Priority.—In making grants under subparagraph (A), the Secretary shall give priority to proposals to—

"(i) establish and coordinate priorities for genetic evaluation of domestic beef cattle;

"(ii) consolidate research efforts to reduce duplication of effort and maximize the return to beef industry;

"(iii) streamline the process between the development and adoption of new genetic evaluation methodologies by the industry;

"(iv) identify new traits and technologies for inclusion in genetic programs in order to—

"(I) reduce the costs of beef production; and

"(II) provide consumers with a high nutritional value, healthy, and affordable protein source; or

"(v) create decisionmaking tools that incorporate the increasing number of traits being evaluated and the increasing amount of information from DNA technology into genetic improvement programs, with the goal of optimizing the overall efficiency, product quality and safety, and health of the domestic beef cattle herd resource."; and

(2) in subsection (h), by striking "2002" and inserting "2006".

SEC. 734. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.

Section 1672A(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a(g)) is amended by striking "2002" and inserting "2006".

SEC. 735. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.

Section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b) is amended—

(1) in subsection (a)—

(A) by inserting after "Board," the following: "and the National Organic Standards Board,";

(B) in paragraph (2), by striking "and" at the end;

(C) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(4) determining desirable traits for organic commodities using advanced genomics;

"(5) pursuing classical and marker-assisted breeding for publicly held varieties of crops and animals optimized for organic systems;

"(6) identifying marketing and policy constraints on the expansion of organic agriculture; and

"(7) conducting advanced on-farm research and development that emphasizes observation of, experimentation with, and innovation for working organic farms, including research relating to production and to socioeconomic conditions."; and

(2) in subsection (e), by striking "2002" and inserting "2006".

SEC. 736. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) is amended by striking "2002" and inserting "2006".

SEC. 737. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) is amended by striking "2002" and inserting "2006".

Subtitle C—Agricultural Research, Extension, and Education Reform Act of 1998

SEC. 741. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) FUNDING.—

"(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Account to carry out this section—

"(A) on October 1, 1998 and each October 1 thereafter through October 1, 2001, $120,000,000; and

"(B) on October 1, 2002, and each October 1 thereafter through October 1, 2005, $145,000,000.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation."; and

(2) in subsection (e), by adding at the end the following:

"(3) MINORITY-SERVING INSTITUTIONS.—The Secretary shall consider reserving, to the maximum extent practicable, 10 percent of the funds made available to carry out this section for a fiscal year for grants to minority-serving institutions.".

SEC. 742. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.

Section 402(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622(g)) is amended by striking "2002" and inserting "2006".

SEC. 743. PRECISION AGRICULTURE.

Section 403(i)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623(i)(1)) is amended by striking "2002" and inserting "2006".

SEC. 744. BIOBASED PRODUCTS.

Section 404 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624) is amended—

(1) in subsection (e)(2), by striking "2001" and inserting "2006"; and

(2) in subsection (h), by striking "2002" and inserting "2006".

SEC. 745. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.

Section 405(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(h)) is amended by striking "2002" and inserting "2006".

SEC. 746. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.

Section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626) is amended—

(1) by redesignating subsection (e) as subsection (f);

(2) by inserting after subsection (d) the following:

"(e) TERM OF GRANT.—A grant under this section shall have a term of not more than 5 years."; and

(3) in subsection (f) (as so redesignated), by striking "2002" and inserting "2006".

SEC. 747. SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM.

Section 408(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(e)) is amended by striking "2002" and inserting "2006".

SEC. 748. OFFICE OF PEST MANAGEMENT POLICY.

Section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) is amended by striking "2002" and inserting "2006".

SEC. 749. SENIOR SCIENTIFIC RESEARCH SERVICE.

Subtitle B of title VI of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7651 et seq.) is amended by adding at the end the following:

"SEC. 620. SENIOR SCIENTIFIC RESEARCH SERVICE.

"(a) IN GENERAL.—There is established in the Department of Agriculture the Senior Scientific Research Service (referred to in this section as the 'Service').

"(b) MEMBERS.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Secretary shall appoint the members of the Service.

"(2) QUALIFICATIONS.—To be eligible for appointment to the Service, an individual shall—

"(A) have conducted outstanding research in the field of agriculture or forestry;

"(B) have earned a doctoral level degree at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); and

"(C) meet qualification standards prescribed by the Director of the Office of Personnel Management for appointment to a position at level GS–15 of the General Schedule.

"(3) NUMBER.—Not more than 100 individuals may serve as members of the Service at any 1 time.

"(4) OTHER REQUIREMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B) and subsection (d)(2), the Secretary may appoint and employ a member of the Service without regard to—

"(i) the provisions of title 5, United States Code, governing appointments in the competitive service;

"(ii) the provisions of subchapter I of chapter 35 of title 5, United States Code, relating to retention preference;

"(iii) the provisions of chapter 43 of title 5, United States Code, relating to performance appraisal and performance actions;

"(iv) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates; and

"(v) the provisions of chapter 75 of title 5, United States Code, relating to adverse actions.

"(B) EXCEPTION.—A member of the Service appointed and employed by the Secretary under subparagraph (A) shall have the same right of appeal to the Merit Systems Protection Board and the same right to file a complaint with the Office of Special Counsel as an employee appointed to a position at level GS–15 of the General Schedule.

"(c) PERFORMANCE APPRAISAL SYSTEM.—The Secretary shall develop a performance appraisal system for members of the Service that is designed to—

"(1) provide for the systematic appraisal of the employment performance of the members; and

"(2) encourage excellence in employment performance by the members.

"(d) COMPENSATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall determine the compensation of members of the Service.

"(2) LIMITATIONS.—The rate of pay for a member of the Service shall—

"(A) not be less than the minimum rate payable for a position at level GS–15 of the General Schedule; and

"(B) not be more than the rate payable for a position at level I of the Executive Schedule, unless the rate is approved by the President under section 5377(d)(2) of title 5, United States Code.

"(e) RETIREMENT CONTRIBUTIONS.—

"(1) IN GENERAL.—On the request of a member of the Service who was an employee of an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) immediately prior to appointment as a member of the Service and who retains the right to continue to make contributions to the retirement system of the institution, the Secretary may contribute an amount not to exceed 10 percent of the basic pay of the member to the retirement system of the institution on behalf of the member.

"(2) FEDERAL RETIREMENT SYSTEM.—

"(A) IN GENERAL.—Subject to subparagraph (B), a member for whom a contribution is made under paragraph (1) shall not, as a result of serving as a member of the Service, be covered by, or earn service credit under, chapter 83 or 84 of title 5, United States Code.

"(B) ANNUAL LEAVE.—Service of a member of the Service described in subparagraph (A) shall be creditable for determining years of service under section 6303(a) of title 5, United States Code.

"(f) INVOLUNTARY SEPARATION.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding the provisions of title 5, United States Code, governing appointment in the competitive service, in the case of an individual who is separated from the Service involuntarily and without cause—

"(A) the Secretary may appoint the individual to a position in the competitive civil service at level GS–15 of the General Schedule; and

"(B) the appointment shall be a career appointment.

"(2) EXCEPTED CIVIL SERVICE.—In the case of an individual described in paragraph (1) who immediately prior to appointment as a member of the Service was not a career appointee in the civil service or the Senior Executive Service, the appointment of the individual under paragraph (1)—

"(A) shall be to the excepted civil service; and

"(B) may not exceed a period of 2 years.".

Subtitle D—Land-Grant Funding

CHAPTER 1—1862 INSTITUTIONS

SEC. 751. CARRYOVER.

Section 7 of the Hatch Act of 1887 (7 U.S.C. 361g) is amended by striking subsection (c) and inserting the following:

"(c) CARRYOVER.—

"(1) IN GENERAL.—The balance of any annual funds provided under this Act to a State agricultural experiment station for a fiscal year that remains unexpended at the end of the fiscal year may be carried over for use during the following fiscal year.

"(2) FAILURE TO EXPEND FULL ALLOTMENT.—If any unexpended balance carried over by a State is not expended by the end of the second fiscal year, an amount equal to the unexpended balance shall be deducted from the next succeeding annual allotment to the State.".

SEC. 752. REPORTING OF TECHNOLOGY TRANSFER ACTIVITIES.

Section 7(e) of the Hatch Act of 1887 (7 U.S.C. 361g(e)) is amended by adding at the end the following:

"(5) The technology transfer activities conducted with respect to federally-funded agricultural research.".

SEC. 753. COMPLIANCE WITH MULTISTATE AND INTEGRATION REQUIREMENTS.

(a) Multistate Cooperative Extension Activities.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended by striking subsection (h) and inserting the following:

"(h) Multistate Cooperative Extension Activities.—

"(1) Definition of multistate activity.—In this subsection, the term 'multistate activity' means a cooperative extension activity in which 2 or more States cooperate to resolve problems that concern more than 1 State.

"(2) Requirement.—

"(A) In general.—To receive funding under subsections (b) and (c) for a fiscal year, a State must have expended on multistate activities, in the preceding fiscal year, an amount equivalent to not less than 25 percent of the funds paid to the State under subsections (b) and (c) for the preceding fiscal year.

"(B) Determination of amount.—In determining compliance with subparagraph (A), the Secretary shall include all cooperative extension funds expended by the State in the preceding fiscal year, including Federal, State, and local funds.

"(3) Reduction of percentage.—The Secretary may reduce the minimum percentage required to be expended for multistate activities under paragraph (2) by a State in a case of hardship, unfeasibility, or other similar circumstances beyond the control of the State, as determined by the Secretary.

"(4) Plan of work.—The State shall include in the plan of work of the State required under section 4 a description of the manner in which the State will meet the requirements of this subsection.

"(5) Applicability.—This subsection does not apply to funds provided—

"(A) to a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)); or

"(B) to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.".

(b) Integrated Research and Extension Activities.—Section 3 of the Hatch Act of 1887 (7 U.S.C. 361c) is amended by striking subsection (i) and inserting the following:

"(i) Integrated Research and Extension Activities.—

"(1) In general.—

"(A) Requirement.—To receive funding under this Act and subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343) for a fiscal year, a State must have expended on activities that integrate cooperative research and extension (referred to in this section as 'integrated activities'), in the preceding fiscal year, an amount equivalent to not less than 25 percent of the funds paid to the State under this section and subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343) for the preceding fiscal year.

"(B) Determination of amount.—In determining compliance with subparagraph (A), the Secretary shall include all cooperative research and extension funds expended by the State in the prior fiscal year, including Federal, State, and local funds.

"(2) Reduction of percentage.—The Secretary may reduce the minimum percentage required to be expended for integrated activities under paragraph (1) by a State in a case of hardship, unfeasibility, or other similar circumstances beyond the control of the State, as determined by the Secretary.

"(3) Plan of work.—The State shall include in the plan of work of the State required under section 7 of this Act and under section 4 of the Smith-Lever Act (7 U.S.C. 344), as applicable, a description of the manner in which the State will meet the requirements of this subsection.

"(4) Applicability.—This subsection does not apply to funds provided—

"(A) to a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)); or

"(B) to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

"(5) Relationship to other requirements.—Funds described in paragraph (1)(B) that a State uses to calculate the required amount of expenditures for integrated activities under paragraph (1)(A) may also be used in the same fiscal year to calculate the amount of expenditures for multistate activities required under subsection (c)(3) of this section and section 3(h) of the Smith-Lever Act (7 U.S.C. 343(h)).".

(c) Effective Date.—The amendments made by this section take effect on October 1, 2002.

CHAPTER 2—1994 INSTITUTIONS

SEC. 754. EXTENSION AT 1994 INSTITUTIONS.

Section 3(b) of the Smith-Lever Act (7 U.S.C. 343(b)) is amended by striking paragraph (3) and inserting the following:

"(3) Extension at 1994 institutions.—

"(A) In general.—There are authorized to be appropriated for fiscal year 2002 and each subsequent fiscal year, for payment to 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)), such sums as are necessary for the purposes set forth in section 2, to remain available until expended.

"(B) Distribution.—Amounts made available under subparagraph (A)—

"(i) shall be distributed on the basis of a formula to be developed and implemented by the Secretary, in consultation with the 1994 Institutions; and

"(ii) may include payments for extension activities carried out during 1 or more fiscal years.

"(C) Cooperative agreement.—In accordance with such regulations as the Secretary may promulgate, a 1994 Institution may administer funds received under this paragraph through a cooperative agreement with an 1862 Institution or an 1890 Institution (as those terms are defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)).".

SEC. 755. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(a) Technical Amendment To Reflect Name Changes.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking paragraphs (1) through (30) and inserting the following:

"(1) Bay Mills Community College.
"(2) Blackfeet Community College.
"(3) Cankdeska Cikana Community College.
"(4) College of Menominee Nation.
"(5) Crownpoint Institute of Technology.
"(6) D-Q University.
"(7) Diné College.
"(8) Dull Knife Memorial College.
"(9) Fond du Lac Tribal and Community College.
"(10) Fort Belknap College.
"(11) Fort Berthold Community College.
"(12) Fort Peck Community College.
"(13) Haskell Indian Nations University.
"(14) Institute of American Indian and Alaska Native Culture and Arts Development.
"(15) Lac Courte Oreilles Ojibwa Community College.
"(16) Leech Lake Tribal College.
"(17) Little Big Horn College.
"(18) Little Priest Tribal College.
"(19) Nebraska Indian Community College.
"(20) Northwest Indian College.
"(21) Oglala Lakota College.
"(22) Salish Kootenai College.
"(23) Sinte Gleska University.
"(24) Sisseton Wahpeton Community College.
"(25) Si Tanka/Huron University.
"(26) Sitting Bull College.
"(27) Southwestern Indian Polytechnic Institute.
"(28) Stone Child College.
"(29) Turtle Mountain Community College.
"(30) United Tribes Technical College.
"(31) White Earth Tribal and Community College.".

(b) Accreditation Requirement for Research Grants.—Section 533(a)(3) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking "sections 534 and 535" and inserting "sections 534, 535, and 536".

(c) Land-Grant Status for 1994 Institutions.—Section 533(b) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking "$4,600,000 for each of fiscal years 1996 through 2002" and inserting "such sums as are necessary for each of fiscal years 2002 through 2006".

(d) Change of Indian Student Count Formula.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking "(as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2397h(3)) for each 1994 Institution for the fiscal year'" and inserting "(as defined in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)))".

(e) Increase in Institutional Payments.—Section 534(a)(1)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking "$50,000" and inserting "$100,000".

(f) Institutional Capacity Building Grants.—Section 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) in subsection (b)(1), by striking "2002" and inserting "2006"; and

(2) in subsection (c), by striking "$1,700,000 for each of fiscal years 1996 through 2002" and inserting "such sums as are necessary for each of fiscal years 2002 through 2006".

(g) Research Grants.—Section 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking "2002" and inserting "2006".

SEC. 756. ELIGIBILITY FOR INTEGRATED GRANTS PROGRAM.

Section 406(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(b)) is amended by inserting "and 1994 Institutions" before "on a competitive basis".

CHAPTER 3—1890 INSTITUTIONS

SEC. 757. AUTHORIZATION PERCENTAGES FOR RESEARCH AND EXTENSION FORMULA FUNDS.

(a) Extension.—Section 1444(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)) is amended—

(1) by striking "(a) There" and inserting the following:

"(a) Authorization of Appropriations.—

"(1) In general.—There";

(2) by striking the second sentence; and

(3) in the third sentence, by striking "Beginning" through "6 per centum" and inserting the following:

"(2) Minimum amount.—Beginning with fiscal year 2002, there shall be appropriated under this section for each fiscal year an amount that is not less than 15 percent";

(3) by striking "Funds appropriated" and inserting the following:

"(3) Uses.—Funds appropriated"; and

(4) by striking "No more" and inserting the following:

"(4) Carryover.—No more".

(b) Research.—Section 1445(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)) is amended—

(1) by striking "(a) There" and inserting the following:

"(a) Authorization of Appropriations.—

"(1) In general.—There";

(2) by striking the second sentence and inserting the following:

"(2) Minimum amount.—Beginning with fiscal year 2002, there shall be appropriated under this section for each fiscal year an amount that is not less than 25 percent of the total appropriations for the fiscal year under section 3 of the Hatch Act of 1887 (7 U.S.C. 361c).";

(3) by striking "Funds appropriated" and inserting the following:

"(3) Uses.—Funds appropriated";

(4) by striking "The eligible" and inserting the following:

"(4) Coordination.—The eligible"; and

(5) by striking "No more" and inserting the following:

"(5) Carryover.—No more".

SEC. 758. CARRYOVER.

Section 1445(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a) (as amended by section 757(b)) is amended by striking paragraph (5) and inserting the following:

"(5) Carryover.—

"(A) In general.—The balance of any annual funds provided to an eligible institution for a fiscal year under this section that remains unexpended at the end of the fiscal year may be carried over for use during the following fiscal year.

"(B) Failure to expend full amount.—If any unexpended balance carried over by an eligible institution is not expended by the end of the second fiscal year, an amount equal to the unexpended balance shall be deducted from the next succeeding annual allotment to the eligible institution.".

SEC. 759. REPORTING OF TECHNOLOGY TRANSFER ACTIVITIES.

Section 1445(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(c)(3)) is amended by adding at the end the following:

"(F) The technology transfer activities conducted with respect to federally-funded agricultural research.".

SEC. 760. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking "$15,000,000 for each of fiscal years 1996 through 2002" and inserting "$25,000,000 for each of fiscal years 2002 through 2006".

SEC. 761. NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS.

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended by striking "2002" each place it appears in subsections (a)(1) and (f) and inserting "2006".

SEC. 762. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES.

Section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) is amended by striking subsections (c) and (d) and inserting the following:

"(c) Matching Formula.—

"(1) In general.—For each of fiscal years 2003 through 2006, the State shall provide matching funds from non-Federal sources.

"(2) Amount.—The amount of the matching funds shall be equal to not less than—

"(A) for fiscal year 2003, 60 percent of the formula funds to be distributed to the eligible institution; and

"(B) for each of fiscal years 2004 through 2006, 110 percent of the amount required under this paragraph for the preceding fiscal year.

"(d) Waivers.—Notwithstanding subsection (f), for any of fiscal years 2003 through 2006, the Secretary may waive the matching funds requirement under subsection (c) for any amount above the level of 50 percent for an eligible institution of a State if the Secretary determines that the State will be unlikely to meet the matching requirement.".

CHAPTER 4—LAND-GRANT INSTITUTIONS

Subchapter A—General

SEC. 771. PRIORITY-SETTING PROCESS.

Section 102(c)(1) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(c)(1)) is amended—

(1) by striking "establish and implement a process for obtaining" and inserting "obtain public"; and

(2) by striking the period at the end and inserting the following: "through a process that reflects transparency and opportunity for input from producers of diverse agricultural crops and diverse geographic and cultural communities.".

SEC. 772. TERMINATION OF CERTAIN SCHEDULE A APPOINTMENTS.

(a) Termination.—Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall terminate each appointment listed as an excepted position under schedule A of the General Schedule made by the Secretary to the Federal civil service of an individual who holds dual government appointments, and who carries out agricultural extension work in a program at a college or university eligible to receive funds, under—

(1) the Smith-Lever Act (7 U.S.C. 341 et seq.);

(2) section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221); or

(3) section 208(e) of the District of Columbia Public Postsecondary Education Reorganization Act (88 Stat. 1428).

(b) Continuation of Certain Federal Benefits.—

(1) In general.—Notwithstanding title 5, United States Code, and subject to paragraph (2), an individual described in subsection (a), during the period the individual is employed in an agricultural extension program described in subsection (a) without a break in service, shall continue to—

(A) be eligible to participate, to the same extent that the individual was eligible to participate (on the day before the date of enactment of this Act), in—

(i) the Federal Employee Health Benefits Program;

(ii) the Federal Employee Group Life Insurance Program;

(iii) the Civil Service Retirement System;

(iv) the Federal Employee Retirement System; and

(v) the Thrift Savings Plan; and

(B) receive Federal Civil Service employment credit to the same extent that the individual was receiving such credit on the day before the date of enactment of this Act.

(2) Limitations.—An individual may continue to be eligible for the benefits described in paragraph (1) if—

(A) in the case of an individual who remains employed in the agricultural extension program described in subsection (a) on the date of the enactment of this Act, the employing college or university continues to fulfill the administrative and financial responsibilities (including making agency contributions) associated with providing those benefits, as determined by the Secretary of Agriculture; and

(B) in the case of an individual who changes employment to a second college or university described in subsection (a)—

(i) the individual continues to work in an agricultural extension program described in subsection (a), as determined by the Secretary of Agriculture;

(ii) the second college or university—

(I) fulfills the administrative and financial responsibilities (including making agency contributions) associated with providing those benefits, as determined by the Secretary of Agriculture; and

(II) within 120 days before the date of the employment of the individual, had employed a different individual described in subsection (a) who had performed the same duties of employment; and

(iii) the individual was eligible for those benefits on the day before the date of enactment of this Act.

Subchapter B—Land-Grant Institutions in Insular Areas

SEC. 775. DISTANCE EDUCATION GRANTS PROGRAM FOR INSULAR AREA LAND-GRANT INSTITUTIONS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) (as amended by section 723) is amended by adding at the end the following:

"Subtitle 0—Land Grant Institutions in Insular Areas

"SEC. 1489. DISTANCE EDUCATION GRANTS FOR INSULAR AREAS.

"(a) In General.—The Secretary may make competitive or noncompetitive grants to State cooperative institutions in insular areas to strengthen the capacity of State cooperative institutions to carry out distance food and agricultural education programs using digital network technologies.

"(b) Use.—Grants made under this section shall be used—

"(1) to acquire the equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure necessary to teach students and teachers about technology in the classroom;

"(2) to develop and provide educational services (including faculty development) to prepare students or faculty seeking a degree or certificate that is approved by the State or a regional accrediting body recognized by the Secretary of Education;

"(3) to provide teacher education, library and media specialist training, and preschool and teacher aid certification to individuals who seek to acquire or enhance technology skills in order to use technology in the classroom or instructional process;

"(4) to implement a joint project to provide education regarding technology in the classroom with a local educational agency, community-based organization, national nonprofit organization, or business, including a minority business or a business located in a HUBZone established under section 31 of the Small Business Act (15 U.S.C. 657a); or

"(5) to provide leadership development to administrators, board members, and faculty of eligible institutions with institutional responsibility for technology education.

"(c) Limitation on Use of Grant Funds.—Funds provided under this section shall not be used for the planning, acquisition, construction, rehabilitation, or repair of a building or facility.

"(d) Administration of Program.—The Secretary may carry out this section in a manner that recognizes the different needs and opportunities for State cooperative institutions in the Atlantic and Pacific Oceans.

"(e) Matching Requirement.—

"(1) In general.—The Secretary may establishment a requirement that a State cooperative institution receiving a grant under this section shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the grant.

"(2) Waivers.—If the Secretary establishes a matching requirement under paragraph (1), the requirement shall include an option for the Secretary to waive the requirement for an insular area State cooperative institution for any fiscal year if the Secretary determines that the institution will be unlikely to meet the matching requirement for the fiscal year.

"(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $4,000,000 for each of fiscal years 2002 through 2006.".

SEC. 776. MATCHING REQUIREMENTS FOR RESEARCH AND EXTENSION FORMULA FUNDS FOR INSULAR AREA LAND-GRANT INSTITUTIONS.

(a) Experiment Stations.—Section 3(d) of the Hatch Act of 1887 (7 U.S.C. 361c(d)) is amended by striking paragraph (4) and inserting the following:

"(4) Exception for insular areas.—

"(A) In general.—Effective beginning for fiscal year 2003, in lieu of the matching funds requirement of paragraph (1), the insular areas of the Commonwealth of Puerto Rico, Guam, and the Virgin Islands of the United States shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds distributed by the Secretary to each of the insular areas, respectively, under this section.

"(B) Waivers.—The Secretary may waive the matching fund requirement of subparagraph (A) for any fiscal year if the Secretary determines that the government of the insular area will be unlikely to meet the matching requirement for the fiscal year.".

(b) Cooperative Agricultural Extension.—Section 3(e) of the Smith-Lever Act (7 U.S.C. 343(e)) is amended by striking paragraph (4) and inserting the following:

"(4) Exception for insular areas.—

"(A) In general.—Effective beginning for fiscal year 2003, in lieu of the matching funds requirement of paragraph (1), the insular areas of the Commonwealth of Puerto Rico, Guam, and the Virgin Islands of the United States shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds distributed by the Secretary to each of the insular 'areas, respectively, under this section.

"(B) Waivers.—The Secretary may waive the matching fund requirement of subparagraph (A) for any fiscal year if the Secretary determines that the government of the insular area will be unlikely to meet the matching requirement for the fiscal year.".

Subtitle E—Other Laws

SEC. 781. CRITICAL AGRICULTURAL MATERIALS.

Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking "2002" and inserting "2006".

SEC. 782. RESEARCH FACILITIES.

Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking "2002" and inserting "2006".

SEC. 783. FEDERAL AGRICULTURAL RESEARCH FACILITIES.

Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99-198; 99 Stat. 1556) is amended by striking "2002" and inserting "2006".

SEC. 784. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended in subsection (b)—

(1) in paragraph (2), by striking "in—" and all that follows and inserting ", as those needs are determined by the Secretary, in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board, not later than July 1 of each fiscal year for the purposes of the following fiscal year."; and

(2) in paragraph (10), by striking "2002" and inserting "2006".

SEC. 785. RISK MANAGEMENT EDUCATION FOR BEGINNING FARMERS AND RANCHERS.

(a) In General.—Section 524(a)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(3)) is amended by striking subparagraph (A) and inserting the following:

"(A) Authority.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall establish a program under which competitive grants are made to qualified public and private entities (including land-grant colleges and universities, cooperative extension services, colleges or universities, and community colleges), as determined by the Secretary, for the purpose of—

"(i) educating producers generally about the full range of risk management activities, including futures, options, agricultural trade options, crop insurance, cash forward contracting, debt reduction, production diversification, farm resources risk reduction, and other risk management strategies; or

"(ii) educating beginning farmers and ranchers—

"(I) in the areas described in clause (i); and

"(II) in risk management strategies, as part of programs that are specifically targeted at beginning farmers and ranchers.".

(b) Technical Correction.—Section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)) is amended by redesignating the second paragraph (2) and paragraph (3) as paragraphs (3) and (4), respectively.

SEC. 786. AQUACULTURE.

Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking "2002" each place it appears and inserting "2006".

Subtitle F—New Authorities

SEC. 791. DEFINITIONS.

In this subtitle:

(1) Department.—The term "Department" means the Department of Agriculture.

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 792. REGULATORY AND INSPECTION RESEARCH.

(a) Definitions.—In this section:

(1) Inspection or regulatory agency of the department.—The term "inspection or regulatory agency of the Department" includes—

(A) the Animal and Plant Health Inspection Service;

(B) the Food Safety and Inspection Service;

(C) the Grain Inspection, Packers, and Stockyards Administration; and

(D) the Agricultural Marketing Service.

(2) Urgent applied research needs.—The term "urgent applied research needs" includes research necessary to carry out—

(A) agricultural marketing programs;

(B) programs to protect the animal and plant resources of the United States; and

(C) educational programs or special studies to improve the safety of the food supply of the United States.

(b) Timely, Cost-Effective Research.—To meet the urgent applied research needs of inspection or regulatory agencies of the Department, the Secretary—

(1) may use a public or private source; and

(2) shall use the most practicable source to provide timely, cost-effective means of providing the research.

(c) Conflicts of Interest.—The Secretary shall establish guidelines to prevent any conflict of interest that may arise if an inspection or regulatory agency of the Department obtains research from any Federal agency the work or technology transfer efforts of which are funded in part by an industry subject to the jurisdiction of the inspection or regulatory agency of the Department.

(d) Regulations.—The Secretary may promulgate such regulations as are necessary to carry out this section.

SEC. 793. EMERGENCY RESEARCH TRANSFER AUTHORITY.

(a) In General.—Subject to subsection (b), in addition to any other authority that the Secretary may have to transfer appropriated funds, the Secretary may transfer up to 2 percent of any appropriation made available to an office or agency of the Department for a fiscal year for agricultural research, extension, marketing, animal and plant health, nutrition, food safety, nutrition education, or forestry programs to any other appropriation for an office or agency of the Department for emergency research, extension, or education activities needed to address imminent threats to animal and plant health, food safety, or human nutrition, including bioterrorism.

(b) Limitations.—The Secretary may transfer funds under subsection (a) only—

(1) on a determination by the Secretary that the need is so imminent that the need will not be timely met by annual, supplemental, or emergency appropriations;

(2) in an aggregate amount that does not exceed $5,000,000 for any fiscal year; and

(3) with the approval of the Director of the Office of Management and Budget.

SEC. 794. REVIEW OF AGRICULTURAL RESEARCH SERVICE.

(a) IN GENERAL.—The Secretary shall conduct a review of the purpose, efficiency, effectiveness, and impact on agricultural research of the Agricultural Research Service.

(b) ADMINISTRATION.—In conducting the review, the Secretary shall use persons outside the Department, including—

(1) Federal scientists;

(2) college and university faculty;

(3) private and nonprofit scientists; or

(4) other persons familiar with the role of the Agricultural Research Service in conducting agricultural research in the United States.

(c) REPORT.—Not later than September 30, 2004, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the review.

(d) FUNDING.—The Secretary shall use to carry out this section not more than 0.1 percent of the amount of appropriations made available to the Agricultural Research Service for each of fiscal years 2002 through 2004.

SEC. 795. TECHNOLOGY TRANSFER FOR RURAL DEVELOPMENT.

(a) IN GENERAL.—The Secretary, acting through the Rural Business-Cooperative Service and the Agricultural Research Service, shall establish a program to promote the availability of technology transfer opportunities of the Department to rural businesses and residents.

(b) COMPONENTS OF PROGRAM.—The program shall, to the maximum extent practicable, include—

(1) a website featuring information about the program and technology transfer opportunities of the Department;

(2) an annual joint program for State economic development directors and Department rural development directors regarding technology transfer opportunities of the Agricultural Research Service and other offices and agencies of the Department; and

(3) technology transfer opportunity programs at each Agricultural Research Service laboratory, conducted at least biennially, which may include participation by other local Federal laboratories, as appropriate.

(c) FUNDING.—The Secretary shall use to carry out this section—

(1) amounts made available to the Agricultural Research Service; and

(2) amounts made available to the Rural Business-Cooperative Service for salaries and expenses.

SEC. 796. BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.

(a) DEFINITION OF BEGINNING FARMER OR RANCHER.—In this section, the term "beginning farmer or rancher" means a person that—

(1)(A) has not operated a farm or ranch; or

(B) has operated a farm or ranch for not more than 10 years; and

(2) meets such other criteria as the Secretary may establish.

(b) PROGRAM.—The Secretary shall establish a beginning farmer and rancher development program to provide training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers.

(c) GRANTS.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall make competitive grants to support new and established local and regional training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers, including programs and services (as appropriate) relating to—

(A) mentoring, apprenticeships, and internships;

(B) resources and referral;

(C) assisting beginning farmers or ranchers in acquiring land from retiring farmers and ranchers;

(D) innovative farm and ranch transfer strategies;

(E) entrepreneurship and business training;

(F) model land leasing contracts;

(G) financial management training;

(H) whole farm planning;

(I) conservation assistance;

(J) risk management education;

(K) diversification and marketing strategies;

(L) curriculum development;

(M) understanding the impact of concentration and globalization;

(N) basic livestock and crop farming practices;

(O) the acquisition and management of agricultural credit;

(P) environmental compliance;

(Q) information processing; and

(R) other similar subject areas of use to beginning farmers or ranchers.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, the recipient shall be a collaborative State, local, or regionally-based network or partnership of public or private entities, which may include—

(A) a State cooperative extension service;

(B) a Federal or State agency;

(C) a community-based and nongovernmental organization;

(D) a college or university (including an institution awarding an associate's degree) or foundation maintained by a college or university; or

(E) any other appropriate partner, as determined by the Secretary.

(3) TERM OF GRANT.—The term of a grant under this subsection shall not exceed 3 years.

(4) MATCHING REQUIREMENT.—To be eligible to receive a grant under this subsection, a recipient shall provide a match in the form of cash or in-kind contributions in an amount equal to 25 percent of the funds provided by the grant.

(5) SET-ASIDE.—Not less than 25 percent of funds used to carry out this subsection for a fiscal year shall be used to support programs and services that address the needs of—

(A) limited resource beginning farmers or ranchers (as defined by the Secretary);

(B) socially disadvantaged beginning farmers or ranchers (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); and

(C) farmworkers desiring to become farmers or ranchers.

(6) PROHIBITION.—A grant made under this subsection may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(7) ADMINISTRATIVE COSTS.—The Secretary shall use not more than 4 percent of the funds made available to carry out this section for administrative costs incurred by the Secretary in carrying out this section.

(d) EDUCATION TEAMS.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall establish beginning farmer and rancher education teams to develop curricula and conduct educational programs and workshops for beginning farmers or ranchers in diverse geographical areas of the United States.

(2) CURRICULUM.—In promoting the development of curricula, the Secretary shall, to the maximum extent practicable, include modules tailored to specific audiences of beginning farmers or ranchers, based on crop or regional diversity.

(3) COMPOSITION.—In establishing an education team for a specific program or workshop, the Secretary shall, to the maximum extent practicable—

(A) obtain the short-term services of specialists with knowledge and expertise in programs serving beginning farmers or ranchers; and

(B) use officers and employees of the Department with direct experience in programs of the Department that may be taught as part of the curriculum for the program or workshop.

(4) COOPERATION.—

(A) IN GENERAL.—In carrying out this subsection, the Secretary shall cooperate, to the maximum extent practicable, with—

(i) State cooperative extension services;

(ii) Federal and State agencies;

(iii) community-based and nongovernmental organizations;

(iv) colleges and universities (including an institution awarding an associate's degree) or foundations maintained by a college or university; and

(v) other appropriate partners, as determined by the Secretary.

(B) COOPERATIVE AGREEMENT.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into a cooperative agreement to reflect the terms of any cooperation under subparagraph (A).

(e) CURRICULUM AND TRAINING CLEARINGHOUSE.—The Secretary shall establish an online clearinghouse that makes available to beginning farmers or ranchers education curricula and training materials and programs, which may include online courses for direct use by beginning farmers or ranchers.

(f) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall seek stakeholder input from—

(1) beginning farmers and ranchers;

(2) national, State, and local organizations and other persons with expertise in operating beginning farmer and rancher programs; and

(3) the Advisory Committee on Beginning Farmers and Ranchers established under section 5 of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1929 note; Public Law 102-554).

(g) PARTICIPATION BY OTHER FARMERS AND RANCHERS.—Nothing in this section prohibits the Secretary from allowing farmers and ranchers who are not beginning farmers or ranchers from participating in programs authorized under this section to the extent that the Secretary determines that such participation is appropriate and will not detract from the primary purpose of educating beginning farmers and ranchers.

(h) FUNDING.—

(1) FEES AND CONTRIBUTIONS.—

(A) IN GENERAL.—The Secretary may—

(i) charge a fee to cover all or part of the costs of curriculum development and the delivery of programs or workshops provided by—

(I) a beginning farmer and rancher education team established under subsection (d); or

(II) the online clearinghouse established under subsection (e); and

(ii) accept contributions from cooperating entities under a cooperative agreement entered into under subsection (d)(4)(B) to cover all or part of the costs for the delivery of programs or workshops by the beginning farmer and rancher education teams.

(B) AVAILABILITY.—Fees and contributions received by the Secretary under subparagraph (A) shall—

(i) be deposited in the account that incurred the costs to carry out this section;

(ii) be available to the Secretary to carry out the purposes of the account, without further appropriation;

(iii) remain available until expended; and

(iv) be in addition to any funds made available under paragraph (2).

(2) TRANSFERS.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $15,000,000, to remain available for 2 fiscal years.

(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subparagraph (A), without further appropriation.

SEC. 797. SENSE OF CONGRESS REGARDING DOUBLING OF FUNDING FOR AGRICULTURAL RESEARCH.

It is the sense of Congress that—

(1) Federal funding for food and agricultural research has been essentially constant for 2 decades, putting at risk the scientific base on which food and agricultural advances have been made;

(2) the resulting increase in the relative proportion of private sector, industry investments in food and agricultural research has led to questions about the independence and objectivity of research and outreach conducted by the Federal and university research sectors; and

(3) funding for food and agricultural research should be at least doubled over the next 5 fiscal years—

(A) to restore the balance between public and private sector funding for food and agricultural research; and

(B) to maintain the scientific base on which food and agricultural advances are made.

SEC. 798. RURAL POLICY RESEARCH.

(a) IN GENERAL.—There is established in the Treasury of the United States an account to be known as the "Rural Research Fund Account" (referred to in this section as the "Account") to provide funds for activities described in subsection (c).

(b) FUNDING.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Account to carry out this section $15,000,000, to remain available for 2 fiscal years.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

(c) PURPOSES.—The Secretary shall use the funds in the Account to make competitive research grants for applied and outcome oriented research and policy research and analysis of rural issues relating to—

(1) rural sociology;

(2) effects of demographic change, including aging population, outmigration, and labor resources;

(3) needs of groups of rural citizens, including senior citizens, families, youth, children, and socially disadvantaged individuals;

(4) rural community development;

(5) rural infrastructure, including water and waste, community facilities, telecommunications, electricity, and high-speed broadband services;

(6) rural business development, including credit, venture capital, cooperatives, value-added enterprises, new and alternative markets, farm and rural enterprise formation, and entrepreneurship;

(7) farm management, including strategic planning, business and marketing opportunities, risk management, natural resources and environmental management, organic and sustainable farming systems, and intergenerational transfer strategies;

(8) rural education and extension programs, including methods of delivery, availability of resources, and use of distance learning; and

(9) rural health, including mental health, on-farm safety, and food safety.

(d) REQUIREMENTS.—In making grants under this section, the Secretary shall—

(1) solicit and consider public input from persons who conduct or use agricultural research, extension, education, or rural development programs; and

(2) ensure that funded proposals will provide high-quality research that may be of use to public policymakers and private entities in making decisions that affect development in rural areas.

(e) ELIGIBLE GRANTEES.—The Secretary may make a grant under this section to—

(1) an individual;

(2) a college or university or a foundation maintained by a college or university;

(3) a State cooperative institution;

(4) a community college;

(5) a nonprofit organization, institution, or association;

(6) a business association;

(7) an agency of a State, local, or tribal government; or

(8) a regional partnership of public and private agencies.

(f) TERM.—A grant under this section shall have a term that does not exceed 5 years.

(g) MATCHING FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may require as a condition of the grant that the grant funding be matched, in whole or in part, with matching funds from a non-Federal source.

(2) BUSINESS ASSOCIATIONS.—The Secretary shall require that a grant to a business association be matched with equal matching funds from a non-Federal source.

(h) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for grants under this section to pay administrative costs incurred by the Secretary in carrying out this section.

SEC. 798A. PRIORITY FOR FARMERS AND RANCHERS PARTICIPATING IN CONSERVATION PROGRAMS.

In carrying out new on-farm research or extension programs or projects authorized by this Act, an amendment made by this Act, or any Act enacted after the date of enactment of this Act, the Secretary shall give priority in carrying out the programs or projects to using farms or ranches of farmers or ranchers that participate in Federal agricultural conservation programs.

SEC. 798B. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.

The Secretary shall ensure that segregated data on the production and marketing of organic agricultural products is included in the ongoing baseline of data collection regarding agricultural production and marketing.

SEC. 798C. ORGANICALLY PRODUCED PRODUCT RESEARCH AND EDUCATION.

Not later than July 1, 2002, the Secretary, shall prepare, in consultation with the Advisory Committee on Small Farms, and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on—

(1) the implementation of the organic rule promulgated under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.); and

(2) the impact of the organic rule program on small farms (as defined by the Advisory Committee on Small Farms).

SEC. 798D. INTERNATIONAL ORGANIC RESEARCH COLLABORATION.

The Secretary, acting through the Agricultural Research Service (including the National Agriculture Library), shall facilitate access by research and extension professionals in the United States to, and the use by those professionals of, organic research conducted outside the United States.

TITLE VIII—FORESTRY

SEC. 801. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704(d)) is amended by striking "2002" and inserting "2006".

SEC. 802. MCINTIRE-STENNIS COOPERATIVE FORESTRY RESEARCH PROGRAM.

It is the sense of Congress to reaffirm the importance of Public Law 87–88 (16 U.S.C. 582a et seq.), commonly known as the "McIntire-Stennis Cooperative Forestry Act".

SEC. 803. SUSTAINABLE FORESTRY OUTREACH INITIATIVE; RENEWABLE RESOURCES EXTENSION ACTIVITIES.

(a) SUSTAINABLE FORESTRY OUTREACH INITIATIVE.—The Renewable Resources Extension Act of 1978 is amended by inserting after section 5A (16 U.S.C. 1674a) the following:

"SEC.. 5B. SUSTAINABLE FORESTRY OUTREACH INITIATIVE.

"The Secretary shall establish a program, to be known as the 'Sustainable Forestry Outreach Initiative', to educate landowners concerning—.

"(1) the value and benefits of practicing sustainable forestry;

"(2) the importance of professional forestry advice in achieving sustainable forestry objectives; and

"(3) the variety of public and private sector resources available to assist the landowners in planning for and practicing sustainable forestry.".

(b) RENEWABLE RESOURCES EXTENSION ACTIVITIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended by striking the first sentence and inserting the following: "There is authorized to be appropriated to carry out this Act $30,000,000 for each of fiscal years 2002 through 2006.".

(2) TERMINATION DATE.—Section 8 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 note; Public Law 95–306) is amended by striking "2000" and inserting "2006".

SEC. 804. FORESTRY INCENTIVES PROGRAM.

Section 4(j) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103(j)) is amended by striking "2002" and inserting "2006".

SEC. 805. SUSTAINABLE FORESTRY COOPERATIVE PROGRAM.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 5 (16 U.S.C. 2103a) the following:

“SEC. 5A. SUSTAINABLE FORESTRY COOPERATIVE PROGRAM.

“(a) Definitions.—In this section:

“(1) Farmer or rancher.—The term 'farmer or rancher' means a person engaged in the production of an agricultural commodity (including livestock).

“(2) Forestry cooperative.—The term 'forestry cooperative' means an association that is—

“(A) owned and operated by nonindustrial private forest landowners; and

“(B) comprised of members—

“(i) of which at least 51 percent are farmers or ranchers; and

“(ii) that use sustainable forestry practices on nonindustrial private forest land to create a long-term, sustainable income stream.

“(3) Nonindustrial private forest land.—The term 'nonindustrial private forest land' has the meaning given the term 'nonindustrial private forest lands' in section 5(c).

“(b) Establishment.—The Secretary shall establish a program, to be known as the 'sustainable forestry cooperative program', under which the Secretary shall provide, to nonprofit organizations on a competitive basis, grants to establish, and develop and support, sustainable forestry practices carried out by members of, forestry cooperatives.

“(c) Use of Funds.—

“(1) In general.—Subject to paragraph (2), funds from a grant provided under this section shall be used for—

“(A) predevelopment, development, startup, capital acquisition, and marketing costs associated with a forestry cooperative; or

“(B) the development or support of a sustainable forestry practice of a member of a forestry cooperative.

“(2) Conditions.—

“(A) Development.—The Secretary shall provide funds under paragraph (1)(A) only to a nonprofit organization with demonstrated expertise in cooperative development, as determined by the Secretary.

“(B) Compliance with plan.—A sustainable forestry practice developed or supported through the use of funds from a grant under this section shall comply with any applicable standards for sustainable forestry contained in a management plan that—

“(i) meets the requirements of section 6A(g); and

“(ii) is approved by the State forester (or equivalent State official).

“(d) Funding.—

“(1) In general.—Not later than 30 days after the date of enactment of this section, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section $2,000,000, to remain available until expended.

“(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.”.

SEC. 806. SUSTAINABLE FOREST MANAGEMENT PROGRAM.

(a) Findings and Purposes.—

(1) Findings.—Congress finds that—

(A) the United States is becoming increasingly dependent on nonindustrial private forest land to supply necessary market commodities and nonmarket conservation values;

(B) there is a strong demand for expanded assistance programs for owners of nonindustrial private forest land because the majority of the wood supply of the United States comes from nonindustrial private forest land;

(C) soil, water, and air quality, fish and wildlife habitat, aesthetic values, and opportunities for outdoor recreation in the United States would be maintained and improved through good stewardship of nonindustrial private forest land;

(D) the products and services resulting from stewardship of nonindustrial private forest land contribute to the economic, social, and ecological health and diversity of rural communities;

(E) catastrophic wildfires threaten human lives, property, forests, and other resources;

(F) Federal and State cooperation in forest fire prevention and control has proven effective and valuable because properly managed forest stands are less susceptible to catastrophic fire, as demonstrated by the catastrophic fire seasons of 1998 and 2000;

(G) owners of nonindustrial private forest land face increased pressure to make that land available for development and other uses, resulting in forest land loss and fragmentation that reduces the ability of private forest land to provide a full range of societal benefits;

(H) complex investments in the management of long-rotation forest stands, including sustainable hardwood management, are often the most difficult commitments for owners of nonindustrial private forest land;

(I) the investment of a single Federal dollar in State and private forestry programs is estimated to leverage, on the average, $9 from State, local, and private sources; and

(J) comprehensive, multiresource planning assistance made available to each landowner before the provision of technical assistance would provide an opportunity to ensure that the landowner is aware of the many projects and activities eligible for cost-share assistance.

(2) Purposes.—The purposes of this section are—

(A) to strengthen the commitment of the Secretary to sustainable forest management to enhance the productivity of timber, fish and wildlife habitat, soil and water quality, wetland, recreational resources, and aesthetic values of forest land; and

(B) to establish a coordinated and cooperative Federal, State, and local sustainable forestry program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest land.

(b) Program.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 6 (16 U.S.C. 2103b) the following:

“SEC. 6A. SUSTAINABLE FOREST MANAGEMENT PROGRAM.

“(a) Definitions.—In this section:

“(1) Committee.—The term 'Committee' means a State Forest Stewardship Coordinating Committee established under section 19(b).

“(2) Indian tribe.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(3) Program.—The term 'program' means the sustainable forest management program established under subsection (b)(1).

“(4) Nonindustrial private forest land.—The term 'nonindustrial private forest land' has the meaning given the term 'nonindustrial private forest lands' in section 5(c).

“(5) Owner.—The term 'owner' means an owner of nonindustrial private forest land.

“(6) State forester.—The term 'State forester' means the director or other head of a State forestry agency (or an equivalent State official).

“(b) Establishment.—

“(1) In general.—The Secretary shall establish a sustainable forest management program to—

“(A) provide financial assistance to State foresters; and

“(B) encourage the long-term sustainability of nonindustrial private forest land in the United States by assisting the owners of nonindustrial private forest land, through State foresters, in more actively managing the nonindustrial private forest land and related resources of those owners through the use of State, Federal, and private sector resource management expertise, financial assistance, and educational programs.

“(2) Coordination.—The Secretary, acting through State foresters, shall implement the program—

“(A) in coordination with the Committees; and

“(B) in consultation with—

“(i) other Federal, State, and local natural resource management agencies;

“(ii) institutions of higher education; and

“(iii) a broad range of private sector interests.

“(c) State Priority Plan.—

“(1) In general.—Subject to paragraph (3), as a condition of receipt of funding under the program, a State Forester and the Committee of the State shall jointly develop and submit to the Secretary a 5-year plan that describes the funding priorities of the State in meeting the purposes of the program.

“(2) Public participation.—The plan submitted to the Secretary under paragraph (1) shall include documentation of the efforts of the State to provide for public participation in the development of the plan.

“(3) State priorities.—The Secretary shall ensure, to the maximum extent practicable, that the need for expanded technical assistance programs for owners is met in the annual funding priorities of each State described in paragraph (1).

“(d) Purposes.—The Secretary shall allocate resources of the Secretary among States in accordance with subsection (j) to encourage, in accordance with the plan of each State described in subsection (c)—

“(1) the investment in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of the nonindustrial private forest land in the United States;

“(2) the occurrence of afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices as needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to—

“(A) meet projected public demand for forest resources; and

“(B) provide environmental benefits;

“(3) the protection of riparian buffers and forest wetland;

“(4) the maintenance and enhancement of fish and wildlife habitat;

“(5) the enhancement of soil, air, and water quality;

“(6) through the use of agroforestry practices, the reduction of soil erosion and maintenance of soil quality;

“(7) the maintenance and enhancement of the forest landbase;

“(8) the reduction of the threat of catastrophic wildfires; and

"(9) the preservation of aesthetic quality and opportunities for outdoor recreation.

"(e) ELIGIBILITY.—

"(1) COST-SHARE ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in paragraph (2), an owner shall be eligible to receive cost-share assistance from a State forester under the program if the owner—

"(i) develops a management plan in accordance with subsection (f) that—

"(I) addresses site-specific activities and practices; and

"(II) is approved by the State forester;

"(ii) agrees to implement approved activities in accordance with the management plan for a period of not less than 10 years, unless the State forester approves a modification to the management plan; and

"(iii) except as provided in subparagraph (B), owns not more than 1,000 acres of nonindustrial private forest land.

"(B) EXCEPTION FOR SIGNIFICANT PUBLIC BENEFITS.—The Secretary may approve the provision of cost-share assistance to an owner that owns more than 1,000 but less than 5,000 acres of nonindustrial private forest land if the Secretary, in consultation with the State forester, determines that significant public benefits will accrue as a result of the approval.

"(2) PAYMENT FOR PLAN DEVELOPMENT.—The Secretary, acting through a State forester, may provide cost-share assistance to an owner to develop a management plan.

"(3) LIMITATIONS.—An owner shall receive no cost-share assistance for management of nonindustrial private forest land under this section if the owner receives cost-share assistance for that land under—

"(A) the forestry incentives program under section 4;

"(B) the stewardship incentives program under section 6; or

"(C) any conservation program administered by the Secretary.

"(4) RATE; SCHEDULE.—Subject to paragraph (5), the Secretary, in consultation with the State forester, shall determine the rate and timing of cost-share payments.

"(5) AMOUNT.—

"(A) PERCENTAGE OF COST.—Subject to subparagraph (B), a cost-share payment shall not exceed the lesser of an amount equal to—

"(i) 75 percent of the total cost of implementing the project or activity; or

"(ii) such lesser percentage of the total cost of implementing the project or activity as is determined by the appropriate State forester.

"(B) AGGREGATE PAYMENT LIMIT.—The Secretary shall determine the maximum aggregate amount of cost-share payments that an owner may receive under this section.

"(f) MANAGEMENT PLAN.—An owner that seeks to participate in the program shall—

"(1) submit to the State forester a management plan that—

"(A) meets the requirements of this section; and

"(B)(i) is prepared by, or in consultation with, a professional resource manager;

"(ii) identifies and describes projects and activities to be carried out by the owner to protect soil, water, air, range, and aesthetic quality, recreation, timber, water, wetland, and fish and wildlife resources on the land in a manner that is compatible with the objectives of the owner;

"(iii) addresses any criteria established by the applicable State and the applicable Committee; and

"(iv)(I) at a minimum, applies to the portion of the land on which any project or activity funded under the program will be carried out; or

"(II) in a case in which a project or activity described in subclause (I) may affect acreage outside the portion of the land on which the project or activity is carried out, applies to all land of the owner that is in forest cover and that may be affected by the project or activity; and

"(2) agree that all projects and activities conducted on the land shall be consistent with the management plan.

"(g) APPROVED ACTIVITIES.—

"(1) IN GENERAL.—The Secretary, in consultation with the State forester and the appropriate Committee, shall develop for each State a list of approved forest activities and practices eligible for cost-share assistance that meets the purposes of the program described in subsection (d).

"(2) TYPES OF ACTIVITIES.—Approved activities and practices under paragraph (1) may consist of activities and practices for—

"(A) the establishment, management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes;

"(B) the sustainable growth and management of forests for timber production;

"(C) the restoration, use, and enhancement of forest wetland and riparian areas;

"(D) the protection of water quality and watersheds through—

"(i) the planting of trees in riparian areas; and

"(ii) the enhanced management and maintenance of native vegetation on land vital to water quality;

"(E) the preservation, restoration, or development of habitat for plants, fish, and wildlife;

"(F)(i) the control, detection, monitoring, and prevention of the spread of invasive species and pests on nonindustrial private forest land; and

"(ii) the restoration of nonindustrial private forest land affected by invasive species and pests;

"(G) the conduct of other management activities, such as the reduction of hazardous fuel use, that reduce the risks to forests posed by, and that restore, recover, and mitigate the damage to forests caused by, fire or any other catastrophic event, as determined by the Secretary;

"(H) the development of management plans;

"(I) the acquisition by the State of permanent easements to maintain forest cover and protect important forest values; and

"(J) the conduct of other activities approved by the Secretary, in consultation with the State forester and the appropriate Committees.

"(h) FAILURE TO COMPLY.—

"(1) IN GENERAL.—The Secretary shall establish a procedure to recover cost-share payments made under this section in any case in which the recipient of the payment fails—

"(A) to implement a project or activity in accordance with the management plan; or

"(B) comply with any requirement of this section.

"(2) ADDITIONAL AUTHORITY.—The authority under paragraph (1) shall be in addition to, and not in lieu of, any other authority available to the Secretary.

"(i) REPORTS.—

"(1) INTERIM REPORT.—Not later than 2½ years after the date on which funds are made available to implement a State priority plan under subsection (c), the State implementing the plan shall submit to the Secretary an interim report describing the status of projects and activities funded under the plan as of that date.

"(2) FINAL REPORT.—Not later than 5 years after the date on which funds are made available to implement a State priority plan under subsection (c), the State implementing the plan shall submit to the Secretary a final report describing the status of all projects and activities funded under the plan as of that date.

"(j) DISTRIBUTION.—

"(1) IN GENERAL.—The Secretary, acting through State foresters, shall distribute funds available for cost sharing under the program based on a nationwide funding formula developed under paragraph (2).

"(2) FORMULA.—In developing the formula referred to in paragraph (1), the Secretary shall—

"(A) assess public benefits that would result from the distribution; and

"(B) consider—

"(i) the total acreage of nonindustrial private forest land in each State;

"(ii) the potential productivity of that land, as determined by the Secretary;

"(iii) the number of owners eligible for cost sharing in each State;

"(iv) the opportunities to enhance nontimber resources on that land, including—

"(I) the protection of riparian buffers and forest wetland;

"(II) the preservation of fish and wildlife habitat;

"(III) the enhancement of soil, air, and water quality; and

"(IV) the preservation of aesthetic quality and opportunities for outdoor recreation;

"(v) the anticipated demand for timber and nontimber resources in each State;

"(vi) the need to improve forest health to minimize the damaging effects of catastrophic fire, insects, disease, or weather;

"(vii) the need and demand for agroforestry practices in each State;

"(viii) the need to maintain and enhance the forest landbase; and

"(ix) the need for afforestation, reforestation, and timber stand improvement.

"(k) FUNDING.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section $48,000,000, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.".

SEC. 807. FOREST FIRE RESEARCH CENTERS.

(a) FINDINGS.—Congress finds that—

(1) there is an increasing threat of fire to millions of acres of forest land and rangeland throughout the United States;

(2) this threat is especially great in the interior States of the western United States, where the Forest Service estimates that 39,000,000 acres of National Forest System land are at high risk of catastrophic wildfire;

(3)(A) the degraded condition of forest land and rangeland is often the consequence of land management practices that emphasize the control and prevention of fires; and

(B) the land management practices disrupted the occurrence of frequent low-intensity fires that periodically remove flammable undergrowth;

(4) as a result of the land management practices—

(A) some forest land and rangeland in the United States no longer function naturally as ecosystems; and

(B) drought cycles and the invasion of insects and disease have resulted in vast areas of dead or dying trees, overstocked stands, and the invasion of undesirable species;

(5)(A) population movement into wildland-urban interface areas exacerbate the fire danger;

(B) the increasing number of larger, more intense fires pose grave hazards to human health, safety, property, and infrastructure in the areas; and

(C) smoke from wildfires, which contain fine particulate matter and other hazardous pollutants, pose substantial health risks to people living in the areas;

(6)(A) the budgets and resources of Federal, State, and local entities supporting firefighting efforts have been stretched to their limits;

(B) according to the Comptroller General, the average cost of attempting to put out fires in the interior West grew by 150 percent, from $134,000,000 in fiscal year 1986 to $335,000,000 in fiscal year 1994; and

(C) the costs of preparedness, including the costs of maintaining a readiness force to fight fires, rose about 70 percent, from $189,000,000 in fiscal year 1992 to $326,000,000 in fiscal year 1997;

(7) diminishing Federal resources (including the availability of personnel) have limited the ability of Federal fire researchers—

(A) to respond to management needs; and

(B) to use technological advancements for analyzing fire management costs;

(8) the Federal fire research program is funded at approximately ⅓ of the amount that is required to address emerging fire problems, resulting in the lack of a cohesive strategy to address the threat of catastrophic wildfires; and

(9) there is a critical need for cost-effective investments in improved fire management technologies.

(b) Forest Fire Research Centers.—The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended by adding at the end the following:

"SEC. 11. FOREST FIRE RESEARCH CENTERS.

"(a) In General.—Subject to the availability of appropriations, the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the 'Secretary') shall establish at least 2 forest fire research centers at institutions of higher education (which may include research centers in existence on the date of enactment of this section) that—

"(1) have expertise in natural resource development; and

"(2) are located in close proximity to other Federal natural resource, forest management, and land management agencies.

"(b) Locations.—Of the forest fire research centers established under subsection (a)—

"(1) at least 1 center shall be located in Arizona, California, New Mexico, Oregon, or Washington; and

"(2) at least 1 center shall be located in Colorado, Idaho, Montana, Nevada, or Wyoming.

"(c) Duties.—At each of the forest fire research centers established under subsection (a), the Secretary shall provide for—

"(1) the conduct of integrative, interdisciplinary research into the ecological, socioeconomic, and environmental impact of fire control and the use of management of ecosystems and landscapes to facilitate fire control; and

"(2) the development of mechanisms to rapidly transfer new fire control and management technologies to fire and land managers.

"(d) Advisory Committee.—

"(1) In general.—The Secretary, in consultation with the Secretary of the Interior, shall establish a committee composed of fire and land managers and fire researchers to determine the areas of emphasis and establish priorities for research projects conducted at forest fire research centers established under subsection (a).

"(2) Administration.—The Federal Advisory Committee Act (5 U.S.C. App.) and section 102 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612) shall not apply to the committee established under paragraph (1).

"(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

SEC. 808. WILDFIRE PREVENTION AND HAZARDOUS FUEL PURCHASE PROGRAM.

(a) Findings.—Congress finds that—

(1) the damage caused by wildfire disasters has been equivalent in magnitude to the damage resulting from the Northridge earthquake, Hurricane Andrew, and the recent flooding of the Mississippi River and the Red River;

(2) more than 20,000 communities in the United States are at risk from wildfire and approximately 11,000 of those communities are located near Federal land;

(3) the accumulation of heavy forest fuel loads continues to increase as a result of disease, insect infestations, and drought, further increasing the risk of fire each year;

(4) modification of forest fuel load conditions through the removal of hazardous fuels would—

(A) minimize catastrophic damage from wildfires;

(B) reduce the need for emergency funding to respond to wildfires; and

(C) protect lives, communities, watersheds, and wildlife habitat;

(5) the hazardous fuels removed from forest land represent an abundant renewable resource, as well as a significant supply of biomass for biomass-to-energy facilities;

(6) the United States should invest in technologies that promote economic and entrepreneurial opportunities in processing forest products removed through hazardous fuel reduction activities; and

(7) the United States should—

(A) develop and expand markets for traditionally underused wood and other biomass as an outlet for value-added excessive forest fuels; and

(B) commit resources to support planning, assessments, and project reviews to ensure that hazardous fuels management is accomplished expeditiously and in an environmentally sound manner.

(b) Wildfire Prevention and Hazardous Fuel Purchase Program.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 6A (as added by section 806(b)) the following:

"SEC. 6B. WILDFIRE PREVENTION AND HAZARDOUS FUEL PURCHASE PROGRAM.

"(a) Definitions.—In this section:

"(1) Biomass-to-energy facility.—The term 'biomass-to-energy facility' means a facility that uses forest biomass or other biomass as a raw material to produce electric energy, useful heat, or a transportation fuel.

"(2) Eligible community.—The term 'eligible community' means—

"(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary), or any area represented by a nonprofit corporation or institution organized under Federal or State law to promote broad-based economic development, that—

"(i) has a population of not more than 10,000 individuals;

"(ii) is located within a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries, such as recreation, forage production, and tourism; and

"(iii) is located adjacent to public or private forest land, the condition of which land the Secretary determines poses a substantial present or potential hazard to the safety of—

"(I) a forest ecosystem;

"(II) wildlife; or

"(III) in the case of a wildfire, human, community, or firefighter safety, in a year in which drought conditions are present; and

"(B) any county that is not contained within a metropolitan statistical area that meets the conditions described in clauses (ii) and (iii) of subparagraph (A).

"(3) Forest biomass.—The term 'forest biomass' means fuel and biomass accumulation from precommercial thinnings, slash, and brush on public or private forest land.

"(4) Hazardous fuel.—The term 'hazardous fuel' means any excessive accumulation of forest biomass on public or private forest land (especially land in an urban-wildland interface area or in an area that is located near an eligible community and designated as condition class 2 or 3 under the report of the Forest Service entitled 'Protecting People and Sustainable Resources in Fire-Adapted Ecosystems', dated October 13, 2000) that the Secretary determines poses a substantial present or potential hazard—

"(A) to the safety of a forest ecosystem;

"(B) to the safety of wildlife; or

"(C) in the case of wildfire in a year in which drought conditions are present, to human, community, or firefighter safety.

"(5) Indian tribe.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(6) Secretary.—The term 'Secretary' means—

"(A) the Secretary of Agriculture (or a designee), with respect to National Forest System land and private land in the United States; and

"(B) the Secretary of the Interior (or a designee) with respect to Federal land under the jurisdiction of the Secretary of the Interior or an Indian tribe.

"(b) Hazardous Fuel Grant Program.—

"(1) Grants.—

"(A) In general.—Subject to the availability of appropriations, the Secretary may make grants to persons that operate biomass-to-energy facilities to offset the costs incurred by those persons in purchasing hazardous fuels derived from public and private forest land adjacent to eligible communities.

"(B) Selection criteria.—The Secretary shall select recipients for grants under subparagraph (A) based on—

"(i) planned purchases by the recipients of hazardous fuels, as demonstrated by the recipient through the submission to the Secretary of such assurances as the Secretary may require; and

"(ii) the level of anticipated benefits of those purchases in reducing the risk of wildfires.

"(2) Grant amounts.—

"(A) In general.—A grant under this subsection shall—

"(i) be based on—

“(I) the distance required to transport hazardous fuels to a biomass-to-energy facility; and

“(II) the cost of removal of hazardous fuels; and

“(ii) be in an amount that is at least equal to the product obtained by multiplying—

“(I) the number of tons of hazardous fuels delivered to a grant recipient; by

“(II) an amount that is at least $5 but not more than $10 per ton of hazardous fuels, as determined by the Secretary taking into consideration the factors described in clause (i).

“(B) LIMITATION ON INDIVIDUAL GRANTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a grant under subparagraph (A) shall not exceed $1,500,000 for any biomass-to-energy facility for any fiscal year.

“(ii) SMALL BIOMASS-TO-ENERGY FACILITIES.—A biomass-to-energy facility that has an annual production of 5 megawatts or less shall not be subject to the limitation under clause (i).

“(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—

“(A) IN GENERAL.—As a condition of receipt of a grant under this subsection, a grant recipient shall keep such records as the Secretary may require, including records that—

“(i) completely and accurately disclose the use of grant funds; and

“(ii) describe all transactions involved in the purchase of hazardous fuels.

“(B) ACCESS.—On notice by the Secretary, the operator of a biomass-to-energy facility that purchases and uses hazardous fuels with funds from a grant under this subsection shall provide the Secretary with—

“(i) reasonable access to the biomass-to-energy facility; and

“(ii) an opportunity to examine the inventory and records of the biomass-to-energy facility.

“(4) MONITORING OF EFFECT OF TREATMENTS.—The Secretary shall monitor Federal land from which hazardous fuels are removed and sold to a biomass-to-energy facility under this subsection to determine and document the reduction in fire hazards on that land.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2002 through 2006.

“(c) LONG-TERM FOREST STEWARDSHIP CONTRACTS FOR HAZARDOUS FUELS REMOVAL.—

“(1) ANNUAL ASSESSMENT OF TREATMENT ACREAGE.—

“(A) IN GENERAL.—Subject to the availability of appropriations, not later than March 1 of each of fiscal years 2002 through 2006, the Secretary of Agriculture and the Secretary of Energy shall jointly submit to Congress an assessment of the number of acres of Federal forest land recommended to be treated during the subsequent fiscal year using stewardship end result contracts authorized by paragraph (3).

“(B) COMPONENTS.—The assessment shall—

“(i) be based on the treatment schedules contained in the report entitled ‘Protecting People and Sustaining Resources in Fire-Adapted Ecosystems’, dated October 13, 2000, and incorporated into the National Fire Plan (as identified by the Secretary);

“(ii) identify the acreage by condition class, type of treatment, and treatment year to achieve the restoration goals outlined in the report within 10-, 15-, and 20-year time periods;

“(iii) give priority to condition class 3 areas (as described in subsection (a)(4)(A)), including modifications in the restoration goals based on the effects of—

“(I) fire;

“(II) hazardous fuel treatments under the National Fire Plan (as identified by the Secretary); or

“(III) updates in data;

“(iv) provide information relating to the type of material and estimated quantities and range of sizes of material that shall be included in the treatments;

“(v) describe the management area prescriptions in the applicable land and resource management plan for the land on which the treatment is recommended; and

“(vi) give priority to areas described in subsection (a)(4)(A).

“(2) FUNDING RECOMMENDATION.—The Secretary shall include in the annual assessment under paragraph (1) a request for funds sufficient to implement the recommendations contained in the assessment using stewardship end result contracts described in paragraph (3) in any case in which the Secretary determines that the objectives of the National Fire Plan (as identified by the Secretary) would best be accomplished through forest stewardship end result contracting.

“(3) STEWARDSHIP END RESULT CONTRACTING.—

“(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary may enter into stewardship end result contracts to implement the National Fire Plan (as identified by the Secretary) on National Forest System land based on the treatment schedules provided in the annual assessments conducted under paragraph (1)(B)(i).

“(B) PERIOD OF CONTRACTS.—The contracting goals and authorities described in subsections (b) through (g) of section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (commonly known as the ‘Stewardship End Result Contracting Demonstration Project’) (16 U.S.C. 2104 note; Public Law 105-277), shall apply to contracts entered into under this paragraph, except that the period of each such contract shall not exceed 10 years.

“(C) STATUS REPORT.—Beginning with the assessment required under paragraph (1) for fiscal year 2003, the Secretary shall include in the annual assessment under paragraph (1) a status report of the stewardship end result contracts entered into under this paragraph.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2002 through 2006.

“(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall terminate on September 30, 2006.”.

SEC. 809. ENHANCED COMMUNITY FIRE PROTECTION.

(a) FINDINGS.—Congress finds that—

(1) the severity and intensity of wildfires have increased dramatically over the past few decades as a result of past fire and land management policies;

(2) the record 2000 fire season is a prime example of what can be expected if action is not taken to reduce the risk of catastrophic wildfires;

(3) wildfires threaten not only the forested resources of the United States, but also the thousands of communities intermingled with wildland in the wildland-urban interface;

(4) wetland forests provide essential ecological services, such as filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, that make the protection and restoration of those forests worthy of special focus;

(5) the National Fire Plan, if implemented to achieve appropriate priorities, is the proper, coordinated, and most effective means to address the issue of wildfires;

(6) while adequate authorities exist to address the problem of wildfires at the landscape level on Federal land, there is limited authority to take action on most private land where the largest threat to life and property lies; and

(7) there is a significant Federal interest in enhancing the protection of communities from wildfire.

(b) ENHANCED COMMUNITY FIRE PROTECTION.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 10 (16 U.S.C. 2106) the following:

“SEC. 10A. ENHANCED COMMUNITY FIRE PROTECTION.

“(a) COOPERATIVE MANAGEMENT RELATING TO WILDFIRE THREATS.—Notwithstanding section 7 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206), the Secretary may cooperate with State foresters and equivalent State officials to—

“(1) assist in the prevention, control, suppression, and prescribed use of fires (including through the provision of financial, technical, and related assistance);

“(2) protect communities from wildfire threats;

“(3) enhance the growth and maintenance of trees and forests in a manner that promotes overall forest health; and

“(4) ensure the continued production of all forest resources, including timber, outdoor recreation opportunities, wildlife habitat, and clean water, through conservation of forest cover on watersheds, shelterbelts, and windbreaks.

“(b) COMMUNITY AND PRIVATE LAND FIRE ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a program to be known as the ‘community and private land fire assistance program’ (referred to in this section as the ‘Program’)—

“(A) to focus the Federal role in promoting optimal firefighting efficiency at the Federal, State, and local levels;

“(B) to provide increased assistance to Federal projects that establish landscape level protection from wildfires;

“(C) to expand outreach and education programs concerning fire prevention to homeowners and communities; and

“(D) to establish defensible space against wildfires around the homes and property of private landowners.

“(2) ADMINISTRATION AND IMPLEMENTATION.—The Program shall be administered by the Secretary and, with respect to non-Federal land described in paragraph (3), carried out through the State forester or equivalent State official.

“(3) COMPONENTS.—The Secretary may carry out under the Program, on National Forest System land and non-Federal land determined by the Secretary in consultation with State foresters and Committees—

“(A) fuel hazard mitigation and prevention;

“(B) invasive species management;

“(C) multiresource wildfire and community protection planning;

“(D) community and landowner education enterprises, including the program known as ‘FIREWISE’;

“(E) market development and expansion;

“(F) improved use of wood products; and

“(G) restoration projects.

“(4) PRIORITY.—In entering into contracts to carry out projects under the Program, the Secretary shall give priority to contracts with local persons or entities.

"(c) AUTHORITY.—The authority provided under this section shall be in addition to any authority provided under section 10.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $35,000,000 for each of fiscal years 2002 through 2006.".

SEC. 810. WATERSHED FORESTRY ASSISTANCE PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) there has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management;

(2) it is commonly recognized that proper stewardship of forest land is essential to—

(A) sustain and restore watershed health;

(B) produce clean water; and

(C) maintain healthy aquatic systems;

(3) forests are increasingly important to the protection and sustainability of drinking water supplies for more than 1/2 of the population of the United States;

(4) forest loss and fragmentation in urbanizing areas are contributing to flooding, degradation of urban stream habitat and water quality, and public health concerns;

(5) scientific evidence and public awareness with respect to the manner in which forest management can positively affect water quality and quantity, and the manner in which trees, forests, and forestry practices (such as forest buffers) can serve as solutions to water quality problems in rural and urban areas, are increasing;

(6) the application of forestry best management practices developed at the State level has been found to greatly facilitate the achievement of water quality goals;

(7) significant efforts are underway to revisit and make improvements on needed forestry best management practices;

(8) according to the report of the Forest Service numbered FS-660 and entitled "Water and the Forest Service", forests are a requirement for maintenance of clean water because—

(A) approximately 66 percent of the freshwater resources of the United States originate on forests; and

(B) forests cover approximately 1/3 of the land area of the United States;

(9) because almost 500,000,000 acres, or approximately 2/3, of the forest land of the United States is owned by non-Federal entities, a significant burden is placed on private forest landowners to provide or maintain the clean water needed by the public for drinking, swimming, fishing, and a number of other water uses;

(10) because the decisions made by individual landowners and communities will affect the ability to maintain the health of rural and urban watersheds in the future, there is a need to integrate forest management, conservation, restoration, and stewardship in watershed management;

(11) although water management is the primary responsibility of States, the Federal Government has a responsibility to promote and encourage the ability of States and private forest landowners to sustain the delivery of clean, abundant water from forest land;

(12) as of the date of enactment of this Act, the availability of Federal assistance to support forest landowners to achieve the water goals identified in many Federal laws (including regulations) is lacking; and

(13) increased research for, education for, and technical and financial assistance provided to, forest landowners and communities that relate to the protection of watersheds and improvement of water quality, are needed to realize the expectations of the general public for clean water and healthy aquatic systems.

(b) PURPOSES.—The purposes of this section are to—

(1) improve the understanding of landowners and the public with respect to the relationship between water quality and forest management;

(2) encourage landowners to maintain tree cover and use tree plantings and vegetative treatments as creative solutions to water quality and quantity problems associated with varying land uses;

(3) enhance and complement source water protection in watersheds that provide drinking water for municipalities;

(4) establish new partnerships and collaborative watershed approaches to forest management, stewardship, and protection; and

(5) provide technical and financial assistance to States to deliver a coordinated program that through the provision of technical, financial, and educational assistance to qualified individuals and entities—

(A) enhances State forestry best management practices programs; and

(B) protects and improves water quality on forest land.

(c) PROGRAM.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 5A (as added by section 805) the following:

"SEC. 5B. WATERSHED FORESTRY ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish a watershed forestry assistance program (referred to in this section as the 'program') to provide to States, through State foresters (as defined in section 6A), technical, financial, and related assistance to—

"(1) expand forest stewardship capacities and activities through State forestry best management practices and other means at the State level; and

"(2) prevent water quality degradation, and address watershed issues, on non-Federal forest land.

"(b) WATERSHED FORESTRY EDUCATION, TECHNICAL ASSISTANCE, AND PLANNING.—

"(1) PLAN.—

"(A) IN GENERAL.—In carrying out the program, the Secretary shall cooperate with State foresters to develop a plan, to be administered by the Secretary and implemented by State foresters, to provide technical assistance to assist States in preventing and mitigating water quality degradation.

"(B) PARTICIPATION.—In developing the plan under subparagraph (A), the Secretary shall encourage participation of interested members of the public (including nonprofit private organizations and local watershed councils).

"(2) COMPONENTS.—The plan described in paragraph (1) shall include provisions to—

"(A) build and strengthen watershed partnerships focusing on forest land at the national, State, regional, and local levels;

"(B) provide State forestry best management practices and water quality technical assistance directly to private landowners;

"(C) provide technical guidance relating to water quality management through forest management in degraded watersheds to land managers and policymakers;

"(D)(i) complement State nonpoint source assessment and management plans established under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329); and

"(ii) provide enhanced opportunities for coordination and cooperation among Federal and State agencies having responsibility for water and watershed management under that Act; and

"(E) provide enhanced forest resource data and support for improved implementation of State forestry best management practices, including—

"(i) designing and conducting effectiveness and implementation studies; and

"(ii) meeting in-State water quality assessment needs, such as the development of water quality models that correlate the management of forest land to water quality measures and standards.

"(c) WATERSHED FORESTRY COST-SHARE PROGRAM.—

"(1) ESTABLISHMENT.—In carrying out the program, the Secretary shall establish a watershed forestry cost-share program, to be administered by the Secretary and implemented by State foresters, to provide grants and other assistance for eligible programs and projects described in paragraph (2).

"(2) ELIGIBLE PROGRAMS AND PROJECTS.—A community, nonprofit group, or landowner may receive a grant or other assistance under this subsection to carry out a State forestry best management practices program or a watershed forestry project if the program or project, as determined by the Secretary—

"(A) is consistent with—

"(i) State nonpoint source assessment and management plan objectives established under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329); and

"(ii) the cost-share requirements of this section; and

"(B) is designed to address critical forest stewardship, watershed protection, and restoration needs of a State through—

"(i) the use of trees and forests as solutions to water quality problems in urban and agricultural areas;

"(ii) community-based planning, involvement, and action through State, local and nonprofit partnerships;

"(iii) the application of and dissemination of information on forestry best management practices relating to water quality;

"(iv) watershed-scale forest management activities and conservation planning; and

"(v) the restoration of wetland and stream side forests and establishment of riparian vegetative buffers.

"(3) ALLOCATION.—

"(A) IN GENERAL.—After taking into consideration the criteria described in subparagraph (B), the Secretary shall allocate among States, for award by State foresters under paragraph (4), the amounts made available to carry out this subsection.

"(B) CRITERIA.—The criteria referred to in subparagraph (A) are—

"(i) the number of acres of forest land, and land that could be converted to forest land, in each State;

"(ii) the nonpoint source assessment and management plans of each State, as developed under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329);

"(iii) the acres of wetland forests that have been lost or degraded or cases in which forests may play a role in restoring wetland resources;

"(iv) the number of non-Federal forest landowners in each State; and

"(v) the extent to which the priorities of States are designed to achieve a reasonable range of the purposes of the program and, as a result, contribute to the water-related goals of the United States.

"(4) AWARD OF GRANTS AND ASSISTANCE.—

"(A) IN GENERAL.—In implementing the program under this subsection, the State forester, in coordination with the State Coordinating Committee established under section 19(b), shall provide annual grants and cost-share assistance to communities, nonprofit groups, and landowners to carry out eligible programs and projects described in paragraph (2).

"(B) APPLICATION.—A community, nonprofit group, or landowner that seeks to receive cost-share assistance under this subsection shall submit to the State forester an application, in such form and containing such information as the State forester may prescribe, for the assistance.

"(C) PRIORITIZATION.—In awarding cost-share assistance under this subsection, the Secretary shall give priority to eligible programs and projects that are identified by the State foresters and the State Stewardship Committees as having a greater need for assistance.

"(D) AWARD.—On approval by the Secretary of an application under subparagraph (B), the State forester shall award to the applicant, from funds allocated to the State under paragraph (3), such amount of cost-share assistance as is requested in the application.

"(5) COST SHARING.—

"(A) FEDERAL SHARE.—The Federal share of the cost of carrying out any eligible program or project under this subsection shall not exceed 75 percent, of which not more than 50 percent may be in the form of assistance provided under this subsection.

"(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out any eligible program or project under this subsection may be provided in the form of cash, services, or in-kind contributions.

"(d) WATERSHED FORESTER.—A State may use a portion of the funds made available to the State under subsection (e) to establish and fill a position of 'Watershed Forester' to lead State-wide programs and coordinate watershed-level projects.

"(e) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2002 through 2006.

"(2) ALLOCATION.—Of the funds made available under paragraph (1)—

"(A) 75 percent shall be used to carry out subsection (c); and

"(B) 25 percent shall be used to carry out provisions of this section other than subsection (c).".

SEC. 811. GENERAL PROVISIONS.

Section 13 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2109) is amended by striking subsection (f) and inserting the following:

"(f) GRANTS, CONTRACTS, AND OTHER AGREEMENTS.—

"(1) IN GENERAL.—In accordance with paragraph (2), the Secretary may make such grants and enter into such contracts, agreements, or other arrangements as the Secretary determines are necessary to carry out this Act.

"(2) ASSISTANCE.—Notwithstanding any other provision of this Act, the Secretary, with the concurrence of the applicable State forester or equivalent State official, may provide assistance under this Act directly to any public or private entity, organization, or individual—

"(A) through a grant; or

"(B) by entering into a contract or cooperative agreement.".

SEC. 812. STATE FOREST STEWARDSHIP COORDINATING COMMITTEES.

Section 19(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)) is amended—

(1) in paragraph (1)(B)(i), by inserting "United States Fish and Wildlife Service," before "Forest Service"; and

(2) in paragraph (2)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(E) submit to the Secretary, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, an annual report that provides—

"(i) the list of members on the Committee described in paragraph (1)(B); and

"(ii) for those members that may be included on the Committee, but are not included because a determination that it is not practicable to include the members has been made, an explanation of the reasons for that determination.".

TITLE IX—ENERGY

SEC. 901. FINDINGS.

Congress finds that—

(1) there are many opportunities for the agricultural sector and rural areas to produce renewable energy and increase energy efficiency;

(2) investments in renewable energy and energy efficiency—

(A) enhance the energy security and independence of the United States;

(B) increase farmer and rancher income;

(C) promote rural economic development;

(D) provide environmental and public health benefits such as cleaner air and water; and

(E) improve electricity grid reliability, thereby reducing the likelihood of blackouts and brownouts, particularly during peak usage periods;

(3) the public strongly supports renewable energy generation and energy efficiency improvements as an important component of a national energy strategy;

(4)(A) the Federal Government is the country's largest consumer of a vast array of products, spending in excess of $200,000,000,000 per year;

(B) purchases and use of products by the Federal Government have a significant effect on the environment; and

(C) accordingly, the Federal Government should lead the way in purchasing biobased products so as to minimize environmental impacts while supporting domestic producers of biobased products;

(5) the agricultural sector is a leading producer of biobased products to meet domestic and international needs;

(6) agriculture can play a significant role in the development of fuel cell and hydrogen-based energy technologies, which are critical technologies for a clean energy future;

(7)(A) wind energy is 1 of the fastest growing clean energy technologies; and

(B) there are tremendous economic development and environmental quality benefits to be achieved by developing both large-scale and small-scale wind power projects on farms and in rural communities;

(8) farm-based renewable energy generation can become one of the major cash crops of the United States, improving the livelihoods of hundreds of thousands of family farmers, ranchers, and others and revitalizing rural communities;

(9)(A) evidence continues to mount that increases in atmospheric concentrations of greenhouse gases are contributing to global climate change; and

(B) agriculture can help in climate change mitigation by—

(i) storing carbon in soils, plants, and forests;

(ii) producing biofuels, chemicals, and power to replace fossil fuels and petroleum-based products; and

(iii) reducing emissions by capturing gases from animal feeding operations, changing agricultural land practices, and becoming more energy efficient;

(10) because agricultural production is energy-intensive, it is incumbent on the Federal Government to aid the agricultural sector in reducing energy consumption and energy costs;

(11)(A) one way to help farmers, ranchers, and others reduce energy use is through professional energy audits;

(B) energy audits provide recommendations for improved energy efficiency that, when acted on, offer an effective means of reducing overall energy use and saving money; and

(C) energy savings of 10 to 30 percent can typically be achieved, and greater savings are often realized;

(12) rural electric utilities are often geographically well situated to develop renewable and distributed energy supplies, enabling the utilities to diversify their energy portfolios and afford their members or customers alternative energy sources, which many such members and customers desire;

(13) fuel cells are a highly efficient, clean, and flexible technology for generating electricity from hydrogen that promises to improve the environment, electricity reliability, and energy security;

(14)(A) because fuel cells can be made in any size, fuel cells can be used for a wide variety of farm applications, including powering farm vehicles, equipment, houses, and other operations; and

(B) much of the initial use of fuel cells is likely to be in remote and off-grid applications in rural areas; and

(15) hydrogen is a clean and flexible fuel that can play a critical role in storing and transporting energy produced on farms from renewable sources (including biomass, wind, and solar energy).

SEC. 902. CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

The Consolidated Farm and Rural Development Act (as amended by section 647) is amended by adding at the end the following:

"Subtitle L—Clean Energy

"SEC. 388A. DEFINITIONS.

"In this subtitle:

"(1) BIOMASS.—

"(A) IN GENERAL.—The term 'biomass' means any organic material that is available on a renewable or recurring basis.

"(B) INCLUSIONS.—The term 'biomass' includes—

"(i) dedicated energy crops;

"(ii) trees grown for energy production;

"(iii) wood waste and wood residues;

"(iv) plants (including aquatic plants, grasses, and agricultural crops);

"(v) residues;

"(vi) fibers;

"(vii) animal wastes and other waste materials; and

"(viii) fats and oils.

"(C) EXCLUSIONS.—The term 'biomass' does not include—

"(i) old-growth timber (as determined by the Secretary);

"(ii) paper that is commonly recycled; or

"(iii) unsegregated garbage.

"(2) RENEWABLE ENERGY.—The term 'renewable energy' means energy derived from a wind, solar, biomass, geothermal, or hydrogen source.

"(3) RURAL SMALL BUSINESS.—The term 'rural small business' has the meaning that the Secretary shall prescribe by regulation.

"CHAPTER 1—BIOBASED PRODUCT DEVELOPMENT

"SEC. 388B. BIOBASED PRODUCT PURCHASING REQUIREMENT.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) BIOBASED PRODUCT.—The term 'biobased product' means a commercial or industrial product, as determined by the Secretary (other than food or feed), that uses biological products or renewable domestic agricultural materials (including plant, animal, and marine materials) or forestry materials.

"(3) ENVIRONMENTALLY PREFERABLE.—The term 'environmentally preferable', with respect to a biobased product, refers to a biobased product that has a lesser or reduced effect on human health and the environment when compared with competing nonbiobased products that serve the same purpose.

"(b) BIOBASED PRODUCT PURCHASING.—

"(1) MANDATORY PURCHASING REQUIREMENT FOR LISTED BIOBASED PRODUCTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 180 days after the date of enactment of this subtitle, the head of each Federal agency shall ensure that, in purchasing any product, the Federal agency purchases a biobased product, rather than a comparable nonbiobased product, if the biobased product is listed on the list of biobased products published under subsection (c)(1).

"(B) BIOBASED PRODUCT NOT REASONABLY COMPARABLE.—A Federal agency shall not be required to purchase a biobased product under subparagraph (A) if the purchasing employee submits to the Secretary and the Administrator of the Office of Federal Procurement Policy a written determination that the biobased product is not reasonably comparable to nonbiobased products in price, performance, or availability.

"(C) CONFLICTING REQUIREMENTS.—The Secretary and the Administrator shall jointly promulgate regulations with which Federal agencies shall comply in cases of a conflict between the biobased product purchasing requirement under subparagraph (A) and a purchasing requirement under any other provision of law.

"(2) PURCHASING OF NONLISTED BIOBASED PRODUCTS.—The head of each Federal agency is encouraged to purchase, to the maximum extent practicable, available biobased products that are not listed on the list of biobased products published under subsection (c)(1) when the Federal agency is not required to purchase a biobased product that is on the list.

"(c) ADMINISTRATIVE ACTION.—

"(1) LIST OF BIOBASED PRODUCTS.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subtitle, and annually thereafter, the Secretary, in consultation with the Administrator and the Director of the National Institute of Standards and Technology, shall publish a list of biobased products.

"(B) ENVIRONMENTALLY PREFERABLE BIOBASED PRODUCTS.—The Secretary shall not include on the list under paragraph (1) biobased products that are not environmentally preferable, as determined by the Secretary.

"(C) GRANTS.—The Secretary may award grants to, or enter into contracts or cooperative agreements with, eligible persons, businesses, or institutions (as determined by the Secretary) to assist in collecting data concerning the evaluation of and lifecycle analyses of biobased products for use in making the determinations necessary to carry out this paragraph.

"(2) GUIDANCE.—Not later than 240 days after the date of enactment of this subtitle, the Office of Federal Procurement Policy and Federal Acquisition Regulation Council shall make the Federal Acquisition Regulation consistent with subsection (b).

"(d) EDUCATION AND OUTREACH PROGRAM.—The Secretary, in cooperation with the Defense Acquisition University and the Federal Acquisition Institute, shall conduct education programs for all Federal procurement officers regarding biobased products and the requirements of subsection (b).

"(e) LABELING.—

"(1) IN GENERAL.—The Secretary shall develop a program, similar to the Energy Star program of the Department of Energy and the Environmental Protection Agency, under which the Secretary authorizes producers of environmentally preferable biobased products to use a label that identifies the products as environmentally preferable biobased products.

"(2) ENVIRONMENTALLY PREFERABLE BIOBASED PRODUCTS.—The Secretary shall monitor and take appropriate action regarding the use of labels under paragraph (1) to ensure that the biobased products using the labels do not include biobased products that are not environmentally preferable, as determined by the Secretary.

"(3) CONTRACTING.—In carrying out paragraph (1), the Secretary may contract with appropriate entities with expertise in product labeling and standard setting.

"(f) GOAL.—It shall be the goal of each Federal agency for each fiscal year to purchase biobased products of an aggregate value that is not less than 5 percent of the aggregate value of all products purchased by the Federal agency during the preceding fiscal year.

"(g) REPORTS.—As soon as practicable after the end of each fiscal year, the Secretary and the Office of Federal Procurement Policy shall jointly submit to Congress an annual report that, for the fiscal year, describes the extent of—

"(1) compliance by each Federal agency with subsection (b); and

"(2) the success of each Federal agency in achieving the goal established under subsection (f).

"(h) FUNDING.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this subtitle, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $2,000,000, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

"SEC. 388C. BIOREFINERY DEVELOPMENT GRANTS.

"(a) PURPOSE.—The purpose of this section is to assist in the development of new and emerging technologies for the conversion of biomass into petroleum substitutes, so as to—

"(1) develop transportation and other fuels and chemicals from renewable sources;

"(2) reduce the dependence of the United States on imported oil;

"(3) reduce greenhouse gas emissions;

"(4) diversify markets for raw agricultural and forestry products; and

"(5) create jobs and enhance the economic development of the rural economy.

"(b) DEFINITIONS.—In this section:

"(1) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Biomass Research and Development Technical Advisory Committee established by section 306 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224).

"(2) BIOREFINERY.—The term 'biorefinery' means equipment and processes that—

"(A) convert biomass into bioenergy fuels and chemicals; and

"(B) may produce electricity as a byproduct.

"(3) BOARD.—The term 'Board' means the Biomass Research and Development Board established by section 305 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224).

"(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(c) GRANTS.—The Secretary shall award grants to eligible entities to assist in paying the cost of development and construction of biorefineries to carry out projects to demonstrate the commercial viability of 1 or more processes for converting biomass to fuels or chemicals.

"(d) ELIGIBLE ENTITIES.—A corporation, farm cooperative, association of farmers, national laboratory, university, State energy agency or office, Indian tribe, or consortium comprised of any of those entities shall be eligible to receive a grant under subsection (c).

"(e) COMPETITIVE BASIS FOR AWARDS.—

"(1) IN GENERAL.—The Secretary shall award grants under subsection (c) on a competitive basis in consultation with the Board and Advisory Committee.

"(2) SELECTION CRITERIA.—

"(A) IN GENERAL.—The Secretary shall select projects to receive grants under subsection (c) based on—

"(i) the likelihood that the projects will demonstrate the commercial viability of a process for converting biomass to fuels or chemicals; and

"(ii) the likelihood that the projects will produce electricity.

"(B) FACTORS.—The factors to be considered under subparagraph (A) shall include—

"(i) the potential market for the product or products;

"(ii) the quantity of petroleum the product will displace;

"(iii) the level of financial participation by the applicants;

"(iv) the availability of adequate funding from other sources;

"(v) the beneficial impact on resource conservation and the environment;

"(vi) the participation of producer associations and cooperatives;

"(vii) the timeframe in which the project will be operational;

"(viii) the potential for rural economic development; and

"(ix) the participation of multiple eligible entities.

"(f) COST SHARING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of a grant for a project awarded under subsection (c) shall not exceed 30 percent of the cost of the project.

"(2) Increased grant amount.—The Secretary may increase the amount of a grant for a project under subsection (c) to not more than 50 percent in the case of a project that the Secretary finds particularly meritorious.

"(3) Form of grantee share.—

"(A) In general.—The grantee share of the cost of a project may be made in the form of cash or the provision of services, material, or other in-kind contributions.

"(B) Limitation.—The amount of the grantee share of the cost of a project that is made in the form of the provision of services, material, or other in-kind contributions shall not exceed 25 percent of the amount of the grantee share determined under paragraph (1).

"(g) Funding.—

"(1) In general.—Not later than 30 days after the date of enactment of this subtitle, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $15,000,000, to remain available until expended.

"(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

"SEC. 388D. BIODIESEL FUEL EDUCATION PROGRAM.

"(a) Findings.—Congress finds that—

"(1) biodiesel fuel use can help reduce greenhouse gas emissions and public health risks associated with air pollution;

"(2) biodiesel fuel use enhances energy security by reducing petroleum consumption;

"(3) biodiesel fuel is nearing the transition from the research and development phase to commercialization;

"(4) biodiesel fuel is still relatively unknown to the public and even to diesel fuel users; and

"(5) education of, and provision of technical support to, current and future biodiesel fuel users will be critical to the widespread use of biodiesel fuel.

"(b) Establishment.—The Secretary shall, under such terms and conditions as are appropriate, offer 1 or more competitive grants to eligible entities to educate Federal, State, regional, and local government entities and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use.

"(c) Eligible Entities.—To receive a grant under subsection (b), an entity—

"(1) shall be a nonprofit organization; and

"(2) shall have demonstrated expertise in biodiesel fuel production, use, and distribution.

"(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2006, to remain available until expended.

"CHAPTER 2—RENEWABLE ENERGY DEVELOPMENT AND ENERGY EFFICIENCY

"SEC. 388E. RENEWABLE ENERGY DEVELOPMENT LOAN AND GRANT PROGRAM.

"(a) In General.—The Secretary, acting through the Rural Business Cooperative Service, in addition to exercising authority to make loans and loan guarantees under other law, shall establish a program under which the Secretary shall make loans and loan guarantees and competitively award grants to assist farmers and ranchers in projects to establish new, or expand existing, farmer or rancher cooperatives, or other rural business ventures (as determined by the Secretary), to—

"(1) enable farmers and ranchers to become owners of sources of renewable electric energy and marketers of electric energy produced from renewable sources;

"(2) provide new income streams for farmers and ranchers;

"(3) increase the quantity of electricity available from renewable energy sources; and

"(4) provide environmental and public health benefits to rural communities and the United States as a whole.

"(b) Ownership Requirement.—At least 51 percent of the interest in a rural business venture assisted with a grant under subsection (a) shall be owned by farmers or ranchers.

"(c) Maximum Amount of Loans and Grants.—

"(1) Loans.—The amount of a loan made or guaranteed for a project under subsection (a) shall not exceed $10,000,000.

"(2) Grants.—The amount of a grant made for a project under subsection (a) shall not exceed $200,000 for a fiscal year.

"(d) Cost Sharing.—

"(1) In general.—The total amount of loans made or guaranteed or grants awarded under subsection (a) for a project shall not exceed 50 percent of the cost of the activity funded by the loan or grant.

"(2) Form of grantee share.—

"(A) In general.—The grantee share of the cost of the activity may be made in the form of cash or the provision of services, material, or other in-kind contributions.

"(B) Limitation.—The amount of the grantee share of the cost of an activity that is made in the form of the provision of services, material, or other in-kind contributions shall not exceed 25 percent of the amount of the grantee share, as determined under paragraph (1).

"(e) Interest Rate.—A loan made or guaranteed under subsection (a) shall bear an interest rate that does not exceed 4 percent.

"(f) Use of Funds.—

"(1) Permitted uses.—

"(A) Grants.—A recipient of a grant awarded under subsection (a) may use the grant funds to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for renewable electric energy generation and sale.

"(B) Loans.—A recipient of a loan or loan guarantee under subsection (a) may use the loan funds to provide capital for start-up costs associated with the rural business venture or the promotion of the aggregation of renewable electric energy sources.

"(2) Prohibited uses.—A recipient of a loan, loan guarantee, or grant under subsection (a) shall not use the loan or grant funds for planning, repair, rehabilitation, acquisition, or construction of a building.

"(g) Funding.—

"(1) In general.—Not later than 30 days after the date of enactment of this subtitle, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $16,000,000, to remain available until expended.

"(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

"(3) Loan and interest subsidies.—In the case of a loan or loan guarantee under subsection (a), the Secretary shall use funds under paragraph (1) to pay the cost of loan and interest subsidies necessary to carry out this section.

"SEC. 388F. ENERGY AUDIT AND RENEWABLE ENERGY DEVELOPMENT PROGRAM.

"(a) In General.—The Secretary, acting through the Rural Business Cooperative Service, shall make competitive grants to eligible entities to enable the eligible entities to carry out a program to assist farmers, and ranchers, and rural small businesses (as determined by the Secretary) in becoming more energy efficient and in using renewable energy technology.

"(b) Eligible Entities.—Entities eligible to carry out a program under subsection (a) include—

"(1) a State energy or agricultural office;

"(2) a regional or State-based energy organization or energy organization of an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

"(3) a land-grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) or other college or university;

"(4) a farm bureau or organization;

"(5) a rural electric cooperative or utility;

"(6) a nonprofit organization; and

"(7) any other entity, as determined by the Secretary.

"(c) Merit Review.—

"(1) Merit review panel.—The Secretary shall establish a merit review panel to review applications for grants under subsection (a) that uses the expertise of other Federal agencies (including the Department of Energy and the Environmental Protection Agency), industry, and nongovernmental organizations.

"(2) Selection criteria.—In reviewing applications of eligible entities to receive grants under subsection (a), the merit review panel shall consider—

"(A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;

"(B) the geographic scope of the program proposed by the eligible entity;

"(C) the number of farmers, ranchers, and rural small businesses to be assisted by the program;

"(D) the potential for energy savings and environmental and public health benefits resulting from the program; and

"(E) the plan of the eligible entity for educating farmers, ranchers, and rural small businesses on the benefits of energy efficiency and renewable energy development.

"(d) Use of Grant Funds.—A recipient of a grant under subsection (a) shall use the grant funds to—

"(1)(A) conduct energy audits for farmers, ranchers, and rural small businesses to provide farmers, ranchers, and rural small businesses recommendations for energy efficiency and renewable energy development opportunities; and

"(B) conduct workshops on that subject as appropriate;

"(2) make farmers, ranchers, and rural small businesses aware of, and ensure that they have access to—

"(A) financial assistance under section 388G; and

"(B) other Federal, State, and local financial assistance programs for which farmers, ranchers, and rural small businesses may be eligible; and

"(3) arrange private financial assistance to farmers, ranchers, and rural small businesses on favorable terms.

"(e) Cost Sharing.—

"(1) In general.—A recipient of a grant under subsection (a) that conducts an energy audit for a farmer, rancher, or rural small business under subsection (d)(1) shall require that, as a condition to the conduct of the energy audit, the farmer, rancher, or rural small business pay at least 25 percent of the cost of the audit.

"(2) Implementation of recommendations.—If a farmer, rancher, or rural small business substantially implements the recommendations made in connection with an energy audit, the Secretary may reimburse the farmer, rancher, or rural small business the amount that is equal to the share of the cost paid by the farmer, rancher, or rural small business under paragraph (1).

"(f) Reports.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on the implementation of this section.

"(g) Funding.—

"(1) In general.—Not later than 30 days after the date of enactment of this subtitle, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $15,000,000, to remain available until expended.

"(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

"SEC. 388G. LOANS, LOAN GUARANTEES, AND GRANTS TO FARMERS, RANCHERS, AND RURAL SMALL BUSINESSES FOR RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS.

"(a) In General.—In addition to exercising authority to make loans and loan guarantees under other law, the Secretary shall make loans, loan guarantees, and grants to farmers, ranchers, and rural small businesses to—

"(1) purchase renewable energy systems; and

"(2) make energy efficiency improvements.

"(b) Eligibility of Farmers and Ranchers.—To be eligible to receive a grant under subsection (a) for a fiscal year, a farmer or rancher shall have produced not more than $1,000,000 in market value of agricultural products during the preceding fiscal year, as determined by the Secretary.

"(c) Cost Sharing.—

"(1) Renewable energy systems.—

"(A) In general.—

"(i) Grants.—The amount of a grant made under subsection (a) for a renewable energy system shall not exceed 15 percent of the cost of the renewable energy system.

"(ii) Loans.—The amount of a loan made or guaranteed under subsection (a) for a renewable energy system shall not exceed 35 percent of the cost of the renewable energy system.

"(B) Factors.—In determining the amount of a grant or loan under subparagraph (A), the Secretary shall take into consideration—

"(i) the type of renewable energy system to be purchased;

"(ii) the estimated quantity of energy to be generated or displaced by the renewable energy system;

"(iii) the expected environmental benefits of the renewable energy system;

"(iv) the extent to which the renewable energy system will be replicable; and

"(v) other factors as appropriate.

"(2) Energy efficiency improvements.—

"(A) In general.—

"(i) Grants.—The amount of a grant made under subsection (a) for an energy efficiency improvement shall not exceed 15 percent of the cost of the energy efficiency improvement.

"(ii) Loans.—The amount of a loan made or guaranteed under subsection (a) for an energy efficiency project shall not exceed 35 percent of the cost of the energy efficiency improvement.

"(B) Factors.—In determining the amount of a grant or loan under subparagraph (A), the Secretary shall take into consideration—

"(i) the estimated length of time it would take for the energy savings generated by the improvement to equal the cost of the improvement;

"(ii) the amount of energy savings expected to be derived from the improvement; and

"(iii) other factors as appropriate.

"(d) Interest Rate.—A loan made or guaranteed under subsection (a) shall bear interest at a rate not exceeding 4 percent.

"(e) Energy Audit and Renewable Energy Development Program.—

"(1) Preference.—In making loans, loan guarantees, and grants under subsection (a), the Secretary shall give preference to participants in the energy audit and renewable energy development program under section 388F.

"(2) Reservation of funding.—The Secretary shall reserve at least 25 percent of the funds made available to carry out this section for each of fiscal years 2002 through 2006 to participants in the energy audit and renewable energy development program under section 388F.

"(f) Funding.—

"(1) In general.—Not later than 30 days after the date of enactment of this subtitle, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $33,000,000, to remain available until expended.

"(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

"(3) Loan and interest subsidies.—In the case of a loan or loan guarantee under subsection (a), the Secretary shall use funds under paragraph (1) to pay the cost of loan and interest subsidies necessary to carry out this section.

"SEC. 388H. HYDROGEN AND FUEL CELL TECHNOLOGIES PROGRAM.

"(a) In General.—The Secretary of Agriculture, in consultation with the Secretary of Energy, shall establish a program under which the Secretary of Agriculture shall competitively award grants to, or enter into contracts or cooperative agreements with, eligible entities for—

"(1) projects to demonstrate the use of hydrogen technologies and fuel cell technologies in farm, ranch, and rural applications; and

"(2) as appropriate, studies of the technical, environmental, and economic viability, in farm, ranch, and rural applications, of innovative hydrogen and fuel cell technologies not ready for demonstration.

"(b) Eligible Entities.—Under subsection (a), the Secretary may make a grant to or enter into a contract or cooperative agreement with—

"(1) a Federal research agency;

"(2) a national laboratory;

"(3) a college or university or a research foundation maintained by a college or university;

"(4) a private research organization with an established and demonstrated capacity to perform research or technology transfer;

"(5) a State agricultural experiment station; or

"(6) an individual.

"(c) Selection Criteria.—In selecting projects for grants, contracts, and cooperative agreements under subsection (a)(1), the Secretary shall give preference to projects that demonstrate technologies that—

"(1) are innovative;

"(2) use renewable energy sources;

"(3) produce multiple sources of energy;

"(4) provide significant environmental benefits;

"(5) are likely to be economically competitive; and

"(6) have potential for commercialization as mass-produced, farm- or ranch-sized systems.

"(d) Cost Sharing.—The amount of financial assistance provided for a project under a grant, contract, or cooperative agreement under subsection (a) shall not exceed 50 percent of the cost of the project.

"(e) Funding.—

"(1) In general.—Not later than 30 days after the date of enactment of this subtitle, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $5,000,000, to remain available until expended.

"(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

"SEC. 388I. TECHNICAL ASSISTANCE FOR FARMERS AND RANCHERS TO DEVELOP RENEWABLE ENERGY RESOURCES.

"(a) In General.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service in consultation with the Natural Resources Conservation Service, regional biomass programs under the Department of Energy, and other entities as appropriate, may provide for education and technical assistance to farmers and ranchers for the development and marketing of renewable energy resources.

"(b) Administrative Expenses.—The Secretary may retain up to 4 percent of the amounts made available for each fiscal year to carry out this section to pay administrative expenses incurred in carrying out this section.

"CHAPTER 3—CARBON SEQUESTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

"SEC. 388J. RESEARCH.

"(a) Basic Research.—

"(1) In general.—Subject to the availability of appropriations, the Secretary shall carry out research to promote understanding of—

"(A) the net sequestration of organic carbon in soils and plants (including trees); and

"(B) net emissions of other greenhouse gases from agriculture.

"(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing carbon losses and gains in soils and plants (including trees) and net emissions of methane and nitrous oxide from cultivation and animal management activities.

"(3) COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.—

"(A) IN GENERAL.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) by eligible entities.

"(B) ELIGIBLE ENTITIES.—Under subparagraph (A), the Secretary may make a grant to—

"(i) a Federal research agency;

"(ii) a national laboratory;

"(iii) a college or university or a research foundation maintained by a college or university;

"(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer;

"(v) a State agricultural experiment station; or

"(vi) an individual.

"(C) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Education, and Extension Service shall consult with the Agricultural Research Service and the Forest Service to ensure that proposed research areas are complementary with and do not duplicate other research projects funded by the Department or other Federal agencies.

"(D) ADMINISTRATIVE EXPENSES.—The Secretary may retain up to 4 percent of the amounts made available for each fiscal year to carry out this subsection to pay administrative expenses incurred in carrying out this subsection.

"(b) APPLIED RESEARCH.—

"(1) IN GENERAL.—The Secretary shall carry out applied research in the areas of soil science, agronomy, agricultural economics, forestry, and other agricultural sciences to—

"(A) promote understanding of—

"(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soils and plants (including trees) and net emissions of other greenhouse gases;

"(ii) how changes in soil carbon pools in soils and plants (including trees) are cost-effectively measured, monitored, and verified; and

"(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

"(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and

"(C) evaluate leakage and performance issues.

"(2) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—

"(A) use existing technologies and methods; and

"(B) provide methodologies that are accessible to a nontechnical audience.

"(3) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

"(4) NATURAL RESOURCES AND THE ENVIRONMENT.—The Secretary, acting through the Natural Resources Conservation Service and the Forest Service, shall collaborate with other Federal agencies in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

"(A) changes in carbon content in soils and plants (including trees); and

"(B) net emissions of other greenhouse gases.

"(5) COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.—

"(A) IN GENERAL.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service and the Forest Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by eligible entities.

"(B) ELIGIBLE ENTITIES.—Under subparagraph (A), the Secretary may make a grant to—

"(i) a Federal research agency;

"(ii) a national laboratory;

"(iii) a college or university or a research foundation maintained by a college or university;

"(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer;

"(v) a State agricultural experiment station; or

"(vi) an individual.

"(C) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Education, and Extension Service and the Forest Service shall consult with the Natural Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects funded by the Department of Agriculture or other Federal agencies.

"(D) ADMINISTRATIVE EXPENSES.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, may retain up to 4 percent of the amounts made available for each fiscal year to carry out this subsection to pay administrative expenses incurred in carrying out this subsection.

"(c) RESEARCH CONSORTIA.—

"(1) IN GENERAL.—The Secretary may designate not more than 2 research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b) .

"(2) SELECTION.—The consortia shall be selected on a competitive basis by the Cooperative State Research, Education, and Extension Service.

"(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—

"(A) a land-grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103));

"(B) a private research institution;

"(C) a State agency;

"(D) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

"(E) an agency of the Department of Agriculture;

"(F) a research center of the National Aeronautics and Space Administration, the Department of Energy, or any other Federal agency;

"(G) an agricultural business or organization with demonstrated expertise in areas covered by this section; and

"(H) a representative of the private sector with demonstrated expertise in the areas.

"(4) RESERVATION OF FUNDING.—If the Secretary designates 1 or 2 consortia, the Secretary shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

"(d) STANDARDS FOR MEASURING CARBON AND OTHER GREENHOUSE GAS CONTENT.—

"(1) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary shall convene a conference of key scientific experts on carbon sequestration from various sectors (including the government, academic, and private sectors) to—

"(A) discuss and establish benchmark standards for measuring the carbon content of soils and plants (including trees) and net emissions of other greenhouse gases;

"(B) propose techniques and modeling approaches for measuring carbon content with a level of precision that is agreed on by the participants in the conference; and

"(C) evaluate results of analyses on baseline, permanence, and leakage issues.

"(2) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the conference.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2002 through 2006.

"(2) ALLOCATION.—

"(A) IN GENERAL.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Education, and Extension Service.

"(B) ADMINISTRATIVE EXPENSES.—The Secretary may retain up to 4 percent of the amounts made available for each fiscal year to carry out this section to pay administrative expenses incurred in carrying out this section.

"SEC. 388K. DEMONSTRATION PROJECTS AND OUTREACH.

"(a) DEMONSTRATION PROJECTS.—

"(1) DEVELOPMENT OF MONITORING PROGRAMS.—

"(A) IN GENERAL.—The Secretary, in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

"(B) BENCHMARK LEVELS OF PRECISION.—The Secretary shall administer programs developed under subparagraph (A) in a manner that achieves, to the maximum extent practicable, benchmark levels of precision in the measurement, in a cost-effective manner, of benefits and changes described in subparagraph (A).

"(2) PROJECTS.—

"(A) IN GENERAL.—The Secretary shall establish a program under which the monitoring programs developed under paragraph

(I) are used in projects to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

"(i) changes in organic carbon content and other carbon pools in soils and plants (including trees); and

"(ii) net changes in emissions of other greenhouse gases.

"(B) Evaluation of implications.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and the permanence of sequestration.

"(C) Submission of proposals.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in consultation with interested local jurisdictions and State agricultural and conservation organizations.

"(D) Limitation.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 388J(b) until benchmark measurement and assessment standards are established under section 388J(d).

"(b) Outreach.—

"(1) In general.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices that increase sequestration of carbon and reduce emission of other greenhouse gases.

"(2) Project results.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall provide for the dissemination to farmers, ranchers, private forest landowners, and appropriate State agencies in each State of information concerning—

"(A) the results of demonstration projects under subsection (a)(2); and

"(B) the manner in which the methods demonstrated in the projects might be applicable to the operations of the farmers and ranchers.

"(3) Policy outreach.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall disseminate information on the connection between global climate change mitigation strategies and agriculture and forestry, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

"(c) Authorization of Appropriations.—

"(1) In general.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2006.

"(2) Allocation.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).".

SEC. 903. BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000.

(a) Funding.—The Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) in section 307, by striking subsection (f);

(2) by redesignating section 310 as section 311; and

(3) by inserting after section 309 the following:

"SEC. 310. FUNDING.

"(a) In General.—Not later than 30 days after the date of enactment of this subsection, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this title $15,000,000, to remain available until expended.

"(b) Receipt and Acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this title the funds transferred under subsection (a), without further appropriation.".

(b) Termination of Authority.—Section 311 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) (as redesignated by subsection (a)) is amended by striking "December 31, 2005" and inserting "September 30, 2006".

SEC. 904. RURAL ELECTRIFICATION ACT OF 1936.

Title I of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) (as amended by section 661) is amended by adding at the end the following:

"SEC. 21. FINANCIAL AND TECHNICAL ASSISTANCE FOR RENEWABLE ENERGY PROJECTS.

"(a) Definition of Renewable Energy.—In this section, the term 'renewable energy' means energy derived from a wind, solar, biomass, geothermal, or hydrogen source.

"(b) Loans, Loan Guarantees, and Grants.—The Secretary shall make loans, loan guarantees, and grants to rural electric cooperatives and other rural electric utilities to promote the development of economically and environmentally sustainable renewable energy projects to serve the needs of rural communities or for rural economic development.

"(c) Interest Rate.—A loan made or guaranteed under subsection (b) shall bear interest at a rate not exceeding 4 percent.

"(d) Use of Funds.—

"(1) Grants.—A recipient of a grant under subsection (a) may use the grant funds to pay up to 75 percent of the cost of an economic feasibility study or technical assistance for a renewable energy project.

"(2) Loans.—If a renewable energy project is determined to be economically feasible, a recipient of a loan or loan guarantee under subsection (a) may use the loan funds to pay a percentage of the cost of the project determined by the Secretary.

"(e) Funding.—

"(1) In general.—Not later than 30 days after the date of enactment of this section, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $9,000,000, to remain available until expended.

"(2) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

"(3) Loan and interest subsidies.—In the case of a loan or loan guarantee under subsection (a), the Secretary shall use funds under paragraph (1) to pay the cost of loan and interest subsidies necessary to carry out this section.".

SEC. 905. CARBON SEQUESTRATION DEMONSTRATION PROGRAM.

(a) Findings.—Congress finds that—

(1) greenhouse gas emissions resulting from human activity present potential risks and potential opportunities for agricultural and forestry production;

(2) there is a need to identify cost-effective methods that can be used in the agricultural and forestry sectors to reduce the threat of climate change;

(3) deforestation and other land use changes account for approximately 1,600,000,000 of the 7,900,000,000 metric tons of the average annual worldwide quantity of carbon emitted during the 1990s;

(4) ocean and terrestrial systems each sequestered approximately 2,300,000,000 metric tons of carbon annually, resulting in a sequestration of 60 percent of the annual human-induced emissions of carbon during the 1990s;

(5) there are opportunities for increasing the quantity of carbon that can be stored in terrestrial systems through improved, human-induced agricultural and forestry practices;

(6) increasing the carbon content of soil helps to reduce erosion, reduce flooding, minimize the effects of drought, prevent nutrients and pesticides from washing into water bodies, and contribute to water infiltration, air and water holding capacity, and good seed germination and plant growth;

(7) tree planting and wetland restoration could play a major role in sequestering carbon and reducing greenhouse gas concentrations in the atmosphere;

(8) nitrogen management is a cost-effective method of addressing nutrient overenrichment in the estuaries of the United States and of reducing emissions of nitrous oxide;

(9) animal feed and waste management can be cost-effective methods to address water quality issues and reduce emissions of methane; and

(10) there is a need to—

(A) demonstrate that carbon sequestration in soils, plants, and forests and reductions in greenhouse gas emissions through nitrogen and animal feed and waste management can be measured and verified; and

(B) develop and refine quantification, verification, and auditing methodologies for carbon sequestration and greenhouse gas emission reductions on a project by project basis.

(b) Program.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following:

"SEC. 409. CARBON SEQUESTRATION DEMONSTRATION PROGRAM.

"(a) Definitions.—In this section:

"(1) Eligible project.—The term 'eligible project' means a project that is likely to result in—

"(A) demonstrable reductions in net emissions of greenhouse gases; or

"(B) demonstrable net increases in the quantity of carbon sequestered in soils and forests.

"(2) Environmental trade.—The term 'environmental trade' means a transaction between an emitter of a greenhouse gas and an agricultural producer under which the emitter pays to the agricultural producer a fee to sequester carbon or otherwise reduce emissions of greenhouse gases.

"(3) Panel.—The term 'panel' means the panel of experts established under subsection (b)(4)(A).

"(4) Secretary.—The term 'Secretary' means the Secretary of Agriculture, acting in consultation with—

"(A) the Under Secretary of Agriculture for Natural Resources and Environment;

"(B) the Under Secretary of Agriculture for Research, Education, and Economics;

"(C) the Chief Economist of the Department; and

"(D) the panel.

"(b) Demonstration Program.—

"(1) Establishment.—Subject to the availability of appropriations, the Secretary shall establish a program to provide grants, on a competitive, cost-shared basis, to agricultural producers to assist in paying the costs incurred in measuring, estimating, monitoring, verifying, auditing, and testing methodologies involved in environmental trades (including costs incurred in employing certified independent third persons to carry out those activities).

"(2) Conditions for receipt of grant.—As a condition of the acceptance of a grant under paragraph (1), an agricultural producer shall—

"(A) establish a carbon and greenhouse gas monitoring, verification, and reporting system that meets such requirements as the Secretary shall prescribe; and

"(B) under the system and through the use of an independent third party for any necessary monitoring, verifying, reporting, and auditing, measure and report to the Secretary the quantity of carbon sequestered, or the quantity of greenhouse gas emissions reduced, as a result of the conduct of an eligible project.

"(3) Criteria for award of grant.—

"(A) In general.—In awarding a grant for an eligible project under paragraph (1), the Secretary shall take into consideration—

"(i) the likelihood of the eligible project in succeeding in achieving greenhouse gas emissions reductions and net carbon sequestration increases; and

"(ii) the usefulness of the information to be obtained from the eligible project in determining how best to quantify, monitor, and verify sequestered carbon or reductions in greenhouse gas emissions.

"(B) Priority criteria.—The Secretary shall give priority in awarding a grant under paragraph (1) to an eligible project that—

"(i) involves multiple parties, a whole farm approach, or any other approach, such as the aggregation of land areas, that would—

"(I) increase the environmental benefits or reduce the transaction costs of the eligible project; and

"(II) reduce the costs of measuring, monitoring, and verifying any net sequestration of carbon or net reduction in greenhouse gas emissions;

"(ii) is designed to achieve long-term sequestration of carbon or long-term reductions in greenhouse gas emissions;

"(iii) is designed to address concerns concerning leakage;

"(iv) provides certain other benefits, such as improvements in—

"(I) soil fertility;

"(II) wildlife habitat;

"(III) water quality;

"(IV) soil erosion management;

"(V) the use of renewable resources to produce energy;

"(VI) the avoidance of ecosystem fragmentation; and

"(VII) the promotion of ecosystem restoration with native species; or

"(v) does not involve—

"(I) the reforestation of land that has been deforested since 1990; or

"(II) the conversion of native grassland.

"(4) Panel.—

"(A) In general.—The Secretary shall establish a panel to provide advice and recommendations to the Secretary with respect to criteria for awarding grants under this subsection.

"(B) Composition.—The panel shall be composed of the following representatives, to be appointed by the Secretary:

"(i) Experts from each of—

"(I) the Department;

"(II) the Environmental Protection Agency; and

"(III) the Department of Energy.

"(ii) Experts from nongovernmental and academic entities.

"(5) Payment of grant funds.—The Secretary shall provide a grant awarded under this section in such number of installments as is necessary to ensure proper implementation of an eligible project.

"(c) Methodology Grant Program.—

"(1) Establishment.—The Secretary shall establish a program to provide grants to determine the best methodologies for estimating and measuring increases or decreases in—

"(A) agricultural greenhouse gas emissions; and

"(B) the quantity of carbon sequestered in soils, forests, and trees.

"(2) Eligible recipients.—The Secretary shall award a grant under paragraph (1), on a competitive basis, to a college or university, or other research institution, that seeks to demonstrate the viability of a methodology described in paragraph (1).

"(d) Dissemination of Information.—As soon as practicable after the date of enactment of this section, the Secretary shall establish an Internet site through which agricultural producers may obtain information concerning—

"(1) potential environmental trades; and

"(2) activities of the Secretary under this section.

"(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2002 through 2006.".

SEC. 906. SENSE OF CONGRESS CONCERNING NATIONAL RENEWABLE FUELS STANDARD.

It is the sense of Congress that—

(1) Congress supports and encourages adoption of a national renewable fuels program, under which the motor vehicle fuel placed into commerce by a refiner, blender, or importer shall be composed of renewable fuel measured according to a statutory formula for specified calendar years; and

(2) the Secretary of Agriculture should ensure that the policies and programs of the Department of Agriculture promote the production of fuels from renewable fuel sources.

SEC. 907. SENSE OF CONGRESS CONCERNING THE BIOENERGY PROGRAM OF THE DEPARTMENT OF AGRICULTURE.

It is the sense of Congress that—

(1) ethanol and biofuel production capacity will be needed to phase out the use of methyl tertiary butyl ether in gasoline and the dependence of the United States on foreign oil; and

(2) the bioenergy program of the Department of Agriculture under part 1424 of title 7, Code of Federal Regulations, should be continued and expanded.

TITLE X—MISCELLANEOUS

Subtitle A—Country of Origin and Quality Grade Labeling

SEC. 1001. COUNTRY OF ORIGIN LABELING.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

"Subtitle C—Country of Origin Labeling

"SEC. 271. DEFINITIONS.

"In this subtitle:

"(1) Beef.—The term 'beef' means meat produced from cattle (including veal).

"(2) Covered commodity.—

"(A) In general.—The term 'covered commodity' means—

"(i) muscle cuts of beef, lamb, and pork;

"(ii) ground beef, ground lamb, and ground pork;

"(iii) farm-raised fish;

"(iv) a perishable agricultural commodity; and

"(v) peanuts.

"(B) Exclusions.—The term 'covered commodity' does not include—

"(i) processed beef, lamb, and pork food items; and

"(ii) frozen entrees containing beef, lamb, and pork.

"(3) Farm-raised fish.—The term 'farm-raised fish' includes—

"(A) farm-raised shellfish; and

"(B) fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.

"(4) Food service establishment.—The term 'food service establishment' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

"(5) Lamb.—The term 'lamb' means meat, other than mutton, produced from sheep.

"(6) Perishable agricultural commodity; retailer.—The terms 'perishable agricultural commodity' and 'retailer' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

"(7) Pork.—The term 'pork' means meat produced from hogs.

"(8) Secretary.—The term 'Secretary' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

"SEC. 272. NOTICE OF COUNTRY OF ORIGIN.

"(a) In General.—

"(1) Requirement.—Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

"(2) United states country of origin.—A retailer of a covered commodity may designate the covered commodity as having a United States country of origin only if the covered commodity—

"(A) in the case of beef, lamb, and pork, is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States; and

"(B) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and

"(C) in the case of a perishable agricultural commodities or peanut, is exclusively produced in the United States.

"(b) Exemption for Food Service Establishments.—Subsection (a) shall not apply to a covered commodity if the covered commodity is—

"(1) prepared or served in a food service establishment; and

"(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

"(B) served to consumers at the food service establishment.

"(c) Method of Notification.—

"(1) In general.—The information required by subsection (a) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

"(2) Labeled commodities.—If the covered commodity is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

"(d) Audit Verification System.—The Secretary may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to ensure compliance with the regulations promulgated under section 274.

"(e) INFORMATION.—Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

"(f) CERTIFICATION OF ORIGIN.—

"(1) MANDATORY IDENTIFICATION.—The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity.

"(2) EXISTING CERTIFICATION PROGRAMS.—To certify the country of origin of a covered commodity, the Secretary may use as a model certification programs in existence on the date of enactment of this Act, including—

"(A) the carcass grading and certification system carried out under this Act;

"(B) the voluntary country of origin beef labeling system carried out under this Act;

"(C) voluntary programs established to certify certain premium beef cuts;

"(D) the origin verification system established to carry out the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); or

"(E) the origin verification system established to carry out the market access program under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

"SEC. 273. ENFORCEMENT.

"(a) IN GENERAL.—Except as provided in subsection (b), section 253 shall apply to a violation of this subtitle.

"(b) WARNINGS.—If the Secretary determines that a retailer is in violation of section 272, the Secretary shall—

"(1) notify the retailer of the determination of the Secretary; and

"(2) provide the retailer a 30-day period, beginning on the date on which the retailer receives the notice under paragraph (1) from the Secretary, during which the retailer may take necessary steps to comply with section 272.

"(c) FINES.—If, on completion of the 30-day period described in subsection (c)(2), the Secretary determines that the retailer has willfully violated section 272, after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer in an amount determined by the Secretary.

"SEC. 274. REGULATIONS.

"(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to carry out this subtitle.

"(b) PARTNERSHIPS WITH STATES.—In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to carry out this subtitle.

"SEC. 275. APPLICATION.

"This subtitle shall apply to the retail sale of a covered commodity beginning on the date that is 180 days after the date of the enactment of this subtitle.".

SEC. 1002. QUALITY GRADE LABELING OF IMPORTED MEAT AND MEAT FOOD PRODUCTS.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) (as amended by section 1001) is amended by adding at the end the following:

"Subtitle D—Commodity-Specific Grading Standards

"SEC. 281. DEFINITION OF SECRETARY.

"In this subtitle, the term 'Secretary' means the Secretary of Agriculture.

"SEC. 282. QUALITY GRADE LABELING OF IMPORTED MEAT AND MEAT FOOD PRODUCTS.

"An imported carcass, part thereof, meat, or meat food product (as defined by the Secretary) shall not bear a label that indicates a quality grade issued by the Secretary.

"SEC. 283. REGULATIONS.

"The Secretary shall promulgate such regulations as are necessary to ensure compliance with, and otherwise carry out, this subtitle.".

Subtitle B—Crop Insurance

SEC. 1011. CONTINUOUS COVERAGE.

Section 508(e)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(4)) is amended—

(1) in the paragraph heading, by striking "TEMPORARY PROHIBITION" and inserting "PROHIBITION"; and

(2) by striking "through 2005" and inserting "and subsequent".

SEC. 1012. QUALITY LOSS ADJUSTMENT PROCEDURES.

Section 508(m)(3) of the Federal Crop Insurance Act (7 U.S.C. 1508(m)(3)) is amended—

(1) by striking "The Corporation" and inserting the following:

"(A) REVIEW.—The Corporation"; and

(2) by striking "Based on" and inserting the following:

"(B) PROCEDURES.—Effective beginning not later than the 2003 reinsurance year, based on".

SEC. 1013. CONSERVATION REQUIREMENTS.

(a) HIGHLY ERODIBLE LAND CONSERVATION.—Section 1211(1) of the Food Security Act of 1985 (16 U.S.C. 3811(1)) is amended—

(1) in subparagraph (A), by striking "production flexibility";

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(3) by inserting after subparagraph (B) the following:

"(C) an indemnity payment under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);".

(b) WETLAND CONSERVATION.—Section 1221(b) of the Food Security Act of 1985 (16 U.S.C. 3821(b)) is amended—

(1) in paragraph (1), by striking "production flexibility";

(2) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) A farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

"(3) A disaster payment.

"(4) An indemnity payment under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).".

(c) CONTROLLED SUBSTANCES PRODUCTION CONTROL.—Section 519(b) of the Controlled Substances Act (21 U.S.C. 889(b)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

"(A) contract payments under a contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;";

(B) by striking subparagraphs (C) and (D) and inserting the following:

"(C) an indemnity payment under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

"(D) a disaster payment; or";

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) during the crop year—

"(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.);

"(B) a payment under any other provision of subtitle D of title XII of that Act (16 U.S.C. 3830 et seq.);

"(C) a payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201, 2202); or

"(D) a payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).".

Subtitle C—General Provisions

SEC. 1021. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

(a) IN GENERAL.—Title III of the Packers and Stockyards Act, 1921, is amended by inserting after section 317 (7 U.S.C. 217a) the following:

"SEC. 318. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

"(a) DEFINITIONS.—In this section:

"(1) HUMANELY EUTHANIZED.—The term 'humanely euthanized' means to kill an animal by mechanical, chemical, or other means that immediately render the animal unconscious, with this state remaining until the animal's death.

"(2) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any livestock that is unable to stand and walk unassisted.

"(b) UNLAWFUL PRACTICES.—

"(1) IN GENERAL.—It shall be unlawful under section 312 for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized.

"(2) EXCEPTIONS.—

"(A) NON-GIPSA FARMS.—Paragraph (1) shall not apply to any farm the animal care practices of which are not subject to the authority of the Grain Inspection, Packers, and Stockyards Administration.

"(B) VETERINARY CARE.—Paragraph (1) shall not apply in a case in which nonambulatory livestock receive veterinary care intended to render the livestock ambulatory.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) takes effect 1 year after the date of the enactment of this Act.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations consistent with the amendment, relating to the handling, treatment, and disposition of nonambulatory livestock at livestock marketing facilities or by dealers.

SEC. 1022. COTTON CLASSIFICATION SERVICES.

The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 473), is amended by striking "2002" and inserting "2006".

SEC. 1023. PROTECTION FOR PURCHASERS OF FARM PRODUCTS.

Section 1324 of the Food Security Act of 1985 (7 U.S.C. 1631) is amended—

(1) in subsection (c)(4)—

(A) in subparagraph (B), by striking "signed," and inserting "signed, authorized, or otherwise authenticated by the debtor,";

(B) by striking subparagraph (C);

(C) in subparagraph (D)—

(i) in clause (iii), by adding "and" after the semicolon at the end; and

(ii) in clause (iv), by striking "applicable;" and all that follows and inserting "applicable, and the name of each county or parish in which the farm products are growing or located;"; and

(D) by redesignating subparagraphs (D) through (I) as subparagraphs (C) through (H), respectively;

(2) in subsection (e)—

(A) in paragraph (1)(A)—

(i) in clause (ii)—

(I) in subclause (III), by adding "and" after the semicolon at the end; and

(II) in subclause (IV), by striking "crop year," and all that follows and inserting "crop year, and the name of each county or parish in which the farm products are growing or located;"; and

(iii) in clause (v), by inserting "contains" before "any payment"; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "subparagraph" and inserting "subsection"; and

(ii) in subparagraph (B), by striking "; and" and inserting a period; and

(3) subsection (g)(2)(A)—

(A) in clause (ii)—

(i) in subclause (III), by adding "and" after the semicolon at the end; and

(ii) in subclause (IV), by striking "crop year," and all that follows and inserting "crop year, and the name of each county or parish in which the farm products are growing or located;"; and

(B) in clause (v), by inserting "contains" before "any payment".

SEC. 1024. PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.

(a) PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (e)—

(A) by inserting "PENALTIES.—" after "(e)";

(B) by striking "$5,000" and inserting "$15,000"; and

(C) by striking "1 year" and inserting "2 years"; and

(2) in subsection (g)(2)(B), by inserting at the end before the semicolon the following: "or from any State into any foreign country".

(b) EFFECTIVE DATE.—The amendments made by this section take effect 30 days after the date of the enactment of this Act.

SEC. 1025. PROHIBITION ON INTERSTATE MOVEMENT OF ANIMALS FOR ANIMAL FIGHTING.

(a) PROHIBITION ON INTERSTATE MOVEMENT OF ANIMALS FOR ANIMAL FIGHTING.—Section 26(d) of the Animal Welfare Act (7 U.S.C. 2156(d)) is amended to read as follows:

"(d) ACTIVITIES NOT SUBJECT TO PROHIBITION.—This section does not apply to the selling, buying, transporting, or delivery of an animal in interstate or foreign commerce for any purpose, so long as the purpose does not include participation of the animal in an animal fighting venture.".

(b) EFFECTIVE DATE.—The amendment made by this section take effect 30 days after the date of the enactment of this Act.

SEC. 1026. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended by striking subsection (a) and inserting the following:

"(a) OUTREACH AND ASSISTANCE.—

"(1) DEFINITIONS.—In this subsection:

"(A) DEPARTMENT.—The term 'Department' means the Department of Agriculture.

"(B) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(i) any community-based organization, network, or coalition of community-based organizations that—

"(I) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

"(II) has provided to the Secretary documentary evidence of work with socially disadvantaged farmers and ranchers during the 2-year period preceding the submission of an application for assistance under this subsection; and

"(III) has not engaged in activities prohibited under section 501(c)(3) of the Internal Revenue Code of 1986;

"(ii)(I) an 1890 institution (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)), including West Virginia State College;

"(II) a 1994 institution (as defined in section 2 of that Act);

"(III) an Indian tribal community college;

"(IV) an Alaska Native cooperative college;

"(V) a Hispanic-serving institution (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)); and

"(VI) any other institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region; and

"(iii) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) or a national tribal organization that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region.

"(C) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(2) PROGRAM.—The Secretary shall carry out an outreach and technical assistance program to encourage and assist socially disadvantaged farmers and ranchers—

"(A) in owning and operating farms and ranches; and

"(B) in participating equitably in the full range of agricultural programs offered by the Department.

"(3) REQUIREMENTS.—The outreach and technical assistance program under paragraph (2) shall—

"(A) enhance coordination of the outreach, technical assistance, and education efforts authorized under various agriculture programs; and

"(B) include information on, and assistance with—

"(i) commodity, conservation, credit, rural, and business development programs;

"(ii) application and bidding procedures;

"(iii) farm and risk management;

"(iv) marketing; and

"(v) other activities essential to participation in agricultural and other programs of the Department.

"(4) GRANTS AND CONTRACTS.—

"(A) IN GENERAL.—The Secretary may make grants to, and enter into contracts and other agreements with, an eligible entity to provide information and technical assistance under this subsection.

"(B) RELATIONSHIP TO OTHER LAW.—The authority to carry out this section shall be in addition to any other authority provided in this or any other Act.

"(5) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2002 through 2006.

"(B) INTERAGENCY FUNDING.—In addition to funds authorized to be appropriated under subparagraph (A), any agency of the Department may participate in any grant, contract, or agreement entered into under this section by contributing funds, if the agency determined that the objectives of the grant, contract, or agreement will further the authorized programs of the contributing agency.".

SEC. 1027. PUBLIC DISCLOSURE REQUIREMENTS FOR COUNTY COMMITTEE ELECTIONS.

Section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) is amended by striking subparagraph (B) and inserting the following:

"(B) ESTABLISHMENT AND ELECTIONS FOR COUNTY, AREA, OR LOCAL COMMITTEES.—

"(i) ESTABLISHMENT.—

"(I) IN GENERAL.—In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

"(II) LOCAL ADMINISTRATIVE AREAS.—The Secretary may designate local administrative areas within a county or a larger area under the jurisdiction of a committee established under subclause (I).

"(ii) COMPOSITION OF COUNTY, AREA, OR LOCAL COMMITTEES.—A committee established under clause (i) shall consist of not fewer than 3 nor more than 5 members that—

"(I) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and

"(II) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.

"(iii) ELECTIONS.—

"(I) IN GENERAL.—Subject to subclauses (II) through (V), the Secretary shall establish procedures for nominations and elections to county, area, or local committees.

"(II) NONDISCRIMINATION STATEMENT.—Each solicitation of nominations for, and notice of elections of, a county, area, or local committee shall include the nondiscrimination statement used by the Secretary.

"(III) NOMINATIONS.—

"(aa) ELIGIBILITY.—To be eligible for nomination and election to the applicable county, area, or local committee, as determined by the Secretary, an agricultural producer shall be located within the area under the jurisdiction of a county, area, or local committee, and participate or cooperate in programs administered within that area.

"(bb) OUTREACH.—In addition to such nominating procedures as the Secretary may prescribe, the Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

"(IV) Opening of ballots.—

"(aa) Public notice.—At least 10 days before the date on which ballots are to be opened and counted, a county, area, or local committee shall announce the date, time, and place at which election ballots will be opened and counted.

"(bb) Opening of ballots.—Election ballots shall not be opened until the date and time announced under item (aa).

"(cc) Observation.—Any person may observe the opening and counting of the election ballots.

"(V) Report of election.—Not later than 20 days after the date on which an election is held, a county, area, or local committee shall file an election report with the Secretary and the State office of the Farm Service Agency that includes—

"(aa) the number of eligible voters in the area covered by the county, area, or local committee;

"(bb) the number of ballots cast in the election by eligible voters (including the percentage of eligible voters that cast ballots);

"(cc) the number of ballots disqualified in the election;

"(dd) the percentage that the number of ballots disqualified is of the number of ballots received;

"(ee) the number of nominees for each seat up for election;

"(ff) the race, ethnicity, and gender of each nominee, as provided through the voluntary self-identification of each nominee; and

"(gg) the final election results (including the number of ballots received by each nominee).

"(VI) National report.—Not later than 90 days after the date on which the first election of a county, area, or local committee that occurs after the date of enactment of the Agriculture, Conservation, and Rural Enhancement Act of 2001 is held, the Secretary shall complete a report that consolidates all the election data reported to the Secretary under subclause (V).

"(VII) Election reform.—

"(aa) Analysis.—If determined necessary by the Secretary after analyzing the data contained in the report under subclause (VI), the Secretary shall promulgate and publish in the Federal Register proposed uniform guidelines for conducting elections for members and alternate members of county, area, and local committees not later than 1 year after the date of completion of the report.

"(bb) Inclusion.—The procedures promulgated by the Secretary under item (aa) shall ensure fair representation of socially disadvantaged groups described in subclause (III)(bb) in an area covered by the county, area, or local committee, in cases in which those groups are underrepresented on the county, area, or local committee for that area.

"(cc) Methods of inclusion.—Notwithstanding clause (ii), the Secretary may ensure inclusion of socially disadvantaged farmers and ranchers through provisions allowing for appointment of additional voting members to a county, area, or local committee or through other methods.

"(iv) Term of office.—The term of office for a member of a county, area, or local committee shall not exceed 3 years.".

SEC. 1028. PSEUDORABIES ERADICATION PROGRAM.

Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 114i(d)) is amended by striking "2002" and inserting "2006".

SEC. 1029. TREE ASSISTANCE PROGRAM.

(a) In General.—Section 194 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 945) is amended to read as follows:

"SEC. 194. TREE ASSISTANCE PROGRAM.

"(a) Definitions.—In this section:

"(1) Eligible orchardist.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

"(2) Natural disaster.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, and other natural occurrences, as determined by the Secretary.

"(3) Tree.—The term 'tree' includes trees, bushes, and vines.

"(4) Secretary.—The term 'Secretary' means the Secretary of Agriculture.

"(b) Eligibility.—

"(1) Loss.—Subject to paragraph (2), the Secretary shall provide assistance in accordance with subsection (c) to eligible orchardists that, as determined by the Secretary—

"(A) planted trees for commercial purposes; and

"(B) lost those trees as a result of a natural disaster.

"(2) Limitation.—An eligible orchardist shall qualify for assistance under subsection (c) only if the tree mortality rate of the orchardist, as a result of the natural disaster, exceeds 15 percent (adjusted for normal mortality), as determined by the Secretary.

"(c) Assistance.—

"(1) In general.—Assistance provided by the Secretary to eligible orchardists for losses described in subsection (b) shall consist of—

"(A) reimbursement of 75 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

"(B) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

"(2) Limitation on Assistance.—

"(A) Limitation.—The total amount of payments that a person may receive under this section shall not exceed—

"(i) $100,000; or

"(ii) an equivalent value in tree seedlings.

"(B) Regulations.—The Secretary shall promulgate regulations that—

"(i) define the term 'person' for the purposes of this section (which definition shall conform, to the extent practicable, to the regulations defining the term 'person' promulgated under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

"(ii) prescribe such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the limitation established under this section.

"(d) Authorization of appropriations.—Notwithstanding section 161, there is authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2006.".

(b) Application Date.—The amendment made by subsection (a) shall apply to tree losses that are incurred as a result of a natural disaster after January 1, 2000.

SEC. 1030. NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.

(a) In General.—The Secretary of Agriculture (acting through the Agricultural Marketing Service) shall use $3,500,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to establish a national organic certification cost-share program to assist producers and handlers of agricultural products in obtaining certification under the national organic production program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(b) Federal Share.—

(1) In general.—Subject to paragraph (2), the Secretary shall pay under this section not more than 75 percent of the costs incurred by a producer or handler in obtaining certification under the national organic production program, as certified to and approved by the Secretary.

(2) Maximum amount.—The maximum amount of a payment made to a producer or handler under this section shall be $500.

SEC. 1031. FOOD SAFETY COMMISSION.

(a) Establishment.—

(1) In general.—There is established a commission to be known as the "Food Safety Commission" (referred to in this section as the "Commission").

(2) Membership.—

(A) Composition.—The Commission shall be composed of 15 members, of whom—

(i) 4 shall be appointed by the Majority Leader of the Senate;

(ii) 3 shall be appointed by the Minority Leader of the Senate;

(iii) 4 shall be appointed by the Speaker of the House of Representatives;

(iv) 3 shall be appointed by the Minority Leader of the House of Representatives; and

(v) 1 shall—

(I) be appointed jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate; and

(II) serve as chairperson.

(B) Eligibility.—Members of the Commission—

(i) shall be knowledgeable or have expertise or training in matters under the jurisdiction of the Commission;

(ii) shall represent, at a minimum—

(I) consumer groups;

(II) food processors, producers, and retailers;

(III) public health professionals;

(IV) food inspectors;

(V) former or current food safety regulators;

(VI) members of academia; or

(VII) any other interested individuals; and

(iii) shall not be Federal employees.

(C) Date of appointments.—The appointment of a member of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(D) Consultation.—The Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate shall consult among themselves prior to appointing the members of the Commission under subparagraph (A) to achieve, to the maximum extent practicable—

(i) consensus on the appointments; and

(ii) fair and equitable representation of various points of view with respect to matters reviewed by the Commission.

(E) Vacancies.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled—

(I) not later than 60 days after the date on which the vacancy occurs; and

(II) in the same manner as the original appointment was made.

(3) Meetings.—

(A) Initial meeting.—The initial meeting of the Commission shall be conducted not later than 30 days after the later of—

(i) the date of appointment of the final member of the Commission; or

(ii) the date on which funds authorized to be appropriated under subsection (f)(1) are made available.

(B) OTHER MEETINGS.—The Commission shall meet at the call of the Chairperson.

(4) QUORUM; STANDING RULES.—

(A) QUORUM.—A majority of the members of the Commission shall constitute a quorum to conduct business.

(B) STANDING RULES.—At the first meeting of the Commission, the Commission shall adopt standing rules of the Commission to guide the conduct of business and decision-making of the Commission.

(C) CONSENSUS.—

(i) IN GENERAL.—To the maximum extent practicable, the Commission shall carry out the duties of the Commission by reaching consensus.

(ii) VOTING.—

(I) IN GENERAL.—If the Commission is unable to achieve consensus with respect to a particular decision, the Commission shall vote on the decision.

(II) AUTHORITY.—Each member of the Commission shall have 1 vote, which vote shall be accorded the same weight as a vote of each other voting member.

(b) DUTIES.—

(1) RECOMMENDATIONS.—

(A) IN GENERAL.—The Commission shall make specific recommendations that build on and implement, to the maximum extent practicable, the recommendations contained in the report of the National Academy of Sciences entitled "Ensuring Safe Food from Production to Consumption" and that shall serve as the basis for draft legislative language to—

(i) improve the food safety system;

(ii) improve public health;

(iii) create a harmonized, central framework for managing Federal food safety programs (including outbreak management, standard-setting, inspection, monitoring, surveillance, risk assessment, enforcement, research, and education);

(iv) enhance the effectiveness of Federal food safety resources; and

(v) eliminate, to the maximum extent practicable, gaps, conflicts, duplication, and failures in the food safety system.

(B) COMPONENTS.—Recommendations made by the Commission under subparagraph (A) shall, at a minimum, address—

(i) all food available commercially in the United States, including meat, poultry, eggs, seafood, and produce;

(ii) the application of all resources based on risk, including resources for inspection, research, enforcement, and education;

(iii) shortfalls, redundancy, and inconsistency in laws (including regulations); and

(iv) the use of science-based methods, performance standards, and preventative control systems to ensure the safety of the food supply of the United States.

(2) REPORT.—Not later than 1 year after the date on which the Commission first meets, the Commission shall submit to the President and Congress a comprehensive report that includes—

(A) the findings, conclusions, and recommendations of the Commission;

(B) a summary of any reports submitted to the Commission under subsection (e) by—

(i) the Advisory Commission on Intergovernmental Relations; and

(ii) the National Academy of Sciences;

(C) a summary of any other material used by the Commission in the preparation of the report under this paragraph; and

(D) if requested by 1 or more members of the Commission, a statement of the minority views of the Commission.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this section hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths, as the Commission or such subcommittee or member considers advisable.

(2) WITNESS ALLOWANCES AND FEES.—

(A) IN GENERAL.—Section 1821 of title 28, United States Code, shall apply to a witness requested to appear at a hearing of the Commission.

(B) EXPENSES.—The per diem and mileage allowances for a witness shall be paid from funds available to pay the expenses of the Commission.

(3) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly, from any Federal Department or agency, such information as the Commission considers necessary to carry out the duties of the Commission under subsection (b).

(B) PROVISION OF INFORMATION.—

(i) IN GENERAL.—Subject to subparagraph (C), on the request of the Commission, the head of a department or agency described in subparagraph (A) shall furnish information requested by the Commission to the Commission.

(ii) ADMINISTRATION.—The furnishing of information by a department or agency to the Commission shall not be considered a waiver of any exemption available to the department or agency under section 552 of title 5, United States Code.

(C) INFORMATION TO BE KEPT CONFIDENTIAL.—

(i) IN GENERAL.—For purposes of section 1905 of title 18, United States Code—

(I) the Commission shall be considered an agency of the Federal Government; and

(II) any individual employed by an individual, entity, or organization that is a party to a contract with the Commission under subsection (e) shall be considered an employee of the Commission.

(ii) PROHIBITION ON DISCLOSURE.—Information obtained by the Commission, other than information that is available to the public, shall not be disclosed to any person in any manner except—

(I) to an employee of the Commission described in clause (i), for the purpose of receiving, reviewing, or processing the information;

(II) in compliance with a court order; or

(III) in any case in which the information is publicly released by the Commission in an aggregate or summary form that does not directly or indirectly disclose—

(aa) the identity of any person or business entity; or

(bb) any information the release of which is prohibited under section 1905 of title 18, United States Code.

(d) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—A member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(C) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law (including an Act of appropriation), an employee of the Federal Government may be detailed to the Commission, without reimbursement, for such period of time as the Commission may require.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(e) CONTRACTS FOR RESEARCH.—

(1) ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.—

(A) IN GENERAL.—In carrying out the duties of the Commission under subsection (b), the Commission may enter into contracts with the Advisory Commission on Intergovernmental Relations under which the Advisory Commission on Intergovernmental Relations shall conduct a thorough review of, and shall catalogue, all applicable Federal, State, local, and tribal laws, regulations, and ordinances that pertain to food safety in the United States.

(B) REPORT.—A contract under subparagraph (A) shall require that, not later than 240 days after the date on which the Commission first meets, the Advisory Commission on Intergovernmental Relations shall submit to the Commission a report that describes the results of the services rendered by the Advisory Commission on Intergovernmental Relations under the contract.

(2) NATIONAL ACADEMY OF SCIENCES.—

(A) IN GENERAL.—In carrying out the duties of the Commission under subsection (b), the Commission may enter in contracts with the National Academy of Sciences to obtain research or other assistance.

(B) REPORT.—A contract under subparagraph (A) shall require that, not later than 240 days after the date on which the Commission first meets, the National Academy of Sciences shall submit to the Commission a report that describes the results of the services to be rendered by the National Academy of Sciences under the contract.

(3) OTHER ORGANIZATIONS.—Nothing in this subsection limits or otherwise affects the

ability of the Commission to enter into a contract with an entity or organization that is not described in paragraph (1) or (2) to obtain assistance in conducting research necessary to carry out the duties of the Commission under subsection (b).

(f) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section $3,000,000.

(2) Limitation.—No payment may be made under subsection (d) or (e) except to the extent provided for in advance in an appropriations Act.

(g) Termination.—The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the recommendations and report under subsection (b).

SEC. 1032. HUMANE METHODS OF ANIMAL SLAUGHTER.

It is the sense of Congress that—

(1) the Secretary of Agriculture should—

(A) resume tracking the number of violations of Public Law 85-765 (7 U.S.C. 1901 et seq.) and report the results and relevant trends annually to Congress; and

(B) fully enforce Public Law 85-765 by ensuring that humane methods in the slaughter of livestock—

(i) prevent needless suffering;

(ii) result in safer and better working conditions for persons engaged in the slaughtering of livestock;

(iii) bring about improvement of products and economies in slaughtering operations; and

(iv) produce other benefits for producers, processors, and consumers that tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce; and

(2) it should be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.

SEC. 1033. PENALTIES FOR VIOLATIONS OF PLANT PROTECTION ACT.

Section 424 of the Plant Protection Act (7 U.S.C. 7734) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Criminal Penalties.—

"(1) In general.—A person that knowingly violates this title shall be subject to criminal penalties in accordance with this subsection.

"(2) Felonies.—

"(A) In general.—Subject to subparagraphs (B) and (C), a person shall be imprisoned not more than 5 years, fined not more than $25,000, or both, in the case of a violation of this title involving—

"(i) plant pests;

"(ii) more than 50 pounds of plants;

"(iii) more than 5 pounds of plant products;

"(iv) more than 50 pounds of noxious weeds;

"(v) possession with intent to distribute or sell items described in clause (i), (ii), (iii), or (iv), knowing the items have been involved in a violation of this title; or

"(vi) forging, counterfeiting, or without authority from the Secretary, using, altering, defacing, or destroying a certificate, permit, or other document provided under this title.

"(B) Multiple violations.—On the second and any subsequent conviction of a person of a violation of this title described in subparagraph (A), the person shall be imprisoned not more than 10 years or fined not more than $50,000, or both.

"(C) Intent to harm agriculture of United States.—In the case of a knowing movement in violation of this title by a person of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance into, out of, or within the United States, with the intent to harm the agriculture of the United States by introduction into the United States or dissemination of a plant pest or noxious weed within the United States, the person shall be imprisoned not less than 10 nor more than 20 years, fined not more than $500,000, or both.

"(3) Misdemeanors.—

"(A) In general.—Subject to subparagraph (B), a person shall be imprisoned not more than 1 year, fined not more than $1,000, or both, in the case of a violation of this title involving—

"(i) 50 pounds or less of plants;

"(ii) 5 pounds or less of plant products; or

"(iii) 50 pounds or less of noxious weeds.

"(B) Multiple violations.—On the second and any subsequent conviction of a person of a violation of this title described in subparagraph (A), the person shall be imprisoned not more than 3 years, fined not more than $10,000, or both.";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (e), (f), respectively;

(3) by inserting after subsection (a) the following:

"(b) Criminal Forfeiture.—

"(1) In general.—In imposing a sentence on a person convicted of a violation of this title, in addition to any other penalty imposed under this section and irrespective of any provision of State law, a court shall order that the person forfeit to the United States—

"(A) any of the property of the person used to commit or to facilitate the commission of the violation (other than a misdemeanor); and

"(B) any property, real or personal, constituting, derived from, or traceable to any proceeds that the person obtained directly or indirectly as a result of the violation.

"(2) Procedures.—All property subject to forfeiture under this subsection, any seizure and disposition of the property, and any proceeding relating to the forfeiture shall be subject to the procedures of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (d) and (q).

"(3) Proceeds.—The proceeds from the sale of any forfeited property, and any funds forfeited, under this subsection shall be used—

"(A) first, to reimburse the Department of Justice, the United States Postal Service, and the Department of the Treasury for any costs incurred by the Departments and the Service to initiate and complete the forfeiture proceeding;

"(B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by the Office in the law enforcement effort resulting in the forfeiture;

"(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

"(D) fourth, by the Secretary to carry out the functions of the Secretary under this title."; and

(4) by inserting after subsection (c) (as redesignated by paragraph (2)) the following:

"(d) Civil Forfeiture.—

"(1) In general.—There shall be subject to forfeiture to the United States any property, real or personal—

"(A) used to commit or to facilitate the commission of a violation (other than a misdemeanor) described in subsection (a); or

"(B) constituting, derived from, or traceable to proceeds of a violation described in subsection (a).

"(2) Procedures.—

"(A) In general.—Subject to subparagraph (B), the procedures of chapter 46 of title 18, United States Code, relating to civil forfeitures shall apply to a seizure or forfeiture under this subsection, to the extent that the procedures are applicable and consistent with this subsection.

"(B) Performance of duties.—Duties imposed on the Secretary of the Treasury under chapter 46 of title 18, United States Code, shall be performed with respect to seizures and forfeitures under this subsection by officers, employees, agents, and other persons designated by the Secretary of Agriculture.".

SEC. 1034. CONNECTICUT RIVER ATLANTIC SALMON COMMISSION.

(a) Effective Period.—Section 3(2) of Public Law 98-138 (Public Law 98-138; 97 Stat. 870) is amended by striking "twenty" and inserting "40".

(b) Authorization of Appropriations.—Public Law 98-138 (97 Stat. 866) is amended by adding at the end the following:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the Secretary of the Interior to carry out the activities of the Connecticut River Atlantic Salmon Commission $9,000,000 for each of fiscal years 2002 through 2010.".

Subtitle D—Administration

SEC. 1041. REGULATIONS.

(a) In General.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) Procedure.—The promulgation of the regulations and administration of title I and sections 456 and 508 and the amendments made by title I and sections 456 and 508 shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) Congressional Review of Agency Rulemaking.—In carrying out subsection (b), the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 1042. EFFECT OF AMENDMENTS.

(a) In General.—Except as otherwise specifically provided in this Act and notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out an agricultural market transition, price support, or production adjustment program for any of the 1996 through 2001 crop, fiscal, or calendar years under a provision of law in effect immediately before the date of enactment of this Act.

(b) Liability.—A provision of this Act or an amendment made by this Act shall not affect the liability of any person under any provision of law as in effect immediately before the date of enactment of this Act.

SA 2472. Mr. CRAPO (for himself, Mr. Bingaman, Mr. Domenici, Mr.

Brownback, Mr. Craig, and Mr. Voinovich) proposed an amendment to amendment SA 2471 proposed by Mr. Daschle to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

Strike section 132 and insert the following:

SEC. 132. STUDY OF NATIONAL DAIRY POLICY.

(a) Study Required.—Not later than April 30, 2002, the Secretary of Agriculture shall submit to Congress a comprehensive economic evaluation of the potential direct and indirect effects of the various elements of the national dairy policy, including an examination of the effect of the national dairy policy on—

(1) farm price stability, farm profitability and viability, and local rural economies in the United States;

(2) child, senior, and low-income nutrition programs, including impacts on schools and institutions participating in the programs, on program recipients, and other factors; and

(3) the wholesale and retail cost of fluid milk, dairy farms, and milk utilization.

(b) National Dairy Policy Defined.—In this section, the term "national dairy policy" means the dairy policy of the United States as evidenced by the following policies and programs:

(1) Federal Milk Marketing Orders.

(2) Interstate dairy compacts (including proposed compacts described in H.R. 1827 and S. 1157, as introduced in the 107th Congress).

(3) Over-order premiums and State pricing programs.

(4) Direct payments to milk producers.

(5) Federal milk price support program.

(6) Export programs regarding milk and dairy products, such as the Dairy Export Incentive Program.

SA 2473. Mr. LUGAR (for himself and Mr. Domenici) proposed an amendment to amendment SA 2471 proposed by Mr. Daschle to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

Beginning on page 985, strike subtitle D and all that follows through page 987, line 2 and insert the following:

TITLE XI—COMMODITY PROGRAMS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Farm Financial Protection Act".

SEC. 1102. PURPOSES.

The purposes of this title are—

(1) to encourage producers to select strategies for managing risk in the farming or ranching operation of the producer by providing financial assistance that can be applied to the risk management strategy that the producer believes best addresses the unique financial, business, and agricultural conditions of the farm or ranch of the producer; and

(2) to provide new programs that—

(A) allow producers to address the risk management strategies that best suit the farming or ranching operation of the producer; and

(B) do not distort commercial markets and are consistent with international obligations of the United States.

Subtitle A—Farm Financial Protection

SEC. 1111. DEFINITIONS.

In this subtitle:

(1) Adjusted gross revenue.—The term "adjusted gross revenue" means the adjusted gross income for all agricultural enterprises of a producer in an applicable year, excluding revenue earned from nonagricultural sources, as determined by the Secretary—

(A) by taking into account gross receipts from the sale of crops and livestock on all agricultural enterprises of the producer, including insurance indemnities resulting from losses in the agricultural enterprises;

(B) by including all farm payments paid by the Secretary for all agricultural enterprises of the producer, including—

(i) a voucher received under section 1112; and

(ii) any marketing loan gains described in section 1001(3)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(3)(A));

(C) by deducting the cost or basis of livestock or other items purchased for resale, such as feeder livestock, on all agricultural enterprises of the producer; and

(D) as represented on—

(i) a schedule F of the Federal income tax returns of the producer; or

(ii) a comparable tax form related to the agricultural enterprises of the producer, as approved by the Secretary.

(2) Agricultural commodity.—The term "agricultural commodity" means any agricultural commodity, food, feed, fiber, or livestock.

(3) Agricultural enterprise.—The term "agricultural enterprise" means the production and marketing of all agricultural commodities (including livestock but excluding tobacco) on a farm or ranch.

(4) Applicable year.—The term "applicable year" means the year during which the producer elects to receive a voucher under a risk management contract.

(5) Average adjusted gross revenue.—The term "average adjusted gross revenue" means—

(A) the average of the adjusted gross revenue of a producer for each of the preceding 5 taxable years; or

(B) in the case of a beginning farmer or rancher or other producer that does not have adjusted gross revenue for each of the preceding 5 taxable years, the estimated income of the producer that will be earned from all agricultural enterprises for the applicable year, as determined by the Secretary.

(6) Producer.—The term "producer" means an individual or entity, as determined by the Secretary for an applicable year, that—

(A) shares in the risk of producing, or provides a material contribution in producing, an agricultural commodity for the applicable year;

(B) has a substantial beneficial interest in the agricultural enterprise in which the agricultural commodity is produced;

(C)(i) during each of the preceding 5 taxable years, has filed—

(I) a schedule F of the Federal income tax returns; or

(II) a comparable tax form related to the agricultural enterprises of the individual or entity, as approved by the Secretary; or

(ii) is a beginning farmer or rancher or other producer that does not have adjusted gross revenue for each of the preceding 5 taxable years, as determined by the Secretary; and

(D)(i) has earned at least $20,000 in average adjusted gross revenue for each of the preceding 5 taxable years;

(ii) is a limited resource farmer or rancher, as determined by the Secretary; or

(iii) in the case of a beginning farmer or rancher or other producer that does not have adjusted gross revenue for each of the preceding 5 taxable years, has at least $20,000 in estimated income from all agricultural enterprises for the applicable year, as determined by the Secretary.

(7) Risk management contract.—The term "risk management contract" means a contract entered into under section 1112 annually for each applicable year.

(8) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1112. RISK MANAGEMENT CONTRACT.

(a) Offer.—The Secretary shall offer to enter into a risk management contract annually for each of the 2003 through 2006 crops with each producer that is engaged in the production of an agricultural commodity for an applicable year.

(b) Voucher.—

(1) In general.—Under a risk management contract, the Secretary shall pay to a producer a voucher that is equivalent in value to the average adjusted gross revenue of the producer.

(2) Payment rate.—The payment rate for a voucher each year shall be equal to the total of—

(A) 6 percent for the amount of the average adjusted gross revenue of a producer that is less than $250,000;

(B) 4 percent for the amount of the average adjusted gross revenue of a producer that is $250,000 or more but less than $500,000;

(C) 1 percent for the amount of the average adjusted gross revenue of a producer that is $500,000 or more but less than $1,000,000; and

(D) 0 percent for the amount of the average adjusted gross revenue of a producer that is $1,000,000 or more.

(c) Eligibility.—

(1) In general.—An individual or entity may not receive directly or indirectly a voucher that is equal in value to more than $30,000 in a year.

(2) Ineligible entities.—An entity shall be ineligible to receive a voucher under this section if the entity is—

(A) an agency of the Federal Government, a State, or a political subdivision of a State;

(B) an entity that has shares traded on a public stock exchange; or

(C) another entity, as determined by the Secretary.

(3) Verification.—The Secretary shall determine which individuals or entities are eligible for a voucher under this section by using social security numbers or taxpayer identification numbers, respectively.

(d) Terms.—

(1) In general.—In exchange for a voucher under a risk management contract, a producer shall—

(A) purchase whole farm revenue insurance coverage under section 525 of the Federal Crop Insurance Act (as added by section 1113(a)) that provides a revenue guarantee of at least 80 percent of the average adjusted gross revenue of the producer at a payment rate of 100 percent;

(B) contribute an amount that is at least equal to the amount of the voucher to an Account established under section 1114; or

(C) redeem the voucher for a cash payment and use the payment to carry out 1 or more risk management strategies for the farm under section 1115 that are sufficient to guarantee a net income from all agricultural enterprises of the producer for the applicable year that is at least 80 percent of the average adjusted gross revenue of the producer.

(2) CONSERVATION COMPLIANCE.—In addition to implementing 1 of the risk management strategies under paragraph (1), a producer shall agree, in exchange for a voucher, to—

(A) comply with applicable highly erodible land conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.); and

(B) comply with applicable wetland conservation requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.).

(3) EXCESS VOUCHER AMOUNTS.—

(A) WHOLE FARM REVENUE INSURANCE COVERAGE.—If a producer elects to use a voucher to purchase whole farm revenue insurance coverage under section 525 of the Federal Crop Insurance Act (as added by section 1113(a)) and the amount of the voucher exceeds the premium for the coverage, the producer may only deposit the amount of the voucher that exceeds the premium into an Account in accordance with section 1114.

(B) RISK MANAGEMENT OPTIONS.—If a producer elects to use a voucher to carry out 1 or more risk management strategies under section 1115 and the amount of the voucher exceeds the amount necessary to carry out the strategies, the producer may only deposit the amount of the voucher that exceeds the amount necessary to carry out the strategies into an Account in accordance with section 1114.

(4) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) ADMINISTRATION.—

(1) APPLICATION.—A producer that elects to enter into a risk management contract for an applicable year shall submit an application to the Secretary prior to the beginning of the calendar year in which the voucher would be paid.

(2) PAYMENT OF VOUCHER.—The Secretary shall make available to the producer the full amount of the voucher required to be paid for the applicable year not earlier than October 1 of the applicable year.

(3) INTERNET.—The Secretary shall facilitate the contract process required under this section, to the maximum extent practicable, by using the Internet.

(4) COMPLIANCE.—The Secretary shall perform random audits of producers that enter into risk management contracts to ensure that the producers comply with the risk management contracts.

(5) VIOLATIONS.—If a producer has accepted a risk management payment for an applicable year and the producer fails to comply with subsection (d) with respect to the applicable year, the producer—

(A) shall refund to the Secretary an amount equal to the amount of the voucher; and

(B) may be determined to be ineligible to receive a voucher under this subtitle for a period of not to exceed 5 years, as determined by the Secretary.

(f) SHARING OF BENEFITS.—The Secretary shall provide for the sharing of benefits under this subtitle among all producers on a farm on a fair and equitable basis.

(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

SEC. 1113. WHOLE FARM REVENUE INSURANCE.

(a) IN GENERAL.—The Federal Crop Insurance Act (7 U.S.C. 1501 et. seq.) is amended by adding at the end the following:

"SEC. 525. WHOLE FARM REVENUE INSURANCE.

"(a) DEFINITIONS.—In this section:

"(1) ADJUSTED GROSS REVENUE.—The term 'adjusted gross revenue' means the adjusted gross income for all agricultural enterprises of a producer, excluding revenue earned from nonagricultural sources, as determined by the Secretary—

"(A) by taking into account gross receipts from the sale of all crops and livestock on all agricultural enterprises of the producer;

"(B) by deducting the cost or basis of livestock or other items purchased for resale, such as feeder livestock, on all agricultural enterprises of the producer; and

"(C) as represented on—

"(i) a schedule F of the Federal income tax returns; or

"(ii) a comparable tax form related to the agricultural enterprises of the producer, as approved by the Secretary.

"(2) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity, livestock (as defined in section 523(b)(1)), food, feed, or fiber.

"(3) AGRICULTURAL ENTERPRISE.—The term 'agricultural enterprise' means the production and marketing of all agricultural commodities (including livestock) on a farm or ranch.

"(4) AVERAGE ADJUSTED GROSS REVENUE.—The term 'average adjusted gross revenue' means—

"(A) the average adjusted gross revenue of a producer for the preceding 5 taxable years; or

"(B) in the case of a beginning farmer or rancher or other producer that does not have adjusted gross revenue for each of the preceding 5 taxable years, the estimated income of the producer that will be earned from all agricultural enterprises for the applicable year, as determined by the Secretary.

"(b) REVENUE INSURANCE.—If a producer elects to use a voucher in accordance with section 1112(d)(1)(A) of the Farm and Ranch Equity Act of 2001, the producer may use the voucher to obtain insurance that provides a revenue guarantee for all agricultural enterprises of the producer.

"(c) REVENUE GUARANTEE.—The amount of the revenue guarantee for a policy of revenue insurance under this section for the agricultural enterprises of a producer shall be equal to the product obtained by multiplying—

"(1) the coverage level; by

"(2) the average adjusted gross revenue of the producer.

"(d) COVERAGE LEVEL.—The coverage level for whole farm revenue insurance under this section shall be 80 percent of the average adjusted gross revenue of a producer.

"(e) PURCHASE OF MULTIPERIL OR REVENUE COVERAGES.—A producer that purchases coverage under this section shall not be required to purchase other policies of multiperil or revenue coverage under this title.

"(f) ADMINISTRATION.—In providing a policy of whole farm revenue insurance to a producer under this section, the Secretary shall—

"(1) offer the policy through a reinsurance agreement with a private insurance company;

"(2) ensure that the policy is actuarially sound;

"(3) require the producer to pay administrative fees and premiums for the policy in accordance with subsections (c)(10) and (d), respectively, of section 508; and

"(4) pay a portion of the premium for the policy in an amount that does not exceed the amount authorized under section 508(e)(2)(F).

"(g) DELIVERY REQUIRED.—Notwithstanding any other provision of law, each insurance company that is reinsured under the Standard Reinsurance Agreement shall offer a whole farm revenue insurance policy described in this section.

"(h) REINSURANCE YEARS.—This section shall apply to each of the 2003 through 2006 reinsurance years.".

(b) CONFORMING AMENDMENT.—Section 508(e)(2)(F) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(2)(F)) is amended by inserting "(including whole farm revenue insurance)" after "not based on individual yield".

SEC. 1114. RISK MANAGEMENT STABILIZATION ACCOUNTS.

(a) DEFINITION OF ACCOUNT.—In this section, the term "Account" means a Risk Management Stabilization Account that is established in the name of a participating producer in a bank or financial institution that is selected by the producer and approved by the Secretary, consisting of—

(1) contributions of the producer; and

(2) matching contributions of the Secretary.

(b) ESTABLISHMENT.—If a producer elects to use a voucher in accordance with section 1112(d)(1)(B), the producer shall establish an Account under which—

(1) the producer shall provide monetary contributions to the Account;

(2) the Secretary shall provide a matching contribution to the Account not to exceed an amount equal to the amount of the voucher of the producer; and

(3) the producer may withdraw accumulated funds from the Account.

(c) DEPOSITS.—

(1) PRODUCER CONTRIBUTION.—A producer shall deposit an amount that is at least equal to the amount of the voucher determined under section 1112(b).

(2) MATCHING CONTRIBUTION.—

(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall provide a matching contribution that is equal to, and may not exceed, the amount deposited by the producer into the Account.

(B) VALUE.—Before a voucher is deposited into an Account under subparagraph (A), the voucher shall have no value during the applicable year.

(C) CONTRIBUTIONS EXCEEDING VOUCHER.—The amount of any producer contributions into the Account that exceed the amount of the voucher shall not be eligible for matching contributions.

(3) INTEREST.—Funds deposited into the Account may earn interest at the commercial rates provided by the bank or financial institution in which the Account is established.

(d) MAXIMUM ACCOUNT BALANCE.—The balance of an Account of a producer may not exceed 150 percent of the average adjusted gross revenue of the producer.

(e) USE.—Funds credited to the Account—

(1) shall be available for withdrawal by a producer, in accordance with subsection (f); and

(2) may be used for purposes determined by the producer.

(f) WITHDRAWAL.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a producer may withdraw funds from the Account if the estimated net income for an applicable year from the agricultural enterprises of the producer is less than the average adjusted gross revenue of the producer.

(2) AMOUNT.—The amount of a withdrawal by a producer from an Account may not exceed the difference between (as determined by the Secretary)—

(A) the average adjusted gross revenue of the producer; and

(B) the estimated net income for the agricultural enterprises of the producer for the year for which a withdrawal occurs.

(3) RETIREMENT.—A producer that ceases to be actively engaged in farming, as determined by the Secretary—

(A) may withdraw the full balance from, and close, the Account; and

(B) may not establish another Account.

(g) ADMINISTRATION.—The Secretary shall administer this section through the Farm Service Agency and local and county offices of the Department of Agriculture.

(h) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

SEC. 1115. RISK MANAGEMENT OPTIONS AVAILABLE IN MARKETPLACE.

(a) DEFINITION OF REGULATED EXCHANGE.—The term "regulated exchange" means a board of trade (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) that is designated as a contract market under section 2(a)(1)(C) of that Act (7 U.S.C. 2a(a)(1)(C)).

(b) FARM PRICE PROTECTION.—If a producer elects to use a voucher in accordance with section 1112(d)(1)(C), the producer shall redeem the voucher for a cash payment and use the payment to carry out 1 or more risk management strategies for the farm described in subsection (c) during the applicable year that are sufficient to guarantee a net income from all agricultural enterprises of the producer for the applicable year that is at least 80 percent of the average adjusted gross revenue of the producer.

(c) RISK MANAGEMENT STRATEGIES.—A producer may use a cash payment obtained under subsection (b) to purchase—

(1) crop or revenue insurance available under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (other than whole farm revenue insurance under section 525 of that Act) or private insurance (such as hail coverage);

(2) a future or option on a regulated exchange, as determined by the Secretary;

(3) an agricultural trade option, purchased other than on a regulated exchange, for an agricultural commodity produced by the producer that is—

(A) an equity option (as defined in section 1256(g) of the Internal Revenue Code of 1986); or

(B) a hedging transaction (as defined in section 1256(e)(2) of that Code);

(4) a cash forward or other marketing contract;

(5) a trust that is authorized by Federal law for eligible farming businesses that may be established to accept tax deductible contributions; or

(6) other type of farm price protection that is available in the private sector and approved by the Secretary.

SEC. 1116. CONFORMING AMENDMENTS.

Section 506(m) of the Federal Crop Insurance Act (7 U.S.C. 1506(m)) is amended—

(1) in paragraph (1), by striking "participation in the multiple peril crop insurance program" and inserting "a covered person to participate in the multiple peril crop insurance program (including whole farm revenue insurance under section 525) or entering into a risk management contract under section 1112 of the Farm Financial Protection Act";

(2) by striking "policyholder" each place it appears and inserting "covered person"; and

(3) in paragraph (2), by striking "POLICYHOLDERS" and inserting "COVERED PERSONS".

Subtitle B—Phase Out of Commodity Programs

SEC. 1121. PROHIBITION ON AGRICULTURAL PRICE SUPPORT AND PRODUCTION ADJUSTMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, except as otherwise provided in this subtitle and effective beginning with the 2003 crop or the 2003 marketing, reinsurance, fiscal, or calendar year (as applicable) for each agricultural commodity, the Secretary of Agriculture and the Commodity Credit Corporation may not provide loans, purchases, payments, or other operations or take any other action to support the price, or adjust or control the production, of an agricultural commodity by using the funds, facilities, and authorities of the Commodity Credit Corporation or under the authority of any law.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any activities under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Act of 1937;

(2) section 32 of the Act of August 24, 1935 (7 U.S.C. 612c; 49 Stat. 774, chapter 641);

(3) part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.); and

(4) sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445-1, 1445-2).

SEC. 1122. AGRICULTURAL MARKET TRANSITION ACT.

(a) REPEALS.—

(1) 2003 AND SUBSEQUENT CROPS.—Effective beginning with the 2003 crop, the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) is repealed, other than the following:

(A) Subtitle A (7 U.S.C. 7201 et seq.).

(B) Sections 131, 132, and 133 (7 U.S.C. 7231, 7232, 7233).

(C) Subsections (a) through (d) of section 134 (7 U.S.C. 7234).

(D) Section 135 (7 U.S.C. 7235).

(E) Sections 141 and 142 (7 U.S.C. 7251, 7252).

(F) Chapter 2 of subtitle D (7 U.S.C. 7271 et seq.).

(G) Sections 161 through 165 (7 U.S.C. 7281 et seq.).

(H) Subtitle H (7 U.S.C. 7331 et seq.).

(2) 2003 AND SUBSEQUENT CALENDAR YEARS.—Effective January 1, 2003, sections 141 and 142 of the Agricultural Market Transition Act (7 U.S.C. 7251, 7252) are repealed.

(3) 2006 AND SUBSEQUENT CROPS.—Effective beginning with the 2006 crop, the following provisions of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) are repealed:

(A) Subtitle C (7 U.S.C. 7231 et seq.), other than sections 131 through 134.

(B) Chapter 2 of subtitle D (7 U.S.C. 7271 et seq.), other than section 156(f) (7 U.S.C. 7272(f)).

(b) AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS.—Section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231) is amended —

(1) in subsection (a) by striking "2002" and inserting "2006"; and

(2) by striking subsection (b) and inserting the following:

"(b) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.".

(c) LOAN RATES FOR MARKETING ASSISTANCE LOANS.—Section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232) is amended to read as follows:

"SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

"(a) WHEAT.—The loan rate for a marketing assistance loan under section 131 for wheat shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, 80 percent for the 2005 crop, and 1 percent for the 2006 crop, of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

"(b) FEED GRAINS.—

"(1) CORN.—The loan rate for a marketing assistance loan under section 131 for corn shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, 80 percent for the 2005 crop, and 1 percent for the 2006 crop, of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

"(2) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

"(c) UPLAND COTTON.—The loan rate for a marketing assistance loan under section 131 for upland cotton shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, 80 percent for the 2005 crop, and 1 percent for the 2006 crop, of the simple average price received by producers of upland cotton, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of upland cotton, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

"(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, 80 percent for the 2005 crop, and 1 percent for the 2006 crop, of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of extra long staple cotton, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

"(e) RICE.—The loan rate for a marketing assistance loan under section 131 for rice shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, 80 percent for the 2005 crop, and 1 percent for the 2006 crop, of the simple average price received by producers of rice, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

"(f) OILSEEDS.—

"(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, 80 percent for the 2005 crop, and 1 percent for the 2006 crop, of the simple average price received by producers of soybeans, as determined by the

Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

"(2) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be 90 percent for the 2003 crop, 85 percent for the 2004 crop, 80 percent for the 2005 crop, and 1 percent for the 2006 crop, of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

"(3) OTHER OILSEEDS.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.".

(d) PEANUT PROGRAM.—Section 155 of the Agricultural Market Transition Act (7 U.S.C. 7271) is amended by striking subsections (h) and (i) and inserting the following:

"(h) PHASED REDUCTION OF LOAN RATE.—

"(1) IN GENERAL.—For each of the 2003, 2004, and 2005 crops of quota and additional peanuts, the Secretary shall lower the loan rate for each succeeding crop in a manner that progressively and uniformly lowers the loan rate for quota and additional peanuts to $0 for the 2006 crop.

"(2) MARKETING ASSOCIATION COOPERATIVES.—The Secretary shall allow the marketing association cooperatives to set up type pools (specifically Valencia) for peanuts and, if loans are available, they will be able to provide loan storage for peanuts.

"(i) CROPS.—This section shall be effective only for the 1996 through 2005 crops.".

(e) SUGAR PROGRAM.—Section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272) is amended—

(1) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) LOANS.—The Secretary shall carry out this section through the use of recourse loans.";

(2) in subsection (f), by striking "2003" each place it appears and inserting "2006";

(3) by redesignating subsection (i) as subsection (j);

(4) by inserting after subsection (h) the following:

"(i) PHASED REDUCTION OF LOAN RATE.—For each of the 2003, 2004, and 2005 crops of sugar beets and sugarcane, the Secretary shall lower the loan rate for each succeeding crop in a manner that progressively and uniformly lowers the loan rate for sugar beets and sugarcane to $0 for the 2006 crop."; and

(5) in subsection (j) (as redesignated), by striking "2002" and inserting "2005".

(f) CONFORMING AMENDMENT.—Section 1240M of the Food Security Act of 1985 (16 U.S.C. 3839bb) is repealed.

SEC. 1123. AGRICULTURAL ADJUSTMENT ACT OF 1938.

(a) REPEALS.—

(1) 2003 AND SUBSEQUENT MARKETING YEARS AND CROPS.—Effective beginning with the 2003 marketing or crop year (as applicable), the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is repealed, other than the following:

(A) The first section (7 U.S.C. 1281).

(B) Section 301 (7 U.S.C. 1301).

(C) Part I of subtitle B of title III (7 U.S.C. 1311 et seq.).

(D) Part VI of subtitle B of title III (7 U.S.C. 1357 et seq.).

(E) Subtitle C of title III (7 U.S.C. 1361 et seq.).

(F) Subtitle F of title III (7 U.S.C. 1381 et seq.).

(G) Title V (7 U.S.C. 1501 et seq.).

(2) 2006 AND SUBSEQUENT MARKETING YEARS AND CROPS.—Effective beginning with the 2006 marketing year or crop year (as applicable), part VI of subtitle B of title III (7 U.S.C. 1357 et seq.) is repealed.

(b) PEANUT QUOTA.—

(1) EXTENSION.—Sections 358-1, 358b(c), 358c(d), and 358e(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1, 1358b(c), 1358c(d), 1359a(i)) are amended by striking "2002" each place it appears and inserting "2005".

(2) PEANUT QUOTA.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357 et seq.) is amended by adding at the end the following:

"SEC. 358f. PHASED INCREASE IN QUOTA.

"For each of the 2003, 2004, and 2005 crops of quota peanuts, the Secretary shall increase the marketing quota and allotment for each succeeding marketing year in a manner that progressively and uniformly increases the marketing quota to anticipate the elimination of the marketing quota for the 2006 crop.".

(c) CONFORMING AMENDMENTS.—

(1) REFERENCES TO PARITY PRICES.—Section 302 of the Agricultural Act of 1948 (7 U.S.C. 1301a) is amended by striking subsection (f).

(2) TRANSFER OF ACREAGE ALLOTMENTS.—Section 706 of the Food and Agriculture Act of 1965 (7 U.S.C. 1305) is repealed.

(3) PROJECTED YIELDS.—Section 708 of the Food and Agriculture Act of 1965 (7 U.S.C. 1306) is repealed.

(4) WHEAT DIVERSION PROGRAMS.—Section 327 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339b) is repealed.

(5) FARM MARKETING QUOTAS.—The Joint Resolution entitled "Joint Resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), is repealed.

(6) COTTON ACREAGE ALLOTMENTS.—The Act of March 29, 1949 (63 Stat. 17, chapter 38; 7 U.S.C. 1344a), is repealed.

(7) RECONCENTRATION OF COTTON.—The Act of June 16, 1938 (52 Stat. 762, chapter 480; 7 U.S.C. 1383a), is repealed.

(8) REQUIREMENTS FOR CORN.—Section 308 of the Agricultural Act of 1956 (7 U.S.C. 1442) is repealed.

(9) FIELD MEASUREMENT.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330-8) is amended by striking subsection (c).

SEC. 1124. COMMODITY CREDIT CORPORATION CHARTER ACT.

(a) IN GENERAL.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (g) as subsections (a) through (f), respectively.

(b) CONFORMING AMENDMENT.—Section 619 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738r) is amended by striking "section 5(f) of the Commodity Credit Corporation Charter Act" and inserting "section 5(e) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(e))".

(c) CROPS.—The amendments made by this section apply beginning with the 2006 crop.

SEC. 1125. AGRICULTURAL ACT OF 1949.

(a) IN GENERAL.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is repealed, other than the following:

(1) The first section (7 U.S.C. 1421 note).

(2) Sections 106, 106A, and 106B (7 U.S.C. 1445, 1445-1, 1445–2).

(3) Section 416 (7 U.S.C. 1431)

(b) CONFORMING AMENDMENTS.—

(1) AMOUNT OF ASSESSMENTS.—Section 4609 of the Omnibus Trade and Competitiveness Act of 1988 (7 U.S.C. 624 note; Public Law 100–418) is repealed.

(2) AMERICAN AGRICULTURE PROTECTION PROGRAM.—Section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310) is repealed.

(3) ADVANCE RECOURSE LOANS.—Section 13 of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1) is repealed.

(4) CONVERSION INTO FUELS.—Section 2001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1435) is amended—

(A) by striking subsection (a); and

(B) in subsection (b)—

(i) by striking the subsection designation;

(ii) by redesignating paragraphs (1) through (4) as subsections (a) through (d), respectively;

(iii) in subsection (a) (as so redesignated), by striking "During" and all that follows through "1949, the" and inserting "The"; and

(iv) by striking "subsection" each place it appears and inserting "section".

(5) REIMBURSEMENT OF CCC.—Section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f) is amended by striking subsection (d).

(6) HONEY ASSESSMENTS.—

(A) Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended—

(i) by striking subsection (d);

(ii) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(iii) in subsection (a), by striking "(d), (e), and (i)" and inserting "(d) and (h)";

(iv) in subsection (f) (as so redesignated), by striking "(f)" and inserting "(e)"; and

(v) in subsection (g)(1) (as so redesignated)—

(I) in subparagraph (A), by striking "(A)"; and

(II) by striking subparagraph (B).

(B) Section 13(b)(2) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612(b)(2)) is amended—

(i) in subparagraph (A)(ii), by striking "4608(h)(1)" and inserting "4608(g)(1)"; and

(ii) in subparagraph (B)(ii), by striking "4608(h)(1)" and inserting "4608(g)(1)".

(7) ESSENTIAL AGRICULTURAL USE.—Section 273 of the Biomass Energy and Alcohol Fuels Act of 1980 (15 U.S.C. 3391a) is amended—

(A) by adding "and" at the end of paragraph (1);

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(8) INTEREST PENALTIES.—Section 3902(h) of title 31, United States Code, is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(9) COLORADO RIVER STORAGE PROJECT.—Section 4 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620c), is amended

by striking ", as defined in the Agricultural Act of 1949, or any amendment thereof,".

(10) Surplus crops.—Section 212 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4625) is repealed.

SEC. 1126. AGRICULTURAL ADJUSTMENT ACT.

Effective January 1, 2003, section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(M) Milk Classes.—

"(i) In general.—Notwithstanding any other provision of this subsection, the Secretary shall establish—

"(I) 1 class of milk for fluid milk; and

"(II) 1 class of milk for other uses of milk.

"(ii) Component prices.—The classes of milk established under clause (i) shall be used to determine the prices of milk components.".

SEC. 1127. AGRICULTURAL ACT OF 1970.

Section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a) is repealed.

SEC. 1128. GENERAL COMMODITY PROVISIONS.

(a) Payment Limitations.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

"(1) Limitation on vouchers and payments.—

"(A) Vouchers.—The total amount of vouchers made under section 1112 of the Farm Financial Protection Act made directly or indirectly to an individual or entity during any applicable year may not exceed $30,000.

"(B) Environmental quality incentives program.—The total amount of payments made under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) made directly or indirectly to an individual or entity during any applicable year may not exceed $50,000.

"(C) Administration.—Notwithstanding any other paragraph of this section, sections 1001A(b), 1001B, and 1001C shall apply to an individual or entity that receives a voucher or payment described in this paragraph.".

(b) Normally Planted Acreage.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is repealed.

(c) Normal Supply.—Section 1019 of the Food Security Act of 1985 (7 U.S.C. 1310a) is repealed.

(d) Determinations of the Secretary.—Section 1017 of the Food Security Act of 1985 (7 U.S.C. 1385 note; Public Law 99–198) is repealed.

(e) Financial Impact Study.—Section 1147 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421a) is repealed.

(f) Planting on Set-Aside Acreage.—Section 814 of the Agricultural Act of 1970 (7 U.S.C. 1434) is repealed.

(g) Cost of Production Study.—Section 808 of the Agricultural Act of 1970 (7 U.S.C. 1441a) is repealed.

(h) Storage Payments.—Section 1124 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1445e note; Public Law 101–624) is repealed.

(i) Computation of Carryover.—Section 105 of the Agricultural Act of 1954 (7 U.S.C. 1745) is repealed.

(j) Adjustment of Loans.—Section 2(b) of the Act of December 20, 1944 (12 U.S.C. 1150a(b)), is amended—

(1) by striking "Agricultural Adjustment Act (of 1933);"; and

(2) by striking "sections 303" and all that follows through "adjustment payments;".

(k) Targeted Option Payments.—Section 121 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (105 Stat. 1843) is repealed.

SEC. 1129. SPECIFIC COMMODITY PROVISIONS.

(a) Milk.—Section 101 of the Agriculture and Food Act of 1981 (7 U.S.C. 608c note; Public Law 97–98) is amended by striking subsection (b).

(b) Feed Grains.—

(1) Recourse loan program for silage.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is repealed.

(2) Calculation of refunds.—Section 405 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1445j note; Public Law 101–624) is repealed.

(3) Acreage diversion programs.—Section 328 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339c) is repealed.

SEC. 1130. EFFECT OF AMENDMENTS.

(a) In General.—Except as otherwise specifically provided in this title and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out an agricultural market transition, price support, or production adjustment program for any of the 1996 through 2002 crops, or for any of the 1996 through 2002 marketing, reinsurance, fiscal, or calendar years, as applicable, under a provision of law in effect immediately before the enactment of this subtitle.

(b) Liability.—A provision of this title or an amendment made by this subtitle shall not affect the liability of any person under any provision of law as in effect immediately before of enactment of this subtitle.

SEC. 1131. CROP.

This subtitle and the amendments made by this subtitle apply beginning with the 2003 crop of each agricultural commodity or the 2003 marketing, reinsurance, fiscal, or calendar year, as applicable.

SEC. 1132. EFFECTIVENESS OF OTHER COMMODITY TITLE.

Title I and the amendments made by title I shall have no effect.

TITLE XII—NUTRITION PROGRAMS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Food Stamp Simplification Act of 2001".

Subtitle A—Food Stamp Program

SEC. 1211. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF CASH ASSISTANCE.

Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

(1) in the second sentence, by striking "receives benefits" and inserting "receives cash assistance"; and

(2) in the third sentence, by striking "receives benefits" and inserting "receives cash assistance".

SEC. 1212. DISREGARDING OF INFREQUENT AND UNANTICIPATED INCOME.

Section 5(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(2)) is amended by striking "$30" and inserting "$100".

SEC. 1213. SIMPLIFIED TREATMENT OF INDIVIDUALS COMPLYING WITH CHILD SUPPORT ORDERS.

(a) Exclusion.—Section 5(d)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(6)) is amended by adding at the end the following: "including child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments,".

(b) Simplified Procedure.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e), by striking paragraph (4) and inserting the following:

"(4) Deduction for child support payments.—

"(A) In general.—In lieu of providing an exclusion for legally obligated child support payments made by a household member under subsection (d)(6), a State agency may elect to provide a deduction for the amount of the payments.

"(B) Order of determining deductions.—A deduction under this paragraph shall be determined before the computation of the excess shelter expense deduction under paragraph (6)."; and

(2) by adding at the end the following:

"(n) State Options To Simplify Determination of Child Support Payments Made by Household Members.—

"(1) In general.—Regardless of whether a State agency elects to provide a deduction under subsection (e)(4), the Secretary shall establish simplified procedures to allow State agencies to determine the amount of the legally obligated child support payments made, including procedures to allow the State agency to rely on information from the agency responsible for implementing the program under part D of title IV of the Social Security Act (42 U.S.C. 661 et seq.) concerning payments made in prior months in lieu of obtaining current information from the household.

"(2) Duration of determination of amount of support payments.—If a State agency makes a determination of the amount of support payments of a household under paragraph (1), the State agency may provide that the amount of the exclusion or deduction for the household shall not change until the eligibility of the household is next redetermined under section 11(e)(4).".

SEC. 1214. COORDINATED AND SIMPLIFIED DEFINITION OF INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking "and (15)" and inserting "(15)"; and

(2) by inserting before the period at the end the following: ", (16) at the option of the State agency, any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like (other than loans, grants, scholarships, fellowships, veterans' educational benefits, and the like excluded under paragraph (3)), to the extent that they are required to be excluded under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), (17) at the option of the State agency, any State complementary assistance program payments that are excluded for the purpose of determining eligibility for medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), (18) at the option of the State agency, any types of income that the State agency does not consider when determining eligibility for, or the amount of, cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), except that this paragraph does not authorize a State agency to exclude wages or salaries, benefits under title I, II, IV, X, XIV, or XVI of the Social Security Act (42 U.S.C. 1381 et seq.), regular payments from a government source (such as unemployment benefits and general assistance), worker's compensation, child support payments made to a household member by an individual who is legally obligated to make the payments, or such other types of income the consideration of which

the Secretary determines by regulation to be essential to equitable determinations of eligibility and benefit levels".

SEC. 1215. EXCLUSION OF INTEREST AND DIVIDEND INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) (as amended by section 1214(2)) is amended by inserting before the period at the end the following: ", and (19) any interest or dividend income received by a member of the household".

SEC. 1216. ALIGNMENT OF STANDARD DEDUCTION WITH POVERTY LINE.

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:

"(1) STANDARD DEDUCTION.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall allow a standard deduction for each household that is—

"(i) equal to the applicable percentage specified in subparagraph (D) of the income standard of eligibility established under subsection (c)(1); but

"(ii) not less than the minimum deduction specified in subparagraph (E).

"(B) GUAM.—The Secretary shall allow a standard deduction for each household in Guam that is—

"(i) equal to the applicable percentage specified in subparagraph (D) of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

"(ii) not less than the minimum deduction for Guam specified in subparagraph (E).

"(C) HOUSEHOLDS OF 6 OR MORE MEMBERS.—The income standard of eligibility established under subsection (c)(1) for a household of 6 members shall be used to calculate the standard deduction for each household of 6 or more members.

"(D) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (A), the applicable percentage shall be—

"(i) 8 percent for fiscal year 2002;

"(ii) 8.5 percent for each of fiscal years 2003 through 2005;

"(iii) 9 percent for each of fiscal years 2006 through 2008;

"(iv) 9.5 percent for each of fiscal years 2009 and 2010; and

"(v) 10 percent for each fiscal year thereafter.

"(E) MINIMUM DEDUCTION.—The minimum deduction shall be $134, $229, $189, $269, and $118 for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, respectively.".

SEC. 1217. SIMPLIFIED DEPENDENT CARE DEDUCTION.

Section 5(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(3)) is amended by adding at the end the following:

"(C) STANDARD DEPENDENT CARE ALLOWANCES.—

"(i) ESTABLISHMENT OF ALLOWANCES.—

"(I) IN GENERAL.—In determining the dependent care deduction under this paragraph, in lieu of requiring the household to establish the actual dependent care costs of the household, a State agency may use standard dependent care allowances established under subclause (II) for each dependent for whom the household incurs costs for care.

"(II) AMENDMENT TO STATE PLAN.—A State agency that elects to use standard dependent care allowances under subclause (I) shall submit for approval by the Secretary an amendment to the State plan of operation under section 11(d) that—

"(aa) describes the allowances that the State agency will use; and

"(bb) includes supporting documentation.

"(ii) HOUSEHOLD ELECTION.—

"(I) IN GENERAL.—Except as provided in clause (iii), a household may elect to have the dependent care deduction of the household based on actual dependent care costs rather that the allowances established under clause (i).

"(II) FREQUENCY.—The Secretary may by regulation limit the frequency with which households may make the election described in subclause (I) or reverse the election.

"(iii) MANDATORY DEPENDENT CARE ALLOWANCES.—The State agency may make the use of standard dependent care allowances established under clause (i) mandatory for all households that incur dependent care costs.".

SEC. 1218. SIMPLIFIED DETERMINATION OF HOUSING COSTS.

(a) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended—

(1) in subparagraph (A)—

(A) by striking "A household" and inserting the following:

"(i) IN GENERAL.—A household"; and

(B) by adding at the end the following:

"(ii) INCLUSION OF CERTAIN PAYMENTS.—In determining the shelter expenses of a household under this paragraph, the State agency shall include any required payment to the landlord of the household without regard to whether the required payment is designated to pay specific charges."; and

(2) by adding at the end the following:

"(D) HOMELESS HOUSEHOLDS.—

"(i) ALTERNATIVE DEDUCTION.—In lieu of the deduction provided under subparagraph (A), a State agency may elect to allow a household in which all members are homeless individuals, but that is not receiving free shelter throughout the month, to receive a deduction of $143 per month.

"(ii) INELIGIBILITY.—The State agency may make a household with extremely low shelter costs ineligible for the alternative deduction under clause (i).".

(b) CONFORMING AMENDMENTS.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e)—

(A) by striking paragraph (5); and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(2) in subsection (k)(4)(B), by striking "subsection (e)(7)" and inserting "subsection (e)(6)".

SEC. 1219. SIMPLIFIED DETERMINATION OF UTILITY COSTS.

Section 5(e)(6)(C)(iii) of the Food Stamp Act of 1977 (as amended by section 1218(b)(1)(B)) is amended—

(1) in subclause (I)(bb), by inserting "(without regard to subclause (III))" after "Secretary finds"; and

(2) by adding at the end the following:

"(III) INAPPLICABILITY OF CERTAIN RESTRICTIONS.—Clauses (ii)(II) and (ii)(III) shall not apply in the case of a State agency that has made the use of a standard utility allowance mandatory under subclause (I).".

SEC. 1220. SIMPLIFIED DETERMINATION OF EARNED INCOME.

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by adding at the end the following:

"(C) SIMPLIFIED DETERMINATION OF EARNED INCOME.—

"(i) IN GENERAL.—A State agency may elect to determine monthly earned income by multiplying weekly income by 4 and biweekly income by 2.

"(ii) ADJUSTMENT OF EARNED INCOME DEDUCTION.—A State agency that makes an election described in clause (i) shall adjust the earned income deduction under subsection (e)(2)(B) to the extent necessary to prevent the election from resulting in increased costs to the food stamp program, as determined consistent with standards promulgated by the Secretary.".

SEC. 1221. SIMPLIFIED DETERMINATION OF DEDUCTIONS.

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) (as amended by section 1220) is amended by adding at the end the following:

"(D) SIMPLIFIED DETERMINATION OF DEDUCTIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purposes of subsection (e), a State agency may elect to disregard until the next redetermination of eligibility under section 11(e)(4) 1 or more types of changes in the circumstances of a household that affect the amount of deductions the household may claim under subsection (e).

"(ii) CHANGES THAT MAY NOT BE DISREGARDED.—Under clause (i), a State agency may not disregard—

"(I) any reported change of residence; or

"(II) under standards prescribed by the Secretary, any change in earned income.".

SEC. 1222. SIMPLIFIED RESOURCE ELIGIBILITY LIMIT.

Section 5(g)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(1)) is amended by striking "a member who is 60 years of age or older" and inserting "an elderly or disabled member".

SEC. 1223. EXCLUSION OF LICENSED VEHICLES FROM FINANCIAL RESOURCES.

(a) IN GENERAL.—Section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii), by adding "and" at the end;

(B) by striking clause (iv); and

(C) by redesignating clause (v) as clause (iv);

(2) by striking subparagraph (C) and inserting the following:

"(C) EXCLUDED VEHICLES.—The Secretary shall exclude from financial resources any licensed vehicle used for household transportation."; and

(3) by striking subparagraph (D).

(b) CONFORMING AMENDMENT.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (h).

SEC. 1224. EXCLUSION OF RETIREMENT ACCOUNTS FROM FINANCIAL RESOURCES.

Section 5(g)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)(B)) (as amended by section 1223(a)(1)) is amended by striking clause (iv) and inserting the following:

"(iv) any savings account (other than a retirement account (including an individual account)).".

SEC. 1225. COORDINATED AND SIMPLIFIED DEFINITION OF RESOURCES.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(6) EXCLUSION OF TYPES OF FINANCIAL RESOURCES NOT CONSIDERED UNDER CERTAIN OTHER FEDERAL PROGRAMS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall promulgate regulations under which a State agency may, at the option of the State agency, exclude from financial resources under this subsection any types of financial resources that the State agency does not consider when determining eligibility for—

"(i) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u-1).

"(B) Limitations.—Subparagraph (A) does not authorize a State agency to exclude—

"(i) cash;

"(ii) amounts in any account in a financial institution that are readily available to the household; or

"(iii) any other similar type of resource the inclusion in financial resources of which the Secretary determines by regulation to be essential to equitable determinations of eligibility under the food stamp program, except to the extent that any of those types of resources are excluded under another paragraph of this subsection.".

SEC. 1226. ALTERNATIVE ISSUANCE SYSTEMS IN DISASTERS.

Section 5(h)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(3)(B)) is amended—

(1) in the first sentence, by inserting "issuance methods and" after "shall adjust"; and

(2) in the second sentence, by inserting ", any conditions that make reliance on electronic benefit transfer systems described in section 7(i) impracticable," after "personnel".

SEC. 1227. SIMPLIFIED REPORTING SYSTEMS.

Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended—

(1) in subparagraph (B), by striking "on a monthly basis"; and

(2) by adding at the end the following:

"(D) Frequency of reporting.—

"(i) In general.—Except as provided in subparagraphs (A) and (C), a State agency may require households that report on a periodic basis to submit reports—

"(I) not less often than once each 6 months; but

"(II) not more often than once each month.

"(ii) Reporting by households with excess income.—A household required to report less often than once each 3 months shall, notwithstanding subparagraph (B), report in a manner prescribed by the Secretary if the income of the household for any month exceeds the standard established under section 5(c)(2).".

SEC. 1228. SIMPLIFIED TIME LIMIT.

(a) In General.—Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) is amended—

(1) in paragraph (2)—

(A) by striking "36-month" and inserting "12-month";

(B) by striking "3" and inserting "6"; and

(C) in subparagraph (D), by striking "(4), (5), or (6)" and inserting "(4), or (5)";

(2) by striking paragraph (5);

(3) in paragraph (6)(A)(ii)—

(A) in subclause (III), by adding "and" at the end;

(B) in subclause (IV), by striking "; and" and inserting a period; and

(C) by striking subclause (V); and

(4) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(b) Implementation of Amendments.—For the purpose of implementing the amendments made by subsection (a), a State agency shall disregard any period during which an individual received food stamp benefits before the effective date of this title.

SEC. 1229. PRESERVATION OF ACCESS TO ELECTRONIC BENEFITS.

(a) In General.—Section 7(i)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended by adding at the end the following:

"(E) Access to electronic benefit transfer systems.—

"(i) In general.—No benefits shall be taken off-line or otherwise made inaccessible because of inactivity until at least 180 days have elapsed since a household last accessed the account of the household.

"(ii) Notice to household.—In a case in which benefits are taken off-line or otherwise made inaccessible, the household shall be sent a notice that—

"(I) explains how to reactivate the benefits; and

"(II) offers assistance if the household is having difficulty accessing the benefits of the household.".

(b) Applicability.—The amendment made by subsection (a) shall apply with respect to each State agency beginning on the date on which the State agency, after the date of enactment of this Act, enters into a contract to operate an electronic benefit transfer system.

SEC. 1230. COST-NEUTRALITY FOR ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 7(i)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(2)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively.

SEC. 1231. SIMPLIFIED PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.

(a) In General.—Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) Simplified Procedures for Residents of Certain Group Facilities.—

"(1) In general.—At the option of the State agency, allotments for residents of facilities described in subparagraph (B), (C), (D), or (E) of section 3(i)(5) may be determined and issued under this subsection in lieu of subsection (a).

"(2) Amount of allotment.—The allotment for each eligible resident described in paragraph (1) shall be calculated in accordance with standardized procedures established by the Secretary that take into account the allotments typically received by residents of facilities described in paragraph (1).

"(3) Issuance of allotment.—

"(A) In general.—The State agency shall issue an allotment determined under this subsection to the administration of a facility described in paragraph (1) as the authorized representative of the residents of the facility.

"(B) Adjustment.—The Secretary shall establish procedures to ensure that a facility described in paragraph (1) does not receive a greater proportion of a resident's monthly allotment than the proportion of the month during which the resident lived in the facility.

"(4) Departures of covered residents.—

"(A) Notification.—Any facility described in paragraph (1) that receives an allotment for a resident under this subsection shall—

"(i) notify the State agency promptly on the departure of the resident; and

"(ii) notify the resident, before the departure of the resident, that the resident—

"(I) is eligible for continued benefits under the food stamp program; and

"(II) should contact the State agency concerning continuation of the benefits.

"(B) Issuance to departed residents.—On receiving a notification under subparagraph (A)(i) concerning the departure of a resident, the State agency—

"(i) shall promptly issue the departed resident an allotment for the days of the month after the departure of the resident (calculated in a manner prescribed by the Secretary) unless the departed resident reapplies to participate in the food stamp program; and

"(ii) may issue an allotment for the month following the month of the departure (but not any subsequent month) based on this subsection unless the departed resident reapplies to participate in the food stamp program.

"(C) State option.—The State agency may elect not to issue an allotment under subparagraph (B)(i) if the State agency lacks sufficient information on the location of the departed resident to provide the allotment.

"(D) Effect of reapplication.—If the departed resident reapplies to participate in the food stamp program, the allotment of the departed resident shall be determined without regard to this subsection.".

(b) Conforming Amendments.—

(1) Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended—

(A) by striking "(i) 'Household' means (1) an" and inserting the following:

"(i)(1) 'Household' means—

"(A) an";

(B) in the first sentence, by striking "others, or (2) a group" and inserting the following: "others; or

"(B) a group";

(C) in the second sentence, by striking "Spouses" and inserting the following:

"(2) Spouses";

(D) in the third sentence, by striking "Notwithstanding" and inserting the following:

"(3) Notwithstanding";

(E) in paragraph (3) (as designated by subparagraph (D)), by striking "the preceding sentences" and inserting "paragraphs (1) and (2)";

(F) in the fourth sentence, by striking "In no event" and inserting the following:

"(4) In no event";

(G) in the fifth sentence, by striking "For the purposes of this subsection, residents" and inserting the following:

"(5) For the purposes of this subsection, the following persons shall not be considered to be residents of institutions and shall be considered to be individual households:

"(A) Residents"; and

(H) in paragraph (5) (as designated by subparagraph (G))—

(i) by striking "Act, or are individuals" and inserting the following: "Act.

"(B) Individuals";

(ii) by striking "such section, temporary" and inserting the following: "that section.

"(C) Temporary";

(iii) by striking "children, residents" and inserting the following: "children.

"(D) Residents";

(iv) by striking "coupons, and narcotics" and inserting the following: "coupons.

"(E) Narcotics"; and

(v) by striking "shall not" and all that follows and inserting a period.

(2) Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "the third sentence of section 3(i)" each place it appears and inserting "section 3(i)(4)".

(3) Section 8(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2017(e)(1)) is amended by striking "the last sentence of section 3(i)" and inserting "section 3(i)(5)".

(4) Section 17(b)(1)(B)(iv)(III)(aa) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(iv)(III)(aa)) is amended by striking "the last 2 sentences of section 3(i)" and inserting "paragraphs (4) and (5) of section 3(i)".

SEC. 1232. REDEMPTION OF BENEFITS THROUGH GROUP LIVING ARRANGEMENTS.

Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2019) is amended by inserting after the first sentence the following: "Notwithstanding the preceding sentence, a center, organization, institution, shelter, group living arrangement, or establishment described in that sentence may be authorized to redeem coupons through a financial institution described in that sentence if the center, organization, institution, shelter, group living arrangement, or establishment is equipped with 1 or more point-of-sale devices and is operating in an area in which an electronic benefit transfer system described in section 7(i) has been implemented.".

SEC. 1233. SIMPLIFIED DETERMINATIONS OF CONTINUING ELIGIBILITY.

(a) IN GENERAL.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4)(A) that the State agency shall periodically require each household to cooperate in a redetermination of the eligibility of the household.

"(B) A redetermination under subparagraph (A) shall—

"(i) be based on information supplied by the household; and

"(ii) conform to standards established by the Secretary.

"(C) The interval between redeterminations of eligibility under subparagraph (A) shall not exceed the eligibility review period;" and

(2) in paragraph (10)—

(A) by striking "within the household's certification period"; and

(B) by striking "or until" and all that follows through "occurs earlier".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended—

(A) by striking "Certification period" and inserting "Eligibility review period"; and

(B) by striking "certification period" each place it appears and inserting "eligibility review period".

(2) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(A) in subsection (d)(2), by striking "in the certification period which" and inserting "that"; and

(B) in subsection (e) (as amended by section 1218(b)(1)(B))—

(i) in paragraph (5)(B)(ii)—

(I) in subclause (II), by striking "certification period" and inserting "eligibility review period"; and

(II) in subclause (III), by striking "has been anticipated for the certification period" and inserting "was anticipated when the household applied or at the most recent redetermination of eligibility for the household"; and

(ii) in paragraph (6)(C)(iii)(II), by striking "the end of a certification period" and inserting "each redetermination of the eligibility of the household".

(3) Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(A) in subsection (c)(1)(C)(iv), by striking "certification period" each place it appears and inserting "interval between required redeterminations of eligibility"; and

(B) in subsection (d)(1)(D)(v)(II), by striking "a certification period" and inserting "an eligibility review period".

(4) Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(A) in the second sentence of paragraph (1), by striking "within a certification period"; and

(B) in paragraph (2)(B), by striking "expiration of" and all that follows through "during a certification period," and inserting "termination of benefits to the household,".

(5) Section 11(e)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(16)) is amended by striking "the certification or recertification" and inserting "determining the eligibility".

SEC. 1234. SIMPLIFIED APPLICATION PROCEDURES FOR THE ELDERLY AND DISABLED.

(a) IN GENERAL.—Section 11(i) of the Food Stamp Act of 1977 (7 U.S.C. 2020(i)) is amended—

(1) in paragraph (1)—

(A) by striking "income shall be informed" and inserting the following: "income shall be—

"(A) informed";

(B) by striking "program and be assisted" and inserting the following: "program;

"(B) assisted"; and

(C) by striking "office and be certified" and inserting the following: "office; and

"(C) certified"; and

(2) by adding at the end the following:

"(3) DUAL-PURPOSE APPLICATIONS.—

"(A) IN GENERAL.—Under regulations promulgated by the Secretary after consultation with the Commissioner of Social Security, a State agency may enter into a memorandum of understanding with the Commissioner under which an application for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) from a household composed entirely of applicants for or recipients of those benefits shall also be considered to be an application for benefits under the food stamp program.

"(B) CERTIFICATION; REPORTING REQUIREMENTS.—A household covered by a memorandum of understanding under subparagraph (A)—

"(i) shall be certified based exclusively on information provided to the Commissioner, including such information as the Secretary shall require to be collected under the terms of any memorandum of understanding under this paragraph; and

"(ii) shall not be subject to any reporting requirement under section 6(c).

"(C) EXCEPTIONS TO VALUE OF ALLOTMENT.—The Secretary shall provide by regulation for such exceptions to section 8(a) as are necessary because a household covered by a memorandum of understanding under subparagraph (A) did not complete an application under subsection (e)(2).

"(D) COVERAGE.—In accordance with standards promulgated by the Secretary, a memorandum of understanding under subparagraph (A) need not cover all classes of applicants and recipients referred to in subparagraph (A).

"(E) EXEMPTION FROM CERTAIN APPLICATION PROCEDURES.—In the case of any member of a household covered by a memorandum of understanding under subparagraph (A), the Commissioner shall not be required to comply with—

"(i) subparagraph (B) or (C) of paragraph (1); or

"(ii) subsection (j)(1)(B).

"(F) RIGHT TO APPLY UNDER REGULAR PROGRAM.—The Secretary shall ensure that each household covered by a memorandum of understanding under subparagraph (A) is informed that the household may—

"(i)(I) submit an application under subsection (e)(2); and

"(II) have the eligibility and value of the allotment of the household under the food stamp program determined without regard to this paragraph; or

"(ii) decline to participate in the food stamp program.

"(G) TRANSITION PROVISION.—Notwithstanding the requirement for the promulgation of regulations under subparagraph (A), the Secretary may approve a request from a State agency to enter into a memorandum of understanding in accordance with this paragraph during the period—

"(i) beginning on the date of enactment of this paragraph; and

"(ii) ending on the earlier of—

"(I) the date of promulgation of the regulations; or

"(II) the date that is 3 years after the date of enactment of this paragraph.".

(b) CONFORMING AMENDMENTS.—Section 11(j)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(j)(1)) is amended—

(1) by striking "shall be informed" and inserting the following: "shall be—

"(A) informed"; and

(2) by striking "program and informed" and inserting the following: "program; and

"(B) informed".

SEC. 1235. TRANSITIONAL FOOD STAMPS FOR FAMILIES MOVING FROM WELFARE.

(a) IN GENERAL.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(s) TRANSITIONAL BENEFITS OPTION.—

"(1) IN GENERAL.—A State agency may provide transitional food stamp benefits to a household that ceases to receive cash assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(2) TRANSITIONAL BENEFITS PERIOD.—Under paragraph (1), a household may continue to receive food stamp benefits for a period of not more than 6 months after the date on which cash assistance is terminated.

"(3) AMOUNT OF BENEFITS.—During the transitional benefits period under paragraph (2), a household shall receive an amount of food stamp benefits equal to the allotment received in the month immediately preceding the date on which cash assistance was terminated, adjusted for—

"(A) the change in household income as a result of the termination of cash assistance; and

"(B) any changes in circumstances that may result in an increase in the food stamp allotment of the household and that the household elects to report.

"(4) DETERMINATION OF FUTURE ELIGIBILITY.—In the final month of the transitional benefits period under paragraph (2), the State agency may—

"(A) require the household to cooperate in a redetermination of eligibility; and

"(B) initiate a new eligibility review period for the household without regard to whether the preceding eligibility review period has expired.

"(5) LIMITATION.—A household shall not be eligible for transitional benefits under this subsection if the household—

"(A) loses eligibility under section 6;

"(B) is sanctioned for a failure to perform an action required by Federal, State, or local law relating to a cash assistance program described in paragraph (1); or

"(C) is a member of any other category of households designated by the State agency as ineligible for transitional benefits.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by adding

at the end the following: "The limits specified in this section may be extended until the end of any transitional benefit period established under section 11(s).".

(2) Section 6(c) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)) is amended by striking "No household" and inserting "Except in a case in which a household is receiving transitional benefits during the transitional benefits period under section 11(s), no household".

SEC. 1236. QUALITY CONTROL.

(a) In General.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) is amended—

(1) in paragraph (1), by striking "enhances payment accuracy" and all that follows through "(A) the Secretary" and inserting the following: "enhances payment accuracy and that has the following elements:

"(A) Corrective action plans.—The Secretary shall foster management improvements by the States by requiring State agencies to develop and implement corrective action plans to reduce payment errors.

"(B) Investigation and initial sanctions.—

"(i) Investigation.—Except as provided under subparagraph (C), for any fiscal year in which the Secretary determines that a 95 percent statistical probability exists that the payment error rate of a State agency exceeds the national performance measure for payment error rates announced under paragraph (6) by more than 1 percentage point, other than for good cause shown, the Secretary shall investigate the administration by the State agency of the food stamp program unless the Secretary determines that sufficient information is already available to review the administration by the State agency.

"(ii) Initial sanctions.—If an investigation under clause (i) results in a determination that the State agency has been seriously negligent (as determined under standards promulgated by the Secretary), the State agency shall pay the Secretary an amount that reflects the extent of such negligence (as determined under standards promulgated by the Secretary), not to exceed 5 percent of the amount provided to the State agency under subsection (a) for the fiscal year.

"(C) Additional sanctions.—If, for any fiscal year, the Secretary determines that a 95 percent statistical probability exists that the payment error rate of a State agency exceeds the national performance measure for payment error rates announced under paragraph (6) by more than 1 percentage point, other than for good cause shown, and that the State agency was sanctioned under this paragraph or was the subject of an investigation or review under subparagraph (B)(i) for each of the 2 immediately preceding fiscal years, the State agency shall pay to the Secretary an amount equal to the product obtained by multiplying—

"(i) the value of all allotments issued by the State agency in the fiscal year;

"(ii) the lesser of—

"(I) the ratio that—

"(aa) the amount by which the payment error rate of the State agency for the fiscal year exceeds by more than 1 percentage point the national performance measure for the fiscal year; bears to

"(bb) 10 percent; or

"(II) 1; and

"(iii) the amount by which the payment error rate of the State agency for the fiscal year exceeds by more than 1 percentage point the national performance measure for the fiscal year.";

(2) in paragraph (2)(A), by inserting before the semicolon the following: ", as adjusted downward as appropriate under paragraph (10)";

(3) in the first sentence of paragraph (4), by striking ", enhanced administrative funding," and all that follows and inserting "under this subsection, high performance bonus payment under paragraph (11), or claim for payment error under paragraph (1).";

(4) in the first sentence of paragraph (5), by striking "to establish" and all that follows and inserting the following: "to establish the payment error rate for the State agency for the fiscal year, to comply with paragraph (10), and to determine the amount of any high performance bonus payment of the State agency under paragraph (11) or claim under paragraph (1).";

(5) in the first sentence of paragraph (6), by striking "incentive payments or claims pursuant to paragraphs (1)(A) and (1)(C)," and inserting "claims under paragraph (1),"; and

(6) by adding at the end the following:

"(10) Adjustments of payment error rate.—

"(A) In general.—

"(i) Fiscal year 2002.—Subject to clause (ii), for fiscal year 2002, in applying paragraph (1), the Secretary shall adjust the payment error rate determined under paragraph (2)(A) as necessary to eliminate any increases in errors that result from the State agency's serving a higher percentage of households with earned income, households with 1 or more members who are not United States citizens, or both, than the lesser of, as the case may be—

"(I) the percentage of households of the corresponding type that receive food stamps nationally; or

"(II) the percentage of—

"(aa) households with earned income that received food stamps in the State in fiscal year 1992; or

"(bb) households with members who are not United States citizens that received food stamps in the State in fiscal year 1998.

"(ii) Expanded applicability to State agencies subject to sanctions.—In the case of a State agency subject to sanctions for fiscal year 2001 or any fiscal year thereafter under paragraph (1), the adjustments described in clause (i) shall apply to the State agency for the fiscal year.

"(B) Continuation or modification of adjustments.—For fiscal year 2003 and each fiscal year thereafter, the Secretary may determine whether the continuation or modification of the adjustments described in subparagraph (A)(i) or the substitution of other adjustments is most consistent with achieving the purposes of this Act.".

(b) Conforming Amendment.—Section 22(h) of the Food Stamp Act of 1977 (7 U.S.C. 2031(h)) is amended by striking the last sentence.

(c) Applicability.—Except as otherwise provided in the amendments made by subsection (a), the amendments made by subsection (a) shall apply to fiscal year 2001 and each fiscal year thereafter.

SEC. 1237. IMPROVEMENT OF CALCULATION OF STATE PERFORMANCE MEASURES.

(a) In General.—Section 16(c)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)(8)) is amended—

(1) in subparagraph (B), by striking "180 days after the end of the fiscal year" and inserting "the first May 31 after the end of the fiscal year referred to in subparagraph (A)"; and

(2) in subparagraph (C), by striking "30 days thereafter" and inserting "the first June 30 after the end of the fiscal year referred to in subparagraph (A)".

(b) Effective Date.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 1238. BONUSES FOR STATES THAT DEMONSTRATE HIGH PERFORMANCE.

(a) In General.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) (as amended by section 1236(a)(6)) is amended—

(1) in the first sentence of paragraph (1), by striking "enhanced administrative funding to States with the lowest error rates." and inserting "bonus payments to States that demonstrate high levels of performance."; and

(2) by adding at the end the following:

"(11) High performance bonus payments.—

"(A) In general.—For each fiscal year, the Secretary shall—

"(i) measure the performance of each State agency with respect to each of the performance measures specified in subparagraph (B); and

"(ii) subject to subparagraph (D), make high performance bonus payments to the State agencies with the highest achievement with respect to those performance measures.

"(B) Performance measures.—The performance measures specified in this subparagraph are—

"(i)(I) the greatest dollar amount of total claims collected in the fiscal year as a proportion of the overpayment dollar amount in the previous fiscal year; and

"(II) the greatest percentage point improvement under clause (i)(I) from the previous fiscal year to the fiscal year;

"(ii) the greatest improvement from the previous fiscal year to the fiscal year in the ratio, expressed as a percentage, that—

"(I) the number of households in the State that—

"(aa) have incomes less than 130 percent of the poverty line (as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

"(bb) are eligible for food stamp benefits; and

"(cc) receive food stamps benefits; bears to

"(II) the number of households in the State that—

"(aa) have incomes less than 130 percent of the poverty line (as so defined); and

"(bb) are eligible for food stamp benefits;

"(iii) the lowest overpayment error rate;

"(iv) the greatest percentage point improvement from the previous fiscal year to the fiscal year in the overpayment error rate;

"(v) the lowest negative error rate;

"(vi) the greatest percentage point improvement from the previous year to the fiscal year in the negative error rate;

"(vii) the lowest underpayment error rate;

"(viii) the greatest percentage point improvement from the previous year to the fiscal year in the underpayment error rate;

"(ix) the greatest percentage of new applications processed within the deadlines established under paragraphs (3) and (9) of section 11(e); and

"(x) the least average period of time needed to process applications under paragraphs (3) and (9) of section 11(e).

"(C) High performance bonus payments.—

"(i) Definition of caseload.—In this subparagraph, the term 'caseload' has the meaning given the term in section 6(o)(5)(A).

"(ii) Amount of payments.—

"(I) In general.—For each fiscal year, the Secretary shall—

"(aa) make 1 high performance bonus payment of $10,000,000 for each of the 10 performance measures under subparagraph (B); and

"(bb) allocate the high performance bonus payment with respect to each performance measure in accordance with subclauses (II) and (III).

"(II) PAYMENT FOR PERFORMANCE MEASURE CONCERNING CLAIMS COLLECTED.—For each fiscal year, the Secretary shall allocate the high performance bonus payment made for the performance measure under subparagraph (B)(i) among the 20 State agencies with the highest performance in the performance measure in the ratio that—

"(aa) the caseload of each such State agency; bears to

"(bb) the caseloads of all such State agencies.

"(III) PAYMENTS FOR OTHER PERFORMANCE MEASURES.—For each fiscal year, the Secretary shall allocate the high performance bonus payment made for the performance measure under each of clauses (ii) through (x) of subparagraph (B) among the 10 State agencies with the highest performance in the performance measure in the ratio that—

"(aa) the caseload of each such State agency; bears to

"(bb) the caseloads of all such State agencies.

"(iii) DETERMINATION OF HIGHEST PERFORMERS.—

"(I) IN GENERAL.—In determining the highest performers under clause (ii), the Secretary shall calculate applicable percentages to 2 decimal places.

"(II) DETERMINATION IN EVENT OF A TIE.—If, under subclause (I), 2 or more State agencies have the same percentage with respect to a performance measure, the Secretary shall calculate the percentage for the performance measure to as many decimal places as are necessary to determine which State agency has the greatest percentage.

"(D) LIMITATIONS FOR STATE AGENCIES SUBJECT TO SANCTIONS.—If, for any fiscal year, a State agency is subject to a sanction under paragraph (1)—

"(i) the State agency shall not be eligible for a high performance bonus payment under clause (iii), (iv), (vii), or (viii) of subparagraph (B) for the fiscal year; and

"(ii) the State agency shall not receive a high performance bonus payment for which the State agency is otherwise eligible under this paragraph for the fiscal year until the obligation of the State agency under the sanction has been satisfied (as determined by the Secretary).

"(E) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to make a high performance bonus payment under this paragraph shall not be subject to judicial review.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to fiscal year 2003 and each fiscal year thereafter.

SEC. 1239. SIMPLIFIED FUNDING RULES FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) LEVELS OF FUNDING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ", to remain available until expended,"; and

(B) by striking clause (vii) and inserting the following:

"(vii) to remain available until expended—

"(I) for fiscal year 2002, $122,000,000;

"(II) for fiscal year 2003, $129,000,000;

"(III) for fiscal year 2004, $135,000,000;

"(IV) for fiscal year 2005, $142,000,000; and

"(V) for fiscal year 2006, $149,000,000.";

(2) by striking subparagraph (B) and inserting the following:

"(B) ALLOCATION.—Funds made available under subparagraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—

"(i) is determined and adjusted by the Secretary; and

"(ii) takes into account the number of individuals who are not exempt from the work requirement under section 6(o)."; and

(3) by striking subparagraphs (E) through (G).

(b) RESCISSION OF CARRYOVER FUNDS.—Notwithstanding any other provision of law, funds provided under section 16(h)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)(A)) for any fiscal year before fiscal year 2002 shall cease to be available on the date of enactment of this Act, unless obligated by a State agency before that date.

(c) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(I)(i)(I)) is amended by striking "$25 per month" and inserting "an amount not less than $25 per month".

(d) FEDERAL REIMBURSEMENT.—Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended by striking "$25" and inserting "the limit established by the State agency under section 6(d)(4)(I)(i)(I)".

SEC. 1240. REAUTHORIZATION OF FOOD STAMP PROGRAM.

(a) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(3)) is amended—

(1) in the first sentence of subparagraph (A), by striking "2002" and inserting "2006"; and

(2) in subparagraph (B)(ii), by striking "2002" and inserting "2006".

(b) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended by striking "2002" and inserting "2006".

(c) GRANTS TO IMPROVE FOOD STAMP PARTICIPATION.—Section 17(i)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(i)(1)(A)) is amended in the first sentence by striking "2002" and inserting "2006".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking "2002" and inserting "2006".

SEC. 1241. EXPANDED GRANT AUTHORITY.

Section 17(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(a)(1)) is amended—

(1) by striking ", by way of making contracts with or grants to public or private organizations or agencies," and inserting "enter into contracts with or make grants to public or private organizations or agencies under this section to"; and

(2) by adding at the end the following: "The waiver authority of the Secretary under subsection (b) shall extend to all contracts and grants under this section.".

SEC. 1242. EXEMPTION OF WAIVERS FROM COST-NEUTRALITY REQUIREMENT.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended by adding at the end the following:

"(E) COST NEUTRALITY.—

"(i) REQUIREMENTS FOR WAIVERS.—

"(I) ESTIMATION OF COSTS AND SAVINGS OF WAIVERS.—Before approving a waiver for any demonstration project proposed under this subsection, the Secretary shall estimate the costs or savings likely to result from the waiver.

"(II) APPROVAL OF WAIVERS.—The Secretary shall not approve any waiver that the Secretary estimates will increase costs to the Federal Government unless—

"(aa) exigent circumstances require the approval of the waiver;

"(bb) the increase in costs is insignificant; or

"(cc) the increase in costs is necessary for a designated research demonstration project under clause (ii).

"(III) MULTIYEAR COST NEUTRALITY.—A waiver shall not be considered to increase costs to the Federal Government based on the impact of the waiver in any 1 fiscal year if the waiver is not expected to increase costs to the Federal Government over any 3-fiscal year period that includes the fiscal year.

"(ii) EXEMPTION FROM COST-NEUTRALITY REQUIREMENT FOR CERTAIN PROJECTS.—

"(I) IN GENERAL.—For each fiscal year, the Secretary may designate research demonstration projects that—

"(aa) have a substantial likelihood of producing information on important issues of food stamp program design or operation; and

"(bb) the Secretary estimates are likely to increase costs to the Federal Government by a total of not more than $50,000,000 during the period of fiscal years 2002 through 2006.

"(II) EXEMPTION.—A project described in subclause (I) shall be exempt from clause (i).

"(iii) OFFSETS IN OTHER PROGRAMS.—In making determinations of costs to the Federal Government under this subparagraph, the Secretary shall estimate and consider savings to the Federal Government in other programs in such a manner as the Secretary determines to be appropriate.

"(iv) NO LOOK-BACK.—The Secretary shall not be required to adjust any estimate made under this subparagraph to reflect the actual costs of a demonstration project as implemented by a State agency.".

SEC. 1243. PROGRAM SIMPLIFICATION DEMONSTRATION PROJECTS.

(a) ENHANCED WAIVER AUTHORITY.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (e) and inserting the following:

"(e) PROGRAM SIMPLIFICATION DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—With the approval of the Secretary, not more than 5 State agencies may carry out demonstration projects to test, for a period of not more than 3 years, promising approaches to simplifying the food stamp program.

"(2) TYPES OF DEMONSTRATION PROJECTS.—Each demonstration project under paragraph (1) shall test changes in food stamp program rules in not more than 1 of the following 2 areas:

"(A)(i) Reporting requirements under section 6(c).

"(ii). Verification methods under section 11(e)(3) (including reliance on data from preceding periods that can be obtained or verified electronically).

"(iii) A combination of reporting requirements and verification methods.

"(B) The income standard of eligibility established under section 5(c)(1), deductions under section 5(e), and income budgeting procedures under section 5(f).

"(3) SELECTION OF DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall establish a competitive process to select, from all projects proposed by State agencies, the demonstration projects to be carried out under this subsection based on which projects have the greatest likelihood of producing useful information on important issues of food stamp program design or operation, as determined by the Secretary.

"(B) Goals.—In selecting demonstration projects, the Secretary shall seek, at a minimum, to achieve a balance between—

"(i) simplifying the food stamp program;

"(ii) reducing administrative burdens on State agencies, households, and other individuals and entities;

"(iii) providing nutrition assistance to individuals most in need; and

"(iv) improving access to nutrition assistance.

"(C) Projects not eligible for selection.—The Secretary shall not select any demonstration project under this subsection that the Secretary determines does not have a strong likelihood of producing useful information on important issues of food stamp program design or operation.

"(D) Diversity of approaches and areas.—In selecting demonstration projects to be carried out under this subsection, the Secretary shall seek to include—

"(i) projects that take diverse approaches;

"(ii) at least 1 project that will operate in an urban area; and

"(iii) at least 1 project that will operate in a rural area.

"(E) Maximum aggregate cost of projects.—The estimated aggregate cost of projects selected by the Secretary under this subsection shall not exceed $90,000,000.

"(4) Size of area.—Each demonstration project selected under this subsection shall be carried out in an area that contains not more than the greater of—

"(A) one-third of the total households receiving allotments in the State; or

"(B) the minimum number of households needed to measure the effects of the demonstration projects.

"(5) Evaluations.—

"(A) In general.—The Secretary shall provide, through contract or other means, for detailed, statistically valid evaluations to be conducted of each demonstration project carried out under this subsection.

"(B) Minimum requirements.—Each evaluation under subparagraph (A)—

"(i) shall include the study of control groups or areas; and

"(ii) shall analyze, at a minimum, the effects of the project design on—

"(I) costs of the food stamp program;

"(II) State administrative costs;

"(III) the integrity of the food stamp program, including errors as measured under section 16(c);

"(IV) participation by households in need of nutrition assistance; and

"(V) changes in allotment levels experienced by—

"(aa) households of various income levels;

"(bb) households with elderly, disabled, and employed members;

"(cc) households with high shelter costs relative to the incomes of the households; and

"(dd) households receiving subsidized housing, child care, or health insurance.

"(C) Funding.—From funds made available to carry out this Act, the Secretary shall reserve not more than $6,000,000 to conduct evaluations under this paragraph.

"(6) Report to congress.—Not later than January 1, 2006, the Secretary shall submit to Congress a report on the impact of the demonstration projects carried out under this subsection on the food stamp program, including the effectiveness of the demonstration projects in—

"(A) delivering nutrition assistance to households most at risk; and

"(B) reducing administrative burdens.".

(b) Conforming Amendment.—Section 17(b)(1)(B)(iv)(III)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(iv)(III)(ii)) is amended by striking "paragraph" and inserting "section".

SEC. 1244. CONSOLIDATED BLOCK GRANTS.

(a) Consolidated Funding.—Section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "the Commonwealth of Puerto Rico" and inserting "governmental entities specified in subparagraph (D)";

(B) in clause (ii), by striking "and" at the end; and

(C) by striking clause (iii) and all that follows and inserting the following:

"(iii) for fiscal year 2002, $1,356,000,000; and

"(iv) for each of fiscal years 2003 through 2006, the amount provided in clause (iii), as adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(o)(4) between June 30, 2001, and June 30 of the immediately preceding fiscal year;

to pay the expenditures for nutrition assistance programs for needy persons as described in subparagraphs (B) and (C).";

(2) in subparagraph (B), by inserting "of Puerto Rico" after "Commonwealth" each place it appears; and

(3) by adding at the end the following:

"(C) American samoa.—For each fiscal year, the Secretary shall reserve 0.4 percent of the funds made available under subparagraph (A) for payment to American Samoa to pay the expenditures for a nutrition assistance program extended under section 601(c) of Public Law 96-597 (48 U.S.C. 1469d(c)).

"(D) Governmental entity.—A governmental entity specified in this subparagraph is—

"(i) the Commonwealth of Puerto Rico; and

"(ii) for fiscal year 2003 and each fiscal year thereafter, American Samoa.".

(b) Conforming Amendment.—Section 24 of the Food Stamp Act of 1977 (7 U.S.C. 2033) is repealed.

(c) Effective Date.—The amendments made by this section take effect on October 1, 2002.

SEC. 1245. EXPANDED AVAILABILITY OF COMMODITIES.

(a) In General.—Section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036) is amended—

(1) in subsection (a)—

(A) by striking "From amounts" and inserting the following:

"(1) In general.—From amounts";

(B) by striking "for each of fiscal years 1997 through 2002, the Secretary shall purchase $100,000,000 of" and inserting "the Secretary shall use the amount specified in paragraph (2) to purchase"; and

(C) by adding at the end the following:

"(2) Amounts.—The amounts specified in this paragraph are—

"(A) for each of fiscal years 1997 through 2001, $100,000,000; and

"(B) for each of fiscal years 2002 through 2006, $140,000,000."; and

(2) by adding at the end the following:

"(c) Use of Funds for Related Costs.—

"(1) In general.—For each of fiscal years 2002 through 2006, the Secretary shall use $10,000,000 of the funds made available under subsection (a) to pay the direct and indirect costs of States relating to the processing, storing, transporting, and distributing to eligible recipient agencies of—

"(A) commodities purchased by the Secretary under subsection (a); and

"(B) commodities acquired from other sources, including commodities acquired by gleaning (as defined in section 111(a) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note; Public Law 100-435)).

"(2) Allocation of funds.—The amount required to be used in accordance with paragraph (1) shall be allocated in accordance with section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).".

(b) Effective Date.—The amendments made by this section take effect on the date of enactment of this Act.

Subtitle B—Miscellaneous Provisions

SEC. 1251. REAUTHORIZATION OF COMMODITY PROGRAMS.

(a) Commodity Distribution Program.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended in the first sentence by striking "2002" and inserting "2006".

(b) Commodity Supplemental Food Program.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Grants Per Assigned Caseload Slot.—

"(1) In general.—In carrying out the program under section 4 (referred to in this section as the 'commodity supplemental food program'), for each of fiscal years 2003 through 2006, the Secretary shall provide to each State agency from funds made available to carry out that section (including any such funds remaining available from the preceding fiscal year), a grant per assigned caseload slot for administrative costs incurred by the State agency and local agencies in the State in operating the commodity supplemental food program.

"(2) Amount of grants.—For each of fiscal years 2003 through 2006, the amount of each grant per caseload slot shall be equal to $50, adjusted by the percentage change between—

"(A) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

"(B) the value of that index for the 12-month period ending June 30 of the preceding fiscal year."; and

(2) in subsection (d)(2), by striking "2002" each place it appears and inserting "2006".

(c) Distribution of Surplus Commodities to Special Nutrition Projects.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking "2002" and inserting "2006".

(d) Emergency Food Assistance.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking "2002" and inserting "2006";

(2) by striking "administrative"; and

(3) by inserting "storage," after "processing,".

SEC. 1252. WORK REQUIREMENT FOR LEGAL IMMIGRANTS.

(a) Working Immigrant Families.—Section 402(a)(2)(B)(ii)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(B)(ii)(I)) is amended by striking "40" and inserting "40 (or, in the case of the specified Federal program described in paragraph (3)(B), 16)".

(b) Conforming Amendments.—

(1) Section 213A(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1183a(a)(3)(A)) is amended by striking "40" and inserting "40 (or, in the case of the specified Federal program described in section 402(a)(3)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(3)(B)), 16)".

(2) Section 403(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)) is amended by adding at the end the following:

"(L) Assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).".

(3) Section 421(b)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(b)(2)(A)) is amended by striking "40" and inserting "40 (or, in the case of the specified Federal program described in section 402(a)(3)(B), 16)".

SEC. 1253. QUALIFIED ALIENS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(L) Food Stamp Exception for Certain Qualified Aliens.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any individual who has continuously resided in the United States as a qualified alien for a period of 5 years or more.".

SEC. 1254. COMMODITIES FOR SCHOOL LUNCH PROGRAMS.

(a) In General.—Section 6(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking "2001" and inserting "2003".

(b) Effective Date.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 1255. ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS.

(a) In General.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

"(7) Exclusion of Certain Military Housing Allowances.—For each of fiscal years 2002 and 2003, the amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this Act.".

(b) Effective Date.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 1256. SENIORS FARMERS' MARKET NUTRITION PROGRAM.

(a) Establishment.—The Secretary of Agriculture shall carry out and expand a seniors farmers' market nutrition program.

(b) Program Purposes.—The purposes of the seniors farmers' market nutrition program are—

(1) to provide to low-income seniors resources in the form of fresh, nutritious, unprepared, locally grown fruits,, vegetables, and herbs from farmers' markets, roadside stands, and community-supported agriculture programs;

(2) to increase domestic consumption of agricultural commodities by expanding or assisting in the expansion of domestic farmers' markets, roadside stands, and community-supported agriculture programs; and

(3) to develop or aid in the development of new farmers' markets, roadside stands, and community-supported agriculture programs.

(c) Regulations.—The Secretary of Agriculture may promulgate such regulations as the Secretary considers necessary to carry out the seniors farmers' market nutrition program under this section.

(d) Funding.—

(1) In general.—Not later than 30 days after the date of enactment of this Act, and on October 1, 2002, and each October 1 thereafter through October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section $15,000,000.

(2) Receipt and acceptance.—The Secretary of Agriculture shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

SEC. 1257. ELIGIBILITY FOR ASSISTANCE UNDER THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) In General.—Section 17(d)(2)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(B)(i)) is amended—

(1) by striking "basic allowance for housing" and inserting the following: "basic allowance—

"(I) for housing";

(2) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following:

"(II) provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law; and".

(b) Effective Date.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 1258. CONGRESSIONAL HUNGER FELLOWS PROGRAM.

(a) Short Title.—This section may be cited as the "Congressional Hunger Fellows Act of 2001".

(b) Findings.—Congress finds that—

(1) there are—

(A) a critical need for compassionate individuals who are committed to assisting people who suffer from hunger; and

(B) a need for those individuals to initiate and administer solutions to the hunger problem;

(2) Bill Emerson, the distinguished late Representative from the 8th District of Missouri, demonstrated—

(A) his commitment to solving the problem of hunger in a bipartisan manner;

(B) his commitment to public service; and

(C) his great affection for the institution and the ideals of Congress;

(3) George T. (Mickey) Leland, the distinguished late Representative from the 18th District of Texas, demonstrated—

(A) his compassion for individuals in need;

(B) his high regard for public service; and

(C) his lively exercise of political talents;

(4) the special concern that Mr. Emerson and Mr. Leland demonstrated during their lives for the hungry and poor was an inspiration for others to work toward the goals of equality and justice for all; and

(5) since those 2 outstanding leaders maintained a special bond of friendship regardless of political affiliation and worked together to encourage future leaders to recognize and provide service to others, it is especially appropriate to honor the memory of Mr. Emerson and Mr. Leland by establishing a fellowship program to develop and train the future leaders of the United States to pursue careers in humanitarian service.

(c) Definitions.—In this section:

(1) Appropriate congressional committees.—The term "appropriate congressional committees" means—

(A) the Committee on Agriculture and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

(2) Board.—The term "Board" means the Board of Trustees of the Program.

(3) Fund.—The term "Fund" means the Congressional Hunger Fellows Trust Fund established by subsection (g).

(4) Program.—The term "Program" means the Congressional Hunger Fellows Program established by subsection (d).

(d) Establishment.—There is established as an independent entity of the legislative branch of the United States Government an entity to be known as the "Congressional Hunger Fellows Program".

(e) Board of Trustees.—

(1) In general.—The Program shall be subject to the supervision and direction of a Board of Trustees.

(2) Members of the board.—

(A) Appointment.—

(i) In general.—The Board shall be composed of 6 voting members appointed under clause (ii) and 1 nonvoting ex-officio member designated by clause (iii).

(ii) Voting members.—The voting members of the Board shall be the following:

(I) 2 members appointed by the Speaker of the House of Representatives.

(II) 1 member appointed by the minority leader of the House of Representatives.

(III) 2 members appointed by the majority leader of the Senate.

(IV) 1 member appointed by the minority leader of the Senate.

(iii) Nonvoting member.—The Executive Director of the Program shall serve as a nonvoting ex-officio member of the Board.

(B) Terms.—

(i) In general.—Each member of the Board shall serve for a term of 4 years.

(ii) Incomplete term.—If a member of the Board does not serve the full term of the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(C) Vacancy.—A vacancy on the Board—

(i) shall not affect the powers of the Board; and

(ii) shall be filled in the same manner as the original appointment was made.

(D) Chairperson.—As the first order of business of the first meeting of the Board, the members shall elect a Chairperson.

(E) Compensation.—

(i) In general.—Subject to clause (ii), a member of the Board shall not receive compensation for service on the Board.

(ii) Travel.—A member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(3) Duties.—

(A) Bylaws.—

(i) Establishment.—The Board shall establish such bylaws and other regulations as are appropriate to enable the Board to carry out this section, including the duties described in this paragraph.

(ii) Contents.—Bylaws and other regulations established under clause (i) shall include provisions—

(I) for appropriate fiscal control, accountability for funds, and operating principles;

(II) to prevent any conflict of interest, or the appearance of any conflict of interest, in—

(aa) the procurement and employment actions taken by the Board or by any officer or employee of the Board; and

(bb) the selection and placement of individuals in the fellowships developed under the Program;

(III) for the resolution of a tie vote of the members of the Board; and

(IV) for authorization of travel for members of the Board.

(iii) Submission to congress.—Not later than 90 days after the date of the first meeting of the Board, the Chairperson of the Board shall submit to the appropriate congressional committees a copy of the bylaws established by the Board.

(B) Budget.—For each fiscal year in which the Program is in operation—

(i) the Board shall determine a budget for the Program for the fiscal year; and

(ii) all spending by the Program shall be in accordance with the budget unless a change is approved by the Board.

(C) Process for selection and placement of fellows.—The Board shall review and approve the process established by the Executive Director for the selection and placement of individuals in the fellowships developed under the Program.

(D) Allocation of funds to fellowships.—The Board shall determine—

(i) the priority of the programs to be carried out under this section; and

(ii) the amount of funds to be allocated for the fellowships established under subsection (f)(3)(A).

(f) Purposes; Authority of Program.—

(1) Purposes.—The purposes of the Program are—

(A) to encourage future leaders of the United States to pursue careers in humanitarian service;

(B) to recognize the needs of people who are hungry and poor;

(C) to provide assistance and compassion for people in need;

(D) to increase awareness of the importance of public service; and

(E) to provide training and development opportunities for the leaders through placement in programs operated by appropriate entities.

(2) Authority.—The Program may develop fellowships to carry out the purposes of the Program, including the fellowships described in paragraph (3).

(3) Fellowships.—

(A) In general.—The Program shall establish and carry out the Bill Emerson Hunger Fellowship and the Mickey Leland Hunger Fellowship.

(B) Curriculum.—

(i) In general.—The fellowships established under subparagraph (A) shall provide experience and training to develop the skills and understanding necessary to improve the humanitarian conditions and the lives of individuals who suffer from hunger, including—

(I) training in direct service to the hungry in conjunction with community-based organizations through a program of field placement; and

(II) experience in policy development through placement in a governmental entity or nonprofit organization.

(ii) Focus.—

(I) Bill Emerson hunger fellowship.—The Bill Emerson Hunger Fellowship shall address hunger and other humanitarian needs in the United States.

(II) Mickey Leland hunger fellowship.—The Mickey Leland Hunger Fellowship shall address international hunger and other humanitarian needs.

(iii) Work plan.—To carry out clause (i) and to assist in the evaluation of the fellowships under paragraph (4), the Program shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including the specific duties and responsibilities relating to the objectives.

(C) Period of fellowship.—

(i) Emerson fellowship.—A Bill Emerson Hunger Fellowship awarded under this paragraph shall be for a period of not more than 1 year.

(ii) Leland fellowship.—A Mickey Leland Hunger Fellowship awarded under this paragraph shall be for a period of not more than 2 years, of which not less than 1 year shall be dedicated to fulfilling the requirement of subparagraph (B)(i)(I).

(D) Selection of fellows.—

(i) In general.—A fellowship shall be awarded through a nationwide competition established by the Program.

(ii) Qualification.—A successful applicant shall be an individual who has demonstrated—

(I) an intent to pursue a career in humanitarian service and outstanding potential for such a career;

(II) leadership potential or leadership experience;

(III) diverse life experience;

(IV) proficient writing and speaking skills;

(V) an ability to live in poor or diverse communities; and

(VI) such other attributes as the Board determines to be appropriate.

(iii) Amount of award.—

(I) In general.—Each individual awarded a fellowship under this paragraph shall receive a living allowance and, subject to subclause (II), an end-of-service award as determined by the Program.

(II) Requirement for successful completion of fellowship.—Each individual awarded a fellowship under this paragraph shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service as determined by the Executive Director.

(iv) Recognition of fellowship award.—

(I) Emerson fellow.—An individual awarded a Bill Emerson Hunger Fellowship shall be known as an "Emerson Fellow".

(II) Leland fellow.—An individual awarded a Mickey Leland Hunger Fellowship shall be known as a "Leland Fellow".

(4) Evaluations.—

(A) In general.—The Program shall conduct periodic evaluations of the Bill Emerson and Mickey Leland Hunger Fellowships.

(B) Required elements.—Each evaluation shall include—

(i) an assessment of the successful completion of the work plan of each fellow;

(ii) an assessment of the impact of the fellowship on the fellows;

(iii) an assessment of the accomplishment of the purposes of the Program; and

(iv) an assessment of the impact of each fellow on the community.

(g) Trust Fund.—

(1) Establishment.—There is established in the Treasury of the United States a fund to be known as the "Congressional Hunger Fellows Trust Fund", consisting of—

(A) amounts appropriated to the Fund under subsection (k);

(B) any amounts earned on investment of amounts in the Fund under paragraph (2); and

(C) amounts received under subsection (i)(3)(A).

(2) Investment of amounts.—

(A) In general.—

(i) Authority to invest.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(ii) Types of investments.—Each investment may be made only in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary of the Treasury in consultation with the Board, has a maturity suitable for the Fund.

(B) Acquisition of obligations.—For the purpose of investments under subparagraph (A), obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

(C) Sale of obligations.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(D) Credits to fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(3) Transfers of amounts.—

(A) In general.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(B) Adjustments.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(h) Expenditures; Audits.—

(1) In general.—The Secretary of the Treasury shall transfer to the Program from the amounts described in subsections (g)(2)(D) and (i)(3)(A) such sums as the Board determines to be necessary to enable the Program to carry out this section.

(2) Limitation.—The Secretary may not transfer to the Program the amounts appropriated to the Fund under subsection (k).

(3) Use of funds.—Funds transferred to the Program under paragraph (1) shall be used—

(A) to provide a living allowance for the fellows;

(B) to defray the costs of transportation of the fellows to the fellowship placement sites;

(C) to defray the costs of appropriate insurance of the fellows, the Program, and the Board;

(D) to defray the costs of preservice and midservice education and training of fellows;

(E) to pay staff described in subsection (i);

(F) to make end-of-service awards under subsection (f)(3)(D)(iii)(II); and

(G) for such other purposes as the Board determines to be appropriate to carry out the Program.

(4) Audit by comptroller general.—

(A) In general.—The Comptroller General of the United States shall conduct an annual audit of the accounts of the Program.

(B) Books.—The Program shall make available to the Comptroller General all books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Program and necessary to facilitate the audit.

(C) Report to congress.—The Comptroller General shall submit to the appropriate congressional committees a copy of the results of each audit under subparagraph (A).

(i) Staff; Powers of Program.—

(1) Executive director.—

(A) In general.—The Board shall appoint an Executive Director of the Program who shall—

(i) administer the Program; and

(ii) carry out such other functions consistent with this section as the Board shall prescribe.

(B) Restriction.—The Executive Director may not serve as Chairperson of the Board.

(C) Compensation.—The Executive Director shall be paid at a rate not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Staff.—

(A) In general.—With the approval of a majority of the Board, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers necessary to carry out this section.

(B) Compensation.—An individual appointed under subparagraph (A) shall be paid at a rate not to exceed the rate payable for level GS-15 of the General Schedule.

(3) Powers.—

(A) Gifts.—

(i) In general.—The Program may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Program.

(ii) Use of gifts.—Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall—

(I) be deposited in the Fund; and

(II) be available for disbursement on order of the Board.

(B) Procurement of temporary and intermittent services.—To carry out this section, the Program may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay payable for level GS-15 of the General Schedule.

(C) Contract authority.—To carry out this section, the Program may, with the approval of a majority of the members of the Board, contract with and compensate Government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) Other necessary expenditures.—

(i) In general.—Subject to clause (ii), the Program may make such other expenditures as the Program considers necessary to carry out this section.

(ii) Prohibition.—The Program may not expend funds to develop new or expanded projects at which fellows may be placed.

(j) Report.—Not later than December 31 of each year, the Board shall submit to the appropriate congressional committees a report on the activities of the Program carried out during the preceding fiscal year that includes—

(1) an analysis of the evaluations conducted under subsection (f)(4) during the fiscal year; and

(2) a statement of—

(A) the total amount of funds attributable to gifts received by the Program in the fiscal year under subsection (i)(3)(A); and

(B) the total amount of funds described in subparagraph (A) that were expended to carry out the Program in the fiscal year.

(k) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $18,000,000.

(l) Effective Date.—This section takes effect on October 1, 2002.

SEC. 1259. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title take effect on July 1, 2002, except that a State agency may, at the option of the State agency, elect not to implement the amendments until October 1, 2002.

SEC. 1260. EFFECTIVENESS OF OTHER NUTRITION TITLE.

Title IV and the amendments made by title IV shall have no effect.

TITLE XIII—ADMINISTRATION

SEC. 1301. REGULATIONS.

(a) In General.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) Procedure.—The promulgation of the regulations and administration of title XI and sections 508 and 1256 and the amendments made by title XI and sections 508 and 1256 shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) Congressional Review of Agency Rulemaking.—In carrying out subsection (b), the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 1302. EFFECT OF AMENDMENTS.

(a) In General.—Except as otherwise specifically provided in this Act and notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out an agricultural market transition, price support, or production adjustment program for any of the 1996 through 2001 crop, fiscal, or calendar years under a provision of law in effect immediately before the date of enactment of this Act.

(b) Liability.—A provision of this Act or an amendment made by this Act shall not affect the liability of any person under any provision of law as in effect immediately before the date of enactment of this Act.

SA 2474. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following new section:

"SEC. . WILD FISH AND SHELLFISH.

"Section 2106 of the Organic Foods Production Act of 1990 (7 U.S.C. 6505) is amended by adding the following new subsection (c) and renumbering accordingly:

"'(c) Notwithstanding section 6506(a)(1)(A)), domestically produced wild fish and shellfish products may be labeled as organic if the secretary finds that they meet standards for wholesomeness that are equivalent to standards adopted for fish and shellfish produced from certified organic farms. In the event that standards do not exist for fish and shellfish produced from certified organic farms, the Secretary shall establish appropriate standards to allow labeling of wild fish and shellfish as organic. In establishing such standards for wild fish and shellfish, the Secretary shall consult with wild fish and shellfish producers, processors and sellers, as well as other interested members of the public.'"

SA 2475. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following new section:

"SEC. . FOREIGN MARKET DEVELOPMENT AMENDMENT.

"Section 5 of the Act of June 29, 1948 (62 Stat. 1072, Ch. 704) is amended by inserting ', and fur animals and products without regard to whether such animals are harvested in agricultural operations' after the phrase 'aquacultural operations'; and

"Section 602 of the Agricultural Act of 1949 (7 U.S.C. 1471) is amended by striking 'fish used for food,' and inserting 'fish used for food, fur animals and products,'."

SA 2476. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

S. 1731 is amended—

(1) on page 877, by inserting after line 5 the following:

"(9) Wild fish.—The term wild fish includes naturally-born and hatchery-raised fish and shellfish harvested in the wild, including fillets, steaks, nuggets, and any other flesh from wild fish or shellfish, and does not include net-pen aquacultural or other farm-raised fish";

(2) on page 877, line 22 by inserting "(I)" after "(B)";

(3) on page 877, by inserting after line 23 the following:

"(II) in the case of wild fish, is harvested in waters of the United States, its territories, or a State and is processed in the United States, its territories, or a State, including the waters thereof; and"; and

(4) on page 878, by inserting after line 3 the following:

"(3) Wild and farm-raised fish.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish, and in the case of wild salmon shall indicate State of origin.".

SA 2477. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . REPORT TO CONGRESS ON POUCHED AND CANNED SALMON.

Not later than 120 days from the date of enactment of this Act, the Secretary shall issue a report to Congress on efforts to expand the promotion, marketing and purchase of pouched and canned salmon harvested and processed in the United States within the food and nutrition programs under his jurisdiction. The report shall include: an analysis of existing pouched and canned salmon inventories in the United States available for purchase; an analysis of the demand for pouched and canned salmon as well as for value-added products such as salmon "nuggets" by the Department's partners, including other appropriate Federal agencies, and customers; a marketing strategy to stimulate and increase that demand; and, a purchasing strategy to ensure that adequate supplies of pouched and canned salmon as well as other value-added salmon products are available to meet that demand.

SA 2478. Mr. REID (for Mr. LIEBERMAN (for himself and Mr. THOMPSON) proposed an amendment to the bill H.R. 2336, An act to extend for 4 years, through December 31, 2005, the authority to redact financial disclosure statements of judicial employees and judicial officers; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. EXTENSION OF SUNSET PROVISION.

Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "2001" each place it appears and inserting "2005".

SA 2479. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 2336, An act to extend for 4 years, through December 31, 2005, the authority to redact financial disclosure statements of judicial employees and judicial officers; as follows:

Amend the title so as to read: "An Act to extend for 4 years, through December 31, 2005, the authority to redact financial disclosure statements of judicial employees and judicial officers.".

SA 2480. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 2199, to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes; as follows:

On page 2, line 11, strike "sec. 4-192(d)" and insert "sec. 5-133.17(d)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, December 11, 2001, at 10:30 a.m., in executive session to discuss the status of conference on S. 1438, the National Defense Authorization Act for Fiscal Year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, December 11, 2001, immediately following the first rollcall vote, to conduct a markup on the nominations of Mr. Eduardo Aguirre, Jr., of Texas, to be First Vice President of the Export-Import Bank of the United States; Mr. J. Joseph Grandmaison, of New Hampshire, to be a member of the Board of Directors of the Export-Import Bank of the United States; and Mr. Kenneth M. Donohue, of Virginia, to be Inspector General of the Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, December 11, 2001, at 3 p.m., to hold a nomination hearing.

Agenda

Nominee: Francis Ricciardone, Jr., of New Hampshire, to be Ambassador to the Philippines and to serve concurrently and without additional compensation as Ambassador to the Republic of Palau.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, December 11, 2001, at 9 a.m., to hold a hearing entitled "The Local Role in Homeland Security."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. REID. I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on Tuesday, December 11, 2001, at 10 a.m., in Dirksen 226.

Tentative Witness List: Mr. Bernard B. Kerik, Police Commissioner, New York, New York; the Honorable Martin O'Malley, Mayor, Baltimore, MD; Mr. Chuck Canterbury, National Vice President, Fraternal Order of Police, Myrtle Beach, SC; and Mr. John Greiner, President, Utah Chief of Police Association, Ogden, Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Kevin Brown, Jay Klug, Bill Burton, and Karl Hampton, all detailees on my staff, be allowed floor privileges during debate on S. 1731.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CIVIC PARTICIPATION WEEK

On December 10, 2001, the Senate passed S. Res. 140, as follows:

S. RES. 140

Whereas the United States embarks on this new millennium as the world's model of democratic ideals, economic enterprise, and technological innovation and discovery;

Whereas our Nation's preeminence is a tribute to our great 2-century-old experiment in representative government that nurtures those ideals, fosters economic vitality, and encourages innovation and discovery;

Whereas representative government is dependent on the exercise of the privileges and responsibilities of its citizens, and that has been in decline in recent years in both civic and political participation;

Whereas Alexis de Tocqueville, the 19th century French chronicler of our Nation's political behavior, observed that the people of the United States had successfully resisted democratic apathy and mild despotism by using what he called "schools of freedom"—local institutions and associations where citizens learn to listen and trust each other;

Whereas civic and political participation remains the school in which citizens engage in the free, diverse, and positive political dialogue that guides our Nation toward common interests, consensus, and good governance;

Whereas it is in the public interest for our Nation's leaders to foster civic discourse, education, and participation in Federal, State, and local affairs;

Whereas the advent of revolutionary Internet technology offers new mechanisms for empowering our citizens and fostering greater civic engagement than at any time in our peacetime history; and

Whereas the use of new technologies can bring people together in civic forums, educate citizens on their roles and responsibilities, and promote citizen participation in the political process through volunteerism, voting, and the elevation of voices in public discourse: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL CIVIC PARTICIPATION WEEK.

The Senate—

(1) designates the week beginning September 15, 2002, as "National Civic Participation Week";

(2) proclaims National Civic Participation Week as a week of inauguration of programs and activities that will lead to greater participation in elections and the political process; and

(3) requests that the President issue a proclamation calling upon interested organizations and the people of the United States to promote programs and activities that take full advantage of the technological resources available in fostering civic participation through the dissemination of information.

CONGRATULATING BARRY BONDS

On December 10, 2001, the Senate amended and passed S. Res. 178, as follows:

S. RES. 178

Whereas Barry Bonds has brought distinction to Major League Baseball and excellence to the San Francisco Giants, following in the baseball footsteps of his father, Bobby Bonds, and his godfather, Willie Mays;

Whereas Barry Bonds has had an outstanding career that so far includes an unprecedented 4 Most Valuable Player awards, 10 All-Star Game appearances, 8 Rawlings Gold Glove awards, and the distinction of being named Player of the Decade for the 1990s by the Sporting News;

Whereas in 2001, Barry Bonds had 1 of the greatest seasons in Major League Baseball history, achieving 73 home runs, a slugging average of .863, and an on-base percentage of .515;

Whereas Barry Bonds has established himself as the most prolific single-season home run hitter in Major League Baseball history, hitting his 73d home run on October 7, 2001, eclipsing the previous record of 70 home runs set by Mark McGwire in 1998;

Whereas Barry Bonds has attained the rank of 7th place on the all-time Major League Baseball home run list with 567;

Whereas Barry Bonds drove in 136 runs to set a Giants franchise record for runs batted in by a left fielder, and has recorded at least 100 RBI's in each of 10 different seasons;

Whereas of Barry Bonds's 73 home runs, 24 gave San Francisco the lead and 7 tied the game;

Whereas Barry Bonds also hit the 500th home run of his career during the 2001 season, a 2-run game-winning home run which landed in the waters of McCovey Cove, San Francisco;

Whereas Barry Bonds, at age 37, is the oldest player in Major League Baseball history to hit more than 50, 60, and 70 home runs in a single season;

Whereas Barry Bonds has recorded 484 stolen bases in his career, becoming the only Major League Baseball player to both hit more than 400 home runs and steal more than 400 bases;

Whereas Barry Bonds's 233 stolen bases achieved while playing for San Francisco place him 6th on the Giants franchise list behind his father, Bobby, who is 5th with 263 stolen bases;

Whereas Barry Bonds has proven himself to be an active leader not only in the Giants clubhouse but also in the community, donating approximately $100,000 to the September 11th Fund to aid the victims of the terrorist attacks in New York, Washington, D.C., and Pennsylvania; and

Whereas Barry Bonds has also devoted his time and money to support the Link & Learn Program of the United Way, and has been an active participant in numerous other San Francisco Bay area community efforts: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Barry Bonds on his spectacular record-breaking season in 2001 and outstanding career in Major League Baseball;

(2) wishes Barry Bonds continued success in the seasons to come; and

(3) thanks Barry Bonds for his contributions to baseball and to his community.

AUTHORIZATION OF SENATE CHAMBER PHOTOGRAPH

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a resolution which is at the desk, submitted earlier today by the majority and Republican leaders.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 190) authorizing the taking of a photograph in the Chamber of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the resolution is printed in today's RECORD under "Resolutions Submitted.")

MAKING PERMANENT AUTHORITY TO REDACT FINANCIAL DISCLOSURE STATEMENTS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 263, H.R. 2336.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2336) to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, there is a Lieberman-Thompson amendment at the desk. I ask unanimous consent that the amendment be agreed to, that the bill as amended, be read a third time, passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2478) was agreed to, as follows:

AMENDMENT NO. 2478

(Purpose: To extend for 4 years the authority to redact financial disclosure statements of judicial employees and judicial officers)

Strike all after the enacting clause and insert the following:

SECTION 1. EXTENSION OF SUNSET PROVISION.

Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "2001" each place it appears and inserting "2005".

The bill (H.R. 2336), as amended, was read the third time and passed.

The title amendment (No. 2479) was agreed to, as follows:

Amend the title so as to read: "An Act to extend for 4 years, through December 31, 2005, the authority to redact financial disclosure statements to judicial employees and judicial officers.".

HONORING 19 UNITED STATES SERVICEMEN WHO DIED IN TERRORIST BOMBING OF THE KHOBAR TOWERS IN SAUDI ARABIA

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 261, S. Con. Res. 55.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 55) honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia, on June 25, 1996.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 55) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 55

Whereas June 25, 2001, marks the fifth anniversary of the tragic terrorist bombing of the Khobar Towers in Saudi Arabia;

Whereas this act of senseless violence took the lives of 19 brave United States servicemen, and wounded 500 others;

Whereas these nineteen men killed while serving their country were Captain Christopher Adams, Sergeant Daniel Cafourek, Sergeant Millard Campbell, Sergeant Earl Cartrette, Jr., Sergeant Patrick Fennig, Captain Leland Haun, Sergeant Michael Heiser, Sergeant Kevin Johnson, Sergeant Ronald King, Sergeant Kendall Kitson, Jr., Airman First Class Christopher Lester, Airman First Class Brent Marthaler, Airman First Class Brian McVeigh, Airman First Class Peter Morgera, Sergeant Thanh Nguyen, Airman First Class Joseph Rimkus, Senior Airman Jeremy Taylor, Airman First Class Justin Wood, and Airman First Class Joshua Woody;

Whereas those guilty of this attack have yet to be brought to justice;

Whereas the families of these brave servicemen still mourn their loss and await the day when those guilty of this act are brought to justice; and

Whereas terrorism remains a constant and ever-present threat around the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress, on the occasion of the fifth anniversary of the terrorist bombing of the Khobar Towers in Saudi Arabia, recognizes the sacrifice of the 19 servicemen who died in that attack, and calls upon every American to pause and pay tribute to these brave soldiers and to remain ever vigilant for signs which may warn of a terrorist attack.

ZIMBABWE DEMOCRACY AND ECONOMIC RECOVERY ACT OF 2001

Mr. REID. Madam President, I ask unanimous consent that the Chair lay before the Senate a message from the House on S. 494.

The PRESIDING OFFICER laid before the Senate a message from the House, as follows:

Resolved, That the bill from the Senate (S. 494) entitled "An Act to provide for a transition to democracy and to promote economic recovery in Zimbabwe", do pass with the following amendment:

Strike out all after the enacting clause and insert;

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zimbabwe Democracy and Economic Recovery Act of 2001".

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law.

SEC. 3. DEFINITIONS.

In this Act:

(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term "international financial institutions" means the multilateral development banks and the International Monetary Fund.

(2) MULTILATERAL DEVELOPMENT BANKS.—The term "multilateral development banks" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

SEC. 4. SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.

(a) FINDINGS.—Congress makes the following findings:

(1) Through economic mismanagement, undemocratic practices, and the costly deployment of troops to the Democratic Republic of the Congo, the Government of Zimbabwe has rendered itself ineligible to participate in International Bank for Reconstruction and Development and International Monetary Fund programs, which would otherwise be providing substantial resources to assist in the recovery and modernization of Zimbabwe's economy. The people of Zimbabwe have thus been denied the economic and democratic benefits envisioned by the donors to such programs, including the United States.

(2) In September 1999 the IMF suspended its support under a "Stand By Arrangement", approved the previous month, for economic adjustment and reform in Zimbabwe.

(3) In October 1999, the International Development Association (in this section referred to as the "IDA") suspended all structural adjustment loans, credits, and guarantees to the Government of Zimbabwe.

(4) In May 2000, the IDA suspended all other new lending to the Government of Zimbabwe.

(5) In September 2000, the IDA suspended disbursement of funds for ongoing projects under previously-approved loans, credits, and guarantees to the Government of Zimbabwe.

(b) SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.—

(1) BILATERAL DEBT RELIEF.—Upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury shall undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by any agency of the United States Government.

(2) MULTILATERAL DEBT RELIEF AND OTHER FINANCIAL ASSISTANCE.—It is the sense of Congress that, upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury should—

(A) direct the United States executive director of each multilateral development bank to propose that the bank should undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by that bank; and

(B) direct the United States executive director of each international financial institution to which the United States is a member to propose to undertake financial and technical support for Zimbabwe, especially support that is intended to promote Zimbabwe's economic recovery and development, the stabilization of the Zimbabwean dollar, and the viability of Zimbabwe's democratic institutions.

(c) MULTILATERAL FINANCING RESTRICTION.—Until the President makes the certification described in subsection (d), and except as may be required to meet basic human needs or for good governance, the Secretary of the Treasury shall instruct the United States executive director to each international financial institution to oppose and vote against—

(1) any extension by the respective institution of any loan, credit, or guarantee to the Government of Zimbabwe; or

(2) any cancellation or reduction of indebtedness owed by the Government of Zimbabwe to the United States or any international financial institution.

(d) PRESIDENTIAL CERTIFICATION THAT CERTAIN CONDITIONS ARE SATISFIED.—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that the following conditions are satisfied:

(1) RESTORATION OF THE RULE OF LAW.—The rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association, and an end to the lawlessness, violence, and intimidation sponsored, condoned, or tolerated by the Government of Zimbabwe, the ruling party, and their supporters or entities.

(2) ELECTION OR PRE-ELECTION CONDITIONS.—Either of the following two conditions is satisfied:

(A) PRESIDENTIAL ELECTION.—Zimbabwe has held a presidential election that is widely accepted as free and fair by independent international monitors, and the president-elect is free to assume the duties of the office.

(B) PRE-ELECTION CONDITIONS.—In the event the certification is made before the presidential election takes place, the Government of Zimbabwe has sufficiently improved the pre-election environment to a degree consistent with accepted international standards for security and freedom of movement and association.

(3) COMMITMENT TO EQUITABLE, LEGAL, AND TRANSPARENT LAND REFORM.—The Government of Zimbabwe has demonstrated a commitment to an equitable, legal, and transparent land reform program consistent with agreements reached at the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998.

(4) FULFILLMENT OF AGREEMENT ENDING WAR IN DEMOCRATIC REPUBLIC OF CONGO.—The Government of Zimbabwe is making a good faith effort to fulfill the terms of the Lusaka, Zambia, agreement on ending the war in the Democratic Republic of Congo.

(5) MILITARY AND NATIONAL POLICE SUBORDINATE TO CIVILIAN GOVERNMENT.—The Zimbabwean Armed Forces, the National Police of Zimbabwe, and other state security forces are responsible to and serve the elected civilian government.

(e) WAIVER.—The President may waive the provisions of subsection (b)(1) or subsection (c), if the President determines that it is in the national interest of the United States to do so.

SEC. 5. SUPPORT FOR DEMOCRATIC INSTITUTIONS, THE FREE PRESS AND INDEPENDENT MEDIA, AND THE RULE OF LAW.

(a) IN GENERAL.—The President is authorized to provide assistance under part I and chapter 4 of part II of the Foreign Assistance Act of 1961 to—

(1) support an independent and free press and electronic media in Zimbabwe;

(2) support equitable, legal, and transparent mechanisms of land reform in Zimbabwe, including the payment of costs related to the acquisition of land and the resettlement of individuals, consistent with the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998, or any subsequent agreement relating thereto; and

(3) provide for democracy and governance programs in Zimbabwe.

(b) FUNDING.—Of the funds authorized to be appropriated to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 2002—

(1) $20,000,000 is authorized to be available to provide the assistance described in subsection (a)(2); and

(2) $6,000,000 is authorized to be available to provide the assistance described in subsection (a)(3).

(c) SUPERSEDES OTHER LAWS.—The authority in this section supersedes any other provision of law.

SEC. 6. SENSE OF CONGRESS ON THE ACTIONS TO BE TAKEN AGAINST INDIVIDUALS RESPONSIBLE FOR VIOLENCE AND THE BREAKDOWN OF THE RULE OF LAW IN ZIMBABWE.

It is the sense of Congress that the President should begin immediate consultation with the *governments of European Union member states, Canada, and other appropriate foreign countries on ways in which to—*

(1) identify and share information regarding individuals responsible for the deliberate breakdown of the rule of law, politically motivated violence, and intimidation in Zimbabwe;

(2) identify assets of those individuals held outside Zimbabwe;

(3) implement travel and economic sanctions against those individuals and their associates and families; and

(4) provide for the eventual removal or amendment of those sanctions.

Mr. REID. I ask unanimous consent that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA POLICE COORDINATION AMENDMENT ACT OF 2001

Mr. REID. I ask consent that the Senate proceed to the consideration of Calendar No. 246, H.R. 2199.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2199) to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. REID. I understand Senator LIEBERMAN has an amendment at the desk, and I therefore ask for its consideration, that the amendment be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2480) was agreed to, as follows:

AMENDMENT NO. 2480

(Purpose: To make a technical correction)

On page 2, line 13, strike "sec. 4–192(d)" and insert "sec. 5–133.17(d)".

Mr. REID. I ask consent that the bill, as amended, be read the third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2199), as amended, was read the third time and passed.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. REID. I ask consent that the Senate proceed to Calendar No. 260, S. 1519.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1519) to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. REID. I ask consent the bill be considered read the third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1519) was read the third time and passed, as follows:

S. 1519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FARM CREDIT ASSISTANCE FOR ACTIVATED RESERVISTS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following:

"SEC. 376. FARM CREDIT ASSISTANCE FOR ACTIVATED RESERVISTS.

"(a) DEFINITIONS.—In this section:

"(1) ACTIVATED RESERVIST.—The term 'activated reservist' means—

"(A) a member of a reserve component of any of the Armed Forces of the United States who is serving on active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) pursuant to a call or order issued on or after September 11, 2001, under a provision of law referred to in subparagraph (B) of that section; and

"(B) a member of the National Guard of a State not in Federal service who is ordered to duty under the laws of the State in support of any operation to protect persons or property from an act of terrorism or a threat of attack by a hostile force during the period of a national emergency declared by the President or Congress on or after September 11, 2001.

"(2) ELIGIBLE PERSON.—The term 'eligible person' means—

"(A) an activated reservist who owns or operates a farm or ranch;

"(B) an owner or operator of the farm or ranch who is a member of the family of the activated reservist; and

"(C) an owner or operator of a farm or ranch on which an activated reservist is employed.

"(b) PROGRAM.—The Secretary shall establish a program to provide assistance to any borrower of a farmer program loan who is an eligible person.

"(c) MODIFICATION OF LOAN TERMS.—The Secretary shall modify the terms and conditions of a farmer program loan (including a loan in which any participant in the loan is an eligible person) made to an eligible person for a farm or ranch under this title, or purchased under section 309B, to the extent necessary, as determined by the Secretary, to alleviate conditions of distress related to the activation of the activated reservist and to assist in maintaining the farm or ranch for such period of time as the Secretary determines is fair and equitable.

"(d) DEBT RESTRUCTURING.—The Secretary may modify farmer program loans, including delinquent loans, by deferring principal or interest scheduled payments, reducing interest rates or accumulated interest charges, reamortizing or consolidating loans, reducing the amount of scheduled principal or interest payments, releasing additional income, reducing collateral requirements, or taking any other restructuring actions determined appropriate by the Secretary, to alleviate conditions of distress related to the activation of the activated reservist and to assist in maintaining the farm or ranch for such period of time as the Secretary determines is fair and equitable.

"(e) EMERGENCY LOANS.—

"(1) IN GENERAL.—The Secretary shall make an emergency loan under subtitle C to an eligible person for a farm or ranch that has suffered, or that is likely to suffer, substantial economic injury as the result of the activation of an activated reservist, as determined by the Secretary.

"(2) ADMINISTRATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an emergency loan made under this subsection shall be made under the terms and conditions of subtitle C.

"(B) EXCEPTIONS.—An emergency loan made under this subsection shall not be subject to—

"(i) the requirements of section 321(a) for a finding by the Secretary that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President;

"(ii) section 321(b); or

"(iii) any other requirement of subtitle C that the Secretary waives to carry out this subsection.

"(3) PERIOD OF ELIGIBILITY.—To obtain an emergency loan under this subsection, an eligible person shall apply for the emergency loan during the period—

"(A) beginning on the date on which the activated reservist is activated; and

"(B) ending 180 days after the date on which the activated reservist is discharged or released from active duty.

"(f) NOTICE.—The Secretary shall develop a program to notify eligible persons of assistance that is available under this section.

"(g) SPOUSES OR RELATIVES.—

"(1) IN GENERAL.—The Secretary may provide for procedures under which the spouse or other close relative (as determined by the Secretary) of an activated reservist may participate in, or make decisions related to, a program administered by the Secretary under this title.

"(2) REPRESENTATION.—The Secretary may rely on the representation of the spouse or close relative (even in the absence of a power of attorney) made under the procedures described in paragraph (1) if the Secretary—

"(A) determines that the reliance is appropriate in order to prevent undue hardship and to provide equitable treatment for the activated reservist; and

"(B) has no reason to believe that the representation of the spouse or close relative is not in accordance with the intent and interests of the activated reservist.".

SEC. 2. REGULATIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to implement the amendment made by section 1.

(b) PROCEDURE.—The promulgation of the regulations and administration of the amendment made by section 1 shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

ORDERS FOR WEDNESDAY, DECEMBER 12, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Wednesday, December 12; that immediately following the prayer and pledge, the Journal of proceedings be approved, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, there will, as I have announced, be a recorded vote on the Lugar amendment at approximately 10:20 or 10:25 in the morning.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until Wednesday, December 12, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 11, 2001:

DEPARTMENT OF ENERGY

RAYMOND L. ORBACH, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF SCIENCE, DEPARTMENT OF ENERGY, VICE MILDRED SPIEWAK DRESSELHAUS.

DEPARTMENT OF JUSTICE

JAMES DUANE DAWSON, OF WEST VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF FOUR YEARS, VICE CHARLES M. ADKINS.

WILLIAM CAREY JENKINS, OF LOUISIANA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS, VICE RONALD JOSEPH BOUDREAUX, RESIGNED.

DWIGHT MACKAY, OF MONTANA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MONTANA FOR THE TERM OF FOUR YEARS, VICE WILLIAM STEPHEN STRIZICH, RESIGNED.

RONALD RICHARD MCCUBBIN, JR., OF KENTUCKY, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF KENTUCKY FOR THE TERM OF FOUR YEARS, VICE E. DOUGLAS HAMILTON.

DAVID REID MURTAUGH, OF INDIANA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF INDIANA FOR THE TERM OF FOUR YEARS, VICE MICHAEL D. CARRINGTON.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN

THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

GERARD W. STALNAKER, 7439
EVERETT G. WILLARD JR., 5307

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

JAMES A. BARLOW, 3545
MICHAEL J. BARNES, 5127
JUDY M. GIST, 8971
JEFFREY L.* HAMILTON, 1383
WILLIAM S. JONES, 2214
GLENN S. ROBERTS, 2176

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CYNTHIA M. CADET, 1582
CHARLES L. CAMPBELL, 4523
YVONNE M. DIETRICH, 8988
WILLIAM A. RANDALL, 9930
JEFFREY H. SEDGEWICK, 6007
TEDDI J. STEIL, 4606
MARIA E. WHITE, 5293
DAVID G. YOUNG III, 0444

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JOSEPH L. CULVER, 8597
CHARLES R. JAMES JR., 0923

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

BARRY D. KEELING, 2410
ERNESTO E. MARRA, 9643

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JAMES J. WALDECK III, 4577

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

LAURA R BROSCH, 5213
MARIA T BRYANT, 0117
SUSANNE J CLARK, 7939
TIMOTHY A COFFEY, 1920
MICHAEL H CUSTER, 2576
ANGELIA E DURRANCE, 0630
GAIL E FORD, 3894
LEANA A FOXJOHNSON, 7692
VINCENT E GLIDDEN, 2274
ELIZABETH E HILL, 1701
PATRICIA D HOROHO, 7767
CHRISTOPHER A KRUPP, 4655
CAROL A MCNEILL, 7889
ALLISON L MIRAKIAN, 2031
ELIZABETH A MITTELSTAEDT, 2476
LU A PERALTA, 0716
CHRISTINE M PIPER, 7105
LINDA D ROBINETTE, 2009
GAIL J WILLIAMSON, 1372
CONNORS A WOLFORD, 0986

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT IN THE MEDICAL SERVICE CORPS (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be colonel

GARRY F ATKINS, 2856
THOMAS M BAILEY, 3288
LOUIE M * BANKS III, 0693
RICHARD L BOND, 1931
ZANKL D CARAWAY, 5079
JOHN J CIESLA, 2694
DAVID W CRAFT, 1928
DOUGLAS R DUDEVOIR, 9106
VICTOR C EILENFIELD, 7038
RONALD E ESKEW, 4221
DEBRA D FRANCO, 2752
SAMUEL D FRANCO, 8556
WILLIAM R FRY, 8514
FREDERICK J GARGIULO, 0444
ROBERT W GOMBESKI, 2831
JAMES E GORDON, 4094
JOHN D GRABENSTEIN, 6882
ISIAH M HARPER JR., 0919
CHARLES C HUME, 0585
LARRY C JAMES, 1574
DAVID E JONES, 3153
CHARLES S KELLER, 3819
PAULINE KNAPP, 6390
WALTER S * LORING, 4542
DENISE M MCCOLLUM, 6545
WENDELL A MOORE, 7135
THOMAS G MUNDIE, 9220
CARMEN L RINEHART, 1683
WILLIAM H RIVARD III, 3669
DARYL L SPENGER, 8296

CONFIRMATIONS

Executive nominations confirmed by the Senate December 11, 2001:

THE JUDICIARY

JOHN D. BATES, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

KURT D. ENGELHARDT, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

JULIE A. ROBINSON, OF KANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF KANSAS.

HOUSE OF REPRESENTATIVES—*Tuesday, December 11, 2001*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. OTTER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC, December 11, 2001.

I hereby appoint the Honorable C.L. "BUTCH" OTTER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment Concurrent Resolutions of the House of the following titles:

H. Con. Res. 88. Concurrent Resolution expressing the sense of the Congress that the President should issue a proclamation to recognize the contribution of the Lao-Hmong in defending freedom and democracy and supporting the goals of Lao-Hmong Recognition Day.

H. Con. Res. 272. Concurrent Resolution expressing the sense of Congress regarding the crash of American Airlines Flight 587.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3338. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3338) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereupon, and appoints Mr. INOUYE, Mr. HOLLINGS, Mr. BYRD, Mr. LEAHY, Mr. HARKIN, Mr. DORGAN, Mr. DURBIN, Mr. REID, Mrs. FEINSTEIN, Mr. KOHL, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, and Mrs. HUTCHISON, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. Con. Res. 73. Concurrent resolution expressing the profound sorrow of Congress for the deaths and injuries suffered by first responders as they endeavored to save innocent people in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001.

S. Con. Res. 87. Concurrent resolution expressing the sense of Congress regarding the crash of American Airlines Flight 587.

S. Con. Res. 91. Concurrent resolution expressing deep gratitude to the government and the people of the Philippines for their sympathy and support since September 11, 2001, and for other purposes.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 3, 2001, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

SALUTING OUR MILITARY ON THE 3-MONTH ANNIVERSARY OF THE SEPTEMBER 11 ATTACKS

Mr. STEARNS. Mr. Speaker, today we come upon the 3-month anniversary of the tragic terrorist attacks of September 11. Numerous ceremonies will be conducted in remembrance of this day, reflecting upon the loss of life and the senseless attack against our freedom. What also deserves reflection, recognition, and honor is the response of those tasked to defend our country and right the terrible wrong that occurred 3 months ago.

On September 14 the Congress authorized the President to use all necessary and appropriate force in retaliation for the attacks of September 11. That same day the President began a partial mobilization of our forces for homeland defense, later dubbed "Operation Noble Eagle," with additional Guard and Reservists being called up over the next 2 months. Our response abroad became Operation Enduring Freedom. Upon the ruling Taliban's refusal to cooperate and hand over Osama bin Laden, our military sent a message, one that is being trumpeted by the administration today: if you provide aid and support to terrorists, you will find yourself on the wrong side of a very irate, heroic giant.

On October 7, our aircraft and warships, along with assistance from our allies, began systematically to eliminate suspected terrorist camps, air defense assets, and command and control installations. These attacks continued almost daily, which included the use of Special Forces aircraft such as the AC-130 gunship, providing devastating air-to-ground fire against Taliban military units.

Our Special Forces groups were on the ground early in October, assisting anti-Taliban fighters and calling in air strikes on frontline Taliban units. The dedication of our forces, the overwhelming firepower used, and the assistance of our allies has resulted in every major Taliban stronghold falling into the hands of the anti-Taliban forces.

The Taliban lost the pivotal town of Mazar-I-Sharif, and the capital city of Kabul fell to Northern Alliance forces by mid-November. The last Taliban stronghold in the north, Kunduz, fell by the end of November.

By December 7, despite Taliban promises to "fight to the death," the last major Taliban stronghold fell and remaining Taliban forces fled the city.

Our forces are now working with local fighters to root out the remaining Taliban and al Qaeda forces in the cave complexes in Tora Bora. This is an extraordinary achievement.

The success of Operation Enduring Freedom has enabled the United States to begin reestablishing a diplomatic presence, 12 years absent in Afghanistan, with Marine forces securing the former American embassy in Kabul. During the Taliban's rule, only three countries legitimately recognized the government and, have eventually severed their ties.

Now, with Afghanistan under new leadership, several countries, including Britain, Russia, France, and India, are beginning the process of reestablishing diplomatic relations.

As the President has stated, this campaign against terrorism will not be a war of "instant gratification." Though our forces have succeeded in toppling the Taliban and ending its capability both as a military force and ruling authority, we are still engaged in action against remaining forces in the Afghan mountains. Further actions abroad to root out terrorism may well be necessary.

Our military has performed admirably. Our professional forces continue to demonstrate that they are the best in the world. Sadly, as with any military action, we have suffered casualties.

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The success of our forces serves as a warning for those groups and governments that continue to harbor and support terrorism. The demise of the Taliban is an example of the resolve of the United States and the might of its cause. Terrorism and those that support it will no longer be allowed to flourish in this world.

So, today at 8:46 a.m., the President led a memorial to grieve the deaths of more than 3,000 people in suicide hijackings. He vowed to "right this huge wrong." Secretary Rumsfeld, speaking at the Pentagon ceremony said, "We will remember until freedom triumphs over fear, over repression, and long beyond."

Eighty countries around the world are also recognizing this tragedy and renewing commitments.

Mr. Speaker, I too stand here to recognize these events and to also stand here to salute the men and women of our Armed Forces, both at home and abroad, in their extraordinary service and success to this country, to their families, and to our fellow citizens.

PARTISAN VOTING MEANS LOSS OF OPPORTUNITY FOR NEW TRADE ERA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, the December 6 House vote on Presidential Trade Promotion Authority continued a sad string of hard-edge partisan votes since September 11 and the loss of an historic opportunity to move to a new era of trade.

The pattern was established when the leadership took the legitimate need for stabilizing the airline industry and rushed through a program to lavishly reward airlines, but with no consideration of the needs of American workers.

The antiterrorism legislation, produced unanimously by the Committee on the Judiciary in the House, was rejected in favor of a narrow, more partisan alternative that did not even have a hearing. The economic stimulus bill was shoe-horned through by a single vote. Its package of corporate tax breaks, with no connection to investment or economic growth, has been roundly criticized by liberals and conservatives alike. Even legislation to stabilize the insurance industry was hijacked by other ideological and political agendas.

The trade promotion legislation fell victim to this same treatment when the House Republican leadership prevented any effort to resolve other legitimate concerns, with the active support, sadly, of the Bush administration, instead focusing on advancing partisan political objectives.

The President could have openly repudiated the partisan ideological posturing here in Congress. He could have demanded and would have been given a bipartisan bill with broad support that would have helped place trade promotion above the political fray. That would have placed, in a stressful time for the country and our economy, a majority of the House of Representatives, like the majority of Americans, in a position to give benefit of the doubt to the President, as they have done repeatedly since September 11. The President could have achieved this objective by making modest adjustments to the trade legislation.

The concern about disadvantage to American workers, with the extension of NAFTA to the entire western hemisphere, could have been answered by making a principal trade objective adherence to, and enforcement of, the International Labor Organization's core labor standards, which all of these countries say they support. To the fear that chapter XI investor protections under NAFTA put foreign investors in a superior position to undermine American environmental protections, a simple answer would have been to mandate that no foreign investor be given a superior position to American companies, and the House would have gone along.

Finally, we could have made provisions for the continued enforceability of environmental treaties. When both parties to trade disputes are signatories, we can insist that these agreements' provisions being enforced is not an unfair trade barrier.

These three simple changes, together with meaningful assistance to the financially distressed and unemployment, that were promised months ago and have yet to be meaningfully delivered, would have produced a comfortable margin of votes from Democrats and Republicans alike. Instead, the administration chose to wheel and deal in ways that will only become clear from careful observation and good journalism. It is bad enough that the price of passing poor trade legislation might be funding for unnecessary public works projects.

What is worse is that the administration and the Republican leadership abandoned their commitment to free trade in the poorest of countries by gutting the Caribbean Basin Initiative. This hard-fought trademark legislation was a proud bipartisan achievement that would have helped some of the poorest and most distressed countries. We are now jettisoning our principles, denying hundreds of millions of the world's poorest citizens the power of trade benefits.

☐ 1245

Of course, we await to learn the concessions, not just to citrus growers but to the whole tired American agricultural regime. Our current policy works to the detriment of most American farmers and the taxpayers and undercuts our ability at the bargaining table to open up foreign markets to American agriculture.

It is not too late for the President to restore integrity to our trade negotiations by abandoning these narrow, ideological partisan approaches. The Senate can easily make this a better bill by jettisoning the trade-corrupting provisions, letting the legislative process work, and listening to the critics who have legitimate concerns.

We are not going to end the debates on the role of globalization and trade policy; but by addressing these legitimate concerns, we can narrow the debate and enable the administration to pursue the policies that United States Trade Representative Zoellick sincerely wants to achieve, I believe.

Given the right bill, we will not be held hostage to narrow special interests at home while we make the poorest of countries pay the price for our lack of political leadership and policy clarity.

SOCIAL SECURITY SOLVENCY

The SPEAKER pro tempore (Mr. OTTER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I just returned from the Presidential Commission on Social Security meeting. This morning they released their plan that they will be reviewing and presenting to the President on the 21st of this month.

They presented three proposals. Earlier this year, I encouraged the commission to come to agreement on one proposal. I am somewhat concerned, with three proposals, that we end up bickering in this Chamber about the advantages and disadvantages of each proposal and use it as an excuse to do nothing. It would have been much better if the commission had developed one proposal.

Briefly, the three proposals allow optional, worker owned investments.

The first proposal allows an investment of 2 percent of our taxable income and then offsets future Social Security benefits to the extent and with the assumption that that investment in private accounts will accumulate 3.5 percent return on investment. So they assume that that is 3.5 percent, and deduct that compounded earnings value from future benefits.

The second proposal allows 4 percent of taxable income, not to exceed $1,000 a year, but provides that they are only assuming 2 percent return on that proposal to determine reductions in future benefits. Investments would be limited to safe investments, and all plans are optional. Everything that our personal account would accrue above the 2 percent would be an increase in ultimate retirement benefits.

These plans are especially beneficial for those individuals under 40 years of age that have a period of time for the magic of compound interest to work.

The third proposal is based on the premise that it is important to resolve Social Security, but it is more important to keep promised benefits. So it appears that it would take a tremendous amount of financing from other sources other than the payroll tax to accommodate that particular proposal.

Mr. Speaker, earlier this year I told the commission that I was concerned that they must do a better job communicating to the American people the predicament that Social Security now finds itself in. Social Security is insolvent.

We know how many people there are and when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they will take out. We also know that payroll taxes will not cover benefits, starting in 2015, and that the shortfalls will add up to $120 trillion in the 75 years following 2015.

Today's value of that shortfall is a little over $9 trillion. This graph simply represents our short-term benefit, because we have been increasing taxes, payroll taxes. Every time Social Security was in trouble, we would increase the taxes. So in the short run, until 2015, 2016, 2017, someplace in those years, there is more money coming in than we need. But after that, the red portion of this graph represents the $120 trillion that will be needed in addition to Social Security taxes. Something needs to be done if we are going to keep this most important program secure and solvent.

A lot of people have said that the economic growth will fix Social Security. That is not true, because as wages increase, so do the benefits. So increasing the economy of this country with more jobs and more benefits in the long run simply results in a greater requirement for payouts. When the economy grows, workers pay more in taxes, but they are going to get it out. Growth makes the number look better now, but leaves a larger hole later.

I think this Social Security Commission has done a service by at least laying out three proposals, all of which eventually will add to the solvency of Social Security. The question is, do we want to allow some privately owned account for private investments?

This is a graph that I made up just to show what has happened in the last 100 years in terms of the returns of stock investments. We see the ups and downs, but the average over the last 100 years is 6.7 percent. That compares to about 1.7 percent that the average retiree is going to receive as a return on the money they and their employer put into Social Security for them.

So, that is the problem: there is not a very good return on your Social Security taxes. It is not a good investment. Everybody, on average, that is working now and paying in can expect at retirement time the equivalent of a 1.7 percent return.

I would like to conclude by congratulating the commission for their work. I will help increase a understanding by the American people that there is a huge problem. We have come a long way since my first Social Security bill in 1994. I hope this report is the kind of stimulus and catalyst that will allow this Chamber to move forward to assure that we save Social Security.

AN ALTERNATIVE PLAN TO PRIVATIZATION TO SECURE SOCIAL SECURITY FOR THE FUTURE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. DEFAZIO) is recognized during morning hour debates for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, responding to the gentleman that preceded me, I agree that there is a problem with Social Security, and it is something that this House and this administration should deal with. We do agree there.

However, the problem is a little different than described. In the year 2016, Social Security will get to the point where the income, it is true, will not equal benefits; but it will begin only to draw on the interest on its accumulated trust funds.

Now, we either have assets in Social Security, because we are paying much more in taxes today and accumulating trust funds, or we do not. There is some disagreement over whether Federal Treasury notes deposited for Social Security constitute real assets. In fact, the Secretary of the Treasury went so far as to say that there are no real economic assets in the trust fund, only obligations, the full faith and credit of the Federal Government of the United States of America, which the last time I checked was the safest investment in the world.

So from 2016 to 2025, we will only spend down interest. In 2025, just like someone in retirement, then the government would begin to redeem the bonds, the investments, the principle. And yes, in 2038, there will be a real problem. In 2038, Social Security will only have income sufficient to pay 70 percent of promised benefits. So starting in 37 years, we have a 30 percent problem.

Now, the question becomes, do we destroy the entire existing system, which benefits more than 40 million Americans today and many more millions in the future, or do we adjust it a little bit, especially with 37 years lead time?

There are three ways to do it:

First, we can increase the income, which either means some different kind of investments other than Federal debt; or we can increase taxes, which has been ruled out by this administration.

Next, we can decrease expenditures, that is, lower benefits; or we can have deficits, as the gentleman alluded to under option three of this commission; or we can have a combination of those three things.

Now, the President appointed a commission that was supposed to deal with this. Unfortunately, the commission's charge was not to stabilize the financing of the most successful social program in the history of the United States. The charge of this group, and every single member was hand-picked because of this, was to privatize the system, to begin to undermine that system for the future. That was their charge. And even there, they really kind of failed.

Now, they are led by the CEO of Time Warner, of course, who has a vital interest in the future of Social Security. He had to divert part, part of his bonus last year to buy a winery in Tuscany. Imagine that, he had to spend part of last year's bonus for that, so he is vitally concerned. He knows some day he will need that Social Security, like tens of millions of working Americans.

Then we have a former Democratic Senator who used to say that raising taxes was the answer, but late in his career he changed his mind and said privatization was the answer. So their pronouncements are sort of a mix here. Actually, all three of their solutions worsen the financial situation of Social Security. Is that not interesting, a commission to solve the problems of Social Security, but since they were charged only to privatize it, they did not even deal with the financing problems?

In their first solution, they would bring us insolvency 5 years sooner than the current system. They would reduce benefits under the premise that people's benefits are being reduced but they will gain more with their diverted investments. But if the investments do not pan out, well, hey, that is the way it goes. Mr. Parsons will be living on his vineyard in Tuscany, and they will be down at the local Dumpster trying to find food.

Now, we could go with the second option: a 4 percent diversion of trust funds. Then they would change the way they index future benefits, reducing the benefits for everybody in the program, even those who do not choose the option of the 4 percent diversion; and they would have to inject general funds, that is, subsidize Social Security, beginning in 2025. That means insolvency comes 30 years sooner than under the current system.

Finally, in their last option, which no one can describe, the Wall Street

Journal said, for option three, "Suffice it to say, it is so complicated we are not even sure we understand it," but it does have a combination of a benefit reduction, of benefit reductions, increase in age of retirement, and huge trust fund transfers from the general fund.

There is a much simpler solution; but this commission, this President, will never touch it, because it revolves around tax fairness.

Americans only pay the regressive Social Security tax on the first $850,400 of income. So that means someone who earns $160,000 pays Social Security taxes at half the rate of someone who earns $80,000 or half the rate of someone who earns $10,000 a year on every dollar they earn. If they earn twice that, it goes down to a quarter.

Now, one simple solution would solve the problem of Social Security forever: have every working American pay the same tax on every penny they earn: that is, Mr. Parsons, the CEO of Time Warner, would contribute the same percentage of his income in taxes as would the minimum wage worker.

It is fair, and the Social Security trustees tell us that in fact that is more money than we need to assure the future of Social Security forever. Unfortunately, this commission and this President will never go there.

REPUBLICAN GIVEAWAYS TO INSURANCE COMPANIES AND LARGE CORPORATIONS DO NOT SOLVE AMERICA'S ECONOMIC CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, 3 months ago today, as we all know, was September 11. That afternoon, gas stations, some number of gas stations all over the country raised their prices to $4 and $5 and $6 a gallon. We all remember that. Most of us would call that war profiteering.

However, others around the country, the great, great majority of people in this country, came together. They put out their flags, they gave blood, they volunteered, some went to New York to volunteer, went to the Pentagon to volunteer, and schoolchildren all over the country collected pennies, nickels, and dimes to send to the victims and their families.

But something else emerged in Washington, not war profiteering in the simple sense of raising gas prices, but a more sophisticated kind of political profiteering: this Congress, pushed by the President and the Republican leadership in this Congress, first of all gave a huge multi-billion dollar bailout to the airlines, requiring nothing from the airline executives, requiring nothing for airport security, requiring nothing of airline safety.

Then this Congress turned around and gave tax cuts for the largest corporations in the country: a check, a tax refund to IBM, a check from the Federal Government for $1.4 billion; $1 billion to Ford; $900 million to GM, and the list went on and on and on.

Then, this Congress gave a huge bailout to insurance companies, insurance executives who usually preach "We want government off our backs, we believe in free enterprise, except when we have our hand out and want money from the Federal Government."

Then last week this Congress, with unemployment creeping upward to the highest 2-month increase we have seen in 21 years, with the anxiety that people have about their jobs, with LTV workers and other steel industry workers losing their jobs around the country, this Congress passed, at the behest of the Republican leadership and the largest corporations in the country, Trade Promotion Authority, which will send more of our jobs ultimately to Latin America and around the world.

My dad used to talk about World War II and shared sacrifice, about war bonds and WAVES and WACs and victory gardens and scrap metal drives. But instead, this Republican Congress and this President demand tax cuts for IBM while ignoring 100,000 airline workers, doing zero for them. This President and this Congress demand a bailout for the insurance companies while ignoring workers who have lost their jobs and not trying to help them with any health insurance and any health care costs.

Instead, instead of shared sacrifice, this Republican Congress and this President demand of Congress that we pass Trade Promotion Authority, instead of providing public investments for our broken-down schools and broken-down infrastructure and broken-down highway and rail system.

☐ 1300

Imagine though, Mr. Speaker, if the President and the Republican Congress called on us like in World War II for shared sacrifice. Imagine if the President called on young patriotic Americans to enlist in the Army or the Peace Corps, to enlist in the Navy or Americorp, to enlist in the Air Force or Teach for America. That is what waving the American flag is all about.

Imagine if the President said to his friends, and the Republican leadership said to their friends in the drug industry, no more special favors; we are not going to allow them to charge American consumers and America's elderly more for prescription drugs than anywhere else in the world; we are not going to allow that anymore in this Congress. That is what waving the American flag is all about.

Imagine if the President called on Americans to volunteer for Meals on Wheels or cleaning up the neighborhood or tutoring children that are having difficulty keeping up. That is what waving the American flag is all about.

Imagine if the President would say to his friends in the oil business, imagine if he would say we are going to wean ourselves off Middle Eastern oil, we are going to find a way to help Americans conserve and get better gas mileage and turn their thermostats down and all the things the President could do to appeal to Americans, to appeal to his friends in the corporate boardrooms and the oil companies, to wean ourselves off that Middle Eastern oil. That is what waving the American flag is all about.

Instead of this Republican President and Republican leadership bestowing tax cuts on the wealthiest Americans, imagine if we helped those who needed help the most, and imagine, instead of the President and the Republican leadership bestowing tax cuts on the largest corporations in the world in this country, imagine instead if they appealed to the best in America.

Imagine.

RECESS

The SPEAKER pro tempore (Mr. OTTER). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 2 minutes p.m.), the House stood in recess until 2 p.m. today.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 2 p.m.

PRAYER

Dr. Lloyd J. Ogilvie, Chaplain, United States Senate, offered the following prayer:

Gracious Father, whom to know is to love and whom to love is to serve, we ask for a fresh empowering of Your Spirit today. Renew in us the excitement of being partners with You in bringing Your best for America. We are here by Your divine appointment. Therefore we need not fear. You will supply exactly what we need each hour of this day. Replenish our enthusiasm. May we do old duties with new delight. Revive our expectation. You have plans for us and power to accomplish them. Regenerate our hope.

Make us hopeful people who expect great strength from You and attempt great strategies for You. Fill this Chamber with Your presence and each Representative with Your power. Replenish their inner wells with Your peace that passes understanding. We claim Your promise through Isaiah, "Fear not, for I am with you; be not dismayed, for I am your God, I will strengthen you, yes, I will help you, I will uphold you with My righteous right hand." Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Delaware (Mr. CASTLE) come forward and lead the House in the Pledge of Allegiance.

Mr. CASTLE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 6:30 p.m. today.

RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT AMENDMENTS

Mr. CASTLE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3216) to amend the Richard B. Russell National School Lunch Act to exclude certain basic allowances for housing of an individual who is a member of the uniformed services from the determination of eligibility for free and reduced price meals of a child of the individual.

The Clerk read as follows:

H.R. 3216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF CERTAIN MILITARY BASIC ALLOWANCES FOR HOUSING FOR DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS.

Section 9(b)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended by adding at the end the following: "For the two-year period beginning on the date of the enactment of this sentence, the amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of an individual who is a member of the uniformed services for housing that is acquired or constructed under the authority of subchapter IV of chapter 169 of title 10, United States Code, or any other related provision of law, shall not be considered to be income for purposes of determining the eligibility of a child of the individual for free or reduced price lunches under this Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from California (Mrs. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3216.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CASTLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, to address the decline in the condition of military family housing, the Department of Defense initiated a housing program which would allow commercial contractors to replace traditional base housing with newly built or renovated privately managed base housing, so-called privatized housing.

Yet as this program is being implemented, the gentleman from Texas (Mr. RODRIGUEZ) brought to my attention a serious and unintended consequence of the program, children of junior enlisted personnel living in privatized housing were being denied free or reduced price meals at lunchtime. Due to DOD accounting changes, servicemembers receiving a housing allowance under the privatized housing program were being treated differently from those who were assigned traditional housing and not paid an allowance. This is because the income-based National School Lunch Program considered the housing allowance, but not the actual house income. For this reason, servicemembers living in traditional base housing at no cost were presumed to have less income than servicemembers of the same rank who received a housing allowance, but used those funds to pay a private contractor for rent and utilities.

Unfortunately, this distinction caused military families in privatized housing to exceed the income-based eligibility requirements for the school lunch program, and it resulted in the loss of the free or reduced price meals for their children. DOD intended the privatization housing program to provide quality housing at no out-of-pocket expense for servicemembers and their families. Unfortunately, these families are now finding that they will have to pay approximately $75 per child per month to replace the benefit that they received previously under the school lunch program.

This problem is further compounded by the fact that numerous State and Federal education, nutrition and technology programs are contingent on the number of children eligible for the school lunch program. As a result, entire school districts could be affected.

To adjust these problems, my legislation, H.R. 3216, amends the school lunch program to exclude the housing allowance of servicemembers in privatized housing for the determination of eligibility for free and reduced price meals. Although this only affects families at about 15 military installations currently, that number is expected to increase to about 70 installations, encompassing 70,000 housing units, including 450 units at the Dover Air Force Base in Dover, Delaware.

Our uniformed services are being asked to make tremendous personal sacrifices to ensure the defense of our Nation. I believe we should do all we can to improve the quality of life for the families they leave behind.

Madam Speaker, for that reason, I am pleased that we are considering this legislation today.

In conclusion, I thank the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, and the ranking member, the gentleman from California (Mr. GEORGE MILLER) for allowing this measure to come to the floor. I also thank the gentleman from Texas (Mr. RODRIGUEZ) and the gentlewoman from California (Mrs. DAVIS) for their personal interest and leadership on this issue. I urge an "aye" vote on this bill.

Madam Speaker, I reserve the balance of my time.

Mrs. DAVIS of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this bill which will correct an unintended consequence of an important program. First, I would like to thank the gentleman from Delaware (Mr. CASTLE) for introducing this legislation. I also thank the chairman and ranking member of the Committee on Education and the Workforce for their consideration of this measure.

I raised this issue in the spring of this year, and I am happy to see that we have come to a reasonable conclusion. In an effort to leverage its limited quality life and resources, the Armed Services are privatizing military family housing. Such privatization of military family housing is a welcomed solution to a difficult problem in my district and across the Nation. However, as my colleague from Delaware mentioned, one of the unintended consequences of a well-intentioned program is the loss of income to school districts resulting from reduced eligibility for free and reduced school lunch programs.

Compounding this problem, numerous State and Federal education, nutrition and technology programs are contingent on the number of children eligible for the free and reduced meal program; and this program we all know well as title I. The program affects only a small number of military children today, but it will affect tens of thousands of military families and the schools their children attend as the military housing privatization program expands.

Many children and listed personnel living in the privatized housing are disqualified for eligibility for free and reduced price lunch. This is because the servicemember living in the privatized house has the basic allowance for earnings included on their earnings statement, although the money flows directly through the member to the private housing developer. This added income, which is not reported for members living in traditional on-base housing, causes many servicemembers' children to lose eligibility for free and reduced price meals because under Department of Agriculture rules, this amount is included as income in determining eligibility for free and reduced price school lunches. The Department of Defense adds the allowance to the pay statement to assist in accounting, but the servicemember loses.

Madam Speaker, let me explain. On a Sunday, a housing community is owned and operated by the military. And on Monday, the housing community is operated by a private company still on Federal land, but the servicemember, who never moved, is impacted by all this. Earlier this year, the superintendent of the Coronado school district, Dr. Marilyn Wheeler, first made me aware of this problem. She contacted me when she learned that as a result of the privatization of the Silver Strand housing area, her small district could lose more than $90,000 in title I Federal funds which she already budgeted for in the 2001 and 2002 school year.

Title I funds have been utilized to improve school achievement at the Silver Strand School. Student achievement has steadily improved for the entire student body, and those identified as title I eligible have made significant gains in closing the achievement gap.

This year's funding would have hired a full-time certificated teacher to work with small groups of students below grade level in reading, language arts and math; and a half-time reading specialist to work one on one with students below the grade level in reading, and certificated staff to work with small groups of students before or after school in reading and math. With all of our hard work on education, it would really be a travesty to leave this problem unresolved.

Madam Speaker, I know that others around the country were facing similar circumstances, and I contacted the Department of Defense, the Department of Agriculture and the Social Security Administration. Initially, the Department of Defense did not believe it was feasible to eliminate the housing allowance from the military leave and earnings statement because of the negative impact it would have on the entire housing privatization program. However, the Department now believes it is possible, although the change will take at least 16 months.

This bill will give DOD the time it needs to adjust its practices; and short of this effort, will correct the problem until it can be permanently fixed in the 2003 National School Lunch Reauthorization.

Madam Speaker, I urge my colleagues to support our schools and our military and vote "yes" on this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. CASTLE. Madam Speaker, I reserve the balance of my time.

Mrs. DAVIS of California. Madam Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Madam Speaker, in 1995, Congress took important steps to address the deterioration of conditions by nearly half of the military families in housing by enacting the Military Housing Privatization Initiative. The program has expedited the renovation and construction of military family housing by having developers construct private family housing on Federal property, which is then made available to military personnel.

The unintended consequence of this worthwhile program is that children of many junior personnel living in privatizing housing are disqualified from being eligible for free and reduced price meals. The bill before the House today will temporarily solve the problem, and will ensure that 10,000 military children do not lose their eligibility for free and reduced price meals.

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A service member living in privatized housing has their housing allowance included on their monthly earnings statement even though the funding passes directly to the privatized housing developer. This reported housing allowance, which is not reported for members living in traditional on-base housing, causes certain service members' children to lose eligibility for free and reduced-price meals. So you have a certain person who receives the same wages but is housed in traditional types of homes, those kids can qualify; but the other kids that are in a different housing do not qualify. Compounding the problem, numerous State and Federal education, nutrition and technology programs are contingent on the number of children eligible for the free and reduced-price meals program. And so both the schools suffer as well as the students suffer and families.

At Fort Hood, Texas, for example, the Army privatized nearly 6,000 housing units earlier this year. Because of the privatization effort, more than 1,000 children of Army families will lose eligibility for free or reduced-price meals. The Killeen, Texas, Independent School District would lose about $1.1 million annually in State and Federal funding.

I want to take this time to thank the Military Impacted School Association for their efforts because they were out there in support of all the military schools throughout the country. Working with them, I contacted the Department of Defense to remedy this quality-of-life problem that they were encountering. The Department of Defense responded that it could not fix the problem without dismantling the entire housing privatization finance method that they had intact and suggested instead that Congress amend the national school lunch program. In October, I introduced legislation to amend the national school lunch program to permanently fix the problem.

The bill before the House today will fix the problem for 2 years with no cost, as estimated by the Congressional Budget Office. A permanent fix can then be addressed in the reauthorization of the national lunch program in the 108th Congress.

I want to thank Chairman BOEHNER of the Committee on Education and the Workforce and Subcommittee Chairman CASTLE for their efforts in introducing and expediting consideration of H.R. 3216. Without their strong support and the efforts of all the staff that have been extremely helpful, we would not be able to be here on the floor.

As members of the Armed Forces are fighting terrorism abroad and at home, I would urge my colleagues in the House of Representatives to pass H.R. 3216 unanimously. In these difficult times, the least we can do while these people are serving our country is to make sure that we take care of their children and their education.

Once again, I want to thank both chairmen and the gentlewoman from California (Mrs. DAVIS) for helping out in this effort. I think it is something that we have to come back in the 108th and make sure we take care of it completely. In addition to that, I know that there are about 16,000 housing projects that have been implemented. There is an additional 15,000 whose contracts are out. And then in the future we hope to improve the housing quality for all our military. We have over 51,000 housing projects, so it is an area that we really need to look at very seriously.

I once again thank very much both sides for this effort. The children will appreciate it.

Mrs. DAVIS of California. Madam Speaker, I yield myself such time as I may consume.

I want to thank my distinguished colleague from Texas. I know he has worked tirelessly on this issue. I appreciate all of that and so do the children in our school districts.

Madam Speaker, this is important bipartisan legislation that improves the quality of life of our service members, many of whom are deployed overseas in the face of danger, and removes a handicap to education faced by school districts across the Nation. I urge my colleagues to support this bill.

Madam Speaker, I yield back the balance of my time.

Mr. CASTLE. Madam Speaker, I yield myself such time as I may consume.

I thank the gentlewoman from California and the gentleman from Texas for their kind words and the concept of actually going forward with this. I agree with the gentlewoman from California, this is legislation which is of extreme importance, particularly in helping children who need the extra help in an income circumstance.

I would encourage everybody also to support the legislation.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise in support of H.R. 3216. H.R. 3216 corrects a problem created by the Department of Defense housing allowance policy by exempting military housing allowances as income for the purpose of determining a student's eligibility for the National School Lunch Program. It will prevent the loss of free- and reduced-priced meal eligibility by school-age children of military when their family home becomes privatized, or when the family moves into a new, privatized home. This measure will take effect for two years from the date of enactment and a permanent fix is anticipated in the 2003 National School Lunch Act reauthorization.

Military personnel generally receive in-kind housing or a housing allowance. In-kind housing usually takes the form of housing on a military base. Several years ago, however, the Department of Defense initiated a pilot program that allowed private developers to build military housing on Federal land, or manage existing military base housing.

Currently, the Department of Agriculture treats this privatized housing allowance as income. The result is that a family's income is raised above the level needed to receive free- or reduce-price lunches. There is little distinction between these families and those living in regular civilian housing because military families living in these privatized housing sign their housing allowance over to the developer. Therefore, military families in privatized military housing should remain eligible for the National School Lunch Program.

We must remember that individual directly benefiting from the National School Lunch Program are the children. Mr. Speaker, we cannot take away these children's free- or reduced-price lunches because of some technicality they have no control over. These are innocent children who require the nourishment to get them through the school day just like any other student. Especially now, when many American mothers and fathers are being called to war to defend our safety and freedom, we should not deny this benefit to their deserving children. For these children, I urge my colleagues to support H.R. 3216.

Mr. BOEHNER. Madam Speaker, recently, I was disheartened to learn that some children of the men and women who proudly serve our country in the U.S. armed services are unfairly losing their eligibility to receive free- and reduced-priced school meals. This is occurring for no reason other than that their family home is being privatized or they have been asked to move into a new, privatized military home. Because program eligibility is based on income, the additional compensation in the form of a housing allowance received by military personnel to pay for privatized military housing can result in the loss of meal benefits, although there is no real increase in salary or disposable income. In addition, schools attended by the children of military personnel could lose Federal and State education aid based on free- and reduced-priced meal counts, including their designation and funding as title I schools.

I support the Department of Defenses' plan to improve the standards of military housing through privatization, but Congress must resolve this unintended consequence of the Department of Defense's housing policy before more otherwise qualified children lose access to free- and reduced-priced school meals.

H.R. 3216 addresses and solves this problem for the next two school years at no cost. By excluding housing allowances used to live in privatized military housing from income when determining a child's eligibility to receive a free- and reduced-priced lunch, we can restore and preserve this benefit for qualified military families.

Many of our service men and women take comfort in knowing that their children can receive a nutritious meal in school at little or no cost. Especially now, when many of our service men and women are being called to war to defend our safety and freedom, we should not deny this benefit to their deserving children.

Mr. CASTLE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 3216.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GLOBAL ACCESS TO HIV/AIDS PREVENTION, AWARENESS, EDUCATION, AND TREATMENT ACT OF 2001

Mr. HYDE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2069) to amend the Foreign Assistance Act of 1961 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan African and other developing countries, as amended.

The Clerk read as follows:

H.R. 2069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Access to HIV/AIDS Prevention, Awareness, Education, and Treatment Act of 2001".

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS) more than 58,000,000 people worldwide have already been infected with HIV/AIDS, a fatal disease that is devastating the health and economies in dozens of countries in Africa and increasingly in Asia, the Caribbean region, and Eastern Europe.

(2) The HIV/AIDS pandemic has erased decades of progress in improving the lives of families in the developing world and has claimed 22,000,000 lives since its inception.

(3) More than 17,000,000 individuals have died from HIV/AIDS in sub-Saharan Africa alone.

(4) The HIV/AIDS pandemic in sub-Saharan Africa has grown beyond an international public health issue to become a humanitarian, national security, and developmental crisis.

(5) The HIV/AIDS pandemic is striking hardest among women and girls. According to UNAIDS, by the end of 2000, fifty-five percent of the HIV-positive population in sub-Saharan Africa and 40 percent of such population in North Africa and the Middle East were women, infected mainly through heterosexual transmission. In Africa, 6 out of 7 children who are HIV positive are girls.

(6) An estimated 1,400,000 children under age 15 were living with HIV/AIDS at the end of 2000, of which 1,100,000 were children living in sub-Saharan Africa. An estimated 500,000 children died of AIDS during 2000, of which 440,000 were children in sub-Saharan Africa. In addition there are an estimated 13,200,000 children worldwide who have lost one or both of their parents to HIV/AIDS, of which 12,100,000 are children in sub-Saharan Africa.

(7) Mother-to-child transmission is the largest source of HIV infection in children under age 15 and the only source for very young children. The total number of births to HIV-infected pregnant women each year in developing countries is approximately 700,000.

(8) Counseling and voluntary testing are critical services to help infected women accept their HIV status and the risk it poses to their unborn child. Mothers who are aware of their status can make informed decisions about treatment, replacement feeding, and future child-bearing.

(9) Although the HIV/AIDS pandemic has impacted the sub-Saharan Africa disproportionately, HIV infection rates are rising rapidly in India and other South Asian countries, Brazil, Russia, Eastern European countries, and Caribbean countries, and pose a serious threat to the security and stability in those countries.

(10) By 2010, it is estimated that approximately 40,000,000 children worldwide will have lost one or both of their parents to HIV/AIDS.

(11) In January 2000, the United States National Intelligence Council estimates that

this dramatic increase in AIDS orphans will contribute to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse or child soldiery. The Council also stated that, in addition to the reduction of economic activity caused by HIV/AIDS to date, the disease could reduce GDP by as much as 20 percent or more by 2010 in some countries in sub-Saharan Africa.

(12) The HIV/AIDS epidemic is not just a health crisis but is directly linked to development problems, including chronic poverty, food security and personal debt that are reflected in the capacity of affected households, often headed by elders or orphaned children, to meet basic needs. Similarly, heavily-indebted countries are stripped of the resources necessary to improve health care delivery systems and infrastructure and to prevent, treat, and care for individuals affected by HIV/AIDS.

(13) On March 7, 2001, the United States Secretary of State testified before Congress that the United States has an obligation " . . . if we believe in democracy and freedom, to stop this catastrophe from destroying whole economies and families and societies and cultures and nations".

(14) A continuing priority for responding to the HIV/AIDS crisis should be to emphasize and encourage awareness, education, and prevention, including prevention activities that promote behavioral change, while recognizing that behavioral change alone will not conquer this disease. In so doing, priority and support should be given to building capacity in the local public health sector through technical assistance as well as through nongovernmental organizations, including faith-based organizations where practicable.

(15) Effective use should be made of existing health care systems to provide treatment for individuals suffering from HIV/AIDS.

(16) Many countries in Africa facing health crises, including high HIV/AIDS infection rates, already have well-developed and high functioning health care systems. Additional resources to expand and improve capacity to respond to these crises can easily be absorbed by the private and public sectors, as well as by nongovernmental organizations, community-based organizations, and faith-based organizations currently engaged in combatting the crises.

(17) An effective response to the HIV/AIDS pandemic must also involve assistance to stimulate the development of sound health care delivery systems and infrastructure in countries in sub-Saharan Africa and other developing countries, including assistance to increase the capacity and technical skills of local public health professionals and other personnel in such countries, and improved access to treatment and care for those already infected with HIV/AIDS.

(18) Access to effective treatment for HIV/AIDS is determined by issues of price, health care delivery system and infrastructure, and sustainable financing and such access can be inhibited by the stigma and discrimination associated with HIV/AIDS.

(19) The HIV/AIDS crisis must be addressed by a robust, multilateral approach such as the one envisioned by the Congress in the Global AIDS and Tuberculosis Relief Act of 2000, which directed the United States Government to seek to negotiate the creation of an international HIV/AIDS trust fund involving the World Bank.

(20) The Secretary General of the United Nations has called for a global fund to halt and reverse the spread of HIV/AIDS and other infectious diseases. The Secretary General has also called for annual expenditures of $7,000,000,000 to $10,000,000,000, financed by donor governments and private contributors, for all efforts to combat the HIV/AIDS pandemic and, equally important, called on leaders from developing countries to give a much higher priority in their budgets to development of comprehensive health systems.

(21) The Administration has advocated a fiduciary role for the World Bank in the Global Fund to Fight AIDS, Tuberculosis, and Malaria and the Transitional Working Group for that fund has decided to invite the World Bank to play such a role.

(22) An effective United States response to the HIV/AIDS crisis must also focus on the development of HIV/AIDS vaccines to prevent the spread of the disease as well as the development of microbicides, effective diagnostics, and simpler treatments.

(23) The innovative capacity of the United States in the commercial and public pharmaceutical research sectors is among the foremost in the world, and the active participation of both these sectors should be supported as it is critical to combat the global HIV/AIDS pandemic.

(24) Appropriate treatment of individuals with HIV/AIDS can prolong the lives of such individuals, preserve their families and prevent children from becoming orphans, and increase productivity of such individuals by allowing them to lead active lives and reduce the need for costly hospitalization for treatment of opportunistic infections caused by HIV.

(25) United States nongovernmental organizations, including faith-based organizations, with experience in healthcare and HIV/AIDS counseling, have proven effective in combatting the HIV/AIDS pandemic and can be a resource in assisting sub-Saharan African leaders of traditional, political, business, and women and youth organizations in their efforts to provide treatment and care for individuals infected with HIV/AIDS.

(26) Most of the HIV infected poor of the developing world die of deadly diseases such as tuberculosis and malaria. Accordingly, effective HIV/AIDS treatment programs should address the growing threat and spread of tuberculosis, malaria, and other infectious diseases in the developing world.

(27) Law enforcement and military personnel of foreign countries often have a high rate of prevalence of HIV/AIDS, and therefore, in order to be effective, HIV/AIDS awareness, prevention, and education programs must include education and related services to such law enforcement and military personnel.

(28) Microenterprise development and other income generation programs assist communities afflicted by the HIV/AIDS pandemic and increase the productive capacity of communities and afflicted households. Microenterprise programs are also an effective means to support the productive activities of healthy family members caring for the sick and orphaned. Such programs should give priority to women infected with the AIDS virus or in HIV/AIDS affected families, particularly women in high-risk categories.

(29) The exploding global HIV/AIDS pandemic has created new challenges for United States bilateral assistance programs and will require a substantial increase in the capacity of the United States Agency for International Development and other agencies of the United States to manage and monitor bilateral HIV/AIDS programs and resources. To meet this challenge, the Agency will need to recruit and retain appropriate technical expertise in the United States as well as in foreign countries to help develop and implement HIV/AIDS strategies in concert with multilateral agencies, host country governments, and nongovernmental organizations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1)(A) combatting the HIV/AIDS pandemic in countries in sub-Saharan Africa and other developing countries should be a global effort and include the financial support of all developed countries and the cooperation of governments and the private sector, including faith-based organizations; and

(B) the United States should provide additional funds for multilateral programs and efforts to combat HIV/AIDS and also seek to leverage public and private resources to combat HIV/AIDS on a global basis through the Global Development Alliance Initiative of the United States Agency for International Development and other public and private partnerships with an emphasis on HIV/AIDS awareness, education, prevention, and treatment programs;

(2)(A) in addition to HIV/AIDS awareness, education, and prevention programs, the United States Government should make its best efforts to support programs that safely make available to public and private entities in countries in sub-Saharan Africa and other developing countries pharmaceuticals and diagnostics for HIV/AIDS therapy in order—

(i) to effectively and safely assist such countries in the delivery of HIV/AIDS therapy pharmaceuticals through the establishment of adequate health care delivery systems and treatment monitoring programs; and

(ii) to provide treatment for poor individuals with HIV/AIDS in such countries; and

(B) in carrying out such programs, priority consideration for participation should be given to countries in sub-Saharan Africa;

(3)(A) combatting the HIV/AIDS pandemic requires that United States Government programs place a priority on the vulnerable populations at greatest risk for contracting HIV;

(B) these populations should be determined through qualitative and quantitative assessments at the local level by local government, nongovernmental organizations, people living with HIV/AIDS, and other relevant sectors of civil society; and

(C) such assessments should be included in national HIV/AIDS strategies;

(4) the United States should promote efforts to expand and develop programs that support the growing number of children orphaned by the HIV/AIDS pandemic;

(5) in countries where the United States Government is conducting HIV/AIDS awareness, prevention, and education programs, such programs should include education and related services to law enforcement and military personnel of foreign countries to prevent and control HIV/AIDS, malaria, and tuberculosis;

(6) prevention and treatment for HIV/AIDS should be a component of a comprehensive international effort to combat deadly infectious diseases, including malaria and tuberculosis, and opportunistic infections, that kill millions annually in the developing world;

(7) programs developed by the United States Agency for International Development to address the HIV/AID pandemic should preserve personal privacy and confidentiality, should not include compulsory HIV/AIDS testing, and should not be discriminatory;

(8)(A) the United States Agency for International Development should carry out HIV/AIDS awareness, prevention, and treatment programs in conjunction with effective international tuberculosis and malaria treatment programs and with programs that address the relationship between HIV/AIDS and a number of opportunistic diseases that include bacterial diseases, fungal diseases, viral diseases and HIV-associated malignancies, such as Kaposi sarcoma, lymphoma, and squamous cell carcinoma; and

(B) effective intervention against opportunistic diseases requires not only the appropriate drug or other medication for a given medical condition, but also the infrastructure necessary to diagnose the condition, monitor the intervention, and provide counseling services; and

(9) the United States Agency for International Development should expand and replicate successful microenterprise programs in Uganda, Zambia, Zimbabwe, and other African countries that provide poor families affected by HIV/AIDS with the means to care for themselves, their children, and orphans;

(10) the United States Agency for International Development should substantially increase and improve its capacity to manage and monitor HIV/AIDS programs and resources;

(11) the United States Agency for International Development must recruit and retain appropriate technical expertise in the United States as well as in foreign countries to help develop and implement HIV/AIDS strategies in conjunction with multilateral agencies, host country governments, and nongovernmental organizations;

(12) the United States Agency for International Development must strengthen coordination and collaboration between the technical experts in its central and regional bureaus and foreign country missions in formulating country strategies and implementing HIV/AIDS programs;

(13) strong coordination among the various agencies of the United States, including the Department of State, the United States Agency for International Development, the Department of Health and Human Services, including the Centers for Disease Control and the National Institutes of Health, the Department of the Treasury, the Department of Defense, and other relevant Federal agencies must exist to ensure effective and efficient use of financial and technical resources within the United States Government; and

(14) to help alleviate human suffering, and enhance the dignity and quality of life for patients debilitated by HIV/AIDS, the United States should promote, both unilaterally and through multilateral initiatives, the use of palliative and hospice care, and provide financial and technical assistance to palliative and hospice care programs, including programs under which such care is provided by faith-based organizations.

SEC. 3. ASSISTANCE TO COMBAT HIV/AIDS.

(a) ASSISTANCE.—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) is amended—

(1) by striking paragraphs (4) through (6); and

(2) by inserting after paragraph (3) the following:

“(4)(A) Congress recognizes that the alarming spread of HIV/AIDS in countries in sub-Saharan Africa and other developing countries is a major global health, national security, and humanitarian crisis. Accordingly, the United States and other developed countries should provide assistance to countries in sub-Saharan Africa and other developing countries to control this crisis through HIV/AIDS prevention, treatment, monitoring, and related activities, particularly activities focused on women and youth, including mother-to-child transmission prevention strategies.

“(B)(i) The Administrator of the United States Agency for International Development is authorized to provide assistance to prevent, treat, and monitor HIV/AIDS, and carry out related activities, in countries in sub-Saharan Africa and other developing countries.

“(ii) It is the sense of Congress that the Administrator should provide an appropriate level of assistance under clause (i) through nongovernmental organizations in countries in sub-Saharan Africa and other developing countries affected by the HIV/AIDS pandemic.

“(iii) The Administrator shall coordinate the provision of assistance under clause (i) with the provision of related assistance by the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the United Nations Development Programme (UNDP), other appropriate international organizations, such as the World Bank and the relevant regional multilateral development institutions, national, state, and local governments of foreign countries, and other appropriate governmental and nongovernmental organizations.

“(C) Assistance provided under subparagraph (B) shall, to the maximum extent practicable, be used to carry out the following activities:

“(i) Prevention of HIV/AIDS through activities including—

“(I) education, voluntary testing, and counseling (including the incorporation of confidentiality protections with respect to such testing and counseling), including integration of such programs into women's and children's health programs;

“(II) assistance to ensure a safe blood supply and to provide post-exposure prophylaxis to victims of rape and sexual assault; and

“(III) assistance through nongovernmental organizations, including faith-based organizations, particularly those organizations that utilize both professionals and volunteers with appropriate skills and experience, to establish and implement culturally appropriate HIV/AIDS education and prevention programs.

“(ii) The treatment and care of individuals with HIV/AIDS, including—

“(I) assistance to establish and implement programs to strengthen and broaden indigenous health care delivery systems and the capacity of such systems to deliver HIV/AIDS pharmaceuticals and otherwise provide for the treatment of individuals with HIV/AIDS, including clinical training for indigenous organizations and health care providers;

“(II) assistance aimed at the prevention of transmission of HIV/AIDS from mother to child, including medications to prevent such transmission and access to infant formula and other alternatives for infant feeding; and

“(III) assistance to strengthen and expand hospice and palliative care programs to assist patients debilitated by HIV/AIDS, their families, and the primary caregivers of such patients, including programs that utilize faith-based organizations.

“(iii) The monitoring of programs, projects, and activities carried out pursuant to clauses (i) and (ii), including—

“(I) monitoring to ensure that adequate controls are established and implemented to provide HIV/AIDS pharmaceuticals and other appropriate medicines to poor individuals with HIV/AIDS; and

“(II) appropriate evaluation and surveillance activities.

“(iv) The conduct of related activities, including—

“(I) the care and support of children who are orphaned by the HIV/AIDS pandemic, including services designed to care for orphaned children in a family environment which rely on extended family members;

“(II) improved infrastructure and institutional capacity to develop and manage education, prevention, and treatment programs, including the resources to collect and maintain accurate HIV surveillance data to target programs and measure the effectiveness of interventions;

“(III) vaccine research and development partnership programs with specific plans of action to develop a safe, effective, accessible, preventive HIV vaccine for use throughout the world; and

“(IV) the development and expansion of financially-sustainable microfinance institutions and other income generation programs that strengthen the economic and social viability of communities afflicted by the HIV/AIDS pandemic, including support for the savings and productive capacity of affected poor households caring for orphans.

“(D)(i) Not later than January 31 of each calendar year, the Administrator shall submit to Congress an annual report on the implementation of this paragraph for the prior fiscal year.

“(ii) Such report shall include—

“(I) a description of efforts made to implement the policies set forth in this paragraph;

“(II) a description of the programs established pursuant to this paragraph and section 4 of the Global Access to HIV/AIDS Prevention, Awareness, Education, and Treatment Act of 2001; and

“(III) a detailed assessment of the impact of programs established pursuant to this paragraph, including the effectiveness of such programs in reducing the spread of HIV infection, particularly in women and girls, in reducing HIV transmission from mother to child, in reducing mortality rates from HIV/AIDS, and the progress toward improving health care delivery systems and infrastructure to ensure increased access to care and treatment.

“(iii) The Administrator shall consult with the Global Health Advisory Board established under section 6 of the Global Access to HIV/AIDS Prevention, Awareness, Education, and Treatment Act of 2001 in the preparation of the report under clause (i) and on other global health activities carried out by the United States Agency for International Development.

“(E)(i) There is authorized to be appropriated to the President to carry out this paragraph $485,000,000 for fiscal year 2002.

“(ii) Not more than six percent of the amount appropriated pursuant to the authorization of appropriations under clause (i) for fiscal year 2002, and not more than four percent of the amount made available to carry out this paragraph for any subsequent fiscal year, may be used for the administrative expenses of the Agency in carrying out this paragraph.

“(iii) Amounts appropriated pursuant to the authorization of appropriations under clause (i) are in addition to amounts otherwise available for such purposes and are authorized to remain available until expended.

"(F) In this paragraph:

"(i) The term 'HIV' means infection with the human immunodeficiency virus.

"(ii) The term 'AIDS' means acquired immune deficiency syndrome.".

(b) Availability of Assistance Under Section 104(c).—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) is amended—

(1) by redesignating paragraph (7) as paragraph (5); and

(2) by adding at the end the following:

"(6) Assistance made available under any paragraph of this subsection, and assistance made available under chapter 4 of part II of this Act to carry out the purposes of any paragraph of this subsection, may be made available notwithstanding any other provision of law.".

SEC. 4. ASSISTANCE FOR PROCUREMENT AND DISTRIBUTION OF HIV/AIDS PHARMACEUTICALS AND RELATED MEDICINES.

(a) Assistance.—The Administrator of the United States Agency for International Development shall provide assistance to countries in sub-Saharan Africa and other developing countries for—

(1) the procurement of HIV/AIDS pharmaceuticals, anti-viral therapies, and other appropriate medicines; and

(2) the distribution of such HIV/AIDS pharmaceuticals, anti-viral therapies, and other appropriate medicines to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and for the prevention of transmission of HIV/AIDS from mother to child.

(b) Additional Authority.—The authority contained in section 104(c)(6) of the Foreign Assistance Act of 1961, as amended by section 3(b) of this Act, shall apply to assistance made available under subsection (a).

(c) Authorization of Appropriations.—There is authorized to be appropriated to the President to carry out this section $50,000,000 for fiscal year 2002.

SEC. 5. INTERAGENCY TASK FORCE ON HIV/AIDS.

(a) Establishment.—The President shall establish an interagency task force (hereafter referred to as the "task force") to ensure coordination of all Federal programs related to the prevention, treatment, and monitoring of HIV/AIDS in foreign countries.

(b) Duties.—The duties of the task force shall include—

(1) reviewing all Federal programs related to the prevention, treatment, and monitoring of HIV/AIDS in foreign countries to ensure proper coordination and compatibility of activities and policies of such programs;

(2) exchanging information regarding design and impact of such programs to ensure that the United States Government can catalogue the best possible practices for HIV/AIDS prevention, treatment, and monitoring and improve the effectiveness of such programs in the countries in which they operate; and

(3) fostering discussions with United States and foreign nongovernmental organizations to determine how United States Government programs can be improved, including by engaging in a dialogue with the Global Health Advisory Board established under section 6 of this Act.

(c) Membership.—

(1) Composition.—The task force shall be composed of the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of Health and Human Services, the Secretary of the Treasury, the Director of the National Institutes of Health, the Director of the Centers for Disease Control, the Secretary of Defense, and the head of any other agency that the President determines is appropriate.

(2) Chairperson.—The Secretary of State shall serve as chairperson of the task force.

(d) Public Meetings.—At least once each calendar year, the task force shall hold a public meeting in order to afford an opportunity for any person to present views regarding the activities of the United States Government with respect to the prevention, treatment, and monitoring of HIV/AIDS in foreign countries. The Secretary of State shall maintain a record of each meeting and shall make the record available to the public.

(e) Availability of Funds.—Amounts made available for a fiscal year pursuant to section 104(c)(4)(E)(ii) of the Foreign Assistance Act of 1961, as amended by section 3(a) of this Act, are authorized to be made available to carry out this section for such fiscal year.

SEC. 6. GLOBAL HEALTH ADVISORY BOARD.

(a) Establishment.—There is established a permanent Global Health Advisory Board (hereafter referred to as the "Board") to assist the President and other Federal officials, including the Secretary of State and the Administrator of the United States Agency for International Development, in the administration and implementation of United States international health programs, particularly programs relating to the prevention, treatment, and monitoring of HIV/AIDS.

(b) Duties.—

(1) In general.—The Board shall serve as a liaison between the United States Government and private and voluntary organizations, other nongovernmental organizations, and academic institutions in the United States that are active in international health issues, particularly prevention, treatment, and care with respect to HIV/AIDS and other infectious diseases.

(2) Specific activities.—In carrying out paragraph (1), the Board—

(A) shall provide advice to the United States Agency for International Development and other Federal agencies on health and management issues relating to foreign assistance in which both the United States Government and private and voluntary organizations participate;

(B) shall provide advice on the formulation of basic policy, procedures, and criteria for the review, selection, and monitoring of project proposals for United States Government international health programs and for the establishment of transparency in the provision and implementation of grants made under such programs;

(C) shall provide advice on the establishment of evaluation and monitoring programs to measure the effectiveness of United States Government international health programs, including standards and criteria to assess the extent to which programs have met their goals and objectives and the development of indicators to track progress of specific initiatives;

(D) shall review and evaluate the overall health strategy for United States bilateral assistance for each country receiving significant United States bilateral assistance in the health sector;

(E) shall recommend which developing countries could benefit most from programs carried out under United States Government international health programs; and

(F) shall assess the impact and effectiveness of programs carried out under section 104(c)(4) of the Foreign Assistance Act of 1961, as amended by section 3(a) of this Act, in meeting the objectives set out in the HIV/AIDS country strategy established by the United States Agency for International Development.

(c) Membership.—

(1) Composition.—The Board shall be composed of 12 members—

(A)(i) all of whom shall have a substantial expertise and background in international health research, policy, or management, particularly in the area of prevention, treatment, and care with respect to HIV/AIDS and other infectious diseases; and

(ii) of whom at least one member shall be an expert on women's and children's health issues; and

(B) of whom—

(i) three members shall be individuals from academic institutions;

(ii) five members shall be individuals from nongovernmental organizations active in international health programs, particularly HIV/AIDS prevention, treatment and monitoring programs in foreign countries, of which not more than two members may be from faith-based organizations;

(iii) two members shall be individuals from health policy and advocacy institutes; and

(iv) two members shall be individuals from private foundations that make substantial contributions to global health programs.

(2) Appointment.—The individuals referred to in paragraph (1) shall be appointed by the President, after consultation with the chairman and ranking member of the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(3) Terms.—

(A) In general.—Except as provided in subparagraph (B), each member shall be appointed for a term of two years and no member or organization shall serve on the Advisory Board for more than two consecutive terms.

(B) Terms of initial appointees.—As designated by the President at the time of appointment, of the members first appointed—

(i) six members shall be appointed for a term of three years; and

(ii) six members, to the extent practicable equally divided among the categories described in clauses (i) through (iv) of paragraph (1)(B), shall be appointed for a term of two years.

(4) Chairperson.—At the first meeting of the Board in each calendar year, a majority of the members of the Commission present and voting shall elect, from among the members of the Board, an individual to serve as chairperson of the Board.

(d) Travel Expenses.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(e) Availability of Funds.—Amounts made available for a fiscal year pursuant to section 104(c)(4)(E)(ii) of the Foreign Assistance Act of 1961, as amended by section 3(a) of this Act, are authorized to be made available to carry out this section for such fiscal year.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR MULTILATERAL EFFORTS TO PREVENT, TREAT, AND MONITOR HIV/AIDS.

(a) Authorization.—There is authorized to be appropriated to the President $750,000,000 for fiscal year 2002 for United States contributions to a global health fund negotiated by the United States consistent with the general principles in the Global AIDS and Tuberculosis Relief Act of 2000 and the initiative of the Secretary General of the United Nations or other multilateral efforts to prevent, treat, and monitor HIV/AIDS in countries in sub-Saharan Africa and other developing countries, including efforts to provide hospice and palliative care for individuals with HIV/AIDS.

(b) CHARACTERISTICS OF GLOBAL HEALTH FUND.—It is the sense of Congress that, consistent with the general principles outlined in the Global AIDS and Tuberculosis Relief Act of 2000, United States contributions should be provided to a global health fund under subsection (a) only if the fund—

(1) is a public-private partnership that includes participation of, and seeks contributions from, governments, foundations, corporations, nongovernmental organizations, organizations that are part of the United Nations system, and other entities or individuals;

(2) has the World Bank serving as the fiduciary agent of the fund and in any other capacity deemed appropriate by the international community;

(3)(A) includes donors, recipient countries, civil society, and other relevant parties in the governance of the fund; and

(B) contains safeguards against conflicts of interest in the governance of the fund by the individuals and entities described in subparagraph (A);

(4) supports targeted initiatives to address HIV/AIDS, tuberculosis, and malaria through an integrated approach that includes prevention interventions, care and treatment programs, and infrastructure capacity-building;

(5) permits strategic targeting of resources to address needs not currently met by existing bilateral and multilateral efforts and includes separate sub-accounts for different activities allowing donors to designate funds for specific categories of programs and activities;

(6) reserves a minimum of 5 percent of its grant funds to support scientific or medical research in connection with the projects it funds in developing countries;

(7) provides public disclosure with respect to—

(A) the membership and official proceedings of the mechanism established to manage and disburse amounts contributed to the fund; and

(B) grants and projects supported by the fund;

(8) authorizes and enforces requirements for the periodic financial and performance auditing of projects and makes future funding conditional upon the results of such audits; and

(9) provides public disclosure of the findings of all financial and performance audits of the fund.

SEC. 8. DEFINITION.

In this Act:

(1) HIV.—The term "HIV" means infection with the human immunodeficiency virus.

(2) AIDS.—The term "AIDS" means acquired immune deficiency syndrome.

SEC. 9. EXTENSION OF TIME FOR GAO REPORT ON TRUST FUND EFFECTIVENESS.

Section 131(b) of the Global AIDS and Tuberculosis Relief Act of 2000 (22 U.S.C. 6831(b)) is amended by striking "of the enactment of this Act" and inserting "the Trust Fund is established".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Madam Speaker, I yield myself such time as I may consume.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Madam Speaker, once again the United States has an opportunity, and the responsibility, to lead the world in confronting one of the most compelling humanitarian and moral challenges facing us today. I speak of the HIV/AIDS pandemic, a crisis unparalleled in modern times and one that threatens the entire world, embracing developed and developing countries alike.

The statistics are chilling: over 22 million people have already died of AIDS throughout the world. More than 3 million died last year alone. That is over 8,000 deaths each day, or nearly one death every 6 minutes. What is most alarming is that the number of infections and deaths is growing and the pandemic is quickly spreading from sub-Saharan Africa to India, China and Russia. An incredible 36 million people are already infected with HIV, and 15,000 new infections occur every day.

To illustrate the magnitude of the crisis, it is estimated that by the year 2010, over 80 million people may have died from AIDS. By comparison, that is more than all the military and civilian deaths resulting from World War II. If the disease is left unchecked, we have no idea what the statistics will be in 2015 or 2020, less than 20 years from today. The most dramatic increase in infection rates is in the developing world, where education, awareness and access to health care is most seriously lacking. As is too often the case, it is the children who suffer most. Millions are born HIV-infected even though mother-to-child transmission is easily avoided if adequate training and health care is provided. To this is added a widespread mortality among parents: by the end of the decade, 40 million children are likely to be orphaned as a consequence of AIDS. The impact on developing societies, socially, politically and economically, is incalculable and threatens the stability of many countries and societies around the globe.

Contrary to popular conceptions, the pandemic is not limited to Africa, where AIDS continues to sweep forward virtually unchecked. The disease has jumped to every continent. In Europe, last year Russia had the highest rate of increase of new cases of any country on the planet. That impoverished country's medical system is clearly unable to adequately cope with the challenge, ensuring that it will continue to spread. According to the National Intelligence Council, India is on the verge of a catastrophic AIDS epidemic. Closer to home, the Caribbean region has the second highest rate of HIV infections in the world.

The most appropriate comparison of this ever-widening threat is with the 14th century, when the plague repeatedly swept through Europe, killing a quarter of that continent's population, leaving no country untouched, and decimating entire regions. This time, however, it is the entire world that is at risk. If the world is to have a chance of prevailing against this disease, the United States must take a leading role in the efforts to combat it. To do so, we must advance along many fronts, both bilateral and multilateral. The bill we consider today, H.R. 2069, addresses both the bilateral and multilateral pillars of our response to the AIDS crisis.

H.R. 2069 builds upon existing efforts by authorizing the Agency for International Development to carry out a comprehensive program of HIV/AIDS prevention, education and treatment at a level of $485 million during fiscal year 2002. Moreover, Madam Speaker, H.R. 2069 authorizes an additional $50 million pilot program to provide treatment for those infected with HIV/AIDS by helping the public and private sectors of developing countries procure HIV/AIDS pharmaceuticals and antiviral therapies.

The novel bilateral treatment program that my bill authorizes is vitally important, for it gives hope to those already suffering from AIDS. By authorizing a pilot treatment program, we can work to extend the productive lives of those infected by the virus. This is not only the right thing to do, it has beneficial impact on treatment as well. Without some expectation of care, the poor have little reason to be tested for AIDS or to seek help. I am fully cognizant of the challenge posed by treatment programs in developing countries. However, it is my hope that successful treatment programs such as those carried out by the AIDS Healthcare Foundation will be replicated in developing countries. Madam Speaker, there simply is no option other than treatment if we are ever to stem the tide of this pandemic.

Through our bilateral efforts, the United States will demonstrate its commitment to address all facets of the HIV/AIDS challenge and thereby challenge the entire developed world to emulate the example of the United States. It is also my hope that faith-based organizations such as Catholic Relief Services will play a very significant and meaningful role in advising USAID on the most effective approaches to combat the HIV/AIDS pandemic.

In addition to our bilateral efforts, the President has already signaled our Nation's intention to lead the multilateral campaign by committing at least $200 million to combat HIV/AIDS through a global AIDS war chest that will be designed and implemented in the months to come.

The Global Access to HIV/AIDS Prevention, Awareness, Education, and Treatment Act of 2001 also authorizes the President to contribute to multilateral efforts to combat HIV/AIDS at a level that the administration deems appropriate and at such time as a fund is established and criteria developed to ensure its sound management. America will contribute its fair share as we work to leverage additional funds for this effort from other developed countries.

By providing the President with this flexibility, we can ensure that the contributions made by the United States will be adequate and also yield the commitments from other countries to make this effort a truly global war on AIDS.

As with any problem, however, financial resources cannot serve as the sole answer, and the generosity of the American people must be well managed. We must provide resources at a pace at which these can be absorbed and used wisely. We must continue to encourage and support those faith-based organizations and churches that are on the front lines in the effort to educate the poor about HIV and AIDS and treatment and prevention. We must also insist that any program designed to combat the AIDS pandemic include abstinence as a core component.

In closing, I wish to thank the many Members and staff who have contributed to the passage of this landmark legislation. I am especially grateful to the gentleman from California (Mr. LANTOS) the committee's ranking member, and to the gentlewoman from California (Ms. LEE) for their leadership in crafting this legislation.

I am also appreciative of the invaluable support of the gentleman from New York (Mr. GILMAN), the committee's chairman emeritus; the gentleman from Nebraska (Mr. BEREUTER), and the gentleman from Iowa (Mr. LEACH). I am also very grateful for the generous support offered by the gentleman from Arizona (Mr. KOLBE). I also wish to thank Nisha Desai, David Abramowitz, Pearl Alice Marsh, and Michael Riggs of the Democratic staff for their many contributions and dedication to make this bill come to fruition.

□ 1430

My greatest appreciation, however, goes to Adolfo Franco, a member of my own staff, whose tireless work made this bill a reality. He is leaving the staff to go to a very important job with the administration, and he will be sorely missed.

Madam Speaker, I wish to reiterate what I think is a consensus in Congress. Simply stated, the AIDS virus is one of the great moral challenges of our era. It is a scourge of unparalleled proportions in modern times. Every citizen has a stake in preventing what otherwise might well become the bubonic plague of the 21st century. We must do all that lies in our power to do if we are to meet this threat, first of all, by reaching out now to those most in need. It is not only the most sensible thing to do, it is the right thing to do for our children, our country and for the world.

I urge all of my colleagues to vote for H.R. 2069.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this legislation.

Madam Speaker, I first would like to commend my good friend, the distinguished chairman of the Committee on International Relations, for his leadership, his vision and his commitment to help combat the global HIV-AIDS crisis. The gentleman from Illinois (Mr. HYDE) has shown courage and integrity in tackling this issue, when he could have relied upon others to legislate on this front. Many do not see the global HIV-AIDS crisis as a United States priority and question the need to spend significant U.S. funds toward preventing and treating this disease, but the gentleman from Illinois (Chairman HYDE) recognizes not only the severity of the epidemic, but our moral, humanitarian and national security interests in stemming the tide of the HIV-AIDS pandemic.

I would also like to commend my colleague, the gentlewoman from California (Ms. LEE), for her unwavering leadership in the global fight against HIV-AIDS. She has played a critical role in setting this Congress on the right course on this human disaster and in fashioning this legislation.

Madam Speaker, the bill reflects an extraordinary process of consultation that involves not only members of our committee, but advocacy groups, nongovernmental organizations, the administration and the staff of the United Nations. The result is a landmark, bipartisan agreement that outlines both a policy framework and funding levels for U.S. bilateral and multilateral assistance to fight the global AIDS pandemic. I want to join the gentleman from Illinois (Chairman HYDE) in praising members of the Republican and Democratic staffs who played such a key role in bringing us to this point.

Madam Speaker, the bill before us represents a broad consensus, and I urge all of my colleagues to support it. I truly believe that our legislation lays the foundation for a long-term commitment by the United States to eradicate this devastating disease.

Our bill authorizes $535 million in bilateral U.S. assistance to education, prevention, treatment and care of HIV-AIDS and those highly infectious diseases associated with it. In addition, our bill commits $750 million towards a global health fund to coordinate both funding and comprehensive programs in the fight against this disease, to which governments the private sector, foundations and individual philanthropists will contribute.

Madam Speaker, in this post-September 11 world, it is all too easy to lose sight of the HIV-AIDS crisis as we focus on the most pressing problem of global terrorism and the devastating conditions in Afghanistan, but it is precisely in this post-September 11 era that we must strive to maintain our commitment to HIV-AIDS and other crises of global magnitude. AIDS has devastated entire societies, and it is leaving in its wake a generation lost in despair. It is these children, raised without hope, who often provide fertile grounds for the terrorists and criminal networks to sow their evil seeds.

As our Secretary of State, Colin Powell, said at the UN special session on AIDS, "From this moment on, our response to AIDS must be no less comprehensive, no less relentless, and no less swift than the pandemic itself."

If we have learned anything through our terrible national tragedy, it is that the world's problems are our problems, and if we do not deal with these problems overseas, we will be dealing with them on our own doorstep.

The resurgence of HIV-AIDS and tuberculosis in some parts of the United States is just one ominous indication of how the problems of the developing world can soon become our own problems if we do not act decisively. The new bilateral program authorized by our legislation will guarantee that the American people are directly engaged in providing education, prevention, treatment and care to those suffering in poor countries. It will improve the quality of the U.S. aid programs in the HIV-AIDS field and provide those who are suffering with AIDS opportunities to live better and more productive lives.

Our proposed 1-year multilateral expenditure of $750 million is a major investment on our part toward a global effort to secure a better future for millions suffering from this deadly disease. It is a signal to the world, and particularly those suffering from this disease, that the United States is a partner in the international battle against HIV-AIDS.

Lastly, Madam Speaker, I want to tell schoolteachers, health workers, women and men, grandparents and orphans in poor countries suffering from the HIV-AIDS pandemic that we are fighting for and with them. Men, women and children in Africa, South Asia, Europe, the Western Hemisphere, are all affected, and we must all work together to find a solution. I urge my colleagues to support H.R. 2069.

Madam Speaker, I reserve the balance of my time.

Mr. HYDE. Madam Speaker, I am pleased to yield 4 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Madam Speaker, I rise in strong support of this legislation, and I thank the distinguished chairman for yielding me time. I want to thank him also for his leadership in introducing this legislation and for the effort to move it to the House floor so expeditiously. Also I would like to thank the distinguished ranking member of the House Committee on International Relations, the gentleman from California (Mr. LANTOS) and the distinguished gentlewoman from California (Ms. LEE), among others mentioned by the gentleman from Illinois (Chairman HYDE), for their very positive efforts regarding H.R. 2069.

I am pleased to be a member of the Committee on International Relations, but today I speak primarily as a chairman of a subcommittee of the Committee on Financial Services, the Subcommittee on International Monetary Policy and Trade. It is in that respect that I thank the gentleman from Illinois (Mr. HYDE), the chairman, and the gentleman from California (Mr. LANTOS), and others, for working with the distinguished gentleman from Ohio (Chairman OXLEY) and this Member by incorporating into H.R. 2069 language suggested by us to recognize the World Bank's fiduciary role for the Global Health Fund on HIV-AIDS.

The statistics on HIV-AIDS are staggering, as we heard a few minutes ago. According to the joint United Nations Programme on HIV-AIDS, as of December 2001, an estimated 40 million people worldwide live with HIV-AIDS, which includes an estimated 28.1 million people in Sub-Saharan Africa. Furthermore, in the year 2001 alone, there were an estimated 5 million new HIV-AIDS infections worldwide, with 3.4 million of these cases being in Sub-Saharan Africa. In addition to Africa, HIV infection rates are also rising dramatically in India and the other South Asian countries, as well as Russia, the Eastern European countries, Brazil and the Caribbean countries.

As the chairman of the Subcommittee on International Monetary Policy and Trade, this Member conducted a hearing on May 15, 2001, which focused on the activities in Africa of the International Monetary Fund, the World Bank, the African Development Bank and African Development Fund, including their efforts to combat HIV-AIDS. As a result of this hearing, which included testimony from the Joint United Nations Programme on HIV-AIDS, this Member introduced H.R. 2209. This legislation increases the authorization for the multilateral world AIDS trust for FY 2002 from $150 million to $200 million.

The World Bank AIDS Trust Fund was established with American support through what became Public Law 106-264, primarily authored by the distinguished gentleman from Iowa (Mr. LEACH). This law directed the United States Government to seek to negotiate the creation of an international HIV-AIDS trust fund which would be established within the World Bank.

The Global Access to HIV-AIDS Prevention, Awareness, Treatment, and Education Act of 2001, this bill, provides both multilateral and bilateral authorization funding to help prevent, treat and monitor HIV-AIDS. This dual approach is very important as the United States combats the global plague of HIV-AIDS with our neighbors and outer countries throughout the world.

This Member would like to particularly emphasize the $750 million multilateral authorization for FY 2002 to the Global Health Fund to combat HIV-AIDS. This legislation, H.R. 2069, states that this Global Health Fund is consistent with the global AIDS and Tuberculosis Relief Act of 2000, which established the U.S. negotiations for the World Bank AIDS Trust Fund.

The World Bank has the most extensive global infrastructure to provide the multilateral assistance needed to help prevent, treat and monitor HIV-AIDS. This Member fully supports the Bush administration's position to abdicate a fiduciary role for the World Bank in this Global Health Fund to fight HIV-AIDS. It should be noted that the Transitional Working Group, a multilateral institution for this Global Health Fund, has recently invited the World Bank to play that fiduciary role as a trustee for the fund.

I urge support of this legislation. I think the two committees worked well together to merge the two bills together.

Mr. LANTOS. Madam Speaker, I yield 4 minutes to the gentlewoman from California (Ms. LEE). No Member has worked harder and more diligently on this issue than my friend and colleague from California.

Ms. LEE. Madam Speaker, I rise first to thank the gentleman from Illinois (Chairman HYDE), our ranking member, the gentleman from California (Mr. LANTOS), the gentleman from Iowa (Mr. LEACH), and also the gentleman from Nebraska (Mr. BEREUTER), for their commitment and real diligence in working to develop H.R. 2069, legislation that will comprehensively fight the global AIDS, TB and malaria pandemics.

This bipartisan legislation that we are considering today is important because it authorizes the desperately needed resources to address the multifaceted and multigenerational challenges presented by the global AIDS, TB and malaria pandemics.

It has been over 20 years since the first AIDS diagnosis. Since then, HIV and AIDS has infected over 56 million people worldwide and has claimed over 25 million lives, including 4 million children. The events of September 11 have turned the world's attention appropriately on combatting international terrorism. However, we cannot forget the global will scourge of HIV and AIDS. It is a national security threat of staggering proportions. AIDS, like many diseases, knows no borders and discriminates against no one. Each day, AIDS, TB and malaria claim over 17,000 lives. So, just as we fight terrorism, we must also fight these diseases.

According to UN, AIDS left unchecked, it is estimated that over 100 million people will be infected worldwide by 2007.

□ 1445

AIDS is decimating the continent of Africa and leaving millions of orphans in its wake.

Today, the number of orphans in Africa is the equivalent of the total population of children in America's public schools. Left unchecked, Africa will be home to more than 40 million orphans by 2010; and unfortunately, Africa is only the epicenter. We must not sacrifice this generation of children on the alter of indifference.

The AIDS pandemic has cut life expectancy by 25 years in some countries. In Botswana, the population growth due to AIDS is negative. This means that there are more people dying from AIDS than there are being born. The AIDS, TB, and malaria pandemics constitute a crisis of biblical proportions in Africa and puts the very survival of the continent at stake. These pandemics are not only a humanitarian crisis, but they are potentially an economic, political, and social catastrophe. Therefore, it is important that we continue to beat the drum to raise awareness. Our efforts at home must reach far beyond our shores.

When the House Committee on International Relations marked this bill up earlier this year, the gentleman from Illinois (Mr. HYDE), the chairman of the committee, the gentleman from California (Mr. LANTOS), the gentleman from Iowa (Mr. LEACH), and the gentleman from Nebraska (Mr. BEREUTER) worked on this bill day and night to increase bilateral funding for AIDS, TB, and malaria and also to increase the U.S. contribution to our multilateral AIDS program. The program, under this bill's $750 million, includes a contribution to the Global AIDS Trust Fund, which the gentleman from Iowa (Mr. LEACH) and I cosponsored last year. This was actually signed into law as the Global AIDS and TB Relief Act of 2000, which the gentleman from Nebraska (Mr. BEREUTER) earlier referred to.

So today, the House is sending a strong message that America can and must do more.

Also, I want to state for the record that all HIV-infected persons have a basic right to vital medicines for prevention and treatment of AIDS and also must have access to drugs for treatment of opportunistic infections and to anti-retroviral agents. We have the knowledge and we have the technology to prevent the spread of AIDS. We have the necessary drugs that can substantially reduce the rate of mother-to-child transmission and also prolong the lives of people who are infected.

In addition to all of the barriers we face addressing this global crisis, basic health care infrastructure remains an issue. This bill addresses that also.

So I just once again want to thank my colleagues, the gentleman from Illinois (Mr. HYDE), the chairman of the committee; the gentleman from California (Mr. LANTOS), the ranking member; the gentleman from Iowa (Mr. LEACH); and the gentleman from Nebraska (Mr. BEREUTER) for their commitment, and also for our staffs' work. I want to thank the staff for diligently working on this. Our dedication and their dedication to the future of the human family will surely have a ripple effect.

Mr. HYDE. Madam Speaker, I ask unanimous consent that each side be granted an additional 6 minutes for purposes of debate.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Madam Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Madam Speaker, I thank the gentleman for yielding me this time.

When I became chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations, I said that one of my highest priorities was to fund the battle against HIV/AIDS that is becoming a pandemic globally. With that in mind, I want to thank the distinguished chairman of the Committee on International Relations for his leadership and his interest in fighting HIV and other infectious diseases. We share this as a priority, and I am very pleased to work with the chairman on this important matter.

The authorization for bilateral assistance through the United States Agency for International Development is virtually identical to the amount recommended by the House and Senate conferees on the Foreign Operations, Export Financing, and Related Programs Appropriations Act for fiscal year 2002. We hope to file that conference report on the bill in the very near future. We completed the work on our conference in November and are awaiting a signal from the leadership to file that agreement.

Having said that, however, I think it is important to tell the House and Members here that the $750 million authorization that is included in this bill for the multilateral assistance is unlikely to be funded in fiscal year 2002. The chairman indicated in his own remarks that he understood that that was going to be the case.

Members need to know, should know, that the multilateral fund does not yet exist. It is a concept, and we are working on it; but its structure, its objectives, its voting methodology has not yet been determined and is not likely to occur until the middle of next year.

Despite that, the Committee on Appropriations is in the process of providing a total of $250 million in three separate bills for the proposed global fund to fight HIV, tuberculosis, and malaria; and that is an amount that is $50 million greater than had been requested in the President's budget.

Now, more funds are possible; but I do not want anybody to have unrealistic expectations for the FY 2002 budget. First, it is very important that this fund get created and that we begin to demonstrate success. That is not going to happen yet until at least well into this fiscal year. Until the Congress concurs with the proposed terms and conditions under which our initial $250 million could be used, it is not prudent, in my view, to leave the impression that there is another $500 million available or required at this time for the global fund.

Madam Speaker, I support this bill, because we must continue to dedicate an increasing amount of resources to fight the global pandemic of HIV/AIDS, but I do not want my support for the bill to be viewed as an endorsement of the $750 million level authorized for the proposed global fund, at least not at this time. We have more work to do before we are going to be ready to spend any of the funds set aside for the global trust fund, much less an amount as large as $250 million. I know the chairman understands that.

So this is a proactive, leading-the-way authorization, and I appreciate that. I do think that we can carry out the policies and provide for the ongoing and expanded bilateral programs. I thank the chairman for his leadership.

Mr. LANTOS. Madam Speaker, I am delighted to yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the incoming whip of the Democratic Party, my friend and neighbor in San Francisco, who has been a national leader in the fight against HIV/AIDS for years.

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding me this time, and I thank him for his leadership on this issue. I commend the gentleman from Illinois (Mr. HYDE), the chairman of the committee; the gentleman from Nebraska (Mr. BEREUTER), the gentleman from Iowa (Mr. LEACH), and the gentlewoman from California (Ms. LEE) for their extraordinary leadership in bringing this bill to the floor. I know it was difficult, and I congratulate them in doing it.

I am pleased to follow the gentleman from Arizona (Mr. KOLBE), my distinguished chairman on the Subcommittee on Foreign Operations, a longtime member on that committee. Following the lead of my own constituents, we put the first money for international AIDS into that bill several years ago. We could never get the attention that he is getting here today on this issue. I know how hard it is, and I commend him for it. We tried to get the attention of the G–7 to put AIDS on the agenda a dozen years ago in both Democratic and Republican administrations, and only recently have the ramifications of AIDS been recognized at that level.

So it is with great enthusiasm that I commend all of my colleagues, and I rise in support of H.R. 2069.

Madam Speaker, we must never forget that every single day, 8,000 people die of AIDS; 8,000 people die every day of AIDS. Think of it. It is so staggering. It is unimaginable, almost. But we are concerned about every single one of them and about protecting every single child in the world and person in the world from contracting HIV and AIDS in the future.

The United States must take the lead in the global effort to end the global AIDS pandemic and the havoc it is creating in the developing world. Halting this crisis can only happen with new resources, and the dramatic step that is being taken today is a very, very important and significant step forward.

The social, economic, security, national security, and human rights cost of this crisis are devastating entire nations. Projections show that by 2010, South Africa's GDP will be 17 percent below where it would have been without AIDS, and the United Nations has estimated that AIDS could kill up to 26 percent of the workforce in Africa. India already has more infected people than Africa.

Madam Speaker, I will submit my full statement for the RECORD because, again, the statistics are staggering. Madam Speaker, $750 million is an excellent step forward. We need to do more.

Experts are predicting that without significant prevention and treatment efforts the number of Indians living with HIV/AIDS could surpass the combined number of cases in all African countries within two decades.

Developing countries will be unable to turn the tide on this epidemic if even the most basic health care is unavailable for most of their citizens. People must be educated about HIV and how to prevent its spread. Increased testing and counseling opportunities are desperately needed. Basic care and treatment that can be delivered in homes or makeshift clinics is essential. And the need for support for the growing number of children orphaned by AIDS looms large.

We know that prevention and treatment work. Comprehensive prevention efforts have turned around HIV epidemics in Uganda and Thailand, and averted an epidemic in Senegal. In a small village in Haiti, community health workers have been trained to deliver high quality care, including the advanced medicines used to treat AIDS in our country. The provisions of H.R. 2069 will help impoverished countries expand and replicate effective programs, and strengthen the capacity of indigenous health care systems to deliver HIV/AIDS pharmaceuticals.

Our investment in the fight against the global AIDS pandemic not only has a direct impact, but is also promises to leverage significant funds from other countries and multilateral institutions. Specifically, the $750 million authorized for multilateral assistance will demonstrate this country's dedication to the new United Nations Global Fund, and other international efforts. Fighting AIDS requires a real, sustained commitment, and the money we provide is a signal to other nations that we will do our part.

The fight ahead of us against the global AIDS pandemic is a long one. We have no choice but to engage in the fight and to prevail. I urge my colleagues to support H.R. 2069.

Mr. HYDE. Madam Speaker, I am pleased to yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Madam Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of H.R. 2069, the Global Access to HIV and AIDS Prevention Act, to authorize nearly $1.4 billion to combat HIV/AIDS in sub-Saharan Africa and other developing countries.

I certainly want to applaud the leadership of the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) for their efforts in bringing this bill to the floor today. Because of their work and the work of so many of my friends and colleagues here in Congress, we are seeing a vast change in the global AIDS crisis in sub-Saharan Africa and other parts of the world. What I am referring to is a rapidly changing and increased level of awareness and concern, not only about the horrific damage the virus is wreaking, but about the future costs, costs in cultural, political, and economic stability in Africa.

New figures released on December 1, which was World AIDS Day, show that more than 40 million people are now living with the virus. The vast majority of them are in sub-Saharan Africa where the devastation is so acute it has become one of the main obstacles to development. I could go on with the various statistics. An estimated 24.5 million people in sub-Saharan Africa are infected with the HIV virus. That is 71 percent of the world's total.

What can we do? The United States is uniquely positioned to lead the world in the prevention and eradication of HIV and AIDS. This year's House-passed Foreign Operations Appropriations bill provides $474 million for AIDS prevention and control. But we must also pass this bill, H.R. 2069, The Global Access to HIV and AIDS Prevention Act. It authorizes $560 million in bilateral assistance programs for the various AIDS treatment and prevention programs administered by USAID. It also authorizes $750 million in 2002 for the United States contributions to the Global AIDS Fund.

So I would certainly say that this bill is good news. The bad news is it has taken so long.

Mr. LANTOS. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ), our distinguished colleague.

Mr. RODRIGUEZ. Madam Speaker, I rise in support of the Global Access to HIV/AIDS Prevention Act, H.R. 2069. I would like to commend the gentlewoman from California (Ms. LEE). I want to thank her for her hard work and her dedication as well. I want to thank her specifically for when she first sent that letter for us to sign to get on board, and I was very pleased to see that. I also want to thank the gentleman from California (Mr. LANTOS) for his efforts and the gentlewoman from California (Ms. PELOSI) and some of the other speakers that have been speaking on this issue, as well as the gentleman from Illinois (Mr. HYDE). I thank him for allowing us this opportunity to move forward on this issue.

This year marks the 20th year of HIV/AIDS, and in that time the virus has taken the lives of more than 25 million people throughout the world. In claiming lives, the virus has destroyed families and communities. It has devastated economies and created instability. It has changed the very way we interact with our neighbors.

The continued spread of the virus calls for a multilateral strategy in the struggle to reduce infections. Domestic and international efforts, prevention as well as treatment, as well as research and development and education, are critical. These are the parts of the equation that will help us change the outcome.

We must remember that disease has no borders and especially infectious diseases. We cannot afford to ignore the plight of our neighbors, because sooner or later, it will come and knock on our door.

By investing in the international efforts to eradicate this virus, we will be assuring and protecting Americans' health and prosperity. We will also show ourselves as a Nation committed to alleviating human sufferings everywhere else. It is the right thing to do for our neighbors and ourselves and for our constituents and for our children, for untreated and mistreated HIV/AIDS can hamper us all. For not treating appropriately, other types of strains can be created that will cause us more harm.

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Madam Speaker, I urge my colleagues to support H.R. 2069, the Global Access to HIV/AIDS Prevention Awareness, Education, and Treatment Act of 2001.

Mr. HYDE. Madam Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Florida, (Mr. WELDON).

Mr. WELDON of Florida. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I did my internship and residency in San Francisco in the early eighties when AIDS was ravaging the homosexual community in that city. Prior to coming here to the U.S. House, I practiced infectious diseases and primarily treated AIDS, so I have seen firsthand the devastation that this disease can cause. I certainly commend all those involved with working to bring this bill to the floor.

I am particularly pleased that the chairman was willing to work with me to add language to emphasize the importance of a safe blood supply and the importance of prophylactic drugs for victims of rape and sexual assault; certainly, also, the language to emphasize access to infant formula and other alternatives for infant feeding.

Many babies are born to HIV mothers and survive the birth process without contracting AIDS, to only go on, unfortunately, to contract the disease through the process of breast feeding.

I do remain concerned, Madam Speaker, that the bill does not sufficiently stress abstinence. Abstinence programs have shown to be helpful in Uganda and Senegal; and abstinence, of course, is the only approach that actually guarantees that AIDS will not be spread.

I have served in the past on the board of a faith-based group that has worked in Nigeria on abstinence-based education. I think the bill, as it moves through the conference process and gets signed by the President, should have some stronger language inserted to deal with the importance of abstinence.

Also, I would like to see the makeup of the board, the advisory board, structured in such a way that faith-based organizations will be guaranteed a place at the table. There are currently hundreds of faith-based organizations in Africa. As I said, I have worked with one of them firsthand. They need to be included in this process.

Mr. LANTOS. Madam Speaker, I am pleased to yield 2 minutes to my good friend and my distinguished colleague, the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in support of the Global to Access HIV/AIDS Prevention, Awareness, Education, and Treatment Act of 2001, H.R. 2069.

I also want to commend the leadership on this bill, the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS), and all others involved in sponsoring this, the gentleman from Nebraska (Mr. BEREUTER), the gentlewoman from California (Ms. LEE), and those who have been carrying this fight on and have been strong advocates for ridding the world of this disease.

This legislation provides crucial funding for the prevention, treatment, and monitoring of AIDS in sub-Saharan Africa and other parts of the developing world, and an increased amount of assistance through education and treatment programs, as well as assistance and aid for the prevention and transmission of HIV/AIDS from mother to child.

Madam Speaker, this legislation is essential to fighting the HIV/AIDS epidemic in many parts of the world, including that part of Africa. HIV is worldwide and actually knows no border, as we said earlier.

Madam Speaker, I include for the RECORD information on the AIDS epidemic provided by the World Health Organization.

The material referred to is as follows:

AIDS EPIDEMIC UPDATE—DECEMBER 2001

GLOBAL OVERVIEW

Twenty years after the first clinical evidence of acquired immunodeficiency syndrome was reported, AIDS has become the most devastating disease humankind has ever faced. Since the epidemic began, more than 60 million people have been infected with the virus. HIV/AIDS is now the leading cause of death in sub-Saharan Africa. Worldwide, it is the fourth-biggest killer.

At the end of 2001, an estimated 40 million people globally were living with HIV. In many parts of the developing world, the majority of new infections occur in young adults, with young women especially vulnerable. About one-third of those currently living with HIV/AIDS are aged 15-24. Most of them do not know they carry the virus. Many millions more know nothing or too little about HIV to protect themselves against it.

Eastern Europe and Central Asia—still the fastest-growing epidemic

Eastern Europe—especially the Russian Federation—continues to experience the fastest-growing epidemic in the world, with the number of new HIV infections rising steeply. In 2001, there were an estimated 250,000 new infections in this region, bringing to 1 million the number of people living with HIV. Given the high levels of other sexually transmitted infections, and the high rates of injecting drug use among young people, the epidemic looks set to grow considerably.

Asia and the Pacific—narrowing windows of opportunity.

In Asia and the Pacific, an estimated 7.1 million people are now living with HIV/AIDS. The epidemic claimed the lives of 435,000 people in the region in 2001. The apparently low national prevalence rates in many countries in this region are dangerously deceptive. They hide localized epidemics in different areas, including some of the world's most populous countries. There is a serious threat of major, generalized epidemics. But, as Cambodia and Thailand have shown, prompt, large-scale prevention programmes can hold the epidemic at bay. In Cambodia, concerted efforts, driven by strong political leadership and public commitment, lowered HIV prevalence among pregnant women to 2.3 percent at the end of 2000—down by almost a third from 1997.

Sub-Saharan Africa—the crisis grows

AIDS killed 2.3 million African people in 2001. The estimated 3.4 million new HIV infections in sub-Saharan Africa in the past year mean that 28.1 million Africans now live with the virus. Without adequate treatment and care, most of them will not survive the next decade. Recent antenatal clinic data show that several parts of southern Africa have now joined Botswana with prevalence rates among pregnant women exceeding 30 percent. In West Africa, at least five countries are experiencing serious epidemics, with adult HIV prevalence exceeding 5 percent. However, HIV prevalence among adults continues to fall in Uganda, while there is evidence that prevalence among young people (especially women) is dropping in some parts of the continent.

The Middle East and North Africa—slow but marked spread

In the Middle East and North Africa, the number of people living with HIV now totals 440,000. The epidemic's advance is most marked in countries (such as Djibouti, Somalia and the Sudan) that are already experiencing complex emergencies. While HIV prevalence continues to be low in most countries in the region, increasing numbers of HIV infections are being detected in several countries, including the Islamic Republic of Iran, the Libyan Arab Jamahiriya and Pakistan.

High-income countries—resurgent epidemic threatens

A larger epidemic also threatens to develop in the high-income countries, where over 75,000 people acquire HIV in 2001, bringing to 1.5 million the total number of people living with HIV/AIDS. Recent advances in treatment and care in these countries are not being consistently matched with enough progress on the prevention front. New evidence of rising HIV infection rates in North America, parts of Europe and Australia is emerging. Unsafe sex, reflected in outbreaks of sexually transmitted infections, and widespread injecting drug use are propelling these epidemics, which, at the same time, are shifting more towards deprived communities.

Latin America and the Caribbean—diverse epidemics

An estimated 1.8 million adults and children are living with HIV in Latin America and the Caribbean—a region that is experiencing diverse epidemics. With an average adult HIV prevalence of approximately 2 percent, the Caribbean is the second-most affected region in the world. But relatively low national HIV prevalence rates in most South and Central American countries mask the fact that the epidemic is already firmly lodged among specific population groups. These countries can avert more extensive epidemics by stepping up their responses now.

Stronger commitment

Greater and more effective prevention, treatment and care efforts need to be brought to bear. During the year 2001, the resolve to do so became stronger than ever.

History was made when the United Nations General Assembly Special Session on HIV/AIDS in June 2001 set in place a framework for national and international accountability in the struggle against the epidemic. Each government pledged to pursue a series of many benchmark targets relating to prevention, care, support and treatment, impact alleviation, and children orphaned and made vulnerable by HIV/AIDS, as part of a comprehensive AIDS response. These targets include the following: To reduce HIV infection among 15-24-year-olds by 25 percent in the most affected countries by 2005 and, globally, by 2010; by 2005, to reduce the proportion of infants infected with HIV by 20 percent, and by 50 percent by 2010; by 2003, to develop national strategies to strengthen health-care systems and address factors affecting the provision of HIV-related drugs, including affordability and pricing. Also, to urgently make every effort to provide the highest attainable standard of treatment for HIV/AIDS, including antiretroviral therapy in a careful and monitored manner to reduce the risk of developing resistance; by 2003, to develop and, by 2005, implement national strategies to provide a supportive environment for orphans and children infected and affected by HIV/AIDS; by 2003, to have in place strategies that begin to address the factors that make individuals particularly vulnerable to HIV infection, including under-development, economic insecurity, poverty, lack of empowerment of women, lack of education, social exclusion, illiteracy, discrimination, lack of information and/or commodities for self-protection, and all types of sexual exploitation of women, girls and boys; and by 2003, to develop multisectoral strategies to address the impact of the HIV/AIDS epidemic at the individual, family, community and national levels.

Increasingly, other stakeholders, including nongovernmental organizations and private companies worldwide, are making clear their determination to boost those efforts.

New resources are being marshalled to lift spending to the necessary levels, which UNAIDS estimates at US$7-10 billion per year in low- and middle-income countries. The global fund called for by United Nations Secretary-General Kofi Annan has attracted about US$1.5 billion in pledges. In addition, the World Bank plans major new loans in 2002 and 2003 for HIV/AIDS, with a grant equivalency of over US$400 million per year. All the while, more countries are boosting their national budget allocations towards AIDS responses. Several "least developed countries" have received, or are in line for, debt relief that could help them increase their spending on HIV/AIDS.

More private companies are also stepping up their efforts. Guiding some of their interventions is a new international code of conduct on AIDS and the workplace, which was ratified earlier this year by members of the International Labour Organization (the new, eighth cosponsoring organization of UNAIDS).

The challenge now is to build on the newfound commitment and convert it into sustained action—both in the countries and regions already hard hit, and in those where the epidemic began later but is gathering steam.

Beyond complacency

The diversity of HIV's spread worldwide is striking. But in many regions of the world, the HIV/AIDS epidemic is still in its early stages. While 16 sub-Saharan African countries reported overall adult HIV prevalence of more than 10 percent by the end of 1999, there remained 119 countries of the world where adult HIV prevalence was less than 1 percent.

Low national prevalence rates can, however, be very misleading. They often disguise serious epidemics that are initially concentrated in certain localities or among specific population groups and that threaten to spill over into the wider population.

Nationwide prevalence in Myanmar, for instance, has been put at 2 percent. Yet, national HIV rates as high as 60 percent are being registered among injecting drug users and almost 40 percent among sex workers. Moreover, in vast populous countries such as China, India and Indonesia (where individual provinces or states often have more inhabitants than most countries), national prevalence all but loses meaning. The Indian states of Maharashtra, Andhra Pradesh and Tamil Nadu (each with at least 55 million inhabitants), have registered HIV prevalence rates of over 2 percent among pregnant women in one or two sentinel sites and over 10 percent among sexually transmitted infection patients—rates far higher than the national average of less than 1 percent. In the absence of vigorous prevention efforts, there is considerable scope for further HIV spread. Even HIV prevalence rates as low as 1 percent or 2 percent across Asia and the Pacific (which is home to about 60 percent of the world's population) would cause the number of people living with HIV/AIDS to soar.

All countries have, at some point in their epidemic histories, been low-prevalence countries. HIV prevalence among pregnant women attending antenatal clinics in South Africa was less than 1 percent in 1990 (almost a decade after the first HIV diagnosis there in 1982). Yet, a decade later, the country was experiencing one of the fastest growing epidemics in the world, with prevalence among pregnant women at 24.5 percent by the end of 2000.

Low-prevalence settings present special challenges. At the same time, they offer opportunities for averting large numbers of future infections. Today, we are seeing rapidly emerging epidemics in several countries that had previously recorded relatively low rates of HIV infection—proof that the epidemic can emerge quickly and unexpectedly, and that no society is immune. In Indonesia, where recorded infection rates were negligible until very recently (even among some high-risk groups), there is new evidence of striking increases in the infection rates of HIV. Prevalence has risen significantly among female sex workers in three cities at opposite ends of the Indonesian archipelago, with similar increases also evident at other sites. Among women working in massage parlours in the capital, Jakarta, HIV prevalence was measured at 18 percent in 2000. Blood donor data now show a tenfold rise in HIV prevalence since 1998.

Elsewhere, longer-standing epidemics could be on the verge of spreading more rapidly and widely. Nepal and Viet Nam, for example, have registered marked increases in HIV infection in recent years, while in China—home to a fifth of the world's people—the virus seems to be moving into new groups of the population.

In other areas of the world, too, time is fast running out if much larger AIDS epidemics are to be averted. For instance, in the Russian Federation, only 523 HIV infections had been diagnosed by 1991. A decade later, that number had climbed to more than 129,000. In a country where injecting drug use among young people is rife (and there are higher levels of sexually transmitted infections in the wider population), there is an urgent need for action to avoid an even larger number of new infections.

Prompt, focused prevention

Countires that still have low levels of HIV infection should avert the epidemic's potential spread, rather than take comfort from current infection rates. The key to success in low-prevalence settings where HIV is not yet at risk to the wider population is to enable the most vulnerable groups to adopt safer sexual and drug-injecting behaviour, interrupt the virus's spread among and between those groups, and buy time to bolster the wider population's ability to protect itself against the virus.

This means, first, determining which population groups are at highest risk of infection and, second mustering the political will to safeguard them against the epidemic. At the same time, it is vital to defuse the stigma and blame so often attached to vulnerable groups and to deepen the wider public's knowledge and understanding of the epidemic.

Young people are a priority on this front. Twenty years into the epidemic, millions of young people know little, if anything, about HIV/AIDS. According to UNICEF, over 50 percent of young people (aged 15–24) in more than a dozen countries, including Bolivia, Botswana, Côte d'Ivoire, the Dominican Republic, Ukraine, Uzbekistan and Viet Nam, have never heard of AIDS or harbour serious misconceptions about how HIV is transmitted. Providing young people with candid information and life skills is a prerequisite for success in any AIDS response.

Reclaiming the future

The impact of the AIDS epidemic is being increasingly felt in many countries across the world. Southern Africa continues to be the worst affected area, with adult prevalence rates still rising in several countries. But elsewhere, also, in countries often already burdened by huge socioeconomic challenges, AIDS threatens human welfare, developmental progress and social stability on an unprecedented scale.

The AIDS epidemic has a profound impact on growth, income and poverty. It is estimated that the annual per capita growth in half the countries of sub-Saharan Africa is falling by 0.5–1.2 percent as a direct result of AIDS. By 2010, per capita GDP in some of the hardest hit countries may drop by 8 percent and per capita consumption may fall even farther. Calculations show that heavily affected countries could lose more than 20 percent of GDP by 2020. Companies of all types face higher costs in training, insurance, benefits, absenteeism and illness. A survey of 15 firms in Ethiopia has shown that, over a five-year period, 53 percent of all illnesses among staff were AIDS-related.

Devastating cycles

An index of existing social and economic injustices, the epidemic is driving a ruthless cycle of impoverishment. People at all income levels are vulnerable to the economic impact of HIV/AIDS, but the poor suffer most acutely. One quarter of households in Botswana, where adult HIV prevalence is over 35 percent can expect to lose an income earner within the next 10 years. A rapid increase in the number of very poor and destitute families is anticipated. Per capita household income for the poorest quarter of households is expected to fall by 13 percent, while every income earner in this category can expect to take on four more dependents as a result of HIV/AIDS.

In sub-Saharan Africa, the economic hardships of the past two decades have left three-quarters of the continent's people surviving on less than US $2 a day. The epidemic is deepening their plight. Typically, this impoverished majority has limited access to social and health services, especially in countries where public services have been cut back and where privatized services are unaffordable. In hard-hit areas, households cope by cutting their food consumption and other basic expenditures, and tend to sell assets in order to cover the costs of health care and funerals.

Studies in Rwanda have shown that households with a HIV/AIDS patient spend, on average, 20 times more on health care annually than households without an AIDS patient. Only a third of those households can manage to meet these extra costs.

According to a new United Nations Food and Agricultural Organization (FAO) report, seven million farm workers have died from AIDS-related causes since 1985 and 16 million more are expected to die in the next 20 years. Agricultural output—especially of staple products—cannot be sustained in such circumstances. The prospect of widespread food shortages and hunger is real. Some 20 percent of rural families in Burkina Faso are estimated to have reduced their agricultural work or even abandoned their farms because of AIDS. Rural households in Thailand are seeing their agricultural output shrink by half. In 15 percent of these instances, children are removed from school to take care of ill family members and to regain lost income. Almost everywhere, the extra burdens of care and work are deflected onto women—especially the young and the elderly.

Families often remove girls from school to care for sick relatives or assume other family responsibilities, jeopardizing the girls' education and future prospects. In Swaziland, school enrollment is reported to have fallen by 36 percent due to AIDS, with girls most affected. Enabling young people—especially girls—to attend school and, hopefully, complete their education, is essential. South Africa's and Malawi's universal free primary education systems point the way. Schemes to provide girls with second-chance schooling are another option.

Development and stability threatened

Meanwhile, the epidemic is claiming huge numbers of teachers, doctors, extension workers and other human resources. In some countries, health-care systems are losing up to a quarter of their personnel to the epidemic. In Malawi and Zambia, for example, five-to-six-fold increases in health worker illness and death rates have reduced personnel, increasing stress levels and workload for the remaining employees.

Teachers and students are dying or leaving school, reducing both the quality and efficiency of educational systems. In 1999 alone, an estimated 860,000 children lost their teachers to AIDS in sub-Saharan Africa. In the Central African Republic, AIDS was the cause of 85 percent of the 300 teacher deaths that occurred in 2000. Already, by the late 1990s, the toll had forced the closure of more than 100 educational establishments in that country. In Guatemala, studies have shown that more than a third of children orphaned by HIV/AIDS drop out of school. In Zambia, teacher deaths caused by AIDS are equivalent to about half the total number of new teachers the country manages to train annually.

Replacing skilled professionals is a top priority, especially in low-income countries where governments depend heavily on a small number of policy-makers and managers for public management and core social services. In heavily affected countries, losing such personnel reduces capacity, while raising the costs of recruitment, training, benefits and replacements. A successful response to AIDS requires that essential public services, such as education, health, security, justice and institutions of democratic governance, be maintained. Each sector has to take account of HIV/AIDS in its own development plans and introduce measures to sustain public sector functions. Such actions might include fast-track training, as well as the recruitment of key civil servants and the reallocation of budgets towards the most essential services. Countries that explore innovative ways of maintaining and rebuilding capacity in government will be better equipped to contain the epidemic. Equally valuable are labour and social legislation changes that boost people's rights, more effective and equitable ways of delivering social services, and more extensive programmes that benefit those worst hit by the epidemic (especially women and orphans).

Coping with crisis

In the worst-affected countries, steep drops in life expectancies are beginning to occur, most drastically in sub-Saharan Africa, where four countries (Botswana, Malawi, Mozambique and Swaziland) now have a life expectancy of less than 40 years. Were it not for HIV/AIDS, average life expectancy in sub-Saharan Africa would be approximately 62 years; instead, it is about 47 years. In South Africa, it is estimated that average life expectancy is only 47 years, instead of 66, if AIDS were not a factor. And, in Haiti, it has dropped to 53 years (as opposed to 59). The number of African children who had lost their mother or both parents to the epidemic by the end of 2000—12.1 million—is forecast to more than double over the next decade. These orphans are especially vulnerable to the epidemic, and the impoverishment and precariousness it brings.

As more infants are born HIV-positive in badly affected countries, child mortality rates are also rising. In the Bahamas, it is estimated that some 60 percent of deaths among children under the age of five are due to AIDS, while, in Zimbabwe, the figure is 70 percent.

Unequal access to affordable treatment and adequate health services is one of the main factors accounting for drastically different survival rates among those living with HIV/AIDS in rich and poor countries and communities. Public pressure and UN-sponsored engagements with pharmaceutical corporations (through the Accelerating Access Initiative), along with competition from generic drug manufacturers, has helped drive antiretroviral drug prices down. But prices remain too high for public-sector budgets in low-income countries where, in addition, health infrastructures are too frail to bring life-prolonging treatments to the millions who need it.

Backed by a strong social movement, Brazil's government has shown that those barriers are not impregnable and that the use of cheaper drugs can be an important element of a successful response. Along with Brazil, countries such as Argentina and Uruguay also guarantee HIV/AIDS patients free antiretroviral drugs. In Africa, several governments are launching programmes to provide similar drugs through their public health system, albeit on a limited scale, at first.

In all such cases, though, clearing the hurdle of high prices is essential but not enough. Also indispensable are functioning and affordable health systems. Massive international support is needed to help countries meet that challenge.

EASTERN EUROPE AND CENTRAL ASIA

HIV incidence is rising faster in this region than anywhere else in the world. There were an estimated 250,000 new infections in 2001, raising to 1 million the number of people living with HIV.

In the Russian Federation, the startling increase in HIV infections of recent years is continuing, with new reported diagnoses almost doubling annually since 1998. In 2001, more than 40,000 new HIV-positive diagnoses were reported in the first six months. The total number of HIV infections reported since the epidemic began came to more than 129,000 in June 2001—up from the 10,993 reported for the end of 1998. The actual number of people now living with HIV in the Russian Federation is estimated to be many times higher than these reported figures.

At 1 percent, the adult HIV prevalence rate in Ukraine is the highest in the region. While injecting drug use is currently responsible for three-quarters of HIV infections in Ukraine, the proportion of sexually transmitted HIV infections is increasing. In Estonia, reported HIV infections have soared from 12 in 1999 to 1,112 in the first nine months of 2001. Outbreaks of HIV-related injecting drug use are also being reported in several Central Asian republics, including Kazakhstan and, most recently, Kyrgyzstan, Tajikistan and Uzbekistan.

Given the current evidence, a much larger and more generalized epidemic is a real threat. However, the epidemic is still at an early stage in the region and massive prevention efforts could curtail its scale and extent. Such efforts would require a comprehensive response to reduce risky sexual and drug-injecting behaviour among young people, and tackle the socioeconomic and other factors that promote the spread of the virus.

In the Russian Federation and other parts of the former Soviet Union, the vast majority of reported HIV infections are related to injecting drug use, which has become unusually widespread among young people, especially young men. An estimated 1 percent of the population of those countries is injecting drugs. Given the high odds of transmission through needle sharing, the fact that the young people are also sexually active, and the high levels of sexually transmitted infections in the wider population, a huge epidemic may be imminent. As well, the male-female ratio among newly detected HIV cases has narrowed from 4:1 to 2:1, indicating that young women are increasingly at risk of HIV infection.

Several factors are creating a fertile setting for the epidemic; mass unemployment and economic insecurity beset much of the region; social and cultural norms are being increasingly liberalized; and public health services are steadily disintegrating.

Reported rates of other sexually transmitted infections are very high and compound the odds of HIV being transmitted through unprotected sex. The incidence of syphilis (the reported number of infections in a given year) in the Russian Federation in 2000 stood at 157 per 100,000 persons, compared to 4.2 per 100,000 persons in 1987. Similar general trends are visible in the Baltic States, Belarus, the Central Asian republics, the Republic of Moldova, and Ukraine.

Unprecedented numbers of young people are not completing their secondary schooling. With jobs in short supply, many are at special risk of joining groups of vulnerable populations, by resorting to injecting drug use and (regular or occasional) sex work. Among young people in the Russian Federation, for instance, drug use is almost three times more prevalent than it was five years ago. Drug use is steadily becoming a more frequent feature of secondary school life in many cities. Needle sharing is common practice among injecting drug users—and a common cause of HIV transmission. Surveys in some cities in the Russian Federation show that most sex workers are 17–23 years old and that condom use in the sex industry is erratic, at best.

HIV risk is high among men who have sex with men, among whom multiple partners and unprotected sex are widespread. While laws penalizing homosexual activities with imprisonment have been struck off the statute books in the Russian Federation and in most (though not all) other countries of the former Soviet Union, men who have sex with men remain highly stigmatized socially. Currently, there are very few examples of HIV prevention activities targeting this group.

In south-eastern Europe, rates of sexually transmitted infections and injecting drug use are also on the rise, although still at considerably lower levels than elsewhere in the region. Drug trafficking, along with the economic and psychological aftermath of recent conflicts, are increasing the likelihood that HIV epidemics will emerge in this region.

In Central Europe, there is cause for tempered optimism. There is little indication, at this stage, of a potential rise in HIV infections. By mounting a strong national response, the Polish Government has successfully curtailed the epidemic among injecting drug users and prevented it from gaining a foothold in the general population. Prevalence remains low in countries such as the Czech Republic, Hungary and Slovenia, where well-designed national HIV/AIDS programmers are in operation.

More than 150 HIV/AIDS prevention projects among injecting drug users have been set up across the region in the past five years, along with projects focusing on other vulnerable populations such as prison inmates, sex workers and men who have sex with men. Although comparatively few in number, many of these projects are laying the foundations for larger, more extensive prevention work.

At the same time, there are signs of growing political commitment in the region. Following the UN General Assembly Special Session on HIV/AIDS, countries of the Commonwealth of Independent States are developing a special declaration on the epidemic and are preparing a regional work plan to guide a coordinated response. In countries such as Bulgaria, Romania, the Russian Federation and Ukraine, the budgets of national AIDS programmes have increased substantially. The strong partnerships being forged between the government, private sector and nongovernmental organizations in Ukraine are setting a positive example for the rest of the region. In June 2001, the President of Ukraine declared 2002 the year of the fight against AIDS.

Vigorous prevention efforts are needed to equip young people with the knowledge and services (such as HIV/AIDS information, condom promotion, life-skills training) they need to protect themselves against the virus. Given that young people (especially women) are bearing the brunt of the economic transitions in the region, socioeconomic programmes that can reduce the vulnerability of young men and women are also vital.

Special steps are needed to include HIV-related life-skills education in school curricula and to extend peer education to vulnerable young people who are in institutions or out of school and employment. Much more comprehensive efforts are needed to address the complex issues related to HIV and injecting drug use among young people.

ASIA AND THE PACIFIC

HIV/AIDS was late coming to Asia. Until the late 1980s, no country in the region had experienced a major epidemic and, in 1999, only Cambodia, Myanmar and Thailand had documented significant nationwide epidemics. This situation is now rapidly changing. In 2001, 1.07 million adults and children were newly infected with HIV in Asia and the Pacific, bringing to 7.1 million the total number of people living with HIV/AIDS in this region. Of particular concern are the marked increases registered in some of the world's most heavily populated countries.

Surveillance data on China's huge population are sketchy, but the country's health ministry estimates that about 600,000 Chinese were living with HIV/AIDS in 2000. Given the recently observed rises in reported HIV infections and infection rates in many sub-populations in several parts of the country, the total number of people living with HIV/AIDS in China could well have exceeded one million by late 2001. Reported HIV infections rose by 67.4 percent in the first six months of 2001, compared with the previous year, according to the country's ministry of health. Increasing evidence has emerged of serious epidemics in Henan Province in central China, where many tens of thousands (and possibly more) of rural villages have become infected since the early 1990s by selling their blood to collecting centres that did not follow basic blood donation safety procedures.

HIV levels in specific groups are known to be rising in several other areas. Seven Chinese provinces were experiencing serious labor HIV epidemics in 2001, with prevalence higher than 70 percent among injecting drug users in a number of areas, such as Yili Prefecture in Xinjiang and Ruili Country in Yunnan. Another nine provinces are possibly on the brink of HIV epidemics among injecting drug users because of very high rates of needle sharing. There are also signs of heterosexually transmitted HIV epidemics in at least three provinces (Yunnan, Guangxi and Guangdong), with HIV rates reaching 4.6 percent (up from 1.6 percent in 1999) in Yunnan and 10.7 percent in Guangxi (up from 6 percent) among sentinel sex worker populations in 2000.

Vast and populous India faces similar challenges. At the end of 2000, the national adult HIV prevalence rate was under 1 percent, yet this meant that an estimated 3.86 million Indians were living with HIV/AIDS—more than in any other country besides South Africa. Indeed, median HIV prevalence among women attending antenatal clinics was higher than 2 percent in Andhra Pradesh and exceeded 1 percent in five other states (Karnataka, Maharashtra, Manipur, Nagaland and Tamil Nadu) and in several major cities (including Bangalore, Chennai, Hyderabad and Mumbai). India's epidemic is also strikingly diverse, both among and within states.

Indonesia—the world's fourth-most populous country—offers an example of how suddenly a HIV/AIDS epidemic can emerge. After more than a decade of negligible rates of HIV, the country is now seeing infection rates increase rapidly among injecting drug users and sex workers. in some places, along with an exponential rise in infection among blood donors (an indication of HIV spread in the population at large). HIV infection in injection drug users was not considered worth measuring until 1999/2000, when it had already reached 15 percent. Within another year, 40 percent of injectors in treatment in Jakarta were already infected. In Bogor, in West Java Province, 25 percent of injecting drug users tested were HIV-infected, while among drug-using prisoners tested in Bali, prevalence was 53 percent.

Behaviours that bring the highest risk of infection in Asia and the Pacific are unprotected sex between clients and sex workers, needle sharing and unprotected sex between men. But infections do not remain confined to those with higher-risk behaviour. Many countries have been major epidemics grow out of initially relatively contained rates of infection in these populations. Northern Thailand's epidemic in the late 1980's and early 1990s was primed in this way. Over 10 percent of young men became infected before strong national and local prevention efforts, including the "100 percent programme", reduced high-risk behaviour, encouraged safer sex and lowered HIV prevalence.

Commercial sex provides the virus with considerable scope for growth. The limited national behavioural data collected in the region to date show that, over the past decade, the percentage of surveyed adult men who reported having visited a sex worker in a given year ranged from 5 percent in some countries to 20 percent in others. India and Viet Nam are countries where levels of infection among clients and sex workers are rising. In Ho Chi Minh City, the percentage of sex workers with HIV has risen sharply since 1998, reaching more than 20 percent by 2000.

Few countries are acting vigorously enough to protect sex workers and clients from the HIV virus. Yet, it is from the comparatively small pool of sex workers first infected by their clients that HIV steadily enters the larger pool of still-uninfected clients who eventually transmit the virus to their wives and partners. Although recent behaviour surveillance surveys show that, in 11 out of 15 Asian countries and Indian states, over two-thirds of sex workers report using a condom with their last client, the need to boost condom use remains. In Bangladesh, Indonesia, Nepal and the Philippines, for instance, fewer than half of sex workers report using condoms with every client.

Sharing injecting equipment is a very efficient way of spreading HIV, making prevention programmes among injecting drug user populations another top priority. Upwards of 50 percent of injecting drug users have acquired the virus in Myanmar, Nepal, Thailand, China's Yunnan Province and Manipur in India. Recent surveys show that a third of injecting drug users in Viet Nam said they recently shared needles with other users, while 55 percent of male injecting drug users in northern Bangladesh and 75 percent in the central region report sharing injecting equipment at least once in the week prior to being questioned.

Extensive harm reduction programmes can and do work. By the 1980s, Australia had prevented a major epidemic from occurring among injecting drug users and, quite likely, from spreading beyond them. Such examples are being followed by several other countries, but in an isolated fashion. The SHAKTI Project in Dhaka, Bangladesh, offers injecting drug users needle exchange, safer injecting options and safer sex education, as well as condoms. IKHLAS, in the Malaysian capital of Kuala Lumpur, provides peer support services, but the estimated 5000 injecting drug users reached are only a fraction of the country's drug-injecting population.

The need to expand such programmes nationally is patent is these concentrated epidemics are to be brought under control before they spill into the wider population. Many injecting drug users are sexually active young men. Many have steady partners; others buy sex. The overlap between injecting drug use and buying sex is striking. In some Vietnamese cities, 17 percent of male injecting drug users reported having recently bought unprotected sex. Between half and three-quarters of male injecting drug users in several cities of Bangladesh have reported buying sex from women during the past year, with fewer than one-quarter of them saying they had used a condom the last time they paid for sex. There also is increasing evidence of female sex workers taking up injecting drug use in Viet Nam.

Some self-identified "gay" communities exist throughout the region but, in most of Asia, many additional categories of men engage in same-sex intercourse. Many men who prefer sex with men also have sex with women. Indeed, many marry and raise families. This creates a huge potential for men who have unprotected sex with men to act as "bridges" for the virus in the wider population. In Cambodia, for instance, some 40 percent of men who have sex with men reported also having had sex with women in the month prior to being surveyed.

At the same time, there is ample evidence that early, large-scale and focused prevention programmes, which include efforts directed at both those with higher-risk behavior and the broader population, can keep infection rates lower in specific groups and reduce the risk of extensive HIV spread among the wider population. Cambodia's prevention measures, which began in earnest in 1994–95, saw high-risk behavior among men fall and condom use rise consistently in the late 1990s. As a consequence, HIV prevalence among pregnant women declined from 3.2 percent in 1997 to 2.3 percent at the end of 2000, suggesting that the country is beginning to bring its epidemic under control.

Thailand's well-funded, politically-supported and comprehensive prevention programmes, which accelerated in the early 1990s have trimmed annual new HIV infections to about 30,000, from a high of 140,000 a decade ago. Although an estimated 700,000 Thais are living with HIV today, Thailand's prevention efforts probably averted millions of HIV infections. Nonetheless, one-in-60 Thais in this country of 62 million people is infected with HIV, and AIDS has become the leading cause of death, despite the country's prevention successes. There are indications that transmission between spouses is now responsible for more than half of new infections—a reminder that mainly targeting high-risk groups is inadequate, and that countries need to carefully track patterns of HIV spread and adapt their responses accordingly. Furthermore, ongoing high rates of HIV infection through needle sharing in Thailand highlight the need to sustain prevention efforts as the epidemic evolves.

In large parts of Asia and the Pacific, prevention programmes are poorly funded and resourced. Typically, small projects are scattered across countries and do not acquire the scale or coherence that is needed to halt the epidemic's spread. Because many high-risk practices are frowned upon and even criminalized, there are serious political hurdles to prevention.

SUB-SAHARAN AFRICA

Sub-Saharan Africa remains the region most severely affected by HIV/AIDS. Approximately 3.4 million new infections occurred in 2001, bringing to 28.1 million the total number of people living with HIV/AIDS in this region.

The region is experiencing diverse epidemics in terms of scale and maturity. HIV prevalence rates have risen to alarming levels in parts of southern Africa, where the most recent antenatal clinic data reveal levels of more than 30 percent in several areas. In Swaziland, HIV prevalence among pregnant women attending antenatal clinics in 2000 ranged from 32.3 percent in urban areas to 34.5 percent in rural areas; in Botswana, the corresponding figures were 43.9 percent and 35.5 percent. In South Africa's KwaZulu-Natal Province, the figure stood at 36.2 percent in 2000.

At least 10 percent of those aged 15–49 are infected in 16 African countries, including several in southern Africa, where at least 20 percent are infected. Countries across the region are expanding and upgrading their responses. But the high prevalence rates mean that even exceptional success on the prevention front will now only gradually reduce the human toll. It is estimated that 2.3 million Africans died of AIDS in 2001.

This notwithstanding, in some of the most heavily affected countries there is growing evidence that prevention efforts are bearing fruit. One new study in Zambia shows urban men and women reporting less sexual activity, fewer multiple partners and more consistent use of condoms. This is in line with earlier indications that HIV prevalence is declining among urban residents in Zambia, especially among young women aged 15–24.

According to the South African Ministry of Health, HIV prevalence among pregnant women attending antenatal clinics reached 24.5 percent in 2000. About one-in-nine South Africans (or 4.7 million people) are living with HIV/AIDS. Yet, there are possibly heartening signs that positive trends might be increasingly taking hold among adolescents, for whom prevalence rates have dropped slightly since 1998. Large-scale information campaigns and condom distribution programmes appear to be bearing fruit. In South Africa, for instance, free male condom distribution rose from 6 million in 1994 to 198 million five years later. In recent surveys, approximately 55 percent of sexually active teenage girls reported that they always use a condom during sex. But these developments are accompanied by a troubling rise in prevalence among South Africans aged 20–34, highlighting the need for greater prevention efforts targeted at older age groups, and tailored to their realities and concerns.

Progress is also being made on the treatment and care front. In the southern African region, relatively prosperous Botswana has become the first country to begin providing antiretroviral drugs through its public health system, thanks to a bigger health budget and drug price reductions negotiated with pharmaceutical companies.

Within the context of a public/private partnership between five research-and-development pharmaceutical companies and five United Nations agencies, there is increasing access to antiretroviral therapy in Africa. As of the end of 2001, more than 10 African countries were providing antiretroviral therapy to people living with HIV/AIDS.

In five West African countries—Burkina Faso, Cameroon, Côte d'Ivoire, Nigeria and Togo—national adult prevalence rates already passed the 5 percent mark in 2000. Countries such as Nigeria are boosting their spending on HIV/AIDS and extending their responses nationwide. This year, Nigeria launched a US $240-million HIV/AIDS Emergency Action Plan. Determined prevention efforts in Senegal continue to bear fruit, thanks to the prompt political support for its programmes.

On the eastern side of the continent, the downward arc in prevalence rates continues in Uganda—the first African country to have subdued a major HIV/AIDS epidemic. HIV prevalence in pregnant women in urban areas has fallen for eight years in a row, from a high of 29.5 percent in 1992 to 11.25 percent in 2000. Focusing heavily on information, education and communication, and decentralized programmes that reach down to village level, Uganda's efforts have also boosted condom use across the country. In the Masindi and Pallisa districts, for instance, condom use with casual partners in 1997—2000 rose from 42 percent and 31 percent, respectively, to 51 percent and 53 percent. In the capital, Kampala, almost 98 percent of sex workers surveyed in 2000 said they had used a condom the last time they had sex.

But despite such success, huge challenges remain. New infections continue to occur at a high rate. Most people with HIV do not have access to antiretroviral therapy. Already, by the end of 1999, 1.7 million children had lost a mother or both parents to the disease. Providing them with food, housing and education will test the resources and resolve of the country for many years to come.

Uganda's experience underlines the fact that even a rampant HIV/AIDS epidemic can be brought under control. The axis of any effective response is a prevention strategy that draws on the explicit and strong commitment of leaders at all levels, that is built on community mobilization, and that extends into every area of the country.

Although they are exceptionally vulnerable to the epidemic, millions of young African women are dangerously ignorant about HIV/AIDS. According to UNICEF, more than 70 percent of adolescent girls (aged 15–19) in Somalia and more than 40 percent in Guinea Bissau and Sierra Leone, for instance, have never heard of AIDS. In countries such as Kenya and the United Republic of Tanzania, more than 40 percent of adolescent girls harbor serious misconceptions about how the virus is transmitted. One of the targets fixed at the UN General Assembly Special Session on HIV/AIDS in June 2001 was to ensure that at least 90 percent of young men and women should, by 2005, have the information, education and services they need to defend themselves against HIV infection. As in other regions of the world, most countries in sub-Saharan Africa are a considerable way from fulfilling that pledge.

The vast majority of Africans living with HIV do not know they have acquired the virus. One study has found that 50 percent of adult Tanzanian women know where they could be tested for HIV, yet only 6 percent have been tested. In Zimbabwe, only 11 percent of adult women have been tested for the virus. Moreover, many people who agree to be tested prefer not to return and discover the outcome of those tests. However, other obstacles remain. A study in Abidjan, Côte d'Ivoire, shows that 80 percent of pregnant women who agree to undergo a HIV test return to collect their results. But of those who discover they are living with the virus, fewer than 50 percent return to receive drug treatment for the prevention of mother-to-child transmission of the virus.

More than half of the women who know they have acquired HIV, and who were surveyed by Kenya's Population Council this year, said they had not disclosed their HIV status to their partners because they feared it would expose them to violence or abandonment. Not only are voluntary counselling and testing services in short supply across the region, but stigma and discrimination continue to discourage people from discovering their HIV status.

Accumulating over the past year have been many encouraging developments. Thirty-one countries in the region have now completed a national HIV/AIDS strategic plan and another 12 are developing such a plan. Several regional initiatives to roll back the epidemic are under way. Some, such as those grouping countries in the Great Lakes region, the Lake Chad Basin and West Africa, are concentrating their efforts on reducing the vulnerability of refugee and other mobile populations. The political commitment to turn the tide of AIDS appears stronger than ever. Gatherings such as the 200 African Development Forum meeting last December, and the Organization of African Unity Summit HIV/AIDS, Tuberculosis and Other Related Infectious Diseases in April 2001, appear to be cementing that resolve. At the latter meeting, Heads of State agreed to devote at least 15 percent of their countries' annual budgets to improving health sectors. Fewer than five countries had reached that level in 2000.

AIDS has become the biggest threat to the continent's development and its quest to bring about an African Renaissance. Most governments in sub-Saharan Africa depend on a small number of highly skilled personnel in important areas of public management and core social services. Badly affected countries are losing many of these valuable civil servants to AIDS. Essential services are being depleted at the same time as state institutions and resources come under greater strain and traditional safety nets disintegrate. In some countries, health-care systems are losing up to a quarter of their personnel to the epidemic. People at all income levels are vulnerable to these repercussions, but those living in poverty are hit hardest. Meanwhile, the ability of the state to ensure law and order is being compromised, as the epidemic disrupts institutions such as the courts and the police. The risks of social unrest and even socio-political instability should not be underestimated.

THE MIDDLE EAST AND NORTH AFRICA

In the countries of the Middle East and North Africa, the visible trend is also towards increasing HIV infection rates, though still at very low levels. Existing surveillance systems remain inadequate, but it is estimated that 80,000 people acquired the virus in 2001, bringing to 440,000 the number of people living with HIV/AIDS. The need for early, effective prevention is becoming manifest throughout this region.

Unfortunately, factors driving the epidemic are still too seldom systematically analysed in most countries in the region. As a result, HIV/AIDS responses are rarely based on a clear understanding of infection patterns or knowledge of particular high-risk groups.

Based on current knowledge, however, factors putting people at risk are varied, though sexual intercourse remains the dominant route of transmission. A local study in Algeria has revealed prevalence rates of 1 percent among pregnant women. Outbreaks now appear to be occurring elsewhere, including in the Libyan Arab Jamahiriya, where all but a fraction of the 570 new HIV infections reported in 2000 were among drug users. Djibouti and the Sudan are facing growing epidemics that are being driven by combinations of socioeconomic disparities, large-scale population mobility and political instability.

The rate of HIV infection is increasing significantly in other vulnerable groups. Among prisoners in the Islamic Republic of Iran, rates of HIV infection have risen from 1.37 percent in 1999 to 2.28 percent in 2000. Besides the Sudan and the Republic of Yemen, all countries in the region have reported HIV transmission through injecting drug use. Unless addressed promptly through harm reduction and other prevention approaches, the epidemic among these subpopulations of injecting drug users could grow dramatically and spread into the wider population.

There are also signs that the double disease burden of HIV and tuberculosis is growing in some countries. Rates of HIV infection among tuberculosis patients are rising and, by mid-2001, stood at 8 percent in the Sudan, 4.8 percent in Oman, 4.2 percent in the Islamic Republic of Iran and 2.1 percent in Pakistan.

At the same time, the political will to mount a more potent response to the epidemic is visible in several countries, some of which are introducing innovative approaches. Examples include the mobilization of nongovernmental organizations around prevention programmes in Lebanon, and harm reduction work among injecting drug users in the Islamic Republic of Iran.

HIGH-INCOME COUNTRIES

Unless averted with renewed and more effective prevention efforts, resurgent epidemics will continue to threaten high-income countries, where over 75,000 people became infected with HIV in 2001.

In Australia, Canada, the United States of America (USA) and countries of Western Europe, a pronounced rise in unsafe sex is triggering higher rates of sexually transmitted infections and, in some cases, higher levels of HIV incidence among men who have sex with men. The prospect of rebounding HIV/AIDS epidemics looms as a result of widespread public complacency and stalled, sometimes inappropriate, prevention efforts that do not reflect changes in the epidemic. In Japan, meanwhile, HIV infections are also on the rise.

The rise in new HIV infections among men who have sex with men is striking. In Vancouver, Canada, HIV incidence among young men who have sex with men rose from an average of 0.6 percent in 1995–1999 to 3.7 percent in 2000. In London, United Kingdom, reported HIV infections among gay men are also on the rise. In Madrid, reported HIV infections rose almost twofold (from 1.16 percent to 2.16 percent in 1996–2000, whereas, in San Francisco, it rose from 1.1 percent in 1997 to 1.7 percent in 2000 and appears to be rising still, according to recent studies. Among gay men who inject drugs in that city, the infection rate climbed from 2 percent in 1997 to 4.6 percent in 2000.

Rising incidence of other sexually transmitted infections among men who have sex with men (in Amsterdam, Sydney, London and southern California, for instance) confirms that more widespread risk-taking is eclipsing the safer-sex ethic promoted so effectively for much of the 1980s and 1990s. Similar trends are being detected among the heterosexual populations of some countries, especially among young people. Diagnoses of gonorrhea and syphilis among men and women have hit their highest levels for 13 years in England and Wales, for instance.

Part of the explanation could lie in the visibly life-saving effects of antiretroviral therapy, introduced in high-income countries in 1996. Deaths attributed to HIV in the USA, for instance, fell by a remarkable 42 percent in 1996–97, since the decline has levelled off. However, this wide access to antiretroviral therapy has encouraged misperceptions that there is now a cure for AIDS and that unprotected sex poses a less daunting risk. High-risk behaviour is increasing, as a result.

Prevention efforts, as well as treatment and care strategies, have to contend with other, significant shifts in the epidemic, such as its slow but apparently inexorable shift towards other vulnerable populations. At play appears to be an overlap of racial discrimination with income, health and other inequalities. In high-income countries there is evidence that HIV is moving into poorer and more deprived communities, with women at particular risk of infection. Young adults belonging to ethnic minorities (including men who have sex with men) face considerably greater risks of infection than they did five years ago in the USA. African-Americans, for instance, make up only 12 percent of the population of the USA, but constituted 47 percent of AIDS cases reported there in 2000. As elsewhere in the world, young disadvantaged women (especially African-American and Hispanic women) in the USA are being infected with HIV at higher rates and at younger ages than their male counterparts.

In the USA, men having sex with men is still the main mode of transmission (accounting for some 53 percent of new HIV infections in 2000), but almost one-third of new HIV-positive diagnoses were among women in 2000. In this latter group, an overlap of injecting drug use and heterosexual intercourse appears to be driving the epidemic. Indeed, injecting drug use has become a more prominent route of HIV infection in the USA, where an estimated 30 percent of new reported AIDS cases are related to this mode of transmission. In Canada, women now represent 24 percent of new HIV infections, compared to 8.5 percent in 1995.

The HIV epidemic in western and central Europe is the result of a multitude of epidemics that differ in terms of their timing, their scale and the populations they affect. Portugal faces a serious epidemic among injecting drug users. Of the 3733 new HIV infections reported there in 2000, more than half were caused by injecting drug use and just under a third occurred via heterosexual intercourse. Reports of new HIV infections also indicate that sex between men is an important transmission route in several countries, including Germany, Greece and the United Kingdom. Unfortunately, HIV reporting data are uneven in several of the more affected countries, including some of those believed to be most affected by the epidemic among injecting drug users.

In Japan, the number of HIV infections detected in men who have sex with men has risen sharply in recent years, with male-male sex now accounting for more than twice as many infections in men as heterosexual sex. This is a major departure from past patterns: until two years ago, the number of new infections reported in both groups was roughly equal.

There are also signs that the sexual behavior of youth in Japan could be changing significantly and putting this group at greater risk of HIV infection. Higher rates of Chlamydia among females and gonorrhoea infections among males, as well as a doubling of the number of induced abortions among teenage women in the past five years, suggest increased rates of unprotected sexual intercourse. Behavioral data, meanwhile, show low condom use, both in the general population and among sex workers.

LATIN AMERICA AND THE CARIBBEAN

Major differences in epidemic levels and patterns of HIV transmission are evident in Latin America and the Caribbean, where an estimated 1.8 million adults and children are living with HIV—including the 190,000 people who acquired the virus in the past year. Some 1.4 million people are living with HIV/AIDS in Latin America and 420,000 in the Caribbean.

In Central America and the Caribbean, HIV is mainly heterosexually transmitted, with unsafe sex and frequent partner exchange among young people high among the factors driving the epidemic. Other powerful dynamics are abetting the spread of HIV, notably the combination of socioeconomic pressures and high population mobility (including tourism).

The Caribbean is the second-most affected region in the world, with adult HIV prevalence rates only exceeded by those of sub-Saharan Africa. In several Caribbean countries, HIV/AIDS has become a leading cause of death. Worst affected are Haiti and the Bahamas, where adult HIV prevalence rates are above 4 percent. But the epidemic is by no means concentrated only in the Caribbean.

Along with Barbados and the Dominican Republic, several Central American and Caribbean countries had adult HIV prevalence rates of at least 1 percent at the end of 1999, including Belize, Guyana, Honduras, Panama and Suriname. By contrast, prevalence is lowest in Bolivia, Ecuador and other Andean countries. Almost three-quarters of AIDS cases reported in Central America are the result of sex between men and women. On some Caribbean islands, the phenomenon of young women having sex with older men is especially prominent, and is reflected in the fact that the HIV rate among girls aged 15–19 is up to five times that of boys in the same age group. Research among sex workers in Guyana's capital, Georgetown, has found that 46 percent of surveyed sex workers were living with HIV/AIDS, that more than one-third of them never used a condom with their clients, and that almost three-quarters did not use condoms with their regular partners. The probability of the virus passing into the wider population is therefore high.

In Costa Rica, Mexico, Nicaragua and parts of the Andean region, sex between men is the more prominent route of HIV transmission. Recent studies among men who have sex with men in Mexico have shown that just over 14 percent were HIV-positive. Prevalence rates among heterosexual sex workers and sexually transmitted infection patients in Mexico, meanwhile, appear still to be low. Injecting drug use is a main route of HIV transmission in Argentina, Chile and Uruguay, and also plays a major role in Brazil.

Patterns of transmission can also differ markedly within countries—a reminder that universal national programmes are inappropriate. In Colombia's highlands, for instance, unprotected sex between men accounts for most HIV infections, while, on the coast, heterosexual intercourse is the main route of transmission.

Countries' commitment to stem the epidemic and limit its effects has grown markedly. Several countries have launched or are developing government programmes to distribute antiretroviral drugs to HIV/AIDS patients. But there are wide disparities in the quality and scope of different countries' antiretroviral treatment programmes. The wide access to treatment that people living with HIV/AIDS have in countries such as Argentina, Brazil and Uruguay is not yet matched in most other countries of the Americas. Up to recently, Central America experienced a large gap in access to treatment. Now, however, countries such as Costa Rica and Panama are providing treatment access. Caribbean countries are currently developing a regional strategy to speed up and expand access to treatment and care for people living with HIV/AIDS. Countries such as Barbados and Trinidad and Tobago are preparing to implement new national programmes.

In Brazil, a substantial decline in HIV prevalence among injecting drug users has been observed recently in several large metropolitan areas. This suggests that HIV/AIDS prevention and harm reduction programmes in those cities have made possible safer injection habits among these populations. Brazil's prevention efforts are being balanced with an extensive treatment and care programme that guarantees state-funded antiretroviral therapy for those living with HIV/AIDS. The number of people living with the virus in Brazil has reached about 600,000, according to the country's Health Ministry—up from 540,000 in 1999. An estimated 105,000 Brazilians are receiving antiretrovial drugs through the public health system.

A new political resolve is also apparent in several regional initiatives. Launched in February 2001, the Pan-Caribbean Partnership against HIV/AIDS, for instance, links the resources of governments and the international community with those of civil society to boost national and regional responses. It is being coordinated by the Caribbean Community Secretariat (CARICOM). On the basis of the Nassau Declaration issued in July 2001, as follow-up to the UN General Assembly Special Session on HIV/AIDS, Caribbean Heads of Government are also devising ways to support each other's national HIV/AIDS programmes and jointly negotiate affordable prices for antiretrovial drugs.

Meanwhile, protecting vulnerable populations on the move is now the focus of a regional initiative in Central America. Argentina, Chile, Paraguay and Uruguay are collaborating in harm-reduction schemes for injecting drugs users. National AIDS programmes have also joined a collaborative scheme to share technical assistance throughout Latin America and the Caribbean. Known as the Horizontal Technical Cooperation Group, it brings together more than 20 countries of the region.

EXPLANATORY NOTE ABOUT UNAIDS/WHO ESTIMATES

The UNAIDS/WHO estimates in this document are based on the most recent available data on the spread of HIV in countries around the world. They are provisional. UNAIDS and WHO, together with experts from national AIDS programmes and research institutions, regularly review and update the estimates as improved knowledge about the epidemic becomes available, while also drawing on advances made in the methods for deriving estimates.

The estimates and data provided in the graphs and tables are given in rounded numbers. However, unrounded numbers were used in the calculation of rates and regional totals, so there may be small discrepancies between the global totals and the sum of the regional figures.

In 2001, new software was developed to model the course of HIV/AIDS around the world and to further enhance the quality of estimates of HIV/AIDS prevalence and impact. As a result, this year's estimates incorporate, in particular, new knowledge and assumptions about survival times for adults and children living with HIV/AIDS. Because of this, some of the new estimates cannot be compared directly with estimates from previous years.

UNAIDS and WHO will continue to work with countries, partner organizations and experts to improve data collection. These efforts will ensure that the best possible estimates are available to assist governments, nongovernmental organizations and others in gauging the status of the epidemic and monitoring the effectiveness of their considerable prevention and care efforts.

HIV/AIDS accounts for 70 percent of all cases of AIDS worldwide. Since its inception, more than 58 million individuals have been infected with HIV/AIDS, while 22 million have lost their lives, 17 million alone in sub-Saharan Africa. It is clearly the leading cause of death in sub-Saharan Africa. Further, 90 percent of the world's orphans reside in this region.

Given the loss of life AIDS has caused, the destruction of entire communities, and the long-term impact of economic growth, we must step up our efforts to fight this devastating disease. I have worked with the officials in Botswana who are struggling to combat the impact of HIV on their young adults, their most productive sector of their community. Therefore, we must do all we can.

I want to commend all involved and ask that we not only pass this bill, but do other things to fight this global pandemic.

Mr. HYDE. Madam Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Speaker, I thank the gentleman for yielding time to me.

Let me first express my appreciation for the leadership of the gentleman from Illinois (Chairman HYDE), the gentleman from California (Mr. LANTOS), the gentleman from Nebraska (Mr. BEREUTER), and of course the gentlewoman from California (Ms. LEE) on this issue.

There should be no doubt that the United States confronts two wars simultaneously. One is the war on terrorism, waged with the scourge of biological weapons. The other is war on the devastating disease that is pandemic in so many poor parts of the world.

Einstein once said that splitting the atom has changed everything save our mode of thinking. Atom-splitting produced the potential for great good through nuclear energy, and the potential for great harm through weapons of mass destruction.

Now, the splitting of genes has come to symbolize an even greater change: the biological discoveries that promise to enrich and lengthen life on the one hand, and the possibility of biological weapons on the other that jeopardize life itself on the planet.

What we must be about is constraining the forces of evil and expanding the forces of life. We cannot win the war that terrorism has brought to our shore without waging with equal vigor the war on disease everywhere that it exists.

Mr. LANTOS. Madam Speaker, I am very pleased to yield 2 minutes to my dear friend and distinguished colleague, the gentlewoman from California (Ms. WATSON), who served our Nation with great distinction as a United States ambassador.

Ms. WATSON of California. Madam Speaker, we have already heard the figures of the number of Africans infected with HIV and AIDS. They are staggering, but deserve to be repeated once again: sub-Saharan Africa has only 10 percent of the world's population, but accounts for 70 percent of all HIV/AIDS cases and 80 percent of all HIV/AIDS-related deaths. The infection rate in some African nations now exceeds 30 percent; and in a few countries, it is approaching 40 percent of the total population.

Finally, the United States National Intelligence Council estimates that the disease could reduce the gross domestic product in some sub-Saharan Africa countries by as much as 20 percent or more by 2010. The social and economic consequences of this disease are not like any other public health threat that the world has faced in modern times. Important and hard-won economic gains made by African nations could be wiped out in less than a decade. Moreover, social dislocation caused by the high rates of death among HIV-infected mothers and fathers is already straining the outer bounds of fragile African nation states.

H.R. 2069, and I commend the sponsors, authorizes additional spending levels in excess of $1 billion for bilateral and multilateral HIV/AIDS assistance to African nations that is more in keeping with our international assistance obligations.

Madam Speaker, the HIV/AIDS pandemic in Africa not only presents us with a profoundly humanitarian, economic, and social dilemma, it also, in the very near term, if more is not done, may challenge the very notion of law-based nation states.

I support this legislation, and I would urge everyone else to do so.

Mr. HYDE. Madam Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I thank my good friend for yielding time to me.

Madam Speaker, I rise in strong support of H.R. 2069 and believe the gentleman from Illinois (Chairman HYDE) deserves special recognition and thanks for his persistence on behalf of all who are weak and vulnerable, including AIDS victims.

As my colleagues know, and has been said on the floor today, the scourge of AIDS around the globe has reached catastrophic proportions, particularly in sub-Saharan Africa. A December report by U.N. AIDS indicated that nearly 25.3 million adults and children are infected with the HIV virus in sub-Saharan Africa. To put this in perspective, this region has about 10 percent of the world's population, but more than 70 percent of the HIV/AIDS patients.

Madam Speaker, among the most tragic of the victims are the children who contact HIV via vertical transmission, from mother to child, during or shortly after childbirth. Some estimates place the number of vertical transmission cases at 600,000 babies annually in Africa. Madam Speaker, vertical transmission is specifically addressed in this bill. In an age where we already have proven drug regimens and methods to prevent mother-to-child transmission, and we have had them for sometime now, Madam Speaker, it is outrageous that so many children around the world are still contracting HIV/AIDS in this manner. This could be stopped, and this bill goes a long way to doing so.

I would also point out to my colleagues that during markup I offered an amendment in the area of hospice and palliative care. Madam Speaker, unfortunately, today, when people, particularly in Africa, get AIDS, they are treated as lepers, like we had in Biblical times: People go nowhere near them, even when they are family members.

Thankfully, there is an effort under way in Africa and elsewhere to reach out to these people so they can die in dignity, and hopefully with the least amount of pain as is humanly possible. In South Africa, the Catholic Church and Catholic Relief Services and others are doing incredible jobs of networking, of bringing the news that you can take care of an AIDS patient in your home without the fear of contamination yourself. There are methods and procedures that need to be followed; and thankfully, that word is getting out.

Madam Speaker, this legislation does address that and will target some resources in that direction.

Madam Speaker, this is a great bill. I hope Members will support it, and congratulations to the gentleman from Illinois (Chairman HYDE).

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, again I want to thank the gentleman from Illinois (Chairman HYDE) for his extraordinary leadership. I want to thank all my colleagues and staff for working on this landmark legislation, and I urge all of my colleagues to support it.

Madam Speaker, I yield back the balance of my time.

Mr. HYDE. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, we got an awful lot done in this committee because of the great cooperation of the gentleman from California (Mr. LANTOS) and his staff; and I deeply appreciate it, particularly on this bill.

Mr. GILMAN. Madam Speaker, I rise in strong support for H.R. 2069, The Global Access to HIV/AIDS Prevention, Awareness, Education, and Treatment Act of 2001.

More than 58 million people worldwide are infected with HIV/AIDS making it more than just a humanitarian issue . . . it has become a national security, and developmental crisis. It is reported that ninety five percent of the world's HIV-infected people live in developing countries. Right next door, infection rates are rising rapidly in Haiti and the Caribbean, where an estimated 5 percent of the population has AIDS or is HIV-infected.

Madam Speaker, our nation has only begun to properly tackle AIDS and HIV infection in our nation. Our friends and neighbors in lesser developed nations are breaking under the pressure of the destruction that this terrible disease has brought to bear on them. H.R. 2069 helps to alleviate some of the suffering and will help to strengthen the social structures that are crumbling under the weight of the burden of carrying for so many.

Secretary Powell said it well when he stated that the United States has an obligation to do more "if we believe in democracy and freedom (then we must work) to stop this catastrophe from destroying whole economies and families and societies and cultures and nations."

Accordingly, Madam Speaker, I urge my colleagues to support H.R. 2069.

Ms. SCHAKOWSKY. Madam Speaker, I rise in strong support of H.R. 2069, The Global Access to HIV/AIDS Prevention Act of 2001. I want to commend and thank the distinguished Chairman (Mr. HYDE) and Ranking Member (Mr. LANTOS) of the International Relations Committee, the authors of this important legislation for their efforts and for their leadership. I also want to commend the gentlewoman from California (Ms. LEE) for her continuing leadership and commitment on this critical issue. The bill we have before us today is another step in the right direction for the global struggle against HIV/AIDS.

H.R. 2069 authorizes a total of $1.3 billion for the prevention, treatment, and monitoring of acquired immune deficiency syndrome (AIDS) in sub-Saharan Africa and other developing countries. The bill authorizes $560 million in bilateral assistance for various AIDS treatment/prevention programs administered by the U.S. Agency for International Development (AID), and it authorizes a $750 million U.S. commitment to multilateral efforts to fight the pandemic. The bill also authorizes $50 million for AIDS drug procurement.

Funds in this measure will be used to cover many of the needs created by HIV/AIDS. The bill is directed toward prevention, education, testing and counseling, including strengthening and broadening the capacity of indigenous health care systems. The bill also includes assistance aimed at mother-to-child transmission prevention, and strengthening and expanding hospice and palliative care programs, as well as care for children orphaned by HIV/AIDS, improved infrastructure, and vaccine research. Finally, H.R. 2069 includes funds for income generation programs targeting assistance to HIV/AIDS affected populations, particularly those groups and individuals who are at the highest risk of being infected, including women.

I am particularly pleased that this body has recognized the importance of providing end of life care for those that are losing their struggle with AIDS and that we have acknowledged the particular plight that AIDS means for women and children.

We have all heard some of the staggering statistics about AIDS. However, I believe that at least some of them need to be repeated time and again until necessary results are achieved.

Since the HIV–AIDS pandemic began, it has claimed over 22 million lives. Over 17 million men, women and children have died due to AIDS in sub-Saharan Africa alone. Over 40 million people are infected with the HIV virus today. Over 25 million of them live in sub-Saharan Africa. By 2010, approximately 40 million children worldwide will have lost one or both of their parents to HIV–AIDS.

Each day AIDS kills more than 7,000 people in sub-Saharan Africa alone, and the pandemic continues to escalate in the Caribbean, Asia, Russia and elsewhere with more than 8,000 people around the world perishing from AIDS each day. This human catastrophe is unlike anything the world has known.

While an encouraging symbol of progress, awareness, and compromise, the funding set forth by this bill alone will not be enough. In order to satisfy the demands posed by the AIDS pandemic, it has been estimated that sub-Saharan Africa will need as much as $15 billion a year.

I want to take this opportunity to include for the RECORD a compelling article from the December 6 New York Times. The article goes a long way toward dispelling the myth that robust drug treatment programs cannot be implemented in poor developing nations. I agree with the article that what we can learn from the example of Haiti is that, "if we do not treat the millions of Africans dying of AIDS, it is because we have chosen not to, not because we can't." Indeed, we can and should help Africans and all of those struggling against the scourge of AIDS. The virus knows no bounds and failing to attack it with every resource at our disposal would not only be morally reprehensible, it will leave this nation more vulnerable to perhaps the greatest threat we have ever faced.

Again, I commend all of those who helped to bring this important measure to the floor and urge all members to vote in support of H.R. 2069.

Learn From Haiti

(By Howard Hiatt)

Of the 28 million people in Africa with AIDS, no more than 25,000 have access to medications. Officials of both Western nations and some affected countries—like South Africa, which has millions in immediate need of treatment—have said that poor countries have too few clinics and doctors and that their populations are too poorly educated to allow treatment of all infected people. This contention has become familiar in the debate over international financing to treat H.I.V.

But it is a misconception. At a health center in Haiti, a country at the very bottom of the economic heap, H.I.V. infections are controlled as effectively as in America. And the success at this health center, sponsored by Partners in Health, a non-profit charity affiliated with Harvard Medical School, could be replicated all over the world if the wealthy nations chose to provide the financing. The barrier to the use of AIDS drugs for all H.I.V. patients is not some physical or educational impossibility: it is lack of will.

The center is in Cange, an impoverished village of small houses with corrugated roofs and dirt floors. There and nearby, care is delivered with skill and personal attention comparable to that in American teaching hospitals.

The compound was begun in 1983 by Paul Farmer, a physician and anthropologist now at Harvard Medical School, and the Rev. Fritz Lafontant, a Haitian Episcopal priest. Working with Dr. Farmer and Jim Yong Kim, another American physician-anthropologist, are Haitian doctors and nurses and about 200 community health workers, who make this model of health care succeed.

About 1,400 of the patients have H.I.V.; of these, 100 of the sickest receive the advanced medicines used to treat AIDS in the United States and now function normally. Their care is supervised by the local health workers, who are trained at the clinic. The health center's operations are financed by donations, and the doctors will treat another 100 desperately ill patients with the AIDS drugs if they can persuade drug companies to donate them.

Partners in Health also applies the principles used in Cange at a center in Peru and one in Mexico. In each case, training community health workers allows the development of a system that can offer sustained treatment for people ill with hard-to-cure diseases. The center in Lima has cured more than 80 percent of patients with drug-resistant tuberculosis—something many tuberculosis experts and even the World Health Organization had thought impossible.

What these doctors do to treat H.I.V. infection is a small effort against a huge worldwide problem. But they have shown that if we do not treat the millions of Africans who are dying of AIDS, it is because we have chosen not to, not because we can't.

Mrs. CHRISTENSEN. Madam Speaker, I rise in support of H.R. 2069, the Global Access to HIV/AIDS Prevention, Awareness, Education and Treatment Act of 2001 and I commend my colleagues Chairman HYDE, Ranking Member LANTOS and my friend Congresswoman BARBARA LEE for their work in bringing this bill to the floor today.

Madam Speaker, H.R. 2069 is badly needed, and my only regret is that we didn't pass it sooner. Just 10 days ago we celebrated World Aids Day to call attention to the global scourge of HIV/AIDS which has, to date, claimed an estimated four million children world wide and the news gets worse, every day. Everyday AIDS kills more than 7,000 people in sub-Saharan Africa. The AIDS pandemic continues to escalate in the Caribbean, Asia, and Russia and according to today's New York Times; the Chinese central government is taking steps to address its growing AIDS problem. This pandemic is now projected to infect over 100 million people with a deadly incurable virus by 2007.

We must realize that we are no longer a world where any one country, or even one neighborhood can labor under the impression that they are isolated. The devastation and the disruptive effects of the HIV/AIDS pandemic may be at its very worse in far away, exotic lands but the dire effects will ripple until they reach our shores.

The Global Access to HIV/AIDS Prevention, Awareness, Education and Treatment Act of 2001 is a step in the right direction in this regard, because it urges the United States and other developed countries to provide assistance to sub-Saharan Africa and other developing countries, with respect to activities supported in connection with health programs, to control the HIV/AIDS pandemic through HIV/AIDS prevention, treatment, monitoring and related activities, particularly focused on women and youth—including mother-to-child transmission prevention strategies.

I urge my colleagues to support this important and badly need bill.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise in strong support of H.R. 2069, the Global Access to HIV/AIDS Prevention, Awareness, Education and Treatment Act of 2001. This bill authorizes assistance to combat the HIV/AIDS pandemic in countries in sub-Saharan Africa and other developing countries. This pandemic is more than an international public health issue, but also a humanitarian, national security, and development crisis.

Sub-Saharan Africa has been the hardest hit region and has been disproportionately affected by the deadly disease. Only 10 percent of the world's population live south of the Sahara, but the region is home to two-thirds of the world's HIV-positive suffering people, accounting for more than 80 percent of all AIDS deaths. In fact, Botswana has an estimated infection rate of 36 percent the highest in the world. Zimbabwe's infection rate is 25 percent, and South Africa's infection rate is 20 percent.

Today, forty million people around the world live with and suffer from HIV/AIDS. Twenty-eight million of them live in the Sub-Saharan African region alone. On the continent of Africa, there are an estimated 11,000 new infections per day, and by the end of this year, approximately 2.3 million Africans will have died from HIV infection.

AIDS does not discriminate against color, and regrettably, it does not discriminate against age. In Africa, 3.8 million children under the age of 15 have died since the beginning of the epidemic 20 years ago. Throughout Africa, 6 out of 7 children who are HIV positive are little girls. Many children are also being orphaned by HIV; losing their mothers or both parents to AIDS. So far, the AIDS pandemic has left behind 13 million orphans, of whom 9 percent currently live in Africa. By 2010, if we do nothing, an estimated 40 million children will be orphaned by this tragic disease. These numbers will lead to the absolute decay of many African societies. As a consequence to losing their parents, children are drawn into prostitution, crime, substance abuse, and child soldiery, and to the kind of destitution unbelievable to most Americans.

Madam Speaker, I traveled to the South African region in 1999 and in July of this year, and what I witnessed was unbelievable! It was a life-altering event to see and meet with the people infected by this deadly virus. But what affected me the most was witnessing the thousands of orphaned children whose parents had died from AIDS.

On November 28, the Global Health Alliance released a report entitled "Pay Now or Pay More Later: An Independent Report on the Response to the Global HIV/AIDS Pandemic". The following day, the African Ambassadors Group and International AIDS Trust sponsored a briefing on Refocusing and Reaffirming our Commitment to AIDS". This is clearly a global issue and it is everyone's problem. The key to fighting this virus must involve a comprehensive approach that includes prevention, education, and support of a health care infrastructure. H.R. 2069 prescribes such an approach. H.R. 2069 also authorizes funds to improve orphan care, encourage hospice and palliative care, strengthen existing health care systems, and to procure medicines and anti-viral therapies to treat the disease. HIV prevention efforts must take into account social and economic factors, such as poverty, underemployment, and poor access to health care, all of which disproportionately affects African societies.

As Members of Congress, we must continue to fight the struggle and persist in obtaining increased funding for the global AIDS response. This is one of the great challenges of our time and of this generation. H.R. 2069 gives us the tools to help overcome this challenge and I urge my colleagues to support this legislation.

Mr. HYDE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Illinois.(Mr. HYDE) that the House suspend the rules and pass the bill, H.R. 2069, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan African and other developing countries.".

A motion to reconsider was laid on the table.

SUPPORT FOR TENTH ANNUAL MEETING OF ASIA PACIFIC PARLIAMENTARY FORUM

Mr. BEREUTER. Madam Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 58) expressing support for the tenth annual meeting of the Asia Pacific Parliamentary Forum.

The Clerk read as follows:

S. CON. RES. 58

Whereas the Asia Pacific Parliamentary Forum was founded by former Japanese Prime Minister Yasuhiro Nakasone in 1993;

Whereas the Tokyo Declaration, signed by 59 parliamentarians from 15 countries, entered into force as the founding charter of the forum on January 14 and 15, 1993, establishing the basic structure of the forum as an interparliamentary organization;

Whereas the original 15 members, one of which was the United States, have increased to 27 member countries;

Whereas the forum serves to promote regional identification and cooperation through discussion of matters of common concern to all member states and serves, to a great extent, as the legislative arm of the Asia-Pacific Economic Cooperation;

Whereas the focus of the forum lies in resolving political, economic, environmental, security, law and order, human rights, education, and cultural issues;

Whereas the forum will hold its tenth annual meeting on January 6 through 9, 2002, which will be the first meeting of the forum hosted by the United States;

Whereas approximately 270 parliamentarians from 27 countries in the Asia Pacific region will attend this meeting;

Whereas the Secretariat of the meeting will be the Center for Cultural and Technical Exchange Between East and West in Honolulu, Hawaii;

Whereas the East-West Center is an internationally recognized education and research organization established by the United States Congress in 1960 largely through the efforts of the Eisenhower administration and the Congress;

Whereas it is the mission of the East-West Center to strengthen understanding and relations between the United States and the countries of the Asia Pacific region and to help promote the establishment of a stable, peaceful and prosperous Asia Pacific community in which the United States is a natural, valued, and leading partner; and

Whereas it is the agenda of this meeting to advance democracy, peace, and prosperity in the Asia Pacific region: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) expresses support for the tenth annual meeting of the Asia Pacific Parliamentary Forum and for the ideals and concerns of this body;

(2) commends the East-West Center for hosting the meeting of the Asia Pacific Parliamentary Forum and the representatives of the 27 member countries; and

(3) calls upon all parties to support the endeavors of the Asia Pacific Parliamentary Forum and to work toward achieving the goals of the meeting.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

GENERAL LEAVE

Mr. BEREUTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. HOUGHTON), who is the sponsor of this legislation; and he has been the leading force in the House participation in the Asia Pacific Parliamentary Forum.

Mr. HOUGHTON. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I would like to talk very briefly on Senate Concurrent Resolution 58, which really supports the tenth annual meeting of the Asia Pacific Parliamentary Forum.

Madam Speaker, this is a forum, I think it is important to know, that was organized by parliamentarians in the Pacific Rim, including about 27 different nations. The reason we are part of it is because of California, Oregon, Washington, Alaska, and Hawaii. It was started by former Prime Minister Nakasone of Japan, and also Senator William Roth, who worked very, very closely together; and it is loosely modeled on the APEC forum.

The forum is hosted in a different country every year, and we have been to Australia and Chile and Japan and Canada and many other nations. This is the first year that this forum will be held in the United States, and we are hoping that this resolution will pass in order to authenticate that.

It starts on January 6 and it goes through January 9. We will meet in Honolulu. Senator AKAKA, who is the Senate co-chair, had introduced this resolution in the Senate earlier.

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It is really going to be hosted by the East-West Center which is headed by a group out in Honolulu. Dr. Charles Morrison has a great program, and he has worked very hard, and we are going to be discussing issues, I think, that are important for all of us: terrorism, the economy, the environmental issues, defense cooperation, cultural ties and things like that.

Also, we are delighted that the Speaker, the gentleman from Illinois (Mr. HASTERT), will speak at the forum's opening ceremony. We have had participation from many distinguished people, including the gentleman from Nebraska (Mr. BEREUTER), and we hope to have others out there.

Essentially this bill, Madam Speaker, expresses support for this meeting, our hosting of the meeting and commends the East-West Center for their hosting and also hopes that other people will join us in the process.

Mr. LANTOS. Madam Speaker, I yield myself as much time as I might consume.

I rise in strong support of S. Con. Res. 58. I want to thank the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from Illinois (Mr. HYDE) for bringing this legislation to the floor, but I particularly want to express my appreciation to the gentleman from New York (Mr. HOUGHTON), my dear friend, our distinguished colleague, for having provided extraordinary leadership on this and on so many other issues that our Committee on International Relations deals with.

I also want to recognize the contribution of my good friend, Senator AKAKA of Hawaii, for his co-chairmanship of this important conference. The resolution before us today expresses the support of our Members for the 10th annual meeting of the Asia Pacific Parliamentary Forum to be held next January in Honolulu. It also commends the East-West Center, an outstanding academic institution, for hosting the meeting and for supporting the endeavors of the forum.

Madam Speaker, we are fortunate as a Nation to have our bright and talented foreign service personnel working overtime to promote our interests throughout the Asia Pacific region. Our diplomats have many opportunities to meet with their colleagues and to develop positive solutions to the challenges we face in the Pacific area.

Until the Asia Pacific Parliamentary Forum was founded a decade ago, there were few opportunities for the region's parliamentarians to meet as a group to discuss key foreign policy and economic matters. The forum has tackled such critical issues as terrorism, weapons of mass destruction, cross boundary environmental pollution, human rights and the need to combat corruption in the region.

The upcoming meeting will tackle these important issues, and hopefully, they will contribute to a partial resolution of many of these matters. I strongly urge my colleagues to support this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. BEREUTER. Madam Speaker, I yield myself such time as I may consume.

Mr. BEREUTER. Madam Speaker, I rise in strong support of S. Con. Res. 58.

The distinguished gentleman from New York (Mr. HOUGHTON) has explained the purpose of this legislation, and I want to commend him not only for the legislation but, as I mentioned earlier, for his leadership for the U.S. House of Representatives in our participation in the Asia Pacific Parliamentary Forum. He, along with the former distinguished senior Senator from Delaware, William Roth, provided that initial leadership and continue today through the work of the gentleman from New York (Mr. HOUGHTON). And, the gentleman from American Samoa (Mr. FALEOMAVAEGA) has also been a very important participant, as have Senator AKAKA and others. It was my pleasure to participate in the meeting in Seoul.

This forum, which is really the creation in some ways of the former Prime Minister Nakasone of Japan, has provided an important opportunity for the parliamentarians of the Asia Pacific region to address a whole range of important National mutual interests and concerns. To some extent it also has served as a legislative arm for APEC, the Asia Pacific Economic Cooperation organization, since the forum's inception almost a decade ago.

The fact is that its 10th annual meeting will take place at the East-West Center, as the gentleman from California (Mr. LANTOS) mentioned. The East-West Center is a distinguished research and academic institution that is our creation here in the Congress. A meeting of the forum on U.S. soil for its first time is an honor not only for the State of Hawaii, but for the United States.

The parliamentary cooperation and consultation with key Pacific and Asian countries, has become more critical today as a result of the tragic events of September 11th. I urge Madam Speaker, all Members to express their unqualified support for this resolution, and I encourage interested Members to participate in the upcoming meeting of the Asia Pacific Parliamentary tours at upcoming meeting of the Asia Pacific Parlimentary Tours at the East-West Center.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I am delighted to yield as much time as he might consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA), my dear friend and distinguished colleague, the ranking Democratic member of the Subcommittee on East Asia and the Pacific.

Mr. FALEOMAVAEGA. Madam Speaker, I rise in strong support of Senate Concurrent Resolution 58, a measure which expresses Congress' support for the 10th annual meeting of the Asia Pacific Parliamentarian Forum which shall be hosted by the East-West Center in Hawaii next month.

Madam Speaker, I deeply commend the distinguished Senator from Hawaii, Senator DANIEL AKAKA, for introducing and moving this important legislation. I also wish to recognize the gentleman from New York (Mr. HOUGHTON), our distinguished colleague, who for the past 10 years, has provided leadership for the U.S. delegations participating in the meetings of the Asia Pacific Parliamentary Forum.

As a member of the past U.S. delegation to the APPF, I can attest that it has been a distinct pleasure for me in working closely with the gentleman from New York (Mr. HOUGHTON) to represent U.S. interests. I further commend the House Committee on International Relations chairman, the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS), our ranking Democratic member, for their assistance and support in bringing this legislation in a timely fashion.

I also want to especially commend the gentleman from Nebraska (Mr. BEREUTER), not only as the manager of this legislation, my good friend, Mr. Bereuter, former chairman of the Subcommittee on East Asia and the Pacific, a subcommittee of the Committee on International Relations, who I believe, and my personal opinion, has been one of the primary moving forces for the past 10 years in his capacity as chairman of the Subcommittee on East Asia and the Pacific, and I certainly want to commend him for his outstanding leadership and service. In fact, he has been one of the primary forces in seeing that our country hosts the APPF conference now will be hosted next month in Hawaii.

I sincerely hope that our colleagues will not be intimidated by the press which always seems to be the case whenever there are conferences and meetings to be held in Hawaii. The press always takes a negative way of thinking that all we are doing is getting suntan and enjoying the beach there in a warm climate. I would like to invite all of the members of press to see how much of an opportunity we get to enjoy the sun and warm weather in Hawaii besides having these important meetings with some 270 parliamentarians from some 27 Asia-Pacific countries.

Madam Speaker, since the founding of the Asia Pacific Parliamentary Forum in 1993, its membership from the original 15 countries has now increased to some 27 members countries which includes the United States. This is a strong testament to the relevance and growing importance of the APPF as an institution where this January, over some 270 national parliamentarians from these Asia-Pacific governments shall meet to review and discuss pressing issues affecting the Asia-Pacific region as well as our own national interests.

In its deliberations, the Asia Pacific Parliamentary Forum has traditionally focussed in several areas, such as the promotion of peace, stability and security of the region through multilateral dialogue as embodied in the ASEAN Regional Forum; liberalizing trade and investment to spur increased growth and development in the Asia-Pacific economies; protecting the regions environment and resources of clean water and air and land against degradation; and fostering respect for human rights, enforcement for the rule of law, and the expansion of universal education throughout all Asia-Pacific nations.

Madam Speaker, as noted in the legislation, this year will mark the first time that the United States shall host the Asia-Pacific Parliamentary Forum. On this auspicious occasion, I find it particularly appropriate and fitting that the internationally respected East-West Center shall be the Secretariat and the host for the APPF meeting.

As many of our colleagues know, the East-West Center was established by the Congress in 1960 to further the foreign policy interests of the United States and by promoting constructive relations and deeper understanding between the peoples and the leaders of the United States and our Asia-Pacific neighbors.

Madam Speaker, the East-West Center has done an outstanding job in this mission and today, over 47,000 government officials, scholars, businessmen, journalists and other professionals from throughout the Asia-Pacific and the United States are alumni of the East-West Centers programs of collaborative study and research. In fact, a number of the Center's graduates are now national leaders and parliamentarians, many of whom shall participate in the Asia-Pacific parliamentary forum.

I submit it is in our vital national interest that the United States continue to play a leading role in the fastest growing sector of the world, the Asia-Pacific region, where the U.S. conducts nearly $500 billion in two-way trade and ensures regional peace and stability with over 100,000 deployed military personnel.

We can further that goal, Madam Speaker, by strong and active participation of the United States Congress in the upcoming meetings or conferences of the Asia-Pacific Parliamentary Forum.

Madam Speaker, in that regard, I urge the adoption of our colleagues of this important legislation before us.

Mr. LANTOS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 58.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

RUSSIAN DEMOCRACY ACT OF 2001

Mr. BEREUTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2121) to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society in that country and to support independent media, as amended.

The Clerk read as follows:

H.R. 2121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Russian Democracy Act of 2001".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the dissolution of the Soviet Union, the leadership of the Russian Federation has publicly committed itself to building—

(A) a society with democratic political institutions and practices, the observance of universally recognized standards of human rights, and religious and press freedom; and

(B) a market economy based on internationally accepted principles of transparency, accountability, and the rule of law.

(2) In order to facilitate this transition, the international community has provided multilateral and bilateral technical assistance, and the United States' contribution to these efforts has played an important role in developing new institutions built on democratic and liberal economic foundations and the rule of law.

(3)(A) Since 1992, United States Government democratic reform programs and public diplomacy programs, including training, small grants, and technical assistance to independent television, radio, and print media across the Russian Federation, have strengthened nongovernment-owned media, provided access to and training in the use of the Internet, brought nearly 40,000 Russian citizens to the United States, and have led to the establishment of over 65,000 nongovernmental organizations, thousands of vibrant independent media outlets, and numerous political parties.

(B) These efforts contributed to the substantially free and fair Russian parliamentary elections in 1995 and 1999 and Presidential elections in 1996 and 2000.

(4) The United States has assisted Russian efforts to replace its centrally planned, state-controlled economy with a market economy and helped create institutions and infrastructure for a market economy by encouraging the transparent privatization of state-owned enterprises. Approximately two-thirds of the Russian Federation's gross domestic product is now generated by the private sector.

(5)(A) The United States fostered grassroots entrepreneurship in the Russian Federation by focusing United States economic assistance on small- and medium-sized businesses and by providing training, consulting services, and small loans to more than 250,000 Russian entrepreneurs.

(B) There are now more than 900,000 small businesses in the Russian Federation, producing 12 to 15 percent of the gross domestic product of the Russian Federation.

(C) United States-funded programs help to fight corruption and financial crime, such as money laundering, by helping to—

(i) establish a commercial legal infrastructure;

(ii) develop an independent judiciary;

(iii) support the drafting of a new criminal code, civil code, and bankruptcy law;

(iv) develop a legal and regulatory framework for the Russian Federation's equivalent of the United States Securities and Exchange Commission;

(v) support Russian law schools;

(vi) create legal aid clinics; and

(vii) bolster law-related activities of nongovernmental organizations.

(6) Because the capability of Russian democratic forces and the civil society to organize and defend democratic gains without international support is uncertain, and because the gradual integration of the Russian Federation into the global order of free-market, democratic nations will further enhance Russian cooperation with the United States on a wide-range of political, economic, and security issues, the success of democracy in Russia is in the national security interest of the United States, and the United States Government should develop a far-reaching and flexible strategy aimed at strengthening Russian society's support for democracy and a market economy, particularly by enhancing Russian democratic institutions and education, promoting the rule of law, and supporting Russia's independent media.

(7) Since the tragic events of September 11, 2001, the Russian Federation has stood with the United States and the civilized world in the struggle against terrorism and has cooperated in the war in Afghanistan by sharing intelligence and through other means.

(b) PURPOSES.—The purposes of this Act are—

(1) to strengthen and advance institutions of democratic government and of a free and independent media and to sustain the development of an independent civil society in the Russian Federation based on religious and ethnic tolerance, internationally recognized human rights, and an internationally recognized rule of law; and

(2) to focus United States foreign assistance programs on using local expertise and giving local organizations a greater role in designing and implementing such programs, while maintaining appropriate oversight and monitoring.

SEC. 3. UNITED STATES POLICY TOWARD THE RUSSIAN FEDERATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

(1) recognize that a democratic and economically stable Russian Federation is inherently less confrontational and destabilizing in its foreign policy and therefore that the promotion of democracy in Russia is in the national security interests of the United States; and

(2) continue and increase assistance to the democratic forces in the Russian Federation, including the independent media, regional administrations, democratic political parties, and nongovernmental organizations.

(b) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to facilitate Russia's integration into the Western community of nations, including supporting the establishment of a stable democracy and a market economy, and also including Russia's membership in the appropriate international institutions;

(2) to engage the Government of Russian Federation and Russian society in order to strengthen democratic reform and institutions, and to promote good governance principles based on the internationally recognized norms of transparency in business practices, the rule of law, religious freedom, and human rights;

(3) to advance a dialog between United States Government officials and private sector individuals and representatives of the Government of the Russian Federation regarding Russian integration into the Western community of nations;

(4) to encourage United States Government officials and private sector individuals to meet regularly with democratic activists, human rights activists, representatives of the independent media, representatives of nongovernmental organizations, civic organizers, and reform-minded politicians from Moscow and the various regions of the Russian Federation;

(5) to incorporate democratic reforms, the promotion of an independent media, and economic reforms in the broad United States agenda with the Government of the Russian Federation;

(6) to encourage the Government of the Russian Federation to address cross-border issues, including the environment, crime, trafficking, and corruption in a cooperative and transparent manner consistent with internationally recognized and accepted principles of the rule of law;

(7) to consult with the Government of the Russian Federation and the Russian Parliament on the adoption of economic and social reforms necessary to sustain Russian economic growth and to ensure Russia's transition to a fully functioning market economy;

(8) to persuade the Government of the Russian Federation to honor its commitments made to the Organization for Security and Cooperation in Europe (OSCE) at the November 1999 Istanbul Conference and to conduct a genuine good neighbor policy toward the other independent states of the former Soviet Union in the spirit of internationally accepted principles of regional cooperation; and

(9) to encourage the G–7 partners and international financial institutions, including the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development, to develop financial safeguards and transparency practices in lending to the Russian Federation.

SEC. 4. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) AMENDMENTS.—

(1) DEMOCRACY AND RULE OF LAW.—Section 498(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295(2)) is amended—

(A) in the heading, by striking "DEMOCRACY" and inserting "DEMOCRACY AND RULE OF LAW";

(B) by striking subparagraphs (E) and (G);

(C) by redesignating subparagraph (F) as subparagraph (I);

(D) by inserting after subparagraph (D) the following:

"(E) development and support of grassroots and nongovernmental organizations promoting democracy, the rule of law, transparency, and accountability in the political process, including grants in small amounts to such organizations;

"(F) international exchanges to promote greater understanding by Russian Federation citizens on how democracy, public policy process, market institutions, and an independent judiciary function in Western societies;

"(G) political parties committed to promoting democracy, human rights, and economic reforms;

"(H) support for civic organizations committed to promoting human rights; and"; and

(E) by adding at the end the following:

"(J) strengthened administration of justice through programs and activities carried out in accordance with section 498B(e), including—

"(i) support for nongovernmental organizations, civic organizations, and political parties that favor a strong and independent judiciary based on merit;

"(ii) support for local organizations that work with judges and law enforcement officials in efforts to achieve a reduction in the number of pretrial detainees; and

"(iii) support for the creation of Russian legal associations or groups that provide training in human rights and advocacy, public education with respect to human rights-related laws and proposed legislation, and legal assistance to persons subject to improper government interference.".

(2) INDEPENDENT MEDIA.—Section 498 of the Foreign Assistance Act of 1961 (22 U.S.C. 2295) is amended—

(A) by redesignating paragraphs (3) through (13) as paragraphs (4) though (14), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) INDEPENDENT MEDIA.—Developing a free and independent media, including—

"(A) supporting all forms of non-state-owned media reporting, including print, radio, and television;

"(B) providing special support for, and unrestricted public access to, nongovernmental Internet-based sources of information, dissemination and reporting, including providing technical and other support for web radio services, providing computers and other necessary resources for Internet connectivity and training new Internet users in nongovernmental and other civic organizations on methods and uses of Internet-based media; and

"(C) training in journalism, including investigative journalism techniques which educate the public on the costs of corruption and act as a deterrent against corrupt officials.".

(b) CONFORMING AMENDMENT.—Section 498B(e) of such Act is amended by striking "paragraph (2)(G)" and inserting "paragraph (2)(J)".

SEC. 5. ACTIVITIES TO SUPPORT THE RUSSIAN FEDERATION.

(a) ASSISTANCE PROGRAMS.—In providing assistance to the Russian Federation under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.), the President is authorized to carry out the following specific activities:

(1) Work with the Government of the Russian Federation, the Duma, and representatives of the Russian Federation judiciary to help implement a revised and improved code of criminal procedure and other laws.

(2) Establish civic education programs relating to democracy, public policy, the rule of law, and the importance of an independent media, including the establishment of "American Centers" and public policy schools at Russian universities and programs by universities in the United States to offer courses through Internet-based off-site learning centers at Russian universities.

(3) Support the Regional Initiatives (RI) program, which provides targeted assistance in those regions of the Russian Federation that have demonstrated commitment to reform, democracy, and the rule of law, and which promote the concept of such programs as a model for all regions of the Russian Federation.

(b) RADIO FREE EUROPE/RADIO LIBERTY AND VOICE OF AMERICA.—Radio Free Europe/Radio Liberty and the Voice of America should use new and innovative techniques, in cooperation with local independent media sources, to disseminate information throughout the Russian Federation relating to democracy, free-market economics, the rule of law, and human rights.

SEC. 6. AUTHORIZATION OF ASSISTANCE FOR DEMOCRACY, INDEPENDENT MEDIA, AND THE RULE OF LAW.

Of the amounts made available to carry out the provision of chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) and the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 for fiscal year 2002, not less than $50,000,000 is authorized to be available for the activities authorized by paragraphs (2) and (3) of section 498 of the Foreign Assistance Act of 1961, as amended by section 4(a) of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

GENERAL LEAVE

Mr. BEREUTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this Member rises in strong support of H.R. 2121, the Russian Democracy Act of 2001. As a cosponsor of this measure this Member would like to thank the distinguished gentleman from California (Mr. LANTOS) for an outstanding effort in crafting this legislation. In addition, I would like to thank the distinguished gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations for his crucial attendance in bringing this legislation to the floor.

Madam Speaker, the key to building Democratic institutions that include an independent media, a fair judicial system, and an active civil society is to establish community, a community, a body politic which demands those institutions. Building that demand for democracy begins with laying a foundation at the local and regional level. Unfortunately, the United States has, I think, for too long, focussed disproportionately its reform assistance for Russia on funding for democracy building efforts at the national level.

However, this legislation correctly seeks to direct a much greater share of U.S. assistance toward the local and regional levels.

At those critical grassroots levels, the U.S. can be most effective, I think, for the longer-term growth of democracy and reform in Russia. This bill ensures that American assistance will continue to be available to help strengthen democracy in the Russian federation. Seemingly a routine measure perhaps on first glance, we should pause for a moment and note what this bill represents. The mere fact that we can speak of democracy in Russia as an emerging but actual reality in the present tense and not as some dim prospect in the hazy future, is one of the many wonders of the past decade that have grown familiar and that are now taken largely for granted.

Its existence, however, is a testament to the deep commitment to the fundamental values shared by peoples all over the world, the United States and the west as a whole, a tremendous debt to all the men and women of Russia who have struggled to establish and defend a democracy in their country, and thereby create a new era of freedom after a thousand years of autocratic rule.

☐ 1530

The benefits of that freedom, of course, are most directly felt by Russia's own citizens. But the West has benefited enormously as well. A half century of effort by the United States and its allies to contain and undermine Soviet imperialism enjoyed many successes, but it was only with the advent of the early stages of democracy in Russia that the Soviet empire finally crumbled.

The creation of a democracy in Russia must be counted as one of the great achievements of the past century. Yet for all of its accomplishments, that democracy is not yet firmly established. The civil society on which all democracies ultimately rest remains weak in Russia. Much of the legacy inherited from Russia's authoritarian past is still to be overcome. The institutions of democracy are largely untested. The habits of freedom have not yet become universal.

Given these and other concerns, the Russian government's current campaign against independent voices in the media is a most worrisome one. Why is this our concern? Because the strengthening of Russia's democracy and the advancing of Russia's integration into the West are unquestionably in the long-term strategic interest of the United States. These advances are necessary if we are to make permanent the gains we have derived from the liberation of Europe, a commitment that stretches unbroken for half a century, from the landings on Normandy beaches to the final dissolution of the Soviet empire.

To this, an even broader motivation can be added. By helping other peoples share the benefits of liberty, we demonstrate a continued commitment to the universal principles on which our country was founded and the promises these represent to all who have endured oppression. Thus, our own interests and our hopes for the world together argue that we should provide direct and ongoing assistance to securing democracy in Russia.

The bill before us represents an important part of that effort. It focuses our attention and assistance on many of the prerequisites of a free and prosperous society, including the creation of a resilient civil society, the strengthening of an independent press, and the establishment of the rule of law. Yet even as we assist Russia's democrats in their unfinished tasks, we must recognize that the building of a free society in that country can only be accomplished by the Russian people themselves. We cannot do it for them, nor do we need to.

Although there are many in this country and elsewhere who would despair of the fate of democracy in Russia, I am not among them. Its course may occasionally surprise and concern us, but the ultimate destination aimed at by Russia's democrats should not be in doubt. The depth of their commitment to freedom has been demonstrated by the enormous obstacles they have already overcome. Freedom was not handed to the Russian people. They freed themselves. Lacking a direct experience of liberty in their past, they nonetheless have continued to lay the foundation to secure it for themselves and for their countrymen, even as they have encountered the inevitable setbacks and disappointments.

It is for these reasons that their effort to strengthen democracy in their country deserve our assistance and respect. And it is my hope that Russia's assumption of its rightful place among the free nations of the world shall prove to be a permanent one.

Madam Speaker, I urge strong support for the legislation, and I commend the gentleman from California (Mr. LANTOS) for his creative and timely action in presenting this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume; and I first want to commend my good friend, the gentleman from Nebraska (Mr. BEREUTER), for his eloquent and powerful statement and for his support. I also want to thank the gentleman from Illinois (Mr. HYDE) for moving this legislation through the committee and to the floor today. I also want to especially thank the Speaker, the majority leader, and the majority whip for placing it on today's suspension calendar. But most of all, Madam Speaker, I want to thank Ms. Tanya Shamson, a distinguished member of the committee staff, bilingual and bicultural, for doing extraordinarily effective work in crafting this legislation.

Madam Speaker, the House could not have chosen a more fitting time to consider this bill. As you know, President Bush recently concluded a most productive summit with President Putin in Texas and Secretary of State Powell was in Moscow just a couple of days ago on a most successful visit.

When I first introduced the Russia Democracy Act of 2001, the world was a very different place. Our administration was embarking on a comprehensive inter-agency Russia policy review with many complications and many problems. The relations between our two countries were neither friendly nor cordial. Today, in the post-September 11 world, the picture is drastically different.

President Putin made a courageous decision on September 11 to join the civilized world and to stand with us against global terrorism. There are elements within Russia, Madam Speaker, who are not happy with this decision. That is one of the many reasons why we must craft a creative and responsible policy toward Russia that will firmly anchor that important country in the West.

I was very pleased to hear President Bush mention the importance of a free press during his Shanghai press conference with President Putin and during President Putin's visit to the United States. I passionately believe that the existence of a vibrant, self-sustaining, nonstate-owned , and nonstate-controlled media in Russia is the key to Russia's successful integration with the democratic societies of the West. My bill will support such media activities, including access to the Internet and the use of modern technologies to improve media outreach throughout Russia.

The Russian nongovernmental sector also needs our support. Although President Putin chastised Russian NGOs for accepting financial support from abroad, Russia simply does not yet have a culture of either corporate philanthropy or private donations to make these nongovernmental organizations viable. The plethora of nongovernmental organizations that have sprung up in Russia since 1991 provides us with an enormous opportunity to build this democratic component into the new Russian society.

U.S.-Russian relationships have entered a new era. Our cooperation in the fight against global terrorism is unprecedented since our alliance during the Second World War more than a half a century ago. Recently, I had the privilege of meeting with President Putin, with Foreign Minister Ivanov, and other Russian officials; and we discussed our relationships in detail. There are still many areas where we disagree, such as Russian arms sales to Iran; but today, there are many areas where we do agree, and the U.S.-Russia relationship today is fundamentally a healthy one.

The Russian leadership has clearly shown where it sees Russia's future to be; and it is our responsibility to stay engaged, to be responsive, and to support Russian democracy and the private sector.

At President Bush's request, I shall shortly be introducing legislation putting an end to the Jackson-Vanik legislation, legislation which was one of the most important pieces of human rights legislation in our Nation's history. But things have changed and Russia now permits free immigration. The repeal of Jackson-Vanik will be yet another demonstration of our growing cooperative, constructive, and healthy relationship with Russia.

The Government of Russia, Madam Speaker, has introduced, and the Russian Duma has passed, landmark legislation during this past session. For the first time since 1917, Russian citizens can now own their own land. This is not only an important new economic fact, it is a psychological breakthrough of immense proportions. It is obvious that the government and the Duma are now serious about tackling other sectors that have long been resistant to reform. Mr. Putin understands that the creation of a welcoming investment climate is one of the key pillars to sustained economic growth in Russia.

Madam Speaker, I strongly believe that supporting democracy, the consolidation of the market economy, and developing a vibrant private sector is in our national interest. By funding the development of civil society in Russia and a free and independent media, H.R. 2121 will play a critical role in strengthening U.S.-Russian relations and strengthening democracy in Russia. Let us not squander this unprecedented moment to bring Russia closer to the West. I urge all of my colleagues to support H.R. 2121.

Madam Speaker, I yield back the balance of my time.

Mr. BEREUTER. Madam Speaker, it is my pleasure to yield such time as he may consume to the distinguished gentleman from New Jersey (Mr. SMITH), the vice chairman of the committee.

Mr. SMITH of New Jersey. Madam Speaker, I thank my good friend, the gentleman from Nebraska (Mr. BEREUTER), for yielding me this time; and I want to commend my good friend and colleague, the gentleman from California (Mr. LANTOS), the ranking Democrat on the committee, for authoring this proposal that is before us today.

This is a very worthy and I think very important contribution to U.S. bilateral relations with Russia. Russia is a country that is of vital strategic, economic, and military importance to our Nation. I think the pending legislation outlines within the text a number of very constructive initiatives.

Madam Speaker, I recently led the U.S. delegation to the OSCE Parliamentary Assembly in Bucharest, Romania; and we spent the better part of a week exploring the destructive consequence of corruption. Parliamentarians from all over the world, Madam Speaker, 54 nations that make up the OSCE, we probed corruption as it relates to undermine democracy. Our conclusions were clear: Corruption represents one of the greatest threats to democracy and market oriented economies on the face of the earth.

Corruption, to a very large degree, has replaced ideology communism as the greatest potential threat to undermining the emergence of democracy in central and Eastern Europe, and especially in Russia itself. We now know that organized crime and criminal elements, some of whom used to be the old KGB, are growing and expanding in Russia. The emerging democracy is being hijacked by thugs and brigands. We know that drugs and weapons are very big money-makers for Russian Mobsters. But not far behind we also know that trafficking of human beings—especially women—has emerged worldwide and in Russia as the number three money-maker for organized crime.

I am very glad that the pending legislation seeks to target assistance to fight corruption and crime and to help the Duma draft new criminal statutes and a new criminal code. Let us not forget that the most recent report that was issued by the State Department cited Russia as a tier three country that has a major problem with trafficking in human beings—And is doing far too little to stop it.

Madam Speaker, we know that worldwide about 50,000 of those trafficked, mostly women, mostly for forced prostitution, come into this country and that anywhere from 700,000 to 2 million persons are trafficked worldwide each year. Many of those women are coming out of Russia and the Ukraine and countries in Europe. This legislation directs the State Department, to do more. There is no doubt that the United States wants and desire a good relationship with Russia, but they have to stop trafficking women into prostitution; they have to crack down on organized crime and provide safe havens for these victimized women who are being exploited in this way.

This is a good bill. I think it deserves the support of every Member of this body. The United States has declared war on organized crime figures who rape and exploit women. Countries of origin—like Russia have to do their part!

Tough, antitrafficking laws are needed in every country. And I hope that this legislation builds on our earlier laws to move that along so that we have trafficking laws that are uniform, to the greatest extent possible. Traffickers must know that if they exploit women, they go to prison, and they go to prison for the rest of their lives. Our law now says that. It is about time the laws of every country, including Russia, said it as well.

□ 1545

I will never forget, Madam Speaker, I brought this legislation up in St. Petersburg at an OSE Parliamentary Assembly. The Duma speaker looked at me when I mentioned trafficking as if I was talking about something that was happening on the moon. That has changed. The next year and the year after in Paris, when the trafficking resolution came up on the floor among the Parliamentary Assembly participants, the Russians embraced that language and said we need to do something at home as well. I hope that we work uniformly to crack down on this scourge of modern-day slavery.

Mr. HYDE. Madam Speaker, this bill, the Russian Democracy Act, ensures that American assistance will continue to be available to help strengthen democracy in the Russian Federation. Seemingly a routine measure, we should pause for a moment and note what this bill represents. The mere fact that we can speak of democracy in Russia as an emerging but actual reality in the present tense, and not as some dim prospect in the hazy future, is one of the many wonders of the past decade that have grown familiar and that are now taken largely for granted. Its existence, however, is a testament to the deep commitment to fundamental values shared by peoples all over the world.

The United States and the West as a whole owe an immense debt to all the men and women of Russia who have struggled to establish and defend a democracy in their country and thereby create a new era of freedom after a thousand years of autocratic rule. The benefits of that freedom, of course, are most directly felt by Russia's own citizens. But the West has benefitted enormously as well. A half century of effort by the United States and its allies to contain and undermine Soviet imperialism enjoyed many successes, but it was only with the advent of the earliest stages of democracy in Russia that the Soviet empire finally crumbled.

The creation of a democracy in Russia must be counted as one of the great achievements of the past century. Yet for all of its accomplishments, that democracy is not yet firmly established. The civil society on which all democracies ultimately rest remains weak in Russia; much of the legacy inherited from Russia's authoritarian past is still to be overcome; the institutions of democracy are largely untested; the habits of freedom have yet to become universal. Given these and other concerns, the Russian government's current campaign against independent voices in the media is a most worrisome one.

Why is this our concern? Because the strengthening of Russian democracy and advancing Russia's integration into the West are unquestionably in the long-term strategic interests of the United States. These advances are necessary if we are to make permanent the gains we have derived from the liberation of Europe, a commitment that stretches unbroken for half a century, from the landings on the Normandy beaches to the final dissolution of the Soviet empire. To this, an even broader motivation can be added. By helping other peoples share the benefits of liberty, we demonstrate a continuing commitment to the universal principles on which our country was founded and the promise these represent to all who endure oppression. Thus, our own interests and our hopes for the world, together argue, that we should provide direct and ongoing assistance to securing democracy in Russia.

The bill before us represents an important part of that effort. It focuses our attention and assistance on many of the prerequisites of a free and prosperous society, including the creation of a resilient civil society, the strengthening of an independent press, and the establishment of the rule of law.

Yet even as we assist Russia's democrats in their unfinished tasks, we must recognize that the building of a fee society in that country can only be accomplished by the Russian people themselves. We cannot do it for them. But neither do we need to. Although there are many in this country and elsewhere who would despair of the fate of democracy in Russia, I am not among them. Its course may occasionally surprise and concern us, but the ultimate destination aimed at by Russia's democrats should not be in doubt. The depth of their commitment to freedom has been demonstrated by the enormous obstacles they have already overcome. Freedom was not handed to the Russian people; they freed themselves. Lacking a direct experience of liberty in their past, they nonetheless have continued to lay the foundation to secure it for themselves and for their countrymen, even as they have encountered the inevitable setbacks and disappointments.

It is for these reasons that their efforts to strengthen democracy in their country deserve our assistance and respect, and it is my hope that Russia's assumption of its rightful place among the free nations of the world shall prove to be a permanent one.

Madam Speaker, I urge strong support for this legislation and I reserve the balance of my time.

Mr. BEREUTER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and pass the bill, H.R. 2121, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HOMELESS VETERANS COMPREHENSIVE ASSISTANCE ACT OF 2001

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2716) to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Homeless Veterans Comprehensive Assistance Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; references to title 38, United States Code.
Sec. 2. Definitions.
Sec. 3. National goal to end homelessness among veterans.
Sec. 4. Sense of the Congress regarding the needs of homeless veterans and the responsibility of Federal agencies.
Sec. 5. Consolidation and improvement of provisions of law relating to homeless veterans.
Sec. 6. Evaluation centers for homeless veterans programs.
Sec. 7. Study of outcome effectiveness of grant program for homeless veterans with special needs.
Sec. 8. Expansion of other programs.
Sec. 9. Coordination of employment services.
Sec. 10. Use of real property.
Sec. 11. Meetings of Interagency Council on Homeless.
Sec. 12. Rental assistance vouchers for HUD Veterans Affairs Supported Housing program.

(c) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "homeless veteran" has the meaning given such term in section 2002 of title 38, United States Code, as added by section 5(a)(1).

(2) The term "grant and per diem provider" means an entity in receipt of a grant under section 2011 or 2012 of title 38, United States Code, as so added.

SEC. 3. NATIONAL GOAL TO END HOMELESSNESS AMONG VETERANS.

(a) NATIONAL GOAL.—Congress hereby declares it to be a national goal to end chronic homelessness among veterans within a decade of the enactment of this Act.

(b) COOPERATIVE EFFORTS ENCOURAGED.—Congress hereby encourages all departments and agencies of Federal, State, and local governments, quasi-governmental organizations, private and public sector entities, including community-based organizations, faith-based organizations, and individuals to work cooperatively to end chronic homelessness among veterans within a decade.

SEC. 4. SENSE OF THE CONGRESS REGARDING THE NEEDS OF HOMELESS VETERANS AND THE RESPONSIBILITY OF FEDERAL AGENCIES.

It is the sense of the Congress that—

(1) homelessness is a significant problem in the veterans community and veterans are disproportionately represented among homeless men;

(2) while many effective programs assist homeless veterans to again become productive and self-sufficient members of society, current resources provided to such programs and other activities that assist homeless veterans are inadequate to provide all needed essential services, assistance, and support to homeless veterans;

(3) the most effective programs for the assistance of homeless veterans should be identified and expanded;

(4) federally funded programs for homeless veterans should be held accountable for achieving clearly defined results;

(5) Federal efforts to assist homeless veterans should include prevention of homelessness; and

(6) Federal agencies, particularly the Department of Veterans Affairs, the Department of Housing and Urban Development, and the Department of Labor, should cooperate more fully to address the problem of homelessness among veterans.

SEC. 5. CONSOLIDATION AND IMPROVEMENT OF PROVISIONS OF LAW RELATING TO HOMELESS VETERANS.

(a) IN GENERAL.—(1) Part II is amended by inserting after chapter 19 the following new chapter:

"CHAPTER 20—BENEFITS FOR HOMELESS VETERANS

"SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

"Sec.
"2001. Purpose.
"2002. Definitions.
"2003. Staffing requirements.

"SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

"2011. Grants.
"2012. Per diem payments.
"2013. Authorization of appropriations.

"SUBCHAPTER III—TRAINING AND OUTREACH

"2021. Homeless veterans reintegration programs.
"2022. Coordination of outreach services for veterans at risk of homelessness.
"2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness.

"SUBCHAPTER IV—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

"2031. General treatment.
"2032. Therapeutic housing.
"2033. Additional services at certain locations.
"2034. Coordination with other agencies and organizations.

"SUBCHAPTER V—HOUSING ASSISTANCE

"2041. Housing assistance for homeless veterans.
"2042. Supported housing for veterans participating in compensated work therapies.
"2043. Domiciliary care programs.

"SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING

"2051. General authority.
"2052. Requirements.
"2053. Default.
"2054. Audit.

"SUBCHAPTER VII—OTHER PROVISIONS

"2061. Grant program for homeless veterans with special needs.
"2062. Dental care.
"2063. Employment assistance.
"2064. Technical assistance grants for nonprofit community-based groups.
"2065. Annual report on assistance to homeless veterans.
"2066. Advisory Committee on Homeless Veterans.

"SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

"§2001. Purpose

"The purpose of this chapter is to provide for the special needs of homeless veterans.

"§2002. Definitions

"In this chapter:

"(1) The term 'homeless veteran' means a veteran who is homeless (as that term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).

"(2) The term 'grant and per diem provider' means an entity in receipt of a grant under section 2011 or 2012 of this title.

"§2003. Staffing requirements

"(a) VBA STAFFING AT REGIONAL OFFICES.—The Secretary shall ensure that there is at least one full-time employee assigned to oversee and coordinate homeless veterans programs at each of the 20 Veterans Benefits Administration regional offices that the Secretary determines have the largest homeless veteran populations within the regions of the Administration. The programs covered by such oversight and coordination include the following:

"(1) Housing programs administered by the Secretary under this title or any other provision of law.

"(2) Compensation, pension, vocational rehabilitation, and education benefits programs administered by the Secretary under this title or any other provision of law.

"(3) The housing program for veterans supported by the Department of Housing and Urban Development.

"(4) The homeless veterans reintegration program of the Department of Labor under section 2021 of this title.

"(5) The programs under section 2033 of this title.

"(6) The assessments required by section 2034 of this title.

"(7) Such other programs relating to homeless veterans as may be specified by the Secretary.

"(b) VHA CASE MANAGERS.—The Secretary shall ensure that the number of case managers in the Veterans Health Administration is sufficient to assure that every veteran who is provided a housing voucher through section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is assigned to, and is seen as needed by, a case manager.

"SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

"§2011. Grants

"(a) AUTHORITY TO MAKE GRANTS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary shall make grants to assist eligible entities in establishing programs to furnish, and expanding or modifying existing programs for furnishing, the following to homeless veterans:

"(A) Outreach.

"(B) Rehabilitative services.

"(C) Vocational counseling and training

"(D) Transitional housing assistance.

"(2) The authority of the Secretary to make grants under this section expires on September 30, 2005.

"(b) CRITERIA FOR GRANTS.—The Secretary shall establish criteria and requirements for grants under this section, including criteria for entities eligible to receive grants, and shall publish such criteria and requirements in the Federal Register. The criteria established under this subsection shall include the following:

"(1) Specification as to the kinds of projects for which grants are available, which shall include—

"(A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans; and

"(B) procurement of vans for use in outreach to and transportation for homeless veterans for purposes of a program referred to in subsection (a).

"(2) Specification as to the number of projects for which grants are available.

"(3) Criteria for staffing for the provision of services under a project for which grants are made.

"(4) Provisions to ensure that grants under this section—

"(A) shall not result in duplication of ongoing services; and

"(B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and other locations.

"(5) Provisions to ensure that an entity receiving a grant shall meet fire and safety requirements established by the Secretary, which shall include—

"(A) such State and local requirements that may apply; and

"(B) fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

"(6) Specification as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of a project for which a grant is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

"(c) FUNDING LIMITATIONS.—A grant under this section may not be used to support operational costs. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the project concerned.

"(d) ELIGIBLE ENTITIES.—The Secretary may make a grant under this section to an entity applying for such a grant only if the applicant for the grant—

"(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section;

"(2) demonstrates that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications, and schedule submitted by the applicant; and

"(3) agrees to meet the applicable criteria and requirements established under subsections (b) and (g) and has, as determined by the Secretary, the capacity to meet such criteria and requirements.

"(e) APPLICATION REQUIREMENT.—An entity seeking a grant for a project under this section shall submit to the Secretary an application for the grant. The application shall set forth the following:

"(1) The amount of the grant sought for the project.

"(2) A description of the site for the project.

"(3) Plans, specifications, and the schedule for implementation of the project in accordance with criteria and requirements prescribed by the Secretary under subsection (b).

"(4) Reasonable assurance that upon completion of the work for which the grant is sought, the project will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided under the project will be provided to individuals who are not veterans.

"(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant for a project to an applicant under this section unless the applicant in the application for the grant agrees to each of the following requirements:

"(1) To provide the services for which the grant is made at locations accessible to homeless veterans.

"(2) To maintain referral networks for homeless veterans for establishing eligibility for assistance and obtaining services, under available entitlement and assistance programs, and to aid such veterans in establishing eligibility for and obtaining such services.

"(3) To ensure the confidentiality of records maintained on homeless veterans receiving services through the project.

"(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 2012 of this title.

"(5) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

"(g) SERVICE CENTER REQUIREMENTS.—In addition to criteria and requirements established under subsection (b), in the case of an application for a grant under this section for a service center for homeless veterans, the Secretary shall require each of the following:

"(1) That such center provide services to homeless veterans during such hours as the Secretary may specify and be open to such veterans on an as-needed, unscheduled basis.

"(2) That space at such center be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center.

"(3) That such center be equipped and staffed to provide or to assist in providing health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary.

"(4) That such center be equipped and staffed to provide, or to assist in providing, job training, counseling, and placement services (including job readiness and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this paragraph.

"(h) RECOVERY OF UNUSED GRANT FUNDS.—(1) If a grant recipient under this section does not establish a program in accordance with this section or ceases to furnish services under such a program for which the grant was made, the United States shall be entitled to recover from such recipient the total of all unused grant amounts made under this section to such recipient in connection with such program.

"(2) Any amount recovered by the United States under paragraph (1) may be obligated by the Secretary without fiscal year limitation to carry out provisions of this subchapter.

"(3) An amount may not be recovered under paragraph (1) as an unused grant amount before the end of the three-year period beginning on the date on which the grant is made.

"§2012. Per diem payments

"(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 2011 of this title (or an entity eligible to receive a grant under that section which after November 10, 1992, establishes a program that the Secretary determines carries out the purposes described in that section) per diem payments for services furnished to any homeless veteran—

"(A) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

"(B) for whom the Secretary has authorized the provision of services.

"(2)(A) The rate for such per diem payments shall be the daily cost of care estimated by the grant recipient or eligible entity adjusted by the Secretary under subparagraph (B). In no case may the rate determined under this paragraph exceed the rate authorized for State homes for domiciliary care under subsection (a)(1)(A) of section 1741 of this title, as the Secretary may increase from time to time under subsection (c) of that section.

"(B) The Secretary shall adjust the rate estimated by the grant recipient or eligible entity under subparagraph (A) to exclude other sources of income described in subparagraph (D) that the grant recipient or eligible entity certifies to be correct.

"(C) Each grant recipient or eligible entity shall provide to the Secretary such information with respect to other sources of income as the Secretary may require to make the adjustment under subparagraph (B).

"(D) The other sources of income referred to in subparagraphs (B) and (C) are payments to the grant recipient or eligible entity for furnishing services to homeless veterans under programs other than under this subchapter, including payments and grants from other departments and agencies of the United States, from departments or agencies of State or local government, and from private entities or organizations.

"(3) In a case in which the Secretary has authorized the provision of services, per diem payments under paragraph (1) may be paid retroactively for services provided not more than three days before the authorization was provided.

"(b) INSPECTIONS.—The Secretary may inspect any facility of a grant recipient or entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be provided to a grant recipient or eligible entity under this section unless the facilities of the grant recipient or eligible entity meet such standards as the Secretary shall prescribe.

"(c) LIFE SAFETY CODE.—(1) Except as provided in paragraph (2), a per diem payment may not be provided under this section to a grant recipient or eligible entity unless the facilities of the grant recipient or eligible entity, as the case may be, meet applicable fire and safety requirements under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

"(2) During the five-year period beginning on the date of the enactment of this section, paragraph (1) shall not apply to an entity that received a grant under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note) before that date if the entity meets fire and safety requirements established by the Secretary.

"(3) From amounts available for purposes of this section, not less than $5,000,000 shall be used only for grants to assist entities covered by paragraph (2) in meeting the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

"§2013. Authorization of appropriations

"There are authorized to be appropriated to carry out this subchapter amounts as follows:

"(1) $60,000,000 for fiscal year 2002.

"(2) $75,000,000 for fiscal year 2003.

"(3) $75,000,000 for fiscal year 2004.

"(4) $75,000,000 for fiscal year 2005.

"SUBCHAPTER III—TRAINING AND OUTREACH

"§2021. Homeless veterans reintegration programs

"(a) In General.—Subject to the availability of appropriations provided for such purpose, the Secretary of Labor shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness and literacy and skills training) to expedite the reintegration of homeless veterans into the labor force.

"(b) Requirement To Monitor Expenditures of Funds.—(1) The Secretary of Labor shall collect such information as that Secretary considers appropriate to monitor and evaluate the distribution and expenditure of funds appropriated to carry out this section. The information shall include data with respect to the results or outcomes of the services provided to each homeless veteran under this section.

"(2) Information under paragraph (1) shall be furnished in such form and manner as the Secretary of Labor may specify.

"(c) Administration Through the Assistant Secretary of Labor for Veterans' Employment and Training.—The Secretary of Labor shall carry out this section through the Assistant Secretary of Labor for Veterans' Employment and Training.

"(d) Biennial Report to Congress.—Not less than every two years, the Secretary of Labor shall submit to Congress a report on the programs conducted under this section. The Secretary of Labor shall include in the report an evaluation of services furnished to veterans under this section and an analysis of the information collected under subsection (b).

"(e) Authorization of Appropriations.—(1) There are authorized to be appropriated to carry out this section amounts as follows:

"(A) $50,000,000 for fiscal year 2002.

"(B) $50,000,000 for fiscal year 2003.

"(C) $50,000,000 for fiscal year 2004.

"(D) $50,000,000 for fiscal year 2005.

"(E) $50,000,000 for fiscal year 2006.

"(2) Funds appropriated to carry out this section, shall remain available until expended. Funds obligated in any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

"§2022. Coordination of outreach services for veterans at risk of homelessness

"(a) Outreach Plan.—The Secretary, acting through the Under Secretary for Health, shall provide for appropriate officials of the Mental Health Service and the Readjustment Counseling Service of the Veterans Health Administration to develop a coordinated plan for joint outreach by the two Services to veterans at risk of homelessness, including particularly veterans who are being discharged or released from institutions after inpatient psychiatric care, substance abuse treatment, or imprisonment.

"(b) Matters To Be Included.—The outreach plan under subsection (a) shall include the following:

"(1) Strategies to identify and collaborate with non-Department entities used by veterans who have not traditionally used Department services to further outreach efforts.

"(2) Strategies to ensure that mentoring programs, recovery support groups, and other appropriate support networks are optimally available to veterans.

"(3) Appropriate programs or referrals to family support programs.

"(4) Means to increase access to case management services.

"(5) Plans for making additional employment services accessible to veterans.

"(6) Appropriate referral sources for mental health and substance abuse services.

"(c) Cooperative Relationships.—The outreach plan under subsection (a) shall identify strategies for the Department to enter into formal cooperative relationships with entities outside the Department to facilitate making services and resources optimally available to veterans.

"(d) Review of Plan.—The Secretary shall submit the outreach plan under subsection (a) to the Advisory Committee on Homeless Veterans for its review and consultation.

"(e) Outreach Program.—(1) The Secretary shall carry out an outreach program to provide information to homeless veterans and veterans at risk of homelessness. The program shall include at a minimum—

"(A) provision of information about benefits available to eligible veterans from the Department; and

"(B) contact information for local Department facilities, including medical facilities, regional offices, and veterans centers.

"(2) In developing and carrying out the program under paragraph (1), the Secretary shall, to the extent practicable, consult with appropriate public and private organizations, including the Bureau of Prisons, State social service agencies, the Department of Defense, and mental health, veterans, and homeless advocates—

"(A) for assistance in identifying and contacting veterans who are homeless or at risk of homelessness;

"(B) to coordinate appropriate outreach activities with those organizations; and

"(C) to coordinate services provided to veterans with services provided by those organizations.

"(f) Reports.—(1) Not later than October 1, 2002, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an initial report that contains an evaluation of outreach activities carried out by the Secretary with respect to homeless veterans, including outreach regarding clinical issues and other benefits administered under this title. The Secretary shall conduct the evaluation in consultation with the Under Secretary for Benefits, the Department of Veterans Affairs central office official responsible for the administration of the Readjustment Counseling Service, the Director of Homeless Veterans Programs, and the Department of Veterans Affairs central office official responsible for the administration of the Mental Health Strategic Health Care Group.

"(2) Not later than December 31, 2005, the Secretary shall submit to the committees referred to in paragraph (1) an interim report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

"(A) The Secretary's outreach plan under subsection (a), including goals and time lines for implementation of the plan for particular facilities and service networks.

"(B) A description of the implementation and operation of the outreach program under subsection (e).

"(C) A description of the implementation and operation of the demonstration program under section 2023 of this title.

"(3) Not later than July 1, 2007, the Secretary shall submit to the committees referred to in paragraph (1) a final report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

"(A) An evaluation of the effectiveness of the outreach plan under subsection (a).

"(B) An evaluation of the effectiveness of the outreach program under subsection (e).

"(C) An evaluation of the effectiveness of the demonstration program under section 2023 of this title.

"(D) Recommendations, if any, regarding an extension or modification of such outreach plan, such outreach program, and such demonstration program.

"§2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness

"(a) Program Authority.—The Secretary and the Secretary of Labor (hereinafter in this section referred to as the 'Secretaries') shall carry out a demonstration program for the purpose of determining the costs and benefits of providing referral and counseling services to eligible veterans with respect to benefits and services available to such veterans under this title and under State law.

"(b) Location of Demonstration Program.—The demonstration program shall be carried out in at least six locations. One location shall be a penal institution under the jurisdiction of the Bureau of Prisons.

"(c) Scope of Program.—(1) To the extent practicable, the demonstration program shall provide both referral and counseling services, and in the case of counseling services, shall include counseling with respect to job training and placement (including job readiness), housing, health care, and other benefits to assist the eligible veteran in the transition from institutional living.

"(2)(A) To the extent that referral or counseling services are provided at a location under the program, referral services shall be provided in person during such period of time that the Secretaries may specify that precedes the date of release or discharge of the eligible veteran, and counseling services shall be furnished after such date.

"(B) The Secretaries may, as part of the program, furnish to officials of penal institutions outreach information with respect to referral and counseling services for presentation to veterans in the custody of such officials during the 18-month period that precedes such date of release or discharge.

"(3) The Secretaries may enter into contracts to carry out the referral and counseling services required under the program with entities or organizations that meet such requirements as the Secretaries may establish.

"(4) In developing the program, the Secretaries shall consult with officials of the Bureau of Prisons, officials of penal institutions of States and political subdivisions of States, and such other officials as the Secretaries determine appropriate.

"(d) Duration.—The authority of the Secretaries to provide referral and counseling services under the demonstration program shall cease on the date that is four years after the date of the commencement of the program.

"(e) Definition.—In this section, the term 'eligible veteran' means a veteran who—

"(1) is a resident of a penal institution or an institution that provides long-term care for mental illness; and

"(2) is at risk for homelessness absent referral and counseling services provided under the demonstration program (as determined under guidelines established by the Secretaries).

"SUBCHAPTER V—HOUSING ASSISTANCE

"§2042. Supported housing for veterans participating in compensated work therapies

"The Secretary may authorize homeless veterans in the compensated work therapy program to be provided housing through the therapeutic residence program under section 2032 of this title or through grant and per diem providers under subchapter II of this chapter.

"§2043. Domiciliary care programs

"(a) Authority.—The Secretary may establish up to 10 programs under section 1710(b) of this title (in addition to any program that is established as of the date of the enactment of this

section) to provide domiciliary services under such section to homeless veterans.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2003 and 2004 to establish the programs referred to in subsection (a).

"SUBCHAPTER VII—OTHER PROVISIONS

"§2061. Grant program for homeless veterans with special needs

"(a) ESTABLISHMENT.—The Secretary shall carry out a program to make grants to health care facilities of the Department and to grant and per diem providers in order to encourage development by those facilities and providers of programs for homeless veterans with special needs.

"(b) HOMELESS VETERANS WITH SPECIAL NEEDS.—For purposes of this section, homeless veterans with special needs include homeless veterans who are—

"(1) women, including women who have care of minor dependents;

"(2) frail elderly;

"(3) terminally ill; or

"(4) chronically mentally ill.

"(c) FUNDING.—(1) From amounts appropriated to the Department for 'Medical Care' for each of fiscal years 2003, 2004, and 2005, $5,000,000 shall be available for each such fiscal year for the purposes of the program under this section.

"(2) The Secretary shall ensure that funds for grants under this section are designated for the first three years of operation of the program under this section as a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.

"§2062. Dental care

"(a) IN GENERAL.—For purposes of section 1712(a)(1)(H) of this title, outpatient dental services and treatment of a dental condition or disability of a veteran described in subsection (b) shall be considered to be medically necessary, subject to subsection (c), if—

"(1) the dental services and treatment are necessary for the veteran to successfully gain or regain employment;

"(2) the dental services and treatment are necessary to alleviate pain; or

"(3) the dental services and treatment are necessary for treatment of moderate, severe, or severe and complicated gingival and periodontal pathology.

"(b) ELIGIBLE VETERANS.—Subsection (a) applies to a veteran—

"(1) who is enrolled for care under section 1705(a) of this title; and

"(2) who, for a period of 60 consecutive days, is receiving care (directly or by contract) in any of the following settings:

"(A) A domiciliary under section 1710 of this title.

"(B) A therapeutic residence under section 2032 of this title.

"(C) Community residential care coordinated by the Secretary under section 1730 of this title.

"(D) A setting for which the Secretary provides funds for a grant and per diem provider.

"(3) For purposes of paragraph (2), in determining whether a veteran has received treatment for a period of 60 consecutive days, the Secretary may disregard breaks in the continuity of treatment for which the veteran is not responsible.

"(c) LIMITATION.—Dental benefits provided by reason of this section shall be a one-time course of dental care provided in the same manner as the dental benefits provided to a newly discharged veteran.

"§2063. Employment assistance

"The Secretary may authorize homeless veterans receiving care through vocational rehabilitation programs to participate in the compensated work therapy program under section 1718 of this title.

"§2064. Technical assistance grants for nonprofit community-based groups

"(a) GRANT PROGRAM.—The Secretary shall carry out a program to make grants to entities or organizations with expertise in preparing grant applications. Under the program, the entities or organizations receiving grants shall provide technical assistance to nonprofit community-based groups with experience in providing assistance to homeless veterans in order to assist such groups in applying for grants under this chapter and other grants relating to addressing problems of homeless veterans.

"(b) FUNDING.—There is authorized to be appropriated $750,000 for each of fiscal years 2002 through 2005 to carry out the program under this section.

"§2065. Annual report on assistance to homeless veterans

"(a) ANNUAL REPORT.—Not later than April 15 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department during the calendar year preceding the report under programs of the Department under this chapter and other programs of the Department for the provision of assistance to homeless veterans.

"(b) GENERAL CONTENTS OF REPORT.—Each report under subsection (a) shall include the following:

"(1) The number of homeless veterans provided assistance under the programs referred to in subsection (a).

"(2) The cost to the Department of providing such assistance under those programs.

"(3) The Secretary's evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans, including—

"(A) residential work-therapy programs;

"(B) programs combining outreach, community-based residential treatment, and case-management; and

"(C) contract care programs for alcohol and drug-dependence or use disabilities).

"(4) The Secretary's evaluation of the effectiveness of programs established by recipients of grants under section 2011 of this title and a description of the experience of those recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.

"(5) Any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

"(c) HEALTH CARE CONTENTS OF REPORT.—Each report under subsection (a) shall include, with respect to programs of the Department addressing health care needs of homeless veterans, the following:

"(1) Information about expenditures, costs, and workload under the program of the Department known as the Health Care for Homeless Veterans program (HCHV).

"(2) Information about the veterans contacted through that program.

"(3) Information about program treatment outcomes under that program.

"(4) Information about supported housing programs.

"(5) Information about the Department's grant and per diem provider program under subchapter II of this chapter.

"(6) The findings and conclusions of the assessments of the medical needs of homeless veterans conducted under section 2034(b) of this title.

"(7) Other information the Secretary considers relevant in assessing those programs.

"(d) BENEFITS CONTENT OF REPORT.—Each report under subsection (a) shall include, with respect to programs and activities of the Veterans Benefits Administration in processing of claims for benefits of homeless veterans during the preceding year, the following:

"(1) Information on costs, expenditures, and workload of Veterans Benefits Administration claims evaluators in processing claims for benefits of homeless veterans.

"(2) Information on the filing of claims for benefits by homeless veterans.

"(3) Information on efforts undertaken to expedite the processing of claims for benefits of homeless veterans.

"(4) Other information that the Secretary considers relevant in assessing the programs and activities.

"§2066. Advisory Committee on Homeless Veterans

"(a) ESTABLISHMENT.—(1) There is established in the Department the Advisory Committee on Homeless Veterans (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall consist of not more than 15 members appointed by the Secretary from among the following:

"(A) Veterans service organizations.

"(B) Advocates of homeless veterans and other homeless individuals.

"(C) Community-based providers of services to homeless individuals.

"(D) Previously homeless veterans.

"(E) State veterans affairs officials.

"(F) Experts in the treatment of individuals with mental illness.

"(G) Experts in the treatment of substance use disorders.

"(H) Experts in the development of permanent housing alternatives for lower income populations.

"(I) Experts in vocational rehabilitation.

"(J) Such other organizations or groups as the Secretary considers appropriate.

"(3) The Committee shall include, as ex officio members, the following:

"(A) The Secretary of Labor (or a representative of the Secretary selected after consultation with the Assistant Secretary of Labor for Veterans' Employment).

"(B) The Secretary of Defense (or a representative of the Secretary).

"(C) The Secretary of Health and Human Services (or a representative of the Secretary).

"(D) The Secretary of Housing and Urban Development (or a representative of the Secretary).

"(4)(A) The Secretary shall determine the terms of service and allowances of the members of the Committee, except that a term of service may not exceed three years. The Secretary may reappoint any member for additional terms of service.

"(B) Members of the Committee shall serve without pay. Members may receive travel expenses, including per diem in lieu of subsistence for travel in connection with their duties as members of the Committee.

"(b) DUTIES.—(1) The Secretary shall consult with and seek the advice of the Committee on a regular basis with respect to the provision by the Department of benefits and services to homeless veterans.

"(2) In providing advice to the Secretary under this subsection, the Committee shall—

"(A) assemble and review information relating to the needs of homeless veterans;

"(B) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans; and

"(C) provide on-going advice on the most appropriate means of providing assistance to homeless veterans.

"(3) The Committee shall—

"(A) review the continuum of services provided by the Department directly or by contract in order to define cross-cutting issues and to improve coordination of all services with the Department that are involved in addressing the special needs of homeless veterans;

"(B) identify (through the annual assessments under section 2034 of this title and other available resources) gaps in programs of the Department in serving homeless veterans, including identification of geographic areas with unmet needs, and provide recommendations to address those gaps;

"(C) identify gaps in existing information systems on homeless veterans, both within and outside the Department, and provide recommendations about redressing problems in data collection;

"(D) identify barriers under existing laws and policies to effective coordination by the Department with other Federal agencies and with State and local agencies addressing homeless populations;

"(E) identify opportunities for increased liaison by the Department with nongovernmental organizations and individual groups providing services to homeless populations;

"(F) with appropriate officials of the Department designated by the Secretary, participate with the Interagency Council on the Homeless under title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.);

"(G) recommend appropriate funding levels for specialized programs for homeless veterans provided or funded by the Department;

"(H) recommend appropriate placement options for veterans who, because of advanced age, frailty, or severe mental illness, may not be appropriate candidates for vocational rehabilitation or independent living; and

"(I) perform such other functions as the Secretary may direct.

"(c) Reports.—(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to homeless veterans. Each such report shall include—

"(A) an assessment of the needs of homeless veterans;

"(B) a review of the programs and activities of the Department designed to meet such needs;

"(C) a review of the activities of the Committee; and

"(D) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

"(d) Termination.—The Committee shall cease to exist December 31, 2006.".

(2) The tables of chapters before part I and at the beginning of part II are each amended by inserting after the item relating to chapter 19 the following new item:

"20. Benefits for Homeless Veterans ...... 2001".

(b) Health Care.—(1) Subchapter VII of chapter 17 is transferred to chapter 20 (as added by subsection (a)), inserted after section 2023 (as so added), and redesignated as subchapter IV, and sections 1771, 1772, 1773, and 1774 therein are redesignated as sections 2031, 2032, 2033, and 2034, respectively.

(2) Subsection (a)(3) of section 2031, as so transferred and redesignated, is amended by striking "section 1772 of this title" and inserting "section 2032 of this title".

(c) Housing Assistance.—Section 3735 is transferred to chapter 20 (as added by subsection (a)), inserted after the heading for subchapter V, and redesignated as section 2041.

(d) Multifamily Transitional Housing.—(1) Subchapter VI of chapter 37 (other than section 3771) is transferred to chapter 20 (as added by subsection (a)) and inserted after section 2043 (as so added), and sections 3772, 3773, 3774, and 3775 therein are redesignated as sections 2051, 2052, 2053, and 2054, respectively.

(2) Such subchapter is amended—

(A) in the heading, by striking "FOR HOMELESS VETERANS";

(B) in subsection (d)(1) of section 2051, as so transferred and redesignated, by striking "section 3773 of this title" and inserting "section 2052 of this title"; and

(C) in subsection (a) of section 2052, as so transferred and redesignated, by striking "section 3772 of this title" and inserting "section 2051 of this title".

(3) Section 3771 is repealed.

(e) Repeal of Codified Provisions.—The following provisions of law are repealed:

(1) Sections 3, 4, and 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note).

(2) Section 1001 of the Veterans' Benefits Improvements Act of 1994 (Public Law 103–446; 38 U.S.C. 7721 note).

(3) Section 4111.

(4) Section 738 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11448).

(f) Extension of Expiring Authorities.—Subsection (b) of section 2031, as redesignated by subsection (b)(1), and subsection (d) of section 2033, as so redesignated, are amended by striking "December 31, 2001" and inserting "December 31, 2006".

(g) Clerical Amendments.—(1) The table of sections at the beginning of chapter 17 is amended by striking the item relating to subchapter VII and the items relating to sections 1771, 1772, 1773, and 1774.

(2) The table of sections at the beginning of chapter 37 is amended—

(A) by striking the item relating to section 3735; and

(B) by striking the item relating to subchapter VI and the items relating to sections 3771, 3772, 3773, 3774, and 3775.

(3) The table of sections at the beginning of chapter 41 is amended by striking the item relating to section 4111.

SEC. 6. EVALUATION CENTERS FOR HOMELESS VETERANS PROGRAMS.

(a) Evaluation Centers.—The Secretary of Veterans Affairs shall support the continuation within the Department of Veterans Affairs of at least one center for evaluation to monitor the structure, process, and outcome of programs of the Department of Veterans Affairs that address homeless veterans.

(b) Annual Program Assessment.—Section 2034(b), as transferred and redesignated by section 5(b)(1), is amended—

(1) by inserting "annual" in paragraph (1) after "to make an"; and

(2) by adding at the end the following new paragraph:

"(6) The Secretary shall review each annual assessment under this subsection and shall consolidate the findings and conclusions of each such assessment into the next annual report submitted to Congress under section 2065 of this title.".

SEC. 7. STUDY OF OUTCOME EFFECTIVENESS OF GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.

(a) Study.—The Secretary of Veterans Affairs shall conduct a study of the effectiveness during fiscal year 2002 through fiscal year 2004 of the grant program under section 2061 of title 38, United States Code, as added by section 5(a), in meeting the needs of homeless veterans with special needs (as specified in that section). As part of the study, the Secretary shall compare the results of programs carried out under that section, in terms of veterans' satisfaction, health status, reduction in addiction severity, housing, and encouragement of productive activity, with results for similar veterans in programs of the Department or of grant and per diem providers that are designed to meet the general needs of homeless veterans.

(b) Report.—Not later than March 31, 2005, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the results of the study under subsection (a).

SEC. 8. EXPANSION OF OTHER PROGRAMS.

(a) Access to Mental Health Services.—Section 1706 is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that each primary care health care facility of the Department develops and carries out a plan to provide mental health services, either through referral or direct provision of services, to veterans who require such services.".

(b) Comprehensive Homeless Services Program.—Subsection (b) of section 2033, as transferred and redesignated by section 5(b)(1), is amended—

(1) by striking "not fewer" in the first sentence and all that follows through "services) at"; and

(2) by adding at the end the following new sentence: "The Secretary shall carry out the program under this section in sites in at least each of the 20 largest metropolitan statistical areas.".

(c) Access to Substance Use Disorder Services.—Section 1720A is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall ensure that each medical center of the Department develops and carries out a plan to provide treatment for substance use disorders, either through referral or direct provision of services, to veterans who require such treatment.

"(2) Each plan under paragraph (1) shall make available clinically proven substance abuse treatment methods, including opioid substitution therapy, to veterans with respect to whom a qualified medical professional has determined such treatment methods to be appropriate.".

SEC. 9. COORDINATION OF EMPLOYMENT SERVICES.

(a) Disabled Veterans' Outreach Program.—Section 4103A(c) is amended by adding at the end the following new paragraph:

"(11) Coordination of employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.".

(b) Local Veterans' Employment Representatives.—Section 4104(b) is amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(13) coordinate employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.".

SEC. 10. USE OF REAL PROPERTY.

(a) LIMITATION ON DECLARING PROPERTY EXCESS TO THE NEEDS OF THE DEPARTMENT.—Section 8122(d) is amended by inserting before the period at the end the following: "and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title".

(b) WAIVER OF COMPETITIVE SELECTION PROCESS FOR ENHANCED-USE LEASES FOR PROPERTIES USED TO SERVE HOMELESS VETERANS.—Section 8162(b)(1) is amended—

(1) by inserting "(A)" after "(b)(1)"; and

(2) by adding at the end the following:

"(B) In the case of a property that the Secretary determines is appropriate for use as a facility to furnish services to homeless veterans under chapter 20 of this title, the Secretary may enter into an enhanced-use lease with a provider of homeless services without regard to the selection procedures required under subparagraph (A).".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to leases entered into on or after the date of the enactment of this Act.

SEC. 11. MEETINGS OF INTERAGENCY COUNCIL ON HOMELESS.

Section 202(c) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11312(c)) is amended to read as follows:

"(c) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members, but not less often than annually.".

SEC. 12. RENTAL ASSISTANCE VOUCHERS FOR HUD VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(19) RENTAL VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.—

"(A) SET ASIDE.—Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

"(B) AMOUNT.—The amount specified in this subparagraph is—

"(i) for fiscal year 2003, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

"(ii) for fiscal year 2004, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

"(iii) for fiscal year 2005, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection; and

"(iv) for fiscal year 2006, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection.

"(C) FUNDING THROUGH INCREMENTAL ASSISTANCE.—In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, earlier this year at a hearing on homeless veterans, our committee heard some very compelling testimony from several veterans who themselves had been homeless, including Stuart Collick, a 39-year-old veteran from New Jersey. Stuart had joined the all-volunteer Army at the age of 23. He could think of no higher calling than serving his country, and serve he did. He had combat experience in Grenada, and later distinguished himself as an infantryman in the Persian Gulf War.

He holds the Army Service Ribbon with three Oak Leaf Clusters, the Southwest Asia Service Ribbon; three Bronze Star medals; three Good Conduct medals, and the Combat Infantryman's Badge, among other official recognition. He served with distinction, and he did his duty.

But combat leaves indelible marks and can leave scars that sometimes fail to heal. Mr. Collick left the Army in 1992, a disillusioned man, and he began drinking, then he turned to hard drug use. Within 5 years of discharge, he had lost his job, his family and his home, and was on the streets. His life, like many homeless, addicted veterans, was in total chaos.

Last year, Stuart Collick found the VA Homeless Assistance Program of New Jersey. With VA help, and a growing faith in God, he turned his life around, finding new ways to cope and to overcome. He found a job and his own apartment. He developed new friendships, and reestablished relationships with his family. Today, he is working as a carpenter and foreman on the VA's Veterans Construction Team at Lyons, New Jersey, helping to build a commercial greenhouse and teaching other homeless veterans how to build something positive. Today, Stuart is a role model, an inspiration to his fellow veterans in early recovery and drawing strength from his own experiences in the Army and his life.

Unfortunately, for each Stuart Collick, there are thousands of other homeless veterans living on America's streets. In fact, the Department of Veterans Affairs estimates there are 225,000 homeless veterans on any given night. Other organizations believe that the number is closer to 300,000. Either number is far too high and a national scandal.

Madam Speaker, this historic legislation before the House today, H.R. 2716, is designed to provide assistance to homeless men and women, with a national goal of ending chronic homelessness among veterans within 10 years.

When I introduced the homeless assistance legislation earlier this year, it had four overarching themes: Prevention; innovation; accountability and funding programs that work. After months of effort on the part of the Committee on Veterans Affairs and our staff in both bodies, I am proud to report that our final compromise legislation reflects these principles.

Madam Speaker, it is difficult to pinpoint any one cause of homelessness among our veterans. We know, however, that direct exposure to combat is often associated with later readjustment problems. We know that a majority of homeless veterans today suffer from mental illnesses, including post-traumatic stress disorder, illegal substance abuse often complicates their situation as well.

As indicated in a recent Washington Post article, "The woeful failure to provide appropriate treatment and ongoing follow-up care has sent many individuals spinning through an endless revolving door of hospital admission and readmissions, jails and public shelters. America's jails and prisons are now surrogate psychiatric hospitals."

Madam Speaker, what a sad commentary that this is our approach to dealing with this vexing problem, and it need not be. Madam Speaker, a provision in H.R. 2716 authorizes an innovative demonstration program to learn whether early intervention can prevent homelessness among institutionalized veterans. The program would be carried out at 6 demonstration sites, including jails and prisons. The purpose of this program is to provide incarcerated veterans with referral and counseling about job training, housing, health care, and other needs to assist the veteran in the transition from institutional living back to normal life.

Madam Speaker, the consensus legislation now before the House adds funds to programs that have demonstrated effectiveness in addressing chronic homelessness among veterans. One such program coordinates the resources of several responsible Federal agencies in dealing with homelessness. Our agreement adopts the House provision which would authorize 2,000 additional HUD section 8 low-income housing vouchers for homeless veterans in need of permanent housing. These veterans must be enrolled in VA health care and priority will be given to veterans under care for mental illness or substance-use disorders.

Another program with demonstrated effectiveness is the VA's domiciliary program, currently operating in 35 locations. Our bill will authorize $10 million for 10 new "VA Domiciliary for Homeless Veterans" programs. These programs, like the successful one at the VA in Lyons, New Jersey, have proven highly effective. They are not the entire solution, but they appear to obtain very good results, and I believe we need to have more of them.

The bill improves and expands VA's homeless grant program, which works with community-based and nonprofit providers to target services for homeless veterans. Current participants are already contributing substantially to the fulfillment of this bill's objective: To reduce homelessness and provide for the specialty needs of homeless veterans. The bill authorizes $285 million over 4 years for this program. It also provides a new mechanism for setting the per diem payment so that it can be adjusted on a regular basis without red tape.

The Department of Labor's Homeless Veteran Reintegration Program has a proven track record of helping veterans rejoin the labor force. H.R. 2716 extends and increases the authorization level to $250 million over 5 years for this effective program.

Employment is an important key to helping homeless veterans rejoin American society, but employment is not possible unless a homeless veteran has access to quality health and dental care, and other supportive services. The compromise expands access to these services in an innovative way.

These are just a few of the highlights of the comprehensive bill, the "Homeless Veterans' Comprehensive Assistance Act of 2001." It will provide new assistance to homeless veterans, lift them up to a sustainable level and prevent them from returning to a state of homelessness, and help them become self-sufficient individuals, accountable for their own actions. This bill also holds accountable grant and contract recipients to perform their promised services in exchange for government investments, and promotes a greater opportunity for departments to work together to provide the best possible outcomes. It also sponsors prevention of homelessness in high-risk groups within the veteran population. And, it provides more authority and funds for programs that have proven themselves successful in reducing homelessness.

I would like to commend a number of people, the gentleman from Illinois (Mr. EVANS) who has been a tireless worker working on behalf of homeless veterans. We have worked very cooperatively on this legislation. He has been a friend and ally in its crafting, along with staff on both sides of the aisle, Pat Ryan, who is our committee staff counsel as well as our committee's chief of staff. I would like to thank so many people who contributed to this legislation and those who inspire like Jerry Colbert.

Madam Speaker, my wife and I were greatly moved by the National Memorial Day concert produced by Jerry Colbert here at the Capitol and the emphasis it placed on homelessness. This is a good bill, and deserves the support of every Member of this body.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Mr. EVANS. Madam Speaker, I rise in strong support of H.R. 2716. I commend and thank the gentleman from New Jersey (Mr. SMITH) for his effective leadership on this legislation. I thank the many other Members who have supported this legislation, and also salute the staff who contributed to this bill before us today. I appreciate the work of the Committee staff, and in particular, the work of Susan Edgerton and Sandra McClellan of my staff for their contributions to this measure.

This bill will greatly benefit our homeless veterans, and it is a bipartisan measure in the best tradition of this committee. The legislation contains provisions which I originally proposed in H.R. 936, and also contains provisions authored by the gentleman from New Jersey (Mr. SMITH). The bipartisan legislation now on the floor is worthy of the strong support of every Member of this body.

H.R. 2716 recognizes and addresses the needs of a special group of veterans, our Nation's homeless veterans. The preponderance of the evidence is that the male population of veterans suggests a compelling need for legislation that specifically addresses the needs of this extremely complex and vulnerable population.

The legislation before the House today will greatly benefit our homeless veterans. It maintains the focus of my original bill which emphasizes mental health and substance use disorder treatment as essential building blocks in the effort to restore veterans' functionality and independence.

There are simply not enough vital substance abuse and mental health programs today to help veterans onto the path of sobriety and increased functionality. Additional resources are needed to help more homeless veterans and this legislation provides needed added resources.

Madam Speaker, I urge the passage of this legislation, and include for the RECORD a summary explanation of this legislation.

HOMELESS VETERANS COMPREHENSIVE ASSISTANCE ACT OF 2001—H.R. 2716, AS AMENDED

Title: To amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans, and for other purposes.

H.R. 2716, as amended would:

1. Provide that this bill may be cited as the "Homeless Veterans Comprehensive Assistance Act of 2001".

2. Establish a national goal to end chronic homelessness among veterans and encourage all governmental and private agencies to work together to achieve this goal.

3. Provide a "Sense of the Congress" regarding the needs of homeless veterans and the responsibility of federal agencies in meeting these needs.

4. Consolidate and improve laws relating to homeless veterans into a new chapter of title 38, United States Code. Include provisions to increase per diem payments for the care of homeless veterans by community providers up to the rates paid to state home domiciliaries, authorize appropriations for the Homeless Veterans' Reintegration Program, coordinate outreach services among agencies dealing with homeless individuals, and undertake an outreach demonstration program within VA. Other provisions would authorize establishment of a grant program for homeless veterans with special needs, a limited dental care benefit for veterans using VA homeless programs, technical assistance grants to nonprofit community based groups, and establish an Advisory Committee on Homeless Veterans.

5. Establish evaluation centers for programs that serve homeless veterans and require reports of annual program assessments to be submitted to Congress.

6. Require a study of outcome effectiveness of a new grant program for homeless veterans with special needs.

7. Require VA to develop a plan to provide mental health services at all VA primary care sites; expand the comprehensive homeless service center program; and require a plan to provide substance use disorder treatment, including opioid substitution therapy at every VA medical center.

8. Require disabled veterans' outreach program specialists and local veterans' employment representatives to coordinate employment services with entities receiving financial assistance under homeless veterans' reintegration programs.

9. Establish priorities for homeless programs when VA considers disposing of real property or entering into enhanced-use lease arrangements.

10. Require an annual meeting of the Interagency Council on Homeless.

11. Set aside rental assistance vouchers for HUD VA-Supported Housing Program.

Effective Date: Date of enactment.

Cost: The Congressional Budget Office estimates the cost of H.R. 2716, as amended, would authorize funding or modify provisions governing discretionary spending in additional outlays of about $90 million in 2002 and about $945 million over the 2002–2006 period, assuming appropriation of the necessary amounts. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Madam Speaker, I rise today in support of this legislation, and I commend the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) for their support of this important bill. I also thank Heather French Henry, who has worked tirelessly to bring the plight of homeless veterans to the attention of our Nation.

This bipartisan bill sets a new national standard to end chronic homelessness for veterans in 10 years.

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It has been estimated that 345,000 veterans will benefit from this legislation with assistance in housing, health care, mental health services, job training, dental care and so on and so forth.

As a Vietnam veteran, I know firsthand the importance of helping military personnel who are returning from a war zone. They have to deal with the issue of reintroducing themselves to society. For many, the emotional strains of war are more than they can bear. Many veterans have found themselves unable to cope with the expectations of returning to civilian life. They have problems on the job, they have problems with their family, and they get into a downward spiral that ultimately ends up with homelessness. Under the provisions of this legislation, government agencies and private agencies will provide these veterans with the support they need. It will provide them with per diem payments, greater access to outreach programs, mental health services, dental services, and so on and so forth.

Ending chronic homelessness will not be an easy task, but this is a piece of legislation that will bring us much closer to that important goal.

Madam Speaker, our veterans were there when we needed them. Now it is our turn. We should be there when they need us.

Mr. EVANS. Madam Speaker, I yield 4 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Madam Speaker, I rise in support of H.R. 2716, the Homeless Veterans Comprehensive Assistance Act of 2001. I want to thank the chairman of the full committee, the gentleman from New Jersey; and our ranking member, the gentleman from Illinois, for responding in a bipartisan fashion to the needs of our Nation's homeless veterans. I fully support the bill's goal of ending chronic homelessness among our Nation's veterans within a decade.

I am pleased to see that the bill requires dedicated employees at Veterans Administration regional offices to serve large numbers of our homeless veterans. It is difficult enough for veterans who are not coping with the hardships of homelessness to navigate through the VA bureaucracy. Our homeless veterans often need special assistance. This bill will provide it.

Madam Speaker, I would like to direct my remarks today to the great need of some of our most severely disabled and mentally ill homeless veterans. This bill contains a number of provisions to address the special needs of chronically mentally ill homeless veterans. It encourages the VA to make grants targeted to the chronically mentally ill. It requires access to mental health services and substance abuse treatment at VA health care facilities. These veterans clearly need more intensive services in order to achieve stable housing and maximum independence, even if employability is not a realistic goal.

As a Vietnam veteran myself, I know that during that time a number of individuals were accepted into military service who would not have been accepted for service under normal criteria. Some of these veterans were further traumatized by their military experience and have suffered ever since with severe mental health and substance abuse problems. Those veterans who became homeless as a result of these problems deserve our support.

To ensure that mentally ill veterans do not become homeless, I support expansion of programs to provide mental health services to our veterans. As the number of community-based outpatient clinics has increased, I continue to hear of inadequate access to mental health care and substance abuse treatment services. Veterans who are seriously mentally ill need access to health care and to treatment just as those who have other serious illnesses. Ensuring a plan for mental health treatment available through each VA primary care clinic will provide the access needed by our veterans.

Madam Speaker, I am proud to support this effort to address the longstanding problem of chronic homelessness among those who have served our Nation proudly. I urge all Members to support this bill, H.R. 2716.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Just let me close, Mr. Speaker, by again thanking the gentleman from Illinois (Mr. EVANS) for his partnership in working on this legislation. I also appreciate the work of our colleagues in the Senate, Chairman ROCKEFELLER and Ranking Member SPECTER, who toiled in good faith with us on behalf of finding consensus on this legislation that satisfies the needs and really does address the problem to truly make a difference. I want to recognize the staffs who contributed so much to these efforts, including our chief of staff and general counsel Pat Ryan, Kingston Smith, Michael Durishin, Susan Edgerton, John Bradley, Peter Dirkenson, Bill Brew, Bill Tuerk, Alexandra Sardegna, Bill Cahill, Kimberly Cowins, Perry Lange, Debbie Smith, Summer Larson, Jeannie McNally, as well as counsels in both bodies, Bob Cover, Pierre Poisson and Charlie Armstrong, as well as several others who worked together to accomplish a truly remarkable bill that in the future will be seen as a tremendous contribution to solving a perplexing national problem for veterans. I commend all our Members on both sides of the aisle, and in both Houses, for their support in moving this legislation as well.

On behalf of homeless veterans, Mr. Speaker, who need these services, I want to particularly honor Stuart Collick, Walter McConnell, Angela Gipson and other formerly homeless veterans of my own State who serve as inspirations and role models, and for all of those who aid them in their ongoing efforts to solve this problem, one veteran at a time, trying to rescue one life at a time.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore (Mr. OTTER). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EVANS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I am pleased that the Senate has acted quickly to pass this important piece of legislation to assist homeless veterans. I would like to thank our distinguished chairman and ranking member of the Committee on Veterans' Affairs for crafting this bipartisan legislation that targets the specialized needs of an often neglected population within the veterans community, the homeless, which have very little access to services.

The VA issued a report last year on homeless veterans. It found that during 1999 there were an estimated 350,000 homeless veterans, an increase of 34 percent above the 1998 estimate. Things are getting worse instead of better. Many of our homeless veterans suffer from posttraumatic stress disorder and other mental illnesses in addition to drug addiction. Unfortunately, the VA has cut the number of inpatient beds in half.

We heard forceful testimony in committee that the lack of inpatient beds has adversely affected the quality of care for veterans who suffer from substance abuse, many of whom are homeless. The VA admitted during a hearing that they have not met 1996 capacity requirements for substance abuse.

So while I am happy that H.R. 2716 authorizes more resources for homeless programs and promotes greater accountability and oversight for these programs, I have concerns with some of the VA policies which may hinder implementation. In particular, the VA's move from inpatient hospital settings to community-based clinics may have unintentionally turned homeless veterans away from treatment. Therefore, I hope that this legislation will enable the VA to better serve this population through aggressive outreach efforts and to render much needed services as quickly as possible.

The events of the recent past have reminded us that our Nation's peace and security must be protected at any cost. Those men and women who answer the call to defend our democracy when it is under attack should be assured that we will take care of them when they are in crisis.

Mr. Speaker, I want to reemphasize the importance of these programs for our homeless veterans, and I want to encourage the importance of making sure that we have caseworkers out there that reach out to these veterans. Too many times, these veterans, as we well know, suffer from mental health problems. They are not the type to come in for an appointment. We have to make sure that we reach out to them and make sure that we provide that access to that service. When we look at a lot of these veterans, these are the same ones that might be suffering from substance abuse as a way of trying to correct their problems with mental health and trying to protect themselves.

In closing, let me just say, Mr. Speaker, I urge that my colleagues support H.R. 2716.

Mr. FORBES. Mr. Speaker, last week, we commemorated the 60th anniversary of the attack on Pearl Harbor. That single event changed the history of the world, and altered the paths of all Americans. No one was more affected, however, than the World War II veterans who picked up arms in response to that attack. Ceremonies all across the nation honored them for their sacrifices last Friday, including one in which I was proud to participate on the U.S.S. *Enterprise*.

There can be no greater exhibition of gratitude, however, than passage of legislation that improves the lives of those veterans and expands upon the benefits that they have richly earned. For months now, several bills passed by the House to help our veterans have awaited action by the other chamber. Today, I am pleased to join my colleagues in finally passing some of them and sending them to the President for his signature into law.

The first bill sets a high, but I think attainable goal, of ending chronic homelessness among veterans. Far too many of the brave men and women who fought to provide us with freedom spend their days and nights on the streets and in shelters. They returned from the battlefield but were unable to make the transition back to their civilian lives. Given the great sacrifices they have made on our behalf, we should be able to make a real effort to help them find their place in our society where they can feel welcome and comfortable. As many as 300,000 veterans sleep on the streets on any given night. The $1 billion authorized by this legislation over the next five years will go far to help them find peace and shelter.

The second bill provides a 2.6 percent cost-of-living adjustment for veterans disability compensation. For 100 percent disabled veterans, this translates into an average of $738 each year. These men and women sacrificed their ability to do many routine tasks, including work, when they put on the uniform and were wounded. This legislation merely helps them keep pace with inflation, so that they can pay their bills and live their lives. It is a modest increase compared to what they have given.

The final bill consolidates several bills considered by the House that increase education, housing, burial, and disability benefits for veterans by $3.1 billion over the next five years. Specifically, the bill increases the popular and successful Montgomery GI Bill college education benefit by 51 percent over current levels, increases the veterans home loan guaranty by nearly $10,000, and increases grants for disabled veterans' implements. Furthermore this bill expands the list of illnesses for which veterans can qualify for disability compensation and will repeal the 30-year presumptive period for respiratory cancers associated with exposure to Agent Orange and other herbicides.

Together, these bills are a fitting way to thank our veterans and to extend a promise to the millions of American soldiers, sailors, airmen, and Marines that are now serving in uniform. Without these men and women, the world would be far less secure and the future would be bleak. I am proud to be a part of the effort to show our thanks.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 2716, the Homeless Veterans Assistance Act of 2001. I urge my colleagues to join in supporting this timely, appropriate legislation.

This legislation authorizes, in addition to the current existing program, 500 Department of Housing and Urban Development low-income housing vouchers per year for the next four years. Along with this, the bill also requires the Veterans Health Administration to increase the number of caseworkers so that all veterans who receive such a housing voucher will be seen by a case manager.

The legislation also requires the VA to ensure the accuracy of its reporting system on: the demand for services by homeless veterans, the level of understanding among grant recipients of their responsibility to serve homeless veterans, and the development of an evaluation system to analyze the progress of veterans enrolled in the program, and on the overall effectiveness of the various homeless programs. The Secretary is also given the authority to rescind or recover homeless grant funds from those programs that fail to meet their established guidelines for using such money with relation to offering services to homeless veterans.

In terms of specific funding, the bill provides $60 million for FY 2002 for the Department of Veterans Affairs Homeless Grant and Per Diem Program, and raises this amount to $75 million for FYs 2003–2005. Moreover, it also directs the VA Secretary to establish 10 new domiciliary for homeless veterans programs, and authorizes $5 million per year for this purpose beginning in 2003.

Finally, the legislation strengthens and expands job training and counseling services offered through the Department of Labor's Homeless Veterans Reintegration Program. Additional services are authorized through the creation of a demonstration project in six locations for veterans in institutional confinement, particularly those with substances abuse problems or mental illnesses. These services are designed to facilitate the successful reintegration of the veteran into productive society.

The issue of homeless veterans is one of our government's more significant failures with regards to military and social policy. Every night thousands of veterans sleep on the streets or inside shelters. Additionally, many of these individuals have criminal records, substance abuse problems, and are often mentally ill.

Simply put, this is inexcusable. These veterans answered their country's call to service in their prime years. We as a nation have an obligation to these men and women to ensure that they at least have a roof over their head, and whatever assistance they may require to deal with the demons of mental illness or substance abuse.

This bill takes a significant step towards that goal. Accordingly, I urge my colleagues to lend it their wholehearted support.

Mr. MATHESON. Mr. Speaker, I appreciate the opportunity to speak today concerning H.R. 2716, the Homeless Veterans Assistance Act. In this time of war, we have many of our men and women in uniform fighting for the security of the free world in Afghanistan. As a cosponsor of this legislation, I am proud that Congress has remembered its responsibility to those who fought before—in the Gulf War, Vietnam, Korea, World War II, and the myriad other conflicts our nation has faced.

This legislation attempts to resolve a problem that has long plagued veterans: homelessness. While our nation is fortunate to have many businesses that welcome veterans with open arms, some veterans return from service without being able to reintegrate into society easily. Many of these men and women end up on the streets, without a home. It is terrible that these valiant soldiers could fight for their country, protect freedom and liberty, and then return home to nothing.

This legislation calls on the United States to eliminate chronic homelessness among our nation's veterans within ten years—a very admirable goal. It authorizes 2,000 Housing and Urban Development low-income housing vouchers to be disseminated to homeless veterans. It establishes programs to provide counseling services to certain veterans, offer technical assistance to non-profit organizations working to alleviate veteran homelessness, improve veteran dental services, and requires Homeless Veterans Comprehensive Service Program centers in the 20 largest U.S. cities.

I am grateful, Mr. Speaker, for the work that my colleagues have done to see this legislation move forward. I am even more grateful for the dedication and sacrifice that our veterans have given to preserve our freedom. Mr. Speaker, I support this legislation and ask my colleagues to join me in voting in favor of H.R. 2716.

Ms. CARSON of Indiana. Mr. Speaker, I would like to thank Chairman SMITH for his hard work in making sure this measure was considered by the Senate so it could become law in this session of Congress. I also want to thank Chairman STEARNS and Ranking Member FILNER of the Health Subcommittee for their hard work on this legislation.

The Stuart Collick-Heather French Henry Homeless Veterans Assistance Act establishes as a national goal an end to chronic homelessness among veterans and encourages all governmental and private agencies to work together to achieve this goal.

It is the responsibility of the federal government to see to the needs of homeless veterans and the responsibility of federal agencies in meeting those needs. This bill does this by authorizing 10 new Domiciliary for Homeless Veterans programs; $285 million over four years for the Homeless Grant and Per Diem program; $250 million over five years for the Labor Department's Homeless Veterans Reintegration Program to expedite the reintegration of homeless veterans into the labor force; and it earmarks $10 million over three years for medical care for homeless veterans with special needs, including older veterans, women, substance abusers and those with post-traumatic-stress disorder.

I believe so strongly in this issue that I donated personal property to the cause. The Hoosier Veterans Assistance Foundation has worked hard to make my dream a reality. The house assists homeless veterans by supplying transitional housing as well as needed supportive services. We must work together. I have been touched by the number of people who are asking to help since they saw the story on the news.

I am pleased that this measure is being considered this session and urge its passage.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in support of the Senate amendments to the House passed Homeless Veterans Assistance Act and Veterans Benefits Act. These amendments will provide greater care for our nation's veterans and will help America keep its promise to protect the men and women that have done so much to protect America.

I supported the Homeless Veterans Assistance Act when it passed the House of Representatives, and now, I support the Senate-passed version because it does much more. This bill will provide new programs, and will modify existing programs, to furnish a multitude of services for homeless veterans. These services include outreach, rehabilitation, vocational counseling and training, and transitional housing assistance to homeless veterans. In other words, this bill seeks to fight the causes of veterans' homelessness at their root.

Mr. Speaker, as many as 80,000 of our country's 3 million homeless are in the city of Chicago, Many of these are veterans. There are few things as tragic as the sight of the homeless set against the background of a society with so much wealth and prosperity. We have the responsibility to do more. This bill is a modest step in the right direction. Providing veterans with the best possible benefits and rewarding them for their tremendous service to our country is important to me. I believe we must ensure that veterans' programs are sufficiently funded. Providing the means for disenfranchised veterans to renew their lives is the very least we can do.

I also supported the Veterans Benefits Act when it passed the House because it provides a cost of living adjustment for the rates of veterans' disability compensation, additional compensation for dependents, the clothing allowance for certain disabled adult children, and dependency and indemnity compensation for surviving spouses and children. This legislation seeks to ensure that our veterans and their families are not left behind in the struggle to move forward in these pressuring economic times.

I believe that veterans who served our country deserve the fairest treatment available and that our national priorities must recognize the contributions of all military personnel. This Congress should remain committed to our veterans and work to ensure that they are provided the best possible service. I urge my colleagues to vote in favor of the Senate amendments to the Homeless Veterans Assistance Act and the Veterans Benefits Act.

Mr. FILNER. Mr. Speaker, I rise in support of H.R. 2716, the Homeless Veterans Comprehensive Assistance Act of 2001. This homeless bill retains the best components of two individuals bills, introduced by Ranking Member EVANS and Chairman SMITH. I was an original co-sponsor of H.R. 936, the Heather French Henry Homeless Veterans Assistance Act introduced by Ranking Member EVANS and later in the Senate as S. 736 by Senator PAUL WELLSTONE, because I believed it would enhance effective programs serving homeless veterans, such as community based "grant and per diem" care, the homeless veterans reintegration program, and the comprehensive homeless veterans centers. In particular, the bill emphasizes the VA's mental health and substance abuse programs—programs that help veterans achieve the stability they need in order to move toward rebuilding productive lives.

I also believe H.R. 936 would address gaps in VA's care continuum that have been identified by homeless veterans their advocates, such as dental care and outreach to prevent veterans at risk for homelessness. It allows innovative new grant programs to address the needs of veterans whose needs may not be addressed by mainstream programs—programs for terminally ill veterans, veterans with "dual diagnosis", that is mental illness and substance abuse disorders, frail, elderly veterans, and women.

In Committee hearings, Members from both sides of the aisle identified both the medical necessity and the social importance of a dental benefit in helping veterans regain their footing in society. I believe dental care is an important, but underemphasized part of the VA health care system. This is a small, but critical step we can take toward making this service available to additional veterans.

I also appreciate elements of Chairman SMITH's bill, the Homeless Veterans' Assistance Act. I particularly appreciated his bill's emphasis on finding permanent supported housing options for homeless veterans.

Together, the composite legislation will allow VA to consolidate and coordinate programs for homeless veterans both within the Department, within other federal agencies, and in the non-profit sector that furnish services to our homeless veterans. I believe this comprehensive homeless legislation will make a real difference in the lives of America's homeless veterans.

The final bill retains the stated goal of H.R. 936: to end chronic homelessness among veterans within a decade. I believe the comprehensive bill before us puts the Department of Veterans Affairs on the right path for making this happen. I urge my colleagues to support this measure.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong support of H.R. 2716. I am proud to be a cosponsor of this measure and I would like to thank all members and staff who worked to help bring this excellent piece of legislation before the House for passage. I strongly believe that H.R. 2716 will truly benefit our nation's homeless veterans.

I would also like to express my regret and disappointment over some of the partisan politics that have surrounded this legislation. For far too long, too many of the men and women who have served in our nation's military have been homeless. It is a sad fact that an estimated 225,000 veterans throughout the United States live on the streets. Delaying action on this bill over partisan politics only hurt the veteran's living on the streets.

Nevertheless, I am pleased that the bill is finally ready for passage and I strongly support H.R. 2716, which is a critical step in addressing the shameful situation of homeless veterans in our country.

Among several other provisions included in this bill, H.R. 2716 authorizes 2,000 additional HUD Section 8 low-income housing vouchers over four years for homeless veterans, establishes a grant program for homeless veterans with special needs, and establishes a limited dental provision for veterans using VA homeless programs.

In addition, H.R. 2716 establishes evaluation centers for programs that serve homeless populations and requires annual program assessments to be submitted to Congress.

These are just a few of the many critical provisions in H.R. 2716 that will help eliminate the problem of chronic homelessness among veterans. I ask my colleagues to join me in support of this important legislation for the men and women who have sacrificed so much in defense of liberty and democracy.

Mr. EVANS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2716.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

VETERANS BENEFITS ACT OF 2001

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2540) to amend title 38, United States Code, to make various improvements to veterans benefits programs under laws administered by the Secretary of Veterans Affairs, and for other purposes.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Rate Amendments of 2001".

(b) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) INCREASE IN RATES.—Section 1114 is amended—

(1) by striking "$98" in subsection (a) and inserting "$103";

(2) by striking "$188" in subsection (b) and inserting "$199";

(3) by striking "$288" in subsection (c) and inserting "$306";

(4) by striking "$413" in subsection (d) and inserting "$439";

(5) by striking "$589" in subsection (e) and inserting "$625";

(6) by striking "$743" in subsection (f) and inserting "$790";

(7) by striking "$937" in subsection (g) and inserting "$995";

(8) by striking "$1,087" in subsection (h) and inserting "$1,155";

(9) by striking "$1,224" in subsection (i) and inserting "$1,299";

(10) by striking "$2,036" in subsection (j) and inserting "$2,163";

(11) in subsection (k)—

(A) by striking "$76" both places it appears and inserting "$80"; and

(B) by striking "$2,533" and "$3,553" and inserting "$2,691" and "$3,775", respectively;

(12) by striking "$2,533" in subsection (l) and inserting "$2,691";

(13) by striking "$2,794" in subsection (m) and inserting "$2,969";

(14) by striking "$3,179" in subsection (n) and inserting "$3,378";

(15) by striking "$3,553" each place it appears in subsections (o) and (p) and inserting "$3,775";

(16) by striking "$1,525" and "$2,271" in subsection (r) and inserting "$1,621" and "$2,413", respectively; and

(17) by striking "$2,280" in subsection (s) and inserting "$2,422".

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may authorize administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking "$117" in clause (A) and inserting "$124";

(2) by striking "$201" and "$61" in clause (B) and inserting "$213" and "$64", respectively;

(3) by striking "$80" and "$61" in clause (C) and inserting "$84" and "$64", respectively;

(4) by striking "$95" in clause (D) and inserting "$100";

(5) by striking "$222" in clause (E) and inserting "$234"; and

(6) by striking "$186" in clause (F) and inserting "$196".

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking "$546" and inserting "$580".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

(a) NEW LAW RATES.—Section 1311(a) is amended—

(1) by striking "$881" in paragraph (1) and inserting "$935"; and

(2) by striking "$191" in paragraph (2) and inserting "$202".

(b) OLD LAW RATES.—The table in section 1311(a)(3) is amended to read as follows:

Pay Grade	*Monthly rate*
E–1	*$935*
E–2	*935*
E–3	*935*
E–4	*935*
E–5	*935*
E–6	*935*
E–7	*967*
E–8	*1,021*
E–9	*1,066* [1]
W–1	*988*
W–2	*1,028*
W–3	*1,058*
W–4	*$1,119*
O–1	*988*
O–2	*1,021*
O–3	*1,092*
O–4	*1,155*
O–5	*1,272*
O–6	*1,433*
O–7	*1,549*
O–8	*1,699*
O–9	*1,818*
O–10	*1,994* [2]

"[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,149.

"[2] If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,139.".

(c) ADDITIONAL DIC FOR CHILDREN.—Section 1311(b) is amended by striking "$222" and inserting "$234".

(d) AID AND ATTENDANCE ALLOWANCE.—Section 1311(c) is amended by striking "$222" and inserting "$234".

(e) HOUSEBOUND RATE.—Section 1311(d) is amended by striking "$107" and inserting "$112".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking "$373" in paragraph (1) and inserting "$397";

(2) by striking "$538" in paragraph (2) and inserting "$571";

(3) by striking "$699" in paragraph (3) and inserting "$742"; and

(4) by striking "$699" and "$136" in paragraph (4) and inserting "$742" and "$143", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking "$222" in subsection (a) and inserting "$234";

(2) by striking "$373" in subsection (b) and inserting "$397"; and

(3) by striking "$188" in subsection (c) and inserting "$199".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 1, 2001.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2540, the Veterans Compensation Rate Amendments of 2001, is a clean bill providing a cost-of-living adjustment to disabled veterans and surviving spouses. Most of the changes to other benefit authorities that were part of the bill when it passed the House will be taken up as part of the compromise agreement to H.R. 1291.

Upon enactment of this vital legislation, all veterans or qualified survivors of veterans who receive disability compensation payment will receive a 2.6 percent cost-of-living adjustment beginning on December 1 of this year. This increase, which matches the Social Security COLA, will raise payments to disabled veterans by more than $400 million in the first year. In all, compensation payments will be increased by more than $2.5 billion over the next 5 years. For more than 170,000 veterans who are permanently and totally disabled, the average annual increase is $738.

Mr. Speaker, I want to thank every Member who contributed to this bill. I especially want to thank the gentleman from Idaho (Mr. SIMPSON), who is the chairman of our Subcommittee on Benefits, and the gentleman from Texas (Mr. REYES), who is the ranking member, for their excellent work on H.R. 2540.

Mr. Speaker, I reserve the balance of my time.

Mr. EVANS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2540, as amended. I again want to thank the gentleman from New Jersey for his leadership on this important legislation and for his continuing efforts on behalf of our Nation's veterans. I also want to thank the leaders of our Subcommittee on Benefits, the gentleman from Idaho and the gentleman from Texas, as well as the other members of this subcommittee, for their support of this important legislation. This measure deserves the support of every Member of this House.

The importance of this bill cannot be overstated. It protects the purchasing power of disability benefits which our Nation's service-connected veterans have earned by virtue of their military service and provides similar protection for the recipients of DIC payment for compensation.

Under H.R. 2540, effective December 1 of this year, a cost-of-living adjustment will be provided for service-connected disability compensation and DIC benefits. The adjustment, 2.6 percent, will be the same as that provided to Social Security recipients. I call on every Member of this body to join the chairman of this committee in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EVANS. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, as an original cosponsor and strong supporter of H.R. 2540, the Veterans Compensation Rate Amendments of 2001, I am pleased that we are moving forward to assure a cost-of-living increase for our Nation's disabled veterans and their families. Our Nation's veterans, their surviving spouses and dependents expect that their benefits will be increased to reflect changes in the cost of living. The effective date of this legislation, Mr. Speaker, is December 1, 2001, with receipt of the increase in benefits in 2002.

Mr. Speaker, I would like to acknowledge the cooperation of the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS), as well as our Subcommittee on Benefits chairman, the gentleman from Idaho (Mr. SIMPSON), for bringing this important legislation before the House today.

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H.R. 2540 is a good bill. I urge all Members to support it and to support our Nation's veterans and their families by providing them the necessary increases to their deserved benefits. These men and women place their lives on the line in the defense of our country and the national ideals of freedom and democracy. They deserve adequate benefits for their service. They deserve the kind of compensation that we can all be proud of.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I am pleased that H.R. 2540 is before us, the Veterans Benefit Act, and that the President will soon have the opportunity to sign it into law.

I would like to thank the chairman of the committee, the gentleman from New Jersey (Mr. SMITH) for his efforts on this particular piece of legislation, and also my distinguished colleague, the gentleman from Illinois (Mr. EVANS), the ranking member, for this bill.

The legislation before us would provide a cost of living adjustment to those receiving disability compensation benefits for the year 2002. As a member of the committee, I am proud to join this bipartisan effort to improve the quality and delivery of veterans benefits programs. The veterans should not be left wondering if the Federal Government is going to fulfill their promises. I have heard too many stories from veterans in my district who do not receive sufficient benefits to meet their living expenses.

H.R. 2540 would provide a cost of living increase for those who have received service-connected disability benefits, as well as their survivors. Veterans work around the clock for us. They deserve no less in return. For many of our veterans, the physical and psychological wounds of war do not go away.

Today, men and women have answered the new call to action, carrying the banner of freedom into Afghanistan in search of those responsible for the horrifying attacks of September 11. When they return home, these brave sons and daughters need to know that we will be there for them should they suffer from debilitating conditions as a result of their military service.

Mr. Speaker, I urge my colleagues to support this bill and vote for H.R. 2540.

Mr. BUYER. Mr. Speaker, today we will consider several bills that were favorably reported by the Committee on Veterans Affairs, with my support, which will provide veterans with much needed assistance.

The first bill, H.R. 2540, would provide veterans with a cost-of-living adjustment (COLA) for veterans with a service-connected disability and for survivors of certain service-connected disabled veterans. This year's COLA is 2.6 percent and is effective December 1, 2001. I can't think of any group that is more deserving of this increase in their benefits than those who have answered the call to defend our country's freedoms.

I want to thank our Chairman CHRIS SMITH, for his bold leadership in bringing the Homeless Veterans Comprehensive Assistance Act to this point. H.R. 2716, addresses many of the issues that homeless veterans are forced to confront on a daily basis such as how to obtain health care, housing, employment training and other benefits. This bill goes a long way to ensuring that our nation's homeless veterans will receive the assistance they need to turn their lives around by providing the necessary resources. It is shameful that one-third of our nation's homeless are Vietnam-era veterans. Veterans should not be forced to sleep on our streets or be warehoused in our nation's jails. That is why I am pleased to support passage of this important initiative.

One of the most important benefits that we offer people who choose to serve their country is that in return we will provide them with education benefits. H.R. 1291, the Veterans Education and Benefits Expansion Act of 2001, makes several important improvements to our current programs. Passage of this legislation will increase the $650 monthly benefit to $800 per month effective January of 2002. In October 1 of 2002 that amount will increase to $900 per month, and effective October 1 of 2003, the monthly benefit will be $985. This should help those individuals who could not keep pace with the escalating cost of higher education. Again, I want to applaud our Chairman, Mr. SMITH, for his outstanding work in making this one of the Committee's top priorities.

H.R. 1291 also contains several other provisions including an expansion of the definition of illnesses for Gulf War veterans; offering additional assistance to disabled veterans by increasing specially adapted housing allowance for severally disabled veterans from $43,000 to $48,000 per year; increasing burial and funeral expenses for a service-connected veteran from $1,500 to $2,000; increasing the allowance for burial plots for eligible veterans to $300; and prohibits payments of veterans' benefits to fugitive felons.

I urge my colleagues to support our veterans and vote for these three bills.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 2540, the Veterans Benefits Act of 2001. I urge my colleagues to join in supporting this important legislation.

Mr. Speaker, the House typically passes a general veterans benefits bill each year. H.R. 2450 represents this year's benefits legislation, providing several important improvements to existing programs.

First, this bill provides for the annual cost-of-living adjustment to the rates of disability compensation for those veterans with service connected disabilities. This new rate, reflecting an increase of 2.6 percent, will go into effect on December 1, 2001.

Congress has approved an annual cost-of-living adjustment to our veterans and survivors since 1976.

Second, this legislation adds type II diabetes to the list of diseases presumed to be service-connected in Vietnam veterans exposed to herbicide agents. It also greatly extends the definition of undiagnosed illnesses for Persian Gulf war veterans, and authorizes the Secretary of Veterans Affairs to protect the grant of service connection of Gulf war veterans who participate in VA sponsored medical research projects. It further extends the presumptive period for providing compensation to Persian Gulf veterans with undiagnosed illnesses to December 31, 2003.

Mr. Speaker, many of our veterans from the Vietnam and Gulf wars, went years suffering from undiagnosed ailments while receiving neither recognition nor treatment from the veterans health care system.

During the past ten years, the Congress made significant strides in recognizing the special circumstances surrounding the post service experiences of these veterans. This bill is an extension of this process, and for that reason, I urge its adoption by the House.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today in support of the Veterans health bill. Before coming to Congress, I spent 30 years as a nurse on Long Island, New York. And even now, I know that there isn't a better career in the world than nursing or better training for being a Member of Congress. The only difference is now I have a lot more patients.

That's why I am particularly saddened when we talk about the nursing shortage—especially in our VA hospitals. Our veterans give their lives for our country and therefore deserve the best health care in the world. Unfortunately, like the rest of health care in this country, VA hospitals are experiencing a nursing shortage.

As a nurse, I know the key to solving our nation's nursing shortage is recruiting and retaining nurses. And the best way to attract new students and keep good nurses is through education. Helping nursing students pay for their education or helping them to finish an advanced degree goes a long way in attracting those who want to help people to the nursing profession. That's why I am proud of this bill, it does just that. Through the Employee Incentive Scholarships and Education Debt Reduction Programs nursing students and nurses can choose to work for a VA hospital and receive financial assistance for their education.

In addition, this bill requires the VA to develop a nationwide policy on staffing standards to ensure that veterans are provided with safe and high quality care, taking into consideration the numbers and skill mix required of staff in specific health care settings. We promised our Vets we would take care of them—let's keep that promise by improving their health care.

We need to end the nursing shortage crisis across this country, but tonight I am honored to fight for our VA nurses as the first step.

I urge all my colleagues to vote in favor of the Veteran's health bill.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong support of H.R. 2540, the Veterans' Compensation Rate Amendments of 2001.

I would first like to thank my colleagues on both sides of the aisle, and their staffs, who worked to bring this bill before the House for final passage.

This legislation provides an important annual cost-of-living adjustment for disabled veterans, as well as surviving spouses of veteran's who receive dependency and indemnity compensation. Under H.R. 2540, the compensation rate is raised by 2.6 percent, the same percentage as the increase provided to Social Security recipients.

As the cost living continues to rise, it is important that the well-deserved benefits received by veterans and their families are not diminished as a result of inflationary costs.

I urge my colleagues to join me in support of this legislation and ensure that the benefits for the men and women who served our nation keep up with the ever-increasing cost of living.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today in support of the Veterans Benefits Act of 2001, specifically a provision in the legislation that ensures all veterans will be eligible for a government-furnished grave marker.

I would like to thank the Chairman for his hard work and commitment to our Nation's veterans and I appreciate the willingness of the Chairman and the committee to include my veterans marker provision in the conference report. I would also like to thank the Chairman for accommodating my request in the Joint Explanatory Statement to encourage the Secretary of Veterans Affairs to consider pre-existing requests for markers.

This legislation is essential to our veterans' futures, ensuring that their acts of heroism will be recognized beyond their lifetimes. This legislation remedies a glaring discrepancy in the law, ensuring that every veteran, regardless of whether their grave is privately marked, will be eligible for a government grave marker upon their death.

Every single veteran deserves to be permanently recognized for their contribution to our nation. Every veterans family deserves solace in knowing their loved one will continue to receive the recognition they deserve.

Mr. Speaker, I extend the heartfelt thanks from the veterans in my district.

Mr. EVANS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OTTER). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2540.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR APPOINTMENT OF PATRICIA Q. STONESIFER AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and pass to the Senate joint resolution (S.J. Res. 26) providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

S.J. RES. 26

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Dr. Homer Neal of Michigan on December 7, 2001, is filled by the appointment of Patricia Q. Stonesifer of Washington. The appointment is for a term of 6 years and shall take effect on December 8, 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Florida (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Joint Resolution 26 provides for the appointment of Patricia Stonesifer to serve on the Smithsonian Institution's Board of Regents. This board governs the Smithsonian Institution and includes the Chief Justice of the United States Supreme Court and the Vice President of the United States. It also is comprised of three Members each from the U.S. House and Senate and nine citizens who are nominated by the Board and approved jointly in a resolution of Congress.

Patricia Stonesifer currently serves as cochair and President of the Bill and Melinda Gates Foundation. She works to achieve that foundation's mission of improving access to advances in global health and education for all people as we move into the 21st century. Her other philanthropic work includes serving on the Board of the Vaccine Fund, which was started in 1999 to address the need for vaccines among the world's poorest countries.

Prior to her being appointed President and Cochair of the Gates Foundation, she held a Senior Vice President position at Microsoft and ran her own management and consulting firm.

I believe her diverse background and strong management experience make her an excellent candidate for appointment to the Smithsonian Institution's Board of Regents, and I urge my colleagues to support Senate Joint Resolution 26.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

At the risk of repeating some of the comments that the gentleman from Michigan (Mr. EHLERS) has stated, let me also join him to say I am delighted at this appointment.

Ms. Patricia Stonesifer has distinguished herself in a variety of fields. She brings a combination of skills to the Smithsonian Institute. As has been previously alluded to her, in her capacity as Cochair and President of the Gates Foundation, she focused on improving global health throughout the world. She has also served on the Board of the Vaccine Fund, established in 1999, to address the dire need to combat preventible disease in the world's poorest countries.

As the gentleman mentioned, she brings considerable expertise in the private sector, which, combined with her philanthropic work, will make her a very welcome addition to this board.

Mr. HOYER. Mr. Speaker, Ms. Patricia Stonesifer will make a wonderful addition to the Smithsonian Institution's Board of Regents. Ms. Stonesifer has distinguished herself in numerous philanthropic, business, and public activities during her career, and I urge every Member to support her appointment.

Ms. Stonesifer now serves as the co-chair and president of the Bill and Melinda Gates Foundation. At the Gates Foundation, she focuses on global health and education issues, reflecting her personal commitment to improving living conditions for peoples everywhere.

Ms. Stonesifer also serves on the boards of the Vaccine Fund, established 2 years ago to combat preventable disease in the world's poorest countries, and that of the African Comprehensive HIV/AIDS Partnership, an organization working to fight the spread of AIDS in Botswana. She has served as a member of the American Delegation to the United Nations General Assembly's special session on AIDS.

In her business career, Ms. Stonesifer has both served as a senior vice president at Microsoft, and operated her own consulting firm, so she knows business large and small. She serves on the boards of two publicly held corporations, the King County (Wash.) YWCA, and the Seattle Foundation.

Mr. Speaker, there is no doubt that Patricia Stonesifer will bring the right mix of philanthropic and business experience to the Smithsonian Institution. I urge the House to support her appointment.

Mr. DAVIS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 26.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on Senate Joint Resolution 26.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HONORING THE UNITED STATES CAPITOL POLICE FOR THEIR COMMITMENT TO SECURITY AT THE CAPITOL

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 309) honoring the United States Capitol Police for their commitment to security at the Capitol.

The Clerk read as follows:

H. RES. 309

Whereas the Capitol is an important symbol of freedom and democracy across the United States and throughout the world, and those who safeguard the Capitol safeguard that freedom and democracy;

Whereas millions of people visit the Capitol each year to observe and learn the workings of the democratic process;

Whereas the United States Capitol Police force was created by Congress in 1828 to provide security for the Capitol;

Whereas today the United States Capitol Police provide protection and support services throughout an array of congressional buildings, parks, and thoroughfares;

Whereas the United States Capitol Police provide security for Members of Congress, their staffs, other government employees, and many others who live near, work on, and visit Capitol Hill;

Whereas the United States Capitol Police have successfully managed and coordinated major demonstrations, joint sessions of Congress, State of the Union Addresses, State funerals, and inaugurations;

Whereas the United States Capitol Police have bravely faced numerous emergencies, including three bombings and two shootings, one of which, in 1998, tragically took the lives of Private First Class Jacob "J.J." Chestnut and Detective John Michael Gibson;

Whereas the terrorist attacks of September 11, 2001, have created a uniquely difficult environment for the United States Capitol Police;

Whereas the United States Capitol Police responded to this challenge quickly and courageously, including by facilitating the evacuation of all of the buildings under their purview, as well as the perimeter thereof; and

Whereas the United States Capitol Police have instituted longer shifts, requiring that officers work substantial overtime each week to ensure the continued protection of the Capitol: Now, therefore, be it

Resolved, That the House of Representatives honors and thanks the United States Capitol Police for their outstanding work and dedication during a period of heightened security that began on September 11, 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Florida (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise here today with my colleague, the gentleman from Florida (Mr. DAVIS), for consideration of H. Res. 309, a resolution honoring the United States Capitol Police for their commitment to the security of the Capitol, the public and the employees and Members of Congress. Their unwavering dedication to protect and serve shall not go unnoticed.

Congress created the United States Capitol Police force in 1828 to provide security for the Capitol. Since inception of the Capitol Police, their officers have courageously and successfully protected the Capitol, and the people and buildings that surround this symbol of freedom and democracy. The U.S. Capitol, which is simultaneously a national shrine, a tourist attraction and a working office building, imposes challenging security requirements.

Since the September 11 tragedy, the Capitol Police have been placed under a tremendous strain to implement the increasing number of important security enhancements that have been instituted. Working 6 or 7 days straight with 12 hour shifts, the United States Capitol Police deserve a great "thank you."

In addition, when the House of Representatives relocated to the General Accounting Office, the Capitol Police protected us there as well. We know this was not an easy task, and we truly appreciate their service.

Mr. Speaker, their valor has not come easily. The United States Capitol Police have faced several emergencies, three bombings and two shootings, one of which took the lives of Private First Class Jacob "JJ" Chestnut and Detective John Michael Gibson. I want to extend our appreciation of their commitment to protect and serve this institution.

Last year more than 2 million tourists visited the Capitol complex, which is comprised of 19 buildings. At the same time, the Capitol hosted more than 1,200 American and foreign dignitaries and 1,000 special events and was the site of nearly 500 scheduled demonstrations. In addition to lawmakers and their staffs, a sizable number of journalists, lobbyists and service personnel also work within the Capitol complex.

Achieving a secure environment for the Capitol complex, while still maintaining an atmosphere of openness, has become increasingly challenging in recent years. Both the potential threats to the Capitol and the number of people entering the area every day have grown dramatically. The men and women of the United States Capitol Police risk their lives every day for the safeguarding of the Capitol.

Again, our thanks go out to you, our officers, our protectors and our friends.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE), the sponsor of the resolution.

Ms. LEE. Mr. Speaker, I rise today in strong support of H. Res. 309, legislation which I introduced to honor the United States Capitol Police. I would like to thank our lead Republican cosponsor, the gentleman from Illinois (Mr. SHIMKUS), the gentleman from Ohio (Chairman NEY) and the ranking member, the gentleman from Maryland (Mr. HOYER), and also the leadership in both parties, for bringing this important resolution to the House floor today.

The terrorist attacks of September 11 have created a uniquely difficult environment for the Capitol Police. New security measures have been implemented, requiring the police to work longer hours, sometimes 12 hours and longer a day, oftentimes 6 days a week.

The Capitol Police have had to go even further above and beyond the call of duty to protect Members of Congress, staff and many of our visitors. The Capitol Police have responded to the new security challenges on Capitol Hill, including the attacks on September 11 and the anthrax attacks, quickly and courageously. They have continued their fine tradition of serving the Capitol Hill community.

Mr. Speaker, I am very proud to have the opportunity to thank our Capitol Police for the tremendous job that they do every day, and especially since September 11. They truly are heroes, and we salute them today.

Mr. EHLERS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I thank the gentleman from Michigan for yielding me time.

Mr. Speaker, I rise in support of this resolution. I would like to commend the sponsor of the legislation, the gentlewoman from California (Ms. LEE) who just spoke, and thank her for her work on this.

This legislation honors the Capitol Police, who we all know and work with on a daily basis, for their outstanding work and dedication during the period of heightened security needs on the day of September 11, 2001, and thereafter. It really should not take a national emergency for us to thank those who serve and protect us on a day-to-day basis, but it is an important act to do so today.

The Capitol is an important symbol of freedom and democracy, across this country and throughout the world, and those who safeguard the Capitol safeguard that freedom and democracy. Thousands of people visit the Capitol each day to observe and learn the workings of a democratic process.

The horrific events of September 11 have created a difficult environment to work in, prompting extra alertness and some strain among Members, Staff and visitors. The Capitol Police Force has responded to this challenge quickly and courageously, especially during the evacuation of the Capitol complex during the attacks of September 11.

Many people like to boast about how many hours they work during the day, and we as elected officials and politicians put in a lot of hours during our day, sometimes 12 to 18 hours. I would challenge any people to try doing that for an extended period of time. It is personally wearing and draining. Our folks here in the Capitol Police have had to do 12 to 18 hour days, 6 to 7 days a week, for weeks on end, before we finally got some relief through the bringing in of the National Guard folks.

One of the great benefits of being a Member of Congress is the chance to have access to the Capitol at all times. Many times we are working at some pretty weird hours. We have all been here at 3 a.m. in the morning, 6 a.m., 9 p.m., 2 p.m., 10 p.m., up until midnight, working. Among the granite walls and marble statues and the ghosts of the past history of this country stands a living memorial to freedom and democracy. Our first responders to our symbol of freedom are our Capitol Police.

I would like to take this opportunity to personally thank the Capitol Police Force for their hard work in protecting the Capitol complex, staff, Members and visitors.

Mr. DAVIS of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

□ 1630

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I appreciate the work of the gentleman from Ohio (Mr. NEY), the chairman of the committee, and the gentleman from Maryland (Mr. HOYER), the ranking member who sponsored this bill, and I appreciate the way in which they are meeting the challenges that security poses within the Congress as well.

I rise in strong support of this resolution. It was passed in the Senate on October 9. It is especially appropriate for the House to consider it today, December 11, 3 months after the attack, particularly given the service that the Capitol Police have rendered to the Nation and to the Congress since then. The House certainly must not adjourn without honoring the Capitol Police for dedication and professionalism above what any of us could have asked. Indeed, the Capitol Police give "rising to the occasion" new meaning.

It would be difficult for the Capitol Police to improve upon the reputation that they have earned over the years, but somehow they have managed to do just that since September 11.

I know them perhaps as well as any Member because I live with them 7 days a week. I see them when I do my race walk on the weekends when the Senate and the House are deserted, and I see them on the streets of Capitol Hill, which they patrol. I sponsored Public Law 102-397, the Capitol Police Jurisdiction Reform Act, which expanded their jurisdiction for the first time. We have a long relationship and friendship with the Capitol Police and their union.

I am pleased that D.C.'s own National Guard has relieved the Capitol Police of the back-breaking, 12-hour days they have had to put in. I regret that the National Guard has had to do this, but I am pleased that the funding for additional personnel and police is now assured the Capitol Police.

I do want to set the record straight on an erroneous impression in a December 7 Washington Times column that indicated that I had criticized the Capitol Police for closing tours of the Capitol; also, that I had been pleased to have 24-hour protection of the Capitol Police. I am pleased to say I have never had and never have needed 24-hour protection; but if so, I know who would have been pleased to give it: the fine Capitol Police. The tours are controlled not by the Capitol Police, but by the Capitol Police Board.

I wrote a letter to the three members of the board, by name the Architect of the Capitol, and the two Sergeants at Arms. My letter was directed to them and to them alone. Indeed, I am grateful to the board that they have decided that there is a way to open this Capitol to tours and to keep it safe at the same time. I always knew the cops knew how to do that.

For the record, I want to submit my letter to the three board members into the RECORD and my letter to the Washington Times correcting them for the RECORD. I have nothing but praise and the highest regard for the Capitol Police. The Nation will know that is how the entire House and Senate regard them when this resolution justifiably passes today. I thank my colleagues for their work on this bill.

NORTON ASKS REVERSAL OF CAPITOL POLICE BOARD BY ELECTED OFFICIALS IF TOURS REMAIN CLOSED

WASHINGTON, DC.—Following the closing of tours of the Capitol as D.C. school children were about to be the first in line, Congresswoman Eleanor Holmes Norton today released a letter to the three-man Capitol Police Board that made the decision. She asked the two Sergeants-at-Arms of the Congress and the Architect of the Capitol to reconsider their decision and put them on notice that otherwise, she would appeal to House leaders and, if necessary, introduce a resolution. The Norton letter follows:

DECEMBER 5, 2001.

Hon. ALFONSO LEHARDT,
Senate Sergeant-at-Arms, Capitol,
Washington, DC.
Hon. WILSON LIVINGOOD,
House Sergeant-at-Arms, Capitol,
Washington, DC.
Mr. ALAN HANTMAN,
Architect of the Capitol, Capitol,
Washington, DC.

DEAR SIRS: I am deeply disappointed that you have decided once again to close tours of the Capitol, this time precipitously just before tours were to begin again after many weeks. I write now to ask you to reconsider this decision within the next week by finding ways to keep the Capitol safe while normal activities proceed and to inform you that if you are unable to do so, I intend to appeal your decision to the leadership of the Senate and the House, and, if necessary, to introduce an appropriate resolution.

Letters to the Editor
The Washington Times,
Washington, DC.

TO THE EDITOR: John McCaslin's December 7, Cops Can't Win column had to be trying hard to get the entire Capitol Police issue as wrong as he did on both of the points he made. (1) I never criticized the Capitol Police for closing Capitol tours. My letter of December 5, attached to a release from my office, was addressed to only the three officials who made the decision, the Capitol Police Board consisting of the Sergeants-At-Arms of the House and Senate and the Architect of the Capitol. (2) I have never requested, never had, and hope never to need the excellent services of the Capitol Police for 24-hour security.

I have taken a special interest in the work of the Capitol Police ever since coming to Congress and have a very special affection for these men and women. With the strong support of the Capitol Police and their union, I wrote PL 102-397, the Capitol Police Jurisdiction Reform Act, which expanded their jurisdiction for the first time to include more than a few blocks around the Capitol.

These officers not only protect me as a member of Congress; they protect city neighborhoods. The Capitol Police deserve the nation's highest respect. They certainly have mine.

Sincerely,

ELEANOR HOLMES NORTON

Mr. DAVIS of Florida. Mr. Speaker, I yield myself such time as I may consume to commend the gentleman from

Michigan (Mr. EHLERS) for presenting the bill and the gentlewoman from California (Ms. LEE) and the gentleman from Illinois (Mr. SHIMKUS) on bringing this bill before our body. I would like to just add my personal 2 cents here.

The professionalism of the Capitol Police is above any that any of us I think have ever seen in State and local law enforcement throughout the country. Normally their job, until September 11, has involved balancing the tremendous public access to this building, and the people that work in it, against security. It requires a remarkable level of patience, charm, and very watchful eyes. But since September 11, what I particularly want to commend the Capitol Police for is the tremendous level of flawless security they provide this facility that has given each of us the peace of mind that our constituents have expected us to have to do our very best work. So I would like to join my colleagues in urging adoption of the resolution.

Mr. HOYER. Mr. Speaker, the operative clause of this resolution says simply that "the House of Representatives honors and thanks the United States Capitol Police for their outstanding work and dedication during a period of heightened security that began on September 11, 2001." I trust that all members will support this honor for the men and women of the U.S. Capitol Police. They have certainly earned it. They continue to earn it at this hour, mere steps from this spot and all around Capitol Hill.

Congress established the Capitol Police during the administration of John Quincy Adams. Ponder how different the world was then, and how different the job of providing security for the Capitol would have been then.

In the last 173 years, the world has changed immeasurably, and so has the work of the Capitol Police.

In modern times, the police have had to cope with emergencies, bombings and shootings, including the tragic 1998 murders of officer J.J. Chestnut and Detective John Gibson, that remain so painfully fresh in our memories.

After that tragic event, Congress properly heightened Capitol security, adopting a posture that requires considerable additional manpower. Recent events have obviously underscored the need for more officers and greater security. Fortunately, additional resources are in the pipeline.

Congress has appropriated money to fund all the additional officers the Capitol police can hire and train during 2002, and supplemental funds have been provided to address needs identified since September 11.

Today, the Capitol police face evolving threats from those who, for whatever reason, wish our country harm.

What was unthinkable only a few weeks ago, has been done. We must remain vigilant and prepared as we work to rid the world of the scourge of terrorism.

We will continue to rely on the Capitol police as the first line of defense for the people's house and all who work and visit here.

The men and women of the Capitol police meet their challenges with courage and a level of professionalism not exceeded anywhere.

Since the dastardly attacks of September 11, Capitol police officers have worked long hours under adverse conditions. These men and women clearly represent the best that America has to offer.

I want to express my personal thanks for a job well done.

Men and women of the District of Columbia National Guard now ably assist our Capitol police. Congress likewise owes the guardsmen and women thanks for their assistance, and for giving our police much-needed relief.

Mr. Speaker, I urge adoption of the resolution. The police clearly deserve the honor. I applaud the gentlewoman from California [Ms. LEE] for introducing it, the chairman [Mr. NEY], the gentleman from Michigan [Mr. EHLERS], and of course my friend from Florida [Mr. DAVIS] for bringing it to the floor today.

Mr. DAVIS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I have no further speakers at this time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OTTER). The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and agree to the resolution, H.Res. 309.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of House Resolution 309, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN

Mr. LaTOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3370) to amend the Coast Guard Authorization Act of 1996 to modify the reversionary interest of the United States in a parcel of property conveyed to the Traverse City Area School District in Traverse City, Michigan.

The Clerk read as follows:

H.R. 3370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.

Section 1005(c) of the Coast Guard Authorization Act of 1996 (110 Stat. 3957) is amended by striking "the Traverse City Area Public School District" and inserting "a public or private nonprofit entity for an educational or recreational purpose".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LaTOURETTE) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LaTOURETTE).

Mr. LaTOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Initially, I want to thank two fine Members that we will hear from later, the gentleman from Michigan (Mr. CAMP) and the gentleman from Michigan (Mr. STUPAK), for bringing this matter to our attention.

Mr. Speaker, H.R. 3370 is a bill that allows certain property conveyed to the Traverse City Public Schools in Traverse City, Michigan, to be used by a public or private nonprofit entity for an educational or recreational purpose.

Under the 1996 language that transferred the property to the Traverse City School District, the property reverts to the Federal Government if it is not used by the school district. The local YMCA has developed a plan to improve the property and construct a three-pool swimming facility on part of the property. The school district would then use the new fields and facility and the Coast Guard will be able to use the pool for winter training and rescue swimmers.

Without the amendments made by H.R. 3370, this worthwhile project would not be able to proceed. For this reason, I urge all of my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. CLEMENT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might say to my colleagues, I know the Speaker referred to the gentleman from Ohio (Mr. LaTOURETTE) as being from Tennessee, and he would have been a good Tennesseean. We would sure have accepted him. He is an outstanding Member of the House, and I am proud to be able to call him a friend.

Mr. Speaker, I rise in support of H.R. 3370, a bill to clarify the revisionary interests of the United States Government and property conveyed to the Traverse City School District.

The Coast Guard Authorization Act of 1996 provided for Coast Guard real property in Traverse City, Michigan, to be conveyed to the Traverse City School District. The school district has used the property for soccer fields for their youth. However, the revisionary clause in that act required the property to be used exclusively for educational purposes. Now the school district would like to enter into a joint venture with the YMCA for additional athletic facilities for the students and community.

Under the joint venture, the school district will provide the land, and the YMCA will provide the building. The school district will be able to use the indoor pool and other athletic facilities in the building for their school activities at no cost, and other members of the community will also be able to join the YMCA and use the facilities.

Mr. Speaker, I believe this bill will help the community of Traverse City. I would like to commend the gentleman from Michigan (Mr. STUPAK) for his efforts on their behalf. I urge my colleagues to support passage of H.R. 3370.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. STUPAK), a fine gentleman and a real fighter and street fighter in the House of Representatives.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, first let me thank the gentleman from Michigan (Mr. CAMP) for coauthoring this legislation with me and moving this bill along. He is on the floor here tonight and I am sure he will have some remarks, along with his son Andrew. Maybe we should let Andrew have his remarks on record, because at least he would be able to tell us the value of these soccer fields.

Mr. Speaker, back in 1996 we moved this land from the Coast Guard to Traverse City Area Public Schools to be used for soccer fields. It has been a great success. But as those soccer fields have been used more and more by over 3,000 students in the Traverse City area, we saw great potential in this property. By bringing the YMCA to build a new facility, which they need to do, by bringing the YMCA in, everybody will benefit even further, not only the school district, but the community as a whole, because they are going to put in three different swimming pools, plus all the other activities that the YMCA offers. The Coast Guard will be using the pool for training, for rescue, water rescues along the Great Lakes, as they do constantly.

So it is just a great situation for everyone. The community wins, the school system wins, the Coast Guard wins, the Federal Government benefits, we all benefit. We just have to change this reverter clause so that it can be used not only for the school, but also for the YMCA and for the benefit of the community.

Mr. Speaker, I ask all of my colleagues to support and vote "yes" on H.R. 3370. I thank the gentleman for yielding me time. I want to thank the leadership and the gentleman from Tennessee (Mr. CLEMENT), the gentleman from Ohio (Mr. LATOURETTE), and the Committee on Transportation and Infrastructure for moving this bill so quickly on the request of myself and the gentleman from Michigan (Mr. CAMP).

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from Michigan (Mr. CAMP), one of the authors of this fine piece of legislation.

Mr. CAMP. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise with the gentleman from Michigan (Mr. STUPAK) on behalf of this legislation. This will bring big benefits to the residents of the Traverse City, Michigan, area. This makes a technical change in existing law to allow the Traverse City area school district to transfer a parcel of property to the local YMCA, as the gentleman mentioned, for recreational purposes. This is going to be a big benefit, as I mentioned, because this will allow the construction of a swimming pool, a gymnasium, tennis courts, soccer fields, and will be a real help to the sports teams and other residents and students, physical education classes.

They are also going to begin construction on a new alternative education facility that will be used by nearly 200 students. So this new school will enable Traverse City area students to attend a school that will actually have programs tailored to their needs.

The Coast Guard will be able to continue to use and practice lifesaving techniques, rescue and recovery missions in the new YMCA pool.

So I am pleased to support this bill, which was introduced by my colleague which will make a positive difference in the lives of so many residents in Michigan, especially younger residents. I appreciate the gentleman's work, and support of the members of the Michigan congressional delegation. I want to thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Ohio (Mr. LATOURETTE) for their support in bringing this bill to the floor; and also I thank our leadership, the gentleman from Texas (Mr. ARMEY), the majority leader, who allowed this bill to come on the suspension calendar.

With that, Mr. Speaker, I urge support for this bill.

Mr. CLEMENT. Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself the balance of my time just to indicate to the gentleman from Tennessee that I very much appreciate his kind remarks. He has been someone that I have looked up to in the 7 years that I have been in Congress, and I would be remiss if I did not make mention of the fact that he apparently has used his weekend wisely and he is sporting a new hairdo and is even more dapper than he was last week.

Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3370.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

21ST CENTURY MONTGOMERY GI BILL ENHANCEMENT ACT AMENDMENTS

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 310) providing for the concurrence by the House with an amendment in the amendments of the Senate to H.R. 1291.

The Clerk read as follows:

H. RES. 310

Resolved, That, upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 1291, with the Senate amendments thereto, and to have concurred in the Senate amendment to the title of the bill and to have concurred in the Senate amendment to the text of the bill with the following amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Education and Benefits Expansion Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—EDUCATIONAL ASSISTANCE PROVISIONS

Sec. 101. Increase in rates of basic educational assistance under Montgomery GI Bill.
Sec. 102. Increase in rates of survivors' and dependents' educational assistance.
Sec. 103. Restoration of certain education benefits of individuals being ordered to active duty.
Sec. 104. Accelerated payments of educational assistance under Montgomery GI Bill for education leading to employment in high technology industry.
Sec. 105. Eligibility for Montgomery GI Bill benefits of certain additional Vietnam era veterans.
Sec. 106. Increase in maximum allowable annual Senior ROTC educational assistance for eligibility for benefits under the Montgomery GI Bill.
Sec. 107. Expansion of work-study opportunities.
Sec. 108. Eligibility for survivors' and dependents' educational assistance of spouses and surviving spouses of veterans with total service-connected disabilities.
Sec. 109. Expansion of special restorative training benefit to certain disabled spouses or surviving spouses.

Sec. 110. Inclusion of certain private technology entities in definition of educational institution.
Sec. 111. Distance education.

TITLE II—COMPENSATION AND PENSION PROVISIONS

Sec. 201. Modification and extension of authorities on presumption of service-connection for herbicide-related disabilities of Vietnam veterans.
Sec. 202. Payment of compensation for Persian Gulf War veterans with certain chronic disabilities.
Sec. 203. Preservation of service connection for undiagnosed illnesses to provide for participation in research projects by Persian Gulf War veterans.
Sec. 204. Repeal of limitation on payments of benefits to incompetent institutionalized veterans.
Sec. 205. Extension of round-down requirement for compensation cost-of-living adjustments.
Sec. 206. Expansion of presumptions of permanent and total disability for veterans applying for non-service-connected pension.
Sec. 207. Eligibility of veterans 65 years of age or older for veterans' pension benefits.

TITLE III—TRANSITION AND OUTREACH PROVISIONS

Sec. 301. Authority to establish overseas veterans assistance offices to expand transition assistance.
Sec. 302. Timing of preseparation counseling.
Sec. 303. Improvement in education and training outreach services for separating servicemembers and veterans.
Sec. 304. Improvement of veterans outreach programs.

TITLE IV—HOUSING MATTERS

Sec. 401. Increase in home loan guaranty amount for construction and purchase of homes.
Sec. 402. Native American veteran housing loan pilot program.
Sec. 403. Modification of loan assumption notice requirement.
Sec. 404. Increase in assistance amount for specially adapted housing.
Sec. 405. Extension of other housing authorities.
Sec. 406. Clarifying amendment relating to eligibility of members of the Selected Reserve for housing loans.

TITLE V—OTHER MATTERS

Sec. 501. Increase in burial benefits.
Sec. 502. Government markers for marked graves at private cemeteries.
Sec. 503. Increase in amount of assistance for automobile and adaptive equipment for certain disabled veterans.
Sec. 504. Extension of limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 505. Prohibition on provision of certain benefits with respect to persons who are fugitive felons.
Sec. 506. Limitation on payment of compensation for veterans remaining incarcerated since October 7, 1980.
Sec. 507. Elimination of requirement for providing a copy of notice of appeal to the Secretary of Veterans Affairs.
Sec. 508. Increase in fiscal year limitation on number of veterans in programs of independent living services and assistance.
Sec. 509. Technical and clerical amendments.

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Sec. 601. Facilitation of staggered terms of judges through temporary expansion of the Court.
Sec. 602. Repeal of requirement for written notice regarding acceptance of reappointment as condition to retirement from the Court.
Sec. 603. Termination of notice of disagreement as jurisdictional requirement for the Court.
Sec. 604. Registration fees.
Sec. 605. Administrative authorities.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATIONAL ASSISTANCE PROVISIONS

SEC. 101. INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) IN GENERAL.—(1) Paragraph (1) of section 3015(a) is amended to read as follows:

"(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

"(A) for months beginning on or after January 1, 2002, $800;

"(B) for months occurring during fiscal year 2003, $900;

"(C) for months occurring during fiscal year 2004, $985; and

"(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or".

(2) Paragraph (1) of section 3015(b) is amended to read as follows:

"(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

"(A) for months beginning on or after January 1, 2002, $650;

"(B) for months occurring during fiscal year 2003, $732;

"(C) for months occurring during fiscal year 2004, $800; and

"(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or".

(b) CPI ADJUSTMENT.—No adjustment in rates of educational assistance shall be made under section 3015(h) of title 38, United States Code, for fiscal years 2003 and 2004.

SEC. 102. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3532 is amended—

(1) in subsection (a)(1)—

(A) by striking "$588" and inserting "$670";

(B) by striking "$441" and inserting "$503"; and

(C) by striking "$294" and inserting "$335";

(2) in subsection (a)(2), by striking "$588" and inserting "$670";

(3) in subsection (b), by striking "$588" and inserting "$670"; and

(4) in subsection (c)(2)—

(A) by striking "$475" and inserting "$541";

(B) by striking "$356" and inserting "$406"; and

(C) by striking "$238" and inserting "$271".

(b) CORRESPONDENCE COURSES.—Section 3534(b) is amended by striking "$588" and inserting "$670".

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) is amended—

(1) by striking "$588" and inserting "$670"; and

(2) by striking "$184" each place it appears and inserting "$210".

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) is amended—

(1) by striking "$428" and inserting "$488";

(2) by striking "$320" and inserting "$365";

(3) by striking "$212" and inserting "$242"; and

(4) by striking "$107" and inserting "$122".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2002, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.

SEC. 103. RESTORATION OF CERTAIN EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO ACTIVE DUTY.

(a) IN GENERAL.—Sections 3013(f)(2)(A), 3231(a)(5)(B)(i), and 3511(a)(2)(B)(i) are each amended by striking ", in connection with the Persian Gulf War, to serve on active duty under section 672 (a), (d), or (g), 673, 673b, or 688 of title 10;" and inserting "to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10;".

(b) INCREASE IN CHAPTER 35 DELIMITING PERIOD.—Section 3512 is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this section, if an eligible person, during the delimiting period otherwise applicable to such person under this section, serves on active duty pursuant to an order to active duty issued under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, such person shall be granted an extension of such delimiting period for the length of time equal to the period of such active duty plus four months.".

(c) APPLICATION TO CHAPTER 31.—(1) Section 3105 is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of a subsistence allowance and other assistance described in paragraph (2) shall not—

"(A) be charged against any entitlement of any veteran under this chapter; or

"(B) be counted toward the aggregate period for which section 3695 of this title limits an individual's receipt of allowance or assistance.

"(2) The payment of the subsistence allowance and other assistance referred to in paragraph (1) is the payment of such an allowance or assistance for the period described in paragraph (3) to a veteran for participation in a vocational rehabilitation program under this chapter if the Secretary finds that the veteran had to suspend or discontinue participation in such vocational rehabilitation program as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

"(3) The period for which, by reason of this subsection, a subsistence allowance and other assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall be the period of participation in the vocational rehabilitation program for which the veteran failed to receive credit or with respect to which the veteran lost training time, as determined by the Secretary.”.

(2) Section 3103 is amended by adding at the end the following new subsection:

“(e) In any case in which the Secretary has determined that a veteran was prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility otherwise prescribed in this section as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, such period of eligibility shall not run for the period of such active duty service plus four months.

(d) Conforming Amendments.—Sections 3013(f)(2)(B) and 3231(a)(5)(B)(ii) of such title are each amended by striking “, in connection with such War,”.

(e) Effective Date.—The amendments made by this section shall take effect as of September 11, 2001.

SEC. 104. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.

(a) In General.—(1) Chapter 30 is amended by inserting after section 3014 the following new section:

“§ 3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry

“(a) An individual described in subsection (b) who is entitled to basic educational assistance under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

“(b) An individual described in this subsection is an individual who is—

“(1) enrolled in an approved program of education that leads to employment in a high technology industry (as determined pursuant to regulations prescribed by the Secretary); and

“(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

“(c)(1) The amount of the accelerated payment of basic educational assistance made to an individual making an election under subsection (a) for a program of education shall be the lesser of—

“(A) the amount equal to 60 percent of the established charges for the program of education; or

“(B) the aggregate amount of basic educational assistance to which the individual remains entitled under this chapter at the time of the payment.

“(2) In this subsection, the term ‘established charges’, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

“(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

“(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

“(3) The educational institution providing the program of education for which an accelerated payment of basic educational assistance allowance is elected by an individual under subsection (a) shall certify to the Secretary the amount of the established charges for the program of education.

“(d) An accelerated payment of basic educational assistance made to an individual under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary receives a certification from the educational institution regarding—

“(1) the individual's enrollment in and pursuit of the program of education; and

“(2) the amount of the established charges for the program of education.

“(e)(1) Except as provided in paragraph (2), for each accelerated payment of basic educational assistance made to an individual under this section, the individual's entitlement to basic educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

“(2) If the monthly rate of basic educational assistance allowance otherwise payable to an individual under section 3015 of this title increases during the enrollment period of a program of education for which an accelerated payment of basic educational assistance is made under this section, the charge to the individual's entitlement to basic educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the matter provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary.

“(f) The Secretary may not make an accelerated payment under this section for a program of education to an individual who has received an advance payment under section 3680(d) of this title for the same enrollment period.

“(g) The Secretary shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment under this section.”.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 3014 the following new item:

“3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology industry.”.

(b) Restatement and Enhancement of Certain Administrative Authorities.—Subsection (g) of section 3680 is amended to read as follows:

“Determination of Enrollment, Pursuit, and Attendance

“(g)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define with respect to an eligible veteran and eligible person the following:

“(A) Enrollment in a course or program of education or training.

“(B) Pursuit of a course or program of education or training.

“(C) Attendance at a course or program of education or training.

“(2) The Secretary may withhold payment of benefits to an eligible veteran or eligible person until the Secretary receives such proof as the Secretary may require of enrollment in and satisfactory pursuit of a program of education by the eligible veteran or eligible person. The Secretary shall adjust the payment withheld, when necessary, on the basis of the proof the Secretary receives.

“(3) In the case of an individual other than an individual described in paragraph (4), the Secretary may accept the individual's monthly certification of enrollment in and satisfactory pursuit of a program of education as sufficient proof of the certified matters.

“(4) In the case of an individual who has received an accelerated payment of basic educational assistance under section 3014A of this title during an enrollment period for a program of education, the Secretary may accept the individual's certification of enrollment in and satisfactory pursuit of the program of education as sufficient proof of the certified matters if the certification is submitted after the enrollment period has ended.”.

(c) Effective Date.—The amendments made by this section shall take effect October 1, 2002, and shall apply with respect to enrollments in courses or programs of education or training beginning on or after that date.

SEC. 105. ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.

(a) Active Duty Program.—Section 3011(a)(1) is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by adding “or” at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

“(C) as of December 31, 1989, was eligible for educational assistance benefits under chapter 34 of this title and—

“(i) was not on active duty on October 19, 1984;

“(ii) reenlists or reenters on a period of active duty on or after October 19, 1984; and

“(iii) on or after July 1, 1985, either—

“(I) serves at least three years of continuous active duty in the Armed Forces; or

“(II) is discharged or released from active duty (aa) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph, (bb) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (cc) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;”.

(b) Selected Reserve Program.—Section 3012(a)(1) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by adding "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) as of December 31, 1989, was eligible for educational assistance under chapter 34 of this title and—

"(i) was not on active duty on October 19, 1984;

"(ii) reenlists or reenters on a period of active duty on or after October 19, 1984; and

"(iii) on or after July 1, 1985—

"(I) serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

"(II) subject to subsection (b) of this section and beginning within one year after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;".

(c) TIME FOR USE OF ENTITLEMENT.—Section 3031 is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(C) or 3012(a)(1)(C) of this title, on the date of the enactment of this paragraph."; and

(2) in subsection (e)(1), by striking "section 3011(a)(1)(B) or 3012(a)(1)(B)" and inserting "section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C)".

SEC. 106. INCREASE IN MAXIMUM ALLOWABLE ANNUAL SENIOR ROTC EDUCATIONAL ASSISTANCE FOR ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY GI BILL.

(a) IN GENERAL.—Sections 3011(c)(3)(B) and 3012(d)(3)(B) are each amended by striking "$2,000" and inserting "$3,400".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to educational assistance allowances paid under chapter 30 of title 38, United States Code, for months beginning after the date of the enactment of this Act.

SEC. 107. EXPANSION OF WORK-STUDY OPPORTUNITIES.

(a) FIVE-YEAR EXPANSION OF QUALIFYING WORK-STUDY ACTIVITIES.—Subsection (a) of section 3485 is amended to read as follows:

"(a)(1) Individuals utilized under the authority of subsection (b) shall be paid an additional educational assistance allowance (hereinafter in this section referred to as 'work-study allowance'). Such allowance shall be paid in return for an individual's entering into an agreement described in paragraph (3).

"(2) Such work-study allowance shall be paid in an amount equal to the product of—

"(A) the applicable hourly minimum wage; and

"(B) the number of hours worked during the applicable period.

"(3) An agreement described in this paragraph is an agreement of an individual to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with a qualifying work-study activity.

"(4) For the purposes of this section, the term 'qualifying work-study activity' means any of the following:

"(A) The outreach services program under subchapter II of chapter 77 of this title as carried out under the supervision of a Department employee or, during the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, outreach services to servicemembers and veterans furnished by employees of a State approving agency.

"(B) The preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department.

"(C) The provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, including, during the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, the provision of such care to veterans in a State home for which payment is made under section 1741 of this title.

"(D) Any other activity of the Department as the Secretary determines appropriate.

"(E) In the case of an individual who is receiving educational assistance under chapter 1606 of title 10, an activity relating to the administration of that chapter at Department of Defense, Coast Guard, or National Guard facilities.

"(F) During the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001, an activity relating to the administration of a national cemetery or a State veterans' cemetery.

"(5) An individual may elect, in a manner prescribed by the Secretary, to be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the individual's agreement to perform the number of hours of work specified in the agreement (but not more than an amount equal to 50 times the applicable hourly minimum wage).

"(6) For the purposes of this subsection and subsection (e), the term 'applicable hourly minimum wages' means—

"(A) the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)); or

"(B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in subparagraph (A) and the Secretary has made a determination to pay such higher wage.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to agreements entered into under section 3485 of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 108. ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF SPOUSES AND SURVIVING SPOUSES OF VETERANS WITH TOTAL SERVICE-CONNECTED DISABILITIES.

(a) DESIGNATION OF ELIGIBILITY.—Section 3501(a)(1)(D) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by inserting "(ii)" after "or".

(b) RESTATEMENT AND EXPANSION OF TREATMENT OF USE OF ELIGIBILITY.—(1) Section 3511 is amended by adding at the end the following new subsection:

"(c) Any entitlement used by an eligible person as a result of eligibility under section 3501(a)(1)(A)(iii), 3501(a)(1)(C), or 3501(a)(1)(D)(i) of this title shall be deducted from any entitlement to which such person may subsequently be entitled under this chapter.".

(2) Section 3512 is amended by striking subsection (g).

(c) DELIMITING PERIOD.—(1) Section 3511(a)(1) is amended by adding at the end the following new sentence: "In no event may the aggregate educational assistance afforded to a spouse made eligible under both 3501(a)(1)(D)(i) and 3501(a)(1)(D)(ii) of this title exceed 45 months.".

(2) Paragraph (1) of section 3512(b) is amended to read as follows:

"(1)(A) Except as provided in subparagraph (B), a person made eligible by subparagraph (B) or (D) of section 3501(a)(1) of this title may be afforded educational assistance under this chapter during the 10-year period beginning on the date (as determined by the Secretary) the person becomes an eligible person within the meaning of section 3501(a)(1)(B), 3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii) of this title. In the case of a surviving spouse made eligible by clause (ii) of section 3501(a)(1)(D) of this title, the 10-year period may not be reduced by any earlier period during which the person was eligible for educational assistance under this chapter as a spouse made eligible by clause (i) of that section.

"(B) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph may, subject to the Secretary's approval, elect a later beginning date for the 10-year period than would otherwise be applicable to the person under that subparagraph. The beginning date so elected may be any date between the beginning date determined for the person under subparagraph (A) and whichever of the following dates applies:

"(i) The date on which the Secretary notifies the veteran from whom eligibility is derived that the veteran has a service-connected total disability permanent in nature.

"(ii) The date on which the Secretary determines that the veteran from whom eligibility is derived died of a service-connected disability.".

(3) Section 3512(b) is further amended by striking paragraph (3).

(4) The amendments made by this subsection shall apply with respect to any determination (whether administrative or judicial) of the eligibility of a spouse or surviving spouse for educational assistance under chapter 35 of title 38, United States Code, made on or after the date of the enactment of this Act, whether pursuant to an original claim for such assistance or pursuant to a reapplication or attempt to reopen or readjudicate a claim for such assistance.

SEC. 109. EXPANSION OF SPECIAL RESTORATIVE TRAINING BENEFIT TO CERTAIN DISABLED SPOUSES OR SURVIVING SPOUSES.

(a) IN GENERAL.—Section 3540 is amended by striking "section 3501(a)(1)(A) of this title" and inserting "subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title".

(b) CONFORMING AMENDMENTS.—(1) Section 3541(a) is amended in the matter preceding paragraph (1) by striking "of the parent or guardian".

(2) Section 3542(a) is amended—

(A) by striking "the parent or guardian shall be entitled to receive on behalf of such person" and inserting "the eligible person shall be entitled to receive"; and

(B) by striking "upon election by the parent or guardian of the eligible person" and inserting "upon election by the eligible person".

(3) The second sentence of section 3543(a) is amended by striking "the parent or guardian for the training provided to an eligible person" and inserting "for the training provided to the eligible person".

(4) Section 3543 is amended by adding at the end the following new subsection:

"(c) In a case in which the Secretary authorizes training under section 3541(a) of this title on behalf of an eligible person, the parent or guardian shall be entitled—

"(1) to receive on behalf of the eligible person the special training allowance provided for under section 3542(a) of this title;

"(2) to elect an increase in the basic monthly allowance provided for under such section; and

"(3) to agree with the Secretary on the fair and reasonable amounts which may be charged under subsection (a).".

SEC. 110. INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN DEFINITION OF EDUCATIONAL INSTITUTION.

(a) IN GENERAL.—Sections 3452(c) and 3501(a)(6) are each amended by adding at the end the following new sentence: "Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollments in courses beginning on or after the date of the enactment of this Act.

SEC. 111. DISTANCE EDUCATION.

(a) IN GENERAL.—Subsection (a)(4) of section 3680A is amended—

(1) by inserting "(A)" after "leading"; and

(2) by inserting before the period the following: ", or (B) to a certificate that reflects educational attainment offered by an institution of higher learning".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to enrollments in independent study courses beginning on or after the date of the enactment of this Act.

TITLE II—COMPENSATION AND PENSION PROVISIONS

SEC. 201. MODIFICATION AND EXTENSION OF AUTHORITIES ON PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM VETERANS.

(a) PRESUMPTIVE PERIOD FOR RESPIRATORY CANCERS.—(1)(A) Subparagraph (F) of subsection (a)(2) of section 1116 is amended by striking "within 30 years" and all that follows through "May 7, 1975".

(B) The amendment made by subparagraph (A) shall take effect January 1, 2002.

(2) The Secretary of Veterans Affairs shall enter into a contract with the National Academy of Sciences, not later than six months after the date of the enactment of this Act, for the performance of a study to include a review of all available scientific literature on the effects of exposure to an herbicide agent containing dioxin on the development of respiratory cancers in humans and whether it is possible to identify a period of time after exposure to herbicides after which a presumption of service-connection for such exposure would not be warranted. Under the contract, the National Academy of Sciences shall submit a report to the Secretary setting forth its conclusions. The report shall be submitted not later than 18 months after the contract is entered into.

(3) For a period of six months beginning on the date of the receipt of the report of the National Academy of Sciences under paragraph (2), the Secretary may, if warranted by clear scientific evidence presented in the National Academy of Sciences report, initiate a rulemaking under which the Secretary would specify a limit on the number of years after a claimant's departure from Vietnam after which respiratory cancers would not be presumed to have been associated with the claimant's exposure to herbicides while serving in Vietnam. Any such limit under such a rule may not take effect until 120 days have passed after the publication of a final rule to impose such a limit.

(4)(A) Subject to subparagraphs (B) and (C), if the Secretary imposes such a limit under paragraph (3), that limit shall be effective only as to claims filed on or after the effective date of that limit.

(B) In the case of any veteran whose disability or death due to respiratory cancer is found by the Secretary to be service-connected under section 1116(a)(2)(F) of title 38, United States Code, as amended by paragraph (1), such disability or death shall remain service-connected for purposes of all provisions of law under such title notwithstanding the imposition, if any, of a time limit by the Secretary by rulemaking authorized under paragraph (3).

(C) Subaragraph (B) does not apply in a case in which—

(i) the original award of compensation or service connection was based on fraud; or

(ii) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

(b) PRESUMPTION THAT DIABETES MELLITUS (TYPE 2) IS SERVICE-CONNECTED.—Subsection (a)(2) of section 1116 is further amended by adding at the end the following new subparagraph:

"(H) Diabetes Mellitus (Type 2).".

(c) PRESUMPTION OF EXPOSURE TO HERBICIDE AGENTS IN VIETNAM DURING VIETNAM ERA.—(1) Section 1116 is further amended—

(A) by transferring paragraph (3) of subsection (a) to the end of the section and redesignating such paragraph, as so transferred, as subsection (f);

(B) by redesignating paragraph (4) of subsection (a) as paragraph (3); and

(C) in subsection (f), as transferred and redesignated by subparagraph (A) of this paragraph—

(i) by striking "For the purposes of this subsection, a veteran" and inserting "For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran"; and

(ii) by striking "and has a disease referred to in paragraph (1)(B) of this subsection".

(2)(A) The heading of that section is amended to read as follows:

"§1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam".

(B) The item relating to that section in the table of sections at the beginning of chapter 11 is amended to read as follows:

"1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam.".

(d) EXTENSION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISEASES.—(1) Subsection (e) of such section is amended by striking "10 years" and all that follows through "Agent Orange Act of 1991" and inserting "on September 30, 2015".

(2) Section 3(i) of the Agent Orange Act of 1991 (38 U.S.C. 1116 note) is amended by striking "10 years" and all that follows and inserting "on October 1, 2014.".

SEC. 202. PAYMENT OF COMPENSATION FOR PERSIAN GULF WAR VETERANS WITH CERTAIN CHRONIC DISABILITIES.

(a) ILLNESSES THAT CANNOT BE CLEARLY DEFINED.—(1) Subsection (a) of section 1117 is amended to read as follows:

"(a)(1) The Secretary may pay compensation under this subchapter to a Persian Gulf veteran with a qualifying chronic disability that became manifest—

"(A) during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

"(B) to a degree of 10 percent or more during the presumptive period prescribed under subsection (b).

"(2) For purposes of this subsection, the term 'qualifying chronic disability' means a chronic disability resulting from any of the following (or any combination of any of the following):

"(A) An undiagnosed illness.

"(B) A medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms.

"(C) Any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connection.".

(2) Subsection (c)(1) of such section is amended—

(A) in the matter preceding subparagraph (A), by striking "for an undiagnosed illness (or combination of undiagnosed illnesses)"; and

(B) in subparagraph (A), by striking "for such illness (or combination of illnesses)".

(b) SIGNS OR SYMPTOMS THAT MAY INDICATE UNDIAGNOSED ILLNESSES.—(1) Such section is further amended by adding at the end the following new subsection:

"(g) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness or a chronic multisymptom illness include the following:

"(1) Fatigue.

"(2) Unexplained rashes or other dermatological signs or symptoms.

"(3) Headache.

"(4) Muscle pain.

"(5) Joint pain.

"(6) Neurological signs and symptoms.

"(7) Neuropsychological signs or symptoms.

"(8) Signs or symptoms involving the upper or lower respiratory system.

"(9) Sleep disturbances.

"(10) Gastrointestinal signs or symptoms.

"(11) Cardiovascular signs or symptoms.

"(12) Abnormal weight loss.

"(13) Menstrual disorders.".

(2) Section 1118(a) is amended by adding at the end the following new paragraph:

"(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(g) of this title.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on March 1, 2002.

(d) CLARIFICATION OF AUTHORITY TO PRESUME SERVICE-CONNECTION FOR ADDITIONAL DISEASES.—(1) Sections 1117(c)(2) and 1118(e) are each amended by striking "10 years" and all that follows through "of 1998" and inserting "on September 30, 2011".

(2) Section 1603(j) of the Persian Gulf War Veterans Act of 1998 (38 U.S.C. 1117 note) is amended by striking "10 years" and all that follows and inserting "on October 1, 2010.".

SEC. 203. PRESERVATION OF SERVICE CONNECTION FOR UNDIAGNOSED ILLNESSES TO PROVIDE FOR PARTICIPATION IN RESEARCH PROJECTS BY PERSIAN GULF WAR VETERANS.

(a) Authority for Secretary To Provide for Participation Without Loss of Benefits.—Section 1117 is amended by adding after subsection (g), as added by section 202(b), the following new subsection:

"(h)(1) If the Secretary determines with respect to a medical research project sponsored by the Department that it is necessary for the conduct of the project that Persian Gulf veterans in receipt of compensation under this section or section 1118 of this title participate in the project without the possibility of loss of service connection under either such section, the Secretary shall provide that service connection granted under either such section for disability of a veteran who participated in the research project may not be terminated. Except as provided in paragraph (2), nothwithstanding any other provision of law any grant of service-connection protected under this subsection shall remain service-connected for purposes of all provisions of law under this title.

"(2) Paragraph (1) does not apply in a case in which—

"(A) the original award of compensation or service connection was based on fraud; or

"(B) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

"(3) The Secretary shall publish in the Federal Register a list of medical research projects sponsored by the Department for which service connection granted under this section or section 1118 of this title may not be terminated pursuant to paragraph (1).".

(b) Effective Date.—The authority provided by subsection (h) of section 1117 of title 38, United States Code, as added by subsection (a), may be used by the Secretary of Veterans Affairs with respect to any medical research project of the Department of Veterans Affairs, whether commenced before, on, or after the date of the enactment of this Act.

SEC. 204. REPEAL OF LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT INSTITUTIONALIZED VETERANS.

(a) Repeal.—Section 5503 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) Conforming Amendments.—(1) Section 1114(r) is amended by striking "section 5503(e)" and inserting "section 5503(c)".

(2) Section 5112 is amended by striking subsection (c).

SEC. 205. EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS.

Sections 1104(a) and 1303(a) are amended by striking "2002" and inserting "2011".

SEC. 206. EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NON-SERVICE-CONNECTED PENSION.

(a) In General.—Section 1502(a) is amended by striking "such a person" and all that follows through the end of the subsection and inserting the following: "such person is any of the following:

"(1) A patient in a nursing home for long-term care because of disability.

"(2) Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner.

"(3) Unemployable as a result of disability reasonably certain to continue throughout the life of the person.

"(4) Suffering from—

"(A) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the person; or

"(B) any disease or disorder determined by the Secretary to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as of September 17, 2001.

SEC. 207. ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR VETERANS' PENSION BENEFITS.

(a) In General.—(1) Subchapter II of chapter 15 is amended by inserting after section 1512 the following new section:

"§ 1513. Veterans 65 years of age and older

"(a) The Secretary shall pay to each veteran of a period of war who is 65 years of age or older and who meets the service requirements of section 1521 of this title (as prescribed in subsection (j) of that section) pension at the rates prescribed by 1521 of this title and under the conditions (other than the permanent and total disability requirement) applicable to pension paid under that section.

"(b) If a veteran is eligible for pension under both this section and section 1521 of this title, pension shall be paid to the veteran only under section 1521 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1512 the following new item:

"1513. Veterans 65 years of age and older.".

(b) Conforming Amendments.—(1) Section 1521(f)(1) is amended by inserting "or the age and service requirements prescribed in section 1513 of this title," after "of this section,".

(2) Section 1522(a) is amended by inserting "1513 or" after "under section".

(c) Effective Date.—The amendments made by this section shall take effect as of September 17, 2001.

TITLE III—TRANSITION AND OUTREACH PROVISIONS

SEC. 301. AUTHORITY TO ESTABLISH OVERSEAS VETERANS ASSISTANCE OFFICES TO EXPAND TRANSITION ASSISTANCE.

Section 7723(a) is amended by inserting after the first sentence the following new sentence: "The Secretary may maintain such offices on such military installations located elsewhere as the Secretary, after consultation with the Secretary of Defense, determines to be necessary to carry out such purposes.".

SEC. 302. TIMING OF PRESEPARATION COUNSELING.

(a) In General.—(1) The first sentence of section 1142(a)(1) of title 10, United States Code, is amended to read as follows: "Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces whose discharge or release from active duty is anticipated as of a specific date.".

(2) Such section is further amended by adding at the end the following new paragraphs:

"(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 90 days before the date of discharge or release.

"(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, preseparation counseling shall begin as soon as possible within the remaining period of service.

"(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member's first 180 days of active duty.

"(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.".

(b) Conforming Amendment.—The second sentence of section 1144(a)(1) of title 10, United States Code, is amended by striking "during the 180-day period" and all that follows and inserting "within the time periods provided under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide preseparation counseling to a member described in paragraph (4)(A) of such section.".

SEC. 303. IMPROVEMENT IN EDUCATION AND TRAINING OUTREACH SERVICES FOR SEPARATING SERVICEMEMBERS AND VETERANS.

(a) Providing Outreach Through State Approving Agencies.—Section 3672(d) is amended by inserting "and State approving agencies" before "shall actively promote the development of programs of training on the job".

(b) Additional Duty.—Such section is further amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) In conjunction with outreach services provided by the Secretary under chapter 77 of this title for education and training benefits, each State approving agency shall conduct outreach programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.".

SEC. 304. IMPROVEMENT OF VETERANS OUTREACH PROGRAMS.

Section 7722(c) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) Whenever a veteran or dependent first applies for any benefit under laws administered by the Secretary (including a request for burial or related benefits or an application for life insurance proceeds), the Secretary shall provide to the veteran or dependent information concerning benefits and health care services under programs administered by the Secretary. Such information shall be provided not later than three months after the date of such application.".

TITLE IV—HOUSING MATTERS

SEC. 401. INCREASE IN HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES.

Section 3703(a)(1) is amended by striking "$50,750" each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting "$60,000".

SEC. 402. NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM.

(a) Extension of Pilot Program.—Section 3761(c) is amended by striking "December 31, 2001" and inserting "December 31, 2005".

(b) Authorization of the Use of Certain Federal Memorandums of Understanding.—Section 3762(a)(1) is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking "and" after the semicolon and inserting "or"; and

(3) by adding at the end the following:

"(B) the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b); and".

(c) Extension of Annual Report.—Section 3762(j) is amended by striking "2002" and inserting "2006".

SEC. 403. MODIFICATION OF LOAN ASSUMPTION NOTICE REQUIREMENT.

Section 3714(d) is amended to read as follows:

"(d) With respect to a loan guaranteed, insured, or made under this chapter, the Secretary shall provide, by regulation, that at least one instrument evidencing either the loan or the mortgage or deed of trust therefor, shall conspicuously contain, in such form as the Secretary shall specify, a notice in substantially the following form: 'This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent'.".

SEC. 404. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking "$43,000" and inserting "$48,000"; and

(2) in subsection (b)(2), by striking "$8,250" and inserting "$9,250".

SEC. 405. EXTENSION OF OTHER HOUSING AUTHORITIES.

(a) Housing Loans for Members of the Selected Reserve.—Section 3702(a)(2)(E) is amended by striking "September 30, 2007" and inserting "September 30, 2009".

(b) Enhanced Loan Asset Sale Authority.—Section 3720(h)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2011".

(c) Home Loan Fee Authorities.—The table in section 3729(b)(2) is amended by striking "October 1, 2008" each place it appears and inserting "October 1, 2011".

(d) Procedures Applicable to Liquidation Sales on Defaulted Home Loans Guaranteed by the Department of Veterans Affairs.—Section 3732(c)(11) is amended by striking "October 1, 2008" and inserting "October 1, 2011".

SEC. 406. CLARIFYING AMENDMENT RELATING TO ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE FOR HOUSING LOANS.

Section 3729(b)(4)(B) is amended by inserting before the period the following: "who is eligible under section 3702(a)(2)(E) of this title".

TITLE V—OTHER MATTERS

SEC. 501. INCREASE IN BURIAL BENEFITS.

(a) Burial and Funeral Expenses.—(1) Clause (1) of section 2307 is amended by striking "$1,500" and inserting "$2,000".

(2) The amendment made by paragraph (1) shall apply to deaths occurring on or after September 11, 2001.

(b) Plot Allowance.—(1) Section 2303(b) is amended by striking "$150" each place it appears and inserting "$300".

(2) The amendments made by paragraph (1) shall apply to deaths occurring on or after December 1, 2001.

SEC. 502. GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES.

(a) Government Marker Benefit.—Section 2306 of title 38, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d)(1) The Secretary shall furnish, when requested, an appropriate Government marker at the expense of the United States for the grave of an individual described in paragraph (2) or (5) of subsection (a) who is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Such a marker may be furnished only if the individual making the request for the Government marker certifies to the Secretary that the marker will be placed on the grave for which the marker is requested.

"(2) Any marker furnished under this subsection shall be delivered by the Secretary directly to the cemetery where the grave is located.

"(3) The authority to furnish a marker under this subsection expires on December 31, 2006.

"(4) Not later than February 1, 2006, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the use of the authority under this subsection. The report shall include the following:

"(A) The rate of use of the benefit under this subsection, shown by fiscal year.

"(B) An assessment as to the extent to which markers furnished under this subsection are being delivered to cemeteries and placed on grave sites consistent with the provisions of this subsection.

"(C) The Secretary's recommendation for extension or repeal of the expiration date specified in paragraph (3).".

(b) Design of Marker.—Subsection (c) of such section is amended by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (d)".

(c) Cross Reference Correction.—Subsection (a)(5) of such section is amended by striking "chapter 67" and inserting "chapter 1223".

(d) Effective Date.—The amendments made by subsections (a) and (b) shall apply with respect to markers for the graves of individuals dying on or after the date of the enactment of this Act.

SEC. 503. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) is amended by striking "$8,000" and inserting "$9,000".

SEC. 504. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Paragraph (7) of subsection (d) of section 5503, as redesignated by section 204(a), is amended by striking "September 30, 2008" and inserting "September 30, 2011".

SEC. 505. PROHIBITION ON PROVISION OF CERTAIN BENEFITS WITH RESPECT TO PERSONS WHO ARE FUGITIVE FELONS.

(a) Prohibition.—(1) Chapter 53 is amended by inserting after section 5313A the following new section:

"§ 5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons

"(a) A veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran is a fugitive felon. A dependent of a veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran or such dependent is a fugitive felon.

"(b) For purposes of this section:

"(1) The term 'fugitive felon' means a person who is a fugitive by reason of—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or

"(B) violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

"(2) The term 'felony' includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

"(3) The term 'dependent' means a spouse, surviving spouse, child, or dependent parent of a veteran.

"(c) A benefit specified in this subsection is a benefit under any of the following:

"(1) Chapter 11 of this title.

"(2) Chapter 13 of this title.

"(3) Chapter 15 of this title.

"(4) Chapter 17 of this title.

"(5) Chapter 19 of this title.

"(6) Chapter 30, 31, 32, 34, or 35 of this title.

"(7) Chapter 37 of this title.

"(d)(1) The Secretary shall furnish to any Federal, State, or local law enforcement official, upon the written request of such official, the most current address maintained by the Secretary of a person who is eligible for a benefit specified in subsection (c) if such official—

"(A) provides to the Secretary such information as the Secretary may require to fully identify the person;

"(B) identifies the person as being a fugitive felon; and

"(C) certifies to the Secretary that apprehending such person is within the official duties of such official.

"(2) The Secretary shall enter into memoranda of understanding with Federal law enforcement agencies, and may enter into agreements with State and local law enforcement agencies, for purposes of furnishing information to such agencies under paragraph (1).".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 5313A the following new item:

"5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons.".

(b) Sense of Congress on Entry Into Memoranda of Understanding and Agreements.—It is the sense of Congress that the memoranda of understanding and agreements referred to in section 5313B(d)(2) of title 38, United States Code (as added by subsection (a)), should be entered into as soon as practicable after the date of the enactment of this Act, but not later than six months after that date.

SEC. 506. LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED SINCE OCTOBER 7, 1980.

(a) Limitation.—Section 5313 of title 38, United States Code, other than subsection (d) of that section, shall apply with respect to the payment of compensation to or with respect to any veteran described in subsection (b).

(b) Covered Veterans.—A veteran described in this subsection is a veteran who is entitled to compensation and who—

(1) on October 7, 1980, was incarcerated in a Federal, State, or local penal institution for a felony committed before that date; and

(2) remains so incarcerated for conviction of that felony as of the date of the enactment of this Act.

(c) Effective Date.—This section shall apply with respect to the payment of compensation for months beginning on or after the end of the 90-day period beginning on the date of the enactment of this Act.

(d) Compensation Defined.—For purposes of this section, the term "compensation" has the meaning given that term in section 5313 of title 38, United States Code.

SEC. 507. ELIMINATION OF REQUIREMENT FOR PROVIDING A COPY OF NOTICE OF APPEAL TO THE SECRETARY OF VETERANS AFFAIRS.

(a) Repeal.—Section 7266 is amended by striking subsection (b).

(b) Conforming Amendments.—Such section is further amended—

(1) by striking "(1)" after "(a)";

(2) by redesignating paragraph (2) as subsection (b);

(3) by redesignating paragraph (3) as subsection (c) and redesignating subparagraphs (A) and (B) thereof as paragraphs (1) and (2); and

(4) by redesignating paragraph (4) as subsection (d) and by striking "paragraph (3)(B)" therein and inserting "subsection (c)(2)".

SEC. 508. INCREASE IN FISCAL YEAR LIMITATION ON NUMBER OF VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

(a) Increase in Limitation.—Section 3120(e) is amended by striking "five hundred" and inserting "2,500".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as of September 30, 2001.

SEC. 509. TECHNICAL AND CLERICAL AMENDMENTS.

(a) Repeal of Expired Provision.—(1) Section 712 is repealed.

(2) The table of sections at the beginning of chapter 7 is amended by striking the item relating to section 712.

(b) Correction of Word Omission.—Section 1710B(c)(2)(B) is amended by inserting "on" before "November 30, 1999".

(c) Repeal of Erroneous Cross Reference.—Section 1729B(b) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(d) Correction of Cross Reference.—Section 3695(a)(5) is amended by striking "1610" and inserting "1611".

(e) Stylistic Correction.—Section 1001(a)(2) of the Veterans' Benefits Improvements Act of 1994 (Public Law 103–446; 38 U.S.C. 7721 note) is amended by striking "and" at the end of subparagraph (C).

(f) Correction of Previous Amendment.—Effective November 30, 1999, and as if included therein as originally enacted, section 204(e)(3) of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1563) is amended by striking "and inserting 'a';" and inserting "the first place it appears and inserting 'an';".

TITLE VI—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SEC. 601. FACILITATION OF STAGGERED TERMS OF JUDGES THROUGH TEMPORARY EXPANSION OF THE COURT.

(a) In General.—Section 7253 is amended by adding at the end the following new subsection:

"(h) Temporary Expansion of Court.—(1) During the period from January 1, 2002, through August 15, 2005, the authorized number of judges of the Court specified in subsection (a) is increased by two.

"(2)(A) Of the two additional judges authorized by this subsection—

"(i) only one may be appointed pursuant to a nomination made in 2002; and

"(ii) only one may be appointed pursuant to a nomination made in 2003.

"(B If a judge is not appointed under this subsection pursuant to a nomination made in 2002, a judge may be appointed under this subsection pursuant to a nomination made in 2004. If a judge is not appointed under this subsection pursuant to a nomination made in 2003, a judge may be appointed under this subsection pursuant to a nomination made in 2004. In either case, such an appointment may be made only pursuant to a nomination made before October 1, 2004.

"(3) The term of office and the eligibility for retirement of a judge appointed under this subsection, other than a judge described in paragraph (4), are governed by the provisions of section 1012 of the Court of Appeals for Veterans Claims Amendments of 1999 (title X of Public Law 106–117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 1999.

"(4) A judge of the Court as of the date of the enactment of this subsection who was appointed to the Court before January 1, 1991, may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section. The term of office of an incumbent judge who receives an appointment as described in the preceding sentence shall be 15 years, which includes any period remaining in the unexpired term of the judge. Any service following an appointment under this subsection shall be treated as though served as part of the original term of office of that judge on the Court.

"(5) Notwithstanding paragraph (1), an appointment may not be made to the Court if the appointment would result in there being more than seven judges on the Court who were appointed after January 1, 1997. For the purposes of this paragraph, a judge serving in recall status under section 7257 of this title shall be disregarded in counting the number of judges appointed to the Court after such date.".

(b) Stylistic Amendments.—That section is further amended—

(1) in subsection (b), by inserting "Appointment.—" before "The judges";

(2) in subsection (c), by inserting "Term of Office.—" before "The term";

(3) in subsection (f), by striking "(f)(1)" and inserting "(f) Removal.—(1)"; and

(4) in subsection (g), by striking "(g)(1)" and inserting "(g) Rules.—(1)'.

SEC. 602. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF REAPPOINTMENT AS CONDITION TO RETIREMENT FROM THE COURT.

Section 7296(b)(2) is amended by striking the second sentence.

SEC. 603. TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR THE COURT.

(a) Termination.—Section 402 of the Veterans' Judicial Review Act (division A of Public Law 100–687; 102 Stat. 4122; 38 U.S.C. 7251 note) is repealed.

(b) Attorney Fees.—Section 403 of the Veterans' Judicial Review Act (102 Stat. 4122; 38 U.S.C. 5904 note) is repealed.

(c) Construction.—The repeal in subsection (a) may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

(d) Applicability.—The repeals made by subsections (a) and (b) shall apply to any appeal filed with the United States Court of Appeals for Veterans Claims—

(1) on or after the date of the enactment of this Act; or

(2) before the date of the enactment of this Act but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 604. REGISTRATION FEES.

(a) Fees for Court-Sponsored Activities.—Subsection (a) of section 7285 is amended by adding at the end the following new sentence: "The Court may also impose a registration fee on persons (other than judges of the Court) participating at judicial conferences convened pursuant to section 7286 of this title or in any other court-sponsored activity.".

(b) Use of Fees.—Subsection (b) of such section is amended by striking "for the purposes of (1)" and all that follows through the period and inserting "for the following purposes:

"(1) Conducting investigations and proceedings, including employing independent counsel, to pursue disciplinary matters.

"(2) Defraying the expenses of—

"(A) judicial conferences convened pursuant to section 7286 of this title; and

"(B) other activities and programs of the Court that are intended to support and foster communication and relationships between the Court and persons practicing before the Court or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court.".

(c) Clerical Amendments.—(1) The heading for such section is amended to read as follows:

"§ 7285. Practice and registration fees".

(2) The item relating to such section in the table of sections at the beginning of chapter 72 is amended to read as follows:

"7285. Practice and registration fees.".

SEC. 605. ADMINISTRATIVE AUTHORITIES.

(a) In General.—Subchapter III of chapter 72 is amended by inserting after section 7286 the following new section:

"§ 7287. Administration

"Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the

United States (as that term is defined in section 451 of title 28), except to the extent that such provision of law is inconsistent with a provision of this chapter.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 7286 the following new item:

"7287. Administration.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Committee on Veterans' Affairs, I am very proud and happy to bring to the floor H.R. 1291, as amended, the Veterans Education and Benefits Expansion Act of 2001.

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Mr. Speaker, this bill is derived from measures which the House approved overwhelmingly earlier this year: H.R. 801, the Veterans Opportunities Act of 2001; H.R. 1291, the 21st Century Montgomery G.I. Bill Enhancement Act; H.R. 2540, the Veterans Benefits Act of 2001. It also includes a number of provisions contained in S. 1088, the Benefits Veterans Improvement Act of 2001.

Mr. Speaker, I want to thank the ranking member, the gentleman from Illinois (Mr. EVANS); former chairman of the Subcommittee on Benefits, the gentleman from Arizona (Mr. HAYWORTH); the ranking member, the gentleman from Texas (Mr. REYES); and the current subcommittee chairman, the gentleman from Idaho (Mr. SIMPSON), for working with me in crafting these bills.

Little did we know last spring what terrorists would do to America on September 11. Although our resolve was already firm, the events of September 11 have heightened the Nation's concern that we provide adequate benefits for those who serve in our Nation's Armed Forces. I am proud that we have been able to respond so positively to their concerns.

We had two goals in mind, Mr. Speaker, when we were preparing these bills. The first goal was to continue our Nation's commitment to those veterans who have already been in harm's way in past wars and conflicts.

Second, we wanted to create a level playing field for the generation of veterans who protect our freedoms now and into the future.

Our bipartisan legislation carried out these two broad goals in three primary ways: first, through improvements in the Montgomery G.I. bill and other VA education programs, so as to position our returning service members for long-term, sustained employment; second, through improvements in VA programs for disabled veterans and their widows and orphans, so as to honor our commitment to them; and third, by building on former Under Secretary Joe Thompson's initiatives to reach out to America's sons and daughters before, rather than after, they leave the military to ease their transition to civilian life.

Mr. Speaker, with respect to veterans education, I am pleased that the compromise agreement contains no less than 11 provisions to improve the Montgomery G.I. bill and other VA education programs. Under current law, a full-time veteran-student receives $672 monthly under the Montgomery G.I. bill, from which the veteran-student pays the tuitions, books, supplies, fees, and subsistence, including housing, food, and transportation.

H.R. 1291, as amended, would increase the $672 monthly amount to $800 per month effective this January; to $900, effective October 1 of 2002; and to $985 per month effective October 1, 2003. Mr. Speaker, this represents a 52 percent increase in the monthly benefit, phased in over 3 years.

According to data furnished by the College Board this spring, the monthly G.I. bill benefit would have had to rise to $1,025 per month for a veteran-student to attend a 4-year student as a commuter student at an average cost of $9,229 per year. This figure includes tuition, fees, and living expenses.

Veteran students are highly engaging and resourceful individuals, but the $1,025 per month figure has been shown to be woefully inadequate and that the Montgomery G.I. bill just simply did not cover those costs. That is what we are trying to rectify with this legislation.

Frankly, we should not be surprised, Mr. Speaker, that only about half of the eligible veterans for the Montgomery G.I. bill have used it since 1985, one of the main reasons being the lack of funding in the actual benefit provided.

The bill also builds on the wisdom and foresight of former chairman Sonny Montgomery, who, back in 1980, understood the linkage between the success of an all-volunteer force and a sound educational incentive to recruit high-quality individuals. Serving one's country literally has taken on a new meaning since September 11. Now more than ever we need a new G.I. bill that does reflect the selflessness of our service members who are putting their lives on the line to ferret out and to eliminate terrorism. This bill goes a long way to closing the gap between school costs and benefits.

The compromise agreement also contains nine provisions that make improvements in VA programs benefiting disabled veterans and their dependents and keeps our commitments to veterans who suffer from chronic illnesses subsequent to their service during the Persian Gulf War.

Effective April 1, 2002, the bill revises the definition of "undiagnosed illnesses" for Persian Gulf War veterans to include fibromyalgia, chronic fatigue syndrome and chronic multisyndrome illnesses, and other illnesses that cannot be clearly defined.

I thank the gentleman from Illinois (Mr. EVANS), the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Indiana (Mr. BUYER), the gentleman from Nevada (Mr. GIBBONS), and the gentleman from Illinois (Mr. MANZULLO) for their leadership on this particular provision.

This bill keeps America's promise to disabled veterans by increasing specially adapted housing allowances for severely disabled veterans from $43,000 to $48,000 per year; increases the automobile and adaptive equipment grant for severely disabled veterans from $8,000 to $9,000; increases the payments for burial and funeral expenses for service-connected veterans from $1,500 to $2,000; and increases the burial plot allowance for eligible veterans from $150 to $300.

Lastly, the measure makes the second improvement in as many years for spouses of children of 100 percent service-connected disabled veterans or their survivors of veterans who die from their service-connected disability. The monthly education benefit would increase from $588 per month to $670 per month.

Lastly, following the recommendations of the congressional Veterans Claim Adjudication Commission and the congressional Commission on Service Members and Veterans Transition Assistance, the bill gives the VA greater authority to reach out to those service members defending our freedom around the world before they leave the military.

The VA will now have the authority to create regional offices overseas, thus creating a vision for a world-class worldwide organization. And the Departments of Defense, Veterans Affairs, and Labor will be able to make transition counseling available to first-time service members as early as 12 months before separation and 24 months prior to separation for retirees.

Mr. Speaker, I include for the RECORD the Explanatory Statement on the House Amendment.

EXPLANATORY STATEMENT ON HOUSE AMENDMENT TO SENATE AMENDMENTS TO H.R. 1291

The House amendment to the Senate amendments to H.R. 1291 reflect a compromise agreement that the House and Senate Committees on Veterans' Affairs have reached on H.R. 801, H.R. 1291, H.R. 2540, H.R. 3240, and S. 1088. H.R. 801 passed the House on March 27, 2001. H.R. 1291 passed the House on June 19, 2001. H.R. 2540 passed the House on July 31, 2001. H.R. 3240 passed the House on November 13, 2001. The Senate considered S. 1088 (hereinafter known as the "Senate bill") on December 7, 2001. This measure was incorporated in H.R. 1291 as an amendment and passed the Senate by unanimous consent on December 7, 2001.

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of H.R. 1291, as amended, (hereinafter referred to as the "Compromise Agreement"). Differences between the provisions contained in the Compromise Agreement and the related provisions of H.R. 801, H.R. 1291, H.R. 2540, H.R. 3240, and S. 1088 are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I—EDUCATIONAL ASSISTANCE PROVISIONS

INCREASES IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL

Current Law

Section 3011 of title 38, United States Code, establishes basic educational assistance entitlement under the All-Volunteer Force Educational Assistance Program, commonly referred to as the Montgomery GI Bill or MGIB—Active Duty program. Section 3015 establishes the base amount of such educational assistance at the monthly rate of $528 for a 3-year period of service and $429 for a 2-year period of service. These amounts increased to $650 per month and $528 per month, respectively, on November 1, 2000. With the addition of a cost-of-living adjustment (COLA) on October 1, 2001, the rates are $672 and $546, respectively.

House Bill

Section 2(a)(1) of H.R. 1291 would amend section 3015(a)(1) to increase the amount of educational benefits under the Montgomery GI Bill for an approved program of education on a full-time basis from the current monthly rate of $650 ($672 with COLA) for an obligated period of active duty of 3 or more years to $800 effective October 1, 2001, $950 effective October 1, 2002, and $1,100 effective October 1, 2003.

Section 2(a)(2) of H.R. 1291 would amend section 3015(b)(1) of title 38, United States Code, to increase the amount of educational benefits for an obligated period of active duty of 2 years from the current monthly rate of $528 ($546 with COLA) to $650 effective October 1, 2001, $772 effective October 1, 2002, and $894 effective October 1, 2003.

Section 2(b) of H.R. 1291 would suspend the statutory annual adjustment in MGIB rates based on the Consumer Price Index beginning in fiscal year 2002 and reinstate that adjustment beginning in fiscal year 2005.

Senate Bill

Section 101 of the Senate bill would increase the amount of educational benefits under the Montgomery GI Bill for veterans whose original service obligation was 3 or more years to $700 in fiscal year 2002, $800 in fiscal year 2003, and $950 in fiscal year 2004. For veterans whose original service obligation was 2 years, the monthly educational benefit would be increased to $569 in fiscal year 2002, $650 in fiscal year 2003, and $772 in fiscal year 2004.

Compromise Agreement

Section 101 of the compromise agreement would increase the amount of educational benefits under the Montgomery GI Bill for an obligated period of active duty of 3 or more years to $800 effective January 1, 2002; $900 effective October 1, 2002; and $985 effective October 1, 2003. For service obligation of 2 years, increases are to $650 effective January 1, 2002; $732 effective October 1, 2002; and $800 effective October 1, 2003. The COLA is suspended for Fiscal Years 2003 and 2004.

INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Current Law

Chapter 35 of title 38, United States Code, provides educational assistance to spouses and dependent children of veterans who are totally disabled or who die as a result of a service-connected condition. Eligible persons are paid at a monthly rate of $588, $441, and $294, respectively, for full, three-quarter, and half-time studies. The cost-of-living adjustment (COLA) furnished on October 1, 2001, increased these rates to $608, $456, and $304, respectively.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 106 of the Senate bill would increase the monthly amount of education benefits provided under chapter 35 of title 38, United States Code, for full-time students from $588 ($608 with the COLA) to $690, from $441 ($456 of COLA) to $517 for three-quarter time students, and from $294 ($306 with the COLA) to $345 for half-time students (rates in current law after cost-of-living adjustment). These increases would take effect October 1, 2001.

Compromise Agreement

Section 102 of the compromise agreement would follow the language of the Senate bill, except that it would increase the monthly amount of education benefits provided to full-time students in traditional education programs, training in business or industry, correspondence courses or special restorative training from $608 to $670 on January 1, 2002. The compromise agreement would also include increases for on-job training, apprenticeship, and farm cooperative programs.

RESTORATION OF CERTAIN EDUCATION BENEFITS OF INDIVIDUALS BEING ORDERED TO ACTIVE DUTY

Current Law

Sections 3013(f)(2), 3231(a)(5), and 3511(a)(2)(B)(i) of title 38, United States Code, provide that no educational allowance paid to servicemembers, reservists, or eligible dependents shall be counted against the total length or amount of their education entitlement if the pursuit of an educational objective was interrupted as a result of being ordered to serve in connection with the Persian Gulf War.

House Bill

H.R. 3240 would restore entitlement under the Montgomery GI Bill (MGIB), Veterans' Educational Assistance Program (VEAP), and Survivors' and Dependents'. Educational Assistance program (DEA) for any servicemembers, reservists, or DEA recipients called to active duty during Operation Enduring Freedom and at any time in the future.

Senate Bill

Section 105 of the Senate bill would restore entitlement under the MGIB, VEAP, and Survivor's and DEA programs for any servicemembers, reservists, or DEA recipients called to active duty in connection with the National Emergency declared by the Presidential Proclamation dated September 14, 2001.

Compromise Bill

Section 103 of the compromise agreement follows the House language and adds entitlement restoration for persons pursuing education or training under chapter 31 of title 38, United States Code. Further, the period during which the person may use his or her educational benefits under chapters 31 or 35 would be the period equal to the length of active service for which the person is recalled, plus four months.

ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY

Current Law

Section 3014 of title 38, United States Code, provides that the basic educational benefit available under the Montgomery GI Bill be disbursed in up to 36 monthly installments. Benefits are provided for each month in which the MGIB participant is certified to be participating in a course of study. If requested by a veteran, section 3680(d)(2) of title 38, United States Code, allows for an advance payment of educational assistance in an amount equivalent to the allowance for the month, or fraction thereof, in which pursuit of an education program will commence, plus the allowance for the succeeding month. This payment structure is geared primarily toward the pursuit of traditional two- and four-year degrees.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 103 of the Senate bill would further expand the Montgomery GI Bill benefit to accommodate a compressed schedule of courses leading to employment in a high technology industry by authorizing accelerated payment covering up to 60% of the cost of a high technology course, provided the cost of such course exceeds 200% of the monthly MGIB rate. This lump sum would be deducted from the veteran's remaining MGIB entitlement.

Compromise Agreement

Section 104 of the compromise agreement follows the Senate language, effective October 1, 2002.

ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS OF CERTAIN ADDITIONAL VIETNAM-ERA VETERANS

Current Law

Section 3011 of title 38, United States Code, provides that a Vietnam-era veteran may convert his or her Vietnam-era GI Bill benefit to the Montgomery GI Bill educational benefit, if the veteran had eligibility for Vietnam-era GI Bill benefits as of December 31, 1989, was on active duty on October 19, 1984, and served 3 continuous years after June 30, 1985.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 104 of the Senate bill would enable Vietnam-era veterans to convert their Vietnam-era GI Bill benefits to Montgomery GI Bill benefits if the veteran had eligibility for the Vietnam-era GI Bill benefits as of December 31, 1989, was not on active duty on October 19, 1984, and served 3 continuous years in the Armed Forces on or after July 1, 1985.

Compromise Agreement

Section 105 of the compromise agreement follows the Senate language.

INCREASE IN MAXIMUM ALLOWABLE ANNUAL ROTC AWARD FOR ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY GI BILL

Current Law

Sections 3011(c)(3)(B) and 3012(d)(3)(B) of title 38, United States Code, provide that

$2,000 is the maximum annual amount of a partial scholarship that a participant in the Senior Reserve Officers' Training Corps (SROTC) may receive and still be eligible for basic educational assistance entitlement for service on active duty under the Montgomery GI Bill educational assistance program.

House Bill

Section 101 of H.R. 801 would increase from $2,000 to $3,400 per year the amount a student under SROTC may receive in scholarship assistance and still retain eligibility for the Montgomery GI Bill—Active Duty under chapter 30, of title 38, United States Code.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 106 of the compromise agreement follows the House language.

EXPANSION OF WORK-STUDY OPPORTUNITIES

Current Law

Section 3485(a)(1) of title 38, United States Code, establishes work-study policies for veteran-students and eligible dependents. In general, VA work-study students may prepare or process VA paperwork at schools or VA facilities, provide care at VA hospitals and domiciliaries, or work at Department of Defense facilities in certain circumstances.

House Bill

Section 102 of H.R. 801 would expand work-study opportunities for veteran-students and eligible dependents to include: outreach services furnished by State Approving Agencies to servicemembers and veterans; activities for veteran-students and/or dependents (who have declared an academic major) within the department of an academic discipline that complements and reinforces the program of education pursued by the veteran-student; and the provision of chapter 17 of title 38, United States Code, domiciliary care and nursing home and hospital care to veterans, including state veterans homes.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 107 of the compromise agreement follows the House language but excludes work-study opportunities within the department of the veteran-student's academic discipline, and adds additional work-study opportunities through national and state veterans cemeteries.

ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE BENEFITS OF SPOUSES AND SURVIVING SPOUSES OF VETERANS WITH TOTAL SERVICE-CONNECTED DISABILITIES

Current Law

Spouses of veterans who die of service-connected conditions, who are rated as totally and permanently disabled, or who die while rated as totally and permanently disabled, are eligible for Survivors' and Dependents' Educational Assistance (DEA) benefits. Prior to *Ozer* v. *Principi*, a 2001 decision by the U.S. Court of Appeals for Veterans Claims, 14 Vet. App. 257 (2001), VA applied a 10-year delimiting period during which spouses were eligible to use their DEA benefits. VA had been following regulations stating that the 10-year delimiting period began when eligibility is first established. However, the statute which authorized the DEA regulations prescribed that a spouse may not receive educational assistance beyond 10 years after the last occurrence of three eligibility criteria, one of which is the veteran's death. In its *Ozer* decision, the Court invalidated the VA regulation, reasoning that the delimiting period established by VA was in conflict with the authorizing statute.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 107 of the Senate bill would reinstate a 10-year delimiting period in which spouses may, upon first becoming eligible, use DEA benefits. Spouses made eligible for DEA under more than one of the eligibility criteria would have two separate 10-year delimiting periods in which to use their DEA benefits, but in no case would their aggregate entitlement exceed 45 months.

Compromise Agreement

Section 108 of the compromise agreement follows the Senate language.

EXPANSION OF SPECIAL RESTORATIVE TRAINING BENEFIT TO CERTAIN DISABLED SPOUSES OR SURVIVING SPOUSES

Current Law

Section 3541 of title 38, United States Code, provides that eligible children entitled to assistance under the Survivors' and Dependents' Educational Assistance program of chapter 35 may receive special restorative training to overcome or lessen the effects of a physical or mental disability and enable them to undertake a program of education.

House Bill

Section 104 of H.R. 801 would expand the special restorative training benefit provided under the chapter 35 program to include certain disabled spouses or surviving spouses.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 109 of the compromise agreement follows the House language.

INCLUSION OF CERTAIN PRIVATE TECHNOLOGY ENTITIES IN THE DEFINITION OF EDUCATIONAL INSTITUTION

Current Law

Section 3452(c) of title 38, United States Code, defines "educational institution" as any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, scientific or technical institution furnishing education for adults. Section 3501(a)(6) of title 38, United States Code, uses a substantively identical definition with the addition of any other institution if it furnishes education at the secondary school level or above.

House Bill

Section 103 of H.R. 801 would expand the definition of an educational institution to include any private entity that offers, either directly or under an agreement with another entity, a course or courses to fulfill a requirement for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a technological occupation, as determined by the Secretary.

Senate Bill

Section 105 of the Senate bill contains a substantively identical provision.

Compromise Agreement

Section 110 of the compromise agreement follows the Senate language.

DISTANCE EDUCATION

Current Law

Section 3680A(a)(4) of title 38, United States Code, limits the enrollment of an eligible veteran to an accredited independent study program (including open circuit television) leading to a standard college degree.

House Bill

Section 105 of H.R. 801 would permit eligible veterans to receive VA education benefits while pursuing non college-degree courses that are offered through independent study by institutions of higher learning.

Senate bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 111 of the compromise agreement follows the House language.

TITLE II—COMPENSATION AND PENSION PROVISIONS

MODIFICATION AND EXTENSION OF AUTHORITIES ON PRESUMPTION OF SERVICE-CONNECTION FOR HERBICIDE-RELATED DISABILITIES OF VIETNAM-ERA VETERANS

Current Law

Under section 1116(a)(2)(F) of title 38, the presumption of service-connection with respect to respiratory cancers is limited to those cancers manifesting within 30 years of a servicemember's last active-duty date in Vietnam.

The CAVC decision in *McCartt* v. *West*, 12 Vet. App. 164 (1999) held that the Department of Veterans Affairs (VA) can only presume exposure to Agent Orange if the Vietnam veteran has one of the diseases listed as related to such exposure in 38 U.S.C. §1116(a) or 38 C.F.R. §3.309(e). VA practice prior to this decision had been to presume exposure for anyone who had served in Vietnam during the statutorily defined period of war unless there was affirmative evidence to the contrary.

Section 1116 authorizes the Secretary of Veterans' Affairs to establish, through regulation, a presumption of service-connection for diseases associated with exposure to Agent Orange. The Secretary is further authorized to contract with the National Academy of Sciences for the purposes of studying the effects of dioxin, and is required to base the establishment of a presumption of service-connection on NAS findings. This authority commenced in 1993 and will expire at the end of Fiscal Year 2003.

House Bill

Section 201 of H.R. 2540 codifies VA's July 9, 2001, regulation providing benefits for Vietnam veterans with Type 2 diabetes.

Senate Bill

Section 201 of the Senate bill would remove the 30-year limitation on the manifestation of respiratory cancer. This section would also change the result of the CAVC decision in *McCartt* by requiring VA to presume exposure to Agent Orange for all persons serving in Vietnam during the statutorily defined period of that conflict.

Section 201 would extend the Secretary's authority to determine a presumption of service-connection for additional diseases, based on future NAS Reports, through 2011. VA's authority to contract with the NAS to review scientific evidence on the effects of dioxin or herbicide exposure would be extended through 2011.

Compromise Agreement

Section 201(a)(1) of the compromise agreement follows the Senate language, but modifies the effective date for subsection (a) of the Senate bill to January 1, 2002. Section 201(a)(2) of the compromise directs the Secretary to enter into a contract with the National Academy of Sciences specifically to review available scientific literature on exposure to herbicides and dioxin and the development of respiratory cancers. Section 201(a)(3) allows the Secretary to consider whether an upper limit on manifestation of respiratory cancers can be supported, and to impose such a limit by regulation if warranted, by available scientific evidence. Section 201(4) protects a grant of service-connection made under this section for purposes of all benefits administered by the Secretary; section 201(b) of the compromise agreement provides a statutory presumption of service-connection of Diabetes Type 2 for veterans exposed to Agent Orange and follows the House language; section 201(c) of the compromise agreement presumes that veterans who served in the Republic of Vietnam during the time period when herbicides were used were exposed to herbicides and follows the Senate language; and section 201(d) of the compromise agreement extends the Secretary's authority to contract with NAS through October 1, 2014, and extends the Secretary's authority to determine a presumption of service-connection through September 30, 2015.

PAYMENT OF COMPENSATION FOR PERSIAN GULF WAR VETERANS WITH CERTAIN CHRONIC DISABILITIES

Current Law

Public Law 103–446 gave the Secretary the authority to compensate a Gulf War veteran who suffers from disabilities that cannot be diagnosed or clearly defined, when other causes cannot be identified. Section 1117 of title 38, United States Code, sets forth parameters for compensating disabilities occurring in Gulf War veterans.

House Bill

Section 202 of H.R. 2540 would expand, effective April 1, 2002, the definition of "undiagnosed illness" for Gulf War veterans to include fibromyalgia, chronic fatigue syndrome, and chronic multisymptom illness, as well as other illnesses that cannot be clearly defined. Signs and symptoms listed in the House bill that are associated with an undiagnosed illness include headache, muscle pain, joint pain, neurologic signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower), sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, and/or menstrual disorders.

Senate Bill

Section 202(b) of the Senate bill would expand the definition of "undiagnosed illness" by adding poorly defined chronic multisymptom illnesses of unknown etiology, regardless of diagnosis, characterized by two or more of the symptoms already listed in VA regulations. This section would also extend the presumptive period for service connection for Gulf War veterans by 10 years.

Compromise Agreement

Section 202 of the compromise agreement authorizes the Secretary effective March 1, 2002, to pay compensation to any eligible Gulf War veteran chronically disabled by an "undiagnosed illness," a "medically unexplained chronic multisymptom illness defined by a cluster of signs or symptoms," or "any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connection" (or any combination of these). The term "undiagnosed illnesses" has been interpreted by VA to preclude from eligibility for benefits under section 1117 or 1118 of title 38, United States Code, any veteran who has received a diagnosis, even if that diagnosis is merely a descriptive label for a collection of unexplained symptoms. This provision's addition of "medically unexplained chronic multisymptom illness defined by a cluster of signs or symptoms" to the list of compensable conditions fully implements the intent of Public Law 103–446. Public Law 103–446 authorized the Secretary to compensate certain Gulf War veterans disabled by symptoms that could not be connected conclusively to specific wartime exposures otherwise not compensable under other existing statutory bases.

In selecting this language, it is the intent of the Committees to ensure eligibility for chronically disabled Gulf War veterans not withstanding a diagnostic label by a clinician in the absence of conclusive pathophysiology or etiology. The compromise agreement's definition encompasses a variety of unexplained clinical conditions, characterized by overlapping symptoms and signs, that share features such as fatigue, pain, disability out of proportion to physical findings, and inconsistent demonstration of laboratory abnormalities. Aaron and Buchwald, A Review of the Evidence for Overlap Among Unexplained Clinical Conditions, 134(9) Annals of Internal Med: 868–880 (2001). Although chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome are the most common diagnoses under this definition, other conditions that may be characterized similarly include other chronic musculoskeletal pain disorders and chronic headache disorders.

By listing the first three diagnoses as examples, it is the Committees' intent to give guidance to the Secretary rather than to limit eligibility for compensation based upon other similarly described conditions that may be defined or redefined in the future. The Committees do not intend this definition to assert that the cited syndromes can be clinically or scientifically linked to Gulf War service based on current evidence, nor do they intend to include chronic multisymptom illnesses of partially understood etiology and pathophysiology such as diabetes or multiple sclerosis.

In evaluating chronic multisymptom illnesses, the Committees expect that VA will develop a schedule for rating disabilities based on severity of symptoms and the degree to which these impair a veteran's ability to obtain and retain substantially gainful employment. The ratings schedule already established by VA in section 4.88b of 38 CFR (6354) for chronic fatigue syndrome bases the degree of disability on the veteran's incapacitation rather than specific medical findings. This schedule can be used as a model for rating disabilities stemming from chronic multisymptom illnesses in general.

The compromise agreement includes a technical correction substituting a date certain of October 1, 2010, for "10 years after the last day of the fiscal year in which the National Academy of Sciences (NAS) submits the first report" as written under current law in section 1603(j) of the Persian Gulf War Veterans Act of 1998. This provision requires the Secretary to contract with the NAS for five biennial reports on Gulf War health issues. The compromise also amends sections 1117 and 1118 of title 38, United States Code, to clarify that the authority of the Secretary to determine that a disease warrants presumptive service-connection based on these NAS reports continuing through September 30, 2011.

PRESERVATION OF SERVICE CONNECTION FOR UNDIAGNOSED ILLNESSES TO PROVIDE FOR PARTICIPATION IN RESEARCH PROJECTS BY GULF WAR VETERANS

Current Law

Under current law, the Secretary does not have specific authority to protect a Persian Gulf War veteran's grant of service connection for an undiagnosed illness if, as a result of participating in a medical research study, the condition is diagnosed.

House Bill

Section 203 of H.R. 2540 would authorize the Secretary to protect the grant of service connection for an undiagnosed illness when a Persian Gulf War veteran participates in a VA-sponsored medical research project. The Secretary would be required to publish in the Federal Register any medical research project whose participants would be protected under this section. The Secretary's authority extends to research projects commenced before, on or after date of enactment.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 203 of the compromise agreement protects veterans participating in medical research projects sponsored by the Department from loss of service-connection if the Secretary determines that such protection is necessary for conduct of the medical research. The Secretary is required to publish in the Federal Register a list of medical research projects sponsored by the Department for which service-connection is protected under this section.

REPEAL OF THE LIMITATION ON PAYMENTS OF BENEFITS TO INCOMPETENT VETERANS

Current Law

Subsections (b) and (c) of section 5503 of title 38, United States Code, establishes that compensation and pension benefits cannot be issued to an incompetent, institutionalized veteran with no dependents whose assets exceed five times the 100-percent compensation rate. Public Law 106–419 raised the dollar amount of the cutoff from $1,500 to its present level.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 209 of the Senate bill would repeal the asset limitation on payment of benefits to incompetent institutionalized veterans who have no dependents.

Compromise Agreement

Section 204 of the compromise agreement follows the Senate language.

EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS

Current Law

Under sections 1104 and 1303 of title 38, United States Code, the Secretary has the authority to round down to the next lower whole dollar amount in the computation of cost-of-living adjustments through fiscal year 2002.

House Bill

The House bills contain no comparable provision.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 205 of the compromise agreement extends the Secretary's authority to round down to the next lower whole dollar amount the computation of cost-of-living adjustments through Fiscal Year 2011.

EXPANSION OF PRESUMPTIONS OF PERMANENT AND TOTAL DISABILITY FOR VETERANS APPLYING FOR NONSERVICE-CONNECTED PENSION

Current Law

Under section 1502(a) of title 38, United States Code, applicants for nonservice-connected pensions are considered to be totally and permanently disabled if they are unemployable, unable to follow a gainful occupation, or determined by the Secretary to be totally and permanently disabled. It is the Committees' understanding that VA regional office directors have been verbally instructed to implement a policy of presuming permanent and total disability for veterans who are patients in nursing homes for long-term care, or veterans determined permanently disabled by the Social Security Administration.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 203 of the Senate bill would presume that veterans who are in nursing homes for long-term care; are determined to be permanently disabled by the Social Security Administration (SSA); are at least 65 years old and have no current, recurring income from employment; or are unemployable as a result of a disability reasonably certain to continue throughout life, are permanently and totally disabled for purposes of nonservice-connected pension. This provision would be made retroactive to September 10, 2001.

Compromise Agreement

According to information provided to the Committees, VA has recently instructed its employees to adjudicate pension claims for veterans who are patients in long-term care facilities or who have been determined to be permanently disabled by the Social Security Administration without requiring a VA determination of disability. The Committees express their strong disapproval of the verbal manner in which the policy changes concerning evaluation of disability for patients in long-term care and those determined disabled by SSA were implemented. Verbally advising VA regional office directors to implement major policy changes without issuing either formal regulations or written guidance invites misinterpretation and confusion. The Committees strongly urge the Secretary to communicate all interpretative changes to policy in writing to appropriate officials, to make such instructions available to the public, and to comply with the notice and comment requirements of the Administrative Procedures Act for all substantive rules.

Section 206(a)(1) of the compromise agreement provides specific statutory authority for the evidentiary presumption verbally communicated to regional office directors for determining the eligibility of patients in a nursing home for long-term care to be disabled for purposes of pension benefits. The compromise agreement follows the Senate language and provides for an effective date of September 17, 2001, the date VA regional offices are believed to have implemented this policy.

Section 206(a)(2) of the compromise agreement provides that persons who have been determined disabled by the Social Security Administration (SSA) will be considered disabled for purposes of pension benefits. Since the Committees believe that a SSA disability determination is an appropriate evidentiary basis for considering a veteran disabled, the compromise agreement considers a veteran disabled if SSA has made a determination of disability. The bill provides for an effective date of September 17, 2001, the date VA regional offices are believed to have implemented this policy.

Section 206(a)(3) of the compromise agreement provides that a person shall be considered disabled if the veteran is unemployable as a result of disability reasonably certain to continue throughout the life of the person. The compromise agreement follows the Senate language.

Section 206(a)(4) restates provisions currently contained in section 1502(a)(1) and (2) of current law. The compromise agreement follows the Senate language.

ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR VETERANS' PENSION BENEFITS

Current Law

Public Law 90–77 provided that a veteran is presumed disabled for purposes of pension benefits at age 65. Public Law 101–508 revoked the Secretary's authority to presume that a veteran was disabled for purposes of pension benefits at age 65. Although the Secretary lacks statutory authority to presume disability at age 65, it is the Committees' understanding that VA regional office directors were verbally instructed to implement a policy of presuming disability for pension applicants aged 65 and older.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 203(a)(3) of the Senate bill would restore the presumption of disability for purposes of pension eligibility at age 65 for veterans who based on evidence available to the Secretary have no current recurring income from employment.

Compromise Agreement

According to information provided to the Committees, VA has recently instructed its employees to adjudicate pension claims for veterans who are aged 65 or older and who have no wages from employment without requiring a VA determination of disability. The Committees express their strong disapproval of the Secretary's decision to ignore the requirements of Public Law 101–508 prohibiting a presumption of disability for purposes of pension eligibility at age 65 by verbally reinstating the policy. When the Secretary believes that legislation passed by Congress and enacted into law is unwise or administratively inefficient, it is the Secretary's responsibility to propose appropriate legislation to the Congress so that the problem identified can be corrected. Verbally instructing VA regional office directors to ignore statutory requirements and to presume that veterans are disabled at age 65 without authorizing legislation violates current law. The Committees expect the Secretary to advise Congress of any statutory provisions, which in the judgment of the Secretary are detrimental to caring for our Nation's veterans, and to transmit appropriate corrective legislative proposals for consideration.

Section 207 of the compromise agreement provides that a pension will be provided to wartime veterans aged 65 and older without regard to disability. These veterans must still meet the nondisability requirements of section 1521 of title 38, United States Code, such as income and net worth. In determining that benefits will be provided at age 65 without regard to employment status, the Committees note that any veteran employed full-time and receiving at least a minimum wage would not qualify for pension based on the pension income limitations.

Nonetheless, the Committees agree that a policy of requiring proof of disability for an aged wartime veteran with incomes below the pension benefit amount involves use of scarce agency resources without a commensurate return. The Committees have determined that aged wartime veterans should be provided a needs-based pension under conditions similar to that provided for veterans of the Indian Wars and the Spanish-American War. The compromise agreement renders a wartime veteran eligible for a needs-based pension upon attaining age 65 effective September 17, 2001, the date VA regional offices are believed to have implemented a policy of providing a presumption of disability for wartime veterans aged 65 and older.

TITLE III—TRANSITION AND OUTREACH PROVISIONS

AUTHORITY TO ESTABLISH OVERSEAS VETERANS ASSISTANCE OFFICES TO EXPAND TRANSITION ASSISTANCE

Current Law

Sections 7722, 7723 and 7724 of title 38, United States Code, set forth VA's responsibilities with respect to outreach services, including outreach provided to separating servicemembers and eligible dependents. These sections do not specifically provide for the establishment and maintenance of veterans' assistance offices on military installations outside of the United States, its territorial possessions, or the Commonwealth of Puerto Rico. Through a funding arrangement with the Department of Defense, VA currently assigns representatives overseas on a rotational basis in a number of locations with large military populations.

House Bill

Section 201(a) of H.R. 801 would amend section 7723(a) of title 38, United States Code, to give the Secretary specific discretionary authority to establish veterans' assistance offices on such military installations in other locations as the Secretary determines necessary. In doing so, the Secretary would be required to consult with the Secretary of Defense.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 301 of the compromise agreement follows the House language.

TIMING OF PRESEPARATION COUNSELING

Current Law

The Departments of Defense, Veterans Affairs, and Labor assist separating servicemembers with benefits and services to facilitate a successful transition to civilian life. Currently, section 1142(a)(1) of title 10, United States Code, requires that pre-separation counseling begin not less than 90 days prior to discharge or release.

House Bill

Section 202 of H.R. 801 would change the timing of preseparation counseling to begin as soon as possible during the 24-month period preceding an anticipated retirement and as soon as possible during the 12-month period preceding other separations, but in no event later than 90 days before the date of discharge or release. In the case of an unanticipated retirement or other separation with 90 days or fewer prior to separation, preseparation counseling shall begin as soon as possible within the remaining period of service. Except in the case of a servicemember who is being retired or separated for a disability, the Secretary concerned would not be permitted to provide preseparation counseling to a servicemember who is being discharged or released before the completion of that servicemember's first 180 days of active duty service.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 302 of the compromise agreement follows the House language.

IMPROVEMENT IN EDUCATION AND TRAINING OUTREACH SERVICES FOR SEPARATING SERVICEMEMBERS AND VETERANS

Current Law

Section 3672(d) of title 38, United States Code, requires that the Secretary of Veterans Affairs actively promote the development of programs for purposes of section 3677 (on the job training) and section 3687 (apprenticeship or other on-job training).

House Bill

Section 203 of H.R. 801 would require that State Approving Agencies (SAA), in addition to the Secretary, actively promote the development of VA programs of training on the job (including programs of apprenticeship) under chapter 36 of title 38, United States Code. Section 203 would also require SAAs, in conjunction with outreach services furnished by the Secretary for education and training benefits under chapter 77 of title 38, United States Code, to conduct outreach programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 303 of the compromise agreement follows the House language.

IMPROVEMENT OF VETERANS OUTREACH PROGRAMS

Current Law

Section 7722(c) of title 38, United States Code requires the Secretary to distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Department and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) that the Secretary determines would be beneficial to veterans.

House Bill

Section 205 of H.R. 801 would require VA, whenever a veteran or dependent first applies for any benefit (including a request for burial or related benefits or on application for life insurance proceeds), to provide information concerning all benefits and health services under programs administered by the Secretary.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 304 of the compromise agreement follows the House language with a modification that the Secretary provides the information within 3 months of the veteran or dependent making an initial contact with VA.

TITLE IV—HOUSING MATTERS

INCREASE OF THE VA HOME LOAN GUARANTY AMOUNT FOR CONSTRUCTION AND PURCHASE OF HOMES

Current Law

Under section 3703 of title 38, United States Code, VA currently provides a guaranty of up to $50,750 on home mortgage loans issued to eligible veterans by private lenders.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 301 of the Senate bill would increase the maximum home mortgage loan guaranty amount to $63,175.

Compromise Agreement

Section 401 of the compromise agreement would increase the maximum home mortgage loan guaranty amount to $60,000.

NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

Current Law

Section 3761 of title 38, United States Code, established a pilot program whereby the Secretary may make direct housing loans to Native American veterans to permit such veterans to purchase, construct, or improve dwellings on trust land. The pilot program expires on December 31, 2001.

Current law requires a tribe to enter into a Memorandum of Understanding (MOU) with VA before VA can make home loans to members of that tribe.

House Bill

Section 404(a) of H.R. 2540 would extend to December 31, 2005, VA's direct loan program for Native American veterans living on trust lands. Section 404(b) would amend section 3762(a)(1) of title 38, United States Code, to permit VA to make a direct housing loan to a member of a Native American tribe that has entered into an MOU with another federal agency if that MOU generally conforms to the requirements of VA's program.

Senate Bill

Section 302 of the Senate bill extends the Native American veterans housing loan program to December 31, 2005. It also extends the requirement of an annual report under section 3762(j) through 2006.

Compromise Agreement

Section 402 of the compromise agreement follows the House language with the addition of the reporting requirement until 2006.

MODIFICATION OF LOAN ASSUMPTION NOTICE REQUIREMENT

Current Law

Section 3714(d) of title 38, United States Code, requires that all VA loans and security instruments contain on the first page in letters two and one half times the size of the regular type face used in the document, a statement that the loan is not assumable without approval of VA or its authorized agent.

House Bill

Section 405 of H.R. 2540 would modify the requirement in section 3714(d) of title 38, United States Code, by requiring that such notice appear conspicuously on at least one instrument (such as a VA rider) under guidelines established by VA in regulations.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 403 of the compromise agreement follows the House language.

INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING

Current Law

The Secretary is authorized in chapter 21 of title 38, United States Code, to assist eligible veterans in acquiring suitable housing and adaptations with special fixtures made necessary by the nature of the veteran's service-connected disability, and with the necessary land. The assistance authorized for a severely disabled veteran shall not exceed $43,000. The amount authorized for less severely disabled veterans shall not exceed $8,250.

House Bill

Section 305 of H.R. 801 would increase the grant for specially adapted housing for severely disabled veterans to $48,000 and for less severely disabled veterans to $9,250.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 404 of the compromise agreement follows the House language.

EXTENSION OF OTHER HOUSING AUTHORITIES

Current Law

Subsection 3702(a)(2)(E) of title 38, United States Code, authorizes VA to provide housing loan guaranties to members of the Selected Reserve through September 30, 2007; subsection 3720(h)(2) authorizes VA to issue guaranties of timely principal and interest payments on trust-issued securities backed by vendee loans through December 31, 2008; subsection 3729(b)(2) authorizes VA to charge a loan fee for VA home loan guaranties through October 1, 2008; and subsection 3732(c)(11) of title 38, United States Code, authorizes VA to apply specified procedures for liquidation sales to defaulted home loans guaranteed by VA through October 1, 2008.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 303(a) of the Senate bill extends VA's authority to provide housing loan guaranties to members of the Selected Reserve through September 30, 2011; section 303(b) extends VA's loan asset sale authority through December 31, 2011; section 303(c) extends the VA's authority to charge a loan fee for VA home loan guaranties through October 1, 2011; and section 303(d) extends VA's authority to apply procedures for liquidation sales to defaulted home loans guaranteed by VA through October 1, 2011.

Compromise Agreement

Section 405(a) of the compromise agreement extends the housing loan guaranties to members of the Selected Reserve through September 30, 2009; sections 405(b) through (d) of the compromise agreement follows the Senate language.

TITLE V—OTHER MATTERS

INCREASE IN BURIAL BENEFITS

Current Law

Under section 2307 of title 38, United States Code, the Secretary, upon request of the survivors of a veteran, shall pay the burial and funeral expenses incurred in connection with the death of a veteran. In the case of a veteran who dies as the result of a service-connected disability, the amount would not exceed the greater of (1) $1,500, or (2) the amount authorized to be paid under section 8134(a) of title 5, United States Code, in the case of a federal employee whose death occurs as the result of an injury sustained in the performance of duty. In the case of non-service-connected deaths, section 2302 of title 38, United States Code provides for a payment in the amount of $300 for veterans in receipt of compensation or pension. Section 2303(b) of title 38, United States Code, also authorizes the Secretary to pay a $150 plot allowance for eligible veterans buried in a state or private cemetery.

House Bill

Section 301(a) of H.R. 801 would increase the burial and funeral allowance payable for service-connected deaths from $1,500 to $2,000, and for nonservice connected deaths from $300 to $500. Section 301(b) would increase the burial plot allowance from $150 to $300. Section 301(c) would require that such amounts payable under sections 2302 (funeral expenses), 2303 (plot allowance), and 2307 (death from service-connected disability) would be indexed to cost-of-living increases in benefits paid under the Social Security Act, title 42, United States Code.

Senate Bill

Section 401 of the Senate bill would increase the burial benefits for service-connected deaths from $1,500 to $2,000.

Compromise Agreement

Section 501 of the compromise bill would increase burial benefits for service-connected deaths from $1,500 to $2,000 effective September 11, 2001, and increase the plot allowance from $150 to $300 effective December 1, 2001.

GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES

Current Law

Section 2306 of title 38 limits the provision of headstones and grave markers by VA to the unmarked graves of veterans, or to commemorate the grave of an eligible person whose remains are unavailable. A veteran's family is permitted to obtain a private marker later. However, if a veteran's family obtains a private marker first, the VA may not furnish a headstone or grave marker.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 402 of S. 1088 would allow the Secretary of VA to furnish bronze markers for already privately marked graves. This section would permit the marker to be located in an appropriate place to be determined by the cemetery concerned, within the grounds of the cemetery. Eligibility for grave markers would apply to deaths occurring after the date of enactment of this provision and deaths occurring before its enactment, but after November 1, 1990, so long as the request for the marker is made within 4 years after the enactment date.

Compromise Agreement

Section 502 of the compromise agreement creates a five-year program requiring the Secretary to furnish a bronze marker to those families that request a government marker for the marked grave of a veteran at a private cemetery. The Secretary is required to furnish the marker directly to the cemetery and the family is required to place the marker on the veteran's gravesite. Not later then February 1, 2006, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the use of this five-year authority to include: the rate and cost of the use of the benefit by fiscal year; an assessment if the extent to which markers are being delivered to cemeteries and placed on gravesites; and the Secretary's recommendation for extension or repeal of the December 31, 2006, expiration date. The Committees note that the Secretary should implement this provision in a flexible manner in light of requests for grave markers pre-dating this provision.

INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS

Current Law

Under section 3902(a) of title 38, United States Code, the Secretary may pay up to $8,000 (including all state, local, and other taxes) to an eligible disabled servicemember or veteran to purchase an automobile.

House Bill

Section 304 of H.R. 801 would increase the amount of assistance for automobile grants from $8,000 to $9,000.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 503 of the compromise agreement follows the House language.

EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE

Current Law

Under section 5503(f) of title 38, United States Code, VA pension paid to certain veterans receiving Medicaid-covered nursing home care is reduced to $90 per month. VA's authority to reduce the pension amount expires on September 30, 2008.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 210 of the Senate bill would extend through September 30, 2011, the $90 per month cap on VA pensions paid to certain veterans receiving Medicaid-covered nursing home care.

Compromise Agreement

Section 504 of the compromise agreement follows the Senate language.

PROHIBITION OF VETERANS RECEIVING BENEFITS WHILE FUGITIVE FELONS

Current Law

Public Law 104–193 bars fugitive felons from receiving Supplemental Security Insurance from the Social Security Administration and food stamps from the Department of Agriculture. Currently, there is no law barring veterans who are fugitive felons from receiving VA benefits.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 207 of the Senate bill would prohibit veterans and eligible dependents from receiving veterans benefits while a "fugitive," which is defined under this section as fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the veteran flees.

Compromise Agreement

Section 505 of the compromise agreement substantially follows the Senate language.

LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED SINCE OCTOBER 7, 1980

Current Law

Under section 5313(d) of title 38, United States Code, compensation paid to any veteran incarcerated after October 7, 1980, is reduced to a level equal to the compensation rate for a 10 percent disability with the balance allowed to be apportioned to the veteran's dependants, if any.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 208 of the Senate bill would apply the restrictions listed in section 5313(d) of title 38, United States Code, to veterans incarcerated before October 7, 1980. This provision would not affect any payments made prior to the enactment of this legislation.

Compromise Agreement

Section 506 of the compromise agreement follows the Senate language. It is the Committees' hope that VA will receive all necessary cooperation from the state and federal prison systems in implementing this provision, such as the timely compiling of data of incarcerated veterans affected by this change in law.

ELIMINATION OF REQUIREMENT FOR PROVIDING A COPY OF NOTICE OF APPEAL TO THE SECRETARY OF VETERANS AFFAIRS

Current Law

Section 7266(b) of title 38, United States Code, requires an individual appealing a decision of the Board of Veterans' Appeals to furnish the Secretary of Veterans Affairs with a copy of his or her notice of appeal to the U.S. Court of Appeals for Veterans Claims.

House Bill

Section 406 of H.R. 2540 repeals section 7266(b) of title 38, United States Code.

Senate Bill

The Senate bill contains no comparable provision.

Compromise Agreement

Section 507 of the compromise agreement follows the House language.

INCREASE IN FISCAL YEAR LIMITATION ON THE NUMBER OF VETERANS IN PROGRAMS OF INDEPENDENT LIVING SERVICES AND ASSISTANCE

Current Law

Under section 3120 of title 38, United States Code, VA's Vocational Rehabilitation and Employment Service maintains an independent living program designed to assist service-disabled veterans, who are too disabled to retrain for employment, in achieving and maintaining defined independent living outcomes. Subsection 3120(e) of this title limits participation in this program to no more than 500 veteran participants per fiscal year. Despite this limitation, VA has been providing services to approximately 2,400 veterans per year.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 501 of the Senate bill would eliminate the 500-veteran cap for participants of the independent living program, and would retain first priority to veterans for whom there is a reasonable feasibility of achieving a vocational goal but for their service-connected condition.

Compromise Agreement

Section 508 of the compromise agreement would increase the maximum number of veterans allowed to participate in the VA independent living program to 2,500, and would retain first priority to veterans for whom there is a reasonable feasibility of achieving a vocational goal but for their service-connected condition.

While the Committees acknowledge the value of this program, the Committees strongly disapprove of VA's apparent decision to ignore the limitations in current law. When a limitation contains in current law proves detrimental to veterans, the Committees expect that the Secretary will not proceed to ignore the law, but rather to present the Congress with appropriate corrective legislation. In the event that the number currently authorized proves to be insufficient to meet the needs of our Nation's disabled veterans, the Committees direct the Secretary to propose appropriate legislation to Congress.

TITLE VI—U.S. COURT OF APPEALS FOR VETERANS CLAIMS

FACILITATION OF STAGGERED TERMS OF JUDGES THROUGH TEMPORARY EXPANSION OF THE COURT

Current Law

Section 7253 of title 38, United States Code, requires that the U.S. Court of Appeals for Veterans Claims (CAVC) shall be composed of no more than seven judges and one shall be chief judge. After the Court's establishment in 1988, the initial seven judges were appointed within 16 months of one another. A new judge was appointed in 1997 to fill a vacancy created by the death of one of the originally appointed judges. The chief judge retired in 2000, and his seat has not yet been filled. By 2005, the terms of five of the remaining judges will have ended. This will likely leave four simultaneously vacant seats by 2005.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 601 of the Senate bill would temporarily expand the membership of the CAVC by two seats until August 2005 in order to bridge the retirement of the original judges.

Compromise Agreement

Section 601 of the compromise agreement follows the Senate language.

REPEAL OF REQUIREMENT FOR WRITTEN NOTICE REGARDING ACCEPTANCE OF RE-APPOINTMENT AS CONDITION TO RETIREMENT FROM THE COURT

Current Law

Section 7296(b)(2) of title 38, United States Code, requires a judge who has not been reappointed following the expiration of his or her appointed term, before that judge is 65 years old, as a precondition to retirement, to advise the President, in writing, that the judge is willing to accept reappointment.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 602 of the Senate bill would repeal the requirement that a judge provide written notice indicating willingness to accept reappointment as a precondition to retirement from the CAVC.

Compromise Agreement

Section 602 of the compromise agreement follows the Senate language.

TERMINATION OF NOTICE OF DISAGREEMENT AS JURISDICTIONAL REQUIREMENT FOR THE COURT

Current Law

Under section 402 of the Veterans' Judicial Review Act (Public Law 100-687; 38 U.S.C. §7251 note) (VJRA), a Notice of Disagreement (NOD) must have been filed on or after November 18, 1988, in order to establish jurisdiction necessary for the CAVC to review a claimant's case. Section 403 of the VJRA (102 Stat. 4122; 38 U.S.C. §5904 note) limits the payment of attorney fees to cases in which a post-November 17, 1988, NOD has been filed.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 603(a) of the Senate bill would eliminate the post-November 17, 1988, NOD as a prerequisite to jurisdiction at the CAVC. It would not affect the requirement of a NOD to trigger appeal within VA of a decision nor any other prerequisite to review at the Court. Section 603(b) of the Senate bill would similarly eliminate the limitation on payment of attorney fees to those cases in which a post-November 17, 1988, NOD has been filed.

Compromise Agreement

Section 603 of the compromise agreement follows the Senate language.

REGISTRATION FEES

Current Law

Section 7285 of title 38, United States Code, provides that the CAVC may impose periodic registration fees on persons admitted to practice before the Court. These fees may be used for purposes of hiring independent counsel to pursue disciplinary matters and defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.

House Bill

Section 301(a) of H.R. 2540 would authorize the Court to collect registration fees for persons participating in a judicial conference or other Court-sponsored activities where appropriate.

Section 301(b) of H.R. 2540 would amend section 7285(b) of title 38, United States Code, to add that registration fees paid to the Court may also be used generally in connection with practitioner disciplinary proceedings and in support of certain bench-and-bar and veterans' law educational activities.

Senate Bill

Section 604 of the Senate bill contains a comparable provision.

Compromise Agreement

Section 604 of the compromise agreement follows the House language.

ADMINISTRATIVE AUTHORITIES

Current Law

The CAVC, established by Congress under Article I of the United States Constitution to exercise judicial power, has unusual status as an independent tribunal that does not have the same general administrative authority as courts established under Article III of the Constitution. Because of its status, the Court does not have available to it certain general authorities that would normally be available were it part of the executive branch or another administrative structure.

House Bill

Section 302 of H.R. 2540 would add a new section 7287 to title 38, United States Code, to make available to the Court generally the same management, administrative, and expenditure authorities that are available to Article III courts of the United States.

Senate Bill

Section 605 of the Senate bill contains a comparable provision.

Compromise Agreement

Section 605 of the compromise agreement follows the House language.

LEGISLATIVE PROVISIONS NOT ADOPTED

AUTHORITY FOR ACCELERATED PAYMENTS OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL

Current Law

Section 3014 of title 38 provides that the basic educational benefit available under the Montgomery GI Bill be disbursed in up to 36 monthly installments. Benefits are provided for each month in which the MGIB participant is certified to be participating in a course of study. If requested by a veteran, section 3680(d)(2) of title 38 allows for an advance payment of educational assistance in an amount equivalent to the allowance for the month, or fraction thereof, in which pursuit of an education program will commence, plus the allowance for the succeeding month.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 102 of the Senate bill would allow Montgomery GI Bill participants to receive their otherwise monthly payment as an accelerated lump-sum payment for the month in which a course of study begins, plus up to 4 months worth of educational assistance allowance. In the case of a term, quarter, or semester, the accelerated lump-sum payment would equal the amount of the aggregate monthly educational assistance allowance for the entire term, quarter, or semester.

PRESUMPTIVE PERIOD FOR UNDIAGNOSED ILLNESSES

Current Law

Section 1117(b) of title 38 United States Code authorizes the Secretary to extend the period of presumption of service connection for Persian Gulf War veterans disabled by undiagnosed illnesses by regulation. On October 12, 2001, the Secretary published a regulation extending the presumptive period through December 31, 2006.

House Bill

Section 204 of H.R. 2540 extends the presumptive period for undiagnosed illnesses to December 31, 2003.

Senate Bill

Section 202(a) of the Senate bill extended the presumptive period for undiagnosed illnesses to December 31, 2011, or such later date as the Secretary may prescribe by regulation.

REVISION OF RULES WITH RESPECT TO NET WORTH LIMITATION FOR ELIGIBILITY FOR PENSIONS FOR VETERANS WHO ARE PERMANENTLY AND TOTALLY DISABLED FROM A NONSERVICE-CONNECTED DISABILITY

Current Law

The VA Pension Program at chapter 15 of title 38, United States Code, provides financial assistance based upon need to veterans who have had at least 90 days of military service, including at least one day of wartime service, and who are totally and permanently disabled for employment purposes as a result of disability not related to their military service. In determining eligibility for pension benefits, VA is required to consider not only the family income, but also the family's "net worth." The value of farm and ranch land is included in determining net worth unless VA determines that land can be sold at "no substantial sacrifice," section 3.275 of chapter 38, Code of Federal Regulations.

House Bill

Section 306 of H.R. 801 would revise the rule with respect to net worth limitation for VA's means-tested pension program by excluding the value of property used for farming, ranching, or similar agricultural purposes.

Senate Bill

The Senate bill contains no comparable provision.

MODIFICATION OF THE TIME LIMITATION FOR RECEIPT OF CLAIM INFORMATION

Current Law

Under section 5103(b) of title 38 there exists a one-year time limit, following notification by the Secretary, on the receipt of information and evidence necessary to substantiate a claim for benefits based on an already complete or substantially complete application. Public Law 106–475 established this time limitation and eliminated an identical limitation on the receipt of information and evidence necessary to complete an application for benefits.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 205 of the Senate bill would restore the one-year time limit on the receipt of information or evidence necessary to complete an application following notification by the Secretary. It would also eliminate the existing one-year time limit on information or evidence necessary to substantiate a claim based on a completed or substantially complete application.

MODIFICATION OF THE EFFECTIVE DATE OF CHANGE IN RECURRING INCOME FOR PENSION PURPOSES

Current Law

Section 5112(b)(4) of title 38, United States Code, requires VA pensions be reduced or discontinued effective the first day of the month following the month in which the pensioner's net income is reported to have increased.

House Bill

The House bills contain no comparable provision.

Senate Bill

Section 206 of the Senate bill would modify the effective date of reduction or discontinuation of compensation or pension by reason of a change in recurring income to the first day of the year following the year in which the pensioner's net income is reported to have changed.

PAYMENT OF INSURANCE PROCEEDS TO AN ALTERNATE BENEFICIARY WHEN FIRST BENEFICIARY CANNOT BE IDENTIFIED

Current Law

Under chapter 19 of title 38, United States Code, there is no time limitation for a first-named beneficiary of a National Service Life Insurance (NSLI) or a United States Government Life Insurance (USGLI) policy to file a claim for proceeds. As a result, when the insured dies and the beneficiary does not file a claim, VA is required to hold the unclaimed funds indefinitely in order to honor any possible future claims by that beneficiary. VA is not permitted to pay the proceeds to an alternate beneficiary unless VA can determine that the first beneficiary predeceased the policyholder.

House Bill

Section 401 of H.R. 2540 would grant the Secretary of Veterans Affairs the authority to authorize payment of NSLI or USGLI proceeds to an alternate beneficiary when the proceeds have not been claimed by the first-named beneficiary within three years following the death of the policyholder. If no beneficiary has filed a claim within five years of the veteran's death, benefits could be paid to such person as the Secretary determines is equitably entitled to the proceeds of the policy.

Senate Bill

The Senate bill contains no comparable provision.

EXTENSION OF COPAYMENT REQUIREMENT FOR OUTPATIENT PRESCRIPTION MEDICATIONS

Current Law

Section 1722A(c) of title 38, United States Code, furnishes the Secretary the authority, through September 30, 2002, to require a copayment of $2 for each 30-day supply of medication VA furnishes a veteran on an outpatient basis for the treatment of a non-service connected disability or condition.

House Bill

Section 402 of H.R. 2540 would extend until September 30, 2006, the authority of the Secretary to require a $2 copayment for each 30-day supply of medication.

Senate Bill

The Senate bill contains no comparable provision.

DEPARTMENT OF VETERANS AFFAIRS HEALTH SERVICES IMPROVEMENT FUND MADE SUBJECT TO APPROPRIATIONS

House Bill

Section 403 of H.R. 2540 would amend section 1729B of title 38, United States Code, by making the availability of funds in the VA's Health Services Improvement Fund subject to the provisions of appropriations acts effective October 1, 2002.

Senate Bill

The Senate bill contains no comparable provision.

PILOT PROGRAM FOR EXPANSION OF TOLL-FREE TELEPHONE ACCESS TO VETERANS SERVICE REPRESENTATIVES

Current Law

VA provides various toll-free automated telephone response systems for veterans to furnish them information on VA benefits and services.

House Bill

Section 407 of H.R. 2540 would establish a two-year nationwide pilot program to test the benefit and cost effectiveness of expanding current access to VA veterans service representatives through a toll-free telephone number. Under the pilot program, the Secretary would be required to expand the available hours of such access to veterans service representatives to not less than twelve hours on each regular business day across U.S. time zones and not less than six hours on Saturday. The pilot would also require that such service representatives have available to them information about veterans benefits provided by all other federal departments and agencies, and state governments.

Senate Bill

The Senate bill contains no comparable provision.

CODIFICATION OF RECURRING PROVISIONS IN ANNUAL DEPARTMENT OF VETERANS AFFAIRS APPROPRIATIONS ACTS

Current Law

Each year the Congress appropriates funds to the Department of Veterans Affairs as part of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act. Although the amount of the appropriations varies from year to year, the purposes for which appropriations are made are generally fixed, and change little, if any, from year to year.

House Bill

Section 409 of H.R. 2540 would codify recurring provisions in annual Department of Veterans Affairs Appropriations Acts.

Senate Bill

The Senate bill contains no comparable provision.

Mr. Speaker, I reserve the balance of my time.

Mr. EVANS. Mr. Speaker, I yield myself such time as I may consume.

Mr. EVANS. Mr. Speaker, here is another issue in which our leadership of the Committee on Veterans' Affairs is paying off, to the great benefit of our veterans. The gentleman from New Jersey (Mr. SMITH), on every piece of legislation today that we are offering, has exerted his leadership and demanded a lot out of us. We worked a lot of hard hours to get this legislation to this point today, so we salute him for his efforts.

I also want to acknowledge and thank the leaders of the Subcommittee on Benefits, the gentleman from Idaho (Mr. SIMPSON), and the gentleman from Texas (Mr. REYES), members of the subcommittee, and the committee's staff, for their invaluable contributions to this legislation.

In particular, I also want to acknowledge and thank Mary Ellen McCarthy, Todd Houchins, and Beth Kilker from my staff for their work on this issue.

Every member of the Committee on Veterans' Affairs has recognized the need for a meaningful increase in the Montgomery G.I. bill. I was proud to co-author this legislation, the Montgomery G.I. Bill Improvements Act of 2001, with my good friend, the gentleman from Michigan (Mr. DINGELL). H.R. 310 will pay the full costs of tuition, fees, books, and supplies, as well as a living stipend.

Increased veterans educational benefits have also been proposed under H.R. 1280, authored by the gentleman from Mississippi (Mr. SHOWS). Additionally, I was an original cosponsor of H.R. 1291, the 21st Century Montgomery G.I. Bill Enhancement Act, introduced by the gentleman from New Jersey (Mr. SMITH).

I am pleased that the bills before us today embody the essence of H.R. 1291, as originally supported by the House. Our veterans should receive the best possible education benefits for their honorable service to our country, and this is a positive step forward in that regard.

As a long-term supporter of benefits for those who suffered from the effects of exposure to herbicides such as Agent Orange, I am pleased that H.R. 1291 changes an erroneous decision of the U.S. Court of Appeals for Veteran Claims. Congress has clearly reaffirmed in H.R. 1291 the presumption of exposure to herbicides such as Agent Orange for veterans who fought in that conflict.

I strongly support the provision removing the 30-year limitation on the presumptive period for Vietnam veterans diagnosed with cancers of the respiratory tract. This provision is similar to H.R. 1587, introduced in the House by the gentlewoman from Georgia (Ms. MCKINNEY). I want to thank her for her leadership on this important issue. I am also pleased this legislation includes a statutory presumption that makes clear to veterans that eligibility for service-connection of diabetes associated with exposure to herbicides is a protected statutory right.

I also strongly support section 202 of the bill, based on H.R. 1406, which I introduced, which overturns the narrow and erroneous opinion of the Department of Veterans Affairs general counsel.

Thousands of veterans who were healthy before their service in that country, in that region, and who now experience a variety of unexplained symptoms, will qualify for benefits under this provision. Section 202 of H.R. 1291 emphasizes that Congress initially intended it by focusing on the symptoms which have a disabling effect that affects some of our Gulf War veterans.

Section 203 of H.R. 1291 gives the Secretary of Veterans Affairs the authority to protect the service-connection of veterans receiving compensation benefits. Last year, the gentlewoman from California (Mrs. CAPPS), and I became acquainted with her work, that the VA was having difficulty in recruiting veterans to participate in VA research studies concerning the prevalence of ALS, or Lou Gehrig's disease, in Gulf War veterans who returned with problems. This section is intended to provide the VA with the authority to enable veterans to participate in medical research studies without fear that their benefits would be placed in jeopardy.

I am also pleased that the bill contains provisions expanding eligibility for low-income wartime vets who seek a nonservice-connected pension. Nonetheless, I am concerned that these major policy and legal changes were recently implemented by the VA under verbal instructions to regional office directors. It is critical that all branches of the government recognize and foster the rule of law.

The bill also recognizes the VA's efforts to provide veterans dependents with information concerning benefits and health care services under programs administered by the Secretary of the Army whenever they first apply for benefits. This provision is derived from legislation authored by the gentleman from Pennsylvania (Mr. DOYLE), the gentleman from New Jersey (Mr. PASCRELL); and both are committed advocates for our veterans. I salute them for their efforts.

Again, I want to thank the gentleman from New Jersey (Chairman SMITH) for his hard work in bringing this bill forward, and I urge every Member of this body to support H.R. 1291, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho (Mr. SIMPSON), distinguished chairman of our subcommittee and the former Speaker of the Idaho House of Representatives. We are pleased to have a man of his caliber heading up the Subcommittee on Benefits.

Mr. SIMPSON. Mr. Speaker, at the outset I would like to thank the gentleman from New Jersey (Chairman SMITH) and the gentleman from Illinois (Mr. EVANS) for their leadership in crafting with the Senate the compromise agreement on H.R. 1291, and bringing it to the floor today, and also for the gentleman's leadership on the previous two veterans bills passed earlier today, the cost-of-living adjustment for veterans and that legislation to address the tragedy of homeless veterans.

Mr. Speaker, I am pleased to rise today in strong support of H.R. 1291, the Veterans Education and Benefits Expansion Act of 2001. This bill indeed is a comprehensive and sweeping measure. The bill makes a number of needed improvements to programs serving veterans and their families, some of which I would like to briefly highlight.

First and foremost, I am very pleased we have been able to provide further substantial increases in the Montgomery G.I. bill, which is perhaps the most important piece of social legislation in our country's history. I appreciate our counterparts in the Senate working with us on this provision.

Last year, we were able to secure a monthly increase from $536 to $650 per month. We did this knowing that we still had a ways to go to reach our goal of $1,025 per month needed by a veteran-student to attend a 4-year public institution as a commuter student.

As the gentleman from New Jersey (Chairman SMITH) indicated, one of the hallmarks of this compromise agreement is an increase effective January 1, 2002, from $650 to $800 per month for veterans pursuing a college education on a full-time basis. This monthly amount increases to $900 during the fiscal year 2003 and $985 in fiscal year 2004. Their survivors and dependents' educational assistance program will also see an increase from $588 to $670 per month.

Mr. Speaker, this bill includes 11 separate educational provisions, including payment of 60 percent of the cost of tuition for high-cost short-term academically intensive courses leading to employment in the high-technology industry.

The bill also expands the Montgomery G.I. bill benefits for certain Vietnam-era veterans, increases the maximum allowable senior ROTC educational assistance, expands work-to-study opportunities for veterans, and makes certificate programs offered by an accredited institution of higher learning by way of independent study approvable for veterans' training.

□ 1700

Additionally over 10,000 reservists have been called up in support of Operation Enduring Freedom, and some of them have had to disenroll from their college level courses. Section 103 of the bill would allow these selfless men and women the chance to regain both time and money for their education.

About 2 percent of the 714,000 service members who served in the Persian Gulf suffer from difficult-to-diagnose illnesses. Section 202 expands the definition of an undiagnosed illness as well as lists signs and symptoms that may be a manifestation of an undiagnosed illness in certain Persian Gulf veterans. I want to thank the gentleman from Illinois (Mr. MANZULLO) for his work on this piece of legislation.

Section 203 would grant the Secretary the authority to protect the service-connected grant of a Persian Gulf veteran who participates in a Department-sponsored medical research project. It is our intent that this provision will broaden participation in vital scientific and medical studies.

As the gentleman from New Jersey (Mr. SMITH) said, this bill keeps the promise to severely disabled veterans by increasing benefits for specially adapted housing and automobile adapted equipment allowances and also increases certain burial benefits.

Lastly, the compromise agreement also expands VA's outreach to veterans and their families by providing the Secretary the authority to maintain veterans assistance offices overseas, by expanding the timing of preseparation counseling for our servicemembers, and by improving education and training outreach information for separating servicemembers and veterans.

I would like to thank the gentleman from New Jersey (Mr. SMITH), our chairman; the gentleman from Florida (Mr. BILIRAKIS), the vice chairman; the gentleman from Illinois (Mr. EVANS); and my counterpart, the gentleman from Texas (Mr. REYES) for their continued commitment to our military and veterans communities. It truly has been a pleasure working with them.

Mr. Speaker, the House could not approve such a comprehensive bill at a better time. Our servicemen and women are overseas and literally fighting for the freedoms and liberties we may have taken for granted prior to September 11. By passing this bill today, we are sending a clear message to America's sons and daughters that upon completion of their military service, we will be there for them when they transition to civilian life.

Mr. Speaker, I urge my colleagues to do our duty to support our veterans by supporting the Education and Benefits Expansion Act of 2001.

Mr. EVANS. Mr. Speaker, may I inquire how much time both sides have at this point?

The SPEAKER pro tempore (Mr. OTTER). The gentleman from Illinois (Mr. EVANS) has 15 minutes remaining, and the gentleman from New Jersey (Mr. SMITH) has 8 minutes.

Mr. EVANS. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. Reyes).

Mr. REYES. Mr. Speaker, I thank the gentleman from Illinois (Mr. EVANS) for yielding me the time.

Mr. Speaker, I rise in strong support of H.R. 1291, the Veterans Education and Benefits Expansion Act of 2001.

I commend and thank the gentleman from New Jersey (Mr. SMITH), the distinguished chairman of the committee, and the gentleman from Illinois (Mr. EVANS), our ranking member, for their hard work in bringing this measure before us today. I want to especially acknowledge and thank the cooperation of the gentleman from Idaho (Mr. SIMPSON), my good friend and the Subcommittee on Benefits chairman, for his work on the benefits legislation which has been included in this bill.

As an original cosponsor and strong supporter of many of the provisions included in this bill, I am pleased that we are moving forward to provide improved education, compensation, readjustment, housing and other benefits to our Nation's veterans and to their families.

As a beneficiary of the VA's educational benefits, I support the provisions to increase the educational benefits that have been provided under the Montgomery GI Bill and Survivors and Dependents Educational Assistance Act. Now is certainly the time to be considering ways of improving the benefits that our country offers to our brave men and women who place their lives on the line in the defense of its Nation, its citizens and its ideals. It seems only fair to me that our veterans should have every opportunity to return home and enjoy improved educational advantages.

I view the Montgomery GI bill as one of the most important programs administered by the Department of Veterans Affairs. Since 1944, our government has provided education benefits to veterans in order to advance military recruitment and to assist in the veteran's readjustment to civilian life. These programs have been very effective. Although these increases are still not adequate to fully cover the cost of higher education in today's education market, they are a good step in the right direction.

I also want to highlight the provisions that will address the need of our Gulf War veterans who are suffering from a variety of signs and symptoms of poorly-defined medical conditions. The compromise bill will allow Gulf War veterans with chronic fatigue symptoms and other chronic multi-symptom systems to be compensated as of March 1, 2001.

According to the most recent report of the Institute of Medicine, military personnel who served in the Gulf War have had a significantly higher risk of suffering one or more of a set of symptoms that include fatigue, memory loss, difficulty concentrating, pains in muscles, and joints and rashes. Congress had intended that Gulf War veterans be compensated for these symptom-based chronic illnesses. This bill assures now that they will be.

As a Vietnam veteran, I know that Agent Orange was used extensively in Vietnam. I am pleased that the bill provides for presumptions of exposure to Agent Orange for veterans who served in Vietnam. I also support the provision to presume service connection for veterans suffering from respiratory without regard to the length of time in which those cancers developed, and for diabetes.

Mr. Speaker, I rise in strong support of H.R. 1291. It is a good bill and I urge all Members to support it.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO), my good friend and colleague, who was very, very helpful in the Persian Gulf War veterans provision.

Mr. MANZULLO. Mr. Speaker, 10 years ago a patriot from Freeport, Illinois, named Dan Steele went off to war in Iraq to fight for the American people and protect the freedoms this country has known for over 200 years. During the buildup in the Gulf, Dan's leg was fractured by an Iraqi soldier's apparent suicide attack. Over the next 8 years, Dan suffered from various conditions shared by many other soldiers who fought in the Gulf War.

In May of 1999, Dan succumbed to his illness and passed away. The county coroner listed Gulf War syndrome as a secondary cause of death on his death certificate. Shortly after Dan's funeral, we contacted his widow, Donna. She vowed to Dan that she would do whatever she could to help other Gulf War veterans suffering from mysterious ailments.

Her story moved me to introduce legislation to compensate our suffering Gulf War veterans, H.R. 612, the Persian Gulf War Illness Compensation Act. H.R. 612 which I introduced along with the gentleman from California (Mr. GALLEGLY) and the gentleman from Mississippi (Mr. SHOWS) has the support of 228 Members of the House and all the major veterans organizations. A companion bill was introduced in the Senate by Senator KAY BAILEY HUTCHISON of Texas.

I am pleased to announce that significant portions of H.R. 612 are included in this benefits package before us today.

I want to thank the gentleman from New Jersey (Mr. SMITH) and members of the Veterans Affairs Committee for their willingness to work with us to strengthen the part of this bill that provides enhanced benefits for our ailing Gulf War veterans. These provisions will allow more sick veterans to qualify for compensation by expanding the number of eligible illness and codifying 13 possible symptoms. Earlier this year, with full Congressional support, the VA extended by 5 years the time period during which these symptoms may arise.

I urge my colleagues to vote in favor of H.R. 1291. It goes a long way towards fulfilling the promises we have made to our veterans.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. Rodriguez).

Mr. RODRIGUEZ. Mr. Speaker, I am pleased that the House and the Senate acted quickly on H.R. 1291, the Veterans Education and Benefits Expansion Act of 2001.

Veterans deserve the very best we can offer, and I think that H.R. 1291 is an important step in meeting that obligation. Educational benefits are the military's best recruiting tool, and the Montgomery G.I. Bill must be modernized to meet today's demands.

H.R. 1291 moves toward this goal of expanding access to higher education by increasing the currently monthly benefits from $650 to $800 in the year 2002 and ultimately reaching $985 by 2004. Clearly, the legislation provides a stronger education package to the men and women who choose to serve our country in uniform.

H.R. 1291 improves the Montgomery G.I. bill, and I hope that we can ultimately improve the educational benefits to cover the full cost of tuition, fees, books and supplies, as well as provide a substantive allowances for those who reenlisted for 4 years.

Additionally, among other things, H.R. 1291 streamlines the ratings system for certain services-connected illnesses. For Vietnam veterans who were exposed to Agent Orange and now are suffering from diabetes, the Veterans Education and Benefits Expansion Act acknowledges the entitlement to service-connected disability benefits. And for the Persian Gulf veterans suffering from illnesses which modern medical technology cannot readily diagnose. the likewise extends the presumption of service connected.

Veterans who suffer from disabilities should not be abandoned. And the disabilities should not be ignored simply because the doctors cannot yet diagnose the causes.

While we have a long way to go, the Veterans Education and Benefit Expansion Act is a step in the right direction for veterans who earned these benefits with their service.

The September 11 attack is an especially stark reminder of how fragile our freedoms are, in response to our men and women who have answered the call to action carrying the banner of freedom in Afghanistan and in search of those responsible for the horrific acts of September 11. And when they return home, these brave sons and daughters need to be assured that their country will be there for them in their time of need.

I wanted to take this opportunity to also say that much more is needed to be done when it comes to our veterans. The cost of education has continued to increase, the cost of books and supplies have continued to increase. I am pleased at this point in time, as we have just passed 5 o'clock, the Christmas tree lighting has occurred and this particular piece of legislation is a beautiful Christmas present to a lot of our veterans.

I want to take this opportunity to urge my colleagues to support and vote for H.R. 1291.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself 2 minutes.

I want to take this moment, we do have a couple of speakers who are not here who hopefully will get here before we conclude the bill. Again, I would like to just note that Under Secretary of Veterans Affairs for Benefits, Joe Thompson, is retiring on January 3 of next year. I include in the RECORD a tribute to Joe Thompson's 26 outstanding years of service to veterans from myself.

Mr. Speaker, the text of that tribute is as follows:

TRIBUTE TO UNDER SECRETARY JOSEPH THOMPSON

Mr. Speaker, in my capacity as Chairman of the Committee on Veterans' Affairs, I want to share with my colleagues that Joe Thompson is retiring from the Department of Veterans Affairs on January 3, 2002, and thank Joe for 26 years of dedicated service to veterans.

I applaud Joe for the legacy that he leaves. An Air Force Vietnam veteran, Joe rose from a VA entry-level position of GS–7 to Under Secretary for Benefits at the Veterans Benefits Administration (VBA), where he and his staff administered a $24 billion program of benefits and services. Joe used, and was a beneficiary of, VA's services, including in- and out-patient health care, disability compensation, education, home loans, life insurance and veterans preference programs when he returned home following his Vietnam service.

I know of few individuals more conversant than Joe on the genesis and evolution of our veterans benefits system, a system began in 1776 when the Continental Congress passed a Resolution promising pensions to Colonial soldiers and officers who were disabled during the course of service. Joe believes passionately in veterans benefits because indeed they are earned and, for some veterans and their families, earned at a high price. He understands that on the business end of every claim for benefits is a real person who served our country while wearing the military uniform.

Joe liked his work, and he has been good at it. He has had the ability to look at the VBA from the outside in, and see the VBA's work as the everyday customer did. Joe was one of the first to convene town meetings with veterans. I think he did the meetings because he wanted these individuals to be treated the way he wanted to be treated, with respect. Not surprisingly, in 1992 Joe and his coworkers at VA's New York City Regional Office received Vice President Gore's first "Hammer Award" under the auspices of National Performance Review. Later, as Under Secretary, Joe and his management team, headed by Deputy Under Secretaries Nora Egan and Rick Nappi, reduced the percentage of busy signals on 13 million VBA phone inquiries from 50 percent to 2 percent. They increased vocational rehabilitation placements by 24 percent. They consolidated home loan eligibility to nine regional offices, which lead to increased efficiencies.

And VBA increased the number of veterans helped through military separation outreach centers from 1,000 to 22,000 per year, including disability compensation exams and awards before leaving the military. Much of this Joe did while nationwide staffing levels were decreasing.

Mr. Speaker, I suspect that Joe Thompson will not climb onto that Harley Davidson motorcycle he's so fond of and ride off into the proverbial sunset. It would not be his nature nor the wish of many veterans. Greatest luck to a civil servant who like so many in the VBA gave America great gift—lifelong commitment, honor, energy, and ideas, Joe, thank you!

Finally, I would like to thank a large number of people who worked on this legislation and our staffs did actually yeoman's work day in and day out on behalf of veterans in general, but on this particular legislation. I want to thank them for their work on the bill, H.R. 1291, as well as H.R. 2540 which we passed earlier. That would include Patrick Ryan, our chief counsel and chief of staff, Darryl Kehrer, Paige McManus, Devon Seibert, Summer Larson, Jeannie McNally, Kingston Smith; and on the minority staff, I would like to thank Michael Durishin, Beth Kilker, Debbie Smith, Mary Ellen McCarthy, and Todd Houchins for their fine work.

This has truly been a bipartisan effort. I want to thank them sincerely. This legislation will make powerful difference in the lives of our veterans.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous materials on H.R. 1291, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I reserve the balance of my time.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. SHOWS).

Mr. SHOWS. Mr. Speaker, today I would like to show strong support for H.R. 1291, the Veterans Education and Benefits Act of 2001.

This important legislation will take meaningful action to improve benefits that our Nation's veterans have earned and deserved. As many of my colleagues know, I have long been concerned about the appalling 75 percent rate of which Gulf War veterans suffering from undiagnosed illnesses have been denied compensation from the VA. These men and women uprooted from their families and communities served our country with honor and dignity.

Yet, when it was time for the VA to serve them, thousands were denied.

Earlier this year, I introduced H.R. 612, the Persian Gulf War Illness Compensation Act of 2001, along with two other outstanding advocates for veterans, the gentleman from Illinois (Mr. MANZULLO) and the gentleman from California (Mr. GALLEGLY).

The legislation garnered strong bipartisan support of over 225 Members of the House. I am pleased that the gentleman from New Jersey (Mr. SMITH), the gentleman from Illinois (Mr. EVANS), the ranking member, and my fellow veterans committee members have supported including key provisions of H.R. 612 in the bill. The Veterans Education and Benefits Act of 2001 will now clarify VA standards for compensation by recognizing fibromyalgia, chronic fatigue syndrome, and other ailments as key symptoms of undiagnosed or poorly defined illnesses associated with Gulf War service.

Independent of this, we should all applaud Secretary Principi for extending the presumptive period for Gulf War veterans to file for compensation until December 31, 2006. This is a true victory for veterans. I am also pleased that we are modernizing and improving the educational benefits awarded under the Montgomery G.I. bill. As a country that depends on the volunteer membership of our service men and women to defend our Nation's ideals, we must provide competitive benefits for our veterans.

□ 1715

The military services have experienced and continue to experience difficulties in recruiting the number and quality of our new recruits. We can strengthen the retention of our trained soldiers if we deliver appropriate benefits and support.

Our Nation's veterans are our heroes. They have shaped and sustained our Nation with courage, with sacrifice and faith. They have earned our respect and deserve our gratitude. Let us join together and do something meaningful in passing this legislation because it is the right thing to do.

Mr. SMITH of New Jersey. Mr. Speaker, I reserve the balance of my time.

Mr. EVANS. Mr. Speaker, may I inquire again how much time is remaining on our side?

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from Illinois has 6 minutes remaining.

Mr. EVANS. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong support of H.R. 1291, the Veterans Education and Benefits Expansion Act of 2001. This legislation makes a number of important changes to improve insurance compensation and housing programs for our Nation's veterans.

I want to thank the chairman of the committee, the gentleman from New Jersey (Mr. SMITH); the ranking member, the gentleman from Illinois (Mr. EVANS); the gentleman from Texas (Mr. REYES), and my colleagues on the Committee on Veterans' Affairs for supporting the inclusion of provisions from H.R. 1929, the Native American Veterans Home Loan Act of 2001 into H.R. 1291.

Ranking member EVANS and 14 other Members and I introduced H.R. 1929 on March 21 of this year to extend the Native American Veterans Home Loan Pilot Program for another 4 years, and expedite the process of obtaining VA home loans for Native American veterans living on tribal and trust lands. This program helps many Native American veterans, who might otherwise be unable to obtain suitable housing. Including the provisions of H.R. 1929 into H.R. 1291 will allow other Native American veterans to take advantage of this important program.

The Native American Veteran Home Loan Pilot Program, however, is just one of many VA benefits improved through H.R. 1291. I ask my colleagues to join me in support of these important benefit enhancements for the men and women who have sacrificed so much in defense of liberty and democracy.

Mr. EVANS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in strong support of this bill. I thank Chairman SMITH, Ranking Member Evans, and their hardworking staff for their leadership on this important legislation.

I wish to highlight a critical provision contained in H.R. 1291 that I have worked on for some time. This provision would end a Catch 22 faced by vets and VA researchers. In the past, vets could lose benefits for an "undiagnosed illness" if participation in a VA study determines that a vet's illness is not service connected. This issue was brought to my attention, as I am the author of the ALS Treatment and Assistance Act, which was enacted into law in the past Congress.

VA researchers told me that some vets might not participate in the study to look at connections between their Gulf War service and Lou Gehrig's disease. I learned that some vets feared losing their much-needed benefits by participating in the study. H.R. 1291 fixes this problem by letting the VA protect compensation in such cases.

This provision is based on a bill the gentleman from Illinois (Mr. EVANS) and I introduced earlier this year. With the passage of this bill, vets can participate in important VA studies without fear of the loss of needed health benefits, and future VA research studies can attract the broad participation they need to be successful.

This bill could not be more timely. Yesterday, the VA announced that the findings of this study show Persian Gulf veterans are nearly twice as likely as other veterans to develop Lou Gehrig's disease. This is a very troubling finding. Clearly, other study is needed. I am pleased the VA has indicated they will continue to work hard to investigate this disturbing connection. I am also pleased the VA has assured my office that Persian Gulf Veterans affected by this illness will immediately begin receiving compensation for what is now shown to be a service-related illness.

Mr. Speaker, today marks the 3-month anniversary of the unspeakable attacks against our Nation, and once again our brave servicemen and women are in harm's way thousands of miles away from home. As they fight to protect our freedom and democracy, the least we can do is to pledge to safeguard their health when they return as veterans.

I urge my colleagues to join me in supporting this legislation and doing what is right for our veterans and our military personnel.

Mr. EVANS. Mr. Speaker, I yield the balance of my time to the gentleman from American Samoa (Mr. FALEOMAVAEGA), a great advocate for the people of American Samoa.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in strong support of H.R. 1291, known as the Veterans Benefits Improvements Act of 2001. I particularly want to thank the gentleman from New Jersey (Mr. SMITH), the chairman of our Committee on Veterans' Affairs, and our senior ranking Democrat, the gentleman from Illinois (Mr. EVANS), not only for their leadership but their outstanding service in bringing this bill to the floor. I also want to thank the chairman of our Subcommittee on Benefits, the gentleman from Idaho (Mr. SIMPSON), and our ranking Democrat on the subcommittee, the gentleman from Texas (Mr. REYES), for their leadership.

The House has already passed most of these provisions in four different bills, and I am glad we were able to work out an arrangement with the other body to adopt this broad range of laws and bills to help our veterans in this time of need.

Mr. Speaker, our Nation is again involved in military conflict and activities all over the world, especially in Afghanistan. We are reminded of the daily sacrifices our active duty, our National Guard, and ready reserve members must make. Our service members are taken away from their families for long periods of time, they are paid less than their counterparts basically in civilian jobs, and, of course, they are ordered to take actions which place their lives at risk in defense of our Nation.

Mr. Speaker, the benefits we provide to our veterans fit into the broad categories of health care, disability benefits, pensions, education and training, home loan guarantees, life insurance, burial benefits, and benefits for survivors. I am pleased to note that with passage of this bill, we are improving or increasing many of these benefits to our veterans.

As a Vietnam veteran, Mr. Speaker, I am deeply appreciative that in section 302 of this bill it authorizes an additional 4 years to the Native American Veterans Housing Home Loan Program. This program provides direct VA guaranteed loans to Native Americans, Native Alaskans, Native Hawaiians, American Samoans, and other Pacific Islanders. Prior to the enactment of this pilot program, many Native Americans were not able to benefit from the national VA home loan guarantee program because commercial banks were unwilling to make loans for homes on Indian reservations, Hawaiian homestead lands, and Samoan communal lands.

Since 1992, as a coauthor and supporter of this legislation, Congress recognized this inequity and created a pilot program to address the problem by providing direct VA home loans to these beneficiaries. For some 9 years now, the program has been a tremendous success. Hundreds of loans have been made and the default rate is very low.

Given the success of the pilot program, Congress still needs to address or take the necessary steps to expand hopefully the pilot program to include veteran spouses of Native Americans. I hope the Department of Veterans Affairs will work with us; and I really, really am most appreciative not only of Chairman SMITH but our ranking member's willingness to help me to address this issue, hopefully next year.

Again, I urge my colleagues to support this legislation, and I thank the gentleman from New Jersey for his willingness to give me part of his time as well.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself the balance of my time.

Before concluding, Mr. Speaker, I just want to thank all on the minority side, as well as my good friends and colleagues here on the Republican side.

This is a comprehensive bill. The GI bill, certainly going back to World War II, our early GI bill, has created what really is the modern middle class. More than 20 million people have gotten their college education via the GI bill. That is just one part of this bill. It is comprehensive and deserves the full support of this body.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 1291, the 21st Century Montgomery G.I. Bill Enhancement Act. I urge my colleagues to join in lending their support to this appropriate legislation.

The purpose of this bill is to bring the various education benefits afforded to veterans to a level more in line with today's increasingly expensive higher education opportunities. This legislation increases the current monthly Montgomery G.I. bill rate of $650 for a minimum three-year enlistment to $1,100 over three years. Specifically, the rate will increase to $800 in October of this year, $950 in October 2002, and the full $1,100 by October 2003. This measure also raised the monthly rate for two year enlistments and reserve enlistments as well, from $528 to $894.

Mr. Speaker, the G.I. bill is arguably the most profound and far-reaching piece of legislation enacted by congress in the 20th century. The program, first implemented after world war II, single-handedly afforded a college education to the millions of middle and working class men who had served during the war. In doing so, it helped to transform America in the postwar years, leading to the "baby boom" and the rise of middle class suburbia.

This measure is the latest of several bills passed in the last fifty years to bring the benefits of the G.I. bill to levels that reflect the contemporary cost of a higher education. Consequently, current and future generations will be able to enjoy the tangible benefit of a college education as a result of their service in the military of their country.

Once again, I urge my colleagues to support this worthwhile and timely legislation. With college tuition prices rising three times faster than the consumer price index, I can think of no better way to enhance the education benefits we provide for those who serve in the armed forces of their country.

Mr. GALLEGLY. Mr. Speaker, I rise in support of the 21st Century Montgomery GI Bill Enhancement Act, a measure that will improve veterans' educational benefits, as well as improve the benefits of our veterans who became ill as a result of their service in the Gulf War.

I am pleased to say that this legislation contains many important provisions from another important bill, the Persian Gulf War Illness Compensation Act, that Congressmen DON MANZULLO (R–IL), RONNIE SHOWS (D–MS), and I introduced.

Since the end of the Gulf War, the Veterans Administration has denied nearly 80 percent of all sick Gulf War veterans' claims for compensation. In the view of many, including the National Gulf War Resource Center, the VA has employed too strict a standard for diagnosing Gulf War Illness.

Just yesterday—more than 10 years after we defeated Iraq—the VA reluctantly recognized Lou Gehrig's disease as Gulf War service related. The GI Bill Enhancement Act will extend coverage to other sufferers by including a comprehensive list of symptoms that constitute Gulf War Illness. The measure also expands the definition of undiagnosed illness to include fibromyalgia and chronic fatigue syndrome as compensable diseases.

I want to personally thank Chairman SMITH and members of the House Veterans' Affairs Committee for working with Congressmen MANZULLO, SHOWS and me in getting this critical language included in this bill. I also want to thank them for allowing the recent VA regulation allowing for a critical five-year extension for Gulf War veterans to report and be compensated for Gulf War Illness to stand. This extension was a key provision of the Manzullo-Gallegly-Shows bill.

As one of the original cosponsors of the 1991 resolution to authorize then-President Bush to use force in the Persian Gulf, I believe we must go the extra mile to take care of the men and women who went to war against Iraqi dictator Saddam Hussein and are now suffering from these unexplained and devastating ailments.

Many of those suffering from Gulf War Illness were Reservists and National Guardsmen uprooted from their families and jobs. They answered the call and helped our country, and now we have a duty to help them. I urge my colleagues to vote for this important measure.

Mr. PASCRELL. Mr. Speaker, I rise in strong support of H.R. 1291, The 21st Century Montgomery G.I. Bill Enhancement Act.

This important legislation increases funding for the highly successful Montgomery G.I. Bill education program.

Every year thousands of veterans have the opportunity to earn a college degree because of this program.

The brave men and women of our military defend our freedoms around the globe, 365 days a year, 24 hours a day, 7 days a week.

While Americans sit around their Thanksgiving dinner table, light candles during Hanuka and open presents on Christmas morning, our armed forces stand fast.

And when they return, we must fulfill the promises we have made to them.

Mr. Speaker, we are not keeping our promise to America's veterans.

As I have traveled throughout my district I have met countless veterans who do not know of the full range of VA services available to them.

And every year I host a veterans registration drive in my district because there are too many veterans that simply do not get the services they need from the Veterans Administration.

And when they do finally reach out to the VA they find facilities understaffed, overworked and woefully inadequate.

I want to thank Chairman SMITH for including language from my Veterans Right to Know Act in this legislation because it will require the VA to inform vets of the entire range of benefits they are entitled to.

This is a critical first step in ensuring that every veteran has access to the services they have earned including the Montgomery G.I. Bill program.

Mr. Speaker, our men and women are fighting for us in Afghanistan, we need to fight for them when they come home.

Mr. FILNER. Mr. Speaker, I urge my colleagues to support H.R. 1291, the Veterans Education and Benefits Expansion Act of 2001. The bill includes much needed increases in benefits for our Nation's veterans, and I would like to comment on a couple of them.

First, I am very pleased that the provisions in my bill, H.R. 442, were substantively included in the larger bill. H.R. 1291 would increase from $50,750 to $60,000 the maximum amount of the home loan guaranty available to veterans and servicemembers under the Department of Veterans Affairs' home loan program. This increase is necessary to keep pace with the rising cost of housing, particularly in areas where the cost of housing is higher than in other parts of the country. This action is part of our duty to provide adequate funds for the vital programs that serve our Nation's veterans.

The amount of this guaranty has not increased since 1994. During the past seven years, the cost of housing has increased nationwide, and in some areas it has skyrocketed! Benefits for veterans must keep up with such increases if we are to keep our commitment to our veterans.

My bill, H.R. 442, would have provided a VA home loan guaranty increase to $63,175 which would allow a maximum amount for a home loan of $252,000. Although the amount of increase in H.R. 1291 is slightly less than in my bill, due to paygo requirements, I welcome this interim step which will allow the maximum amount for a home loan to rise to $250,000.

Further increases are needed before this valuable program can regain its intended utility, and I fully intend to keep fighting for these increases in the future.

Likewise, I am supportive of the provision to restore educational assistance to participants in VA programs who are receiving benefits for classes that they are unable to complete because they have been called to duty to support the nation in times of global conflict.

And, while I am convinced we can and must do more, this bill will provide a sorely needed increase in the amount of educational benefits under the Montgomery GI Bill (MGIB).

Veterans must remain one of our top priorities! I urge my colleagues to join me in support of H.R. 1291.

Mr. MATHESON. Mr. Speaker, it is with great pleasure that I rise today in support of the Veterans Education and Benefits Expansion Act. This legislation expands veterans' benefits, to help veterans to have adequate healthcare and increased educational opportunities. While this legislation seeks to repay those sacrificed so much for the freedom and liberty of our country, we will never be able to truly compensate those men and women in uniform who have fought in German, the Pacific, Korea, Vietnam, the Persian Gulf, or Afghanistan.

This legislation authorizes the Montgomery GI Bill full-time study allotment to $985 by October 2002. Additionally, the legislation improves home loan guarantees for veterans to $60,000. It increases the burial and funeral expense benefits for service-connected veterans to $2,000. It improves automobile and adaptive equipment grants for severely disabled veterans to $9,000.

Most importantly, this legislation remembers those who have often been forgotten. The legislation repeals the 30-year presumptive period for respiratory cancers and diabetes due to Agent Orange. It requires the National Academy of Science to conduct research to determine the effects of dioxin or herbicide exposure on Vietnam veterans. Finally, it changes the Gulf War programs to include fibromyalgia, chronic fatigue syndrome, chronic multisymptom illness and any other illness that cannot be clearly identified to the definition of undiagnosed illnesses, thus allowing veterans to receive compensation.

I am grateful for the work done on this legislation by my House colleagues concerning veterans' issues. I hope that the House will join me in supporting this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, House Resolution 310.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HONORING JOHNNY MICHEAL SPANN, FIRST AMERICAN KILLED IN COMBAT IN WAR AGAINST TERRORISM IN AFGHANISTAN, AND PLEDGING CONTINUED SUPPORT FOR MEMBERS OF ARMED FORCES

Mr. GOSS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 281) honoring the ultimate sacrifice made by Johnny Micheal Spann, the first American killed in combat during the war against terrorism in Afghanistan, and pledging continued support for members of the Armed Forces.

The Clerk read as follows:

H. CON. RES. 281

Whereas as part of the war against terrorism, United States military personnel and agents from the Central Intelligence Agency were involved in combat with Taliban forces during a prison uprising in Mazar-e Sharif, Afghanistan, on Sunday, November 25, 2001;

Whereas Johnny Micheal Spann, age 32, an officer in the Central Intelligence Agency, was inside the prison fortress interviewing Taliban prisoners when the uprising began;

Whereas Spann was killed in this rebellion and is the first American known to be killed in combat in Afghanistan during this war;

Whereas Spann is the 79th employee of the Central Intelligence Agency killed in the line of duty;

Whereas the Director of the Central Intelligence Agency, George J. Tenet, hailed Spann as an American hero and will soon memorialize him on a wall of honor;

Whereas Spann, a former Captain in the Marine Corps, is survived by his wife, Shannon, and 3 young children; and

Whereas the thoughts and prayers of the Congress and the Nation remain with the families of Spann and all the soldiers fighting to ensure the Nation's freedom and safety: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) honors Johnny Micheal Spann, a paramilitary officer in the Central Intelligence Agency, who was the first American killed in combat during the war against terrorism in Afghanistan, and recognizes him for his bravery and sacrifice;

(2) extends its deepest sympathies to the family of this brave hero; and

(3) pledges its continued support for the men and women who risk their lives every day to ensure the safety of all United States citizens.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. GOSS) and the gentlewoman from California (Ms. PELOSI) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 281.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I rise obviously in very strong and sad support of this resolution; sorry that we have to have it. It is authorized by my friend and colleague, the gentleman from Alabama (Mr. ADERHOLT).

Johnny Micheal Spann, "Mike" as he was known, served in the Central Intelligence Agency for approximately 2 years, just long enough to complete his training as a paramilitary and an operations officer in the clandestine service, which is arguably the most challenging and dangerous job in the intelligence community.

Mike was up to the challenge. In fact, he humbly accepted the opportunity to serve his country as an intelligence officer. Prior to joining the CIA, Mike served in the United States Marine Corps; he loved the Corps. I think all Marines love the Corps and often spoke of the Corps as if it was a family. And it is a family. We all know that. He left the Corps and he joined the CIA because, in his own words, "Somebody's got to do the things that nobody else really wants to do."

His dedication to this country and his commitment to defending its values and liberties highlight the quality of the men and women who have decided to serve our great country. Mike did exactly what he set out to do. He served his country in a way many would not or could not. A relatively newlywed, with a newborn son and two young daughters, Mike selflessly responded to the call to serve at the forefront of our Nation's war against terrorism.

Half a world away, in a dusty, inhospitable and alien environment, Mike confronted our Nation's fiercest enemy eye to eye. He did this not because it was his job, but because he was compelled to ensure that all people, regardless of their nationality or religion, could live without the fear of being victims of terrorism. That is what this is about.

Mike died fighting, trying to obtain information on terrorist plans and intentions so we could save others. Face to face against those bent on killing innocent men, women, and children, Mike stood strong, he stood tireless and fearless. That is the description of an American hero and Mike was one.

Up to the moment of his death, Mike never stopped being a Marine. "Semper Fidelis." He was always faithful. He was faithful to the countless, nameless millions of Americans, especially those incapable of defending themselves. Mike exemplified a breed of officer not normally acknowledged in the public sector. He readily accepted the risks of service, including the possibility of death, in order to secure the safety of his fellow Americans.

His death acts as a reminder of the high cost we must sometimes pay in order to secure our pursuit of liberty and happiness. We hold the greatest debt to Mike and to his family. The memory of his deeds must be held forever dear in our hearts. We pray for Mike's family and ask God to give them strength and see them through these difficult days.

We also pray for Mike's fellow colleagues in intelligence and in the military, who are still standing, even now, as the Nation's vanguard in the war against terrorism.

There are many Mike Spanns out there doing dangerous hard work for our country. God bless them all and keep them safe. But there is only one Mike Spann for his family and his loved ones.

□ 1730

Mr. Speaker, we share the burden of their loss today, and we want them to know we honor him before the world from this place.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Alabama (Mr. ADERHOLT), who is the sponsor of the legislation, to control the time.

The SPEAKER pro tempore (Mr. DUNCAN). Is there objection to the request of the gentleman from Alabama?

There was no objection.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation to honor Johnny Micheal Spann, who was laid to rest yesterday with other fallen men and women of great courage in Arlington National Cemetery. That an officer of the CIA was the first combat fatality of the struggle against terrorism in Afghanistan is a stark reminder of how dangerous and difficult the mission of collecting intelligence can be. The gentleman from Florida (Mr. GOSS) spoke eloquently to that point. He also described Mike's role at the CIA, and the circumstances and the danger in which he was placed; and which, unfortunately, caused his demise.

Like 78 CIA officers before him, Mr. Spann gave his life to protect the freedom which we hold dear and which defines us as a Nation. As we mourn his death, it is well to remember the gifts he gave our country through a career of service, first in the Marine Corps, and sadly, finally, in the CIA. He went to Afghanistan because he knew that is where his country needed him most. Our ability to respond effectively to the events of September 11 is due in large measure to the willingness of people like Mike to put personal considerations aside and accept the risks inherent in their important work.

Mr. Speaker, we are joined by Mike's family in the gallery today, and want them to know, those of us who are speaking on this resolution speak for the entire Congress when we offer them our deepest sympathy and condolences. No words we can say will ever be adequate to relieve the agony that they are in. However, I would like to place in the RECORD some of the words of Mrs. Spann that she said in eulogy yesterday which eloquently describe Mike's contribution to our country. She said, "Mike was faithful in giving his life to God and to his colleagues, his friends, his country and his family." Mrs. Spann said her husband "was a hero not because of the way he died, but rather because of the way he lived. He served his country not only by risking his life, but by being good. It seemed like when Mike took an oath to protect the Constitution of the United States from all enemies, foreign and domestic, that he took that oath to our family as well. He just thought that it was really his duty as a father to protect his children from terrorism, just as equally as he thought it was his duty to provide a roof over their heads."

As we pay tribute to Mike Spann's sacrifice, Mr. Speaker, our sympathies and prayers certainly go to his family, his wife, Shannon, who is also a CIA officer; his daughter, Alison, who is here with us today; Emily, his daughter, who is 4, is not; and his infant son, Jake, who is with us. Their loss is incalculable. His father and mother are with us today, and our condolences go to them. As a mother of a son 32 years old, I cannot imagine the scale of their loss; but nonetheless, offer my prayers in sympathy.

To his children especially go our hope that they learn more clearly of their father's life in the years to come, that they will find it a source of pride and comfort, and that he will always be in our prayers and in our memory.

Mr. Speaker, as we sing the praises of Micheal Spann and mourn his death and try to comfort his family, I would like to pay tribute to those Americans who lost lives in the so-called friendly fire incident that occurred in Afghanistan. They have been memorialized as well, the three Green Berets. They were Master Sergeant Jefferson Davis of Watauga, Tennessee; Staff Sergeant Brian Cody Prosser of Frazier Park, California; and Sergeant First Class Daniel Petithory of Cheshire, Massachusetts. We lost two others in helicopter accidents in Pakistan. Every one of these losses is felt by all of us in our country.

Today we mourn and pay tribute to Johnny Micheal Spann, known as Mike, who would want us to recognize the others whose lives were sacrificed, to end terrorism in our country, to protect Jake and Alison and Emily, and all of the children of our country.

Mr. Speaker, I reserve the balance of my time.

Mr. ADERHOLT. Mr. Speaker, I yield myself such time as I may consume.

Mr. ADERHOLT. Mr. Speaker, I rise today to bring voice to my constituents, my State, and people around the Nation who mourn the loss of Johnny Micheal Spann, better known as Mike Spann. Mike Spann lost his life as has already been said, in service to this country during a prison uprising in Afghanistan on November 25, 2001. He is an American hero and I stand to honor him today.

There are few facts about the exact circumstances of his death that we currently know, due to the nature of the war. Mike Spann was serving as a paramilitary officer with the CIA and was at the prison in Mazar-e Sharif interviewing Taliban prisoners. It is believed that these prisoners smuggled guns and grenades into the prison and used these munitions to stage an uprising against the Northern Alliance and the American soldiers.

Mike and a fellow CIA officer drew their weapons and attempted to fight their way out of the prison fortress. While his fellow CIA officer was able to escape, Mike, unfortunately, became the first American killed in action in Afghanistan.

Before his death, he and his fellow CIA officer were able to alert outside forces who were sent in to squelch the uprising. The bloody battle continued for 3 days. Five other Americans were injured during the struggle. It was not until the prison could be secured that Mike's body was found.

Even without the full details of the prison riot during which he was killed, we can be certain that Mike Spann died doing what he loved, serving and fighting for his country. Since September 11, we have witnessed an outpouring of patriotism across this Nation. Mike was someone who overflowed with patriotism even during a time when it was not popular. His father recently quoted Mike as saying, "Someone has to do the right thing that no one else wants to do."

From a young age, he wanted to pursue a career in the Marines and with either the CIA or FBI. After graduating from Winfield High School in Marion County, Alabama, he attended Auburn University where he earned a degree in criminal justice. He immediately pursued his next goal, serving in the Marine Corps from 1992-1999, and he earned the rank of captain. From there, he was recruited to work for the CIA in special operations.

Mike is survived by his wife Shannon and three children, Alison 9, Emily 4, and 6-month old Jake. Our prayers go out to them and the rest of the Spann family. Mike is also survived by his parents, Johnny and Gail Spann, and two sisters, Tonya Ingram and Tammy Dunavant. We are glad that they can join us in the Chamber today.

Mr. Speaker, I was proud to attend the burial of Mike Spann yesterday in Arlington National Cemetery. The cemetery is appropriate for a fallen hero. Full military honors were given, highlighted by the caisson, a 21-gun salute and a Marine honor guard.

It should be noted that a memorial service was also held last Thursday in Mike's hometown in the district I represent of Winfield, Alabama. Mike's daughter, Alison, wrote a letter to him just a short while back, and the words of this letter should echo in our ears and our hearts as we consider this resolution today. In her words, "Dear Daddy, I miss you dearly. Thank you, Daddy, for making the world a better place."

May we use this resolution today as an opportunity to thank Mike Spann and to honor Mike Spann and the rest of the men and women fighting the war against terrorism, and for making this world a better place.

Today as we commemorate the 3-month anniversary of September 11, the attack on this Nation, our hearts go out to all.

Mr. Speaker, I yield 4 minutes to the gentleman from Alabama (Mr. BACHUS), who is a strong supporter of this resolution.

Mr. BACHUS. Mr. Speaker, the gentleman from Florida (Mr. GOSS) said it best when the gentleman said we are sorry that we are here. We are sorry that Johnny Micheal Spann had to die for his country. But we are very proud of him. We are proud of his family and the way that they have responded to this tragedy.

We honor the memory and the sacrifice that he made for his family: The first American killed in combat by our enemy in Afghanistan. Mr. Speaker, yesterday Mike Spann was given a well-deserved hero's burial at a place where many of our heroes are buried, Arlington National Cemetery. The Nation was focused on his death and on the ceremony.

Mr. Speaker, in that, the fact that the Nation has followed this event and has paid respect to this fallen warrior, I think is good. It has not always been that way.

Mr. Speaker, I remember back in 1994 when two Army rangers were posthumously given an award at the White House after they fell in Somalia. I remember that weekend, there was a car chase in Southern California. Members may remember that. It led to a famous murder trial. Mr. Speaker, there was no coverage of that ceremony at the White House, no coverage of the burial. There was an article on page D5 of the paper in Washington, D.C., a short article.

Mr. Speaker, the Nation has changed in many ways since September 11; and one change for the better, Mr. Speaker, is that the Mike Spanns, and the hundreds of thousands of young men and women like him, are finally given a priority, a priority they should have had.

Captain Spann reenlisted in the Marines. He served the CIA, and he did that, although his country did not make it a priority, but thank God he made it a priority to serve and defend his country. Shortly before his death he sent an e-mail to his family which read, "What everyone needs to understand is these fellows hate you. They hate you because you are an American. Support your government and your military, especially when the bodies start coming home." Little did he or his family or we know that the first body brought home would be his.

Mr. Speaker, my oldest son graduated from Parris Island. He is a Marine. I can understand the pride that this family has in Mike; but I cannot imagine what they are going through now. Their worst fears have been realized. To lose a son, it is the natural order turned upside down. We expect to die before our children, but the Spanns have shown great character, great courage and great patriotism, and we can tell where Mike got a lot of his courage and bravery and patriotism. As the gentleman from Florida (Mr. GOSS) and others have said, this is shattering experience for a young wife, two little girls and a baby boy. To the family I say, they can never take one thing away, and that is, that he was the best. I conclude by saying what the gentlewoman from California (Ms. PELOSI) quoted Mrs. Spann as saying, Mike was a hero not because of the way he died, but rather because of the way he lived.

□ 1745

Mr. Speaker, he was a good son, a good husband, a good father to his young children, a good U.S. Marine, a good CIA agent, and a God-fearing, patriotic American.

Semper fi, Mike Spann.

Ms. PELOSI. Mr. Speaker, I am very moved by the words of the gentleman from Alabama (Mr. ADERHOLT) and the gentleman from Alabama (Mr. BACHUS) and extend condolences to them and the people of Alabama for the great sacrifice that they have all made as well as the Spann family.

Mr. Speaker, I am pleased to yield 1½ minutes to the distinguished gentleman from Georgia (Mr. BISHOP), who is a member of the Permanent Select Committee on Intelligence.

Mr. BISHOP. I thank the gentlewoman for yielding me this time, and I rise, Mr. Speaker, in support of this concurrent resolution in honor of Johnny Micheal Spann, a fellow native Alabaman, the first known U.S. combat casualty in the war in Afghanistan. This is indeed a solemn time for all Americans as we realize the tremendous sacrifices made in our behalf by the men and women of the United States Armed Forces, our intelligence agencies, and by their families. We are all in awe of their bravery, their courage, their dedication to our national security and their willingness to endure great hardship and great risks in our collective behalf. We give great thanks for their service, for Mike's service to our country.

Mike Spann loved his country. He served his country. He was a friend to each and every American citizen. Because, as the Good Book says, "Greater love hath no man but that he lay down his life for his friends."

We honor his memory today and extend our deepest sympathy to his family. We are eternally grateful to him and to the brave men and women who risk their lives as part of our intelligence community to ensure the safety of all Americans and all freedom-loving people throughout the world.

God bless Mike Spann. God bless his family. May God continue to bless America.

Mr. ADERHOLT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF), who represents the district in which Mike Spann and his family were living.

Mr. WOLF. Mr. Speaker, I join my colleagues today in support of H. Con. Res. 281, honoring Johnny Micheal Spann, the first American killed in combat during the war against terrorism in Afghanistan. I had the opportunity to attend the funeral yesterday, which was very moving.

Mike Spann was laid to rest yesterday with full honors at Arlington National Cemetery. He resided with his wife and family in Manassas Park, Virginia, in the 10th Congressional District which I represent. I wish these kinds of resolutions never needed to be introduced. I wish our world was a peaceful place where there was never any time of war, when we never had to call on the brave men and women of our Armed Forces and security agencies to fight for our freedoms. But I am thankful that when our freedoms must be defended, we have people like Mike Spann who are willing to lay their lives on the line for us. Our Nation will forever be grateful to Mike Spann for his bravery and sacrifice and to all the men and women fighting to defend our Nation and willing to pay the ultimate sacrifice for their country and for freedom.

Mike Spann was a young man, 32 years old. I have four children in their thirties and one in their late twenties. He was a former captain in the Marine Corps. He was working as an officer in the Central Intelligence Agency. He was inside a prison fortress in Mazar-e Sharif, Afghanistan, interviewing Taliban prisoners when a prison uprising began on Sunday, November 25. He was brutally beaten and shot to death, the first American known to be killed in combat in Afghanistan during the war.

Mike Spann is the 79th employee of the Central Intelligence Agency killed in the line of duty and will be memorialized with a star on a wall of honor at CIA headquarters in Langley, Virginia. Let us hope that his will be the last star that is ever necessary to be placed on that wall.

Words are so inadequate at this time in expressing our heartfelt sympathies to the family of this brave hero, his mom and dad and his sisters, his wife Shannon and his three young children. But they should know that the thoughts and prayers of a grateful Congress and Nation remain with them.

Our thoughts and prayers are also with the thousands of men and women in service to their country who risk their lives every day fighting to assure our freedom and safety.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Texas (Mr. REYES), a member of the Permanent Select Committee on Intelligence.

Mr. REYES. Mr. Speaker, I thank the gentlewoman for yielding time under these very difficult circumstances, but I rise in strong support of H. Con. Res. 281.

Mr. Speaker, I did not know Mike Spann. I never had the privilege or honor of meeting him. But I have had the opportunity and the privilege and honor of meeting many in the Central Intelligence Agency, field agents like Mike, all doing their work in a very difficult and dangerous environment. I would venture to say tonight that if Mike were able to join us, he would say something along the lines of, "Just doing my job, sir." That has been my experience in meeting men and women of the Central Intelligence Agency.

The fact that his neighbors and friends never knew that he was working for the CIA is a testament to the fact that Mike, like thousands of other CIA employees all around the world, are defending this Nation, its citizens and its freedoms with no expectation of thanks, with no expectation of recognition.

We are here this evening under very difficult and sad circumstances, but we are here as grateful Americans honoring an American hero, the 79th that will be honored on that wall of honor. To Shannon and to his mom and dad and all the family and especially the children, we are all extremely proud of the true American hero that Mike was. And we are all mindful that the things that we have, the freedoms that we enjoy, are there for us because of people like Mike.

God has blessed us with Mike. We hope that God blesses his family, and we hope that you know how grateful we as Members of Congress are for having had Mike Spann as a member of the Central Intelligence Agency. A grateful Nation joins all of you in grieving.

Mr. ADERHOLT. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SIMMONS), another strong supporter of this resolution who sought me out early on that he wanted to be a supporter of this resolution and to speak on it.

Mr. SIMMONS. Mr. Speaker, I rise in strong support of this resolution to honor Johnny Micheal Spann, a Central Intelligence Agency officer who was the first American killed in the war against terrorism in Afghanistan. He was killed on November 25, 2001, during an uprising of Taliban and al Qaeda prisoners in northern Afghanistan. Yesterday he was buried with full military honors in the hallowed ground of Arlington National Cemetery.

Micheal Spann's life began in a small Alabama town and ended tragically on the other side of the world in an ancient fort near the city of Mazar-e Sharif. His death is a loss for his family, for the Central Intelligence Agency, and for our country. But his memory will live on as an example to all Americans of the values of patriotism, courage, and sacrifice.

Although I never knew Mike Spann, I knew many like him. He was a paramilitary officer with the Central Intelligence Agency. I also served as a paramilitary officer with the CIA from 1969 to 1974. He served in a war zone. I too served in a war zone with the CIA for 2 years in South Vietnam. I believe that he and I shared the view that operations officers for the CIA, and especially paramilitary officers, should serve on the front lines of freedom. We know that the work there is difficult and dangerous, even deadly. The stakes are high. But that is where a paramilitary officer needs to be if he or she is going to get the job done. Mike knew what the risks were. He was willing to take those risks. A grateful Nation now thanks him for his dedication and his sacrifice.

Mr. Speaker, I represent the second district of Connecticut. Over 200 years ago, a young man named Nathan Hale was born and raised in my district in the town of Coventry. He graduated from Yale College, taught school, and joined the Revolutionary Army as a captain. He volunteered for a dangerous espionage mission at the request of George Washington, was caught by the British, sentenced and hanged as a spy. Before his death, he is reported to say, "I only regret that I have but one life to lose for my country."

Nathan Hale is now the official State hero of Connecticut. He is also the first intelligence hero in American history. Johnny Micheal Spann is the most recent intelligence hero in American history. They both lost their lives in defense of freedom, democracy and the values of our great Nation. May God bless them and keep them, now and forever.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I would like to thank the gentlewoman for yielding me this time and to recognize the family and to thank the family for allowing us an opportunity to honor Micheal and at the same time to honor all of you because you folks have endured the sacrifice and allowed for our country to have the foundation of freedom and liberties that we all enjoy, and that it does cost lives and that it does impact on families.

Thank you for allowing us to have this opportunity to do it. I would like to thank the Members from Alabama who put the resolution forward. I know all of my colleagues will be very supportive of this.

Mr. ADERHOLT. Mr. Speaker, I yield myself such time as I may consume.

I urge the passage of this resolution to send a strong bipartisan message of solidarity with the Spann family as well as the men and women in the intelligence community and the armed services who are putting themselves at personal risk to defend this Nation and our people.

Mr. Speaker, I yield back the balance of my time.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

I want to join in thanking the Spann family for being with us tonight. You honor us with your presence. Mike Spann was an example of the best that our country has to offer. Again, I want to extend the condolences of all of our colleagues and certainly my constituents to his mother and father who are with us, his sisters, his wife, Shannon, their baby, Jake, and Alison and Emily. Mike Spann will always be in our memory and in our prayers. God bless him and God bless America.

Mr. CRAMER. Mr. Speaker, I rise to join my colleagues in honoring Johnny Michael Spann, the first American killed in combat during the war against terrorism in Afghanistan.

Mike Spann was born and raised in a small town in North Alabama called Winfield. Like most kids growing up in small town America, Mike grew up with a great love for his country. And it was this great love of country that led Mike first to the Marine Corps, where he rose to the rank of captain, and later to the CIA, where he fulfilled a lifelong dream. Duty, honor, integrity, and patriotism.

Mr. Speaker, to Mike Spann these were not simply words to be carelessly thrown about, but rather they were words that had real meaning and were words around which he ordered his life. Indeed it was the weight of these words that carried Mike to Afghanistan. For, Mr. Speaker, when duty called Mike Spann answered—without hesitation and with a quiet and steady dignity that came from an unshakeable belief in the righteousness of his mission.

In a sand blown fort, in a war torn land far from the comforts of his home, Mike Spann stood on the front line defending our American values and our way of life. Unlike most, Mike Spann understood that the freedoms we all cherish do not come without a hefty price. Sadly, he paid the ultimate price and gave his life in defense of these cherished freedoms. But, as his wife Shannon has said, "Mike is a hero not because of the way that he died, but rather because of the way that he lived." So, while we mourn his loss, we all can take comfort and pride in the knowledge that he gave his life defending the values that shaped and animated his life.

Today, with this resolution we honor him for his bravery and sacrifice. And to his family, a grateful nation offers its deepest sympathies. This nation and the world are better places because of the sacrifice made by Johnny Michael Spann.

Ms. PELOSI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on the motion offered by the gentleman from Florida (Mr. GOSS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 281.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ADERHOLT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

☐ 1800

MIKE MANSFIELD FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3282) to designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the "Mike Mansfield Federal Building and United States Courthouse."

The Clerk read as follows:

H.R. 3282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, shall be known and designated as the "Mike Mansfield Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, may, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be demand to be a reference to the "Mike Mansfield Federal Building and United States Courthouse".

The SPEAKER pro tempore (Mr. DUNCAN). Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. REHBERG), the author of the bill, to explain the bill before us.

Mr. REHBERG. Mr. Speaker, I rise in support of H.R. 3282, that designates the Federal Building and United States Courthouse at 400 North Main Street in Butte, Montana, as the Mike Mansfield Federal Building and United States Courthouse.

Mike Mansfield's tenure as majority leader of the United States Senate from 1961 until his retirement in 1976 is well-known. Likewise, his record as U.S. Ambassador to Japan from 1977 to 1988 was legendary. In both cases, he held each position longer than any of his predecessors.

Mike Mansfield's public service spanned five decades, beginning from his election to the U.S. House of Representatives in 1942 to his retirement as U.S. ambassador in Japan in 1988. This remarkable career saw him work with nine U.S. presidents, Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter and Reagan.

However, the formative stages of Mike Mansfield's early years are equally as remarkable. After the death of his mother, at age three he was sent from New York City to Great Falls, Montana, and raised by an aunt and uncle that owned a grocery store. One month shy of age 15, he joined the Navy, shortly before we entered World War I, and he served in the Atlantic. He served in the Army after the war. Finally, he enlisted in the Marine Corps for 2 years, serving in the Philippines, Japan and China. This contributed to his lifelong interest in the Far East.

He returned to Montana in 1922 at age 19 and worked as a mucker, shoveling rocks and dirt in the underground copper mines in Butte. While in Butte he met schoolteacher Maureen Hayes, who became his future wife. She encouraged him to complete his high school education by taking correspondence courses.

The City of Butte, Montana, was the chapter of Mike Mansfield's life that paved the way for his later career as a professor at the University of Montana, and a great statesman. As a result, it is only fitting that the Federal Building and U.S. Courthouse there be named after him.

Mr. Speaker,I urge my colleagues to support H.R. 3282.

Mr. Speaker, I include for the RECORD an article by Associated Press writer Bob Anez.

MONTANA OFFICIALS RECALL MANSFIELD AS QUIET, DIGNIFIED LEADER

(By Bob Anez)

Mike Mansfield, who dominated Montana and national politics during his 34-year legislative career, was remembered Friday as a statesman of honesty, homespun integrity and few but gentle words.

"I don't remember anything mean that Mike ever said," said former Democratic Gov. Ted Schwinden.

"But that doesn't mean he couldn't speak out on difficult issues like the Vietnam war," he said. "Mike was not afraid of the fray, but was able to step above it."

Mansfield, who died Friday morning at the age of 98, was Senate majority leader for 15 years during a period of political and social turmoil that enveloped a civil revolution, an assassinated president, a war he opposed and the first presidential resignation. He retired in 1976 and then served as ambassador to Japan for 11 years.

Francis Bardanouve, a Democratic state representative for 37 years, recalled Mansfield's quite demeanor during that time. "He was a calm leader; he gave confidence to the people that government was in good hands."

Gov. Judy Martz, who ordered U.S. and Montana flags at all public buildings flown at half staff until sunset Saturday, called Mansfield a rare find for humanity.

"There are very few people who have or will walk this earth like Senator Mike Mansfield," the Republican said. "He served as an example throughout Montana, the nation and the world through his work ethic and dedication to service.

"I am sure that he has now rejoined his beloved wife, Maureen," Martz added, referring to Mansfield's wife, who died Sept. 20 last year.

Donna Metcalf, whose husband Lee served in the Senate with Mansfield for 16 years, recalled Mansfield as a gentle giant.

"He was a very kindly and considerate person who never forgot where he came from," she said.

She first met Mansfield when he was a popular instructor at the University of Montana and grew to be good friends with the Mansfields during the time the two men served together. "They made good partners for Montana," she said.

Pat Williams, who was a Montana congressman for 18 years until retiring in 1996, said Mansfield's integrity set him apart.

"Mansfield, as our senator, he brought honor not pork to Montana," the Democrat said. "He did things his way and believed that if Montanans didn't like it—as they didn't on his position and votes on gun control—that they'd bring him home at the next election. But, of course, we never did."

Kelly Addy, a Billings attorney, former legislator and staffer for Mansfield in 1974, described the senator as extremely humble and mindful of his modest beginnings in the Butte mines.

"He knew who he was," Addy said. "He knew he came from nothing. He knew everything had been given to him. He had no quarrel with anybody."

He said he learned a valuable lesson from Mansfield. "You can't be anything more than who you are, but if you're willing to be that, it can be quite something. He was able to accept himself and, therefore, he was able to accept others."

Former Gov. Stan Stephens called Mansfield "probably the most distinguished Montanan in the history of public service."

Mansfield was revered by members of both political parties because of his nonpartisan character, the Republican said. "He was a very kind and considerate man. He never looked at people or issues as political threats.

"He has made Montana proud," Stephens said.

George McGovern, a U.S. Senator from South Dakota during all but one of Mansfield's years in the Senate, praised his former colleague as an "example to all of us in the world of politics."

"Always a humble and dedicated public servant for the people of Montana, he became a superb majority leader of the U.S. Senate and a brilliant diplomat in the Far East," said McGovern, who was in Missoula where his wife is hospitalized.

Schwinden said a defining memory he has of Mansfield was his campaign visits to Wolf Point, Schwinden's home town. Dozens of people in the small community would turn out on short notice to see the popular Senator.

"If there was a stage, he loved to sit on the stage with his legs crossed," Schwinden said. "He never lectured. He just visited with his constituency."

The attitude is what defined Mansfield and made him a man of few words, recalled former Secretary of State Mike Cooney.

"He listened. It wasn't that what he had to say was the most important," Cooney said. "He understood that if you could sit and listen to people, you could learn a lot more than if you sat there yacking.

Gov. Tom Judge, who was governor from 1973 to 1981, remembered Mansfield as a man who did "an enormous amount of work for

Montana, all the while doing it in a quiet, effective and—most importantly—very dignified manner."

Judge said he first became acquainted with Mansfield while still in college in the mid 1950s.

"When I was a junior in college I nominated him for president in a mock election at Notre Dame and we almost won," Judge said. "It was a tight race between him and Lyndon Johnson. . . . We didn't win but I guarantee you everyone at Notre Dame knew who Mike Mansfield was when we were done."

Bob Ream, Montana Democratic Party chairman, said Mansfield remained Senate leader for longer than anyone else because he earned and commanded a great deal of respect.

"I think he stood for the best in politics," Ream said. "He was an extremely ethical person and well-respected by people on both sides of the aisle."

"The last time I saw him was about a year and a half ago, and he still had that twinkle in his eye," Ream said. "And whenever you left his office, Mike always had the same farewell. 'Tap her light,' he would say. . . . It was an old miner's line."

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3282 is a bill to designate the Federal Building and United States Courthouse in Butte, Montana, in honor of Senator Mike Mansfield.

Senator Mansfield, as all of us know, died in October of 2001 at the age of 98. He served as the Senate majority leader longer than anyone else in the history of that institution. His legacy spans decades and is one of public service with unimpeachable integrity, admiring colleagues, fiercely loyal friends and devoted family.

Senator Mansfield was a native New Yorker, born in New York City on March 16, 1903. As a young child, he and his family moved to Great Falls, Montana. When he was only 14 years old, he enlisted in the United States Navy and served in World War I. From 1919 to 1920, Senator Mansfield served in the U.S. Army, and later joined the U.S. Marines as a private first class.

After the war, he returned to Montana and finished his education. He graduated from Montana State University at Missoula, where he received his undergraduate degree, and in 1934, received a masters degree.

From 1933 until 1943, Senator Mansfield was a professor of history and political science at Montana State. In 1943, he was elected to the U.S. House of Representatives, where he served 10 years. During his service in the House of Representatives, Senator Mansfield voted for a higher minimum wage, economic aid to Turkey and Greece, the Marshall Plan, and opposed funding for the House Un-American Activities Committee. In 1953, he was elected to the U.S. Senate, and began a career filled with accomplishments.

He served the United States in many capacities: Special Committee on Campaign Expenditures; Democratic Whip; Majority Leader; Chairman of the Committee of Rules and Administration; Special Committee of Secret and Confidential Documents; and Ambassador to Japan. In 1956, Lyndon Johnson named him Assistant Majority Leader. When Johnson was elected Vice President in 1961, Mansfield became the Majority Leader and served until 1977.

Mr. Speaker, Mike Mansfield had an unbelievable career. I could go on and on about his accomplishments and achievements. His word and his integrity, without question, and his reputation as a straight shooter, was well-deserved. Unflappable, honorable, brilliant, humble and a strong person, he will always be remembered.

It is fitting and proper that we honor Mike Mansfield's lifetime of public service to his country with this designation. I support this bill, and I urge my colleagues to support it.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 3282, a bill to designate the federal building and United States Courthouse in Butte, Montana, in honor of Senator Mike Mansfield, who died in October of this year at the remarkable age of 98.

Senator Mansfield was born in New York City on March 16, 1903. His family moved to Cascade County, Montana, in 1906 where he attended local public schools until he dropped out at age 14. At that time, he lied about his age and enlisted in the United States Navy to serve his country during World War I. Mike must have liked the military life, because when he left the Navy, he first joined the Army for two years, and then the marines for two years, finishing his military service in 1922.

When he returned to Montana, Senator Mansfield went to work in a copper mine near Butte. While still working the mines, he enrolled in the Montana School of Mines, where he met this future wife, Maureen Hays, a schoolteacher. She persuaded him to complete his high school education by taking correspondence courses.

In 1930, he enrolled at the University of Montana, where he received his undergraduate degree, and a master's degree in 1934. From 1933 until 1943, Mike Mansfield was a professor of history and political science at Montana State. In 1943, he was elected to the United States House of representatives, where he served for ten years.

Later, he was elected to the U.S. Senate where he launched an illustrious career, serving as Committee Chairman, Democratic Whip, and Majority Leader.

Some of our Nation's most turbulent times occurred during his tenure as Senate Majority Leader: assassination of one President and the resignation of another; the assassinations of a civil rights activist and a presidential hopeful; student and political unrest; Vietnam and Watergate.

He was at the helm when the Civil rights Act and the Voting Rights Act became laws. He also led the Senate to pass sweeping legislation on health, education, and anti-poverty programs.

Senator Mansfield was going to retire from public life when he decided to leave the Senate in 1976. However, President Jimmy Carter urged Senator Mansfield to remain in public service as our Ambassador to Japan, which he agreed to do—and served with distinction.

Mike Mansfield was so successful and so well respected at home and in Japan, that President Reagan prevailed upon him to remain in the post throughout the Reagan presidency. Mike Mansfield managed to impress the Japanese as well; so much so, in fact, that when he returned to the U.S. after eleven years as Ambassador, the Japanese Ambassador to this country said Mansfield "could have run for prime minister and won."

He was also Montana's "favorite son" for a very good reason. He was revered in his home State, and highly respected by his colleagues in the Congress. He was known as a terrific teacher, a great leader, and a wonderful human beng. He was devoted to Maureen, his wife of 68 years, and to their daughter, Anne.

His humble and straightforward characteristics made him equally at home in either royal courts or the local coffee shops in rural Montana. His word and his integrity were without question and his reputation as a "straight shooter" was well deserved. He combined keen intellect with good judgment to produce astonishing wisdom. His toughest assignment came during the Vietnam years. Although he personally opposed the war, he felt obliged as majority leader, to carry the President's message to the Senate.

In many ways the federal building and courthouse in Butte, Montana, accurately reflect who Mike Mansfield was—it is a wonderful, solidly built, grandly situated building, open to the public and dedicated to public service. It is strong without being intimidating; it provides justice and comfort to all who enter.

Mr. Speaker, Mike Mansfield was a modest man, but a giant in American politics. To have a federal building and U.S. courthouse bear his name is an honor he earned, and I strongly urge my colleagues to support this bill.

Mr. CLEMENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3282.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LATOURETTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

WOLF TRAP NATIONAL PARK FOR THE PERFORMING ARTS

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2440) to rename Wolf Trap

Farm Park as "Wolf Trap National Park for the Performing Arts," and for other purposes, as amended.

The Clerk read as follows:

H.R. 2440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING OF WOLF TRAP FARM PARK.

(a) AMENDMENT.—The Wolf Trap Farm Park Act (Public Law 89–671; 16 U.S.C. 284 et seq.) is amended—

(1) by striking "Wolf Trap Farm Park" each place it appears and inserting "Wolf Trap National Park for the Performing Arts";

(2) in section 2, by inserting before the final period ", except that laws, rules, or regulations that are applicable solely to units of the National Park System that are designated as a 'National Park' shall not apply to Wolf Trap National Park for the Performing Arts"; and

(3) by adding at the end the following new section:

"SEC. 14. REFERENCES.

"(a) BY FEDERAL EMPLOYEES.—The Secretary of the Interior, any other Federal employee, and any employee of the Foundation, with respect to any reference to the park in any map, publication, sign, notice, or other official document or communication of the Federal Government or Foundation shall refer to the park as 'Wolf Trap National Park for the Performing Arts'.

"(b) OTHER SIGNS AND NOTICES.—Any directional or official sign or notice pertaining to the park shall refer to the park as 'Wolf Trap National Park for the Performing Arts'.

"(c) FEDERAL LAWS AND DOCUMENTS.—Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to 'Wolf Trap Farm Park' shall be considered to be a reference to 'Wolf Trap National Park for the Performing Arts'.".

(b) APPLICABILITY.—Section 14(c) of the Wolf Trap Farm Park Act (as added by subsection (a) of this section) shall not apply to this Act.

SEC. 2. TECHNICAL CORRECTIONS.

Section 4(c) of the Wolf Trap Farm Park Act (Public Law 89–671; 16 U.S.C. 284c(c)) is amended—

(1) by realigning the second sentence so as to appear flush with the left margin; and

(2) by striking "Funds" and inserting "funds".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2440 would change the name of Wolf Trap Farm Park to Wolf Trap National Park for the Performing Arts.

Wolf Trap, located in Vienna, Virginia, enjoys a reputation as one of the premier venues for the Performing Arts in the country. The park plays host to every conceivable type of Performing Arts, from Native American folk festivals, to interpretive dance recitals, rock concerts and classical symphonies.

While the Park Service maintains responsibility for the grounds and buildings, the non-profit Wolf Trap Foundation creates and selects programming, develops all educational programs, handles ticket sales, marketing, publicity and public relations, while also raising funds to support these programs. This bill would help alleviate confusion regarding its name and assist the nonprofit Wolf Trap Foundation in raising funds and resources for the park. The bill would not alter the legal status of the park nor its level of Federal funding.

Mr. Speaker, this is a non-controversial bill, and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2440, introduced by the gentleman from Virginia (Mr. DAVIS), renames Wolf Trap Farm Park, located in Northern Virginia, as the Wolf Trap National Park for the Performing Arts.

Wolf Trap Farm Park was established in 1966 as a unit of the National Park Service. The park provides music and arts education programs and is best known for its annual summer concert series. Supporters of the park are seeking the name change to better reflect the park's operation as a performing arts center.

Although no hearings were held on H.R. 2440 by the Committee on Resources, a similar bill passed the House at the very end of the last Congress, but no action on the bill occurred in the Senate. The language of H.R. 2440, including the clarifying amendment adopted by the Committee on Resources, has been worked out with the administration and the minority, and we are unaware of any problems with the bill.

Accordingly, Mr. Speaker, we support H.R. 2440, as amended, and recommend its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to support a bill that has been more than 3 years in the making. It was almost a year ago to the day that I was on this floor giving a very similar speech to a very similar bill. But, whatever the process may be, I am pleased today the House is now considering the bill that will allow the Wolf Trap Farm Park to become Wolf Trap National Park for the Performing Arts.

Despite the relative straight-forwardness of this bill, it has taken years of careful negotiation and innumerable drafts to reach a consensus between the Park Service, the Department of Interior, the Wolf Trap Foundation, and the Committee on Resources. I am extremely pleased to say that as the first session of the 107th draws to a close, that consensus has been reached.

As many of my colleagues undoubtedly know, Wolf Trap is one of the premier venues for the performing arts anywhere in the world. Nestled in a beautifully wooded site just outside of Vienna, Virginia, Wolf Trap plays host to every conceivable type of performing arts. It is the home to all the cultural diversity found in our great Nation.

While I am disappointed it has taken this long to elevate Wolf Trap to the level of Federal recognition it deserves, I am very pleased that one of the final acts of this session will accomplish that goal.

I would also like to thank my fellow Virginians, the gentleman from Virginia (Mr. WOLF) and the gentleman from Virginia (Mr. MORAN) for their tireless efforts in this endeavor. I am very grateful to the Members and staff of the Committee on Resources. Without their support, I am confident we would be revisiting this again in the next session. So, my thanks to all. I urge its adoption.

Mr. UDALL of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank my friend from Colorado for yielding me time.

Mr. Speaker, doing the right thing should not be so difficult. We have been trying to do this for years, just to change the name from Wolf Trap Park to National Park so that it can better describe the actual legal status and the park's mission. The mission is to assist Wolf Trap Foundation in private fundraising efforts.

Wolf Trap Park is a beautiful location, nestled in the woods in Vienna, Virginia. It is about 136 acres. Any of my colleagues and their colleagues and staffs who have not been there should go visit Wolf Trap. It is a wonderful asset, not just for the Washington metropolitan area, but for the Nation, and that is the point of this legislation.

It plays host to any number of performances, as the gentleman from Maryland (Mr. GILCHREST) and the gentleman from Virginia (Mr. DAVIS) and the gentleman from Colorado (Mr. UDALL) said. They described the wide gambit of classical symphonies, rock concerts, Native American folk festivals and so on, that use the stage at Wolf Trap. The Wolf Trap Foundation is a 501(c)(3) not-for-profit organization. It handles all the ticket sales, the publicity, the education programs, and does a wonderful job. The National Park Service is responsible for maintaining the grounds and the buildings. They also provide technical assistance for the performing arts centers.

Now, in addition to the performances we see on the stage, there are any number of educational programs that are offered, not just locally, but also nationwide. Its premier education program, the Wolf Trap Institute for Early Learning Through the Arts, places professional performing artists in preschool classrooms all across the country.

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So the mission of Wolf Trap has been consistent with that of the National Park Service. It is the promotion of and access to appreciation of all of our natural resources and, in this case, our human resources as well and the performing arts. But because of this unique status within the national park system, we need to change the name from ˊWolf Trap Farm Park to Wolf Trap National Park. It is not going to affect the legal status or the Federal funding levels; it is not going to do anything but to alleviate confusion about this national park's mission, and it will assist the foundation in private fund-raising efforts.

So it is the right thing to do. From now on, we ought to call it Wolf Trap National Park; and I trust that all of my colleagues understand its national importance, significance, and accessibility for all of their constituents.

Mr. Speaker, I thank my colleagues from Virginia for bringing the bill to the floor.

Mr. UDALL of Colorado. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume. We have no further speakers on this issue.

I would just ask my two colleagues from Virginia that when Wolf Trap Park holds traditional, historic country western music, if they would invite me to attend, I would be more than happy to do so.

Mr. MORAN of Virginia. Mr. Speaker, if the gentleman will yield, I trust the gentleman from Virginia (Mr. DAVIS) will afford the gentleman from Maryland (Mr. GILCHREST) a standing invitation.

Mr. DAVIS of Virginia. Mr. Speaker, if the gentleman from Maryland will yield, call me, and I would be happy to take the gentleman as my guest.

Mr. GILCHREST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and pass the bill, H.R. 2440, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FISHERIES CONSERVATION ACT OF 2001

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1989) to reauthorize various fishery conservation management programs, as amended.

The Clerk read as follows:

H.R. 1989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fisheries Conservation Act of 2001”.

TITLE I—INTERJURISDICTIONAL FISHERIES ACT OF 1986

SEC. 101. REAUTHORIZATION OF INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

“(a) General Appropriations.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

“(1) $4,900,000 for fiscal year 2002;

“(2) $5,400,000 for each of fiscal years 2003 and 2004; and

“(3) $5,900,000 for each of fiscal years 2005 and 2006.”; and

(2) in subsection (c) by striking “$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000” and inserting “$800,000 for fiscal year 2002, $850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006”.

SEC. 102. PURPOSES OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986

Section 302 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4101) is amended by striking “and” after the semicolon at the end of paragraph (1), striking the period at the end of paragraph (2) and inserting “; and”, and adding at the end the following:

“(3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.”.

TITLE II—ANADROMOUS FISH CONSERVATION ACT

SEC. 201. REAUTHORIZATION OF ANADROMOUS FISH CONSERVATION ACT.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“Sec. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

“(A) $4,500,000 for fiscal year 2002;

“(B) $4,750,000 for each of fiscal years 2003 and 2004; and

“(C) $5,000,000 for each of fiscal years 2005 and 2006.

“(2) Sums appropriated under this subsection are authorized to remain available until expended.

“(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.”.

SEC. 202. RESEARCH ON AND USE OF ECOSYSTEMS AND INTERSPECIES APPROACHES TO THE CONSERVATION AND MANAGEMENT.

The first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a) is amended in subsection (b) by inserting “(1)” after “(b)”, and by adding at the end the following:

“(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.”.

TITLE III—ATLANTIC COASTAL FISHERIES

SEC. 301. REAUTHORIZATION OF ATLANTIC STRIPED BASS CONSERVATION ACT.

Section 7(a) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by striking “and 2003” and inserting “2003, 2004, 2005, and 2006”.

SEC. 302. REAUTHORIZATION OF ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT.

Section 811(a) of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5108) is amended by striking “2005” and inserting “2006”.

SEC. 303. AMENDMENTS TO ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT.

(a) Findings.—Section 802(a) of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101(a)) is amended by adding at the end the following:

“(7) The understanding of the interactions of species in the maritime environment and the development of ecosystems-based approaches to fishery conservation and management lead to better stewardship and sustainability of coastal fishery resources.

“(8) Federal and State scientists should gather information on the interaction of species in the marine environment and provide this scientific information to Federal and State managers.”.

(b) Purpose.—Section 802(b) of such Act (16 U.S.C. 5101(b)) is amended to read as follows:

“(b) Purpose.—The purpose of this title is to support and encourage the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources through the use of sound science and multispecies, adaptive, and ecosystem-based management measures.”.

(c) State-Federal Cooperation in Multispecies and Ecosystems Interaction Research.—Section 804(a) of such Act (16 U.S.C. 5103(a)) is amended by inserting “multispecies and ecosystems interaction research;” after “biological and socioeconomic research;”.

(d) Assistance for Research Regarding Interrelationships Among Atlantic Coastal Fishery Resources and Their Ecosystems.—Section 808 of such Act (16 U.S.C. 5107) is amended by striking “and” after the semicolon at the end of paragraph (1), redesignating paragraph (2) as paragraph (3), and inserting after paragraph (1) the following:

“(2) research to understand the interrelationships among Atlantic coastal fishery resources and their ecosystems; and”.

TITLE IV—ATLANTIC TUNAS CONVENTION ACT OF 1975

SEC. 401. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“Sec. 10. (a) In General.—There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention, the following sums:

"(1) For each of fiscal years 2002, 2003, and 2004, $5,480,000.

"(2) For each of fiscal years 2005 and 2006, $5,495,000.

"(b) ALLOCATION.—Of amounts available under this section for each fiscal year—

"(1) $150,000 are authorized for the advisory committee established under section 4 and the species working groups established under section 4A; and

"(2) $4,240,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).".

TITLE V—NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995

SEC. 501. REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.

Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking "2001" and inserting "2006".

TITLE VI—EXTENSION OF DEADLINE FOR SUBMISSION OF OCEAN POLICY REPORT

SEC. 601. EXTENSION OF DEADLINE.

(a) EXTENSION OF DEADLINE.—The Oceans Act of 2000 (Public Law 106–256) is amended—

(1) in section 3(f)(1) (114 Stat. 647) by striking "18 months" and inserting "27 months";

(2) in section 3(i) (114 Stat. 648) by striking "30 days" and inserting "90 days"; and

(3) in section 4(a) (114 Stat. 648; 33 U.S.C. 857–19 note) by striking "120 days" and inserting "90 days".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(j) of such Act (114 Stat. 648) is amended by striking "$6,000,000" and inserting "$8,500,000".

(c) TECHNICAL CORRECTIONS.—Section 3(e) of such Act (114 Stat. 646) is amended—

(1) in paragraph (1) by striking the colon in the third sentence and inserting a period;

(2) by inserting immediately after such period the following:

"(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—"; and

(3) by redesignating the subsequent paragraphs in order as paragraphs (3) and (4), respectively.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

This legislation reauthorizes a number of important fishery statutes that range from grants for States for conservation, research, and enforcement activities to the implementation of international treaties. The bill reauthorizes these statutes through September 30, 2006.

Two of the State grant statutes are the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fisheries Conservation Act of 1965. These laws have been active for a number of years and have provided funding for many worthwhile activities, including research to help improve the way fisheries are managed, enforcement activities, the rebuilding of necessary habitat, and other measures to improve the survival of fish that travel across State boundaries and over great distances.

The Atlantic Striped Bass Conservation Act of 1984 and the Atlantic Coastal Fisheries Cooperative Management Act are laws that provide directives to the States and the Atlantic States Fisheries Commission to develop fishery management plans for the species of fish under their jurisdiction along the East Coast.

These laws promote cooperation between the States and Federal Government to ensure that fisheries are getting appropriate and complementary management throughout their range, whether it be in State or Federal waters. The current robust health of striped bass populations is a direct result of efforts undertaken under these two acts.

The Atlantic Tunas Convention Act of 1975 and the Northwest Atlantic Fisheries Convention Act of 1995 are laws that implement international agreements. These acts allow the U.S. to be a member of the International Fishery Commission where management recommendations are developed by member nations for fisheries under the Commission's jurisdiction. The United States then implements those recommendations through regulations for U.S. fishing vessels.

Mr. Speaker, H.R. 1989 also makes some technical changes to the Oceans Act of 2000, Public Law 106–256. The bill extends the deadline for the Presidential commission to submit its report to Congress from 18 months to 27 months. This change will allow the commission to still be operational while the administration reviews and submits its comments. The commission will then have a chance to respond to the administration's comments and submit those to Congress. In addition, the commission has opted for a much broader field hearing schedule in order to obtain the views of additional Americans; and due to such a schedule, as a result, we have increased their authorization by $2.5 million.

Mr. Speaker, all of these acts are very important. They have been very successful in accomplishing their conservation goals; and in the coming years, greater emphasis will be placed on research and management measures which promote the development of an ecosystem-based management of fisheries. I urge Members to vote "aye" on H.R. 1989.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of the bill.

As the gentleman from Maryland has already explained, H.R. 1989 extends a number of fisheries laws that authorize the conservation management of many of our domestic and international fishery resources. In addition, it encourages an ecosystem approach to the management of these resources which, given the current status of many marine fisheries, is an excellent idea that is long overdue.

As the gentleman from Maryland is aware, the general management of marine fisheries in the United States is in serious need of improvement. First, we lack the proper data to manage these stocks. Of the 900-plus stocks that we currently harvest, we do not have enough data to evaluate the status of more than 700 of them. At the same time, while better data is obviously needed, having good data does not ensure good management. Of the 200 or so stocks for which we do have adequate information, half are considered to be overfished or approaching an overfished condition.

The status of fisheries worldwide is apparently not much better, either. According to leading scientists in a study published in the November 29 issue of Nature Magazine, the global fisheries catches from the world's oceans have been declining for over a decade. This new evidence, which contradicts reports published by the United Nations Food and Agricultural Organization, indicates that the true state of the oceans may be far worse than previously thought.

Now, some may think that people in Colorado, a State far from the ocean, would not care about the status of our marine fisheries, but that is not the case. The oceans represent more than 70 percent of the Earth's surface, and I believe it is incumbent upon all of us to work together to better protect and conserve their biodiversity. I know the bill of the gentleman from Maryland (Mr. GILCHREST), with its focus on better data collection and ecosystem management, is a good first step. I look forward to working with him next year to expand this concept to the Magnuson Act, our Nation's primary law governing the management of marine fisheries.

Further, the law and its implementation must be strengthened if we are to have any hope of saving our fisheries resources, both here in the United States and around the world.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume to express my gratitude and appreciation for the members of the Committee on Resources on both sides of the aisle for piecing this package together, and I also want to compliment the staff on both sides of the aisle for their effort and cooperation in pulling this package together.

Mr. Speaker, I have no further speakers; and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr.

GILCHREST) that the House suspend the rules and pass the bill, H.R. 1989, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to reauthorize various fishing conservation management programs, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2440 and H.R. 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

LAND CONVEYANCE TO CHATHAM COUNTY, GEORGIA

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2595) to direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia, as amended.

The Clerk read as follows:

H.R. 2595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE TO CHATHAM COUNTY, GEORGIA.

(a) IN GENERAL.—The Secretary of the Army shall convey, by quitclaim deed and without consideration, to the Commissioners of Chatham County, Georgia, all right, title, and interest of the United States in and to the approximately 12-acre parcel of land located on Hutchinson Island, Georgia, adjacent to the Savannah Harbor Tide Gate structure.

(b) SURVEY TO OBTAIN LEGAL DESCRIPTION.—The exact acreage and the legal description of the parcel to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(c) USE OF LAND.—

(1) IN GENERAL.—The parcel conveyed under this section shall remain in public ownership and shall be managed in perpetuity for public recreational purposes or, in the alternative, the parcel may be exchanged for another parcel of equal appraised value that shall remain in public ownership and shall be managed in perpetuity for public recreational purposes.

(2) REVERSION.—If the Secretary determines that the parcel conveyed under this section is being used for purposes other than public recreational purposes, title to the parcel shall revert to the United States or, in the case of an exchange of parcels under paragraph (1), if the Secretary determines that the parcel received in the exchange is being used for purposes other than public recreational purposes title to that parcel shall revert to the United States.

(d) GENERAL PROVISIONS.—

(1) APPLICABILITY OF PROPERTY SCREENING PROVISIONS.—Section 2696 of title 10, United States Code, shall not apply to the conveyance under this section.

(2) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require that the conveyance under this section be subject to such additional terms and conditions as the Secretary considers appropriate and necessary to protect the interests of the United States.

(3) COSTS OF CONVEYANCE.—The County shall be responsible for all reasonable and necessary costs, including real estate transaction and environmental compliance costs, associated with the conveyance.

(4) LIABILITY.—The County shall hold the United States harmless from any liability with respect to activities carried out, on or after the date of the conveyance, on the real property conveyed. The United States shall remain responsible for any liability with respect to activities carried out, before such date, on the real property conveyed.

(5) EASEMENTS.—The County shall provide to the Secretary all required rights of entry or easements necessary for utilities and for access to the Savannah Harbor Tide Gate structure and the dock located adjacent to the structure.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Many years ago, Mr. Speaker, Chatham County, Georgia, donated approximately 12 acres of land on Hutchinson Island to the Federal Government so that the Corps of Engineers could build the Savannah River Tide Gate Structure. That project was closed in 1991 and the operational gates were removed. As a result, according to the Corps of Engineers, the Federal Government no longer needs this property.

Chatham County now would like to have this excess land returned to them so it could be used as part of an economic development project and a public recreational park. Without this legislation, the government has to follow a lengthy process for disposing of the property. This bill allows the property to go back to the county that gave up the land in the first place and will expedite an important local project that will benefit the public.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. KINGSTON), the author of the bill and, presumably, from Chatham County, Georgia, to explain it to us further.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from Tennessee (Mr. CLEMENT) for his indulgence.

This simply lets the Corps of Engineers get rid of some excess property they do not want anymore. It allows the county to take that property and trade it to a private developer, 12 acres; but in exchange, they are going to get 40 acres back. I know the gentleman from Colorado will be interested to know that they are going to have a natural park in those 40 acres that is going to be ecologically sensitive, a passive park, which I know the gentleman from Boulder is familiar with.

So this is a very good piece of legislation with bipartisan support by the local folks and the Corps of Engineers.

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know a comment was made a while ago about country music or country western music, and as the representative from Nashville, Tennessee, or Country Music USA, I appreciate the comments. I want my colleagues to know that the gentleman from Tennessee (Mr. DUNCAN) and myself and some others had the opportunity to sing on the Grand Ole Opry not long ago, which was an experience of a lifetime.

Mr. Speaker, I rise to support the bill H.R. 2595, a bill to convey a 12-acre parcel of land to Chatham County, Georgia, for public recreational purposes. This transfer will be accomplished without cost to the United States and for the benefit of the local citizens. The amended bill addresses a few issues from the original bill and should be supported by the House.

The land that would be transferred under this bill is not needed by the Corps of Engineers to carry out the purposes of the federally authorized project. The bill includes requirements to provide the Secretary of the Army rights of entry or easements so that the Corps can operate the project without hindrance.

Chatham County is responsible for all of the administrative costs of the land conveyance. In addition, the United States is protected from any environmental liability that may arise after the conveyance.

Mr. Speaker, I understand that the land that is being conveyed to the county will be exchanged for another parcel of land. The bill before us stipulates that the exchanged parcel will be kept in public ownership and used for public recreational purposes. The exchange will also be conducted on an equal-value basis. I urge an "aye" vote on this bill.

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Mr. CLEMENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would notify the gentleman from Tennessee (Mr. CLEMENT) that I am sorry that I missed their performance on the Grand Old Opry; maybe on the return trip.

Mr. OBERSTAR. Mr. Speaker, I am pleased to rise in support of H.R. 2595, a bill to authorize the Secretary of the Army to transfer land to Chatham County, GA, to enhance recreation opportunities in that locale.

The land transfer authorized under this bill is similar to transfers that our committee often approves as part of the Water Resources Development Acts. However, the sponsor of this bill, Mr. KINGSTON, has indicate that swift action is necessary in advance of next year's Water Resources Development Act so that this project may proceed in a timely manner.

The amended bill considered by the House today conforms the bill to the typical terms and conditions associated with land transfers. The revised language ensures that the transfer occurs at no cost to the Federal taxpayer and at no loss to the U.S. Treasury. In addition, the land will be maintained in public ownership for public benefit. If this particular parcel of land is transferred by the county, the transfer must be for lands or equal value, further protecting the interest of the taxpayer. Finally, if the lands are put to use other than as authorized by this bill, ownership of the lands will revert to the United States. As is always done, the land transfer preserves for the United States any easement or rights-of-way necessary to operate and maintain the existing Federal project.

Mr. Speaker, I urge my colleagues to vote "aye" on H.R. 2595.

Mr. LATOURETTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 2595, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COMMENDING CHARITABLE ORGANIZATIONS AND AMERICAN PUBLIC RELIEF EFFORTS IN THE AFTERMATH OF SEPTEMBER 11 TERRORIST ATTACKS

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 259) expressing the sense of Congress regarding the relief efforts undertaken by charitable organizations and the people of the United States in the aftermath of the terrorist attacks against the United States that occurred on September 11, 2001.

The Clerk read as follows:

H. CON. RES. 259

Whereas the people of the United States have a long and honorable tradition of assisting individuals, families, and communities in need;

Whereas charitable organizations play a vital role in delivering services to individuals and families that are in need of relief;

Whereas charitable organizations are providing relief to the victims of the terrorist attacks against the United States that occurred on September 11, 2001, and their families;

Whereas the people of the United States have been extremely generous in contributing to charitable organizations that provide relief to the victims of the terrorist attacks and their families; and

Whereas more than $1,000,000,000 has been collected for charitable work related to the terrorist attacks: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) praises the people of the United States for their patriotism and generosity in donating their money, time, and blood to support the victims of the terrorist attacks against the United States that occurred on September 11, 2001, and their families;

(2) commends charitable organizations for their hard work in providing needed assistance to the individuals and families who have been affected by the terrorist attacks;

(3) urges charitable organizations to use the money collected from the people of the United States for the purposes for which the money was donated, and to limit the extent to which such money is used for administrative costs; and

(4) condemns individuals and groups that fraudulently use contributions for objectives unrelated to the purpose for which the contributions were made.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 259 expresses the sense of Congress regarding the relief efforts undertaken by charitable organizations and the people of the United States in the aftermath of the terrorist attacks of September 11.

Mr. Speaker, the tremendous outpouring of assistance in the wake of the September 11 attacks has become something of an epic legend. Over $1 billion has been collected to support the relief efforts across the country.

These organizations serve a vital role in these relief efforts. They were the ones providing hot meals and medical care to the rescuers; they were the ones providing grief counselors to victims and their families; they were the ones ensuring that the displaced had a place to sleep and food to eat; and they are the ones that continue to serve at Ground Zero in New York and at the Pentagon, and wherever victims and their families are located.

The resolution does not mention the work by Federal, State, and local governments; but I want to commend each of them for their effort after the terrorist attacks and that which continues today. FEMA, the Small Business Administration, and the State of New York disaster assistance programs have contributed over $696 million.

Mr. Speaker, this is a good piece of legislation. It is fitting that the Congress, through its sense of Congress resolution, praise the good efforts of generous Americans and condemns those that abused this trust.

I commend the important work done by the Federal, State, and local governments and charities and individual volunteers, and urge my colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 259, a resolution expressing the sense of Congress regarding the relief efforts undertaken by charitable organizations and the American people in the aftermath of the terrorist attacks against the United States that occurred on September 11, 2001.

I would like to begin by thanking the gentleman from Florida (Mr. BILIRAKIS) for sponsoring this legislation. Our country has a long and proud tradition of helping families and communities in need, and our charitable organizations have often played a critical role in delivering these services.

Immediately after the September 11 terrorist attacks, thousands of volunteers began to donate their services, their talents, and even their blood. But they did not stop there. The people of the United States have been extremely generous in donating their money to various charitable organizations that provide relief to the victims of terrorist attacks and their families. In fact, more than $1 billion has already been collected for charitable work related to the terrorist attacks.

Mr. Speaker, Congress commends the people of this country for their patriotism and unwavering generosity in donating not only their money but their time and efforts, as well. We also commend the various charitable organizations for their tireless efforts in providing assistance to the victims and their families who have been affected by the terrorist attacks. We expect the money collected for this disaster to be used for this disaster. To do otherwise would be an insult to the memory of the victims of the tragedy, and it would be a betrayal of the public trust.

I wholeheartedly support this resolution to recognize our Nation's citizens who selflessly and generously gave their time, effort, and money after the September 11 attack. By supporting these charitable efforts, we salute and pay tribute to the victims of this tragedy.

Mr. Speaker, I urge my colleagues to support this legislation, and I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Florida (Mr. BILIRAKIS), the author of the legislation.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, since the devastating events of September 11, Americans young and old have opened their hearts and their pocketbooks to help the victims of this terrible tragedy. To date, over $1 billion has been raised for relief efforts, proving once again that Americans are the most compassionate and generous people in the world.

However, shortly after the contributions began to pour in, we started to hear reports suggesting that charitable organizations are not acting in good faith to use the contributions of generous Americans to deliver timely assistance to the victims of September 11 and their families. How do we explain, we should ask ourselves, to elementary schoolchildren that their hard-raised contributions may not actually be used to help the families in need?

Today I am wearing a pin made by the students of Cyprus Woods Elementary School in Tarpon Springs, Florida. These students sold patriotic pins for $1 each and raised a total of $3,500. This amount was matched by a local corporation for a total of $7,000, all of which went to the American Red Cross.

Another elementary school in the same area, Brooker Creek, raised $2,300 for relief efforts. It would send a terrible message to these children and the community if charitable organizations did not use their contributions to directly aid the victims and their families.

Mr. Speaker, I am pleased, and I think all of us are, that the American Red Cross has decided to modify the operation of its Liberty Fund by using all proceeds from the fund to increase support for people affected by the September 11 terrorist attacks.

This decision, however, came after public pressure was put on the Red Cross by Members of Congress and the news media. I believe that it is important to send a message to charitable organizations that contributions should be used for the purposes for which they were given. That is why I introduced the resolution before us today.

House Concurrent Resolution 259 praises the people of the United States for their patriotism and their generosity in donating their money, time, and blood to send support to the victims of September 11. It also commends charitable organizations for their hard work in providing assistance, but urges them to use the funds collected for the purposes for which the money was given.

Mr. Speaker, I am grateful to the majority leader and the gentleman from Alaska (Chairman Young) for allowing this resolution to be considered under suspension of the rules. Many Americans lost their lives by the hands of terrorists on September 11, and their memory and sacrifice for their country should be honored by providing for the needs of their families in a timely and effective fashion.

I urge my colleagues to support House Concurrent Resolution 259.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the incredible relief efforts that have taken place after September 11, 2001 are unprecedented. Charitable donations collected for the victims of the attacks and their families, have exceeded $1 billion in money alone. This spirit of good will and benevolence is what separates Americans and civilized people around the world from those who kill and seek to destroy out of hatred and for personal gain.

While the vast majority of these charitable efforts have been well meaning and appropriately administered, there have been reports, including by the Department of Justice, that some of these groups have allocated portions of the donations toward administrative and other non-disaster specific ends. While a great deal of these allocations may legitimately advance the delivery of services to individuals and families that are in need of relief, Congress has a responsibility to oversee this process in order to ensure that compliance with reasonable standards is ongoing.

This resolution acknowledges that the people and charitable organizations of the United States have a long and honorable tradition of assisting individuals, families, and communities in need. The vital role played by these people and organizations in delivering services to individuals and families that are in need of relief cannot be discounted.

This resolution also expresses the Sense of Congress praising the people of the United States for their patriotism and their donations of time, money and blood in the wake of the September 11 attacks. The resolution also commends the charitable organizations that provided assistance to the victims of the attacks and their families. It further urges the charities that collected relief money to use it for the purposes for which it was donated, and urges them to limit the extent that donations are used for administrative expenses. Furthermore, it condemns individuals and groups that fraudulently use contributions for objectives unrelated to the purposes for which the contributions were made.

In the aftermath of September 11, we must take the time to recognize the efforts of those who give to others who have lost so much. In doing so, we must take care to identify those who misappropriate and mismanage the fruits of those charitable efforts. This resolution helps to fulfil those two parallel obligations.

I urge my colleagues to support it.

Mr. CLEMENT. Mr. Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 259.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001

Mr. QUINN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 10) to provide for pension reform, and for other purposes.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Railroad Retirement and Survivors' Improvement Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

Sec. 101. Expansion of widow's and widower's benefits.
Sec. 102. Retirement age restoration.
Sec. 103. Vesting requirement.
Sec. 104. Repeal of railroad retirement maximum.
Sec. 105. Investment of railroad retirement assets.
Sec. 106. Elimination of supplemental annuity account.
Sec. 107. Transfer authority revisions.
Sec. 108. Annual ratio projections and certifications by the Railroad Retirement Board.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 201. Amendments to the Internal Revenue Code of 1986.
Sec. 202. Exemption from tax for National Railroad Retirement Investment Trust.
Sec. 203. Repeal of supplemental annuity tax.
Sec. 204. Employer, employee representative, and employee tier 2 tax rate adjustments.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

SEC. 101. EXPANSION OF WIDOW'S AND WIDOWER'S BENEFITS.

(a) IN GENERAL.—Section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) is amended by adding at the end the following new subdivision:

"(10)(i) If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow's or widower's initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work, without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to section 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security Act.

"(ii) For the purposes of this subdivision, the widow or widower's initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—

"(A) in subsection (g)(1)(i) '100 per centum' shall be substituted for '50 per centum'; and

"(B) in subsection (g)(2)(ii) '130 per centum' shall be substituted for '80 per centum' both places it appears.

"(iii) If a widow or widower who was previously entitled to a widow's or widower's annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow's or widower's annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at

the time of award of the widow's or widower's annuity under section 2(d)(1)(i) of this Act.''.

(b) Effective Date.—

(1) In general.—The amendment made by this section shall take effect on the first day of the first month that begins more than 30 days after enactment, and shall apply to annuity amounts accruing for months after the effective date in the case of annuities awarded—

(A) on or after that date; and

(B) before that date, but only if the annuity amount under section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) was computed under such section, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 357).

(2) Special rule for annuities awarded before the effective date.—In applying the amendment made by this section to annuities awarded before the effective date, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection (a), shall be made as of the date of the award of the widow's or widower's annuity.

SEC. 102. RETIREMENT AGE RESTORATION.

(a) Employee Annuities.—Section 3(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(2)) is amended by inserting after ''(2)'' the following new sentence: ''For purposes of this subsection, individuals entitled to an annuity under section 2(a)(1)(ii) of this Act shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act, be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act).''.

(b) Spouse and Survivor Annuities.—Section 4(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)(2)) is amended by striking ''if an'' and all that follows through ''section 2(c)(1) of this Act'' and inserting ''a spouse entitled to an annuity under section 2(c)(1)(ii)(B) of this Act''.

(c) Conforming Repeals.—Sections 3(a)(3), 4(a)(3), and 4(a)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(3), 231c(a)(3), and 231c(a)(4)) are repealed.

(d) Effective Dates.—

(1) Generally.—Except as provided in paragraph (2), the amendments made by this section shall apply to annuities that begin to accrue on or after January 1, 2002.

(2) Exception.—The amount of the annuity provided for a spouse under section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)) shall be computed under section 4(a)(3) of such Act, as in effect on December 31, 2001, if the annuity amount provided under section 3(a) of such Act (45 U.S.C. 231b(a)) for the individual on whose employment record the spouse annuity is based was computed under section 3(a)(3) of such Act, as in effect on December 31, 2001.

SEC. 103. VESTING REQUIREMENT.

(a) Certain Annuities for Individuals.—Section 2(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(a)) is amended—

(1) by inserting in subdivision (1) ''(or, for purposes of paragraphs (i), (iii), and (v), five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''; and

(2) by adding at the end the following new subdivision:

''(4) An individual who is entitled to an annuity under paragraph (v) of subdivision (1), but who does not have at least ten years of service, shall, prior to the month in which the individual attains age 62, be entitled only to an annuity amount computed under section 3(a) of this Act (without regard to section 3(a)(2) of this Act) or section 3(f)(3) of this Act. Upon attainment of age 62, such an individual may also be entitled to an annuity amount computed under section 3(b), but such annuity amount shall be reduced for early retirement in the same manner as if the individual were entitled to an annuity under section 2(a)(1)(iii).''.

(b) Computation Rule for Individuals' Annuities.—Section 3(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

''(3) If an individual entitled to an annuity under section 2(a)(1)(i) or (iii) of this Act on the basis of less than ten years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(a)(1)(i) or (iii) of this Act, the annuity amount provided such individual under this subsection, shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began, or (B) the date on which the individual first met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.''.

(c) Survivors' Annuities.—Section 2(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(d)(1)) is amended by inserting ''(or five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(d) Limitation on Annuity Amounts.—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended by adding at the end the following new subsection:

''(i) An individual entitled to an annuity under this section who has completed five years of service, all of which accrues after 1995, but who has not completed ten years of service, and the spouse, divorced spouse, and survivors of such individual, shall not be entitled to an annuity amount provided under section 3(a), section 4(a), or section 4(f) of this Act unless the individual, or the individual's spouse, divorced spouse, or survivors, would be entitled to a benefit under title II of the Social Security Act on the basis of the individual's employment record under both this Act and title II of the Social Security Act.''.

(e) Computation Rule for Spouses' Annuities.—Section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

''(3) If a spouse entitled to an annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), or section 2(c)(2) of this Act or a divorced spouse entitled to an annuity under section 2(c)(4) of this Act on the basis of the employment record of an employee who will have completed less than 10 years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), section 2(c)(2), or section 2(c)(4) of this Act, the annuity amount provided under this subsection shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the first date on which the annuitant met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.''.

(f) Application Deeming Provision.—Section 5(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231d(b)) is amended by striking the second sentence and inserting the following new sentence: ''An application filed with the Board for an employee annuity, spouse annuity, or divorced spouse annuity on the basis of the employment record of an employee who will have completed less than ten years of service shall be deemed to be an application for any benefit to which such applicant may be entitled under this Act or section 202(a), section 202(b), or section 202(c) of the Social Security Act. An application filed with the Board for an annuity on the basis of the employment record of an employee who will have completed ten years of service shall, unless the applicant specified otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or title II of the Social Security Act.''.

(g) Crediting Service Under the Social Security Act.—Section 18(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231q(2)) is amended—

(1) by inserting ''(or less than five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' every place it appears; and

(2) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten or more years of service''.

(h) Automatic Benefit Eligibility Adjustments.—Section 19 of the Railroad Retirement Act of 1974 (45 U.S.C. 231r) is amended—

(1) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' in subsection (c); and

(2) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' in subsection (d)(2).

(i) Conforming Amendments.—

(1) Section 6(e)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(1)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(2) Section 7(b)(2)(A) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2)(A)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(3) Section 205(i) of the Social Security Act (42 U.S.C. 405(i)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(4) Section 6(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(b)(2)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' the second place it appears.

(j) Effective Date.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 104. REPEAL OF RAILROAD RETIREMENT MAXIMUM.

(a) Employee Annuities.—

(1) In general.—Section 3(f) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(f)) is amended—

(A) by striking subdivision (1); and

(B) by redesignating subdivisions (2) and (3) as subdivisions (1) and (2), respectively.

(2) Conforming amendments.—

(A) The first sentence of section 3(f)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(f)(1)), as redesignated by paragraph (1)(B), is amended by striking '', without regard to the provisions of subdivision (1) of this subsection,''.

(B) Paragraphs (i) and (ii) of section 7(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)(2)) are each amended by striking ''section 3(f)(3)'' and inserting ''section 3(f)(2)''.

(b) SPOUSE AND SURVIVOR ANNUITIES.—Section 4 of the Railroad Retirement Act of 1974 (45 U.S.C. 231c) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002, and shall apply to annuity amounts accruing for months after December 2001.

SEC. 105. INVESTMENT OF RAILROAD RETIREMENT ASSETS.

(a) ESTABLISHMENT OF NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n) is amended by inserting after subsection (i) the following new subsection:

"(j) NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—

"(1) ESTABLISHMENT.—The National Railroad Retirement Investment Trust (hereinafter in this subsection referred to as the 'Trust') is hereby established as a trust domiciled in the District of Columbia and shall, to the extent not inconsistent with this Act, be subject to the laws of the District of Columbia applicable to such trusts. The Trust shall manage and invest its assets in the manner set forth in this subsection.

"(2) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—The Trust is not a department, agency, or instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

"(3) BOARD OF TRUSTEES.—

"(A) GENERALLY.—

"(i) MEMBERSHIP.—The Trust shall have a Board of Trustees, consisting of 7 members. Three shall represent the interests of labor, 3 shall represent the interests of management, and 1 shall be an independent Trustee. The members of the Board of Trustees shall not be considered officers or employees of the Government of the United States.

"(ii) SELECTION.—

"(I) The 3 members representing the interests of labor shall be selected by the joint recommendation of labor organizations, national in scope, organized in accordance with section 2 of the Railway Labor Act, and representing at least ⅔ of all active employees, represented by such national labor organizations, covered under this Act.

"(II) The 3 members representing the interests of management shall be selected by the joint recommendation of carriers as defined in section 1 of the Railway Labor Act employing at least ⅔ of all active employees covered under this Act.

"(III) The independent member shall be selected by a majority of the other 6 members of the Board of Trustees.

A member of the Board of Trustees may be removed in the same manner and by the same constituency that selected that member.

"(iii) DISPUTE RESOLUTION.—In the event that the parties specified in subclause (I), (II), or (III) of the previous clause cannot agree on the selection of Trustees within 60 days of the date of enactment or 60 days from any subsequent date that a position of the Board of Trustees becomes vacant, an impartial umpire to decide such dispute shall, on the petition of a party to the dispute, be appointed by the District Court of the United States for the District of Columbia.

"(B) QUALIFICATIONS.—Members of the Board of Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments and pension plans. No member of the Railroad Retirement Board shall be eligible to be a member of the Board of Trustees.

"(C) TERMS.—Except as provided in this subparagraph, each member shall be appointed for a 3-year term. The initial members appointed under this paragraph shall be divided into equal groups so nearly as may be, of which one group will be appointed for a 1-year term, one for a 2-year term, and one for a 3-year term. The Trustee initially selected pursuant to clause (ii)(III) shall be appointed to a 3-year term. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the selection of the member whose departure caused the vacancy. Upon the expiration of a term of a member of the Board of Trustees, that member shall continue to serve until a successor is appointed.

"(4) POWERS OF THE BOARD OF TRUSTEES.—The Board of Trustees shall—

"(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

"(B) retain independent investment managers to invest the assets of the Trust in a manner consistent with such investment guidelines;

"(C) invest assets in the Trust, pursuant to the policies adopted in subparagraph (A);

"(D) pay administrative expenses of the Trust from the assets in the Trust; and

"(E) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.

"(5) REPORTING REQUIREMENTS AND FIDUCIARY STANDARDS.—The following reporting requirements and fiduciary standards shall apply with respect to the Trust:

"(A) DUTIES OF THE BOARD OF TRUSTEES.—The Trust and each member of the Board of Trustees shall discharge their duties (including the voting of proxies) with respect to the assets of the Trust solely in the interest of the Railroad Retirement Board and through it, the participants and beneficiaries of the programs funded under this Act—

"(i) for the exclusive purpose of—

"(I) providing benefits to participants and their beneficiaries; and

"(II) defraying reasonable expenses of administering the functions of the Trust;

"(ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

"(iii) by diversifying investments so as to minimize the risk of large losses and to avoid disproportionate influence over a particular industry or firm, unless under the circumstances it is clearly prudent not to do so; and

"(iv) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this Act.

"(B) PROHIBITIONS WITH RESPECT TO MEMBERS OF THE BOARD OF TRUSTEES.—No member of the Board of Trustees shall—

"(i) deal with the assets of the Trust in the trustee's own interest or for the trustee's own account;

"(ii) in an individual or in any other capacity act in any transaction involving the assets of the Trust on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust, the Railroad Retirement Board, or the interests of participants or beneficiaries; or

"(iii) receive any consideration for the trustee's own personal account from any party dealing with the assets of the Trust.

"(C) EXCULPATORY PROVISIONS AND INSURANCE.—Any provision in an agreement or instrument that purports to relieve a trustee from responsibility or liability for any responsibility, obligation, or duty under this Act shall be void: Provided, however, That nothing shall preclude—

"(i) the Trust from purchasing insurance for its trustees or for itself to cover liability or losses occurring by reason of the act or omission of a trustee, if such insurance permits recourse by the insurer against the trustee in the case of a breach of a fiduciary obligation by such trustee;

"(ii) a trustee from purchasing insurance to cover liability under this section from and for his own account; or

"(iii) an employer or an employee organization from purchasing insurance to cover potential liability of one or more trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

"(D) BONDING.—Every trustee and every person who handles funds or other property of the Trust (hereafter in this subsection referred to as 'Trust official') shall be bonded. Such bond shall provide protection to the Trust against loss by reason of acts of fraud or dishonesty on the part of any Trust official, directly or through the connivance of others, and shall be in accordance with the following:

"(i) The amount of such bond shall be fixed at the beginning of each fiscal year of the Trust by the Railroad Retirement Board. Such amount shall not be less than 10 percent of the amount of the funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Railroad Retirement Board, after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10 per centum limitation of the preceding sentence.

"(ii) It shall be unlawful for any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Trust without being bonded as required by this subsection and it shall be unlawful for any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met.

"(iii) It shall be unlawful for any person to procure any bond required by this subsection from any surety or other company or through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

"(E) AUDIT AND REPORT.—

"(i) The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Trust.

"(ii) The Trust shall submit an annual management report to the Congress not later than 180 days after the end of the Trust's fiscal year. A management report under this subsection shall include—

"(I) a statement of financial position;

"(II) a statement of operations;

"(III) a statement of cash flows;

"(IV) a statement on internal accounting and administrative control systems;

"(V) the report resulting from an audit of the financial statements of the Trust conducted under clause (i); and

"(VI) any other comments and information necessary to inform the Congress about the operations and financial condition of the Trust.

"(iii) The Trust shall provide the President, the Railroad Retirement Board, and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.

"(F) ENFORCEMENT.—The Railroad Retirement Board may bring a civil action—

"(i) to enjoin any act or practice by the Trust, its Board of Trustees, or its employees or agents that violates any provision of this Act; or

"(ii) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this Act.

"(6) RULES AND ADMINISTRATIVE POWERS.—The Board of Trustees shall have the authority to make rules to govern its operations, employ

professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory, or other services necessary for the proper administration of this subsection. In the case of contracts with investment advisory services, compensation for such services may be on a fixed contract fee basis or on such other terms and conditions as are customary for such services.

"(7) Quorum.—Five members of the Board of Trustees constitute a quorum to do business. Investment guidelines must be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.

"(8) Funding.—The expenses of the Trust and the Board of Trustees incurred under this subsection shall be paid from the Trust.".

(b) Conforming and Technical Amendments Governing Investments.—Section 15(e) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(e)) is amended—

(1) in the first sentence, by striking ", the Dual Benefits Payments Account" and all that follows through "may be made only" in the second sentence and inserting "and the Dual Benefits Payments Account as are not transferred to the National Railroad Retirement Investment Trust as the Board may determine";

(2) by striking "the Second Liberty Bond Act, as amended" and inserting "chapter 31 of title 31"; and

(3) by striking "the foregoing requirements" and inserting "the requirements of this subsection".

(c) Means of Financing.—For all purposes of the Congressional Budget Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and chapter 11 of title 31, United States Code, and notwithstanding section 20 of the Office of Management and Budget Circular No. A-11, the purchase or sale of non-Federal assets (other than gains or losses from such transactions) by the National Railroad Retirement Investment Trust shall be treated as a means of financing.

(d) Effective Date.—The amendments made by this section shall take effect on the first day of the month that begins more than 30 days after enactment.

SEC. 106. ELIMINATION OF SUPPLEMENTAL ANNUITY ACCOUNT.

(a) Source of Payments.—Section 7(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1)) is amended by striking "payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account, and".

(b) Elimination of Account.—Section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) is repealed.

(c) Amendment to Railroad Retirement Account.—Section 15(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(a)) is amended by striking ", except those portions of the amounts covered into the Treasury under sections 3211(b)," and all that follows through the end of the subsection and inserting a period.

(d) Transfer.—

(1) Determination.—As soon as possible after December 31, 2001, the Railroad Retirement Board shall—

(A) determine the amount of funds in the Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) as of the date of such determination; and

(B) direct the Secretary of the Treasury to transfer such funds to the National Railroad Retirement Investment Trust under section 15(j) of such Act (as added by section 105).

(2) Transfer by the Secretary of the Treasury.—The Secretary of the Treasury shall make the transfer described in paragraph (1).

(e) Effective Date.—

(1) In general.—Subject to paragraph (2), the amendments made by subsections (a), (b), and (c) shall take effect January 1, 2002.

(2) Account in existence until transfer made.—The Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) shall continue to exist until the date that the Secretary of the Treasury makes the transfer described in subsection (d)(2).

SEC. 107. TRANSFER AUTHORITY REVISIONS.

(a) Railroad Retirement Account.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n) is amended by adding after subsection (j) the following new subsection:

"(k) Transfers to the Trust.—The Board shall, upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, that portion of the Railroad Retirement Account that is not needed to pay current administrative expenses of the Board to the National Railroad Retirement Investment Trust. The Secretary shall make that transfer.".

(b) Transfers From the National Railroad Retirement Investment Trust.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n), as amended by subsection (a), is further amended by adding after subsection (k) the following new subsection:

"(l) National Railroad Retirement Investment Trust.—The National Railroad Retirement Investment Trust shall from time to time transfer to the disbursing agent described in section 7(b)(4) or as otherwise directed by the Railroad Retirement Board pursuant to section 7(b)(4), such amounts as may be necessary to pay benefits under this Act (other than benefits paid from the Social Security Equivalent Benefit Account or the Dual Benefit Payments Account).".

(c) Social Security Equivalent Benefit Account.—

(1) Transfers to trust.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is amended to read as follows:

"(2) Upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits and administrative expenses required to be paid from that Account to the National Railroad Retirement Investment Trust, and the Secretary shall make that transfer. Any balance transferred under this paragraph shall be used by the National Railroad Retirement Investment Trust only to pay benefits under this Act or to purchase obligations of the United States that are backed by the full faith and credit of the United States pursuant to chapter 31 of title 31, United States Code. The proceeds of sales of, and the interest income from, such obligations shall be used by the Trust only to pay benefits under this Act.".

(2) Transfers to disbursing agent.—Section 15A(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(c)(1)) is amended by adding at the end the following new sentence: "The Secretary shall from time to time transfer to the disbursing agent under section 7(b)(4) amounts necessary to pay those benefits.".

(3) Conforming amendment.—Section 15A(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(1)) is amended by striking the second and third sentences.

(d) Dual Benefits Payments Account.—Section 15(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(d)(1)) is amended by adding at the end the following new sentence: "The Secretary of the Treasury shall from time to time transfer from the Dual Benefits Payments Account to the disbursing agent under section 7(b)(4) amounts necessary to pay benefits payable from that Account.".

(e) Certification by the Board and Payment.—Paragraph (4) of section 7(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) is amended to read as follows:

"(4)(A) The Railroad Retirement Board, after consultation with the Board of Trustees of the National Railroad Retirement Investment Trust and the Secretary of the Treasury, shall enter into an arrangement with a nongovernmental financial institution to serve as disbursing agent for benefits payable under this Act who shall disburse consolidated benefits under this Act to each recipient. Pending the taking effect of that arrangement, benefits shall be paid as under the law in effect prior to the enactment of the Railroad Retirement and Survivors' Improvement Act of 2001.

"(B) The Board shall from time to time certify—

"(i) to the Secretary of the Treasury the amounts required to be transferred from the Social Security Equivalent Benefit Account and the Dual Benefits Payments Account to the disbursing agent to make payments of benefits and the Secretary of the Treasury shall transfer those amounts;

"(ii) to the Board of Trustees of the National Railroad Retirement Investment Trust the amounts required to be transferred from the National Railroad Retirement Investment Trust to the disbursing agent to make payments of benefits and the Board of Trustees shall transfer those amounts; and

"(iii) to the disbursing agent the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which the payment should be made.".

(f) Benefit Payments.—Section 7(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1)) is amended—

(1) by striking "from the Railroad Retirement Account" and inserting "by the disbursing agent under subsection (b)(4) from money transferred to it from the National Railroad Retirement Investment Trust or the Social Security Equivalent Benefit Account, as the case may be"; and

(2) by inserting "by the disbursing agent under subsection (b)(4) from money transferred to it" after "Public Law 93–445 shall be made".

(g) Transitional Rule for Existing Obligation.—In making transfers under sections 15(k) and 15A(d)(2) of the Railroad Retirement Act of 1974, as amended by subsections (a) and (c), respectively, the Railroad Retirement Board shall consult with the Secretary of the Treasury to design an appropriate method to transfer obligations held as of the date of enactment of this Act or to convert such obligations to cash at the discretion of the Railroad Retirement Board prior to transfer. The National Railroad Retirement Investment Trust may hold to maturity any obligations so received or may redeem them prior to maturity, as the Trust deems appropriate.

SEC. 108. ANNUAL RATIO PROJECTIONS AND CERTIFICATIONS BY THE RAILROAD RETIREMENT BOARD.

(a) Projections.—Section 22(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231u(a)(1)) is amended—

(1) by inserting after the first sentence the following new sentence: "On or before May 1 of each year beginning in 2003, the Railroad Retirement Board shall compute its projection of

the account benefits ratio and the average account benefits ratio (as defined by section 3241(c) of the Internal Revenue Code of 1986) for each of the next succeeding five fiscal years."; and

(2) by striking "the projection prepared pursuant to the preceding sentence" and inserting "the projections prepared pursuant to the preceding two sentences".

(b) Certifications.—The Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) is amended by adding at the end the following new section:

"COMPUTATION AND CERTIFICATION OF ACCOUNT BENEFIT RATIOS

"Sec. 23. (a) Initial Computation and Certification.—On or before November 1, 2003, the Railroad Retirement Board shall—

"(1) compute the account benefits ratios for each of the most recent 10 preceding fiscal years, and

"(2) certify the account benefits ratios for each such fiscal year to the Secretary of the Treasury.

"(b) Computations and Certifications After 2003.—On or before November 1 of each year after 2003, the Railroad Retirement Board shall—

"(1) compute the account benefits ratio for the fiscal year ending in such year, and

"(2) certify the account benefits ratio for such fiscal year to the Secretary of the Treasury.

"(c) Definition.—As used in this section, the term 'account benefits ratio' has the meaning given that term in section 3241(c) of the Internal Revenue Code of 1986.".

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 201. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. EXEMPTION FROM TAX FOR NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.

Subsection (c) of section 501 is amended by adding at the end the following new paragraph:

"(28) The National Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974.".

SEC. 203. REPEAL OF SUPPLEMENTAL ANNUITY TAX.

(a) Repeal of Tax on Employee Representatives.—Section 3211 is amended by striking subsection (b).

(b) Repeal of Tax on Employers.—Section 3221 is amended by striking subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(c) Effective Date.—The amendments made by this section shall apply to calendar years beginning after December 31, 2001.

SEC. 204. EMPLOYER, EMPLOYEE REPRESENTATIVE, AND EMPLOYEE TIER 2 TAX RATE ADJUSTMENTS.

(a) Rate of Tax on Employers.—Subsection (b) of section 3221 is amended to read as follows:

"(b) Tier 2 Tax.—

"(1) In general.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the compensation paid during any calendar year by such employer for services rendered to such employer.

"(2) Applicable percentage.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 15.6 percent in the case of compensation paid during 2002,

"(B) 14.2 percent in the case of compensation paid during 2003, and

"(C) in the case of compensation paid during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.".

(b) Rate of Tax on Employee Representatives.—Section 3211, as amended by section 203, is amended by striking subsection (a) and inserting the following new subsections:

"(a) Tier 1 Tax.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.

"(b) Tier 2 Tax.—

"(1) In general.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative.

"(2) Applicable percentage.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 14.75 percent in the case of compensation received during 2002,

"(B) 14.20 percent in the case of compensation received during 2003, and

"(C) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.

"(c) Cross Reference.—

"For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).".

(c) Rate of Tax on Employees.—Subsection (b) of section 3201 is amended to read as follows:

"(b) Tier 2 Tax.—

"(1) In general.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.

"(2) Applicable percentage.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 4.90 percent in the case of compensation received during 2002 or 2003, and

"(B) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.".

(d) Determination of Rate.—Chapter 22 is amended by adding at the end the following new subchapter:

"Subchapter E—Tier 2 Tax Rate Determination

"Sec. 3241. Determination of tier 2 tax rate based on average account benefits ratio.

"SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED ON AVERAGE ACCOUNT BENEFITS RATIO.

"(a) In General.—For purposes of sections 3201(b), 3211(b), and 3221(b), the applicable percentage for any calendar year is the percentage determined in accordance with the table in subsection (b).

"(b) Tax Rate Schedule.—

"Average account benefits ratio		Applicable percentage for sections 3211(b) and 3221(b)	Applicable percentage for section 3201(b)
At least	But less than		
	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

"(c) Definitions Related to Determination of Rates of Tax.—

"(1) Average account benefits ratio.—For purposes of this section, the term 'average account benefits ratio' means, with respect to any calendar year, the average determined by the Secretary of the account benefits ratios for the 10 most recent fiscal years ending before such calendar year. If the amount determined under the preceding sentence is not a multiple of 0.1, such amount shall be increased to the next highest multiple of 0.1.

"(2) Account benefits ratio.—For purposes of this section, the term 'account benefits ratio' means, with respect to any fiscal year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the National Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefits Account) as of the close of such fiscal year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust during such fiscal year.

"(d) Notice.—No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.".

(e) Conforming Amendments.—

(1) Section 24(d)(3)(A)(iii) is amended by striking "section 3211(a)(1)" and inserting "section 3211(a)".

(2) Section 72(r)(2)(B)(i) is amended by striking "3211(a)(2)" and inserting "3211(b)".

(3) Paragraphs (2)(A)(iii)(II) and (4)(A) of section 3231(e) are amended by striking "3211(a)(1)" and inserting "3211(a)".

(4) Section 3231(e)(2)(B)(ii)(I) is amended by striking "3211(a)(2)" and inserting "3211(b)".

(5) The table of subchapters for chapter 22 is amended by adding at the end the following new item:

"Subchapter E. Tier 2 tax rate determination.".

(f) Effective Date.—The amendments made by this section shall apply to calendar years beginning after December 31, 2001.

Amend the title so as to read: "An Act to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. QUINN) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. QUINN).

Mr. QUINN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in steadfast support of H.R. 10, the Railroad Retirement and Survivors' Improvement Act of 2001.

H.R. 10 is identical to the railroad retirement reform legislation passed by the House earlier this year with over 380 votes. Consideration of the bill today is merely a procedural step required pursuant to its Senate approval to move the legislation to the President's desk for signature.

Built into the legislation is an automatic safety net behind the future investment strategy. The railroad retirement system now has reserves of more than 6 years of benefit payments. Under the bill, future payroll taxes would automatically adjust to reflect the performance of pension investments. If reserves fall below the 4-year benefit levels, automatic employer tax increases would be triggered. If reserves go above the 6 years in the future, further tax reductions for railroads and either tax relief or additional benefits for workers would be provided.

This bill, Mr. Speaker, enjoys one of the highest levels of bipartisan support in recent congressional history. It is sound, commonsense legislation that helps our railroads stay competitive while providing needed retirement benefits for all rail workers and their families, without costing the American taxpayers a single dime.

I want to commend our committee full chairman, the gentleman from Alaska (Mr. YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the subcommittee ranking member and my partner, the gentleman from Tennessee (Mr. CLEMENT), for their leadership on this legislation.

This is the workers' own money, Mr. Speaker. They deserve to improve its returns and their benefit payments. I urge all Members to support H.R. 10.

Mr. Speaker, I reserve the balance of my time.

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I say to the gentleman from New York (Mr. QUINN), it is good to have him back. He has just had back surgery, and I am glad he has made a speedy recovery. We need him here very badly.

Mr. Speaker, it is my sincere pleasure to manage H.R. 10, the Railroad Retirement and Survivors' Improvement Act of 2001.

Today, as the ranking member of the Subcommittee on Railroads, in fact, it is even a greater pleasure to be here today than the two previous times this exact same measure has come to the floor and passed with unequivocal, overwhelmingly strong majorities.

The reason for my happiness is simple: with the passage of this bill today, all that will remain is the President's promised signature before the over 250,000 railroad employees and the 700,000 retirees and survivors of railroad workers can finally have what they have deserved for years: a modern and equitable retirement plan.

It has been this goal that has led Democrats and Republicans alike to work together with rail management and rail labor to craft a measure so sound that it had 368 cosponsors as it passed through the House this summer by a vote of 384 to 33.

As the ranking member of the Subcommittee on Railroads, I can personally speak of the hard work and total commitment to this issue by the gentleman from New York (Chairman QUINN) and all members of our subcommittee on both sides of the aisle.

This support, along with the tireless leadership of the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Alaska (Chairman YOUNG), built a train that could not be stopped. Whether temporarily stalled by procedure or debate, railroad retirement reform continued to move forward, despite the opposition of the few who wish to derail it.

Thus it brings me great satisfaction today that this bill can finally depart this branch of government and begin its journey carrying enhanced benefits toward the workers and retirees of our Nation's rail system.

The overwhelming majority of the Members know that this is a good bill. They know it has the support of both management and labor. This is a vote that should require little soul searching. Members know that this is right for railroad workers and their survivors. They know it is right for the industry and for America as a whole.

I urge my colleagues to vote yes on the bill. It is time we retired the debate on railroad retirement and let America's railroad workers and survivors enjoy the financial health and security they have worked long and hard for.

Mr. Speaker, I want to say this, too, as we close. I want to thank our staff, Democrat and Republican staff alike. On the Democratic side, I might say, Mr. Speaker, I want to thank Ward McCarrager, Frank Mulvey, David Hymsfeld, Steve Gardner, Rachel Carr.

I want to thank our full committee and the staff of the Subcommittee on Railroads. All of them have done a great job bringing about a great bill.

Mr. Speaker, I reserve the balance of my time.

Mr. QUINN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply say at this point that I thank the gentleman from Tennessee for his kind remarks. This is one of our subcommittee's clear issues we have been working on now since we came here together in a bipartisan way. We know that it is a bipartisan issue.

I thank my good friend, the gentleman from Tennessee (Mr. CLEMENT), for his kind words.

Mr. CLEMENT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, let me just express my concern at scheduling a bill that requires taking $15 billion out of the general fund to be on the suspension calendar.

I am concerned that this is going to end up being a disadvantage to railroad workers, because the railroad has said when they need more taxes, they will increase the tax rate. So here again, I am very concerned that we are taking this bill that is so expensive up on suspension; and I would, at the appropriate time, ask for a roll call vote.

I rise in opposition to H.R. 10. I do not oppose what this bill is trying to accomplish. Railroad workers should have the opportunity to invest their money in the stock market and earn a higher rate of return. I oppose this bill because it will not achieve its intended goal. This bill would cut taxes and raise benefits for railroad retirement beneficiaries in exchange for promises to pay higher taxes in the future. This is an irresponsible and shortsighted approach to reform.

This bill's supporters will dispute this. They will say things like this bill "modernizes" the system. They will say, "it's their money, we should let them invest it." They will say, "we only want to let the railroads do what everyone else does." Don't believe it for a minute.

First, this bill does not modernize the railroad retirement system. There's nothing "modern" about increasing benefits today while putting off tax increases until tomorrow. That's the oldest trick in the book.

Second, despite what we will hear from the other side, it's not their money. The railroad retirement program has paid out more in benefits than it has collected in payroll taxes every single year since 1957. The surplus that exists today in the railroad retirement trust fund is made up entirely of taxpayer subsidies enacted by Congress over the years.

Third, even if the railroads were responsible for all of the money in the trust fund, that does not mean they can afford to increase benefits and reduce payroll taxes at the same time. According the actuaries at the Railroad Retirement Board, the higher returns earned from investing in the stock market won't pay for the tax cuts and benefit increases they have proposed. As a result, this bill will reduce the trust fund by nearly 65% and trigger an automatic payroll tax increase of nearly 70% on employers.

The supporters will insist the bill places the responsibility to pay future benefits on the railroads if their investments don't work out. But, let me read to you what the railroad industry thinks of its responsibility. Here is a quote from the United Transportation Union Newsletter dated May of 2000:

> The legislation also requires that the railroads would be responsible if the trust fund falls below a certain level. If this happens, a tax would automatically be placed solely on the carriers in order to replenish the fund. In order to add a final assurance to the integrity of the fund, it is still bound by the full faith and credit of the United States government. They would be required to pay the obligations of the fund if, for some reason, the other safety nets in place were insufficient.

Earlier this year, the Lincoln Journal Star [8/15/01] reported:

> Other unions and the Association of American Railroads are promoting the bill as a self-financed shoo-in. In fact, the U.S. government would still back the retirement fund, acknowledged Obie O'Bannon, vice president of legislative affairs for the association. But, he pointed out, the "automatic tax ratchet" would require the railroads to kick in more money any time the fund's balance falls below four times annual benefits, so that's protection that would mean all U.S. railroads would face insolvency before the federal liability applies.

Let me repeat the last sentence because some of my colleagues might have missed its implication. The article says, "all railroads would face insolvency before the federal liability applies."

That statement might seem overly dramatic until you take a look at the estimates prepared by the Railroad Retirement Board. According to the actuaries, the bill would increase the employer payroll tax by nearly 70 percent over the next twenty-five years. That's an increase the railroads readily admit they cannot afford to pay.

Finally, those who support this bill will insist they only want to let the railroads invest their own funds—so-called Tier II—like everyone else. Unlike other private sector pension plans that must comply with the funding requirements of the Employee Retirement Income Security Act (ERISA), this bill would allow the railroads to reduce their payroll taxes and increase their benefits before they ever earn a single penny on Wall Street.

Moreover, it should be noted that despite claims to the contrary, the bill would not be limited to the use of Tier II funds. The National Association of Retired Veteran Railroad Employees (NARVE) continues to tell its members—

> . . . not a dime of Tier 1 money is used for railroad early retirement, either under current law or under our reform bill. The money for early retirement is paid for entirely by rail workers and employers through Tier 2 taxes. . . .

In reality, the amendment requires all of the funds remaining in the Social Security Equivalent Benefit Account (Tier I) at the end of each year be transferred to the new railroad investment account and used to pay for Tier II benefits. That means, Social Security funds will be used to pay early retirement benefits for railroad workers.

Now, don't get me wrong, I'm not opposed to railroad workers retiring at age 60, or any other age they can afford. But, I am opposed to using social security funds to pay for non-social security benefits. That is exactly what this bill does. I understand the frustration railroad workers must feel having to come to Congress to ask for legislation to improve their retirement benefits. However, the railroad retirement program is not just an industry pension fund. It is also a federal entitlement program that is ultimately backed up by the U.S. taxpayer.

Congress has a duty and a responsibility not only to consider what is best for the railroads, but also what is fair to the taxpayers. As currently written, this bill would essentially allow the railroads to borrow $15 billion—interest free—from their own pension fund to pay for lower taxes and higher benefits and then try to make them pay it back at a rate they cannot afford. Fixing this bill would require a number of changes. Foremost among these changes would be the requirement that the railroads actually earn a higher rate of return on their investments before they reduce their taxes and increases their benefits.

I believe railroad workers deserve the opportunity to invest in the stock market and earn a higher rate of return. I would like to help develop a plan to accomplish this goal. Unfortunately, the bill before us today is fundamentally flawed. I would urge my colleagues who care about the future of Railroad Retirement to vote against this bill. Railroad workers deserve better and we can do better.

□ 1845

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

We have fully debated this. I hear the gentleman from Michigan's (Mr. SMITH) point of view. I do not agree with it.

Mr. OBERSTAR. Mr. Speaker, our long struggle to improve the lot of the Nation's 250,000 railroad workers and 700,000 retirees and to provide relief for our Nation's financially ailing railroad industry is finally coming to an end. The Senate is to be congratulated for expeditiously considering the railroad retirement reform legislation and for passing it overwhelmingly, 90–9. The Senate-passed bill, H.R. 10, is identical to H.R. 1140, enacted by the House on July 31, 2001, by an equally strong vote of 384–33.

This bill is the product of an historic agreement reached by railroad labor and management following two years of often-difficult negotiations. The benefit improvements and tax cuts are made possible by changing the current law that limits the investment of Railroad Retirement Trust Fund assets to government securities.

The proposed changes in the law governing how Railroad Retirement Trust Fund assets can be invested will not affect the solvency of the Railroad Retirement system. The Tier I portion of the program, which provides Social Security level benefits, will continue to be invested only in government securities. Only Tier II funds, the part of the system that provides pension plan type benefits above Social Security benefit levels, will be eligible for investment in assets other than government securities. The projected increases in trust fund income from these changes are based on fairly conservative forecasts of the rates of return that could be earned from such a diversified portfolio—about two percentage points above the return on government securities. Most importantly, if the investments fail to perform as well as expected, workers' pensions are further protected as this legislation requires that the railroads absorb any future tax increases that might be necessary to keep the system solvent. Ultimately, the Federal government continues to be responsible for the security of the Railroad Retirement System.

The proposed legislation provides the first major benefit improvements in railroad retirement in more than 25 years. The primary benefit improvement are:

(1) The age at which employees can retire with full benefits is reduced from 62 years to 60 years with 30 years of service as it was before changes made in 1983.

(2) The number of years required for vesting in the Railroad Retirement System is reduced from ten years to five years similar to most other pension plans.

(3) The benefits of widows and widowers are improved so that a surviving spouse's annuity would be guaranteed to be no less than the amount the retiree was receiving in the month before his or her death, and

(4) If the retirement plan becomes overfunded, benefits are automatically improved.

H.R. 4844 also reduces significantly the payroll taxes paid by the railroads. By the third year following passage of this bill, the railroads stand to gain nearly $400 million annually for lower payroll taxes. All of these savings go directly to the railroads' bottom lines and can be used to make investments needed in the railroad infrastructure and to improve the wages and working conditions of railway workers.

It is important to note that nothing in this legislation alters the fundamental nature of the program. Railroad retirement benefits will continue to be guaranteed, in the final analysis, by the United States Government.

Last year, the House passed this bill overwhelmingly, but the Senate failed to act before the 106th Congress ended. This year the House, once again passed this important measure by an overwhelming margin—and this time the Senate has acted. Only the bill number is different from what the House has already passed.

This is a good bill. It is good for workers, it is good for retirees and their survivors, it is good for the railroads, and it is good for the country. I urge all Members to support it today so we can get it to the President before the holiday seasons.

Mr. RAHALL. Mr. Speaker, I am pleased that the House will finally have the opportunity to send the "Railroad Retirement and Survivors' Improvement Act of 2001" to the White House to be enacted into law. We will send this bill to President Bush for his signature shortly.

In the Third District of West Virginia, I represent 8,300 citizens who will benefit from this bill. This ranks southern West Virginia seventh in the nation. The bill will double benefits for widows of railroad retirees, reduce the retirement age from 62 to 60 years of age with 30 years of service, and allow a person to be vested in the system after five years of service, rather than 10 years, as currently required.

I constantly hear from anxious constituents asking when the bill will be enacted. Projections suggest benefits, which are modest to begin with, will nearly double after this bill passes. This bill means a lot to railroad retirees. It is an example of the type of legislation in which people can see direct benefits to improve their daily lives and quality of life.

We have endured a long, rough road getting to this day. This bill includes the exact provisions of H.R. 4844, which I helped to write in the 106th Congress, and which passed the House by an overwhelming bi-partisan vote of 391–25 on September 7, 2000.

My constituents were disappointed and frustrated last year when the bill was not enacted into law, especially since it is a product of two years of negotiation between railroad workers and management of the railroad industry.

Now, in the 107th Congress, we have done our job in the House. We passed the House version of Railroad Retirement bill H.R. 1140, on July 31st by another overwhelming bi-partisan vote of 384–33.

Finally, the Senate passed the bill last week, on December 5, 2001, by a vote of 90–9.

When this bill becomes law, it will enable railroad retirees and widows to enjoy a better quality of life, by receiving the increased benefits they greatly deserve, and which they have worked so long to earn. They spent their working lives paying into their retirement, and they deserve decent, adequate benefits to live comfortably in their retirement years.

Mr. CLEMENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COOKSEY). The question is on the motion offered by the gentleman from New York (Mr. QUINN) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 10.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H. Con. Res. 281, by the yeas and nays;

H.R. 3282, by the yeas and nays; and

H.R. 10, concur in Senate amendments, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

HONORING JOHNNY MICHEAL SPANN, FIRST AMERICAN KILLED IN COMBAT IN WAR AGAINST TERRORISM IN AFGHANISTAN, AND PLEDGING CONTINUED SUPPORT FOR MEMBERS OF ARMED FORCES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 281.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. GOSS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 281, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 32, as follows:

[Roll No. 483]

YEAS—401

Abercrombie
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—32

Ackerman
Barr
Barton
Berman
Blagojevich
Capuano
Crowley
Cubin
Culberson
Deal
Delahunt
Dooley
Ehrlich
English
Fossella
Gephardt
Gonzalez
Granger
Hooley
Hostettler
Jefferson
Luther
Maloney (CT)
Matsui
Radanovich
Riley
Sessions
Souder
Tiahrt
Tiberi
Wamp
Young (AK)

□ 1913

Mr. EHLERS changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COOKSEY). Pursuant to clause 8 of rule XX, the Chair announces that he will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

MIKE MANSFIELD FEDERAL BUILDING AND UNITED STATES COURTHOUSE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3282.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3282, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 32, as follows:

[Roll No. 484]

YEAS—401

Abercrombie
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC),
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—32

Ackerman
Barr
Barton
Berman
Blagojevich
Capuano
Crowley
Cubin
Culberson
Deal
Delahunt
Dooley
Ehrlich
Fossella
Gephardt
Gonzalez
Granger
Gutknecht
Hostettler
Jefferson
Luther
Maloney (CT)
Matsui
Moore
Radanovich
Riley
Sessions
Souder
Tiahrt
Tiberi
Wamp
Young (AK)

☐ 1922

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001

The SPEAKER pro tempore (Mr. COOKSEY). The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 10.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. QUINN) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 10, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 369, nays 33, not voting 31, as follows:

[Roll No. 485]

YEAS—369

Abercrombie
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crane
Crenshaw
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)

Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Strickland
Stump
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—33

Akin
Ballenger
Chabot
Cox
DeLay
DeMint
Flake
Frelinghuysen
Hefley
Herger
Hoekstra
Johnson, Sam
Jones (NC)
Kolbe
Largent
Miller, Dan
Myrick
Paul
Pence
Pitts
Rohrabacher
Royce
Schaffer
Sensenbrenner
Shadegg
Shays
Smith (MI)
Stenholm
Sununu
Tancredo
Taylor (MS)
Taylor (NC)
Weldon (FL)

NOT VOTING—31

Ackerman
Barr
Barton
Berman
Blagojevich
Capuano
Crowley
Cubin
Culberson
Deal
Delahunt
Dooley
Ehrlich
Fossella
Gephardt
Gonzalez
Granger
Hostettler
Jefferson
Luther
Maloney (CT)
Matsui
Radanovich
Riley
Sessions
Souder
Tiahrt
Tiberi
Walsh
Wamp
Young (AK)

☐ 1932

Mr. DELAY changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. CON. RES. 253

Mr. PALLONE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H. Con. Res. 253.

The SPEAKER pro tempore (Mr. COOKSEY). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2107

Mr. BECERRA. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2107.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on the remaining motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken tomorrow.

DEPARTMENT OF TRANSPORTATION POLICY RESPONSIBILITY REALIGNMENT ACT

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3441) to amend title 49, United States Code, to realign the policy responsibility in the Department of Transportation, and for other purposes.

The Clerk read as follows:

H.R. 3441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REALIGNMENT OF POLICY RESPONSIBILITY IN THE DEPARTMENT OF TRANSPORTATION.

(a) Section 102 of title 49, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (g);

(2) by inserting a new subsection (d) as follows:

"(d) The Department has an Under Secretary of Transportation for Policy appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall provide leadership in the development of policy for the Department, supervise the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carry out other powers and duties prescribed by the Secretary. The Under Secretary acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant."; and

(3) in subsection (e) by striking "Secretary and the Deputy Secretary" each place it appears in the last sentence and inserting "Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy".

(b) Section 102 of title 49, United States Code, is further amended by striking subsection (g), as redesignated by subsection (a)(1), on the date that an individual is appointed to the position of Under Secretary of Transportation for Policy under section 102(d), as added by subsection (a)(2).

SEC. 2. ASSISTANT SECRETARY FOR PUBLIC AFFAIRS.

Section 102(e) of title 49, United States Code, is amended by striking "4 Assistant Secretaries" and inserting "5 Assistant Secretaries".

SEC. 3. POSITIONS IN EXECUTIVE SERVICE.

(a) Section 5314 of title 5, United States Code, is amended by inserting before

"Administrator of the National Highway Traffic Safety Administration."

the following:

"Under Secretary of Transportation for Policy.".

(b) Section 5315 of title 5, United States Code, is amended by striking

"Assistant Secretaries of Transportation (4)."

and inserting the following:

"Assistant Secretaries of Transportation (5).".

(c) Effective on the date that an individual is appointed to the position of Under Secretary of Transportation for Policy under section 102(d) of title 49, United States Code, as added by section 1(a)(2) of this Act, section 5316 of title 5, United States Code, is amended by striking "Associate Deputy Secretary, Department of Transportation.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3441 realigns transportation policy responsibility within the Department of Transportation and was requested by the Department. As the Department of Transportation reorganizes and refocuses its efforts to ensure America's transportation security, it is important that it is able to develop policy across transportation modes.

Under the current organization of the Department, policy development is spread over three offices within the Department of Transportation. This results in a fragmented approach to policy development. The purpose of this bill is to provide a seamless, long-range and strategic approach to development of policy in DOT by establishing a new Under Secretary for Transportation

Policy, who will be appointed by the President and confirmed by the Senate.

In order to ensure better communication with the public and the press, the bill will also create an Assistant Secretary for Public Affairs. This will round out the management team for the Secretary to allow for better management of the Department.

This bipartisan bill, Mr. Speaker, is also strongly supported by the Department of Transportation. Transportation policy is too important to be undertaken in a haphazard manner in this day when transportation has become so essential to our economic well-being. Proper lines of authority and communication are vital to the continued operation of the Department.

For that reason, I strongly support this bill. I urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 3441, the Department of Transportation Policy Responsibility Realignment Act.

The most important provision in this bill creates a new position in DOT of Under Secretary of Transportation for Policy. The person selected for this important position will be the third-ranking executive in the Department and will be responsible for coordinating the Department's domestic and international policies for all modes of transportation. This type of coordination is the very reason the Department was formed. We certainly should have an official responsible for integrating and coordinating all transportation policy, and developing intermodal transportation.

I am pleased that the administration has announced that if this legislation is passed its nominee will be Jeffrey Shane. Mr. Shane has a long and distinguished career in transportation and was the Department's Assistant Secretary for Policy and International Affairs in the George H. Bush administration. He is superbly qualified for this position, and we are extremely fortunate that he has been willing to give up a successful law practice to return to the government.

I am also pleased that Secretary Mineta has asked Mr. Shane to rebuild the Department's policy staff, especially the aviation policy staff, which has been drastically reduced in recent years. Secretary Mineta has directed Mr. Shane to develop "a world class think tank" at DOT. I enthusiastically support this objective and look forward to working with Mr. Shane on all issues of transportation policy.

I urge my colleagues to support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking Democrat on the Committee on Transportation and Infrastructure, who has distinguished himself in so many ways in keeping the committee moving forward in the 21st century.

Mr. OBERSTAR. I thank the gentleman for those kind words and for yielding me the time.

Mr. Speaker, I am delighted the leadership of the committee has moved quickly to bring this bill to the House floor. I strongly support the initiative to create a new position of Under Secretary for Transportation Policy. It will help this Department to carry out its very significant and far-reaching responsibilities to develop integrated domestic and international transportation policies.

I have had the good fortune of being present at the creation of the Department of Transportation in 1966 when I was administrative assistant to my predecessor in Congress, John Blatnik, who then was chairman of the Executive and Legislative Reorganization Subcommittee of the House Committee on Government Operations. He was asked by then President Lyndon Johnson to manage and bring to the House floor legislation to create a Department of Transportation, out of recognition that what we had was a fragmentation, a great diversity of modes of transportation, each with their own stovepipe means of operation but without a single overarching transportation policy.

It was President Johnson's objective to bring all these entities together in one new department that would be able to deal with transportation as an entity. We did that. It took quite some effort to bring together modal administrations that for years had operated on auto pilot, without any coordination, without interaction among them. The first Secretary of Transportation, Alan Boyd, took to the task with great vigor and enthusiasm and his successors have done the same. It has taken well over 30 years to craft a spirit of transportation within the Department.

In the passage of ISTEA, we brought this concept of a Department of Transportation with a culture of transportation to its, I think, logical conclusion. The Intermodal Surface Transportation Efficiency Act really culminated years of effort of creating a transportation spirit and policy and need for intermodal communication within the Department, culminated all in one piece of legislation. It was an extraordinary step forward in the history of transportation in America.

The new Under Secretary will be the third-ranking official in the Department. He will manage all Department-wide offices dealing with policy and with intermodal transportation to develop comprehensive, sound and interrelated transportation policies. I might say that 16 years ago I introduced the first legislation to create a position of under secretary for intermodalism in the Department of Transportation, and it is now coming to be.

Both because the position has been created and because of the person who has been nominated to fill that position, Jeffrey N. Shane, I would say that never in the 35-year history of the Department has a person been named for a position at DOT with better or more appropriate credentials than Jeff Shane, with the sole exception of the current Secretary of Transportation, Norm Mineta.

Jeff comes to this position with the sweep of intellect, with the personal and professional integrity, and with more than 3 decades of professional experience in the Department of State and the Department of Transportation on international aviation trade and policy matters, qualities that will enable him to take command of the duties of the office on which he is about to enter with clarity of purpose, with alacrity and, best of all, without a learning curve.

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My experience with Jeff Shane dates back to well over a decade and a half, to his service at State and DOT in both the Ronald Reagan and George H. Bush administrations. I worked with him extensively on international aviation passenger and cargo trade matters, as well as domestic aviation matters, in my capacity then as chairman of the Subcommittee on Investigations and Oversight and Aviation authorizing subcommittee.

I found Jeff Shane always to be the very model of intellectual integrity; thoroughly knowledgeable on a wide range of issues on which he was called to testify before our committee, well-informed, and, very importantly, a consistently vigilant, vigorous advocate for U.S. aviation interests and a skillful negotiator.

Jeff was the architect of our government's original Open Skies policy to promote competition in our bilateral aviation trade agreements. Under this policy, a great many competitive agreements were negotiated during the first Bush administration, and the Clinton administration continued the policy with great success. The result has been that aviation trade markets in passenger and cargo, in which we once had 30 percent of market share, we now have 60 to 70 percent of market share and are the dominant aviation trade partner.

Jeff Shane's experience extends well beyond aviation to other modes of transportation, as exemplified by a discussion he and I had shortly after the enactment of ISTEA in 1991. Jeff said, "This is one of the most extraordinary, innovative transportation measures ever enacted. It has had the exceptionally beneficial effect of causing all of us at the Assistant Secretary-Policy level to come together, share our thoughts, understand each other's mode of transportation better and to begin thinking, as well as acting, intermodally, something we have long needed to do in this department."

That is an extraordinary observation and admission to make on the part of a policy person in any department, and that reflects the candor with which Jeff approaches his service in the public sector.

Secretary Mineta has said to me several times that he would like Jeff Shane to work to upgrade the department's policy office, and, as he put it, make it a "world-class think tank." We need that. We need that kind of support at the policy level of the Department of Transportation.

Two years ago, I met with Jeff Shane and Charlie Hunnicutt, who had held the Assistant Secretary position during the Clinton Administration, to explore means of upgrading the Department's aviation policy staff, a staff that deals with the most important issues in the department in negotiating international aviation rights for our airlines, providing expert advice to the Department of Justice when the department is considering airline mergers, and carrying out the department's regulatory responsibilities, including predatory practices, computer reservation systems and adequate competition in Internet ticket sales.

It is deplorable that over the past 15 years, the DOT aviation staff has been eroded by budget cutting decisions. The staff has decreased from 166 at the time of the Civil Aeronautics Board sunset in 1985, to fewer than 100 today. Furthermore, as many as half of the staff could well retire in the next few years.

It was a great tribute to Jeff Shane that in his career outside of government, he was concerned about the quality of government service among those who continued in the department. He and I took many opportunities over the past few years to raise awareness on the Hill and within the aviation community of the critical importance of this unique staff, and it is so encouraging to me that Secretary Mineta has recognized the problem and is giving Jeff Shane a mandate to correct it. I can think of no one better to do this, no one better qualified to attract the staff, to inspire that staff and to keep them interested and motivated, than Jeff Shane.

In these perilous post-September 11 times and in the aftermath of enactment of our most recent aviation and transportation security law, DOT needs at the policy level a person with Jeff Shane's experience, intellectual capacity, honesty and openness to new ideas, as well as energy to pursue and implement innovation. Jeff Shane's reentry into public service will produce better transportation policy decisions, to the great benefit of the Nation's economy and to all who use our transportation systems, as well as to the benefit of the Department of Transportation.

This new position is long overdue, much needed, and will serve our country and our transportation policy well. After all, transportation does represent 11 percent of our Nation's gross domestic product. That is $1.1 trillion, an impact that we must nurture and strengthen, and this legislation will help do that.

Mr. CLEMENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LaTOURETTE. Mr. Speaker, I yield myself the balance of my time just to say that one of the treasures and great assets of not only the Committee on Transportation and Infrastructure, but the Congress is the gentleman from Minnesota (Mr. OBERSTAR). The remarks that the gentleman just made, going through the entire history of the Department of Transportation, indicate why we rely on him so heavily, and why our committee continues to prosper in a very bipartisan way.

It is thanks to his efforts that I continue to learn from him.

I urge passage of the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3441.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NAMING MEMBER AS MAJORITY MANAGER OF TIME ON H.R. 3442, NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE PLAN FOR ACTION PRESIDENTIAL COMMISSION ACT OF 2001

Mr. McINNIS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. LATOURETTE) be allowed to manage the floor time on H.R. 3442.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE PLAN FOR ACTION PRESIDENTIAL COMMISSION ACT OF 2001

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3442) to establish the National Museum of African American History and Culture Plan for Action Presidential Commission to develop a plan of action for the establishment and maintenance of the National Museum of African American History and Culture in Washington, D.C., and for other purposes.

The Clerk read as follows:

H.R. 3442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is established the National Museum of African American History and Culture Plan for Action Presidential Commission (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of not more than 23 members appointed as follows:

(1) The President shall appoint 7 voting members.

(2) The Speaker of the House of Representatives and the Senate Majority Leader shall each appoint 6 voting members.

(3) In addition to the members appointed under paragraph (2), the Speaker of the House of Representatives and the Senate Majority Leader shall each appoint 2 additional nonvoting members.

(c) QUALIFICATIONS.—Members of the Commission shall be chosen from the following professional groups:

(1) Professional museum associations, including the Association of African American Museums and African American Museum Cultural Complex, Inc.

(2) Academic institutions and groups committed to the research and study of African American life, art, history, and culture, including Historically Black Colleges and Universities and the Joint Center for Political and Economic Studies.

SEC. 3. FUNCTIONS OF THE COMMISSION.

(a) PLAN OF ACTION FOR ESTABLISHMENT AND MAINTENANCE OF MUSEUM.—

(1) IN GENERAL.—The Commission shall submit a report to the President and the Congress containing its recommendations with respect to a plan of action for the establishment and maintenance of the National Museum of African American History and Culture in Washington, D.C. (hereafter in this Act referred to as the "Museum").

(2) NATIONAL CONFERENCE.—In developing the recommendations, the commission shall convene a national conference on the Museum, comprised of individuals committed to the advancement of African American life, art, history, and culture, not later than 3 months after the date of the enactment of this Act.

(b) FUNDRAISING PLAN.—The Commission shall develop a fundraising plan for supporting the creation and maintenance of the Museum through contributions by the American people, and a separate plan on fundraising by the African American community.

(c) REPORT ON ISSUES.—The Commission shall examine and submit a report to the President and the Congress on the following issues:

(1) The availability and cost of collections to be acquired and housed in the Museum.

(2) The impact of the Museum on regional African American museums.

(3) Possible locations for the Museum on or adjacent to the National Mall in Washington, D.C.

(4) The cost of converting the Smithsonian Institution's Arts and Industries Building into a modern museum with requisite temperature and humidity controls.

(5) Whether the Museum should be located within the Smithsonian Institution.

(6) The governance and organizational structure from which the museum should operate.

(d) LEGISLATION TO CARRY OUT PLAN OF ACTION.—Based on the recommendations contained in the report submitted under subsection (a) and the report submitted under subsection (c), the Commission shall submit for consideration to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, and the Committees on Appropriations of the House of Representatives and Senate a legislative plan of action to create and construct the Museum.

SEC. 4. ADMINISTRATIVE PROVISIONS.

(a) FACILITIES AND SUPPORT OF SECRETARY OF INTERIOR.—The Secretary of the Interior shall provide the administrative services, facilities, and funds necessary for the performance of the Commission's functions.

(b) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal government may receive compensation for each day on which the member is engaged in the work of the Commission, at a daily rate to be determined by the Secretary of the Interior.

(c) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

SEC. 5. DEADLINE FOR SUBMISSION OF REPORTS; TERMINATION.

(a) DEADLINE.—The Commission shall submit final versions of the reports and plans required under section 3 not later than 9 months after the date of the enactment of this Act.

(b) TERMINATION.—The Commission shall terminate not later than 30 days after submitting the final versions of reports and plans pursuant to subsection (a).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 for activities of the Commission during fiscal year 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LaTOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3442 establishes the National Museum of African American History and Culture Plan for Action Presidential Commission, which will develop a plan to establish and maintain the National Museum of African American History and Culture in Washington, D.C. I want to commend the gentleman from Oklahoma (Mr. WATTS) and the gentleman from Georgia (Mr. LEWIS) for bringing this legislation to our attention.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Oklahoma (Mr. WATTS) to further amplify and to explain the purpose of the commission and the ultimate goal of the legislation.

Mr. WATTS of Oklahoma. Mr. Speaker, I thank my friend, the gentleman from Ohio, for yielding me time.

Mr. Speaker, the contributions made by African Americans to our Nation and to our communities need to be not only celebrated, but demonstrated. The legislation we are considering today establishes a Presidential Commission to create a blueprint on how to move forward on a National Museum of African American History and Culture.

African Americans have made countless contributions throughout the history of our country. From the founding of this great Nation, African Americans fought for independence from Great Britain, liberty in the Civil War and equal rights in the peaceful marches of the civil rights movement. As my colleagues are aware, African Americans played a key role in the actual construction of prominent landmarks, such as the White House and the building where we stand today, the United States Capitol.

From language, to art, to science, to technology, to food and music and total spiritual heritage, African Americans have made an extraordinary, indelible mark on American culture and American history.

An African American Museum on the National Mall would be a valuable resource for all Americans, including visitors to our Nation's Capital. From scholarly research, to school field trips, to lunch hour leisure, its existence would serve a needed purpose by demonstrating the significance of African American history to American history.

I want to thank the gentleman from Alaska (Mr. YOUNG) with the Committee on Transportation and Infrastructure, the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Ohio (Mr. LATOURETTE), the gentleman from Ohio (Mr. NEY), the gentleman from Maryland (Mr. HOYER) and the gentleman from Illinois (Mr. COSTELLO), and I want to thank the gentleman from Georgia (Mr. LEWIS), who has worked tirelessly over the last 12 years to get us to this point on this issue.

This has been a bipartisan effort. It is my hope the importance of this initiative becomes a bicameral focus so we may put this legislation on the President's desk for his signature.

Mr. Speaker, this is an excellent blueprint for a permanent public exhibition of the history and culture of African Americans. It puts us one step closer toward the reality of a museum that celebrates and demonstrates the achievements, contributions and the lives of Americans of African descent.

I urge my colleagues to support this legislation and the effort to construct a National Museum as soon as possible.

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation that will establish a Presidential Commission to develop a report for the President and the Congress regarding the establishment of a National Museum of African American History and Culture in Washington, D.C.

Among other issues, the report will address fund-raising, the availability and cost of these collections to be acquired and housed in the museum, possible locations here in the District of Columbia, the cost of converting the Arts and Industries Building owned by the Smithsonian Institute, and the governance and organizational structure of the new museum.

The report will include recommendations on a legislative plan of action, and will be submitted to the Committee on Transportation and Infrastructure, the Committee on House Administration, the Committee on Rules and the Senate. The Committee on Appropriations will also be involved.

Congress can expect to receive the report 9 months after enactment of this bill. Information contained in the report will provide the basis for Congress to make a prudent determination regarding the location, size, budget and construction costs for a world-class museum in our Nation's Capital.

Mr. Speaker, I wish to commend my colleagues, the gentleman from Georgia (Mr. LEWIS) and the gentleman from Oklahoma (Mr. WATTS) for their diligence and determination on this bill. The gentleman from Georgia (Mr. LEWIS) has been a steadfast champion for this innovative program more than a decade. We look forward to receiving the report from the Presidential Commission.

I urge my colleagues to support the bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEWIS), who walked and marched with Martin Luther King, who has been a real champion in the U.S. House of Representatives, and I have read his book.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague, the gentleman from Tennessee (Mr. CLEMENT), for yielding me time, from the great City of Nashville, where I had the opportunity to study and to learn much from the people of Tennessee and the people of Nashville.

Mr. Speaker, I want to thank all of my colleagues for working to bring this bill before us today. I rise today in support of H.R. 3442, the National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001.

During the past few months, Mr. Speaker, it has been my honor and pleasure to work with my friend and colleague, the gentleman from Oklahoma (Mr. WATTS), and his staff. I want to take this opportunity to thank the staff of the Subcommittee on Public Buildings and also my own staff for their good work on this bill.

Mr. Speaker, this Commission would develop and recommend a legislative plan of action for creating a national African American museum. It is my hope and prayer that this will finally bring Congress closer to achieving the goal of establishing a national African American museum in our Nation's Capital.

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This Presidential commission is a step, a necessary step in the right direction to preserve the rich history of African Americans.

As I travel across this land, I have been to several local African American museums in such cities as Memphis, Birmingham, Philadelphia, and Detroit. So I believe the time has long passed for a national African American museum right here in our Capitol city, right here in Washington.

I have introduced legislation during every session of Congress since 1988 to authorize a national African American museum. The time has come for passage of this legislation. By establishing this museum and placing it on the national Mall, we will be able to honor the legacy of African Americans and put it in a national light where it belongs.

African American history is an important part of our country; yet the vital and important contributions of African Americans go virtually unrecognized. Until we understand the full African American story, we cannot understand ourselves as a Nation. The African American story must be told and a national African American museum in Washington, D.C. is critical to telling that story.

This Presidential commission is our chance to take an important and productive step in establishing an African American museum and healing our Nation's racial wounds. This is our chance to create an African American community of every individual, an all-inclusive community that is at peace with itself, a beloved community.

Mr. Speaker, the time is right. The time is now.

Mr. CLEMENT. Mr. Speaker, I yield 4 minutes to the gentlewoman from the District of Columbia (Ms. NORTON), a real spokesperson for all of us on various issues, including this one.

Ms. NORTON. Mr. Speaker, I appreciate the kind words of the gentleman, and I very much appreciate his yielding me this time and his work on this bill, bringing it forward. I also appreciate the diligent work of the chairman of our Subcommittee on Economic Development, Public Buildings, and Emergency Management.

I especially want to thank the sponsors of this resolution, the gentleman from Georgia (Mr. LEWIS) and the gentleman from Oklahoma (Mr. WATTS), for moving us forward for the first time with substantial action on a national museum of African American history on the Mall. This bill has been introduced for each of the 11 years I have been in Congress; and it was introduced for years before that, initially by the gentleman from Georgia (Mr. LEWIS).

If I may say a word about the persistence of the gentleman from Georgia (Mr. LEWIS) in introducing this bill. It is one thing to introduce a bill like this, a kind of showcase bill as a freshman Congressman, as he did. It is quite another thing to fight for a bill like this each and every year as he has. The gentleman moved on into the leadership of the Democrats and continued to make this bill a priority, so it is a special tribute to him to have this bill move forward; and I am very pleased that the gentleman from Oklahoma (Mr. WATTS) has joined him to make this a truly bipartisan effort.

Mr. Speaker, this bill has been regularly before the Subcommittee on Economic Development, Public Buildings and Emergency Management. I remember that almost one year I thought we were going to get there. We got a bill actually out of the House to renovate the tower at the Smithsonian to make it the African American museum on the Mall; but the Congress found out that even when we renovate it costs money, and the lack of money is what stopped this bill.

I want to report to the House that there are African Americans ready and willing to contribute funds to build this museum. I have had a very interesting conversation with one such potential contributor; and he said that unless the House took some action that showed there was some hope that this would happen, he would be reluctant to step forward. I think today's action is the kind of action that will encourage contributors to step forward, because the Presidential commission moves the idea forward in two ways. First, it is the first concrete action ever; and in this bill is all of the planning, all of the logistics. It contains all of the elements that our subcommittee, the Subcommittee on Economic Development, Public Buildings and Emergency Management, requires for monumental buildings. It is all here. All we have to do is do it once the commission finishes its work.

Second, this commission raises the importance of the idea, and I say to my colleagues, important it is. African Americans have been at the very center of the development of our country itself, let alone its history, from our music and all that is unique about American culture, all that is derivative to our most historic structures, including this Capitol building built with the labor of freed blacks and slaves.

Mr. Speaker, there are all manner of museums and monuments in this Capital, all manner of commemorations to events and to people of every kind, and to be kind, I will say many of them obscure. It is astonishing to me that we have entered the 21st century, the third century of our existence as a Nation, with precious few monuments or structures of any kind to commemorate African Americans or African American history. This bill, perhaps, assures that we will not go much longer if we value the history of our country. I thank the sponsors once again.

Mr. CLEMENT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) where I used to live.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for his kind introduction and tell him that there is always a place for him in Texas.

Mr. Speaker, allow me again to thank the distinguished gentleman from Tennessee as well as the chairman of the subcommittee for his leadership and, collectively, the leadership of the ranking member and chairperson of the full Committee on Transportation and Infrastructure, knowing their continued concern on issues of, if you will, highlighting and honoring our history. It is important as well to thank the two authors of this legislation as it moves through the House, and that is the establishment of a Presidential commission. One step is a giant step for where we want to take these opportunities to be able to highlight and to reinforce the wonderment of this Nation, and that is that we are built on many shoulders.

The gentleman from Georgia (Mr. LEWIS) is an icon, and I thank him for his persistence and determination. Besides his own leadership in our caucus and on the Committee on Ways and Means, he has taken upon himself to frame for this Congress and this Nation the ability to honor those who have given of their lives to help this country be a better place to live. In his commitment to the Institute of Faith and Politics, he has educated so many Members of Congress about our civil rights history.

But this particular legislative initiative takes African American history to another level. It chronicles from the very beginning the important role that African Americans have played in this Nation and in nation-building. It is not a legislative initiative that takes us backwards; it is one that moves us forward.

I am very gratified that through a detailed commission we will now have a structure to begin the architectural building, if you will, of how we would create a national museum of African American history. Who will we talk to? What will that story be like? How will it be told? Who will we include, and not to exclude anyone. Where will we reach to in order to make sure that it is an all-comprehensive story of the African American in this Nation?

These are very troubling times. September 11 drew all of us closer together. Now we approach the holiday season when families will be gathered and stories will be told. Will it not be wonderful to be able to come to the United States Capital in years to come because of the leadership of the gentleman from Georgia (Mr. LEWIS) and the gentleman from Oklahoma (Mr. WATTS), and ultimately from the work of this commission to be able to see the story of a very strong component of our history. This is not to deny the wonderment of the history of those who came across this Nation through Ellis Island or those who may have walked across the border from South America, or maybe those who came in a fishing boat. But what it says of those who came to this Nation in a slave boat have a very special history and now today that story will be told.

Mr. Speaker, I want to again thank the authors of this legislation and the committee for its wisdom in allowing us to debate this legislation, and I hope all of my colleagues will join me in enthusiastically supporting the first step of a very big step in our Nation.

Mr. CLEMENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), our ranking Democrat on the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the legislation before us to establish a Presidential commission to develop a plan of action for the establishment and maintenance of the national museum of African American history and culture in Washington, D.C. It is a great tribute to the gentleman from Georgia (Mr. LEWIS) that he has worked so diligently and vigorously, in a bipartisan fashion with the gentleman from Oklahoma (Mr. WATTS), to bring this bill to the House floor.

For over a decade, the gentleman from Georgia (Mr. LEWIS) has been a persistent and a persuasive advocate for the establishment of a national African American museum, support for which is well established and has already been advocated for quite some time going back to the early 1990s by the Smithsonian Institution, which vigorously endorsed the concept of such a museum.

This commission that we are authorizing will supply significant information and data to support the size, the appropriate size of the building, the location, the budget, the extent and type of collection and displays to be managed there. Some of the ideas for the museum include exhibits on the reconstruction era, the Harlem Renaissance, and the Civil Rights movement. We also anticipate that the commission and the museum to be established will work collaboratively with academic institutions to research and study African American life, history, art, and culture, as well as the abominable era of slave trade, which the gentlewoman from Texas alluded to so powerfully in her remarks.

As a part of the initiative we launch today, the Presidential commission will convene a national conference to consider, and to include the views and opinions of learned persons who are dedicated to the advancement of African American life. This initiative is long overdue; and I strongly urge not only its support in this House, but swift enactment into law and establishment so that the progress can get quickly underway.

Mr. CLEMENT. Mr. Speaker, this is a very serious issue. We have had some excellent speakers to comment concerning this legislation, and we strongly support it.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of our time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3442.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on the bills H.R. 3282, H.R. 2595, H. Con. Res. 259, H.R. 10, H.R. 3441, H.R. 3442, and H.R. 3370, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

☐ 2015

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). The Chair would like to clarify that the request of the gentleman from Colorado (Mr. MCINNIS) was intended merely to transfer to the gentleman from Ohio majority debate time, assuming that another Member had made the motion to suspend the rules. Unanimous consent was not required to permit the Speaker to recognize any Member for a motion to suspend the rules.

KEEPING THE SOCIAL SECURITY PROMISE INITIATIVE

Mr. SHAW. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 282) expressing the sense of Congress that the Social Security promise should be kept.

The Clerk read as follows:

H. CON. RES. 282

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. SHORT TITLE.

This concurrent resolution may be cited as the "Keeping the Social Security Promise Initiative".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Social Security provides essential income security through retirement, disability, and survivor benefits for over 45 million Americans of all ages, without which nearly 50 percent of seniors would live in poverty;

(2) Social Security is of particular importance for low earners, especially widows and women caring for children, without which nearly 53 percent of elderly women would live in poverty;

(3) each payday, American workers send their hard-earned payroll taxes to Social Security and in return are promised income protections for themselves and their families upon retirement, disability, or death, and that commitment must be kept;

(4) Social Security payments to beneficiaries will exceed worker contributions to the Social Security trust funds beginning in 2016, as demographics, including the aging baby boom generation and increasing life expectancies, will result in fewer workers per beneficiary and threaten Social Security's essential income safety net with financial instability and insolvency;

(5) deferring action to save Social Security will result in loss of public confidence in the program, will increase the likelihood of spending cuts to other essential programs, and will expose beneficiaries, particularly those with low earnings, to poverty-threatening benefit cuts or reduce workers' take-home pay through burdensome payroll tax increases;

(6) workers' ability to save and invest for their own retirement will continue to be particularly important, especially for younger workers, to enhance their own retirement security; and

(7) the President should be commended for recognizing that Social Security is not prepared to fully fund the retirement of the baby boom and future generations and for establishing the bipartisan President's Commission to Strengthen Social Security, which will report its recommendations this fall.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the President's Commission to Strengthen Social Security, recognizing the immense financial commitment of every American worker into the Social Security system, should present in its recommendations innovative ways to protect that commitment without lowering benefits or increasing taxes; and

(2) the President and the Congress should join to develop legislation to strengthen Social Security as soon as possible, and such legislation should—

(A) recognize the obstacles women face in securing financial stability at retirement or in cases of disability or death and the essential role that the Social Security program plays in providing income security for women;

(B) recognize the unique needs of minorities and the critical role the Social Security program plays in preventing poverty and providing financial security for them and their families when income is reduced or lost due to retirement, disability, or death; and

(C) guarantee current law promised benefits, including cost-of-living adjustments that fully index for inflation, for current and future retirees, without increasing taxes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. SHAW) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, two-thirds of a century ago, any kind of income security was indeed rare. Today, however, the success of Social Security in providing income security and reducing poverty among the elderly is well known, and it is well known to everyone in this Chamber. Without Social Security, nearly half our seniors and over half of disabled workers would live in poverty today.

Yet, Social Security faces significant financial challenges ahead. Unless we modernize the program's Depression-era financial structure, program income will not cover the full cost of paying promised benefits soon after the baby boomers begin retiring.

Today we must let every American know that we will act as soon as possible to save Social Security, and we will not do it by placing undue burdens on today's retirees and workers by reducing benefits or increasing taxes.

Social Security provides at least half of the retirement income for over two-thirds of our seniors and 100 percent of income for almost one in every five seniors. Reducing Social Security benefits would have serious consequences for the majority of seniors, and would increase their number in poverty, which is why we must find ways to strengthen Social Security without cutting the benefits.

Social Security is also one of the largest financial obligations of many families. For around three-fourths of American families, the payroll tax is their largest tax liability. Increasing this tax burden would hit low- and middle-income families the hardest. In addition, it would reduce the already low rate of return on these contributions that workers may expect.

So we must find ways to strengthen Social Security without increasing Social Security taxes. Our decisions on how to strengthen Social Security are particularly important to women.

As we make choices, we must keep in mind the obstacles women face in ensuring financial security for themselves and their families and the key role Social Security plays in providing income security in the event of retirement, disability, or death. Without Social Security, over half of elderly women would live in poverty today. As we consider the program's improvements, we must not consider reducing benefits or cost-of-living increases that are so important, particularly to women.

We must also remember the critical role Social Security plays in providing financial security for minorities of all ages. African Americans are more likely to receive disability benefits. Since their life expectancy is shorter than average, survivor benefits are also critically important.

Also, about two-thirds of the African Americans and about three out of five Hispanic seniors would have income below poverty without Social Security. As we consider changes to the program, we must not reduce the benefits that are vital to preventing poverty among our minorities. We must protect Social Security for all Americans, especially for those who rely on it the most.

However, we must also work to ensure Social Security is fair to all generations. Our kids and grandkids need us to find a way to improve the low rates of return they will receive from Social Security. For example, a single man who is 31 years old today and earns average wages can expect a rate of return on his contribution only a little more than 1 percent, and kids born today can expect even less.

We cannot, in fairness, allow this to continue. The President's bipartisan Commission to Strengthen Social Security has talked about the 'unique needs of women and minorities, as well as the system's low rate of return, in its interim report and throughout all of its meetings. Today, the commission will provide a draft report with its recommendations for several options for modernizing and strengthening Social Security. This information will help us along the road towards a solution for Social Security's financial woes.

Ultimately, we, the Members of Congress, must make the final decision about which road to choose, and the American people are depending upon us to make the right choices. I hope we will make these decisions together on a bipartisan basis, because this is not a road upon which we can afford to falter or to lose our way. So let us begin today, as Congress first voices its views, and let that voice be a bipartisan one.

Mr. Speaker, it is for these reasons that I encourage all Members on both sides of the aisle to vote in favor of this critically important resolution. We must act now to assure Americans that any plan for saving Social Security will guarantee current law promised benefits, including cost-of-living adjustments for current and for future retirees, without increasing our taxes. Our children, our grandchildren, and future generations deserve no less.

Mr. Speaker, I know that we will hear a lot tonight about privatization, and there will be some that will say that this resolution is a repudiation of individual retirement accounts for American workers. I would remind the Members that we just voted on the Railroad Retirement Fund, in which we took the railroad retirees out of Treasury bills and put them in stocks and bonds of corporations.

Our Social Security people, and by the way, I tell my Democrat friends that only two of them voted against that particular bill. So when Members get up to criticize Individual Retirement Accounts, I would advise Members, and I would guess that every speaker here tonight that speaks on this resolution and that mentions that Individual Retirement Accounts are something risky, that begin with they can get a lot more than 1 percent over the ages and over the long haul, it certainly shows that this is not a repudiation of the Individual Retirement Accounts. We have already voted on going towards the private sector of investment for American union retirees. Our retirees on Social Security deserve no less.

But let us not argue that tonight. Let us argue the future of the Social Security system and the need for us to work together to come up with a solution that will, in itself, nail down the fact that this retirement system is not only going to be there for our generation, it is going to be there for future generations and our grandkids. If we do less, they will turn our pictures to the wall. It is our obligation to do this. It is our opportunity to do this. So if we can break down the wall of partisanship and come forward with a plan that we can work together with, I will be most happy and anxious to work with Members on both sides of the aisle.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, it is my pleasure to yield 7 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the resolution because, like its author, I believe that the promise of Social Security should be kept for the millions of Americans, or in fact, all Americans who wind up qualifying for this vital program.

But I do have to say, Mr. Speaker, that this is a remarkable resolution in many ways, because in one section it praises President Bush's Social Security Commission.

On page 3 it reads: "The President should be commended for recognizing that Social Security is not prepared to fully fund the retirement of the baby boom and future generations, and for establishing the bipartisan President's Commission to Strengthen Social Security," which is, coincidentally, reporting today.

That commission was established in order to push privatization proposals, and hopefully to come up with one privatization proposal. But this resolution contains no mention of the central purpose of the commission, which was to find a way to privatize Social Security, in full or in part.

When we go to the last section of the resolution, it is a sense of Congress that legislation should be developed which, among other things, would guarantee current law promised benefits, including cost-of-living adjustments that fully index for inflation for current and future retirees without increasing taxes.

That is an admirable goal, one that I support, but one that is exactly the opposite of what the President's Social Security Commission is recommending. In fact, what we now know, what some of us have been arguing for a long period of time but we now know from the commission's report itself, is that if we do nothing but privatize Social Security and create these partial accounts, it will consume $1 trillion of Social Security or other funds over 10 years, $1 trillion.

In response to the point of the gentleman from Florida (Mr. SHAW) that all of us, almost all of us, voted to allow the Railroad Retirement Fund to invest in the stock market, I would point out that that does not cost $1 trillion in transition costs in order to do. So in that case, it made some sense.

But $1 trillion is real money. The fact of life is that there are substantial administrative costs for creating private accounts, which is, after all, why Wall Street is so interested in having an individual account for virtually every member of Social Security.

Another point, another area of disagreement between us, is that the way we calculate the rate of return is subject to disagreement. We do not agree that it is 1 or 2 percent, we think the number is closer to 4 percent, and that that is comparable to guaranteed investments in U.S. Treasuries.

But beyond that, when people have Social Security, they have two things that go along with that program:

First, they have a form of disability insurance, because Social Security is there to provide a form of disability insurance. There is money there for survivors' benefits. In the aftermath of September 11, one thing we know about Social Security is that all those children who lost a parent in the attack on the World Trade Centers are qualifying for survivors' benefits. They will be helped by this program because that is part of what it does.

Now, over the last 2 years, and let me say, as I said before, Wall Street loves privatization of accounts. They will make a lot of money doing that, but ordinary Americans should be terrified. In the last 2 years, the loss in value in the stock market approaches $5 trillion. In those 2 years, Social Security did not lose one thin dime, not one. It provides the kind of assurance that we need.

The commission report coming out today did not do what the President wanted and have one plan for privatization; they rolled out three plans for privatization. But they do exactly what this resolution said we should not do. They do reduce Social Security benefits in different ways.

For example, they tie future COLAs to growth in prices, not wages, which will reduce the increase that Social Security beneficiaries are expected to get every year. There is a disguised increase in the retirement age. There is a reduction in disability payments.

What we are really talking about, Mr. Speaker, here is that we cannot privatize Social Security in full or in part without substantial costs. It is simply not possible, Mr. Speaker, to privatize Social Security, in full or in part, without these very substantial transition costs.

It is worth pointing out that in the space of less than 12 months we have converted the Federal budget from a situation where we could see surpluses virtually as far as the eye could see to a situation where we now see deficits virtually as far as the eye can see. And most of that loss, most of that loss, 55 percent, is due to the tax cut passed by this House and signed by the President in June.

Mr. Speaker, we are now using Social Security surplus dollars to fund the ordinary expenses of this government, and we are doing that in major part because of the tax cut that was passed here that was twice what a tax cut of reasonable size should have been.

So in conclusion, Mr. Speaker, it is very important, I believe, that we pass this resolution because the promise of Social Security should be kept; but let us not cloud this debate by what is really going on here.

□ 2030

This resolution rejects the principal purpose and the principal finding of the President's Commission on Social Security which was set up in order to push a privatization proposal, which now we know is the wrong thing for America.

Mr. SHAW. Mr. Speaker, I yield as much time as he may consume to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means for purposes of a colloquy.

Mr. THOMAS. Mr. Speaker, first of all, I want to thank the chairman of the Subcommittee on Social Security for bringing this particular resolution to the floor. My concern goes beyond the particulars of this resolution, but clearly underscored in all of the discussion that we have about Social Security is the sensitivity in terms of the money that people pay into the payroll tax.

That is why I was stunned today to hear a prominent Member of the other body announce on the floor that he was willing to accept an idea that would mean an immediate $40 billion loss in payroll taxes to the trust funds that we have all showed we have great concern about.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Speaker, I, too, do not understand and was quite amazed and disappointed to see when this Senator was willing to ask Social Security to bear the burden of the economic stimulus, when the program is facing its own serious financial challenges.

Mr. THOMAS. Apart from the obvious in immediate lost to the trust funds, there has been some concern about the ability to execute the proposal. The loss of funds is bad enough, but when we strip it to the essentials of the proposal, those organizations which are charged with the responsibility of dealing with the way in which payroll taxes are paid and accounting procedures are dealt with, the American Payroll Association, the American Society for Payroll Management, the National Payroll Reporting Consortium and the Society for Human Resource Management, all agree that it would take 6 months or more to try to get it correct in making this scheme work, but they had no guarantee that it would, in fact, be sound.

Mr. SHAW. Mr. Speaker, as a former certified public accountant, I can assure my colleague that making such a change would dramatically increase the risk of error in reporting Social Security wages. These wage reports must be accurate in order to assure beneficiaries receive their full and correct benefits in a timely way. This is very important.

Mr. THOMAS. Of course, it does not even address the game playing that would go on if we were able to set up a system and we were losing $40 billion out of the trust fund. We would have employees negotiating with employers where particular benefits or amounts were going to be given so that they would just happen to fall within this holiday period, further complicating an attempt to make this system work.

Mr. SHAW. Not only would the employer be faced with employees trying to shift their wages to the payroll tax holiday month, employers would also have to contend with implementing a payroll tax holiday at the same time they are preparing W-2s and 1099s to meet the January 31 requirement as provided as a deadline. Having employers having to deal with these changes at once would only risk incorrect reporting of Social Security wages. It could only risk incorrect reporting of income for Federal tax purposes.

Mr. THOMAS. In addition, of course, not everybody has the luxury of a large staff being paid to manage payroll and computers to deal with it. So we do not know the uneven burden that is going to be placed on employers who would now have to add a temporary change to the difficult, ongoing structure that is necessary. Of course, that does not even address the precedent of taking an enormous amount of general fund money and then moving it over to cover the losses out of the trust fund in the first place.

Mr. SHAW. I agree. Even if the lost payroll taxes were replaced with general revenue funds, we would be obscuring the clear connection between a person's contribution and the benefits he will receive. This is what President Roosevelt intended when he established Social Security and set up this separate trust fund. We should not take lightly the idea of breaking this critical connection, this firewall, if I may. Otherwise, we will find ourselves looking to the payroll system for every economic fix that we need.

Mr. THOMAS. Especially when they are arguing that we need to do this very risky scheme, jeopardizing the ability to be accurate, and committing enormous general funds to the trust fund to replace the hole in the trust fund that would bring insolvency from 2017 to 2006, and argue that they feel they need to do it for stimulus purposes. There are a whole lot better ways to stimulate the economy. The legislation passed by the House, the discussion between, just as recently today, a moderate group of Senators, both Democrats and Republicans and the President, none of those discussions involved risky schemes like this exposure of the payroll tax.

Mr. SHAW. My colleague is once again right. Now is the time for us to act wisely and not overreact. Several excellent ideas have been put forth by both parties. A payroll tax holiday was not in the House passed bill. The Senate has never passed such a bill and should not, at any time, be used in a stimulus package passed by either body.

Mr. THOMAS. Mr. Speaker, I want to thank the chairman of the Subcommittee on Social Security for the colloquy, and I want to praise him for his continued vigilance in not allowing people to play with the trust fund as was proposed by a prominent Senator just today.

Mr. SHAW. Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I shall consume.

I was listening with interest to my distinguished colleagues, and I think their colloquy was an example of true bipartisanship in this sense. As I heard them, I think what they were describing was initially proposed by a Senator from their party. I hope they will send their colloquy to that gentleman.

Mr. SHAW. Mr. Speaker, will the gentleman yield on that?

Mr. LEVIN. No. Let us talk about this resolution. The gentleman used the time to talk about something that is not relevant to this resolution, and I thought that I would just put it in some perspective. Let me talk about this resolution, if I might.

The resolution before the House has very little to do with strengthening Social Security, which is indeed necessary, and it has very much to do with providing political distance to some Member of the majority party.

Does anyone seriously believe that it is a coincidence, a coincidence, that this resolution is being brought to the House floor on the very same day that the President's hand-picked Social Security Commission unanimously adopted its recommendations? The recommendations of the Commission should come as a surprise to no one. From the day the President appointed a one-sided commission, I do not, for a moment, challenge the views in terms of the integrity of their point of view, but it was very one-sided and the outcome was predetermined.

Indeed, the President's spokesman, Ari Fleischer, said it very clearly very early on in quotes, "The Commission will, of course, be comprised of people who share the President's view that private retirement accounts are the way to save Social Security."

This is the spokesperson of the President of the United States. It is now apparent from the Commission's recommendations that privatization would result in cuts in Social Security benefits. That is clear from the two plans of the Commission that spell out how to pay for privatization. Any doubt on this score has vanished over the course of the last year with the depletion, I think, the reckless depletion of the non-Social Security surplus. But this resolution wants to have it both ways.

It refers appropriately to the vital nature of Social Security, its guaranteed lifetime benefits, its COLAs, its important anti-poverty role and its special protections for women, low earners and minorities. It also says it rejects benefits cuts but it does not reject, it does not reject the misguided policy that would necessitate benefit reductions, the Bush administrations quest to privatize Social Security.

I urge my colleagues to vote for this resolution because it reaches the right conclusion. To vote no would only confuse the picture. But no one should believe that voting yes will make the President's privatization quest go away. That horse already left the barn.

The public deserves a thorough discussion of the Commission's privatization plans. The impact of these plans can not be obscured by any smoke screen. As true in this instance, they are too transparent to work.

I want to just say a couple of other words in response to what my friend, the gentleman from Florida (Mr. SHAW) had to say. He said that this resolution is not a repudiation of privatization. Maybe I will let those words stand. I wish it had repudiated but it is silent.

Mr. SHAW. If the gentleman would yield, I would like to correct his statement as to my statement. I said a repudiation of private accounts, not privatization. There is a big difference.

Mr. LEVIN. All right. We will see as time unfolds if there is a difference. I do not see it. Indeed, in reference to the railroad retirement bill I think is misplaced. There are not individual accounts. The retirement monies are allowed to be invested as a whole. They are allowed to be invested. That is not privatization, nor is it private accounts.

So I think we need to understand what is going on here today with this resolution. We should vote for it. But we should not be misguided as to what is really going on here. I do not think there is any way in the end to duck the issue of strengthening Social Security. The President embraced privatization. He appointed members of a commission that embraced privatization. There was no effort to have any diversity on that key issue on the Commission.

So essentially, the President and his party have ended up with a Commission report that supports privatization, and in the only plans that spell out how they would pay for it, they provide for benefit cuts; and I do not know any way out of that equation. I do not think there is any way for anybody to explain it away. I think we owe it to the public to have a forthright discussion as to how we should strengthen Social Security. And those who favor privatization or private accounts should simply say so, indicate how they would be structured, indicated how they would be paid for; if they want to suggest general funds when those general funds by their own plans have been diminished, indeed I think destroyed, they can do so.

But if we are going to move ahead in strengthening Social Security, we are going to have to really tell the American people what we really mean and like it is.

So I support this resolution with the qualifications that I have mentioned.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would remind the gentleman from Michigan (Mr. LEVIN) that the Commission was made up of half Democrats and half Republicans. Only one former Republican Member of Congress and one Democratic former Member of Congress and one Democratic former Senator, and so that is a 2-to-1 Democratic, as far as elected officials are concerned.

I would also say that no one in this body that I know of and the Commission report certainly did not endorse privatizing Social Security. That idea is not even out there and is not even under consideration.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY), a member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, Social Security needs to be preserved once and for all. By passing this legislation which was introduced by the chairman of the Social Security subcommittee, the gentleman from Florida (Mr. SHAW), the House of Representatives will make a strong statement that we do support reforming Social Security and ensuring its solvency once and for all without cutting benefits, increasing taxes on people whose payroll check does not go far enough as it is today.

□ 2045

We may have different ideas, but let us first agree that the current system is not financially sound for the baby boomers and the generations that follow. Common sense tells us that we must transition from this pay-as-you-go system that will run out of money to a traditional retirement plan where our money grows over time into a bigger nest egg. The only question is how and how soon. And let us agree that we ought to keep our Social Security promises, cost-of-living increases each year that really do reflect the cost of living for seniors, and keeping our promise on benefits and not increasing taxes.

Some people in Washington do not want to face up to this issue. They want to make it an election campaign issue. They want to run ads; they want to scare seniors with the phrase of privatization. Well, I think people in America want us to work on Social Security. They want to hear the good ideas. They want to be part of this process. And when we ask people up here who do not want to touch Social Security, who do not want to tackle Social Security, what their plan is for preserving it once and for all, there is nothing but silence.

I applaud the President for appointing this commission. They are tackling issues that we really need to tackle. This was an important first step in getting Congress and Washington to focus on preserving Social Security once and for all. Do not get me wrong, while I support the urgency, I strongly disagree with the committee's recommendations that reductions in benefits will be necessary to ensure Social Security's future solvency. I hope President Bush rejects those ideas.

Nonetheless, I look forward as a member of the committee to working with my colleagues in the House, the President, my Democratic colleagues, and others in moving the ball forward on Social Security and preserving Social Security once and for all.

Mr. LEVIN. Mr. Speaker, I yield myself 1 minute.

The chairman of the subcommittee mentioned bipartisanship, and I just want to say a word about that.

I do not challenge or question the sincerity of the members of the commission. Indeed, very distinguished people. But true bipartisanship means, I think, if it is going to be at all effective, a reflection of the mainstream within each party. This commission, as Ari Fleischer said, had on it people who favored privatization. And that is what Mr. Fleischer said; these were his terms, private retirement accounts. All of them share the President's views that these accounts are the way to save Social Security.

So what we put in, we get out. And when we put in a uniform point of view that does not encompass the mainstream of both parties, we are going to get out of it deep division.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. May I ask the Speaker how much time remains on both sides?

The SPEAKER pro tempore (Mr. OSE). The gentleman from Florida (Mr. SHAW) has 5 minutes remaining, and the gentleman from Michigan (Mr. LEVIN) has 4½ minutes remaining.

Mr. SHAW. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. SMITH), who has worked long and hard on the problem of trying to do something with Social Security.

Mr. SMITH of Michigan. Mr. Speaker, everybody talks so calmly about Social Security. Let me just stress that the greatest danger is doing nothing.

I would suggest to the gentleman from Michigan (Mr. LEVIN) that everyone that criticizes anybody else's plan should come up with their own plan that is going to keep Social Security solvent. Look, we all agree this is a great program. Fifty percent of the people on retirement today would be at the poverty level if they did not have Social Security. So what are we going to do?

I just feel so strongly, and it is somewhat irritating that it is easy to criticize, to nit and pick. But I would humbly suggest that everybody that criticizes anybody else's plans, including the commission's, should come up with their own prompt proposal that keeps Social Security solvent.

Now, some people say, well, look, just pay back what we owe the trust fund and we will still be able to pay 70 percent of the benefits in 2034. Well, it is all going to take money. After there is less revenues coming in starting in 2018 than is required to pay benefits, the money has to come from someplace. So we will come up with the money and pay back everything we owe the trust fund and then benefits are going to be cut 30 percent, and then, a few years later, 65 percent. That is not acceptable. The longer we put off a decision, the more drastic the changes are going to have to be made.

Let me suggest that nobody is suggesting privatizing Social Security. The commission came up with three proposals today. The middle proposal says, for example, an individual can invest, and it is optional, it is all optional, an individual can invest 4 percent of their taxable earnings, if they want to, into their privately owned account. So if they die before 65, it goes into their estate and not back to the government; and they are going to offset future benefits, assuming that they get a 2 percent rate of return on that interest. Even government bonds can do better than that.

Let us move ahead, let us be positive, let us come up with proposals that will save Social Security. Things have changed so much since I introduced my first Social Security bill in 1994. Now we are talking about the reality of a problem. America is becoming better informed. But until America realizes where their Social Security checks come from, we are probably not going to convince most Americans that we need to fix the problem.

Where it comes from is existing workers. It is a Ponzi game. Existing workers today put in their money, and it is immediately sent out to existing retirees. That needs to be changed over time, and let us get with it.

Mr. LEVIN. Mr. Speaker, I yield myself the balance of my time.

Opposing private retirement accounts is not nitpicking. It is a major issue. And among Democrats and some Republicans there is deep resistance to it.

In terms of specific proposals, I would suggest, as was true in the early 1980s, if we are going to have a commission, let it be diverse, let it have a broad range of opinions. Do not have anybody, whether it is the President or the Congress, picking people who agree with them; in the President's case, people who believe in private retirement accounts, which is, I think, a legitimate privatization method in terms of what we call it. I do not think it is legitimate, but we can legitimately call it privatization.

Mr. Speaker, I believe the issues really are clear. I think the discussion here has been even more to the point than I expected in terms of what this resolution is all about and what is behind it. And therefore, within those qualifications, I suggest Members come here and vote, if a vote is called for.

Mr. Speaker, I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

The gentleman from Michigan and I worked for many years on welfare reform. The President vetoed my bill twice. In the end, we came together and we worked together, and America is better off for it. We supported it in a bipartisan way. We can do the same with Social Security.

The gentleman does not like the idea of investment in the private sector. If he has a better idea, bring it to me. I will have hearings on it. And if it is better than the investment in the private sector, I will support it.

The reason we are looking at investment in the private sector through individual retirement accounts is that is the only way we figured out we can get a sufficient return that is going to leave the program there strong enough for our kids and our grandkids.

What we are talking about tonight is working together to preserve that program in a bipartisan way, to preserve it so that our kids and our grandkids are going to get a fair deal. Can we go to our kids and our grandkids, can I go home and tell them they are going to pay 12.4 percent of their wages and FICA taxes and, oh, by the way, you are going to take a cut after taking care of my generation and our Social Security benefits? That is wrong. That is wrong. And we do not need to do it. But if we continue the partisan bickering, we will need to do it.

I would challenge my friends on the other side of the aisle to come forward with a plan. The reaction has been absolutely absent. There are not even phantom plans out there to deal with this. We have to work together. Come forward with a plan, sponsor a plan, have it programmed and say that it is going to save Social Security for all time and we will work with it and have it scored that way. For us to continue the bickering on both sides of the aisle with regard to this is terrible.

This commission has worked hard, and as the gentleman correctly pointed out, they are distinguished individuals. They worked hard. Maybe the gentleman does not like the results, maybe I do not like the results. I think we can do better; but their job was not to legislate. Their job was to come forth with ideas, and this is what they have done.

I commend the President for putting together this bipartisan commission to come back to us. They have shown there is a problem out there. This resolution very clearly states that the Social Security System is going to be in trouble in 2016. So tomorrow when we get a big vote, and I am going to ask for a recorded vote, this is going to be an acknowledgment by the Congress that there is a problem that must be faced.

Let us face it now and let us face it together.

Mr. ENGLISH. Mr. Speaker, I rise in strong support of H. Con. Res. 282, Keeping the Social Security Promise Initiative. This resolution simply reaffirms Congress's resolve to strengthen the Social Security program for future generations without lowering benefits or increasing taxes. Mr. Speaker, Social Security provides essential retirement security for more than 45 million Americans. With each paycheck, workers send their hard-earned payroll taxes to Social Security with the promise of security in their retirement. In reforming the system Congress should not do anything that will jeopardize that security or break our promises to America's seniors.

President Bush has recognized that Social Security cannot sustain the imminent retirement of the baby boomers and future generations. He should be commended for creating a bipartisan Commission to Strengthen Social Security. The final report is due on December 21, 2001. The Commission has proposed three options to date, two of which would reduce benefits.

The responsibility for reforming Social Security ultimately lies with the Congress. I believe we can protect Social Security's commitment to our current and future retirees without lowering benefits or raising taxes while providing cost-of-living adjustments. With Social Security anticipated to run a deficit in 2016, now is the time for Congress and the President to work together in a bipartisan fashion to put Social Security on sound financial footing for generations to come.

I ask my colleagues to support H. Con. Res. 282.

Mr. FORBES. Mr. Speaker, I rise in strong support of H. Con. Res. 282, which reiterates Congress' commitment to our seniors to keep the promise of Social Security.

For years now, Congress and the public have known that Social Security would soon be facing serious financing challenges due to shifting demographics. With the aging of the baby boom generation, the number of retiring Americans receiving benefits is beginning to overwhelm the number of working Americans paying into the Social Security system. In addition, thanks to important medical advances and healthy behavioral changes, Americans are living longer. The result of these factors is that beginning in 2016, Social Security payments will exceed worker contributions into the trust funds.

This is a scary prospect for the millions of Americans who receive Social Security benefits. Many of those individuals depend upon their monthly Social Security checks to survive. As we fight our global war on terrorism, we must not lose sight of the fact that terror can come in many forms. It is every bit as frightening to an elderly man or woman that the Social Security check might be late—and far more real. Too many of these people are living from one check to the next and balancing food against medicine. As their Representatives in Congress, we should at least provide them with the security of the promise of Social Security.

It is also a scary prospect, Mr. Speaker, for the millions of Americans who are approaching retirement. They have been paying into the Social Security trust funds because they have to, not because they believe in Social Security. In fact, numerous studies have shown that more young Americans believe in UFOs than in their future Social Security checks.

It is clear that Social Security in its current form—the form it has had since the Great Depression—is unsustainable. If we are to keep the promise that so many seniors and working Americans have relied upon for years, we must reform this program. There are many possibilities for reform, including adding personal investment options. The President appointed a commission of experts from business, think tanks, and government to explore these alternatives and to make recommendations to Congress for change. They are expected to vote on their final report today, and Congress should consider their recommendations with due deliberative speed. We must act quickly, but more importantly, we must act right.

But throughout our deliberations, Mr. Speaker, we must maintain our steadfastness to keep the promise of Social Security. We should not raise Social Security taxes and we should not cut benefits. We must use the innovative spirit that is America's hallmark to meet this challenge and find a way to strengthen and improve Social Security.

Building upon the Social Security lock box legislation that this body has already approved, this resolution lays the groundwork for our coming debate, reaffirming our commitment to Social Security's beneficiaries, in particular, the most vulnerable beneficiaries—the low-income, the women, and minorities. I look forward to reviewing these issues with my colleagues and developing a real solution to this challenge.

I urge all my colleagues to support H. Con. Res. 282.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 282.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHAW. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of House Concurrent Resolution 282.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3295, HELP AMERICA VOTE ACT OF 2001

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107-331) on the resolution (H. Res. 311) providing for consideration of the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 2883, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 107-332) on the resolution (H. Res. 312) waiving points of order against the conference report to accompany the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HOMESTEAD NATIONAL MONUMENT OF AMERICA ADDITIONS ACT

Mr. MCINNIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 38) to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes, as amended.

The Clerk read as follows:

H.R. 38

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homestead National Monument of America Additions Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Map.—The term "map" means the map entitled "Proposed Boundary Adjustment, Homestead National Monument of America, Gage County, Nebraska", numbered 368/80036 and dated March 2000.

(2) Monument.—The term "Monument" means the Homestead National Monument of America, Nebraska.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. ADDITIONS TO HOMESTEAD NATIONAL MONUMENT OF AMERICA.

(a) In General.—The Secretary may acquire, by donation or by purchase with appropriated or donated funds, from willing sellers only, the privately-owned property described in paragraphs (1) and (2) of subsection (b). The Secretary may acquire, by donation only, the State-owned property described in paragraphs (3) and (4) of subsection (b).

(b) Parcels.—The parcels referred to in subsection (a) are the following:

(1) Graff Property.—The parcel consisting of approximately 15.98 acres of privately-owned land, as depicted on the map.

(2) Pioneer Acres Green.—The parcel consisting of approximately 3 acres of privately-owned land, as depicted on the map.

(3) Segment of State Highway 4.—The parcel consisting of approximately 5.6 acres of State-owned land including Nebraska State Highway 4, as depicted on the map.

(4) State Triangle.—The parcel consisting of approximately 8.3 acres of State-owned land, as depicted on the map.

(c) Boundary Adjustment.—Upon acquisition of a parcel described in subsection (b), the Secretary shall modify the boundary of the Monument to include the parcel. Any parcel included within the boundary shall be administered by the Secretary as part of the Monument.

(d) Deadline for Acquisition of Certain Property.—If the property described in subsection (b)(1) is not acquired by the Secretary from a willing seller within 5 years after the date of the enactment of this Act, the Secretary shall no longer be authorized to acquire such property pursuant to this Act and such property shall not become part of the Monument pursuant to this Act.

(e) Availability of Map.—The map shall be on file in the appropriate offices of the National Park Service.

(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this Act $400,000.

SEC. 4. COOPERATIVE AGREEMENTS.

The Secretary may enter into cooperative agreements with the State of Nebraska, Gage County, local units of government, private groups, and individuals for operation, maintenance, interpretation, recreation, and other purposes related to the proposed Homestead Heritage Highway to be located in the general vicinity of the Monument.

The SPEAKER pro tempore (Mr. JOHNSON of Illinois). Pursuant to the rule, the gentleman from Colorado (Mr. MCINNIS) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. MCINNIS).

□ 2100

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 38 introduced by the gentleman from Nebraska (Mr. BEREUTER) would authorize the expansion of Homestead National Monument of America in Beatrice, Nebraska, by 30 acres.

The monument, which currently encompasses 189 acres, was established to commemorate the Homestead Act of 1862, one of the significant and enduring events in the western expansion of the United States. The Act granted 160 acres of free land to claimants willing to live on the frontier. The monument includes the site of one of the first homesteads claimed, located in the tallgrass prairie landscape that so many pioneers settled and traversed.

Mr. Speaker, the 30 acres would be acquired from willing sellers, two privately owned and two owned by the State of Nebraska. The bill also authorizes $400,000 to purchase the parcels of land. The bill is supported by the National Park Service and the majority and minority of the committee.

Mr. Speaker, I urge my colleagues to support H.R. 38, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. The Homestead National Monument of America was created in 1936 to commemorate the Homestead Act of 1862 and its significant role in the settlement of the American west.

The monument includes the first parcel of land claimed under the Homestead Act as well as the Freeman School, an original, one-room schoolhouse adjacent to that parcel. The monument is listed in the National Register of Historic Places.

H.R. 38 authorizes the Secretary to acquire two specific parcels of private property, either by donation or purchase from willing sellers, and two parcels of State-owned land, by donation only. Once the land is acquired, the Secretary would be authorized to alter the boundaries of the monument to include these new properties.

It is our understanding that this expansion will allow the National Park Service to better protect the monument's historic resources from potential flood damage and aid in interpretation of the site.

Mr. Speaker, I support passage of H.R. 38.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of H.R. 38, a bill this Member re-introduced on January 3, 2001, as during the prior 106th Congress, this Member introduced the same legislation.

This Member would like to begin by thanking the distinguished gentleman from California (Mr. RADANOVICH), the Chairman of the National Parks, Recreation, and Public Lands Subcommittee, and the distinguished gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the ranking Member of the Subcommittee, for their work in bringing this bill to the Floor. This Member would also like to express his appreciation to the distinguished gentleman from Utah (Mr. HANSEN), the Chairman of the Resources Committee, and the distinguished gentleman from West Virginia (Mr. RAHALL), for their efforts to move this legislation forward.

This legislation, the Homestead National Monument of America Additions Act, is a straightforward bill. It is also noncontroversial. The bill would simply adjust the boundaries of

Homestead National Monument of America and allow a small amount of additional land to be included within its boundaries. It is also important to note that the funding necessary to implement this bill was appropriated last fiscal year.

The legislation being considered today reflects the recommendations in the recently completed General Management Plan (GMP) calling for a minor boundary expansion for Homestead National Monument. Unfortunately, the current visitor center is located in a 100-year flood plain. The acquisition of land outside the existing boundaries as recommended in the GMP would allow a new "Homestead Heritage Center" to be constructed outside the floodplain. This location would offer greater protection to the Monument's collections, interpretive exhibits, public research facilities, and administrative offices.

As the bill makes clear, the land for the Heritage Center would be acquired on a willing-seller basis It is this Member's understanding that all of the individuals who would be involved in the boundary adjustment have expressed a willingness to sell for a negotiated price.

Homestead National Monument of America commemorates the lives and accomplishments of all pioneers and the changes to the land an the people as a result of the Homestead Act of 1862, which is recognized as one of the most important laws in U.S. history. This Monument was authorized by legislation enacted in 1936. The FY96 Interior Appropriations Act directed the National Park Service to complete a General Management Plan to begin planning for improvements at Homestead. The General Management Plan, which was completed last year, made recommendations for improvements that are needed to help ensure that Homestead is able to reach its full potential as a place where Americans can more effectively appreciate the Homestead Act and its effects upon the nation.

Homestead National Monument of America is truly a unique treasure among the National Park Service jewels. The authorizing legislation makes it clear that Homestead was intended to have a special place among Park Service units. According to the original legislation:

> It shall be the duty of the Secretary of the Interior to lay out said land in a suitable and enduring manner so that the same may be maintained as an appropriate monument to retain for posterity a proper memorial emblematic of the hardships and the pioneer life through which the early settlers passed in the settlement, cultivation, and civilization of the great West. It shall be his duty to erect suitable buildings to be used as a museum in which shall be preserved literature applying to such settlement and agricultural implements used in bringing the western plains to its present state of high civilization, and to use the said tract of land for such other objects and purposes as in his judgment may perpetuate the history of this country mainly developed by the homestead law.

Clearly, this authorizing legislation sets some lofty goals. This Member believes that H.R. 38 would help the Monument achieve the potential which was first described in its authorizing legislation.

This Member urges his colleagues to support H.R. 38.

Mr. UDALL of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McINNIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JOHNSON of Illinois). The question is on the motion offered by the gentleman from Colorado (Mr. McINNIS) that the House suspend the rules and pass the bill, H.R. 38, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

JAMES PEAK WILDERNESS AND PROTECTION AREA ACT

Mr. McINNIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1576) to designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "James Peak Wilderness and Protection Area Act".

SEC. 2. WILDERNESS DESIGNATION.

(a) INCLUSION WITH OTHER COLORADO WILDERNESS AREAS.—Section 2(a) of the Colorado Wilderness Act of 1993 (Public Law 103–77; 107 Stat. 756; 16 U.S.C. 1132 note) is amended by adding at the end the following new paragraph:

"(21) Certain lands in the Arapaho/Roosevelt National Forest which comprise approximately 14,000 acres, as generally depicted on a map entitled 'Proposed James Peak Wilderness', dated September 2001, and which shall be known as the James Peak Wilderness.".

(b) ADDITION TO THE INDIAN PEAKS WILDERNESS AREA.—Section 3 of the Indian Peaks Wilderness Area and Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (Public Law 95–450; 92 Stat. 1095; 16 U.S.C. 1132 note) is amended by adding at the end the following new subsections:

"(c) The approximately 2,232 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled 'Ranch Creek Addition to Indian Peaks Wilderness' dated September 2001, are hereby added to the Indian Peaks Wilderness Area.

"(d) The approximately 963 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled 'Fourth of July Addition to Indian Peaks Wilderness' dated September 2001, are hereby added to the Indian Peaks Wilderness Area.".

(c) MAPS AND BOUNDARY DESCRIPTIONS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the area designated as wilderness by subsection (a) and of the area added to the Indian Peaks Wilderness Area by subsection (b). The maps and boundary descriptions shall have the same force and effect as if included in the Colorado Wilderness Act of 1993 and the Indian Peaks Wilderness Area and Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act, respectively, except that the Secretary may correct clerical and typographical errors in the maps and boundary descriptions. The maps and boundary descriptions shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

SEC. 3. DESIGNATION OF JAMES PEAK PROTECTION AREA, COLORADO.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) The lands covered by this section include important resources and values, including wildlife habitat, clean water, open space, and opportunities for solitude.

(B) These lands also include areas that are suitable for recreational uses, including use of snowmobiles in times of adequate snow cover as well as use of other motorized and nonmotorized mechanical devices.

(C) These lands should be managed in a way that affords permanent protection to their resources and values while permitting continued recreational uses in appropriate locales and subject to appropriate regulations.

(2) PURPOSE.—The purpose of this section is to provide for management of certain lands in the Arapaho/Roosevelt National Forest in a manner consistent with the 1997 Revised Land and Resources Management Plan for this forest in order to protect the natural qualities of these areas.

(b) DESIGNATION.—The approximately 16,000 acres of land in the Arapaho/Roosevelt National Forest generally depicted on the map entitled "Proposed James Peak Protection Area", dated September 2001, are hereby designated as the James Peak Protection Area (hereafter in this Act referred to as the "Protection Area") .

(c) MAP AND BOUNDARY DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the Protection Area. The map and boundary description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and boundary description. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

(d) MANAGEMENT.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Protection Area shall be managed and administered by the Secretary in the same manner as the management area prescription designations identified for these lands in the 1997 Revision of the Land and Resource Management Plan for the Arapaho/Roosevelt National Forest and the Pawnee National Grasslands. Such management and administration shall be in accordance with the following:

(A) GRAZING.—Nothing in this Act, including the establishment of the Protection Area, shall affect grazing on lands within or outside of the Protection Area.

(B) MINING WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Protection Area and all land and interests in land acquired for the Protection Area by the United States are withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

Nothing in this subparagraph shall be construed to affect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this Act.

(C) MOTORIZED AND MECHANIZED TRAVEL.—

(i) REVIEW AND INVENTORY.—Not later than two years after the date of the enactment of this Act, the Secretary, in consultation with interested parties, shall complete a review and inventory of all roads and trails in the Protection Area on which use was allowed on September 10, 2001, except those lands managed under the management prescription referred to in subparagraph (F). During the review and inventory, the Secretary may—

(I) connect existing roads and trails in the inventoried area to other existing roads and trails in the inventoried area for the purpose of mechanized and other nonmotorized use on any lands within the Protection Area as long as there is no net gain in the total mileage of either roads or trails open for public use within the Protection Area; and

(II) close or remove roads or trails within the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed pursuant to paragraph (2) of this subsection or subsection (e)(3).

(ii) AFTER COMPLETION OF INVENTORY.—After completion of the review and inventory required by clause (i), the Secretary shall ensure that motorized and mechanized travel within the Protection Area shall be permitted only on those roads and trails identified as open to use in the inventory or established pursuant to subparagraph (D).

(D) NEW ROADS AND TRAILS.—No new roads or trails shall be established within the Protection Area except those which the Secretary shall establish as follows:

(i) Roads and trails established to replace roads or trails of the same character and scope which have become nonserviceable through reasons other than neglect.

(ii) Nonpermanent roads as needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or other management purposes.

(iii) Roads determined to be appropriate for reasonable access under section 4(b)(2).

(iv) A loop trail established pursuant to section 6.

(v) Construction of a trail for nonmotorized use following the corridor designated as the Continental Divide Trail.

(E) TIMBER HARVESTING.—No timber harvesting shall be allowed within the Protection Area except to the extent needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or protection of public health or safety.

(F) SPECIAL INTEREST AREA.—The management prescription applicable to the lands described in the 1997 Revision of the Land and Resource Management Plan as the James Peak Special Interest Area shall also be applicable to all the lands in the Protection Area that are bounded on the north by Rollins Pass Road, on the east by the Continental Divide, and on the west by the 11,300 foot elevation contour as shown on the map referred to in subsection (b). In addition, motorized vehicle use shall not be permitted on any part of the Rogers Pass trail.

(2) NATURAL GAS PIPELINE.—The Secretary shall allow for maintenance of rights-of-ways and access roads located within the Protection Area to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01 in a manner that avoids negative impacts on public safety and allows for compliance with Federal pipeline safety requirements. Such maintenance may include vegetation management, road maintenance, ground stabilization, and motorized vehicle access.

(3) PERMANENT FEDERAL OWNERSHIP.—All right, title, and interest of the United States, held on or acquired after the date of the enactment of this Act, to lands within the boundaries of the Protection Area shall be retained by the United States.

(e) ISSUES RELATED TO WATER.—

(1) STATUTORY CONSTRUCTION.—

(A) Nothing in this Act shall constitute or be construed to constitute either an express or implied reservation of any water or water rights with respect to the lands within the Protection Area.

(B) Nothing in this Act shall affect any conditional or absolute water rights in the State of Colorado existing on the date of the enactment of this Act.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future protection area designation.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States.

(2) COLORADO WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State of Colorado in order to obtain and hold any new water rights with respect to the Protection Area.

(3) WATER INFRASTRUCTURE.—Nothing in this Act (including the provisions related to establishment or management of the Protection Area) shall affect, impede, interfere with, or diminish the operation, existence, access, maintenance, improvement, or construction of water facilities and infrastructure, rights-of-way,' or other water-related property, interests, and uses, (including the use of motorized vehicles and equipment existing or located on lands within the Protection Area) on any lands except those lands managed under the management prescription referred to in subsection (d)(1)(F).

SEC. 4. INHOLDINGS.

(a) STATE LAND BOARD LANDS.—If the Colorado State Land Board informs the Secretary that the Board is willing to transfer to the United States some or all of the lands owned by the Board located within the Protection Area, the Secretary shall promptly seek to reach agreement with the Board regarding terms and conditions for acquisition of such lands by the United States by purchase or exchange.

(b) JIM CREEK INHOLDING.—

(1) ACQUISITION OF LANDS.—The Secretary shall enter into negotiations with the owner of lands located within the portion of the Jim Creek drainage within the Protection Area for the purpose of acquiring the lands by purchase or exchange, but the United States shall not acquire such lands without the consent of the owner of the lands.

(2) LANDOWNER RIGHTS.—Nothing in this Act shall affect any rights of the owner of lands located within the Jim Creek drainage within the Protection Area, including any right to reasonable access to such lands by motorized or other means as determined by the Forest Service and the landowner consistent with applicable law and relevant and appropriate rules and regulations governing such access.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations conducted pursuant to—

(A) subsection (a), upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (a), or 1 year after the date of the enactment of this Act, whichever occurs first; and

(B) subsection (b), upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (b), or 1 year after the date of the enactment of this Act, whichever occurs first.

(2) FUNDING INFORMATION.—The report required by this subsection shall indicate to what extent funds are available to the Secretary as of the date of the report for the acquisition of the relevant lands and whether additional funds need to be appropriated or otherwise made available to the Secretary for such purpose.

(d) MANAGEMENT OF ACQUISITIONS.—Any lands within the James Peak Wilderness or the Protection Area acquired by the United States after the date of the enactment of this Act shall be added to the James Peak Wilderness or the Protection Area, respectively, and managed accordingly.

SEC. 5. JAMES PEAK FALL RIVER TRAILHEAD.

(a) SERVICES AND FACILITIES.—Following the consultation required by subsection (c), the Forest Supervisor of the Arapaho/Roosevelt National Forest in the State of Colorado (in this section referred to as the "Forest Supervisor") shall establish a trailhead and corresponding facilities and services to regulate use of National Forest System lands in the vicinity of the Fall River basin south of the communities of Alice Township and St. Mary's Glacier in the State of Colorado. The facilities and services shall include the following:

(1) Trailhead parking.

(2) Public restroom accommodations.

(3) Trailhead and trail maintenance.

(b) PERSONNEL.—The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area described in subsection (a).

(c) CONSULTATION.—The Forest Supervisor shall consult with the Clear Creek County commissioners and with residents of Alice Township and St. Mary's Glacier regarding—

(1) the appropriate location of facilities and services in the area described in subsection (a); and

(2) appropriate measures that may be needed in this area—

(A) to provide access by emergency or law enforcement vehicles;

(B) for public health; and

(C) to address concerns regarding impeded access by local residents.

(d) REPORT.—After the consultation required by subsection (c), the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

SEC. 6. LOOP TRAIL STUDY; AUTHORIZATION.

(a) STUDY.—Not later than three years after funds are first made available for this purpose, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose set forth in section 3(a)(2), a loop trail for mechanized and other nonmotorized recreation connecting the trail designated as "Rogers Pass" and the trail designated as "Rollins Pass Road".

(b) ESTABLISHMENT.—If the results of the study required by subsection (a) indicate that

establishment of such a loop trail would be suitable and feasible, consistent with the purpose set forth in section 3(a)(2), the Secretary shall establish the loop trail in a manner consistent with that purpose.

SEC. 7. OTHER ADMINISTRATIVE PROVISIONS.

(a) BUFFER ZONES.—The designation by this Act or by amendments made by this Act of wilderness areas and the Protection Area in the State of Colorado shall not create or imply the creation of protective perimeters or buffer zones around any wilderness area or the Protection Area. The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area or Protection Area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area or the Protection Area.

(b) ROLLINS PASS ROAD.—If requested by one or more of the Colorado Counties of Grand, Gilpin, and Boulder, the Secretary shall provide technical assistance and otherwise cooperate with respect to repairing the Rollins Pass road in those counties sufficiently to allow two-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40. If this road is repaired to such extent, the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled "Rollins Pass Road Reopening: Attendant Road and Trail Closures", dated September 2001.

SEC. 8. WILDERNESS POTENTIAL.

(a) IN GENERAL.—Nothing in this Act shall preclude or restrict the authority of the Secretary to evaluate the suitability of lands in the Protection Area for inclusion in the National Wilderness Preservation System or to make recommendations to Congress for such inclusion.

(b) EVALUATION OF CERTAIN LANDS.—In connection with the first revision of the land and resources management plan for the Arapaho/Roosevelt National Forest after the date of the enactment of this Act, the Secretary shall evaluate the suitability of the lands managed under the management prescription referred to in section 3(d)(1)(F) for inclusion in the National Wilderness Preservation System and make recommendations to Congress regarding such inclusion.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. MCINNIS) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. MCINNIS).

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1576 introduced by the gentleman from Colorado (Mr. UDALL) establishes the James Peak Wilderness Area, adds to the existing Indian Peaks Wilderness Area, and designates a James Peak Protection Area, all within the Arapaho-Roosevelt National Forest located in the State of Colorado.

As the gentleman from Colorado (Mr. UDALL) knows, I have a particular interest in this piece of legislation. That is because the majority of land impacted by the proposal actually falls within the boundary of the Third Congressional District of the State of Colorado, my district. The area in question is truly spectacular. There is no denying that it deserves special protection. That is something that all sides have agreed on for some period of time. Where there has not been agreement over the years is on the question of actually how and under what congressional designation the James Peak area should be managed.

While Gilpin, Clear Creek and Boulder Counties all fall in the district of the gentleman from Colorado (Mr. UDALL), I have long supported the wilderness designation for these lands within the borders of their counties; Grand County, in my district, has not. Grand County's opposition is the primary reason that this bill did not progress in either the 105th or the 106th Congress. Today, thanks to the good-faith efforts of a number of Members, we have been able to overcome the differences that have stalled this bill in the past and reached a consensus agreement that enjoys wide-spread local support.

The agreement was submitted in the form of an amendment I offered to the bill at full committee markup earlier this year. The compromise is a simple and straightforward one. For those communities that have expressed support for the wilderness designation, my amendment would establish exactly that, wilderness.

For those lands where a local consensus for wilderness has not emerged, the amendment would statutorily lock in the existing management framework as established in the local forest plan, a highly protective regime that will afford substantial protections for this landscape, while allowing certain recreational activities and important other access considerations to continue. This is the protection area.

Within the protection area, the bill includes language protecting access and maintenance rights for existing water facilities in the area, a critical element and an issue that was overlooked in the bill as it was originally introduced. It requires the Federal Government to acquire any new water rights in the protection area under the substantive and procedural requirements of Colorado water law. I repeat, under the substantive and procedural requirements under Colorado water law. It directs the Forest Service to sit down with mountain biking enthusiasts and environmentalists to decide which recreational trails should remain open, and which should be closed.

Finally, it leaves open an opportunity for the Forest Service and the affected local communities to reconsider wilderness designation for the lands in the protection area some time down the road.

Mr. Speaker, I note that the acreage numbers in the bill are estimates, and reaffirm the fact that the map accompanying this legislation is intended to be the controlling statement on the boundary issue. At a subcommittee meeting earlier this year, I promised the gentleman from Colorado (Mr. UDALL) and my friends in the environmental community that if they would support my compromise proposal, I would do everything I could to see that this bill made its way through the House of Representatives before the end of year. With their support in hand, Mr. Speaker, today I fulfill that promise.

In closing, Mr. Speaker, I would like to offer special thanks to the gentleman from Colorado (Mr. UDALL), his staff; Dave Bull and Craig McGuire with the Forest Service; the Grand County commissioners, Duane Daily, James Newberry, and Bob Anderson; the Boulder, Clear Creek and Gilpin County commissioners, especially Web Sill; Steve Smith with the Colorado Sierra Club; Sara Duncan with the Denver Water Board; the Headwaters Trail Alliance; the International Mountain Biking Alliance; Lisa Daly with legislative counsel; and my staff and the Committee on Resources staff.

Mr. Speaker, I salute our former colleague, David Skaggs, who first introduced this measure during the 105th Congress and was very dedicated to the proposition. These people have all put forth a lot of effort and energy into this legislation today. They deserve real credit. I would also like to thank the majority leader and his staff for scheduling this vote.

Mr. Speaker, I urge Members to support H.R. 1576.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this bill. I begin by thanking the chairman of the subcommittee, the gentleman from Colorado (Mr. MCINNIS), as well as the chairman of the Committee on Resources, the gentleman from Utah (Mr. HANSEN), and the gentleman from West Virginia (Mr. RAHALL) for making it possible for the House to be considering it today. In particular, the hard work and leadership of the gentleman from Colorado (Mr. MCINNIS) have been essential, and I appreciate all the gentleman has done in connection with this legislation which will provide additional protection for a key part of the high alpine environment along Colorado's Continental Divide.

Rising to 13,294 feet above sea level, James Peak is a dramatic feature of this part of the front range section of our State. It is a dominant feature in a 26,000-acre roadless area within the Arapaho-Roosevelt National Forest that straddles this part of the Continental Divide. The peak itself was named after Dr. Edwin James, a prominent botanist and journalist with the Stephen H. Long expedition to Colorado way back in 1820.

During that expedition, James became the first Anglo-American to climb a 14,000 foot peak in the continental United States, the one that is now known as Pike's Peak near Colorado Springs. That name, of course, referred to Zebulon Pike, who had earlier seen and described but never climbed that peak.

In fact, historians say Long tried to change the name of Pike's Peak in honor of Dr. James' ascent, but by the time of the Long expedition, the name Pike's Peak was too well established. As an alternative, the more northerly peak, visible from many places in the Denver metro area, was named after Dr. James in the 1860s.

As my colleague has mentioned, the James Peak roadless area includes lands within four counties. Three of those counties, Boulder, Clear Creek and Gilpin, are on the east side of the divide, within Colorado's Second Congressional District. The other, Grand County, is on the western side in the Third Congressional District.

The area offers outstanding recreational opportunities for hiking, skiing, fishing and backpacking. It includes a dozen spectacular alpine lakes, including the Forest Lakes, Arapaho Lakes, and Heart Lake. It is one of the highest rated areas for biological diversity on the entire Arapaho National Forest. It includes unique habitat for wildlife, miles of riparian corridors, stands of old growth forests, and it is home to some threatened and endangered species.

Adding James Peak to the chain of protected lands from Berthoud Pass to the Wyoming boundary will promote movement of sensitive species such as wolverine, lynx, and pine marten, and improve the chances of these and similar species that only thrive in wilderness settings.

Currently, this is the largest wilderness area on the Northern Front Range that has no specific statutory protection. Under current law it is open to mining claims and other developments that can occur on general national forest lands. In my opinion, these roadless lands are eminently qualified for and deserve to be added to the National Wilderness Preservation System, and that is the view of many Coloradans as well.

My predecessor, David Skaggs, introduced a James Peak Wilderness bill, but action on it was not completed. Since my first election to Congress, I have been working to protect the wilderness qualities of the James Peak area. I introduced a bill in the 106th Congress that would have designated about 22,000 acres of the James Peak roadless areas as wilderness, including about 8,000 acres in Grand County.

The proposal was designed to renew discussions for the appropriate management of these lands that qualify for wilderness consideration, and that discussion certainly has taken place. In fact, the bill before us today has been shaped by nearly 2 years of discussions with county officials, interested groups and the general public. The previous bill had broad support. However, after its introduction, the Grand County commissioners, which includes the western side of James Peak, expressed some concerns with the proposed wilderness designation for the land in that county. So I undertook to work with the Grand County commissioners and interested residents of that part of the State.

We held several discussions, including a public meeting in Grand County. After that, the Grand County commissioners put forth a suggestion for designation of a James Peak Protection Area that would include both the Grand County part of the roadless area and additional lands as well. That suggestion is a key part of the bill now before the House.

Mr. Speaker, the bill introduced earlier this year included wilderness designation of about 14,000 acres of the James Peak roadless area in Boulder, Clear Creek and Gilpin Counties. It also included a designation of about 18,000 acres in Grand County as the James Peak Protection Area, and would have added 2,000 acres in Grand County to the Indian Peaks Wilderness Area in accordance with the recommendation of the Forest Service. Within the protection area, there would have been an 8,000 acre wilderness study area. I included the wilderness study provision after the Grand County commissioners indicated that they would not oppose having the Forest Service again review the lands involved for possible wilderness designation.

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They indicated that they were aware that the Forest Service had reviewed this area in the past and could have recommended it for wilderness but did not do so. The commissioners also indicated that if the Forest Service were to review the area again, they would respect that process.

I thought, and still think, that the bill as introduced was a sound, balanced measure that deserved their support and the support of the Congress. However, the bill before us today differs in several ways from the version I introduced earlier. Instead, as it comes to the House, the bill incorporates a number of changes developed through negotiations between the chairman of the subcommittee, the gentleman from Colorado (Mr. MCINNIS), and myself.

One of those changes is that the bill before us does not provide for an immediate wilderness study of any of the lands in the protection area. And there are other changes as well, including an increase in the additions to existing wilderness. In short, this bill is a compromise but it is a good compromise. It does not do everything I would have liked, but it probably does more than some others would have liked. That is what a compromise is all about.

In particular, as I have mentioned, it does not designate as much wilderness as I would have preferred on the western side of the James Peak area. But it also does not preclude the Forest Service from revisiting that issue in the future, and in fact it makes it clear that at least part of these lands on the west side will be reviewed for possible wilderness recommendations.

In any event, some of these lands on the west side, the ones designated in the bill as the James Peak protection area and specifically the "special interest area" lands within this designation, are to be managed by the Forest Service for their pristine and roadless qualities. Furthermore, the present forest plan restrictions for this area are to be locked in place with the additional restrictions prohibiting commercial logging, land exchanges, mining activities, and new recreational trail development.

This "protection area" designation has been designed especially for these lands. It should not be seen as something that necessarily can be applied elsewhere in Colorado or elsewhere as a substitute for wilderness designation where that designation is appropriate. But I think it is appropriate in the way it addresses the management of the lands involved.

On one related point, I want to compliment what my colleague, the gentleman from Colorado (Mr. MCINNIS), also said, it should be noted that it is the intention that the final map and boundary description will make clear that the existing water diversion and impoundment facilities owned by the Denver Water Board and other entities are not within the protection area because the boundary is set back so that these facilities, including an aqueduct, are excluded from the designation. I would also like to take this opportunity to acknowledge and thank all of the people who made this legislation possible. There are too many of them for me to mention them all, and I am deeply grateful for all their contributions; but let me highlight some who made particular contributions:

All of the county commissioners in the four counties, Boulder, Clear Creek, Gilpin and Grand, deserve thanks for their support and input. I want to especially thank Gilpin County Commissioner Web Sill. I would also recognize and applaud the passion and perseverance of the local conservationists who saw the value of these lands early on. These include Bill Ikler of Nederland, Colorado; Kirk Cunningham and Linda Batlin of Boulder, Colorado; Sue Howell of Idaho Springs, Colorado; and Matt Sugar of Winter Park, Colorado.

I also must thank Sierra Club regional representative Steve Smith. Steve was a member of the staff of my predecessor, Congressman David Skaggs, and has been involved in land protection in Colorado for over 20 years. His understanding of the issues as well as his tenacity and diplomacy were indispensable to working out these compromises. Finally, I want to add a special note of appreciation for the work of Doug Young of my staff. His dedication, persistence and expertise were crucial in the process that has brought us to this point.

Mr. Speaker, the James Peak area is indeed special. With the continuing pressure of population growth along Colorado's Front Range, I am concerned that if we do not protect these lands now, we could lose a critical resource for future generations.

In closing, again I want to thank my colleague particularly, the gentleman from Colorado (Mr. McINNIS), the chairman of the subcommittee, for his invaluable assistance and leadership and his friendship. I look forward to working with him in the future when we have the opportunity. I urge passage of this much-needed bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are a couple of points here I would like to make very clear. First of all, there are a couple of other thank-you's I want to make: Josh Penry on my staff, Melissa Simpson and a couple of others in the staff, Christopher and some others, put a lot of effort into this. I understand the gentleman's comment in regards to model. I think this should be a piece of model legislation or legislation on which to model future compromises, the reason being is that this bill required a lot of local effort.

The gentleman from Colorado (Mr. UDALL) was involved at the grassroots level in putting that compromise together. That is the exact kind of model for the future of Colorado that we should look forward to. As the gentleman from Colorado (Mr. UDALL) realizes, between the two of us and our staffs, we were able to go to Colorado and bring these various factions together. Wilderness will never receive further designation in Colorado in my opinion if it is going to be black and white, that clear. It can never be that clear a line. There has to be compromise, and there has to be local support. I think that was recognized by my colleague, the gentleman from Colorado (Mr. UDALL). But I want to make it clear on the record that this should be a model piece of legislation for future discussions in regards to wilderness.

I also want to point out that this bill was introduced in the 105th session and in the 106th session. It never received a hearing. It never got a vote. The reason that it is here on the floor today is because the gentleman from Colorado (Mr. UDALL) and the communities and myself were able to come together. I would hope that as a result of what we saw, the compromise that came here tonight that brought this bill to the floor, we will also see the same kind of, I guess, courtesies, or reciprocation from the gentleman from Colorado (Mr. UDALL) in regards to the Deep Creek wilderness.

As he knows, these bills were close to being companion bills. The Deep Creek bill still has some work in regards to description and so on before we can get it to hearing, but I would hope that my colleague will also put forth his efforts and energies as I did with his bill; I hope he puts the same kind of energy and efforts to making my bill on the Deep Creek wilderness become a reality.

Mr. UDALL of Colorado. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Colorado.

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman for yielding. I wanted to make the statement that I look forward to working with him on the Deep Creek wilderness proposal. Also if I could, I might just point out, I think the process was a model, first and foremost. We brought people together on an ongoing basis. Nobody walked away from the table. We had differences of opinion and differences of approaches over, as he points out, almost a 3-year or arguably a longer period of time given that Congressman Skaggs introduced the bill back in the 105th Congress. But nobody walked away from the process. People were trusting of other people's motives even though there was perhaps a difference in approach and opinion.

I hope that we can bring that model not only to our State, Colorado, but around the West as we continue to have to deal with some of these thorny issues that surround the use of public lands. People operated in good faith. I thank the chairman again for his support and work, and I look forward to working with him in the future.

Mr. McINNIS. I would point out to the gentleman from Colorado that, yes, people were at the table, but it required leadership to get something done at the table. They were willing to sit at the table, they were willing to sit politely and have a discussion; but it took your leadership, it took my leadership, it took the leadership of these county commissioners to come in with this kind of compromise. It also took some resistance on our part for people who at the last minute want to pull off the table or try and squash the deal by always moving the goal posts. I am afraid we are going to see that in Deep Creek. I would hope, as I said, that you would reciprocate with the same kind of leadership that I showed, I think, with your bill, that you would show with my bill. But I think you have done a tremendous job. I also want to commend Mr. Sloss and his efforts. We both live close there.

Mr. UDALL of Colorado. If the gentleman will yield further, if I might, I was remiss in not acknowledging the tremendous staff work on the part of Stan Sloss who anybody who works with the Committee on Resources knows is an institution and is a great resource not just to Democrats but to Republicans as well and is a tremendous resource to all of us. I thank the gentleman for acknowledging Stan Sloss and the great work that he does.

Mr. McINNIS. On a lighter moment, as the gentleman knows, Mr. Sloss' mother was my school teacher many years ago, so I walked the straight line as a result of the lessons I learned from that fine lady.

Mr. Speaker, I ask for favorable consideration of the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JOHNSON of Illinois). The question is on the motion offered by the gentleman from Colorado (Mr. McINNIS) that the House suspend the rules and pass the bill, H.R. 1576, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIVE AMERICAN CULTURAL CENTER AND MUSEUM AUTHORIZATION ACT

Mr. McINNIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2742) to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

The Clerk read as follows:

H.R. 2742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) GRANT.—

(1) IN GENERAL.—The Secretary shall offer to award financial equaling not more than $33,000,000 and technical assistance to the Authority to be used for the development

and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) AGREEMENT.—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Secretary which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Secretary, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) LIMITATION.—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) IN-KIND CONTRIBUTION.—When calculating the cost share of the Authority under this Act, the Secretary shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this Act:

(1) AUTHORITY.—The term "Authority" means the Native American Cultural and Educational Authority of Oklahoma, and agency of the State of Oklahoma.

(2) CENTER.—The term "Center" means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to grant assistance under subsection (b)(1), $8,250,000 for each of fiscal years 2003 through 2006.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. McINNIS) and the gentleman from Oklahoma (Mr. CARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. McINNIS).

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2742 is legislation introduced by the gentleman from Oklahoma (Mr. CARSON) which directs the Secretary of the Interior to grant $33 million in financial assistance grants and technical assistance to the Native American Cultural and Educational Authority for the development of the Native American Cultural Center and Museum in Oklahoma City, Oklahoma. The bill authorizes appropriations to the Secretary of the Interior for $8.25 million for the fiscal years 2003 through 2006.

The committee held a hearing on October 17, 2001, and favorably reported it out of full committee by unanimous consent on November 28, 2001. The Oklahoma delegation, the 39 tribes recognized by the State of Oklahoma and the Oklahoma State legislature all support H.R. 2742.

Mr. Speaker, I respectfully request an affirmative vote on the passage of this important bill for the State of Oklahoma.

Mr. Speaker, I reserve the balance of my time.

Mr. CARSON of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

I would like to begin by expressing my sincere appreciation to Chairman HANSEN of the Committee on Resources, Ranking Member RAHALL and the entire Committee on Resources staff for their leadership and hard work in bringing H.R. 2742 to the floor of the House of Representatives. I would like to especially single out the gentleman from Colorado (Mr. McINNIS) for his leadership on this issue as well as my indispensable aide, Jessica Werner, whose passion for this issue and whose expertise is greater than my own. I rise in support of H.R. 2742, a bill to authorize, as the gentleman from Colorado said, the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma. As an enrolled member of the Cherokee tribe and representing the most Native American district in the entire country, H.R. 2742 and the Native American Cultural Center and Museum planned for Oklahoma City, Oklahoma, carry great significance for me.

The area encompassed by the boundaries of the State of Oklahoma, often referred to as "Native America," has had a special relationship with Indian nations since long before it became a State in 1907. Beginning in the 1820s, the five civilized tribes from the southeastern United States were relocated to Indian Territory over numerous routes, the most famous being the Cherokee Trail of Tears. Forced off their ancestral lands by State and Federal governments, the tribes suffered great hardships during the rigorous trips west. This forced march of eastern tribes to the West under the Indian Removal Act of 1830 is the best known movement of American Indians to what is now Oklahoma. Thirty-nine tribes are recognized by the State, including both tribes forced to Oklahoma and tribes native to the plains.

These tribes collectively and individually have played an invaluable role in the evolution of the State of Oklahoma. Indeed, the culture and history of Oklahoma are inseparable from that of the 39 tribes. Nevertheless, before the creation of the Native American Cultural and Educational Authority of Oklahoma, there has been little statewide effort to recognize the contributions and sacrifices made by the tribes, and no Federal effort in my State.

In 1994, the Oklahoma legislature created the Native American Cultural and Educational Authority to promote the history of Native Americans for the mutual benefit of the State of Oklahoma and its Indian and non-Indian citizens. By that legislation, the authority was authorized and empowered to construct and operate a cultural center and museum on a chosen site in Oklahoma. Since 1994, various entities, including the authority, the State legislature, the Office of the Governor, Native American groups, and a stellar design team have worked together and developed an impressive and extensive plan for the creation of the Native American Cultural Center and Museum in Oklahoma City, which three cities in Oklahoma initially bid for.

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The approximately 300-acre site donated by Oklahoma City where the center will be located will have a Great Promontory, a Court of Nations, a Court of the Wind, a Hall of the People, Permanent and Temporary Galleries, a "Who We Are" Theater, a Multi-Purpose Theater, a Demonstration Gallery, Family Center, Study Center, Discovery Center, a Lodge, Hotel and Conference Center, a Visitor Center and Dancing Grounds.

As an affiliate of the Smithsonian Institute, the museum will be able to rotate exhibits with the Native American Smithsonian Institute being built not far from where I stand here in Washington, enriching both of the museum's collections.

Some of the main goals tied to the creation of the Native American Cultural Center and Museum are, first, to link the past, present and future of Indian Nations and present them to the visitor in a way that he or she can experience and understand fully; second, to preserve and promote the living cultures of Native Americans, in language and history, dance, arts, cultural values and spirituality; and, third, to strive for economic self-sufficiency and to engender the principles of environmental sustainability.

This massive endeavor, representing and promoting all 39 tribes in Oklahoma, is truly awe-inspiring and worthy of Federal financial and technical support. The design team includes Ralph Appelbaum, whose achievements include the United States Holocaust Museum, and Bill Fain, who helped design the TransAmerica Building in San Francisco. The world class team has enjoyed the strong support of Governor Frank Keating of Oklahoma, as well as Senator NICKLES and Senator INHOFE, and Senator CAMPBELL of Colorado, as well as the Oklahoma State Legislature, and the gentleman from Oklahoma (Mr. WATKINS), the gentleman from Oklahoma (Mr. WATTS), the gentleman from Oklahoma (Mr. LARGENT) and the gentleman from Oklahoma (Mr. ISTOOK), to name just a few.

H.R. 2742, as the gentleman from Colorado (Mr. McINNIS) noted, would authorize the appropriation of $33 million over a period of four fiscal years beginning in 2003. However, appropriation of Federal dollars is contingent upon private, city and State sources, accounting for 66 percent of the total cost. Thus, the center is neither wholly dependent upon Federal funds nor given access to Federal funds until a local commitment has been adequately demonstrated.

Nevertheless, Federal funds are necessary and reasonable. Given the Federal Government's significant role, indeed determining role, in relocating many of the 39 tribes now a part of Oklahoma, it seems more than appropriate for the Federal Government to award grants to the Native American Cultural and Educational Authority for the development of this museum, committed to preserving the history and culture of these tribes.

Furthermore, a precedent has been set for the Federal funding of State museums. To name a few examples, from 1986 to 1994, the Steamtown Railroad Museum in Pennsylvania was appropriated more than $80 million in Federal funds. From 1996 to 1997, the Hispanic Cultural Center in New Mexico was appropriated $16 million. Under the Omnibus Indian Advancement Act of the 106th Congress, appropriations amounting to over $18 million were authorized for the Wakpa Sica Reconciliation Place in Fort Pierre, South Dakota.

The construction of this museum and, hence, this legislation, is not only necessary for the preservation of Indian cultures, but carries deep significance in the State of Oklahoma and, I believe, to the Nation too. Felix Cohen, in his landmark treatise on Indian law, remarked that, "like the miner's canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith."

With this bill, in a State formed by the cruelties of our Nation's Indian policy, we build finally a monument to all which has endured. We now celebrate what was once despised, and we now preserve what our Nation for too long tried to eradicate.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Speaker, I thank the gentleman for yielding me time. I want to especially express my appreciation to my colleague, the gentleman from Oklahoma (Mr. CARSON) for offering H.R. 2742. I certainly rise in support of it.

As the gentleman from Oklahoma (Mr. CARSON) mentioned, he is an enrolled member of the Cherokee Tribe. In fact, there are some 67 tribes that originally inhabited what became known as Indian Territory, and now is known as the State of Oklahoma.

Through a chapter in our Nation's history, of which we cannot be proud, we had the Trail of Tears with the movement of Indian Tribes across the country, from eastern parts of the Nation, from Florida and Alabama and other states in the Southeast in particular, moved by the U.S. Government to Oklahoma.

Now we need to recognize what they built there, what they established under adverse conditions, in a good land but not the land that was originally theirs, but the land that became theirs. It is fitting and proper that the Federal Government participate in establishing this center about the education, the culture and the history of the Tribes that were moved across the country to become the homeland of now the State of Oklahoma.

Mr. Speaker, this legislation, which is supported by the Tribes to preserve their heritage in the lands which became theirs, is a partnership piece of legislation. It states that the money to be provided by the Federal Government will be matched two-to-one by funds being provided by State and local and private sources.

Indeed, the State legislature has already appropriated $6.5 million. There has been a grant of land from the City of Oklahoma City of some 300 acres, in the prime location where Interstates 40 and 35 come together next to downtown Oklahoma City on the banks of the North Canadian River. In that prime location will be erected the proud monument and preservation of the history and culture of the Indian Tribes that inhabited so much of the country and came to rest in the State of Oklahoma.

Private donations are being solicited. We are not asking for the Federal Government to assume the cost of operating this. We are not asking the Federal Government to even bear the lion's share of the funding for this. We are saying that State, local and private sources will provide two-thirds of the funding, and the Federal Government is only being asked to provide one-third. That is more than fair, Mr. Speaker, and it is just that we provide this funding, that we authorize it today, and appropriate it over this 4-year period, as the bill calls to be done.

I want to express my appreciation for the partnership of the many people and several Indian Tribes involved in this, the civic leaders in the city of Oklahoma City, the State legislators. I want to single out one member of the State legislature in particular, State Senator Enoch Kelly Haney, a Native American who was responsible for much of the vision regarding this center. In fact, he is also an artist. He is a sculpture. He is donating his work of the statue of a Native American to be the new statue atop the new dome being put on the Oklahoma State Capitol.

I also want to express appreciation to Governor Bill Anaotubby of the Chickasaw Nation, Principle Chief Perry Beaver of the Muscogee Creek Nation, Former Chief Joe Byrd of the Cherokee Nation, Former Chief Elmer Manatowa of the Sac & Fox Nation, and Dr. Bud Sahmaunt of the Kiowa Tribe. They have all served on the Board of Directors of the Native American Cultural and Educational Authority and have been involved in the planning for this museum.

I again want to express my special appreciation to my colleague, the gentleman from Oklahoma (Mr. CARSON), for sponsoring this legislation, knowing that it is not just a matter of things that are important to the people in his district, but also that are important to the people throughout the State of Oklahoma and to the preservation of Native American history and culture for people throughout the United States of America as well.

AMENDMENT OFFERED BY MR. MCINNIS

Mr. McINNIS. Mr. Speaker, I ask unanimous consent on page 2, line 21 of the bill, that the word "assistance" be inserted after the word "financial."

The SPEAKER pro tempore (Mr. JOHNSON of Illinois). Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. McINNIS. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS of Oklahoma. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, first I would like to express my thanks to the gentleman from the Second Congressional District of Oklahoma (Mr. CARSON), for his tremendous work in this area of Native Americans and also on this particular bill. He has done a great job putting this bill together, bringing it to light and moving it forward to where we are tonight.

I am delighted to be a cosponsor with the gentleman and with other Oklahomans. It is so fitting that this museum honoring the Native Americans be in Oklahoma City. To a lot of people, they may not realize that the word "Oklahoma" means "red man," and that in Oklahoma we have more Native Americans per capita than any other State in the Nation. We have one of the largest populations, of course.

I am delighted to say that, even in my own family, that I have a child that is part Cherokee. I also have grandchildren that are part Cherokee and part Creek, two of them are part Creek, so in our family we have a lot of discussions from time to time about the various cultural activities and other things that we feel like need to be done for the socioeconomic conditions of Native Americans.

Mr. Speaker, I myself have grown up with and among the Choctaw Indians. I am always delighted to say I was the only non-Native American on the baseball team when I was growing up, and also the only non-Native American on the basketball team in my little hometown of Bennington, Oklahoma, which was one of the early-time headquarters of Native Americans and one of the largest populations of Native Americans of Choctaw background.

In my immediate family, I spent probably more time with the Native American families, spending nights there and spending many days working in their culture and understanding the culture of the Native Americans in my district.

But we have longed for the time, I think, where we should hold up and honor the Native Americans for their tremendous sacrifice, for their tremendous contributions, not only to our State of Oklahoma, but to this Nation and to really our freedoms that we enjoy today. Probably there is no one any more American that feels the patriotism of being American than our Native American brothers and sisters.

So, for this particular legislation to come forth concerning this Native American museum, to hold this up, I want to commend my good friend, the gentleman from Oklahoma (Mr. CARSON) for his efforts. I am sincere about that, what the gentleman is doing along these lines.

So without anything else, I would like to say I appreciate the time of the chairman. I know, Mr. Chairman, in Colorado you have a lot of Native Americans in your fine State also.

I rise today in support of H.R. 2742. This legislation will authorize a grant for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma. I thank the gentleman from Oklahoma, Brad Carson, for his work on behalf of Native Americans and also for offering this legislation that I am proud to co-sponsor.

Oklahoma has one of the largest American Indian populations of any state. Currently, Oklahoma is home to 39 recognized Indian Tribes. We are very proud in Oklahoma of our Native American heritage. In fact, Oklahoma means "red man." I know from my personal experience Native Americans in my area of Oklahoma make a major contribution to the state.

In 1994, the Oklahoma Legislature created the Native American Cultural and Educational Authority (NACEA) "to promote the history and culture of Native Americans for the mutual benefit of the state of Oklahoma and its American Indian and non-Indian citizens." That legislation authorized the NACEA to construct and operate a Cultural Center and Museum on a chosen site in Oklahoma City. I know the Center will promote the proud history and culture of Oklahoma Native Americans.

I want to again thank my colleague for his tremendous work and role in bringing this legislation to the floor and urge passage of this important bill.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might add, Native Americans are well protected by the gentleman from Oklahoma (Mr. WATKINS) in Oklahoma as well. He watches out for all of them.

Mr. Speaker, I ask for favorable consideration of the bill.

Mr. LARGENT. Mr. Speaker, I rise today encouraged by the congressional support for the Native American Cultural Center and Museum to be built in Oklahoma City. Oklahoma, which boasts the highest Native American population in this country, has long needed a starting point from which to guide interested persons through our rich history. I believe that travelers passing through Oklahoma's crossroads will now encounter a facility so reflective of our State heritage, that their curiosity will be piqued. It is my hope that education and healing will occur as the pains and triumphs of our people are experienced on the grounds of this meeting place.

The Center's central location will not only benefit the heart of our people, but will also spur on the Oklahoma economy by providing new opportunities for Native American entrepreneurs and other local businesses. Furthermore, travelers will have a great place to begin their study of the intriguing native people who have ancestral roots throughout our nation. I believe in this way, visitors will experience the true Native America.

It is always wise to build upon existing strengths. It is obvious that Oklahoma's strength lies in the incredible people who have shaped its history. I look forward to the new strengths to be revealed through the creation of this native American center.

Mr. KILDEE. Mr. Speaker, as Co-Chair of the Congressional Native American Caucus, I rise in strong support of H.R. 2742, a bill that authorizes the Secretary of Interior to award financial assistance grants and technical assistance grants to the Native American cultural and educational authority for the construction of a Native American cultural center and museum in Oklahoma City, Oklahoma.

The bill authorizes a Federal appropriation of $33 million over a period of four fiscal years beginning in 2003. The Federal appropriation, however, is contingent upon private, city and State sources accounting for 66 percent of the total cost of the project.

Mr. Speaker, support for a Native American Cultural Center and Museum in a state that has one of the largest Native American population of any state is long overdue. This bill has the bipartisan support of the Congressional Native American Caucus, the Oklahoma Congressional Delegation and the State's elected officials too.

Mr. Speaker, I ask my colleagues to support this bill.

Mr. RAHALL. Mr. Speaker, I want to congratulate our colleague, BRAD CARSON of Oklahoma, for all his hard work and sponsorship of H.R. 2741.

Promised as the original Indian Territory, the State of Oklahoma has clearly been enriched through its Indian heritage from the Trail of Tears which moved eastern Indian tribes into the state, through the settlements of the Oklahoma Sooners, to the 39 tribes living within its border today.

It is truly a story worth telling and I look forward to one day visiting the Native American Cultural Center and Museum we are authorizing today.

Mr. CARSON of Oklahoma. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. MCINNIS) that the House suspend the rules and pass the bill, H.R. 2742, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCINNIS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the 3 bills just considered, H.R. 38, H.R. 1576 and H.R. 2742.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

BASIC PILOT EXTENSION ACT OF 2001

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3030) to extend the "Basic Pilot" employment verification system, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Basic Pilot Extension Act of 2001".

SEC. 2. EXTENSION OF PROGRAMS.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking "4-year period" and inserting "6-year period".

SEC. 3. EFFECTIVE DATE.

The amendment made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3030.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Immigration Reform and Control Act of 1986 made it unlawful for employers to knowingly hire or employ aliens not eligible to work and required employers to check the identity and work eligibility documents of all new employees. Under this Act, if the documents provided by an employee reasonably appear on their face to be genuine, the employer has met its document review obligations.

The easy availability of counterfeit documents has made a mockery of the Immigration Reform and Control Act.

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Fake documents are produced by the millions and can be obtained cheaply.

Congress responded to this dilemma in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by instituting employment eligibility confirmation pilot programs for volunteer employers that were to last for 4 years.

Under the basic pilot, the Social Security numbers and alien identification numbers of new hires are checked against Social Security Administration and Immigration and Naturalization Service records in order to weed out documents containing counterfeit numbers and real numbers used by multiple individuals. Operation of the pilot program commenced in November of 1997 and expires this month.

The 1996 Act required that the INS provide a report to Congress on the operation of the pilot programs within 3 months after the end of the third and fourth year in which the programs are in effect. The reports were to, one, assess the benefits of the pilot programs to employers and the degree to which they assist in the enforcement of the rules regarding the employment of aliens; and, two, to include recommendations on whether or not the pilot program should be continued or modified.

The INS has not complied. That is no surprise. The agency provided Congress with no report after the third year of operation of the basic pilot program, despite being mandated to do so by law, and there is no assurance that one will be provided within the time limits specified by law after the fourth year of operation. The INS' failure to obey the law and to provide the reports as required by law is unfortunately a frequent failing of this agency. It can only be hoped that once the immigration functions of the Justice Department are restructured and the INS is abolished will such negligence and/or malfeasance be a thing of the past.

In any event, Congress must now decide upon the reauthorization of the basic pilot program in the absence of the agency reports, required by law, on the program. We have received word from industry implementing the basic pilot program that it has been a great success and that industry representatives favor a 2-year extension of the program.

The committee has received no adverse comment regarding the basic pilot program. In light of the continuing relevance of the original goals of the basic pilot program, and the evidence of its successful operation, we all should support a 2-year extension. H.R. 3030, introduced by our colleague, the gentleman from Iowa (Mr. LATHAM), provides that extension.

I can only hope that when we are again called upon to consider the merits of this pilot program we will have in hand an evaluation of the program's operation from the Justice Department. The INS is supposed to enforce the law. The Justice Department is the agency in the executive branch to ensure that the law is being enforced; and unfortunately, the law is not being complied with, and the reports we asked for in 1996 by law have not been submitted by the Immigration and Naturalization Service.

I urge my colleagues to support H.R. 3030; and let me say that I hope at the end of 2 years the immigration service will read laws passed by Congress and signed by the President so that once again the Congress is not put in this embarrassing situation of legislating without required reports.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

I rise with great enthusiasm on supporting the extension with respect to H.R. 3030, a bill to extend the basic pilot employment verification system. I would imagine if we were to take a survey of all of the legal immigrants in the United States, we would find a minuscule proportion engaged in any illegal and/or terroristic activities. However, since September 11, a new page has been turned as relates to immigration laws and those who are immigrants.

Congress created the program that we speak of tonight as part of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 to help employers comply with laws that bar them from knowingly hiring ineligible workers. I would venture to say that most Americans would agree that it is important to assure that as employers are hiring, that they have the necessary information to hire those who are here in the United States legally.

At the same time, I believe that under the leadership of our new Commissioner Ziglar that we will also begin to be able to confront issues of terrorism and those who would promote it, would come into this country illegally, and separate that from the necessity of improving our immigration laws overall and addressing those individuals that want to access immigration legally with dignity.

I am supporting this legislation, but I hope as well this House and the other body will be able to move forward to address a number of issues that have been put on the table. As a co-chair of the Democratic Task Force on Immigration, I hope we will be able to look at the issue of family reunification, earned access to legalization, increase our review of border safety and protection, look at the enhanced temporary worker program; and yes, I think it is important to end unfair discrimination against legal immigrants.

As my colleagues know, in this instance, this particular pilot bill, the Congress is exploring new ways and methods and techniques to assure the security and integrity of the way in which we admit and track aliens who apply for nonimmigrant visas. We do live in dangerous times, as I have already noted.

This bill is extending a pilot program that will improve and ensure integrity in the employment verification process. I believe that this is a process that no one disagrees with. Those who want to access legalization, those who want to support family reunification, and certainly those legal immigrants who are seeking employment, they have their documentation and they have no problem with the employers verifying that documentation.

This bill introduced by the gentleman from Iowa (Mr. LATHAM) extends the basic pilot employment verification point under expedited procedures. The basic employment verification system is a program that many companies use to ensure that new companies are legal. This program is a voluntary electronic employment verification system which allows employers to verify I–9 documents. Companies with facilities in any of the pilot States may use the verification program throughout all of their facilities, including States outside the program. That is a very important aspect of this particular legislation.

Approximately 2,000 employers are presently using the basic pilot program, which creates a very valid data processing system that allows accuracy in access to determine if the individual that they want to hire, the person that is presenting themselves as a legal immigrant, has the documentation and does have the required legal documentation.

In title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Congress authorized the Immigration and Naturalization Service to conduct voluntary pilot programs that allow these participating employers to access by computer certain governmental databases for purposes of new employment verification. This program allows employers signing a memorandum of understanding with the INS to query an INS Social Security Administration database regarding the work authorization status of a new employment applicant instead of simply recording and retaining the number of documents that such applicants choose to submit.

The basic pilot program provides greater ease of verification for employers and employees and greater deterrence of the use of fraudulent INS and SSA documents. We need a system like this system-wide in the INS in order to be able to address the differentiation between those who want to access legalization rightly and those who want to be in this country illegally.

Industries, such as meat packing and food processing, have stated an interest in cooperating with the INS to maximize its ability to assure its interests in cooperating with the INS in order to make sure that their workforce is authorized. Many believe that while the program does not provide 100 percent deterrence of persons seeking unauthorized employment, it is far superior to the current practice of recording I-9 forms, the number of documents physically presented by new employees.

This gives something for the employers to rely upon. This puts the onus and responsibility on the INS to have a database on which they can rely. This moves immigration into the 21st century.

I support this legislation because it is needed, because section 401(b) of the 1996 Act states that the Attorney General shall terminate the pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect. H.R. 3030 extends the life of the program by 2 years, from 4 years to 6 years, giving us, as the chairman indicated, additional data so that we can again respond to those who wish to access legalization and as well maintain legal documentation and be in this country as we would want them to be in a country that believes in the diversity as well as the responsibility of those who seek access to legalization in treating them fairly.

This pilot program enhances the current I-9 form employment verification process by providing employers with greater assurances that they are not hiring unauthorized aliens and by establishing larger obstacles to aliens seeking to work illegally, but thereby rewarding those who seek to access the right documentation and to follow the laws of this Nation.

Again, I hope that we will support this legislation. We are a country of immigrants and a country of laws.

Mr. Speaker, I am gratified to be here today to vote on a bill that will improve the employment verification process. As you know, the Congress is exploring new ways, methods, and techniques to ensure the security and integrity of the way in which we admit and track aliens who apply for non-immigrant visas. We do live in dangerous times. This bill is extending a pilot program that would improve and ensure integrity in the employment verification process.

This bill, introduced by Congressman TOM LATHAM, extends the Basic Pilot employment verification program under expedited procedures. The Basic employment verification system is a program that many companies use to ensure that new companies are legal. This program is a voluntary electronic employment verification system, which allow employers to verify I–9 documents. Companies with facilities in any of the "pilot" states may use the verification program throughout all of their facilities, including states outside the program. Approximately 2,000 employers are presently using the Basic Pilot Program.

In Title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Congress authorized the Immigration and Naturalization Service to conduct voluntary pilot programs that allow these participating employers to access by computer certain governmental databases for purposes of new employment verification. This program allows employers signing a memorandum of understanding (MOU) with the INS to query an INS-Social Security Administration (SSA) data base regarding the work-authorization status of new employment applicants, instead of simply recording and retaining the numbers of documents that such applicants chose to submit. The Basic Pilot Program provides greater ease of verification for employers and employees and greater deterrence of the use of fraudulent INS and SSA documents.

Industries such as meat packing and food processing have stated an interest in cooperating with the INS to maximize its ability to ensure its interest in cooperating with the INS to maximize its ability to ensure its workforce is authorized. Many believe that while the program does not provide 100 percent deterrence of persons seeking unauthorized employment, it is far superior to the current practice of recording in I-9 forms the numbers of documents physically presented by new employees.

I support this legislation because it is needed because Section 401(b) of the 1996 Act states that "the . . . Attorney General shall terminate a pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect." H.R. 3030 extends the life of the program by two years, from four years to six years. This pilot program enhances the current I-9 form employment verification process by providing employers with greater assurances that they are not hiring unauthorized aliens and by establishing larger obstacles to aliens seeking to work illegally. I support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers, and I am prepared to yield back if the gentlewoman from Texas (Ms. JACKSON-LEE) does the same.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let me just conclude by simply adding that I hope as we pass this legislation we will be able to as well bring to finalization 245(I) that helps with family unification; that we will realize that immigration issues are separated from those who would promote and do harm to the United States versus those who are hungry to be in a country that provides opportunity and democracy.

I would hope that we would look to the issues of earned access to legalization as we look to border safety and protection, work of the enhanced temporary worker program and continue to work against unfair discrimination against legal immigrants as we look to put this country on sure footing, fighting the terrible terrorists, but as well recognizing the value of immigrants who have come to this country and contributed with hard work and sincere commitment to our values and our principles.

I ask that my colleagues support H.R. 3030.

Mr. LATHAM. Mr. Speaker, today I rise to commend the judiciary committee on a job well done and ask for the expedient passage of H.R. 3030, a bill to extend the basic pilot employment verification program. This bill will reauthorize the recently expired program for an additional two years at minimal cost to the government.

H.R. 3030 will further the aims of this body by encouraging greater cooperation between industry and the federal government—something I believe my colleagues on both sides of the aisle can support.

This program, originally the brain-child of my good friend Representative KEN CALVERT, allows eligible employers to use a joint Immigration and Naturalization Service (INS)—Social Security Administration (SSA) database to verify that prospective employees are employable under existing law. Furthermore, it has the desirable effect of providing greater ease of verification for employers and greater deterrence to those who would fraudulently use legal documents.

Currently used by approximately 1,758 companies in the states of California, Florida, Illinois, Nebraska, New York, and Texas, as well as facilities owned by these companies in states not explicitly covered, this program has been beneficial to industries ranging from meat packing to direct mail.

As we continue to debate INS reform, I believe it is incumbent upon us that we reauthorize programs that have been successful and recognize these programs as the model for such future efforts.

Mr. CALVERT. Mr. Speaker, I stand today in strong support of this important legislation. In 1994, during my first term in Congress I introduced a bill to create a system now known as the Basic Pilot Program. Representing a district very close to the U.S./Mexico border, I heard from many INS agents dissatisfied with the tools they were given to track illegal immigrants and from employers who wanted a way to verify the employment eligibility of prospective employees. As we discussed the means to develop such a system, one idea that kept cropping up was a simple 1–800 telephone number that businesses could use to verify the Social Security numbers of people they had hired.

In 1996, I was successful in getting the Basic Pilot Program included in the Immigration Reform Act and I am pleased that companies across the country are now using the toll free verification line. I applaud my friend from Iowa for moving to extend the program. Now, more than ever, it is clear that we need to provide tools that will help the INS track people in this country illegally.

Even while this program continues, we will be working together to ensure that the INS meets the requirements of the 1996 law. I have asked INS to complete their report on the Basic Pilot Program and will work with the Service, the gentleman from Iowa and the Chairman of the Committee on ways to improve and expand the program to all fifty states.

Again, I would like to thank the gentleman from Iowa for introducing this key legislation and would urge all my colleagues to vote for its passage.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I also yield back the balance of my time.

The SPEAKER pro tempore (Mr. JOHNSON of Illinois). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3030, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to extend the basic pilot program for employment eligibility verification, and for other purposes.".

A motion to reconsider was laid on the table.

ANTI-HOAX TERRORISM ACT OF 2001

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3209) to amend title 18, United States Code, with respect to false communications about certain criminal violations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Hoax Terrorism Act of 2001".

SEC. 2. HOAXES AND RECOVERY COSTS.

(a) PROHIBITION ON HOAXES.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1036 the following:

"§ 1037. False information and hoaxes

"(a) CRIMINAL VIOLATION.—Whoever engages in any conduct, with intent to convey false or misleading information, under circumstances where such information may reasonably be believed and where such information concerns an activity which would constitute a violation of section 175, 229, 831, or 2332a, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) CIVIL ACTION.—Whoever engages in any conduct, with intent to convey false or misleading information, under circumstances where such information concerns an activity which would constitute a violation of section 175, 229, 831, or 2332a, is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

"(c) REIMBURSEMENT.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses. A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses. An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding after the item for section 1036 the following:

"1037. False information and hoaxes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. SCHIFF) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3209, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

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Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3209 would impose civil and criminal penalties to deter and punish a person or persons for perpetrating a hoax that others could reasonably believe is or may be a biological, chemical, nuclear attack, or an attack using some other type of weapon of mass destruction.

Mr. Speaker, today is a very important day to this Nation in many respects. It has been 3 months since New York and the Pentagon were turned into Ground Zero and our national innocence was shattered. Since that time, anthrax and the U.S. mail have become synonymous; monthly Federal warnings about new terrorist attacks have become expected; and a heightened level of alertness on the part of the American people has become necessary.

In the wake of September 11, 2001, and the anthrax attacks, the news media has graphically described the likely devastation caused by chemical, biological, or nuclear attacks on our citizens and on our country. America is in a state of high alert, and this has brought both apprehension and new responsibility.

Due to these concerns, Americans are responsibly reporting suspicious behavior and events to the authorities. This is necessary to protect our country and our freedoms. Unfortunately, while our emergency responders and law enforcement are stretched to the limits responding to real threats, they have had to respond to an increased number of hoaxes. These hoaxes are not meant to be funny; rather, they are meant to terrorize and to frighten.

These hoaxes distract Federal, State, and local law enforcement, criminal investigators, and emergency responders from real crises and real threats. As a result, they place both the public and our national security at risk.

Amazingly, the criminal code does not always cover such crimes. While under current law it is a felony to commit a hoax with regard to tampered food products, it is not necessarily a felony to commit a hoax that scares the public into believing that they have been exposed to a deadly disease such as anthrax, a disease that has been militarized and used to kill innocent Americans since September 11.

H.R. 3209, the Anti-hoax Terrorism Act of 2001, closes the existing gap. This is important and necessary legislation, as it will make it a felony to perpetrate a hoax related to biological, chemical, nuclear, and weapons of mass destruction attacks. The person or persons committing such a hoax will be subject to civil and criminal penalties and responsible for reimbursement of any emergency or investigative expense due to the hoax.

The Department of Justice and the FBI have testified before the Subcommittee on Crime and made it clear that these types of hoaxes threaten the health and safety of the American public and our national security.

Mr. Speaker, I urge my colleagues to support this bill, and I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership on this issue, and I would also like to extend my appreciation to the chairman of the Subcommittee on Crime, the gentleman from Texas (Mr. SMITH), for introducing this bill and for all of his leadership on this issue.

I am proud to serve as a member of the Subcommittee on Crime where the bill was first heard, and also to be a cosponsor of H.R. 3209.

Mr. Speaker, our communities are struggling every day to meet the demands of our citizens and prepare for all kinds of potential terrorist attacks. They are working around the clock to develop and strengthen protocols to respond swiftly and safely in the event of an attack.

But our communities are doing all of this with very limited resources. Every time a threat is identified, authorities spring into action, donning protective gear, bolstering hospital staffing, coordinating local, State, and Federal efforts, and calling upon additional law enforcement personnel to respond.

These reports from our citizens are critical. We certainly want to encourage people to continue to be vigilant and report suspicious activity. A false alarm, however, is a false alarm. But every time a suspected threat turns out to be a hoax, it costs the taxpayers an enormous amount.

In Los Angeles, a man who phoned in an anthrax threat because he wanted to avoid appearing in bankruptcy court that day, his call succeeded in shutting down the court and the courthouse, and cost taxpayers $600,000.

In addition to closing down the very functioning of government, it is a tremendous waste of our precious resources. The resources that could be going into prevention and training are wasted. The manpower that is required to respond to a hoax is wasted. The funding that could be used to hire additional emergency personnel is wasted.

While millions of dollars are going into the effort to combat terrorism, we frankly do not have a dollar to waste. We simply cannot allow reports that come from hoaxes to clog up the investigation of other potentially life-threatening dangers. Our citizens need to be acutely aware that hoaxes have consequences. It shakes our sense of safety; the fear that many citizens are struggling to cope with continues to grow as a result of hoaxes; there are financial consequences; and there are community consequences. There ought to be criminal consequences.

The Anti-Hoax Terrorism Act of 2001, H.R. 3209, would create criminal and civil penalties for falsely reporting a chemical, biological, or nuclear threat. This would include threats that are in written or verbal form, as well as those communicated through physical actions. It is legislation that should not be necessary, but, regrettably, is certainly needed now. Those who would prey on the fears of the American public should be punished.

As America works to regain its footing and return to as much of a normal life as possible, hoaxes only serve as a cruel joke on the American public. Those who would commit the ultimate prank on this Nation must be aware that they are, in effect, serving as accomplices to terrorism. They are interrupting murder investigations, and they are obstructing justice.

According to the FBI, there are an estimated 7,000 agents spread out across the country investigating possible sources and suspects in the anthrax attacks. Can we really afford to have even one of those agents pulled off the killer's trail because of a hoax?

Mr. Speaker, we cannot allow these hoaxes to go unchallenged. We do not have a minute to waste, we do not have a dollar to waste, we do not have an investigator to waste, we do not have a citizen to waste. The time for anti-hoax legislation is now. I urge the House to adopt the strongest possible measure.

Again, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Texas (Chairman SMITH) for bringing this bill to the floor today.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a good bill. I rise to support this legislation.

I met with my emergency first responders a few days after September 11 and then sometime after the beginning of the anthrax scares around the Nation. The hazardous materials team in my Houston Fire Department in just a couple of days had some 75 calls of individuals who thought they saw or thought they were reporting the sight of anthrax.

Those are innocent calls, but they do take up a lot of the resources of our first responders and our community resources. Those individuals, however, should not be prosecuted.

My concern with this legislation is to ensure that that does not happen. I am hoping that the legislative history and the debate in the committee will make it clear that our intent in this legislation is to ensure that those with criminal intent, to do harm by calling in hoaxes and frightening communities, should be punished. I agree with that.

I offered an amendment, however, to be sure that that was the case; that the hoax would be perpetrated with malicious intent. That amendment was not approved, but I believe there was sufficient discussion in the committee to suggest that those that we are attempting to prosecute are those with criminal intent.

For example, we would hope that the incident of a local prosecutor in Chicago who recently placed an envelope containing sugar on a colleague's desk, who was administratively punished by being forced to resign from his job, would not be subject to this particular legislation. The prank demonstrates poor taste and bad judgment, but he should not be subject to Federal prosecution.

Likewise, our youth should not be subject to Federal prosecution if they are engaged in a prank, of course, that we would not approve of, but certainly that did not have the criminal intent.

I think it is important, Mr. Speaker, that as we move through these very trying times, that we can be aware that we can balance legislative intent with protecting Americans. I hope that this House will have an opportunity to address some of the executive orders that deal with the violation of the sixth amendment that allows the Justice Department to listen in on those who are addressing or having a relationship with their attorney.

At the same time, I hope we will be able to address the question of the thousands of detainees who are being detained by the Justice Department, and I hope we will also have an ability to address in this House military tribunals. We can protect Americans, provide legislation that makes sense, and at the same time, uphold our Constitution, our Bill of Rights, and our values.

I support the Anti-Hoax Terrorism Act of 2001. It is a well-thought-out bill. It has had hearings in the Committee on the Judiciary. I think we need to do more as it relates to other offerings of legal representations that have not had the oversight of the United States Congress.

Mr. Speaker, I rise in support of H.R. 3209, the Anti-Hoax Terrorism Act of 2001. I feel this bill could have been more narrowly tailored as it went through the Subcommittee on Crime, and subsequently the full Committee on the Judiciary. However, in light of the exponentially increasing amounts of bioterrorism threats that have occurred since September 11, I strongly favor a Federal anti-hoax provision now more than ever.

H.R. 3209 creates a Federal criminal penalty and a civil cause of action for anyone who conveys intentionally any false information about a threat involving biological, chemical, or nuclear weapons or weapons of mass destruction.

Mr. Speaker, the purpose of this bill should not be to prosecute innocent mistakes or someone making a report concerning a suspected substance, but rather to deliberate and malicious hoaxes reported by individuals who know they are disseminating false information.

In Committee, I offered an amendment that would require the government to prove that the hoax was perpetrated with "malicious" intent. This requirement would have been analogous with the mens rea requirement of similar legislation introduced in the Senate by Senator LEAHY, Chairman of the Senate Committee on the Judiciary.

H.R. 3209, as written, does not require that the offenses be committed with malicious intent. This could result in Federal prosecutions of individuals who simply disseminate erroneous information about potential acts of terrorism.

Also subject to Federal prosecution under this bill would be incidents that amount to nothing more than mere jokes. A local prosecutor in Chicago recently placed an envelope containing sugar on a colleague's desk. He was administratively punished by being forced to resign from his job. While I believe this prank demonstrates poor taste and bad judgment, this should not be subject to Federal prosecution.

The language in my amendment would have given prosecutors a means to distinguish between a person who is actually threatening to use anthrax on a victim on one hand, and a person who never intends to use it, but truly wants the victim or police to think they have done so. The latter is what we are trying to prevent.

My colleagues on the other side have said we should simply "trust" and "have hope" that Federal prosecutors will exercise their discretion and avoid prosecuting hoax cases. I don't believe we should rely on a "hope" for good judgment and discretion when this bill could have been more narrowly tailored to avoid capriciousness.

Nevertheless, Mr. Speaker, especially in this time of national crisis, I support the effort to punish people who perpetrate hoaxes involving biological, chemical, or nuclear materials or other weapons of mass destruction. We must act immediately to provide law enforcement with the tools it needs to address this problem.

Mr. SMITH of Texas. Mr. Speaker, as Chairman of the Subcommittee on Crime, I support H.R. 3209, the "Anti-Hoax Terrorism Act of 2001," a bipartisan bill I introduced along with Chairman SENSENBRENNER and ranking Members Mr. CONYERS and SCOTT.

Tragically, some have used the shadow of fear cast by the September 11th and the subsequent anthrax attacks to terrorize others with hoaxes of biological and chemical attacks.

The purpose of H.R. 3209 is to address this serious and growing problem. Under current law, it is a felony to perpetrate a hoax such as falsely saying there is a bomb on an airplane. It is also a felony to communicate a threat over interstate commerce threatening personal injury to another.

However, if the hoax pertains to a biological or chemical weapons attack instead of a bomb or does not contain a specific threat, then the law may not apply. This is clearly a gap in existing law that must be closed.

If someone places white powder on a computer with a note that "this is anthrax" or send white powder through the mail, such conduct may cause panic but not violate Federal law: And no federal law is violated when the government spends time, money, and effort responding to such hoaxes. But public safety is threatened when resources are diverted from investigating legitimate threats.

This legislation makes it a felony to perpetrate a hoax related to biological, chemical, and nuclear attacks. If a hoax causes a hospital to be evacuated, people could die; if a hoax causes a business to close, people could lose their jobs; and if a hoax preoccupies law enforcement officials, the public is denied protection from other crimes.

A hoax of terrorism threatens public safety and national security, overburdens law enforcement officials and emergency workers and chips away at the Nation's morale.

As we are reminded today, the three-month anniversary of the attacks against the World Trade Center and the Pentagon, America is engaged in a war on terrorism. Those who rely on fear as a weapon, should be held responsible for their actions.

H.R. 3209 imposes criminal and civil penalties that reflect the serious nature of these hoax crimes.

I urge my colleagues to support H.R. 3209.

Mr. BRADY of Texas. Mr. Speaker, I would like to express my strong support for H.R. 3209, "The Anti-Hoax Terrorism Act of 2001." I am a co-sponsor of this important and necessary legislation which was introduced by my good friend and fellow Texan, LAMAR SMITH and is a step in the right direction. Making it a felony to perpetrate a hoax related to a biological, chemical or nuclear attack and making those who engage in this conduct liable for the expenses caused as a result of their fraudulent action brings these criminals to justice and makes them responsible for their terrible actions. It is important that our nation address this issue so that those misguided individuals who choose to perform such fraudulent acts are prosecuted to the fullest extent of the law and those that consider performing these same acts are deterred from doing so.

I know from first hand experience how costly these fake anthrax hoaxes can be. On October 15th, The Memorial Hermann Hospital, in my hometown of The Woodlands, Texas, was closed for several hours after a false anthrax scare. Sandee Sherf, a resident of Magnolia, Texas and a constituent of the 8th Congressional District, received a strange package at her place of business. When she opened the package, a white substance flew up in her face and she was exposed. She immediately went to the emergency room at Memorial Hermann, where the emergency room subsequently shut down for about five hours as a precautionary measure.

Fortunately, the tests for the substance suspected of being anthrax proved to be negative but the cost of responding to this false incident has proved to be costly financially and in other ways. The Federal Bureau of Investigation and the Shenandoah Police Department both expended valuable man hours investigating this incident. The Woodlands Fire Department had to decontaminate the entire area where the incident occurred and the emergency room where Ms. Sherf went for treatment. Most disturbing was the fact that Memorial Hermann Hospital had to withhold its valuable services from the community for several hours while decontaminating its facilities. Patients in need of medical treatment with real illness were turned away and had to go seek treatment many miles away just so the emergency responders could properly decontaminate the facilities to ensure the public's safety. What a tragedy it would have been if someone with a real emergency had perished because Memorial Hermann had been closed and couldn't offer its help.

Regrettably, the same thing that happened in The Woodlands is happening in other areas of our country. The FBI reported that between October 1st to October 15th, their agency had received more than 2,300 reports of incidents or suspected incidents involving anthrax. We cannot afford in these trying times to have the valuable resources of our police agencies being wasted in dealing with these hoaxes. These false claims have become a serious headache for law enforcement officials, who are overwhelmed with calls from worried Americans concerned about possible anthrax contamination.

It is for these reasons that I co-sponsored this valuable legislation and fully support its passage here in the House of Representatives. We, as Americans, cannot afford to continue to waste valuable time and resources fighting these hoaxes when they can be used for better purposes such as making sure our communities across our nation are safe from true terrorist attacks in the future.

Mr. SCHIFF. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3209, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CORRECTIONS CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Corrections Calendar.

The Clerk will call the bill on the Corrections Calendar.

COMMUNITY RECOGNITION ACT OF 2001

The Clerk called the bill (H.R. 1022) to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials.

The Clerk read the bill, as follows:

H.R. 1022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Recognition Act of 2001".

SEC. 2. FLAG CODE AMENDMENT.

Section 7(m) of title 4, United States Code, is amended by inserting after the sentence beginning "In the event of the death of a present or former official of the government of any State" the following: "In the event of the death of a present or former official of any city or locality, the chief elected official of that locality may proclaim that the National flag shall be flown at half staff.".

The SPEAKER pro tempore. Pursuant to the rule, the bill is considered read for amendment.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the amendment recommended by the Committee on the Judiciary.

The Clerk read as follows:

Committee Amendment:

Page 2 line 9 insert "other."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) will each control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1022, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1022, which amends the flag code to make sure that the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials. This is an omission in the current flag code.

On June 28, 2001, the Corrections Day Advisory Group met and recommended that H.R. 1022 be placed upon the Corrections Calendar and the Judiciary Committee passed it by voice vote on November 15.

Unfortunately, as of late, we have had increased occasion to visit the rules and etiquette in place for the honoring of public servants. Although at the time which Mr. DOOLITTLE of California introduced H.R. 1022 the calamity of September 11 was far off, the content of this legislation rings more loudly after the events of that day, and affords Congress an opportunity to visit the laws involving recognition of those who provide public service to us all.

Currently, under the Flag Code, authority is granted only to the President of the United States or the Governor of any State, territory, or possession to order that the national flag be flown at half staff in recognition of the death of a current or former official of the government, including public safety officers.

Under this existing law, in the event of the death of a local official who is chosen to be honored by having the national flag lowered, direct permission must be sought by local officials from either the President or their Governor. The result of the current practice is a chain of communication which is not always timely and can result in the missed opportunity to honor some of these deceased public servants.

By passing H.R. 1022 today, we can solve this problem by granting authority directly to the locally elected leaders to call for and approve such recognition. Immediate authorization will be granted at the local level, ensuring that no local hero passes without the community support and recognition which he or she deserves. I urge all Members to support H.R. 1022.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation, H.R. 1022, and I am delighted that the Committee on the Judiciary has taken this legislation up to ensure a correction.

I do not believe particularly that we need this legislation, but I do think it is important to correct and to resolve the concerns of some local leaders who are under the mistaken impression that they cannot now fly the flag of the United States at half-staff to honor the passing of a local official.

In fact, as the Supreme Court has ruled on several occasions, Congress does not have the power to prohibit any expression using the flag. The Court has gone so far as to strike down laws prohibiting the burning of the flag as a sign of disrespect. Certainly, if that is the case, then a local government may honor a local official, which is certainly an appropriate and uplifting use of the flag, who has served his or her community by flying the flag at half-staff. We hope they will do so.

Nonetheless, title IV of the United States Code does provide rules for flag etiquette. While those rules have no force of law, they do provide a guide for those seeking to display the flag in accordance with the accepted rules of conduct.

In fact, I commend those rules to my colleagues. I think some may be surprised to learn that using the flag on advertising and others matters common to political campaigns are also technically prohibited by Federal law. Although local officials are not now prohibited from using the flag to honor a deceased local official, it will certainly do no harm to make clear that there is no reason why my colleagues should not support it. I would commend that to the local officials.

I hope that since we have obviously found time to pass laws permitting that which should already be permitted, perhaps we will also in the future be able to tackle some of our vital issues dealing with, of course, INS reform and other issues that I think are extremely important.

Mr. Speaker, I rise in support of this legislation, not because there is any great need for it, but because it will resolve the concerns of some local leaders who are under the mistakened impression that they cannot now fly the flag of the United States at half staff to honor the passing of a local official.

In fact, as the Supreme Court has ruled on several occasions, Congress does not have the power to prohibit any expression using the flag. The Court has gone so far as to strike down laws prohibiting the burning of the flag as a sign of disrespect. Certainly, if that is the case, then a local government may honor a local official who has served his or her community by flying the flag at half staff.

Nonetheless, title 4 of the United States Code does provide rules for flag etiquette. While these rules have no force of law, they do provide a guide for those seeking to display the flag in according to accepted rules of conduct. In fact, I commend those rules to my colleagues. I think that some of you may be surprised to learn that using the flag on advertising and in other manners common to political campaigns are also technically prohibited by federal law. Although local officials are not now prohibited from using the flag to honor a deceased local official it will certainly do no harm to make that clear, and there is no reason why my colleagues should not support it.

I hope that, since we have obviously found time to pass a law permitting that which is already permitted, perhaps we can next tackle some of the even more pressing issues affecting our constituents and their communities: providing health insurance for working families, extending unemployment insurance for the victims of this current recession, and creating new jobs at living wages so that working families can have the dignity of work without seeing their children grow up in poverty as is too often the case these days.

I am pleased to join in voting for this measure.

Mr. Speaker, Chairman SENSENBRENNER and Ranking Member CONYERS.

I rise in support of H.R. 1022, which simply authorizes the chief elected official of a locality, in the event of the death of a present or former official of that locality, to proclaim that the national flag shall be flown at half staff. This bill amends Title 4, United States Code, ensuring that the important rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials.

This Section currently gives such explicit authority only to the President or, for certain purposes, the Governor of the state. This language is unnecessary and technically confusing because the subsection also reads in part that the flag may be flown at half staff "in accordance with recognized customs or practices not inconsistent with law."

The U.S. Supreme Court has, on two occasions, held that display of the flag, or the burning of the flag, are forms of expression protected by the First Amendment to the Constitution. As such, laws that mandate appropriate flag etiquette are unenforceable.

This bill simply clarifies that there should be no such interference in such instances.

I urge my colleagues to support it.

Mr. CAMP. Mr. Speaker, I rise today in strong support of H.R. 1022, the Community Recognition Act of 2001.

As chairman of the Speaker's advisory group on corrections, it was my pleasure to work with Congressman DOOLITTLE, the members of the corrections day advisory group and the Judiciary Committee to expedite consideration of this legislation.

On June 28th, Mr. DOOLITTLE brought H.R. 1022 before the Speaker's advisory group, where it received unanimous support. In order for a bill to be placed on the Corrections Calendar it must be recommended by the advisory group and favorably reported from the committee of jurisdiction.

I am proud that we are able to highlight the Community Recognition Act today by using the Corrections Calendar. This is truly a technical correction and is fitting for consideration on the Corrections Calendar.

H.R. 1022 amends the U.S. Code, regarding rules of etiquette for flying the flag. Current law only grants the authority to order that the flag be flown at half mast to the President and State Governors. In the event of the death of a current or former local official, many communities want the flag to be lowered as a way to pay tribute to those who so honorably served. However, it can often prove difficult to obtain proper authority in the timely manner needed.

This oversight in the U.S. Code has prevented communities across America from the right to honor their fellow citizens without having to receive the express and time consuming permission of either the President or their Governor. I urge my colleagues to join with me today to correct this burdensome requirement.

The Corrections Calendar was created to fix small technical corrections, such as this. I would like to thank Chairman SENSENBRENNER for moving this bill through the committee and Congressman DOOLITTLE for introducing the legislation and for utilizing the Corrections Calendar.

Mr. Speaker, this is a straightforward, bipartisan bill that "corrects" an inefficient and burdensome law. I urge my colleagues to support the bill.

Mr. DOOLITTLE. Mr. Speaker, I rise today because the last duty performed to honor a local hero should not be thwarted by a technical flaw in the law. Let me explain. The Federal Flag Code provides guidelines for the display of the U.S. flag, but grants only the president and governors the authority to fly the flag at half-mast. While this code does not expressly outlaw local government officials from lowering the flag to half-staff, it does not expressly permit it. This technicality has upset local officials across the country who believe that communities should have the right to honor their fellow citizens without permission from their respective governors or the President of the United States.

This quirk in the Federal Flag Code came to my attention when my friend and constituent; former Mayor George Magnuson of Rocklin, California sought to honor his friend and fellow volunteer firefighter, Cliff Graves, who died in the line of duty. Shortly after speaking to Mayor Magnuson I realized that this needless hurdle had to be corrected. That prompted me to introduce H.R. 1022, The "Community Recognition Act." This simple, yet important, legislation authorizes the chief elected official of a locality, in the event of a death of a present or former official of that locality, to proclaim that the national flag be flown at half staff.

Mr. Speaker, at the time I introduced H.R. 1022, the tragedy of September 11th was unfathomable. But, in light of the thousands of men and women who perished in those barbaric attacks now more than ever this simple correction needs to be made so they can be mourned in an appropriate fashion without undue delay.

I thank the Chairman of the House Judiciary Committee, Mr. SENSENBRENNER, for shepherding H.R. 1022 through his committee in an expeditious manner, and I urge my colleagues to support this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask my colleagues to support H.R. 1022, and I yield back the balance of my time.

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Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). Pursuant the rule, the previous question is ordered on the amendment recommended by the Committee on the Judiciary and on the bill.

The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, three-fifths of those present have voted in the affirmative.

Ms. JACKSON-LEE of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SMALL BUSINESS INVESTMENT COMPANY AMENDMENTS ACT OF 2001

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendment to S. 1196, to amend the Small Business Investment Act of 1958, and for other purposes.

The Clerk read as follows:

Senate Amendment to House Amendment:

Page 13 of the House engrossed amendment, strike out all after line 8 over to and including line 2 on page 16 and insert:

SEC. 6. REDUCTION OF FEES.

(a) TWO-YEAR REDUCTION OF SECTION 7(a) FEES.—

(1) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

"(C) TWO-YEAR REDUCTION IN FEES.—With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

"(i) A guarantee fee equal to 1 percent of the deferred participation share of a total loan amount that is not more than $150,000.

"(ii) A guarantee fee equal to 2.5 percent of the deferred participation share of a total loan amount that is more than $150,000, but not more than $700,000.

"(iii) A guarantee fee equal to 3.5 percent of the deferred participation share of a total loan amount that is more than $700,000.".

(2) ANNUAL FEES.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: "With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.".

(b) REDUCTION OF SECTION 504 FEES.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking "not exceed the lesser" and inserting "not exceed—

"(i) the lesser"; and

(C) by adding at the end the following:

"(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 2-year period beginning on October 1, 2002, for the life of the loan; and"; and

(2) by adding at the end the following:

"(i) TWO-YEAR WAIVER OF FEES.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 2-year period beginning on October 1, 2002.".

(c) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) USE OF FUNDS.—The amendments made by this section to section 503 of the Small Business Investment Act of 1958, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

GENERAL LEAVE

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matters on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this bill is to keep venture capital flowing to small businesses during this critical time to our Nation's economic recovery. The main purpose of S. 1196 is to adjust the fees charged to participate in security SBICs from 1 percent to 1.38

percent. This change is necessary because there is no funding for the participating securities SBICs program.

The other provision of S. 1196 modestly lowers the fees in the other main access to capital programs of the SBA, the 7(a) General Business Loan Program and the 504 Certified Development Company CDC program.

Last month the SBA administrator sent me a letter in support of this and revitalized the 7(a) and 504 programs. Mr. Speaker, the text of that letter is as follows:

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, November 27, 2001.

The Hon. DONALD MANZULLO,
Chairman, Committee on Small Business, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to express the U.S. Small Business Administration's (SBA) views on S. 1196, the Small Business Investment Company (SBIC) Amendments Act of 2001.

SBA applauds the Congress on passing the President's proposed legislation that enables the SBIC Participating Securities Program to flourish and expand without additional discretionary appropriations. SBA also applauds the Congress for including the technical amendments that were included in the President's proposal to further enhance the program.

SBA agrees with the concept that we must revitalize the 7(a) and 504 programs. Over the past several years the number of loans to women, Hispanic, African American, and veteran small business owners has either decreased or remained relatively flat. Furthermore, these groups receive a low percentage of the loans, with women receiving 21 percent, Hispanics 8 percent, African Americans 4 percent, and veterans 11 percent. More than 60 percent of the loans made to women, Hispanics and African Americans, the fastest growing small business population, are less than $150,000. In addition, most businesses are started with less than $150,000. Yet the legislation fails to specifically target fee reduction in 7(a) loans of $150,000 or less.

SBA feels very strongly that because of limited resources, and the statistics set forth above, that fee reductions should be targeted to those small businesses seeking loans under $150,000.

The Office of Management and Budget advises that there is no objection from the standpoint of the President's program to the submission of these views for the consideration of Congress.

SBA welcomes the opportunity to work with Congress to revitalize the 7(a) and 504 programs for the benefit of small businesses.

Sincerely,

HECTOR V. BARRETO,
Administrator.

Mr. Barreto suggested that any fee reduction should be weighted to smaller loan borrowers and I agree. That is why I concur with the Senate's action that makes a few changes to House Amendment 7(a) Program.

I rise in support of S. 1196 and concur with the Senate to House amendment and I urge my colleagues to support these needed changes to these SBA programs.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1196, the Small Business Technical Correction Act of 2001. This legislation will make much needed improvement here to the Small Business Investment Company Program, the Small Business Administration's General Loan Program, and the Certified Development Company Program to ensure that they are able to meet the new challenges facing this Nation's small businesses.

Mr. Speaker, recent reports reflect that the economy is heading into a recession and small businesses now more than ever need access to capital at an affordable rate. Surveys of senior loan officers have reported tightening of credit. No one sector of the economy is hurt more by this restriction than small business. Today, through changes to the SBIC program, we will expand the programs size and volume to include an entirely new array of opportunities for small business to receive equity investment.

The SBIC program has invested nearly $15 billion in more than 90,000 small businesses. And more importantly, $600 million in businesses in low and moderate income areas throughout the Nation. Thanks to the SBIC program, such successes like Intel, FedEx, America Online and Staples launched themselves into the universe of Fortune 500 companies.

While this does raise the fees on the SBIC program, it also puts the program on a footing where no Federal subsidies are going to be required. This has created some concern that these changes will put equity investment out of reach for many small business. To offset this we have included a reduction in the fee of the SBA general loan program. This will bring some equity into a program that has according to Congressional Budget Office estimates overcharged both lenders and small businesses by at least a billion dollars.

Today with the passage of S. 1196 we will make the SBA 7(a) loan program more accessible and affordable to small businesses by drastically reducing the cost of the program. These changes will immediately free up millions of dollars for more lending spuring much needed economic revitalization. I strongly encourage my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of S. 1196, the Small Business Investment Company Amendments Act. This legislation achieves a number of objectives for small businesses in their goal of obtaining ready sources of growth capital. This program is a true investment partner for entrepreneurs providing critical equity capital to new and existing companies.

Indeed, SBICs have invested nearly $15 billion in long term debt and equity capital to more than 90,000 small businesses. At the same time, they have provided growth and startup capital totalling more than $600 million to businesses in low and moderate income areas throughout the Nation.

After 10 years of solid economic growth, America has entered an economic downturn. For the first time in a decade, the economic indicators benchmark showing where we are and where we are going have gone down. Job losses in technology and manufacturing have risen dramatically and corporate bankruptcies were nearly double what they were last year. Consumer confidence hit its lowest point in over a decade. Even though the U.S. stock market saw a significant gain in the last 10 years, however, the bottom has virtually fallen out as a result of the events of September 11.

Now every industry has taken a huge hit as profits and employment figures head into a free fall. Part of the solution for this problem is for Congress and the President to implement a sound and fair fiscal policy that will provide an economic stimulus for the general public and small businesses. Since small businesses account for 99 percent of America's employers, it can play a vital role in bringing America out of this economic downturn.

To help American small businesses survive this economic downturn, the small business administration must engage all available resources in facilitating entrepreneurship development, provide low and no interest loans and more technical assistance programs to small businesses. S. 1196 is one approach that can assist the small business administration, and I urge all of my colleagues to support S. 1196.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, this has been a long process and I want to thank my staff, particularly Mr. Michael Day, and Mr. Manzullo's staff for their tremendous effort in getting this bill done.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MANZULLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and concur in the Senate amendment to the House amendment to S.1196.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendment was concurred in.

A motion to reconsider was laid on the table.

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT OF 2001

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3448) to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies

The Clerk read as follows:

H.R. 3448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Public Health Security and Bioterrorism Response Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of the Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

Sec. 101. National preparedness and response.
Sec. 102. Assistant Secretary for Emergency Preparedness; National Disaster Medical System.
Sec. 103. Improving ability of Centers for Disease Control and Prevention with respect to bioterrorism and other public health emergencies; facilities.
Sec. 104. Advisory committees and communications.
Sec. 105. Education of health care personnel; training regarding pediatric issues.
Sec. 106. Grants regarding shortages of certain health professionals.
Sec. 107. Emergency system for verification of credentials of health professions volunteers.
Sec. 108. Enhancing preparedness activities for bioterrorism and other public health emergencies.
Sec. 109. Improving State and local core public health capacities.
Sec. 110. Antimicrobial resistance program.
Sec. 111. Study regarding communications abilities of public health agencies.
Sec. 112. Supplies and services in lieu of award funds.
Sec. 113. Additional amendments.
Sec. 114. Study regarding local emergency response methods.

Subtitle B—National Stockpile: Development of Priority Countermeasures

Sec. 121. National stockpile.
Sec. 122. Accelerated approval of priority countermeasures.
Sec. 123. Use of animal trials in approval of certain drugs and biologics; issuance of rule.
Sec. 124. Security for countermeasure development and production.
Sec. 125. Accelerated countermeasure research and development.
Sec. 126. Evaluation of new and emerging technologies regarding bioterrorist attack and other public health emergencies.
Sec. 127. Potassium iodide.

Subtitle C—Emergency Authorities; Additional Provisions

Sec. 131. Expanded authority of Secretary of Health and Human Services to respond to public health emergencies.
Sec. 132. Streamlining and clarifying communicable disease quarantine provisions.
Sec. 133. Emergency waiver of Medicare, Medicaid, and SCHIP requirements.
Sec. 134. Provision for expiration of public health emergencies.
Sec. 135. Designated State public emergency announcement plan.
Sec. 136. Expanded research by Secretary of Energy.
Sec. 137. Agency for Toxic Substances and Disease Registry.
Sec. 138. Expanded research on worker health and safety.
Sec. 139. Technology opportunities program support.

Subtitle D—Authorization of Appropriations

Sec. 151. Authorization of Appropriations.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Sec. 201. Regulation of certain biological agents and toxins.

TITLE III—AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT

Subtitle A—Protection of Food Supply

Sec. 301. Protection against intentional adulteration of food.
Sec. 302. Administrative detention.
Sec. 303. Permissive debarment regarding food importation.
Sec. 304. Maintenance and inspection of records for foods.
Sec. 305. Registration.
Sec. 306. Prior notice of imported food shipments.
Sec. 307. Authority to mark articles refused admission into United States.
Sec. 308. Prohibition against port shopping for importation.
Sec. 309. Notices to States regarding imported food.
Sec. 310. Grants to States for inspections; response to notice regarding adulterated imported food.

Subtitle B—Protection of Drug Supply

Sec. 311. Annual registration of foreign manufacturers; shipping information; drug and device listing.
Sec. 312. Requirement of additional information regarding import components intended for use in export products.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

Sec. 401. Amendment of the Safe Drinking Water Act.

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

SEC. 101. NATIONAL PREPAREDNESS AND RESPONSE.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following title:

"TITLE XXVIII—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

"Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

"SEC. 2801. NATIONAL PREPAREDNESS PLAN.

"(a) IN GENERAL.—

"(1) PREPAREDNESS AND RESPONSE REGARDING PUBLIC HEALTH EMERGENCIES.—The Secretary shall further develop and implement a coordinated strategy, building upon the core public health capabilities established pursuant to section 319A, for carrying out health-related activities to prepare for and respond effectively to bioterrorism and other public health emergencies, including the preparation of a plan under this section. The Secretary shall periodically thereafter review and as appropriate revise the plan.

"(2) CONSULTATION.—The Secretary shall carry out paragraph (1) in consultation with the Secretary of Defense, the Director of the Federal Emergency Management Agency, the Secretary of Veterans Affairs, the Attorney General, the Secretary of Agriculture, the Secretary of Energy, the Secretary of Labor, and the Administrator of the Environmental Protection Agency, and with other appropriate public and private entities.

"(3) NATIONAL APPROACH.—In carrying out paragraph (1), the Secretary shall collaborate with the States toward the goal of ensuring that the activities of the Secretary regarding bioterrorism and other public health emergencies are coordinated with activities of the States, including through local governments, such that there is a national plan for preparedness for and responding effectively to such emergencies.

"(4) EVALUATION OF PROGRESS.—The plan under paragraph (1) shall provide for specific benchmarks and outcome measures for evaluating the progress of the Secretary and the States, including local governments, with respect to the plan under paragraph (1), including progress toward achieving the goals specified in subsection (b).

"(b) PREPAREDNESS GOALS.—The plan under subsection (a) shall include provisions for achieving the following goals with respect to preparedness for and responding effectively to bioterrorism and other public health emergencies:

"(1) Providing effective assistance to State and local governments in the event of such an emergency.

"(2) Ensuring that State and local governments have adequate and appropriate capacity to detect and respond effectively to such emergencies, including capacities for the following:

"(A) Effective public health surveillance and reporting mechanisms at the State and local levels.

"(B) Adequate laboratory readiness.

"(C) Properly trained and equipped emergency response, public health, and medical personnel.

"(D) Health and safety protection of workers involved in responding to such an emergency.

"(E) Public health agencies that are prepared to coordinate health services (including mental health services) during and after such emergencies.

"(F) Participation in communications networks that can effectively disseminate relevant information in a timely and secure manner to appropriate public and private entities and to the public.

"(3) Developing and maintaining medical countermeasures (such as drugs, vaccines and other biological products, and medical devices) against biological agents that may be used in such emergencies.

“(4) Ensuring coordination and minimizing duplication of Federal, State, and local planning, preparedness, and response activities, including among agencies during the investigation of a suspicious disease outbreak.

“(5) Ensuring adequate readiness of hospitals and other health care facilities to respond effectively to such emergencies.

“(c) Evaluation of Using VA R&D Capabilities.—The Secretary shall evaluate the feasibility of using the biomedical research and development capabilities of the Department of Veterans Affairs, in conjunction with that Department's affiliations with health-professions universities, as a means to assist the Secretary in achieving the goals specified in subsection (b).

“(d) Reports to Congress.—

“(1) Initial report to congress.—Not later than one year after the date of the enactment of the Public Health Security and Bioterrorism Response Act of 2001, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning progress with respect to the plan under subsection (a), including progress toward achieving the goals specified in subsection (b).

“(2) Biennial reports.—Not later than 2 years after the date on which the report under paragraph (1) is submitted, and biennially thereafter, the Secretary shall submit to each of the committees specified in such paragraph a report concerning the progress made with respect to the plan under subsection (a), including the goals under subsection (b).

“(3) Additional authority.—Reports submitted under paragraph (2) by the Secretary shall make recommendations concerning—

“(A) any additional legislative authority that the Secretary determines is necessary for fully implementing the plan under subsection (a), including meeting the goals under subsection (b); and

“(B) any additional legislative authority that the Secretary determines is necessary under section 319 to protect the public health in the event that a condition described in section 319(a) occurs.

“(e) Other Reports.—Not later than one year after the date of the enactment of the Public Health Security and Bioterrorism Response Act of 2001, the Secretary shall submit to each of the committees specified in paragraph (1) a report concerning—

“(1) the recommendations and findings of the EPIC Advisory Committee under section 319F(c)(3);

“(2) the characteristics that may render a rural community uniquely vulnerable to a biological attack, including distance, lack of emergency transport, hospital or laboratory capacity, lack of integration of Federal or State public health networks, workforce deficits, or other relevant conditions;

“(3) the characteristics that may render areas or populations designated as medically underserved populations (as defined in section 330) uniquely vulnerable to a biological attack, including significant numbers of low-income or uninsured individuals, lack of affordable and accessible health care services, insufficient public and primary health care resources, lack of integration of Federal or State public health networks, workforce deficits, or other relevant conditions; and

“(4) the recommendations of the Secretary with respect to additional legislative authority that the Secretary determines is necessary to effectively strengthen rural communities, or medically underserved populations (as defined in section 330).

“(f) Rule of Construction.—This section may not be construed as expanding or limiting any of the authorities of the Secretary that, on the day before the date of the enactment of the Public Health Security and Bioterrorism Response Act of 2001, were in effect with respect to preparing for and responding effectively to bioterrorism and other public health emergencies.”.

SEC. 102. ASSISTANT SECRETARY FOR EMERGENCY PREPAREDNESS; NATIONAL DISASTER MEDICAL SYSTEM.

(a) In General.—Title XXVIII of the Public Health Service Act, as added by section 101 of this Act, is amended by adding at the end the following subtitle:

“Subtitle B—Emergency Preparedness and Response

“SEC. 2811. COORDINATION OF PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

“(a) Assistant Secretary for Emergency Preparedness.—

“(1) In general.—There is established within the Department of Health and Human Services the position of Assistant Secretary for Emergency Preparedness. The President, by and with the advice and consent of the Senate, shall appoint an individual to serve in such position. Such Assistant Secretary shall report to the Secretary.

“(2) Duties.—Subject to the authority of the Secretary, the Assistant Secretary for Emergency Preparedness shall carry out the following duties:

“(A) Coordinate on behalf of the Secretary—

“(i) all interagency interfaces between the Department of Health and Human Services (referred to in this paragraph as the 'Department') and other departments, agencies and offices of the United States, including the activities of the joint interdepartmental working groups under subsections (a) and (b) of section 319F; and

“(ii) all interfaces between the Department and State and local entities with responsibility for emergency preparedness.

“(B) Coordinate the operations of the National Disaster Medical System and any other emergency response activities within the Department of Health and Human Services that are related to bioterrorism or public health emergencies.

“(C) Coordinate the efforts of the Department to bolster State and local emergency preparedness for a bioterrorist attack or other public health emergency, and evaluate the progress of such entities in meeting the benchmarks and other outcome measures contained in the national plan and in meeting the core public health capabilities established pursuant to 319A.

“(D) Coordinate the activities of the Department with respect to research and development of priority vaccines, other biological products, drugs, and devices useful for detecting or responding to a bioterrorist attack or other public health emergency.

“(E) Coordinate the activities of the Department with respect to public education, awareness, and information relating to bioterrorism or other public health emergencies, including the activities and recommendations of the EPIC Advisory Committee under section 319F(c)(3).

“(F) Coordinate all other functions within the Department of Health and Human Services relating to emergency preparedness, including matters relating to bioterrorism and other public health emergencies that are addressed in the national plan under section 2801.

“(G) Any other duties determined appropriate by the Secretary.

“(b) National Disaster Medical System.—

“(1) In general.—The Secretary shall provide for the operation in accordance with this section of a system to be known as the National Disaster Medical System (in this section referred to as the 'National System'). The Secretary shall designate the Assistant Secretary for Emergency Preparedness as the head of the National System, subject to the authority of the Secretary.

“(2) Federal and state collaborative system.—

“(A) In general.—The National System shall be a coordinated effort by the Federal agencies specified in subparagraph (B), working in collaboration with the States and other appropriate public or private entities, to carry out the purposes described in paragraph (3).

“(B) Participating federal agencies.—The Federal agencies referred to in subparagraph (A) are the Department of Health and Human Services, the Federal Emergency Management Agency, the Department of Defense, and the Department of Veterans Affairs.

“(3) Purpose of system.—

“(A) In general.—The Secretary may activate the National System to—

“(i) provide health services, health-related social services, other appropriate human services, and appropriate auxiliary services to respond to the needs of victims of a public health emergency (whether or not determined to be a public health emergency under section 319); or

“(ii) be present at locations, and for periods of time, specified by the Secretary on the basis that the Secretary has determined that a location is at risk of a public health emergency during the time specified.

“(B) Ongoing activities.—The National System shall carry out such ongoing activities as may be necessary to prepare for the provision of services described in subparagraph (A) in the event that the Secretary activates the National System for such purposes.

“(C) Test for mobilization of system.—During the one-year period beginning on the date of the enactment of the Public Health Security and Bioterrorism Response Act of 2001, the Secretary shall conduct an exercise to test the capability and timeliness of the National System to mobilize and otherwise respond effectively to a bioterrorist attack or other public health emergency that affects two or more geographic locations concurrently. Thereafter, the Secretary may periodically conduct such exercises regarding the National System as the Secretary determines to be appropriate.

“(c) Criteria.—

“(1) In general.—The Secretary shall establish criteria for the operation of the National System.

“(2) Education and training of personnel.—In carrying out paragraph (1), the Secretary shall establish criteria regarding the education and training of individuals who provide emergency services through the National System. In the case of permanent, full-time positions in the Department of Health and Human Services that involve significant supervisory roles within the National System, the criteria shall require that individuals in such positions have completed appropriate education or training programs as determined by the Secretary.

"(3) PARTICIPATION AGREEMENTS FOR NON-FEDERAL ENTITIES.—In carrying out paragraph (1), the Secretary shall establish criteria regarding the participation of States and private entities in the National System, including criteria regarding agreements for such participation. The criteria shall include the following:

"(A) Provisions relating to the custody and use of Federal personal property by such entities, which may in the discretion of the Secretary include authorizing the custody and use of such property on a reimbursable basis to respond to emergency situations for which the National System has not been activated by the Secretary pursuant to subsection (b)(3)(A).

"(B) Provisions relating to circumstances in which an individual or entity has agreements with both the National System and another entity regarding the provision of emergency services by the individual. Such provisions shall address the issue of priorities among the agreements involved.

"(d) INTERMITTENT DISASTER-RESPONSE PERSONNEL.—

"(1) IN GENERAL.—For the purpose of assisting the National System in carrying out duties under this section, the Secretary may appoint individuals to serve as intermittent personnel of such System in accordance with applicable civil service laws and regulations.

"(2) LIABILITY.—For purposes of section 224(a) and the remedies described in such section, an individual appointed under paragraph (1) shall, while acting within the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions. With respect to the participation of individuals appointed under paragraph (1) in training programs authorized by the Assistant Secretary for Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B), acts of individuals so appointed that are within the scope of such participation shall be considered within the scope of the appointment under paragraph (1) (regardless of whether the individuals receive compensation for such participation).

"(e) CERTAIN EMPLOYMENT ISSUES REGARDING INTERMITTENT APPOINTMENTS.—

"(1) INTERMITTENT DISASTER-RESPONSE APPOINTEE.—For purposes of this subsection, the term 'intermittent disaster-response appointee' means an individual appointed by the Secretary under subsection (d).

"(2) COMPENSATION FOR WORK INJURIES.—An intermittent disaster-response appointee shall, while acting in the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions, and an injury sustained by such an individual shall be deemed 'in the performance of duty', for purposes of chapter 81 of title 5, United States Code, pertaining to compensation for work injuries. With respect to the participation of individuals appointed under subsection (d) in training programs authorized by the Assistant Secretary for Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B), injuries sustained by such an individual, while acting within the scope of such participation, also shall be deemed 'in the performance of duty' for purposes of chapter 81 of title 5, United States Code (regardless of whether the individuals receive compensation for such participation). In the event of an injury to such an intermittent disaster-response appointee, the Secretary of Labor shall be responsible for making determinations as to whether the claimant is entitled to compensation or other benefits in accordance with chapter 81 of title 5, United States Code.

"(3) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—

"(A) IN GENERAL.—Service as an intermittent disaster-response appointee when the Secretary activates the National System or when the individual participates in a training program authorized by the Assistant Secretary for Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B) shall be deemed 'service in the uniformed services' for purposes of chapter 43 of title 38, United States Code, pertaining to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in chapter 43 of title 38, United States Code.

"(B) NOTICE OF ABSENCE FROM POSITION OF EMPLOYMENT.—Preclusion of giving notice of service by necessity of Service as an intermittent disaster-response appointee when the Secretary activates the National System shall be deemed preclusion by 'military necessity' for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Secretary, in consultation with the Secretary of Defense, and shall not be subject to judicial review.

"(4) LIMITATION.—An intermittent disaster-response appointee shall not be deemed an employee of the Department of Health and Human Services for purposes other than those specifically set forth in this section.

"(f) DEFINITION.—For purposes of this section, the term 'auxiliary services' includes mortuary services, veterinary services, and other services that are determined by the Secretary to be appropriate with respect to the needs referred to in subsection (b)(3)(A).

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of providing for the Assistant Secretary for Emergency Preparedness and the operations of the National System, other than purposes for which amounts in the Public Health Emergency Fund under section 319 are available, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.".

(b) SENSE OF CONGRESS REGARDING RESOURCES OF NATIONAL SYSTEM.—It is the sense of the Congress that the Secretary of Health and Human Services should provide sufficient resources to individuals and entities tasked to carry out the duties of the National Disaster Medical System for reimbursement of expenses, operations, purchase and maintenance of equipment, training, and other funds expended in furtherance of such National System.

SEC. 103. IMPROVING ABILITY OF CENTERS FOR DISEASE CONTROL AND PREVENTION WITH RESPECT TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES; FACILITIES.

Section 319D of the Public Health Service Act (42 U.S.C. 247d–4) is amended to read as follows:

"SEC. 319D. REVITALIZING THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) FINDINGS.—Congress finds that the Centers for Disease Control and Prevention have an essential role in defending against and combatting public health threats of the 21st century and requires secure and modern facilities, and expanded and improved capabilities related to biological threats or attacks or other public health emergencies, sufficient to enable such Centers to conduct this important mission.

"(b) IMPROVING THE CAPACITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.—

"(1) IN GENERAL.—The Secretary shall expand, enhance, and improve the capabilities of the Centers for Disease Control and Prevention relating to preparedness for and responding effectively to bioterrorism and other public health emergencies. Activities that may be carried out under the preceding sentence include—

"(A) expanding or enhancing the training of personnel;

"(B) improving communications facilities and networks;

"(C) improving capabilities for public health surveillance and reporting activities;

"(D) improving laboratory facilities related to bioterrorism, including increasing the security of such facilities; and

"(E) such other activities as the Secretary determines appropriate.

"(2) IMPROVING PUBLIC HEALTH LABORATORY CAPACITY.—

"(A) IN GENERAL.—The Secretary, directly or through awards of grants, contracts, or cooperative agreements, shall provide for the establishment of a coordinated network of public health laboratories, that may, at the discretion of the Secretary, include laboratories that serve as regional reference laboratories.

"(B) PRIORITY.—In carrying out subparagraph (A), the Secretary shall give priority to projects that include State or local government financial commitments, that seek to incorporate multiple public health and safety services or diagnostic databases into an integrated public health or regional reference laboratory, and that cover geographic areas lacking advanced diagnostic and safety-level laboratory capabilities.

"(3) NATIONAL PUBLIC HEALTH COMMUNICATIONS AND SURVEILLANCE NETWORK.—

"(A) IN GENERAL.—The Secretary, directly or through awards of grants, contracts, or cooperative agreements, shall provide for the establishment of integrated public health communications and surveillance networks between and among—

"(i) Federal, State, and local public health officials;

"(ii) public and private health-related laboratories, hospitals, and other health care facilities; and

"(iii) any other entities determined appropriate by the Secretary.

"(B) REQUIREMENTS.—The Secretary shall ensure that networks under subparagraph (A) allow for the timely sharing and discussion, in a secure manner, of essential information concerning a bioterrorist attack or other public health emergency, or recommended methods for responding to such an attack or emergency.

"(4) CONTINUITY OF EFFORT.—To the maximum extent practicable, the Secretary, in conducting activities under paragraphs (1) through (3), shall administer such activities in a manner that intensifies, expands, or enhances activities being carried out on the date of enactment of this subsection.

"(c) FACILITIES.—

"(1) IN GENERAL.—The Director of the Centers for Disease Control and Prevention may design, construct, and equip new facilities, renovate existing facilities (including laboratories, laboratory support buildings, scientific communication facilities, transshipment complexes, secured and isolated parking structures, office buildings, and other facilities and infrastructure), and upgrade security of such facilities, in order to better conduct the capacities described in section 319A, and for supporting related public health activities.

“(2) MULTIYEAR CONTRACTING AUTHORITY.—For any project of designing, constructing, equipping, or renovating any facility under paragraph (1), the Director of the Centers for Disease Control and Prevention may enter into a single contract or related contracts that collectively include the full scope of the project, and the solicitation and contract shall contain the clause ‘availability of funds’ found at section 52.232-18 of title 48, Code of Federal Regulations.

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—For the purposes of achieving the mission of the Centers for Disease Control and Prevention described in subsection (a), for carrying out subsection (b), for better conducting the capacities described in section 319A, and for supporting related public health activities, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.

“(2) FACILITIES.—For the purpose of carrying out subsection (c), there are authorized to be appropriated $300,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006.”.

SEC. 104. ADVISORY COMMITTEES AND COMMUNICATIONS.

Section 319F of the Public Health Service Act (42 U.S.C. 247d-6) is amended—

(1) by redesignating subsections (c) through (i) as subsections (e) through (k), respectively; and

(2) by inserting after subsection (b) the following subsections:

“(c) ADVICE TO THE FEDERAL GOVERNMENT.—

“(1) REQUIRED ADVISORY COMMITTEES.—In coordination with the working groups under subsections (a) and (b), the Secretary shall establish advisory committees in accordance with paragraphs (2) and (3) to provide expert recommendations to assist such working groups in carrying out their respective responsibilities under subsections (a) and (b).

“(2) NATIONAL ADVISORY COMMITTEE ON CHILDREN AND TERRORISM.—

“(A) IN GENERAL.—For purposes of paragraph (1), the Secretary shall establish an advisory committee to be known as the National Advisory Committee on Children and Terrorism (referred to in this paragraph as the ‘Advisory Committee’).

“(B) DUTIES.—The Advisory Committee shall provide recommendations regarding—

“(i) the preparedness of the health care (including mental health care) system to respond to bioterrorism as it relates to children;

“(ii) needed changes to the health care and emergency medical service systems and emergency medical services protocols to meet the special needs of children; and

“(iii) changes, if necessary, to the national stockpile under section 121 of the Public Health Security and Bioterrorism Response Act of 2001 to meet the special needs of children.

“(C) COMPOSITION.—The Advisory Committee shall be composed of such Federal officials as may be appropriate to address the special needs of the diverse population groups of children, and child health experts on infectious disease, environmental health, toxicology, and other relevant professional disciplines.

“(D) TERMINATION.—The Advisory Committee terminates one year after the date of the enactment of the Public Health Security and Bioterrorism Response Act of 2001.

“(3) EMERGENCY PUBLIC INFORMATION AND COMMUNICATIONS ADVISORY COMMITTEE.—

“(A) IN GENERAL.—For purposes of paragraph (1), the Secretary shall establish an advisory committee to be known as the Emergency Public Information and Communications Advisory Committee (referred to in this paragraph as the ‘EPIC Advisory Committee’).

“(B) DUTIES.—The EPIC Advisory Committee shall make recommendations and report on appropriate ways to communicate public-health information regarding biological attacks to the public.

“(C) COMPOSITION.—The EPIC Advisory Committee shall be composed of individuals representing a diverse group of experts in public health, communications, behavioral psychology, and other areas determined appropriate by the Secretary.

“(D) DISSEMINATION.—The Secretary shall ensure that the recommendations of the EPIC Advisory Committee are widely disseminated to the media, State and local governments, poison control centers, and others as the Secretary determines appropriate.

“(E) TERMINATION.—The EPIC Advisory Committee terminates one year after the date of the enactment of the Public Health Security and Bioterrorism Response Act of 2001.

“(d) STRATEGY FOR COMMUNICATION OF INFORMATION REGARDING BIOLOGICAL ATTACK.—In coordination with the joint interdepartmental working group under subsection (b), the Secretary, acting through the Assistant Secretary for Emergency Preparedness, shall develop a strategy for effectively communicating information regarding a biological attack, and shall develop means by which to communicate such information. The Secretary may carry out the preceding sentence directly or through grants, contracts, or cooperative agreements.”.

SEC. 105. EDUCATION OF HEALTH CARE PERSONNEL; TRAINING REGARDING PEDIATRIC ISSUES.

Section 319F(g) of the Public Health Service Act, as redesignated by section 104(1) of this Act, is amended to read as follows:

“(g) EDUCATION; TRAINING REGARDING PEDIATRIC ISSUES.—

“(1) MATERIALS; CORE CURRICULUM.—The Secretary, in collaboration with members of the working group described in subsection (b), and professional organizations and societies, shall—

“(A) develop materials for teaching the elements of a core curriculum for the recognition and identification (including proficiency testing) of potential bioweapons and other agents that may create a public health emergency, and for the care of victims of such emergencies, recognizing the special needs of children and other vulnerable populations, to public health officials, medical professionals, emergency physicians and other emergency department staff, laboratory personnel, and other personnel working in health care facilities (including poison control centers);

“(B) develop a core curriculum and materials for community-wide planning by State and local governments, hospitals and other health care facilities, emergency response units, and appropriate public and private sector entities to respond to a bioterrorist attack or other public health emergency;

“(C) provide for dissemination and teaching of the materials described in subparagraphs (A) and (B) by all appropriate means, including telemedicine, long-distance learning, or other such means; and

“(D) to the extent practicable, establish and maintain an electronic database of individuals participating in training or education programs carried out under this section, for the purpose of providing continuing education materials and information to such participants.

“(2) GRANTS.—In carrying out paragraph (1), the Secretary may award grants to, or enter into cooperative agreements with, professional organizations and societies, private accrediting organizations, or other nonprofit institutions or entities meeting criteria established by the Secretary, and may enter into interagency cooperative agreements with other Federal agencies.

“(3) HEALTH-RELATED ASSISTANCE FOR EMERGENCY RESPONSE PERSONNEL TRAINING.—The Secretary, in consultation with the Attorney General and the Director of the Federal Emergency Management Agency, may provide assistance with respect to health-related aspects of emergency response personnel training carried out by the Department of Justice and the Federal Emergency Management Agency.”.

SEC. 106. GRANTS REGARDING SHORTAGES OF CERTAIN HEALTH PROFESSIONALS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319G the following section:

“SEC. 319H. GRANTS REGARDING TRAINING AND EDUCATION OF CERTAIN HEALTH PROFESSIONALS.

“(a) IN GENERAL.—The Secretary may make awards of grants and cooperative agreements to appropriate public and nonprofit private health or educational entities, including health professions schools and programs as defined in section 799B, for the purpose of providing low-interest loans, partial scholarships, partial fellowships, revolving loan funds, or other cost-sharing forms of assistance for the education and training of individuals in any category of health professions for which there is a shortage that the Secretary determines should be alleviated in order to prepare for or respond effectively to bioterrorism and other public health emergencies.

“(b) AUTHORITY REGARDING NON-FEDERAL CONTRIBUTIONS.—The Secretary may require as a condition of an award under subsection (a) that a grantee under such subsection provide non-Federal contributions toward the purpose described in such subsection.

“(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.”.

SEC. 107. EMERGENCY SYSTEM FOR VERIFICATION OF CREDENTIALS OF HEALTH PROFESSIONS VOLUNTEERS.

Part B of title III of the Public Health Service Act, as amended by section 106 of this Act, is amended by inserting after section 319H the following section:

“SEC. 319I. EMERGENCY SYSTEM FOR VERIFICATION OF HEALTH PROFESSIONS VOLUNTEERS.

“(a) IN GENERAL.—The Secretary shall, directly or through an award of a grant, contract, or cooperative agreement, establish and maintain a system for verifying the credentials, licenses, accreditations, and hospital privileges of individuals, who during public health emergencies volunteer to serve as health professionals (referred to in this section as the 'verification system'). In carrying out the preceding sentence, the Secretary shall provide for an electronic database for the verification system.

"(b) Certain Criteria.—The Secretary shall establish criteria regarding the verification system under subsection (a), including provisions regarding the promptness and efficiency of the system in collecting, storing, updating, and disseminating information on the credentials, licenses, accreditations, and hospital privileges of volunteers described in subsection (a).

"(c) Advance Registration of Volunteers.—In order to facilitate the availability of health professionals during a public health emergency, the Secretary shall provide for the advance registration with the system of health professionals who are willing to serve as volunteers described in subsection (a), and may carry out activities to encourage health professionals to register with the system.

"(d) Other Assistance.—The Secretary may make grants and provide technical assistance to States and other public or nonprofit private entities for activities relating to the verification system developed under subsection (a).

"(e) Coordination Among States.—The Secretary shall encourage each State to provide legal authority during a public health emergency for health professionals authorized in another State to provide certain health services to provide such health services in the State.

"(f) Rule of Construction.—This section may not be construed as authorizing the Secretary to issue requirements regarding the provision by the States of credentials, licenses, accreditations, or hospital privileges.

"(g) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.".

SEC. 108. ENHANCING PREPAREDNESS ACTIVITIES FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

Section 319F of the Public Health Service Act (42 U.S.C. 247d-6) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Working Group on Preparedness for Acts of Bioterrorism.—The Secretary, in coordination with the Secretary of Defense, the Director of the Federal Emergency Management Agency, the Attorney General, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency shall establish a joint interdepartmental working group on preparedness and readiness for the medical and public health effects of a bioterrorist attack on the civilian population. Such joint working group shall—

"(1) coordinate and prioritize research on, and the development of countermeasures against, pathogens likely to be used in a bioterrorist attack on the civilian population;

"(2) facilitate the development, production, and regulatory review of priority countermeasures (as defined in subsection (h)(2)(C)) for a bioterrorist attack on the civilian population;

"(3) coordinate research and development into equipment to detect pathogens likely to be used in a bioterrorist attack on the civilian population and protect against infection from such pathogens;

"(4) develop shared standards for equipment to detect and to protect against infection from pathogens likely to be used in a bioterrorist attack on the civilian population; and

"(5) coordinate the development, maintenance, and procedures for the release and distribution of strategic reserves of vaccines, drugs, and medical supplies which may be needed rapidly after a bioterrorist attack upon the civilian population, including consideration of vulnerable populations (such as children, the elderly, and individuals with disabilities).";

(2) in subsection (b)(1), by striking "The Secretary" and all that follows through "shall establish" and inserting the following: "The Secretary, in collaboration with the Secretary of Defense, the Director of the Federal Emergency Management Agency, the Attorney General, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Secretary of Labor, and the Administrator of the Environmental Protection Agency, shall establish";

(3) in subsection (b)(2)—

(A) in subparagraph (A), by striking "respond to a bioterrorist attack; and" and inserting the following: "respond to a bioterrorist attack, including the provision of appropriate safety and health training and protective measures for medical, emergency service, and other personnel responding to such attacks;";

(B) in subparagraph (B), by striking the period and inserting "; and"; and

(C) by adding at the end the following subparagraph:

"(C) subject to compliance with other provisions of Federal law, clarify the responsibilities among Federal officials for the investigation of suspicious outbreaks of disease, and revise the interagency plan known as the Federal response plan accordingly.";

(4) in subsection (b)(3), by striking "Assistant Secretary for Health" and inserting "Assistant Secretary for Emergency Preparedness"; and

(5) in subsection (e) (as redesignated by section 104(1) of this Act)—

(A) in paragraph (1), by striking "The Secretary" and all that follows, and inserting the following: "In consultation with the working group established under subsection (b), the Secretary shall, based on criteria established by the Secretary, award grants to or enter into cooperative agreements with eligible entities to increase their capacity to detect, diagnose, and respond to acts of bioterrorism upon the civilian population.";

(B) in paragraph (2)—

(i) by striking "or" after "clinic,"; and

(ii) by inserting before the period the following: ", professional organizations and societies, schools or programs that train medical laboratory personnel, private accrediting organizations, or other nonprofit institutions or entities meeting criteria established by the Secretary";

(C) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "the priorities" and inserting "any priorities"; and

(ii) by striking subparagraphs (A) through (D) and inserting the following:

"(A) developing community-wide plans involving the public and private health care infrastructure to respond to bioterrorism or other public health emergencies, which are coordinated with the capacities of applicable national, State, and local health agencies;

"(B) training health care professionals and public health personnel to enhance the ability of such personnel to recognize the symptoms and epidemiological characteristics of exposure to a potential bioweapon, or other agents that may cause a public health emergency;

"(C) addressing rapid and accurate identification of potential bioweapons, or other agents that may cause a public health emergency;

"(D) coordinating medical care for individuals during public health emergencies, including bioterrorism;

"(E) conducting exercises to test the capability and timeliness of public health emergency response activities;

"(F) facilitating and coordinating rapid communication of data generated from a bioterrorist attack or public health emergency among national, State, and local health agencies, emergency response personnel, and health care providers and facilities; and

"(G) purchasing or upgrading equipment, supplies, pharmaceuticals or other countermeasures to enhance preparedness for and response to bioterrorism or other public health emergencies, consistent with a plan described in subparagraph (A)."; and

(D) in paragraph (4)—

(i) in subparagraph (A), by striking "and" after the semicolon at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following subparagraph:

"(C) coordinate grants under this subsection with grants under 319C.".

SEC. 109. IMPROVING STATE AND LOCAL CORE PUBLIC HEALTH CAPACITIES.

Section 319C of the Public Health Service Act (42 U.S.C. 247d-3) is amended—

(1) in subsection (a), by striking "competitive "; and

(2) in subsection (c)—

(A) in paragraph (3), by striking "health care providers; and" and inserting "health care providers, including poison control centers;";

(B) by redesignating paragraph (4) as paragraph (7); and

(C) by inserting after paragraph (3) the following paragraphs:

"(4) purchase or upgrade equipment, supplies, pharmaceuticals or other countermeasures to enhance preparedness for and response to bioterrorism or other public health emergencies, consistent with a plan described in paragraph (3);

"(5) conduct exercises to test the capability and timeliness of public health emergency response activities;

"(6) within the meaning of part B of title XII, develop and implement the trauma care component of the State plan for the provision of emergency medical services; and";

SEC. 110. ANTIMICROBIAL RESISTANCE PROGRAM.

Section 319E of the Public Health Service Act (42 U.S.C. 247d-5) is amended—

(1) in subsection (b)—

(A) by striking "shall conduct and support" and inserting "shall directly or through awards of grants or cooperative agreements to public or private entities provide for the conduct of"; and

(B) by amending paragraph (4) to read as follows:

"(4) the sequencing of the genomes, or other appropriate DNA analysis, or other necessary comparative analysis, of priority pathogens (as determined by the Director of the National Institutes of Health in consultation with the task force established under subsection (a)), in collaboration and coordination with the activities of the Department of Defense and the Joint Genome Institute of the Department of Energy; and";

(2) in subsection (e)(2), by inserting after "societies," the following: "schools or programs that train medical laboratory personnel,"; and

(3) in subsection (g), by striking "and such sums" and all that follows and inserting the following: "$25,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006.".

SEC. 111. STUDY REGARDING COMMUNICATIONS ABILITIES OF PUBLIC HEALTH AGENCIES.

The Secretary of Health and Human Services, in consultation with the Federal Communications Commission, the National Telecommunications and Information Administration, and other appropriate Federal agencies, shall conduct a study to ensure that local public health entities have the ability to maintain communications in the event of a bioterrorist attack or other public health emergency. The study shall examine whether redundancies are required in the telecommunications system for public health entities to maintain systems operability and connectivity during such emergencies. The study shall also include recommendations to industry and public health entities about how to implement such redundancies if necessary.

SEC. 112. SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.

Part B of title III of the Public Health Service Act, as amended by section 107 of this Act, is amended by inserting after section 319I the following section:

"SEC. 319J. SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS

"(a) In General.—Upon the request of a recipient of an award under any of sections 319 through 319I or section 319K, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

"(b) Corresponding Reduction in Payments.—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.".

SEC. 113. ADDITIONAL AMENDMENTS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq) is amended—

(1) in section 319A(a)(1), by striking "10 years" and inserting "five years"; and

(2) in section 319B(a), in the first sentence, by striking "10 years" and inserting "five years".

SEC. 114. STUDY REGARDING LOCAL EMERGENCY RESPONSE METHODS.

The Secretary of Health and Human Services shall conduct a study of best-practices methods for the provision of emergency response services through local governments (including through contractors and volunteers of such governments) in a consistent manner in response to acts of bioterrorism or other public health emergencies. Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the findings of the study.

Subtitle B—National Stockpile; Development of Priority Countermeasures

SEC. 121. NATIONAL STOCKPILE.

(a) In General.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall maintain a stockpile or stockpiles of drugs, vaccines and other biological products, medical devices, and other supplies in such numbers, types, and amounts as are determined by the Secretary to be adequate to meet the health security needs of the United States, including consideration of vulnerable populations (such as children, the elderly, and individuals with disabilities), in the event of a bioterrorist attack or other public health emergency.

(b) Procedures.—The Secretary, in managing the stockpile under subsection (a), shall—

(1) consult with the Director of the Federal Emergency Management Agency, the Secretary of Defense, the Secretary of Veterans Affairs, the Attorney General, the Secretary of Energy, and the Administrator of the Environmental Protection Agency;

(2) ensure that adequate procedures are followed with respect to such stockpile for inventory management and accounting, and for the physical security of the stockpile;

(3) in consultation with Federal, State, and local officials, take into consideration the timing and location of special events;

(4) review and revise, as appropriate, the contents of the stockpile on a regular basis to ensure that emerging threats, advanced technologies, and new countermeasures are adequately considered; and

(5) devise plans for the effective and timely distribution of the stockpile, in consultation with appropriate Federal, State and local agencies, and the public and private health care infrastructure.

(c) Definition.—For purposes of subsection (a), the term "stockpile" includes—

(1) a physical accumulation (at one or more locations) of the supplies described in subsection (a); or

(2) a contractual agreement between the Secretary and a vendor or vendors under which such vendor or vendors agree to provide to the Secretary supplies described in subsection (a).

(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $1,155,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

SEC. 122. ACCELERATED APPROVAL OF PRIORITY COUNTERMEASURES.

(a) In General.—The Secretary of Health and Human Services may designate a priority countermeasure as a fast-track product pursuant to section 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356). Such a designation may be made prior to the submission of—

(1) a request for designation by the sponsor; or

(2) an application for the investigation of the drug under section 505(i) of such Act or section 351(a)(3) of the Public Health Service Act. Nothing in this subsection shall be construed to prohibit a sponsor from declining such a designation.

(b) Review of Priority Countermeasure Not Designated as Fast-Track Product.—A priority countermeasure shall be subject to the performance goals established by the Commissioner of Food and Drugs, unless it is designated as a fast-track product.

(c) Definition.—For purposes of this section, the term "priority countermeasure" means a drug or biological product that is a countermeasure to treat, identify, or prevent infection by a biological agent or toxin listed pursuant to section 351A(a)(1) or harm from any other agent that may cause a public health emergency.

SEC. 123. USE OF ANIMAL TRIALS IN APPROVAL OF CERTAIN DRUGS AND BIOLOGICS; ISSUANCE OF RULE.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the process of rulemaking that was commenced with the issuance of the proposed rule entitled "New Drug and Biological Drug Products; Evidence Needed to Demonstrate Efficacy of New Drugs for Use Against Lethal or Permanently Disabling Toxic Substances When Efficacy Studies in Humans Ethically Cannot be Conducted" published in the Federal Register on October 5, 1999 (64 Fed. Reg. 53960).

SEC. 124. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.

Part B of title III of the Public Health Service Act, as amended by section 112 of this Act, is amended by inserting after section 319J the following section:

"SEC. 319K. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.

"The Secretary, in consultation with the Attorney General and the Secretary of Defense, may provide technical or other assistance to provide security to persons or facilities that conduct development, production, distribution, or storage of priority countermeasures (as defined in section 319F(h)(2)(C)).".

SEC. 125. ACCELERATED COUNTERMEASURE RESEARCH AND DEVELOPMENT.

Section 319F(h) of the Public Health Service Act, as redesignated by section 104(1) of this Act, is amended—

(1) by redesignating paragraphs (1) through (4), as subparagraphs (A) through (D), respectively;

(2) by striking "The Secretary" and inserting the following:

"(1) In general.—The Secretary";

(3) by moving each of subparagraphs (A) through (D) (as so redesignated) two ems to the right; and

(4) by adding at the end the following:

"(2) Accelerated countermeasure research and development.—

"(A) In general.—With respect to pathogens of potential use in a bioterrorist attack, and other agents that may cause a public health emergency, the Secretary, taking into consideration any recommendations of the working group under subsection (a), shall conduct, and award grants, contracts, or cooperative agreements for, research, investigations, experiments, demonstrations, and studies in the health sciences relating to—

"(i) the epidemiology and pathogenesis of such pathogens;

"(ii) the development of new vaccines and therapeutics for use against such pathogens and other agents;

"(iii) the development of diagnostic tests to detect such pathogens and other agents; and

"(iv) other relevant areas of research;

with consideration given to the needs of children and other vulnerable populations.

"(B) Role of department of veterans affairs.—In carrying out subparagraph (A), the Secretary shall consider using the biomedical research and development capabilities of the Department of Veterans Affairs, in conjunction with that Department's affiliations with health-professions universities. When advantageous to the Government in furtherance of the purposes of such subparagraph, the Secretary may enter into cooperative agreements with the Secretary of Veterans Affairs to achieve such purposes.

"(C) PRIORITY COUNTERMEASURES.—For purposes of this paragraph, the term 'priority countermeasure' means a countermeasure, including a drug, medical or other technological device, biological product, or diagnostic test, to treat, identify, or prevent infection by a biological agent or toxin listed pursuant to section 351A(a)(1) or harm from any other agent that may cause a public health emergency.".

SEC. 126. EVALUATION OF NEW AND EMERGING TECHNOLOGIES REGARDING BIOTERRORIST ATTACK AND OTHER PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall promptly carry out a program to evaluate new and emerging technologies that are designed to improve or enhance the ability of public health or safety officials to detect, identify, diagnose, or conduct public health surveillance activities relating to a bioterrorist attack or other public health emergency.

(b) CERTAIN ACTIVITIES.—In carrying out this subsection, the Secretary shall—

(1) survey existing technology programs funded by the Federal Government for potentially useful technologies;

(2) promptly issue a request for information from non-Federal public and private entities for ongoing activities in this area; and

(3) evaluate technologies identified under paragraphs (1) and (2) pursuant to subsection (c).

(c) CONSULTATION AND EVALUATION.—In carrying out subsection (b)(3), the Secretary shall consult with the joint interdepartmental working group under section 319F(a) of the Public Health Service Act, as well as other appropriate public, nonprofit, and private entities, to develop criteria for the evaluation of such technologies and to conduct such evaluations.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report that provides a list of priority technologies whose development or deployment or both should be accelerated, and the estimated cost of doing so.

SEC. 127. POTASSIUM IODIDE.

(a) IN GENERAL.—Through the national stockpile under section 121, the Secretary of Health and Human Services (in this section referred to as the "Secretary"), subject to subsection (b), shall make available to State and local governments potassium iodide tablets for stockpiling and for distribution as appropriate to public facilities, such as schools and hospitals, that are within 20 miles of a nuclear power plant, in quantities sufficient to provide adequate protection for the populations within such miles.

(b) STATE AND LOCAL PLANS.—Subsection (a) applies with respect to a State or local government if the government involved meets the following conditions:

(1) Such government submits to the Secretary, and to the Director of the Federal Emergency Management Agency, a plan for the stockpiling of potassium iodide tablets, and for the distribution and utilization of potassium iodide tablets in the event of a nuclear incident.

(2) The plan is accompanied by certifications by such government that—

(A) the government has not received sufficient quantities of potassium iodide tablets from the Nuclear Regulatory Commission; and

(B) in the case of a local government, such government has submitted the plan to the State involved.

(c) GUIDELINES.—In consultation with the Director of the Federal Emergency Management Agency and with the Nuclear Regulatory Commission, the Secretary shall establish guidelines for the stockpiling of potassium iodide tablets, and for the distribution and utilization of potassium iodide tablets in the event of a nuclear incident.

(d) INFORMATION.—The Secretary shall carry out activities to inform State and local governments of the program under this section.

(e) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report—

(1) on whether potassium iodide tablets have been made available under subsection (a) and the extent to which State and local governments have established stockpiles of such tablets; and

(2) the measures taken by the Secretary to implement this section.

(f) APPLICABILITY.—Subsections (a) and (d) cease to apply as requirements if the Secretary determines that there is an alternative and more effective medical treatment to address adverse thyroid conditions that may result from the release of radionuclides from nuclear power plants.

Subtitle C—Emergency Authorities; Additional Provisions

SEC. 131. EXPANDED AUTHORITY OF SECRETARY OF HEALTH AND HUMAN SERVICES TO RESPOND TO PUBLIC HEALTH EMERGENCIES.

(a) TRANSFERS OF FUNDS.—Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended by adding at the end the following:

"(d) TRANSFERS OF FUNDS BETWEEN PROGRAMS AND ACCOUNTS.—

"(1) IN GENERAL.—At any time during a public health emergency declared by the Secretary under subsection (a), the Secretary may, subject to paragraph (2), transfer funds, to the extent authorized by law, between appropriations accounts administered by the Secretary under this Act, without regard to any waiting period imposed by any other provision of law, including any provision of an appropriations Act, except as provided in paragraphs (3) and (4).

"(2) AMOUNT OF TRANSFERS.—With respect to the public health emergency involved:

"(A) The Secretary may not make a transfer under paragraph (1) in an amount exceeding a reasonable estimate by the Secretary of the amount necessary to respond to the emergency involved for a period of 60 days.

"(B) Subsequent transfers under paragraph (1) may be made by the Secretary, subject to compliance with subparagraph (A).

"(3) NOTIFICATION.—Not later than 48 hours prior to making a transfer under paragraph (1), the Secretary shall submit a notice of the intent to make such transfer to the Committee on Appropriations of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

"(4) SCOPE.—Paragraph (1) shall apply, notwithstanding any other provision of law including any provision of an appropriations Act and any Act enacted after the date of enactment of this subsection, unless such provision specifically refers to and overrides this subsection.".

(b) REPORTING DEADLINES.—Section 319 of the Public Health Service Act (42 U.S.C. 247d), as amended by subsection (a), is further amended by adding at the end the following:

"(e) DATA SUBMITTAL AND REPORTING DEADLINES.—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been declared pursuant to subsection (a), individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data or reports required under any law administered by the Secretary, the Secretary may, notwithstanding any other provision of law, grant such extensions of such deadlines as the circumstances reasonably require, and may waive, wholly or partially, any sanctions otherwise applicable to such failure to comply. Before or promptly after granting such an extension or waiver, the Secretary shall notify the Congress of such action and publish in the Federal Register a notice of the extension or waiver.".

SEC. 132. STREAMLINING AND CLARIFYING COMMUNICABLE DISEASE QUARANTINE PROVISIONS.

(a) ELIMINATION OF PREREQUISITE FOR NATIONAL ADVISORY HEALTH COUNCIL RECOMMENDATION BEFORE ISSUING QUARANTINE RULES.—

(1) EXECUTIVE ORDERS SPECIFYING DISEASES SUBJECT TO INDIVIDUAL DETENTIONS.—Section 361(b) of the Public Health Act (42 U.S.C. 264(b)) is amended by striking "Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General" and inserting "Executive orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General,".

(2) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS.—Section 361(d) of the Public Health Act (42 U.S.C. 264(d)) is amended by striking "On recommendation of the National Advisory Health Council, regulations" and inserting "Regulations".

(3) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS IN WARTIME.—Section 363 of the Public Health Act (42 U.S.C. 266) is amended by striking "the Surgeon General, on recommendation of the National Advisory Health Council," and inserting "the Secretary, in consultation with the Surgeon General,".

(b) APPREHENSION AUTHORITY TO APPLY IN CASES OF EXPOSURE TO DISEASE.—

(1) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS.—Section 361(d) of the Public Health Act (42 U.S.C. 264(d)), as amended by subsection (a)(2), is further amended by inserting "or exposed to" after "to be infected with".

(2) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS IN WARTIME.—Section 363 of the Public Health Act (42 U.S.C. 266), as amended by subsection (a)(3), is further amended by inserting "or exposed to" after "to be infected with".

(c) STATE AUTHORITY.—Section 361 of the Public Health Act (42 U.S.C. 264) is amended by adding at the end the following:

"(e) Nothing in this section or section 363, or the regulations promulgated under such sections, may be construed as superseding any provision under State law (including regulations and including provisions established by political subdivisions of States), except to the extent that such a provision conflicts with an exercise of Federal authority under this section or section 363.".

SEC. 133. EMERGENCY WAIVER OF MEDICARE, MEDICAID, AND SCHIP REQUIREMENTS.

(a) WAIVER AUTHORITY.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1134 the following new section:

"SEC. 1135. AUTHORITY TO WAIVE REQUIREMENTS DURING NATIONAL EMERGENCIES.

"(a) PURPOSE.—

"(1) IN GENERAL.—The purpose of this section is to enable the Secretary to ensure to the maximum extent feasible, in any emergency area and during an emergency period—

"(A) that sufficient health care items and services are available to meet the needs of individuals in such area enrolled in the programs under titles XVIII, XIX, and XXI; and

"(B) that health care providers (as defined in subsection (g)) that furnish such items and services in good faith, but that are unable to comply with one or more requirements described in subsection (b), may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse.

"(2) EMERGENCY AREA; EMERGENCY PERIOD.—For purposes of this section, an 'emergency area' is a geographical area in which, and an 'emergency period' is the period during which, there exists—

"(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

"(B) a public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act.

"(b) SECRETARIAL AUTHORITY.—To the extent necessary to accomplish the purposes specified in subsection (a), the Secretary is authorized, subject to the provisions of this section, to temporarily waive or modify the application of, with respect to health care items and services furnished in any emergency area (or portion of such an area) during an emergency period, the requirements of titles XVIII, XIX, or XXI, or any regulation thereunder (and the requirements of this title, and regulations thereunder, insofar as they relate to such titles), pertaining to—

"(1) conditions of participation or other certification requirements for an individual health care provider or types of providers; program participation and similar requirements for an individual health care provider or types of providers; and pre-approval requirements;

"(2) requirements that physicians and other health care professionals be licensed in the State in which they provide such services, if they have equivalent licensing in another State;

"(3) sanctions under section 1867 (relating to examination and treatment for emergency medical conditions and women in labor) for a transfer of an individual who has not been stabilized in violation of subsection (c) of such section if the transfer arises out of the circumstances of the emergency;

"(4) sanctions under section 1877(g) (relating to limitations on physician referral); and

"(5) deadlines and timetables for performance of required activities, except that such deadlines and timetables may only be modified, not waived.

"(c) AUTHORITY FOR RETROACTIVE WAIVER.—A waiver or modification of requirements pursuant to this section may, at the Secretary's discretion, be made retroactive to the beginning of the emergency period or any subsequent date in such period specified by the Secretary.

"(d) NOTIFICATION OF CONGRESS.—The Secretary shall provide advance written notice to the Congress at least two days before exercising the authority under this section with respect to an emergency area. Such a notice shall include a description of the specific provisions that will be waived or modified, the health care providers to whom the waiver or modification will apply, the geographic area in which the waiver or modification will apply, and the period of time for which the waiver or modification will be in effect.

"(e) DURATION OF WAIVER.—

"(1) IN GENERAL.—A waiver or modification of requirements pursuant to this section terminates upon—

"(A) the termination of the applicable declaration of emergency or disaster described in subsection (a)(2)(B);

"(B) the termination of the applicable declaration of public health emergency described in subsection (a)(2)(B); or

"(C) subject to paragraph (2), the termination of a period of 90 days from the date the waiver or modification is first published (or, if applicable, the date of extension of the waiver or modification under paragraph (2)).

"(2) EXTENSION OF 90-DAY PERIODS.—The Secretary may, by notice, provide for an extension of a 90-day period described in paragraph (1)(C) (or an additional period provided under this paragraph) for additional period or periods (not to exceed, except as subsequently provided under this paragraph, 90 days each), but any such extension shall not affect or prevent the termination of a waiver or modification under subparagraph (A) or (B) of paragraph (1).

"(f) REPORT TO CONGRESS.—Within one year after the end of the emergency period in an emergency area in which the Secretary exercised the authority provided under this section, the Secretary shall report to the Congress regarding the approaches used to accomplish the purposes described in subsection (a), including an evaluation of the success of such approaches and recommendations for improved approaches should the need for such emergency authority arise in the future.

"(g) HEALTH CARE PROVIDER DEFINED.—For purposes of this section, the term 'health care provider' means any entity that furnishes health care items or services, and includes a hospital or other provider of services, a physician or other health care practitioner or professional, a health care facility, or a supplier of health care items or services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective on and after September 11, 2001.

SEC. 134. PROVISION FOR EXPIRATION OF PUBLIC HEALTH EMERGENCIES.

Section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), is amended by adding at the end the following new sentence: "Any such determination of a public health emergency terminates upon the Secretary declaring that the emergency no longer exists, or upon the expiration of the 90-day period beginning on the date on which the determination is made by the Secretary, whichever occurs first. Determinations that terminate under the preceding sentence may be renewed by the Secretary (on the basis of the same or additional facts), and the preceding sentence applies to each such renewal.".

SEC. 135. DESIGNATED STATE PUBLIC EMERGENCY ANNOUNCEMENT PLAN.

Section 613(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(7) include a plan for providing information to the public in a coordinated manner.".

SEC. 136. EXPANDED RESEARCH BY SECRETARY OF ENERGY.

(a) IN GENERAL.—In coordination with the joint interdepartmental working group under section 319F(a) of the Public Health Service Act, the Secretary of Energy and the Administrator of the National Nuclear Security Administration shall expand, enhance, and intensify research relevant to the rapid detection and identification of pathogens likely to be used in a bioterrorism attack or other agents that may cause a public health emergency.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2002 through 2006.

SEC. 137. AGENCY FOR TOXIC SUBSTANCE AND DISEASE REGISTRY.

(a) IN GENERAL.—In planning for and responding to bioterrorism and other public health emergencies, including assisting State health departments, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall take into account the role and expertise of the Agency for Toxic Substances and Disease Registry (in this section referred to as "ATSDR").

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of providing resources (including increased personnel, as appropriate) for ATSDR to use authorities under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to assist the Secretary in planning for or responding to bioterrorism or other public health emergencies, there are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2002 through 2006, in addition to any other authorizations of appropriations that are available for such purpose.

SEC. 138. EXPANDED RESEARCH ON WORKER HEALTH AND SAFETY.

The Secretary, acting through the Director of the National Institute of Occupational Safety and Health, shall enhance and expand research as deemed appropriate on the health and safety of workers who are at risk for bioterrorist threats or attacks in the workplace.

SEC. 139. TECHNOLOGY OPPORTUNITIES PROGRAM SUPPORT.

For fiscal years 2003 and 2004, all of the information infrastructure grants provided by the National Telecommunications and Information Administration (under the program also known as the Technology Opportunities Program) shall be used to provide grants to health providers to facilitate participation in the national public health communications and surveillance networks authorized under section 319D(b)(3) of the Public Health Service Act.

Subtitle D—Authorization of Appropriations

SEC. 151. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out activities of the Department of Health and Human Services in accordance with the provisions referred to in subsection (b), including making awards of grants, cooperative agreements, or contracts and providing other assistance to States and other public or private entities, there are authorized to be appropriated $2,720,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.

(b) Relevant Provisions.—For purposes of this section, the provisions referred to in this subsection are—

(1) the provisions of this title;

(2) sections 319A through 319K of the Public Health Service Act;

(3) title XXVIII of such Act; and

(4) section 301 of such Act, to the extent that such section is used as the authority of the Secretary of Health and Human Services to carry out activities to supplement the activities carried out under the provisions referred to in paragraphs (1) through (3);

except that this section does not have any applicability with respect to the use of section 301 of such Act as authority for activities of the National Institutes of Health.

(c) Fiscal Year 2002.—

(1) In general.—The aggregate amount of authorizations of appropriations under this title and under the Public Health Service Act for fiscal year 2002 for the purpose described in subsection (a) does not exceed the amount specified for fiscal year 2002 in such subsection, notwithstanding other authorizations of appropriations.

(2) Allocations of authorizations.—Of the amount that is authorized to be appropriated under subsection (a) for fiscal year 2002, the following authorizations of appropriations for such fiscal year for the purpose described in such subsection apply:

(A) For making awards of grants, cooperative agreements, or contracts and providing other assistance to States and other public or private entities, $1,000,000,000 is authorized, of which—

(i) $455,000,000 is authorized for grants under section 319C of the Public Health Service Act;

(ii) $455,000,000 is authorized for grants or cooperative agreements under section 319F of such Act; and

(iii) $40,000,000 is authorized for grants or cooperative agreements under section 319H of the Public Health Service Act, as added by section 106 of this Act (relating to shortages of certain health professionals).

(B) For the national stockpile under section 121 of this Act, other than activities of the National Institutes of Health regarding smallpox vaccine, $1,155,000,000 is authorized, of which $509,000,0000 is authorized for the acquisition of smallpox vaccine.

(C) For the Centers for Disease Control and Prevention, other than purposes to which the authorization established in subparagraph (A) applies, $450,000,000, of which $300,000,000 is authorized for facilities of such Centers for purposes described in section 399D(c) of the Public Health Service Act.

(D) For activities on antimicrobial resistance under section 319E of such Act, $25,000,000 is authorized.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

SEC. 201. REGULATION OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.

(a) Biological Agents Provisions of the Antiterrorism and Effective Death Penalty Act of 1996; Codification in the Public Health Service Act, With Amendments.—

(1) Public health service act.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

“SEC. 351A. ENHANCED CONTROL OF DANGEROUS BIOLOGICAL AGENTS AND TOXINS.

“(a) Regulatory Control of Certain Biological Agents and Toxins.—

“(1) List of biological agents and toxins.—

“(A) In general.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

“(B) Criteria.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

“(i) consider—

“(I) the effect on human health of exposure to the agent or toxin;

“(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

“(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent or toxin; and

“(IV) any other criteria that the Secretary considers appropriate; and

“(ii) consult with scientific experts representing appropriate professional groups.

“(2) Biennial publication.—The Secretary shall publish the list under paragraph (1) biennially, or at such more frequent intervals as the Secretary determines to be appropriate. Before publishing the list, the Secretary shall review the list, and shall make such revisions as are appropriate to protect the public health and safety. In reviewing and revising the list, the Secretary shall consider the needs of vulnerable populations, including children, and shall consult with appropriate Federal agencies and State and local public health officials.

“(b) Regulation of Transfers of Listed Biological Agents and Toxins.—The Secretary shall by regulation provide for—

“(1) the establishment and enforcement of safety procedures for the transfer of biological agents and toxins listed pursuant to subsection (a)(1), including measures to ensure—

“(A) proper training and appropriate skills to handle such agents and toxins; and

“(B) proper laboratory facilities to contain and dispose of such agents and toxins;

“(2) safeguards to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

“(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

“(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

“(c) Possession and Use of Listed Biological Agents and Toxins.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of biological agents and toxins listed pursuant to subsection (a)(1) in order to protect the public health and safety, including the measures, safeguards, procedures, and availability of such agents and toxins described in paragraphs (1) through (4) of subsection (b), respectively.

“(d) Registration and Traceability Mechanisms; Database.—Regulations under subsections (b) and (c) shall require registration of the possession, use, and transfer of biological agents and toxins listed pursuant to subsection (a)(1), and such registration shall include (if available to the registered person) information regarding the characterization of such biological agents and toxins to facilitate their identification and traceability. The Secretary shall maintain a national database of the location of such agents and toxins, with information regarding their characterizations.

“(e) Inspections.—The Secretary may conduct inspections to ensure that persons subject to regulations under subsection (b) or (c) are in compliance with such regulations, including provisions regarding security and restrictions on access under subsection (g).

“(f) Exemptions.—The Secretary may establish exemptions from the applicability of provisions of regulations under subsection (b) or (c) if the Secretary determines that such exemptions are consistent with protecting the public health and safety. In the case of a clinical laboratory that is in possession of a biological agent or toxin listed pursuant to subsection (a)(1), such an exemption may be provided only if such agent or toxin has been presented for diagnosis, verification, or proficiency testing, and upon identification or verification of the agent or toxin, such laboratory—

“(1) promptly notifies the Secretary or other public health authorities when required under Federal or State law; and

“(2) transfers or destroys the agent or toxin in accordance with such regulations.

“(g) Security Requirements for Registered Persons.—

“(1) In general.—In carrying out the provisions of subsections (b) and (c) that relate to safeguards, the Secretary, in consultation with the Attorney General, shall by regulation establish appropriate security requirements for persons possessing, using, or transferring biological agents or toxins listed pursuant to subsection (a)(1), and ensure compliance with such requirements as a condition of registration under subsection (b) or (c).

“(2) Limiting access to listed agents and toxins.—

“(A) In general.—Regulations issued under subsections (b) and (c) shall include provisions—

“(i) to restrict access to biological agents and toxins listed pursuant to subsection (a)(1) to only those individuals who have a legitimate need for access, as determined according to the purposes for which the registration under such regulations is provided; and

“(ii) to ensure that individuals granted such access are not—

“(I) restricted persons, as defined in section 175b of title 18, United States Code;

“(II) named in a warrant issued to a Federal or State law enforcement agency for participation in any domestic or international act of terrorism or other act of violence;

“(III) under investigation for involvement with a domestic or international terrorist or criminal organization by any Federal law enforcement or intelligence agency; or

“(IV) suspected by any Federal law enforcement or intelligence agency of seeking to obtain covertly information relating to biological agents or toxins on behalf of the intelligence or military operations of a foreign nation.

“(B) Screening protocol.—To carry out subparagraph (A), the Secretary shall require that registered persons promptly submit the names and other identifying information for individuals described in subparagraph (A)(i) to the Secretary and the Attorney General, with which information the Attorney General shall promptly use criminal, immigration, and national security databases available to the Federal Government to identify whether such individuals satisfy the conditions for access under subparagraph (A)(ii). The Secretary, in consultation with the Attorney General and other Federal agencies, shall periodically review and as appropriate revise the protocol for screening individuals for purposes of subparagraph (A), and may require by regulation additional screening measures if determined necessary to achieve the purposes of this section.

"(3) ASSISTANCE FOR CERTAIN ENTITIES.—The Secretary, in consultation with the Attorney General, may make awards of grants, contracts, or cooperative agreements to public and nonprofit private entities (other than Federal agencies), and may provide technical assistance to such entities, to improve security of the facilities of registered persons.

"(h) DISCLOSURE OF INFORMATION.—

"(1) IN GENERAL.—Any information in the possession of any Federal agency that identifies a person, or the geographic location of a person, who is registered pursuant to regulations under this section (including regulations promulgated before the effective date of this subsection), and any site-specific information relating to the type, quantity, or identity of a biological agent or toxin listed pursuant to subsection (a)(1) or the site-specific security mechanisms in place to protect such agents and toxins, shall not be disclosed under section 552(a) of title 5, United States Code.

"(2) DISCLOSURES FOR PUBLIC HEALTH AND SAFETY; CONGRESS.—Nothing in this section may be construed as preventing the head of any Federal agency—

"(A) from making disclosures of information described in paragraph (1) for purposes of protecting the public health and safety; or

"(B) from making disclosures of such information to any committee or subcommittee of the Congress with appropriate jurisdiction, upon request.

"(i) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—In addition to any other penalties that may apply under law, any person who violates any provision of regulations under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person.

"(2) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) shall apply to a civil money penalty under paragraph (1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act. The Secretary may delegate authority under this subsection in the same manner as provided in section 1128A(j)(2) of the Social Security Act, and such authority shall include all powers as contained in section 6 of the Inspector General Act of 1978.

"(j) COORDINATION WITH REGULATIONS UNDER VIRUS-SERUM-TOXIN ACT.—

"(1) IN GENERAL.—In establishing and enforcing regulations under subsections (b) and (c), the Secretary shall consult with the Secretary of Agriculture to ensure that such activities are coordinated, to the greatest extent practicable, with regulations governing certain biological agents and toxins listed pursuant to subsection (a)(1) issued by the Secretary of Agriculture under the Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading 'Bureau of Animal Industry' in the Act of March 4, 1913; 21 U.S.C. 151-159) (in this subsection referred to as the 'VST Act'). The purpose of such coordination shall be—

"(A) to minimize any conflicts between the regulations issued by, or the activities of, the Secretary of Health and Human Services and the Secretary of Agriculture with respect to such agents and toxins;

"(B) to minimize the administrative burden on persons subject to regulations under both this section and the VST Act;

"(C) to ensure the appropriate availability of such agents and toxins for legitimate agricultural or veterinary research, education, or other such purposes; and

"(D) to ensure the establishment of a national database of such agents or toxins pursuant to subsection (d).

"(2) PERSONS REGULATED BY DEPARTMENT OF AGRICULTURE.—With respect to persons possessing or using biological agents or toxins listed pursuant to subsection (a)(1) who, as of the date of enactment of the Public Health Security and Bioterrorism Response Act of 2001, possess an unexpired, unrevoked, and unsuspended permit or license from the Department of Agriculture for such possession or use, such persons may, for purposes of registration under subsection (b) or (c), submit to the Secretary of Health and Human Services the same information previously provided to the Secretary of Agriculture to obtain such permit or license, provided that the information so submitted is accurate as of the time of submittal to the Secretary of Health and Human Services, and provided further that such Secretary may, after review of such submission, request such additional information as the Secretary determines to be necessary to achieve the purposes of this section.

"(3) SAVINGS PROVISION.—Nothing in this section shall be construed as limiting any authority of the Secretary of Agriculture under the VST Act or any regulations issued thereunder.

"(k) DEFINITIONS.—For purposes of this section:

"(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178 of title 18, United States Code.

"(2) The term 'registered person' means a person registered under regulations under subsection (b) or (c).

"(l) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.".

(2) RELATION TO OTHER LAWS.—

(A) RULE OF CONSTRUCTION.—Regulations promulgated by the Secretary of Health and Human Services under section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 are deemed to have been promulgated under section 351A of the Public Health Service Act, as added by paragraph (1) of this subsection. Such regulations, including the list under subsection (d)(1) of such section 511, that were in effect on the day before the date of the enactment of this Act remain in effect until modified by the Secretary (including any revisions required under subsection (a)(2) of such section 351A).

(B) CONFORMING AMENDMENT.—Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

(3) DATE CERTAIN FOR PROMULGATION OF CERTAIN REGULATIONS; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—With respect to section 351A of the Public Health Service Act (as added by paragraph (1) of this subsection):

(A) Not later than 30 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate an interim final rule requiring all persons in possession of biological agents or toxins listed pursuant to subsection (a)(1) of such section (unless exempt under subsection (e) of such section) to provide notice to the Secretary of such possession, and to include in the notice such additional information as the Secretary may require for compliance with subsection (d) of such section or any other provision of such section, by not later than 30 days after the date on which such rule is promulgated. Such interim final rule takes effect on the date on which the rule is promulgated, except as follows:

(i) For purposes of section 175b(c) of title 18, United States Code (relating to criminal penalties), as added by subsection (a)(1)(E) of this section, the rule takes effect 60 days after the date on which the rule is promulgated.

(ii) For purposes of subsection (i) of such section 351A (relating to civil penalties), the rule takes effect 60 days after the date on which the rule is promulgated.

(B) Not later than 120 days after the date of enactment of this Act, such Secretary shall promulgate an interim final rule for carrying out subsections (b) and (c) of such section 351A. Such interim final rule takes effect 60 days after the date on which the rule is promulgated.

(4) EFFECTIVE DATE REGARDING DISCLOSURE OF INFORMATION.—Subsection (h) of section 351A of the Public Health Service Act, as added by paragraph (1) of this subsection, is deemed to have taken effect on the effective date of the Antiterrorism and Effective Death Penalty Act of 1996.

(b) CRIMINAL PENALTIES REGARDING SELECT AGENTS.—

(1) IN GENERAL.—Section 175b of title 18, United States Code, as added by section 817 of Public Law 107-56, is amended—

(A) by striking "(a)" and inserting "(a)(1)";

(B) by transferring subsection (c) from the current placement of the subsection and inserting the subsection before subsection (b);

(C) by striking "(c)" and inserting "(2);

(D) by redesignating subsection (b) as subsection (d); and

(E) by inserting before subsection (d) (as so redesignated) the following subsections:

"(b) TRANSFER TO UNREGISTERED PERSON.—Whoever knowingly transfers a select agent to a person without first verifying with the Secretary of Health and Human Services that the person has obtained a registration required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

"(c) UNREGISTERED FOR POSSESSION.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.".

(2) CONFORMING AMENDMENTS.—Chapter 10 of title 18, United States Code, is amended—

(A) in section 175b (as added by section 817 of Public Law 107-56 and amended by paragraph (1) of this subsection)—

(i) in subsection (d)(1), by striking "The term" and all that follows through "does not include" and inserting the following: "The term 'select agent' means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include"; and

(ii) in the heading for the section, by striking "**Possession by restricted persons**" and inserting "**Select agents**"; and

(B) in the chapter analysis, in the item relating to section 175b, by striking "Possession by restricted persons." and inserting "Select agents.".

(3) Technical corrections.—Chapter 10 of title 18, United States Code, as amended by section 817 of Public Law 107-56 and paragraphs (1) and (2) of this subsection, is amended—

(A) in section 175—

(i) in subsection (a), in the second sentence, by striking "this section" and inserting "this subsection"; and

(ii) in subsection (c), by striking "protective" and all that follows and inserting "protective, bona fide research, or other peaceful purposes.";

(B) in section 175b—

(i) in subsection (a)(1), by striking "described in subsection (b)" and all that follows and inserting the following: "shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations."; and

(ii) in subsection (d)(3), by striking "section 1010(a)(3)" and inserting "section 101(a)(3)";

(C) in section 176(a)(1)(A), by striking "exists by reason of" and inserting "pertains to"; and

(D) in section 178—

(i) in paragraph (1), by striking "means any micro-organism" and all that follows through "product, capable of" and inserting the following: "means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of";

(ii) in paragraph (2), by striking "means the toxic" and all that follows through "including—" and inserting the following: "means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—"; and

(iii) in paragraph (4), by striking "recombinant molecule," and all that follows through "biotechnology," and inserting "recombinant or synthesized molecule,".

(4) Additional technical correction.—Section 2332a of title 18, United States Code, is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "section 229F)" and all that follows through "section 178)—" and inserting "section 229F)—"; and

(B) in subsection (c)(2)(C), by striking "a disease organism" and inserting "a biological agent, toxin, or vector (as those terms are defined in section 178 of this title)".

(c) Security Upgrades at the Department of Health and Human Services.—For the purpose of enabling the Secretary of Health and Human Services to secure existing facilities of the Department of Health and Human Services where biological agents or toxins listed under section 351A(a)(1) of the Public Health Service Act are housed or researched, or where vaccines are housed or researched, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each subsequent fiscal year.

(d) Report to Congress.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act (as added by subsection (a) of this section), including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under such section 351A;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A and for taking appropriate enforcement actions; and

(4) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A.

TITLE III-AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT

Subtitle A—Protection of Food Supply

SEC. 301. PROTECTION AGAINST INTENTIONAL ADULTERATION OF FOOD.

(a) Increasing Inspections for Detection of Intentional Adulteration of Food.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by adding at the end the following subsection:

"(h)(1) The Secretary shall give high priority to increasing the number of inspections under this section for the purpose of enabling the Secretary to inspect food offered for import at ports of entry into the United States, with the greatest priority given to inspections to detect the intentional adulteration of food.".

(b) Improvements to Information Management Systems.—Section 801(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section, is amended by adding at the end the following paragraphs:

"(2) The Secretary shall give high priority to making necessary improvements to the information management systems of the Food and Drug Administration that contain information related to foods imported or offered for import into the United States for purposes of improving the ability of the Secretary to allocate resources, detect the intentional adulteration of food, and facilitate the importation of food that is in compliance with this Act.

"(3) The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, periodic reports describing the activities of the Secretary under paragraphs (1) and (2).".

(c) Testing for Rapid Detection of Intentional Adulteration of Food.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (a) of this section, is amended by adding at the end the following:

"(i)(1) For use in inspections of food under this section, the Secretary shall provide for research on the development of tests and sampling methodologies—

"(A) whose purpose is to test food in order to rapidly detect the adulteration of the food, with the greatest priority given to detect the intentional adulteration of food; and

"(B) whose results offer significant improvements over the available technology in terms of accuracy, timing, or costs.

"(2) In providing for research under paragraph (1), the Secretary shall give priority to conducting research on the development of tests that are suitable for inspections of food at ports of entry into the United States.

"(3) In providing for research under paragraph (1), the Secretary shall as appropriate coordinate with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Administrator of the Environmental Protection Agency, and the Secretary of Agriculture.

"(4) The Secretary shall annually submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the progress made in research under paragraph (1), including progress regarding paragraph (2).".

(d) Assessment of Threat of Intentional Adulteration of Food.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall ensure that, not later than six months after the date of the enactment of this Act—

(1) the assessment that (as of such date of enactment) is being conducted on the threat of the intentional adulteration of food is completed; and

(2) a report describing the findings of the assessment is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate.

(e) Authorization of Appropriations.—For the purpose of carrying out this section and the amendments made by this section, there are authorized to be appropriated $100,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006, in addition to other authorizations of appropriations that are available for such purpose.

SEC. 302. ADMINISTRATIVE DETENTION.

(a) Expanded Authority.—Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by adding at the end the following subsection:

"(h) Administrative Detention of Foods.—

"(1) Detention authority.—

"(A) In general.—An officer or qualified employee of the Food and Drug Administration may order the detention, in accordance with this subsection, of any article of food that is found during an inspection, examination, or investigation under this Act conducted by such officer or qualified employee, if the officer or qualified employee has credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

"(B) Secretary's approval.—An article of food may be ordered detained under subparagraph (A) only if the Secretary or an official designated by the Secretary approves the order. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or is an official senior to such director.

"(2) Period of Detention.—An article of food may be detained under paragraph (1) for a reasonable period, not to exceed 20 days, unless a greater period, not to exceed 30 days, is necessary, to enable the Secretary to institute an action under subsection (a) or section 302. The Secretary shall by regulation provide for procedures for instituting such action on an expedited basis with respect to perishable foods.

"(3) Security of Detained Article.—An order under paragraph (1) with respect to an article of food may require that such article be labeled or marked as detained, and may require that the article be removed to a secure facility. An article subject to such an order shall not be transferred by any person from the place at which the article is ordered detained, or from the place to which the article is so removed, as the case may be, until released by the Secretary or until the expiration of the detention period applicable under such order, whichever occurs first.

"(4) Appeal of Detention Order.—With respect to an article of food ordered detained under paragraph (1), any person who would be entitled to be a claimant for such article if the article were seized under subsection (a) may appeal the order to the Secretary. Within 72 hours after such an appeal is filed, the Secretary, after providing opportunity for an informal hearing, shall confirm or terminate the order involved, and such confirmation by the Secretary shall be considered a final agency action for purposes of section 702 of title 5, United States Code. If during such 72-hour period the Secretary fails to provide such an opportunity, or to confirm or terminate such order, the order is deemed to be terminated.".

(b) Prohibited Act.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(bb) The transfer of an article of food in violation of an order under section 304(h), or the removal or alteration of any mark or label required by the order to identify the article as detained.".

(c) Temporary Holds at Ports of Entry.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 301(c) of this Act, is amended by adding at the end the following:

"(j)(1) If an officer or qualified employee of the Food and Drug Administration has credible evidence or information indicating that an article of food presents a threat of serious adverse health consequences or death to humans or animals, and such officer or qualified employee is unable to inspect, examine, or investigate such article upon the article being offered for import at a port of entry into the United States, the officer or qualified employee shall request the Secretary of Treasury to hold the food at the port of entry for a reasonable period of time, not to exceed 24 hours, for the purpose of enabling the Secretary to inspect, examine, or investigate the article as appropriate.

"(2) The Secretary shall request the Secretary of Treasury to remove an article held pursuant to paragraph (1) to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.

"(3) An officer or qualified employee of the Food and Drug Administration may make a request under paragraph (1) only if the Secretary or an official designated by the Secretary approves the request. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or is an official senior to such director.

"(4) With respect to an article of food for which a request under paragraph (1) is made, the Secretary, promptly after the request is made, shall notify the State in which the port of entry involved is located that the request has been made, and as applicable, that such article is being held under this subsection.".

SEC. 303. PERMISSIVE DEBARMENT REGARDING FOOD IMPORTATION.

(a) In General.—Section 306(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "or" after the comma at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ", or"; and

(C) by adding at the end the following subparagraph:

"(C) a person from importing an article of food or offering such an article for import into the United States.";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting "subparagraph (A) or (B) of" before "paragraph (1)";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following paragraph:

"(3) Persons Subject to Permissive Debarment; Food Importation.—A person is subject to debarment under paragraph (1)(C) if—

"(A) the person has been convicted of a felony for conduct relating to the importation into the United States of any article of food; or

"(B)(i) the person has repeatedly imported or offered for import adulterated articles of food; and

"(ii) the person knew, or should have known, that such articles were adulterated.".

(b) Conforming Amendments.—Section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a) is amended—

(1) in subsection (a), in the heading for the subsection, by striking "Mandatory Debarment.—" and inserting "Mandatory Debarment; Certain Drug Applications.—";

(2) in subsection (b)—

(A) in the heading for the subsection, by striking "Permissive Debarment.—" and inserting "Permissive Debarment; Certain Drug Applications; Food Imports.—"; and

(B) in paragraph (2), in the heading for the paragraph, by striking "permissive debarment.—" and inserting "permissive debarment; certain drug applications.—";

(3) in subsection (c)(2)(A)(iii), by striking "subsection (b)(2)" and inserting "paragraph (2) or (3) of subsection (b)";

(4) in subsection (d)(3)—

(A) in subparagraph (A)(i), by striking "or (b)(2)(A)" and inserting " or paragraph (2)(A) or (3) of subsection (b)";

(B) in subparagraph (A)(ii)(II), by inserting "in applicable cases," before "sufficient audits"; and

(C) in subparagraph (B), in each of clauses (i) and (ii), by inserting "or subsection (b)(3)" after "subsection (b)(2)(B).

(c) Effective Dates.—Section 306(l)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(l)(2)) is amended—

(1) in the first sentence—

(A) by striking "and" after "subsection (b)(2)"; and

(B) by inserting ", and subsection (b)(3)" after "subsection (b)(2)(B)"; and

(2) in the second sentence, by inserting ", subsection (b)(3)," after "subsection (b)(2)(B)".

(d) Prohibited Act.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 302(b) of this Act, is amended by adding at the end the following:

"(cc) The importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of, a person debarred under section 306(b)(1)(C).".

SEC. 304. MAINTENANCE AND INSPECTION OF RECORDS FOR FOODS.

(a) In General.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following section:

"SEC. 414. MAINTENANCE AND INSPECTION OF RECORDS.

"(a) Records Inspection.—If the Secretary has credible evidence or information indicating that an article of food presents a threat of serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article that are needed to assist the Secretary in investigating such credible evidence or information. The requirement under the preceding sentence applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.

"(b) Regulations Concerning Recordkeeping.—The Secretary, in consultation and coordination, as appropriate, with other Federal departments and agencies with responsibilities for regulating food safety, may by regulation establish requirements regarding the maintenance of records by persons (excluding farms and restaurants) who manufacture, process, pack, transport, distribute, receive, hold, or import food, as may be necessary to trace the source and chain of distribution of food and its packaging in order to address credible threats of serious adverse health consequences or death to humans or animals. The Secretary shall take into account the size of a business in promulgating regulations under this section.

"(c) Protection of Sensitive Information.—The Secretary shall take appropriate measures to ensure that there are in effect effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section.

"(d) Limitations.—This section shall not be construed—

"(1) to limit the authority of the Secretary to inspect records or to require maintenance of records under any other provision of this Act;

"(2) to authorize the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq);

"(3) to have any legal effect on section 552 of title 5, United States Code, or section 1905 of title 18, United States Code; or

"(4) to extend to recipes for food, financial data, pricing data, personnel data, research data, or sales data (other than shipment data regarding sales).".

(b) Factory Inspection.—Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended—

(1) in paragraph (1), by inserting after the first sentence the following new sentence: "In the case of any person (excluding farms and restaurants) who manufactures, processes, packs, transports, distributes, holds, or imports foods, the inspection shall extend to all records and other information described in section 414 when the Secretary has credible evidence or information indicating that an article of food presents a threat of serious adverse health consequences or death to humans or animals, subject to the limitations established in section 414(d)."; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking "second sentence" and inserting "third sentence".

(c) Prohibited Act.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended—

(1) by striking "by section 412, 504, or 703" and inserting "by section 412, 414, 504, 703, or 704(a); and

(2) by striking "under section 412" and inserting "under section 412, 414(b)".

SEC. 305. REGISTRATION.

(a) In General.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.), as amended by section 304 of this Act, is amended by adding at the end the following:

"SEC. 415. REGISTRATION.

"(a) Registration.—

"(1) In general.—Any facility (excluding farms) engaged in manufacturing, processing, packing, or holding food for consumption in the United States shall be registered with the Secretary. To be registered—

"(A) for a domestic facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary; and

"(B) for a foreign facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary and shall include with the registration the name of the United States agent for the facility.

"(2) Registration.—An entity (referred to in this section as the 'registrant') shall submit a registration under paragraph (1) to the Secretary containing information necessary to notify the Secretary of the identity and address of each facility at which, and all trade names under which, the registrant conducts business and, when determined necessary by the Secretary through guidance, the general food category (as identified under section 170.3 of title 21, Code of Federal Regulations, or successor regulations) of any food manufactured, processed, packed, or held at such facility. The registrant shall notify the Secretary in a timely manner of changes to such information.

"(3) Procedure.—Upon receipt of a completed registration described in paragraph (1), the Secretary shall notify the registrant of the receipt of such registration and assign a registration number to each registered facility.

"(4) List.—The Secretary shall compile and maintain an up-to-date list of facilities that are registered under this section. Such list and other information required to be submitted under this subsection shall not be subject to the disclosure requirements of section 552 of title 5, United States Code.

"(b) Exemption.—The Secretary shall by regulation exempt types of retail establishments from the requirements of subsection (a) only if the Secretary determines that the registration of such facilities is not needed for effective enforcement of this chapter and any regulations issued under this chapter.

"(c) Facility.—For purposes of this section, the term 'facility' includes any factory, warehouse, or establishment (including a factory, warehouse, or establishment of an importer), that manufactures, processes, packs, or holds food. Such term does not include restaurants or other establishments in which food is served solely for immediate human consumption.

"(d) Rule of Construction.—Nothing in this section shall be construed to authorize the Secretary to require an application, review, or licensing process.".

(b) Prohibited Acts.—

(1) In general.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 303(d) of this Act, is amended by adding at the end the following:

"(dd) The failure to register in accordance with section 415.".

(2) Misbranded food.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

"(t) If it is manufactured, processed, packed, or held in a facility that is not registered in accordance with section 415.".

(c) Effective Date.—The amendment made by subsection (b) shall take effect 180 days after the date of the enactment of this Act.

(d) Notice.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with appropriate State and local officials, shall take sufficient measures to notify entities that manufacture, process, pack, or hold food for consumption in the United States of the requirement pursuant to this section that facilities be registered with the Secretary. The Secretary shall develop guidance, as needed, to identify facilities required to register under this section.

(e) Electronic Filing.—For the purpose of reducing paperwork and reporting burdens, the Secretary of Health and Human Services may provide for, and encourage the use of, electronic methods of submitting to the Secretary registrations required pursuant to this section. In providing for the electronic submission of such registrations, the Secretary shall ensure adequate authentication protocols are used to enable identification of the registrant and validation of the data as appropriate.

(f) Savings Clause.—This section may not be construed as authorizing the Secretary of Health and Human Services to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq).

SEC. 306. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) In General.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 302(c) of this Act, is amended by adding at the end the following subsection:

"(k)(1) In the case of an article of food that is being imported or offered for import into the United States, the Secretary, after consultation with the Secretary of the Treasury, shall by regulation require, for the purpose of enabling such article to be inspected at ports of entry into the United States, the submission to the Secretary of a notice providing the identity of each of the following: The article; the manufacturer and shipper of the article, and if known within the specified period of time that notice is required to be provided, the grower of the article; the country from which the article originates; the country from which the article is shipped; and the anticipated port of entry for the article. An article of food imported or offered for import without submission of such notice in accordance with regulations under this paragraph shall be refused admission into the United States. Nothing in this section may be construed as a limitation on the port of entry for an article of food.

"(2)(A) Regulations under paragraph (1) shall require that a notice under such paragraph be provided by a specified period of time, not fewer than 24 hours, in advance of the time of the importation of the article of food involved or the offering of the food for import, except that the advance period so required may not exceed 72 hours.

"(B)(i) If an article of food is being imported or offered for import into the United States and a notice under paragraph (1) is not provided in advance in accordance with subparagraph (A), such article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until such notice is submitted to the Secretary, and the Secretary examines the notice and determines that the notice is in accordance with regulations under paragraph (1). The preceding sentence may not be construed as authorizing such delivery pursuant to the execution of a bond, pending such a determination by the Secretary.

"(ii) In carrying out clause (i) with respect to an article of food, the Secretary shall determine whether there is in the possession of the Secretary any credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

"(3)(A) This subsection may not be construed as limiting the authority of the Secretary to obtain information under any other provision of this Act.

"(B) This subsection may not be construed as authorizing the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq).".

(b) Prohibited Act.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 305(b)(1) of this Act, is amended by adding at the end the following:

"(ee) The importing or offering for import into the United States of an article of food in violation of regulations under section 801(k).".

SEC. 307. AUTHORITY TO MARK ARTICLES REFUSED ADMISSION INTO UNITED STATES.

(a) In General.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)), as amended by section 306(a) of this

Act, is amended by adding at the end the following:

"(l)(1) If a food has been refused admission under subsection (a), other than such a food that is required to be destroyed, and the Secretary determines that the food presents a threat of serious adverse health consequences or death to humans or animals, the Secretary may require the owner or consignee of the food to affix to the container of the food a label that clearly and conspicuously bears the statement: 'UNITED STATES: REFUSED ENTRY'.

"(2) All expenses in connection with affixing a label under paragraph (1) shall be paid by the owner or consignee of the food involved, and in default of such payment, shall constitute a lien against future importations made by such owner or consignee.

"(3) A requirement under paragraph (1) remains in effect until the Secretary determines that the food involved has been brought into compliance with this Act.".

(b) MISBRANDED FOODS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343), as amended by section 305(b)(2) of this Act, is amended by adding at the end the following:

"(u) If it fails to bear a label required by the Secretary under section 801(l)(1) (relating to food refused admission into the United States).".

(c) RULE OF CONSTRUCTION.—With respect to articles of food that are imported or offered for import into the United States, nothing in this section shall be construed to limit the authority of the Secretary of Health and Human Services or the Secretary of the Treasury to require the marking of refused articles of food under any other provision of law.

SEC. 308. PROHIBITION AGAINST PORT SHOPPING FOR IMPORTATION.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(h) If it is an article of food imported or offered for import into the United States and such article has previously been refused admission under section 801(a), unless the person reoffering the article affirmatively establishes, at the expense of the owner or consignee of the article, that the article is not adulterated, as determined by the Secretary.".

SEC. 309. NOTICES TO STATES REGARDING IMPORTED FOOD.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following new section:

"SEC. 908. NOTICES TO STATES REGARDING IMPORTED FOOD.

"(a) IN GENERAL.—If the Secretary has credible evidence or information indicating that a shipment of imported food or portion thereof presents a threat of serious adverse health consequences or death to humans or animals, the Secretary shall provide notice regarding such threat to the States in which the food is held or will be held, and to the States in which the manufacturer, packer, or distributor of the food is located, to the extent that the Secretary has knowledge of which States are so involved. In providing the notice to a State, the Secretary shall request the State to take such action as the State considers appropriate, if any, to protect the public health regarding the food involved.

"(b) RULE OF CONSTRUCTION.—Subsection (a) may not be construed as limiting the authority of the Secretary with respect to adulterated food under any other provision of this Act.".

SEC. 310. GRANTS TO STATES FOR INSPECTIONS; RESPONSE TO NOTICE REGARDING ADULTERATED IMPORTED FOOD.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.), as amended by section 309 of this Act, is amended by adding at the end the following new section:

"SEC. 909. GRANTS TO STATES REGARDING FOOD INSPECTIONS.

"(a) IN GENERAL.—The Secretary may make grants to States and Territories for the purpose of conducting with respect to food examinations, inspections, investigations, and related activities under section 702 through individuals who, under subsection (a) of such section, are duly commissioned by the Secretary as officers of the Department.

"(b) NOTICES REGARDING ADULTERATED IMPORTED FOOD.—The Secretary may make grants to the States for the purpose of assisting the States with the costs of taking appropriate action to protect the public health in response to notices under section 908, including planning and otherwise preparing to take such action.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.".

Subtitle B—Protection of Drug Supply

SEC. 311. ANNUAL REGISTRATION OF FOREIGN MANUFACTURERS; SHIPPING INFORMATION; DRUG AND DEVICE LISTING.

(a) ANNUAL REGISTRATION; LISTING.—

(1) IN GENERAL.—Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended—

(A) in subsection (i)(1)—

(i) by striking "Any establishment" and inserting "On or before December 31 of each year, any establishment";

(ii) by striking "establishment and the name" and inserting "establishment, the name"; and

(iii) by inserting before the period the following: ", the name of each importer of such drug or device in the United States that is known to the establishment, and the name of each carrier used by the establishment in transporting such drug or device to the United States for purposes of importation"; and

(B) in subsection (j)(1), in the first sentence, by striking "or (d)" and inserting "(d), or (i)".

(2) MISBRANDING.—Section 502(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(o)) is amended by striking "in any State".

(b) IMPORTATION; STATEMENT REGARDING REGISTRATION OF MANUFACTURER.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 307(a) of this Act, is amended by adding at the end the following subsection:

"(m) A drug or device that is imported or offered for import into the United States may be refused admission if the importer of the drug or device does not, at the time of offering the drug or device for import, submit to the Secretary a statement that identifies the registration under section 510(i) of each establishment that with respect to such drug or device is required under such section to register with the Secretary.".

(2) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 306(b) of this Act, is amended by adding at the end the following:

"(ff) The importing or offering for import into the United States of a drug or device with respect to which there is a failure to comply with an order of the Secretary to submit to the Secretary a statement under section 801(m).".

(c) EFFECTIVE DATE.—The amendments made by this section take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 312. REQUIREMENT OF ADDITIONAL INFORMATION REGARDING IMPORT COMPONENTS INTENDED FOR USE IN EXPORT PRODUCTS.

(a) IN GENERAL.—Section 801(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(d)(3)) is amended to read as follows:

"(3)(A) Subject to subparagraph (B), no component of a drug, no component part or accessory of a device, or other article of device requiring further processing, which is ready or suitable for use for health-related purposes, and no article of a food additive, color additive, or dietary supplement, including a product in bulk form, shall be excluded from importation into the United States under subsection (a) if each of the following conditions is met:

"(i) The importer of such article of a drug or device or importer of such article of a food additive, color additive, or dietary supplement submits to the Secretary, at the time of initial importation, a statement in accordance with the following:

"(I) Such statement provides that such article is intended to be further processed by the initial owner or consignee, or incorporated by the initial owner or consignee, into a drug, biological product, device, food, food additive, color additive, or dietary supplement that will be exported by the initial owner or consignee from the United States in accordance with subsection (e) or section 802, or with section 351(h) of the Public Health Service Act.

"(II) The statement identifies the manufacturer of such article and each processor, packer, distributor, carrier, or other entity that had possession of the article in the chain of possession of the article from the manufacturer to such importer of the article.

"(ii) If such article is known to be, or to contain or bear, any chemical substance or biological substance, the statement under clause (i) is accompanied by such certificates of analysis as are necessary to identify each such substance.

"(iii) At the time of initial importation and before the delivery of such article to the importer or the initial owner or consignee, such owner or consignee executes a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury.

"(iv) Such article is used and exported by the initial owner or consignee in accordance with the intent described under clause (i)(I), except for any portions of the article that are destroyed.

"(v) The initial owner or consignee maintains records on the use or destruction of such article or portions thereof, as the case may be, and submits to the Secretary any such records requested by the Secretary.

"(vi) Upon request of the Secretary, the initial owner or consignee submits a report that provides an accounting of the exportation or destruction of such article or portions thereof, and the manner in which such owner or consignee complied with the requirements of this subparagraph.

"(B) Subparagraph (A) does not apply to the import or offering for import into the United States of an article if the Secretary determines that there is credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

“(C) This section may not be construed as affecting the responsibility of the Secretary to ensure that articles imported into the United States under authority of subparagraph (A) meet each of the conditions established in such subparagraph for importation.”.

(b) Prohibited Act.—Section 301(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(w)) is amended to read as follows:

“(w) The making of a knowingly false statement in any statement, certificate of analysis, record, or report required or requested under section 801(d)(3); the failure to submit a certificate of analysis as required under such section; the failure to maintain records or to submit records or reports as required by such section; the release into interstate commerce of any article or portion thereof imported into the United States under such section or any finished product made from such article or portion, except for export in accordance with section 801(e) or 802, or with section 351(h) of the Public Health Service Act; or the failure to so export or to destroy such an article or portions thereof, or such a finished product.”.

(c) Effective Date.—The amendments made by this section take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

TITLE IV–DRINKING WATER SECURITY AND SAFETY

SEC. 401. AMENDMENT OF THE SAFE DRINKING WATER ACT.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended as follows:

(1) By inserting the following new sections after section 1432:

“SEC. 1433. TERRORIST AND OTHER INTENTIONAL ACTS.

“(a) Vulnerability Assessments.—(1) Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the vulnerability of its system to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water. The vulnerability assessment shall include, but not be limited to, a review of pipes and constructed conveyances, physical barriers, water collection, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems which are utilized by the public water system, the use, storage, or handling of various chemicals, and the operation and maintenance of such system. The Administrator, not later than March 1, 2002, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information to community water systems required to conduct vulnerability assessments regarding which kinds of terrorist attacks or other intentional acts are the probable threats to—

“(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or

“(B) otherwise present significant public health concerns.

“(2) Each community water system referred to in paragraph (1) shall certify to the Administrator that the system has conducted an assessment complying with paragraph (1) prior to:

“(A) December 31, 2002, in the case of systems serving a population of 100,000 or more.

“(B) June 30, 2003, in the case of systems serving a population of 50,000 or more but less than 100,000.

“(C) December 31, 2003, in the case of systems serving a population greater than 3,300 but less than 50,000.

“(b) Emergency Response Plan.—Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an emergency response plan that incorporates the results of vulnerability assessments that have been completed. Each such community water system shall certify to the Administrator, as soon as reasonably possible after the enactment of this section, but not later than 6 months after the completion of the vulnerability assessment under subsection (a), that the system has completed such plan. The emergency response plan shall include, but not be limited to, plans, procedures, and identification of equipment that can be implemented or utilized in the event of a terrorist or other intentional attack on the public water system. The emergency response plan shall also include actions, procedures, and identification of equipment which can obviate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health and the safety and supply of drinking water provided to communities and individuals. Community water systems shall, to the extent possible, coordinate with existing Local Emergency Planning Committees established under the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001, et seq.) when preparing or revising an emergency response plan under this subsection.

“(c) Guidance to Small Public Water Systems.—The Administrator shall provide guidance to community water systems serving a population of less than 3,300 persons on how to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks or other intentional actions designed to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply or drinking water provided to communities and individuals.

“(d) Funding.—There are authorized to be appropriated to carry out this section not more than $120,000,000 for the fiscal year 2002 and such sums as may be necessary for fiscal year 2003 and fiscal year 2004. The Administrator, in coordination with State and local governments, may provide financial assistance to community water systems for purposes of compliance with the requirements of subsections (a) and (b) and to community water systems for expenses and contracts designed to address basic security enhancements of critical importance and significant threats to public health and the supply of drinking water as determined by a vulnerability assessment under subsection (a).

“SEC. 1434. CONTAMINANT PREVENTION, DETECTION AND RESPONSE.

“(a) In General.—The Administrator, in consultation with the Centers for Disease Control and, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological or radiological contaminants into community water systems and source water for community water systems, including each of the following:

“(1) Methods, means and equipment designed to monitor and detect chemical, biological, and radiological contaminants and reduce the likelihood that such contaminants can be successfully introduced into water supplies intended to be used for drinking water.

“(2) Methods and means to provide sufficient notice to operators of public water systems, and individuals served by such systems, of the introduction of chemical, biological or radiological contaminants and the possible effect of such introduction on public health and the safety and supply of drinking water.

“(3) Procedures and equipment necessary to prevent the flow of contaminated drinking water to individuals served by public water systems.

“(4) Methods, means, and equipment which could negate or mitigate deleterious effects on public health and the safety and supply caused by the introduction of contaminants into water intended to be used for drinking water, including an examination of the effectiveness of various drinking water technologies in removing, inactivating, or neutralizing biological, chemical, and radiological contaminants.

“(5) Biomedical research into the short-term and long-term impact on public health of various chemical, biological and radiological contaminants that may be introduced into public water systems through terrorist of other intentional acts.

“(b) Funding.—For the authorization of appropriations to carry out this section, see section 1435(c).

“SEC. 1435. SUPPLY DISRUPTION PREVENTION, DETECTION AND RESPONSE.

“(a) Disruption of Supply or Safety.—The Administrator, in coordination with the appropriate departments and agencies of the Federal Government, shall review (or enter into contracts or cooperative agreements to provide for a review of) methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or take other actions against water collection, pretreatment, treatment, storage and distribution facilities which could render such water significantly less safe for human consumption, including each of the following:

“(1) Methods and means by which pipes and other constructed conveyances utilized in public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

“(2) Methods and means by which collection, pretreatment, treatment, storage and distribution facilities utilized or used in connection with public water systems and collection and pretreatment storage facilities used in connection with public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

“(3) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be altered or affected so as to be subject to cross-contamination of drinking water supplies.

“(4) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be reasonably protected from terrorist attacks or other acts intended to disrupt the supply or affect the safety of drinking water.

"(b) ALTERNATIVE SOURCES.—the review under this section shall also include a review of the methods and means by which alternative supplies of drinking water could be provided in the event of the destruction, impairment or contamination of public water systems.

"(c) FUNDING.—There are authorized to be appropriated to carry out this section and section 1434 not more than $15,000,000 for the fiscal year 2002 and such sums as may be necessary for fiscal year 2003 and fiscal year 2004.".

(2) Section 1414(i)(1) is amended by inserting "1433" after "1417".

(3) Section 1431 is amended by inserting in the first sentence after "drinking water" the following: ", or that there is a threatened or potential terrorist attack (or other intentional act designed to disrupt the provision of safe drinking water or to impact adversely the safety of drinking water supplied to communities and individuals), which".

(4) Section 1432 is amended as follows:

(A) By striking "5 years" in subsection (a) and inserting "20 years".

(B) By striking "3 years" in subsection (b) and inserting "10 years".

(C) By striking "$50,000" in subsection (c) and inserting "$1,000,000".

(D) By striking "$20,000" in subsection (c) and inserting "$100,000".

(5) Section 1442 is amended as follows:

(A) By striking "this subparagraph" in subsection (b) and inserting "this subsection".

(B) By amending subsection (d) to read as follows:

"(d) There are authorized to be appropriated to carry out subsection (b) not more than $35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. Tauzin).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Public Health Security and Bioterrorism Response Act of 2001 which I have introduced with my good friend, the gentleman from Michigan (Mr. DINGELL) the ranking member of the Committee on Energy and Commerce and a strong bipartisan list of co-sponsors. This may be the last piece of legislation we consider tonight, Mr. Speaker, but it is, by far, the most serious one and the most important one, and we will be asking for a recorded vote tomorrow on this important legislation.

The legislation is all about safety and security of American families and of our country. Today we are stepping up to the profound threats of terrorism and other public health emergencies. And we do so by combining smart and innovative policy with additional resources to prepare the country for bioterrorist threats and to improve our abilities to respond quickly and effectively to such threats when they arise.

Mr. Speaker, let me be very specific about the important investments that this legislation will make and the dramatic range of issues it will address.

First, Title I of the bill significantly steps up our preparedness and our capacity to identify and respond to threats. This Title will improve communications between and among the levels of government, public health officials, the first responders and health care providers and the health care facilities during emergencies.

Our bill authorizes $1 billion in FY 2002 in grants to States, local governments, and other public and private health care facilities and other entities to improve planning and preparedness activities, to enhance laboratory capacity, and to educate and train the health personnel that will take care of folks who are subject to any kinds of such threats.

We specifically authorized $40 million in FY 2002 for training grants to relieve shortages in critical health care professions. The Department of Health and Human Services will have a new focus, an improved coordination and accountability through a new assistant secretary of emergency preparedness. The legislation also authorizes the national disaster medical system, new planning and reporting provision, health professional verification systems during emergencies, the training exercises, and improved communication strategies. The bill further authorizes $450 million in FY 2002 for the Centers for Disease Control and Prevention to upgrade its capacity to deal with public health threats, to renovate its facilities and to improve its securities.

H.R. 3448 will also ensure that we have sufficient drugs, vaccines and other supplies for our Nation's health security. Title I, for example, authorizes more than $1.1 billion for the Secretary of Health and Human Services to expand our current National stockpiles of medicines and other supplies, including the purchase of smallpox vaccines, will encourage and expand research and develop of drugs of vaccines and devices to combat bioterrorism and other potential disease outbreaks in our country. The bill also will enhance controls on deadly biological agents in order to help prevent bioterrorism and establish a national database of dangerous pathogens.

Title II imposes new registration requirements on all possessors of the 36 most dangerous biological agents and toxins. It mandates tough new safety and security requirements to ensure that only legitimate scientists working in appropriate laboratory facilities can gain access to these potential weapons of mass destruction.

Title II also enhances criminal penalties for those caught in possession of those agents or transferring them without proper registration. And Title III of the bill will help protect American safety in their food and drug supplies. We are increasing by $100 million the Food and Drug Administration's resources to hire more inspectors at the border, to develop new methods to detect contaminated foods. In addition, we are providing the Secretary the additional regulatory authority he requested for the FDA to detain food and to investigate credible evidence of contamination and improve access to records and recordkeeping to assist the Secretary in investigating any threats to our food supply. This title also improves our enforcement and inspection capabilities for those drug supplies. The new resources and authorities will substantially improve our country's ability to ensure the safety confidence in both our food and our drug supplies.

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Title 4 of the legislation will ensure that drinking water systems across the country assess their vulnerability to terrorist attack and develop emergency plans to prepare for and respond to those attacks. This title also requires a comprehensive review of the ways to detect and respond to chemical, biological, and radiological contamination of drinking water, as well as way to prevent and mitigate the effects of physical attacks. In addition, existing criminal penalties and fines for tampering with drinking water systems are substantially increased. A total of $170 million in fiscal year 2002 is authorized for these important efforts.

Americans deserve to know that we are taking concerted action today to protect the water they drink every single day. Title IV will lay the groundwork for developing the necessary information, and emergency planning and response efforts that are needed to address this new threat.

Mr. Speaker, this legislation builds on the tremendous work and leadership of our President, President Bush, and his administration, over the last 3 months. Importantly, it builds on existing programs rather than creating new ones that will only delay the distribution of monies to the front lines. We have spent time to integrate programs and to make sure our national efforts are focused and better coordinated. We have worked closely with the administration to achieve this result, and I am frankly very confident the President will sign this bill.

I want to thank the gentleman from Michigan (Mr. DINGELL) and the other members of the committee on both sides of the aisle for their tireless and extraordinarily good-faith efforts to produce a great bill. This is remarkable legislation, Mr. Speaker, for remarkable times. The House can be very proud not only of this product but also of a country that is responding in such a unified way as exemplified by the bipartisan spirit in which we bring this legislation to the floor.

America, I think, will be proud of our commitment made in this bill to the right investments and the smart policy choices to meet the challenges and protect our Nation's public health. I urge all my colleagues to support this very landmark legislation.

Mr. Speaker, I submit for the RECORD letters to and from the Chairman of the Committee on Science and myself regarding this legislation.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, December 11, 2001.
Hon. SHERWOOD L. BOEHLERT,
Chairman, Committee on Science, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BOEHLERT: Thank you for your letter regarding H.R. , the Public Health Security and Bioterrorism Response Act of 2001.

I appreciate your willingness not to seek a referral of the bill. I agree that your decision to forgo action on the bill will not prejudice the Committee on Science with respect to its jurisdictional prerogatives on this or similar legislation. Further, I recognize your right to request conferees on those provisions within the Committee on Science's jurisdiction should they be the subject of a House-Senate conference.

I will include your letter and this response in the Congressional Record when the bill is considered on the Floor.

Sincerely,

W.J. "BILLY" TAUZIN,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, December 11, 2001.
Hon. W.J. TAUZIN,
Chairman, Committee on Energy and Commerce, Rayburn HOB, Washington, DC.

DEAR MR. CHAIRMAN: Earlier today you and your colleagues introduced the "Public Health Security and Bioterrorism Response Act of 2001." Knowing of your interest in moving the legislation through the House as quickly as possible, I am prepared not to seek a sequential referral of the bill's provisions that affect the jurisdiction of the Science Committee. Despite waiving the right to seek a referral, the Science Committee does not waive its jurisdiction over the bill. Additionally, the Science Committee expressly reserves its authority to seek conferees on any provisions that are within its jurisdiction during any House-Senate conference that may be convened on this legislation or like provisions in the bill or similar legislation which falls within the Science Committee's jurisdiction. I ask for your commitment to support any request by the Science Committee for conferees on the bill, as well as any similar or related legislation.

Based on a quick review, here are some of the provisions I believe affect the Science Committee's jurisdiction:

Section 108 (Working Group on Preparedness). New subsections (a)(1)-(3) require a joint working group, including DOE and EPA, to coordinate and prioritize research, facilitate the development of countermeasures, and coordinate research and development.

Section 108 (Working Group on Preparedness). New subsection (a)(4) requires the Working Group, including DOE and EPA, to develop shared standards for equipment.

Section 126 (Evaluation of New and Emerging Technologies). Subsection (b) requires the Secretary of HHS ,to survey existing technology programs funded by the Federal Government for potentially useful technologies and, in consultation with an interagency working group that includes DOE and EPA, to evaluate technologies.

Section 137 (Expanded Research by Secretary of Energy). This authorizes DOE research related to bioterrorist attacks.

Section 401 (Drinking Water Security and Safety). This reauthorizes an existing environmental research and development program in the Safe Drinking Water Act. Section 401 also authorizes two new programs, in proposed sections 1434 and 1435 of the SDWA, that direct EPA to "review current and future methods and means" relating to contamination and physical disruption of water systems. These provisions are similar to provisions in the Science Committee's bill, H.R. 3178.

H.R. 3178 passed the Science Committee on November 15. It authorizes EPA research related activities to develop anti-terrorism tools for water and wastewater agencies. Since our markup of H.R. 3178, my staff has worked with your staff to clarify the text of H.R. 3178 to prevent or reduce any jurisdictional issues. I look forward to the continued cooperation between our two Committees on both H.R. 3178 and the "Public Health Security and Bioterrorism Response Act of 2001."

I request that you include this exchange of letters in the Congressional Record as part of the Floor debate on the bill.

Thank you again for your consideration and attention regarding these matters.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, today we are considering bipartisan legislation on a matter of utmost national importance, our preparedness against terrorism. I want to begin by commending my good friend, the chairman of the committee, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), and the gentleman from Iowa (Mr. GANSKE), as well as my colleagues, the gentleman from Ohio (Mr. BROWN), the gentleman from New Jersey (Mr. MENENDEZ), and the gentleman from New Jersey (Mr. PALLONE), the gentleman from Florida (Mr. Deutsch), who worked so hard on this, and the gentlewoman from California (Ms. HARMAN).

This bill was put together in the best bipartisan traditions of the way the Committee on Energy and Commerce has always worked, and it resolves in the best possible way the questions that concern us with regard to preparedness and protection of our people against bioterrorism.

There are many excellent provisions in the legislation, including improvement and protection of drinking water supply, tighter controls on dangerous biological agents, and a number of other things, including putting support where it needs to be put to help our people to address the problems which they have on the local level and to improve Federal-local cooperation in these matters. It also does something very important, and that is it improves inspection resources for imported food.

These are only a downpayment on what will ultimately be necessary, but nonetheless they are an enormous increase over the way things are done at this particular time.

Mr. Speaker, I urge my colleagues, without exception, to support it. It is bipartisan, it is good, it is in the public interest; and I again commend my colleagues, including our chairman, for the fine work which has been done on this very difficult and very important piece of legislation.

In addition, Mr. Speaker, I include for the RECORD a detailed explanation of the bill:

Title III, Subtitle A—Protection of Food Supply, addresses existing deficiencies in the Nation's food safety infrastructure and takes appropriate steps to protect the Nation's food supply from new threats of terrorism. In particular, it authorizes new powers and $100 million to the Food and Drug Administration (FDA) so it can increase and improve inspections of imported food at the 307 different U.S. ports of entry. With the additional funds and authorities in this bill, FDA should be equipped to inspect about 2 percent of all imported food shipments. While this remains significantly less than FDA's recommendation to inspect 10 percent of all imported food shipments, this legislation is an important downpayment.

The subtitle also provides for permissive debarment of scofflaw food importers, requires prior notice of shipments, provides administrative detention authority, requires registration and recordkeeping, and bars port shopping. Vigorous and targeted use of these new authorities should enable the Secretary to mitigate problems caused by too few inspectors.

For example, under this subtitle the Secretary must possess credible evidence or information indicating that a specific shipment or article of food presents a serious health threat to exercise his full detention authority. However, the bill establishes a broader, less-stringent standard for the Secretary to exercise a more limited temporary hold authority. Under the temporary hold provision, the Secretary need only have credible evidence or information indicating that an article of food, not a specific article of food, presents a serious health threat. If, for example, the FDA is in possession of credible evidence or information indicating that a category of food or food from a certain geographical region presents such a threat, the Secretary may use this authority to temporarily hold shipments or articles of food (up to 24 hours) based on that information. This will enable the Secretary to appropriately dispatch FDA resources to gather credible evidence or information (based upon FDA inspection, examination or investigation) about specific shipments or articles of food. Once FDA has such evidence or information, the Secretary may then detain any such shipments or articles of food under the detention authority (up to 30 days). The temporary hold authority is intended to function as an investigative tool that enables FDA to use its detention authority, and its resources, more effectively. Accordingly, the circumstances under which temporary hold authority can be invoked are broader than those under which detention authority can be invoked.

Title III, Subtitle B—Protection of Drug Supply, includes Section 312, which requires additional information regarding import components intended for use in export products. This section does not change any definitions of regulated articles or the scope of regulation of those articles as set forth in the Federal Food, Drug, and Cosmetic Act (FFDCA) and its implementing regulations. Further, it is not the intent of this section for the Secretary of Treasury to engage in a new rulemaking to determine the requirement for bonds for goods imported under section 801(d)(3) of the FFDCA. Existing requirements for the bonding of goods imported for further processing and export should be applied. Finally, certificates of analysis are not required if the only chemical or biological component of the good imported under 801(d)(3) is de minimus, incidental, and poses no danger to human or animal health.

Title IV—Drinking Water Security and Safety, adds a new section 1433 to the Safe Drinking Water Act that requires community water systems to conduct assessments of the vulnerability of its system to a terrorist attack. Sandia National Laboratories, under a contract with the Environmental Protection Agency (EPA), has developed a new methodology for assessing and improving the security of drinking water systems. Under Section 1433 vulnerability assessments should include comprehensive site characterizations, a determination of the consequences of intentional acts or terrorist attacks, and an analysis of the use, storage, or handling of various chemicals to see whether a substitution to less dangerous chemicals will enhance the safety and health of the public in the case of an attack. For example, many drinking water systems are switching away from liquid chlorine to other chemicals that minimize the risk of an airborne toxic plume in case of a tank explosion. Further, the term "physical barriers" should be interpreted to include "buffer zones" to a physical attack.

Section 1433 also requires that emergency response plans be prepared or revised by community water systems after the vulnerability assessments. In FY 2002, the bill authorizes $120 million to assist water systems in conducting vulnerability assessments and preparing emergency response plans. This funding is available to also provide financial assistance to water systems for basic security enhancements and to address significant threats to public health. Basic security enhancements of critical importance include management systems, operating procedures, re-keying locks, buffer zones, cameras, fencing, hardening of storage tanks, equipment for back flow monitoring, security screening of contractor support services, and intrusion alert systems.

The bill charges the EPA, working with other agencies such as CDC and the FBI, to provide water systems with a consistent definition of the range of threats facing a system. This will help ensure that quality vulnerability assessments are conducted.

Title IV also contains amendments to Section 1432 of the Safe Drinking Water Act to increase the criminal penalties for tampering or threatening to tamper with a public drinking water system.

Finally, the bill amends Section 1431 of the Safe Drinking Water Act to provide new authority to the Administrator to take actions to assure the safety of the public and protect supplies of drinking water in circumstances of a threatened or potential terrorist attack at a community water system which may present an imminent and substantial endangerment to the health of persons.

The term "potential terrorist attack" should be interpreted in the context of the President's announcements that the United States is engaged in a war against terrorism and faces "continuing and immediate threats of further attacks." Senior government officials have repeatedly warned that critical infrastructure facilities should remain on a high state of alert due to the possibility of a terrorist attack. Critical infrastructure protection is an issue of importance to economic and national security. Presidential Decision Directive 63 released in May 1998 identified water supply as one of the 12 areas critical to the functioning of the country.

The Government has a responsibility to protect our citizens, and that responsibility begins with homeland security. Where the Administrator receives information that critical community water system infrastructures, such as a utility pumping system or chemical storage tanks, are vulnerable to potential terrorist attack that may present an imminent and substantial endangerment he or she may use the authority provided by Section 1431 to protect the health and safety of the public or prevent the disruption of drinking water supplies.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time, and I too rise in support of this bill.

As we know, today is the 3-month anniversary of the worst terrorist attack on American soil in history. Our thoughts and prayers are with the victims and their families today and every day. I share the concerns, we all share the concerns of all Americans who are worried about future terrorist activities, including bioterrorist attacks. With the recent anthrax outbreak, bioterrorism of course has become a reality.

Bioterrorism is an issue that has been explored by the Committee on Energy and Commerce and my Subcommittee on Health for several years. Because we cannot know when or how a public health threat might occur, we must be prepared to combat any biological agent in any form. I am pleased that we were able to work on a bipartisan, underline bipartisan, basis to craft this reasonable and responsible legislative package.

State and local governments will be the first to respond to a bioterrorist attack. This legislation requires the Secretary of Health and Human Services to work with local governments to develop bioterrorist preparedness plans. This legislation requires the CDC to enhance training of personnel, improve their communications network and intensify security to protect important research and dangerous pathogens.

Since health care providers will be the first to respond to a public health emergency, it is essential that we have health professionals ready to deal with health care needs in the event of a bioterrorist attack. This legislation begins to address shortages in areas such as medical technologists and pharmacists by providing grants to train and educate individuals in areas of the greatest need.

As vice chairman of the House Committee on Veterans' Affairs, I also believe it is essential that we fully utilize all of our Federal resources in our fight against bioterrorism. This legislation requires the Department of Health and Human Services to work with the Department of Veterans Affairs and the Department of Defense in developing our national response. These agencies have significant resources and expertise and are crucial to our efforts.

In addition, this legislation increases the protection of the Nation's food supply. In the past, too few resources have been dedicated to food security, and this legislation is a great improvement. Secretary of Health and Human Services Tommy Thompson recently testified before the committee that the Food and Drug Administration must increase the number of inspectors at the borders.

I would like in closing, Mr. Speaker, to thank the staff, who dedicated many long hours to developing this legislation. For the majority, that includes Nandan Kenkeremath, Tom DiLenge, Amit Sachdev, Brent DelMonte, Bob Meyers, and Pat Morrisey. From the minority, that includes John Ford, Edith Holleman, and Bruce Gwinn. And I would also like to extend a special thank you to legislative counsel Pete Goodloe, who was instrumental in drafting this legislation. All of the staff, all of them, spent countless hours, especially over the Thanksgiving holiday, to prepare this vital legislation.

I too urge our colleagues to join us in supporting this bill. It is important that we act this year to increase our readiness and our safety.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time; and I am pleased to join my colleagues, the gentleman from Michigan (Mr. DINGELL), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), the gentleman from New Jersey (Mr. PALLONE), and the gentleman from

Florida (Mr. DEUTSCH), in offering this bipartisan bioterrorism preparedness bill.

I want to thank the Committee on Energy and Commerce staff, who worked so hard on this bill, as mentioned by the gentleman from Florida (Mr. BILIRAKIS), including Ann Esposito, John Ford, Dave Nelson, Edith Holleman, and Bruce Gwinn. Also, legislative counsel Pete Goodloe, who worked so very hard on all of this.

The events of September 11 and the recent spate of anthrax attacks have significantly underscored the importance, to be sure, of our Nation's public health infrastructure. We need to pay far more attention to the first responders to a public health emergency, to the key health agencies charged with addressing and preventing these emergencies, and to the safeguards needed to minimize threats in the future.

We must have sufficient antibiotic and vaccine stockpiles, we must have the ability to rapidly distribute medical supplies and deploy medical personnel, and we must cultivate the expertise and technology necessary to identify and eliminate threats before they become public health crises.

This bill was written to provide new authority to Food and Drug Administration border inspectors in terms of food safety, to require the development of rapid testing techniques, and to authorize $100 million of new found for all of FDA's border inspection activities. These provisions will increase FDA's presence at the border and allow for the inspection of a greater percentage of our imported foods, making our food supplies safer from bioterrorists.

Eight years ago, before budget cuts in this Congress, 8 percent of food was inspected at the border. Today, it is about one-tenth of that. It is less than 1 percent. The safety of imported foods and the need for greater enhanced inspection resources at the border have long been a concern of many of us on this side of the aisle, a fact highlighted by the imported food safety bills I have introduced with the gentleman from Michigan (Mr. STUPAK), the gentleman from New Jersey (Mr. PALLONE), and the gentleman from Michigan (Mr. DINGELL), and others during the past several sessions of Congress.

The food safety provisions of this bill are a good downpayment on improving our food safety inspection system, but they do not obviate the need for passage of a more substantial food safety reform like the one we introduced in October.

I am pleased that a provision to equip State and local health departments to rapidly identify antibiotic resistant strains of illness was in fact included in the bill. Because antibiotic resistant microbes can be difficult to treat, even under normal circumstances, they pose a significant threat to public health. We know that antibiotic-resistant strains of anthrax and other agents can, in fact, have been engineered for the purposes of bioterrorism. A new or unexpected antibiotic-resistant strain of illness is a red flag. It could signal a bioterrorist attack. So the sooner we identify it, the sooner we can deploy the resources needed to treat it.

The ability to monitor antibiotic resistance becomes even more critical over the longer term. Whether the goal is bioterrorism preparedness or simply maintaining our ability to combat everyday illnesses and infectious disease, a major, major function of the Centers for Disease Control, we simply cannot assess the adequacy of our antibiotic supply over time as long as antibiotic resistance remains a variable.

This bill is not the last word on bioterrorism, but it is a solid first step; and I am proud to be one of its chief cosponsors.

Mr. TAUZIN. Mr. Speaker, I am proud to yield 2 minutes to the gentleman from North Carolina (Mr. BURR), the vice chairman of the Committee on Energy and Commerce and the chairman of the task force which helped produce this bill.

Mr. BURR of North Carolina. Mr. Speaker, I thank the chairman for yielding me this time. I also thank the ranking member; but more importantly, I thank all the members of the Committee on Energy and Commerce because traditionally we do not get things done as quickly in the body as we have on this bill.

I want to take this opportunity to personally thank the staff on both sides of the aisle, many of whom are here tonight, and many who spent tens, if not hundreds, of hours on this bill, and much of it over the Thanksgiving break.

Mr. Speaker, 3 months ago, we were attacked in a savage way. Over these 3 months, we have seen what is good about America; the response of the American people, in many cases to individuals they did not know. What we have seen good about this institution is its ability to throw down the partisanship that sometimes overtakes us and for Democrats and Republicans to work together on an initiative that America needs today.

We have come a long way in restructuring our public health agencies in this country. This is only the first step, though. We have a long way to go to reach a point that communities deserve for us to have in place. Through this legislation we strengthen our Federal disaster response efforts by authorizing in law the National Disaster Medical System.

This legislation provides for the much-needed resources to improve the Centers for Disease Control, not only the facilities upgrade that is needed in Atlanta, but also an additional $150 million in the first year to make sure that the overuse of laboratories, the space needs, everything that they need to respond to a threat that we clearly do not fully understand today are in fact in place.

We send money directly to States and to local public health agencies in order for them to build out their core capacity to deal with bioterrorism and other public health threats.

Mr. Speaker, in this, we update and strengthen the pharmaceutical stockpiles, and we establish a core educational curriculum to train health care professionals for public health emergencies.

I urge all of my colleagues to support this legislation today, but we cannot quit until the public health network in the U.S. is trained, equipped, and prepared to handle all responses and all threats in the future.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I come to the House floor also to offer my support for this crucial piece of legislation; and again I want to thank our ranking member, the gentleman from Michigan (Mr. DINGELL), and the ranking member of the subcommittee, the gentleman from Ohio (Mr. BROWN), and the gentleman from Florida (Mr. DEUTSCH), and all the staff that I see here tonight who worked so hard on this bill, and stress the importance of the bill.

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When the terrorist attacks against the World Trade Center and the Pentagon took place on September 11, I know that my constituents in particular and all Americans were concerned about possible threats from biological and chemical warfare that might follow. On September 28, the General Accounting Office published a report that stated, in fact, our health departments are ill-equipped, that we are vulnerable to bioterrorism and underfunded on the Federal, State and local level.

Mr. Speaker, I believe that this bill will remedy this problem in a crucial way. I want to discuss briefly the water security component of the bill. With the strong leadership of the gentleman from Louisiana (Mr. TAUZIN) and ranking member, the gentleman from Michigan (Mr. DINGELL), we were able to include language requiring large water systems serving more than 3,300 persons to conduct a vulnerability assessment and prepare or update emergency response plans within 6 months after the completion of the vulnerability assessment. In the process of completing this assessment, serious consideration would be given to the potential consequences of attack.

For example, what would happen if the on-site chlorine tanks are attacked with explosives? Should safer substitutes for liquid chlorine be used?

What are the health risks to the public if we are faced with an air-borne toxic chlorine cloud?

These are the types of questions that need to be evaluated and answered in a vulnerability assessment.

In addition to the assessment, I was pleased that funding was authorized in the bill to provide for technical assistance grants from EPA and funding for publicly owned water systems in an emergency situation. I do not have to explain the importance of protecting the public from potential disruption of water service or biological-chemical contamination of drinking water supplies. Water security has got to be a top priority in any bioterrorism bill that Congress considers.

On September 12, President Bush made a comment. He said America is going forward, and as we do so, we must remain keenly aware of the threats to our country. Those in authority should take appropriate precautions to protect our citizens. And according to this bill, Mr. Speaker, the EPA will have that authority that the President referred to if an assessment is completed and there is sign of significant vulnerability, it is a relief to know that the EPA, using its emergency powers, will be able to work with the community water systems to promptly correct the inadequacies.

I know that the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) worked hard to make sure that this safe drinking water component is in the bill. I think it is very important that it is in the bill, and I congratulate them and the staff again for making sure that this is a part of the bioterrorism response.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE), a distinguished member of our committee.

Mr. GANSKE. Mr. Speaker, I am pleased to support this bill. My congratulations to the chairman of the committee and to the ranking member. This is probably one of the more significant public health pieces of legislation that Congress has done in a long time and we need to do it. As a physician, I can tell Members this country is not able to handle an epidemic. There are very few hospitals, if any, in this country that can handle an epidemic, and that includes Johns Hopkins or the University of Iowa Hospital.

This bill provides funding to begin to bolster our public health response to a bioterrorist attack. We need to provide more funds for medicines and vaccines. We need to bolster the CDC. We need to facilitate communications between the Federal Government, the State governments, local governments. Those things are handled in this bill.

There is a lot in this bill that is very necessary and important. The one thing that was a concern earlier in the discussion on this bill was whether Members provide block grants or grants back to the States. I introduced, along with the gentleman from Arkansas (Mr. BERRY) a few weeks ago. We had about a billion dollars for that. We think that is important because a lot of States are strapped for cash, and they need some help. That is in this bill as well. I very much appreciate the efforts of the chairman and the ranking member, the staff, for this bill.

In essence, the bill that I introduced a couple of weeks ago and this bill are very similar. This is a bipartisan bill. It is a bicameral bill. It is my understanding that the administration is in favor of this bill. This bill should move. I encourage all Members of the House to vote for the bill, and for the Senate to do the same so we can move it to the President's desk.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I join my colleagues in thanking the chairman of the full committee and the ranking member as well, as well as our excellent staff on both sides.

This bill is a product of the entire House, and particularly the Committee on Energy and Commerce can be very proud of. This legislation very well might go down as the very most important piece of legislation that this Congress passes in this session. It has not gotten the most attention at this point in time, and I hope what it tries to prevent does not get as much attention because in a sense that would mean a success.

But I highlight some of the issues that we are facing, and really the world obviously changed, each of our lives changed. America changed on September 11. This bill is a step towards dealing with some of those changes. The budgeting that we had in the past, literally in the past year, in last year's fiscal year, amounted to approximately $100 million towards bioterrorism. This bill now raises that level to effectively about $3 billion. Obviously, an incredibly dramatic increase.

I think there have been Members who have expressed a viewpoint, and in a sense I share it, maybe that number should even be larger. Even $30 billion, an order of magnitude different than hopefully what we will appropriate and authorize in this legislation. But as we work towards that, it is a question whether or not the agencies could even deal with this large of an increase, but to that other level I am not sure it would be possible.

Let me focus on one of the areas where this bill is going to have a very significant effect, and that is the threat of biological terrorism in the United States. The bill specifically authorizes $450 million for smallpox vaccine, requires the Secretary to devise a plan for the distribution of the national stockpile, including the smallpox vaccine. The Secretary can designate priority countermeasures as fast track products for FDA approval. It requires the FDA to issue a final rule allowing for animal studies to prove efficacy of certain vaccines and drug countermeasures, and the secretary can award grants or contracts for research to develop new vaccines, treatments or therapies to counteract bioterrorist agents.

Mr. Speaker, we have shifted the emphasis far greater and far more than we had in the past, and this is exactly the response we should be doing. Along with many of my colleagues, I have visited CDC since September 11. They cry out for the need that this bill specifically is addressing. Mr. Speaker, I urge my colleagues to support adoption of the legislation.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON. Mr. Speaker, I commend the chairman and ranking member for their work on this bill. Sometimes we do things quickly and quietly in this House and get important things done; and probably in the last 3 months, this legislation will stand the test of time as one of the most important pieces of legislation that we do in this House during this session.

What it is about is protecting Americans from getting sick or dying from a disease spread intentionally by people who want to destroy us. It is a very new world, and we have to change the way that we do things because the world has changed, and be better prepared so we can detect disease sooner, we can respond sooner and more effectively, and we can develop new cures for diseases that are now being genetically engineered by people who have evil intent.

Mr. Speaker, in the last 3 months, we have learned that our laboratory system is fragile and can be easily overwhelmed by two relatively small but frightening anthrax attacks here on the East Coast; and that the Centers for Disease Control are not large enough and need to be modernized. We need to expand and integrate that national network of capacity in our laboratories and our research institutions. We need to invest in research and development to develop new ways to detect pathogens in the air, in the water, in food, and detect them quickly without having to wait for someone to get sick before we act.

We do not have a register of the dangerous pathogens in this country. We did not know which laboratories have this particular strain of Ames anthrax. We need to register them, and also have cultures of them so that we know the DNA of each pathogen that is being used in the United States for research. This is a very good bill, Mr. Speaker. I am proud to support it, and I look forward to its prompt passage in this House and in the United States Senate.

Mr. DINGELL. Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LINDER), who was the principal sponsor of a separate piece of legislation to expand and improve upon the capacities of the CDC.

Mr. LINDER. Mr. Speaker, this is a remarkable feat to move a piece of legislation so important so fast and so well done, and I congratulate the gentlemen. I particularly thank the gentleman from North Carolina (Mr. BURR) who headed up the task force to ensure that my bill, H.R. 3219, wound up in this bill.

My bill reauthorized the rebuilding of the CDC $300 million for 2 years in a row and multiyear contracting. Let me tell Members about the CDC. It is a 55-year-old institution, the largest institution of the Federal Government not located in the metro area here. It is a world class intellectual community in a third world facility. Many Members have visited it.

The CDC facility needs to be upgraded, particularly the security around it. We have dangerous bugs and viruses there that are being stored three stories above the loading dock. We need to do this. I am grateful for Members' response, and I am sure that the Senate will respond equally. The Secretary of HHS is in favor of this bill. It is not common in my 27 years in public life that we can introduce a bill on November 1 and have it voted on December 11. I am grateful for this bill.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H.R. 3448. As chairman of the Committee on Veterans Affairs, I am pleased that the legislation recognizes the vital role that the Department of Veterans Affairs can and should play in helping our Nation prepare for future biological attacks.

As many Members know, the VA owns and operates the largest integrated health care network in the world, consisting of 172 medical centers, over 800 outpatient clinics, and 90 major research programs and are ideally suited to try to work, in collaboration with other agencies of government, on trying to respond to one of these terrorist attacks.

I would also point out to Members that the anthrax letters originated in my district in Trenton and Hamilton Township, New Jersey. And as all of the different bodies came together, CDC, Department of Health and the others, the VA stood ready and was able to provide, if it was necessary, Cipro and other antibiotics, because they are a major stockpiling of those pharmaceutical assets. I am happy that the chairman include in section 101(c) a requirement for the Secretary of Health and Human Services to evaluate the feasibility of using biomedical research and development capabilities of the VA in developing a comprehensive national response to bioterrorist attacks.

□ 2300

Again, the VA is ideally suited for this. I have introduced a number of bills that would try to further that. I think we really need to make sure that they have a very prominent seat at the table.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

All the Democrats have agreed with me this is a superb piece of legislation and they have all gone home to bed so that they could vote on it tomorrow.

Mr. Speaker, I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Let me conclude by thanking my dear friend, the gentleman from Michigan (Mr. DINGELL), for the extraordinary cooperation shown on this bill. Speakers have said this before, but I want to emphasize this: this may be the most important thing we conclude in terms of important legislation for our country's sake as we wind down this session before Christmas. It is our intent to take a vote on this tomorrow and hopefully ask the other body to move on it very quickly.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would also like to thank House Energy and Commerce Committee Chairman BILLY TAUZIN and Ranking Member JOHN DINGELL for this important bi-partisan legislation, H.R. 3448, so that we can fulfill our promise to the American people in terms of preparedness against bioterrorism.

For weeks, the House Energy and Commerce Committee worked tirelessly to strengthen our public health infrastructure at the national, state and local levels to better protect our Nation and our people. This legislation is the fruit of those efforts.

As a Member of the Homeland Security Task Force and as Vice-Chair of the Domestic Law Enforcement Working Group, I fully appreciate and respect the legislative effort before us. This balanced legislation, while by no means a complete fix to our problem of bioterrorism and homeland security, is an excellent beginning.

The Act broadly authorizes funds for planning, preparation, and response, and places particular emphasis on the state and local level. Importantly, the resources provided in this Act will go directly to those in the front lines who need them the most.

Specifically, the Act authorizes more than $1 billion in grants to states, local governments, and other public and private health care facilities and other entities to improve planning and preparedness activities, enhance laboratory capacity, educate and train health care personnel, and to develop new drugs, therapies, and vaccines.

The Act authorizes $450 million for the Centers for Disease Control and Prevention to upgrade their own capacities to deal with public health threats, to renovate their facilities and to improve their security. It also authorizes more than $1 billion for the Secretary of Health and Human Services to expand our current national stockpiles of medicines and other supplies, including the purchase of additional smallpox vaccines.

The Act also establishes a national database of dangerous pathogens, and imposes new registration requirements on all possessors of the 36 most deadly biological agents and toxins and mandates tough new safety and security requirements.

Furthermore, the Act contains new protections for our Nation's food supply by increasing by $100 million FDA resources to enable the Secretary to hire more inspectors at our borders and develop new methods to detect contaminated foods.

Finally, the Act provides greater protections against chemical, biological or radiological attacks on our drinking water by authorizing over $100 million for the development of vulnerability analyses and emergency response plans for our drinking water systems.

This legislation is greatly needed now. As Members of Congress, entrusted with the security of our great Nation, our greatest responsibility is to provide the tools needed to get the job done. This legislation does that.

I urge my colleagues to support it.

Mrs. McCARTHY of Missouri. Mr. Speaker, I rise in favor of the Public Health Security and Bioterrorism Response Act of 2001. In the three months since September 11, Congress has passed important legislation, including an Emergency Supplemental Appropriations package, an airline safety bill, and the war powers resolution to assist in the recovery, rebuilding, and protection of our homeland. The Public Health Security and Bioterrorism Response Act will contribute to the protection of our country and is critical to preparing the first responders for biological and chemical events.

This fall, I have held two conversations with the community in Kansas City. More than 250 citizens, including police, fire, emergency medical, public health, and government officials exchanged important ideas on how to secure proper communication systems for emergency response action in the event of a crisis. These first responders expressed that the current public health resources are not sufficient to protect the city in the face of a bioterrorist attack. The Public Health Security and Bioterrorism Response Act of 2001 authorizes $2.69 billion for national, state, and local efforts to be prepared for bioterrorism and other public health emergencies. This bill will provide money to the local communities and will give them the flexibility they desire in determining its use. Section 106, amending Section 319H (a), page 33, states that "the Secretary may make awards of grants and cooperative agreements to appropriate public and nonprofit private health or education entities . . . for the purpose of providing low-interest loans, partial scholarships, partial fellowships, revolving loan funds, or other cost-sharing forms of assistance for the education and training of individuals in any category of health professions for which there is a shortage that the Secretary determines should be alleviated in order to prepare for or respond effectively to bioterrorism and other public health emergencies."

This legislation is specifically designed for the first responders. As it states in Section 108, this law will protect those who "Respond to a bioterrorist attack, including the provision of appropriate safety and health training and protective measures for medical, emergency service, and other personnel responding to such attacks.

In a bistate community such as the metropolitan Kansas City Area a community wide response is needed to protect our citizens. Fortunately in my community, the Mid America Regional Council's Metropolitan Medical Response System (MMRS) is a role model for our nation to follow. In light of the horrific attacks on our country and the ongoing biological and chemical threats facing our citizens this bill addresses the needs of a metropolitan area through Sec. 108, page 40, line 6, "(A) developing community wide plans involving the public and private health care infrastructure to respond to bioterrorism or other public health emergencies, which are coordinated with the capacities of applicable national, State, and local health agencies."

These resources are essential in building our public health infrastructure and will allow for not only the upgrading of the Centers of Disease Control and Prevention and the purchase of the smallpox vaccine, but also grants for local communities to develop and implement emergency plans, the education of health care personnel, and the continuation of state and local preparedness activities. Due to this legislation, local governments across the country will receive increased funds and will be better prepared to meet their communities' public health needs.

Protection of the food supply and the security and safety of our drinking water are national concerns that are also addressed in this comprehensive bill. These include assessments of the threats to the food and water supplies, increased inspection of imported food, improved information management systems, and the development of rapid detection inspection methods. The Public Health Security and Bioterrorism Response Act of 2001 once implemented by our local public health and safety authorities will help to alleviate the fears of contamination of our food and water supplies.

Thank you Chairman TAUZIN and Ranking Member, Mr. DINGELL, for constructing this bipartisan bill. I fully support the passage of this legislation and am confident that it will contribute to the amplification of the public health infrastructure and local bioterrorism preparedness.

Mr. MARKEY. Mr. Speaker, I rise in support of the Public Health Security and Bioterrorism Response Act of 2001. This strong bipartisan effort increases funding for important public health response in the event of a bioterrorist attacks, and ultimately will help thousands of lives beyond those potentially threatened by bioterrorism. Today bioterrorism calls us to arms—but let us not forget that improving the public health system serves to protect against the more common but equally devastating threat of infectious disease—these illnesses end the lives of thousands of Americans daily and continue to be the third leading cause of death in the United States. This bill is a positive step forward in addressing this ongoing problem by improving our currently underfunded public health system.

I am especially pleased that the bill includes provisions aimed at increasing stockpiles of potassium iodide as a public health response in the event of a successful terrorist attack on or accident at a nuclear power plant as well as provisions establishing new registration requirements and new rules limiting access to, and improving usage procedures for "select agents."

Potassium iodide is to radiation exposure of the thyroid what Cipro is to Anthrax. Since potassium iodide must be taken within a few hours of exposure to radioactive iodine to be effective, it needs to be easily obtained by the people who live close to a nuclear reactor. While this provision doesn't go as far as I would personally prefer, it represents a good first step towards distributing stockpiles of this substance to local public health officials without requiring a formal request from the States. I look forward to improving this provision as this bill moves through the legislative process.

Under the compromise provision I worked out with the sponsors of this bill, the Secretary of Health and Human Services would be required to make potassium iodide available to State and local governments for stockpiling and distribution to public facilities, such as schools and hospitals, within 20 miles of every nuclear power plant in the United States. Potassium iodide has been proven to protect the thyroid gland from diseases caused by exposure to radioactive iodine released during a nuclear catastrophe. Children are most vulnerable to radiation-induced thyroid diseases because their thyroid glands are very active. To receive the drug, State and local governments must submit a plan for distribution and utilization of the tablets in the event of a nuclear incident. While I personally would like to see much larger stockpiles that would cover populations even further from the reactor, funding limitations and other factors did not make that possible at this juncture. I remain hopeful, however, that we can build on this first step so that we have a strong, public-health based program in place that assures that all citizens that may need potassium iodide in a crisis will be able to get it in a timely fashion.

I also applaud the inclusion of other provisions amending a 1996 bioterrorism law I had co-authored which required facilities that transfer potentially lethal biologic agents to register with the Centers for Disease Control (CDC). Today's bill expands the requirements for registration with the CDC by requiring all facilities that possess any one of a series of select agents to register with the CDC and establishes new criminal offenses involving the handling of these agents.

The Public Health Security and Bioterrorism Act of 2001 is a strong, bipartisan step towards protecting the public from the threat of bioterrorism or nuclear terrorism. I urge your support of this bill.

Mr. BUYER. Mr. Speaker, I rise in support of the Public Health Security and Bioterrorism Response Act. This legislation will strengthen our ability to conduct a war against terrorism, whether with biological, chemical, or radiological agents.

I am particularly pleased that this legislation contains a version of legislation I introduced to provide health professionals with access to the very best information we have for treatment of injuries or diseases from weapons of mass destruction or natural disasters. Our health care professionals are not resourced or trained with the proper tools to detect, diagnose, and treat casualties in the face of biological, chemical and radiological weapons.

The very best information we have for medical treatment of injuries or diseases as a result of these weapons currently resides with the Department of Defense and the Department of Veterans Affairs. There is no need to reinvent the wheel with regard to medical knowledge on weapons of mass destruction. It currently resides with the federal government. We have an obligation to get this information into the hands of all medical professionals who need it.

Section 105 of this bill directs the Secretary of Health and Human Services to develop and provide educational material to health professionals for the response to weapons of mass destruction. The Department of Defense and Department of Veterans Affairs have seats at the table with the Secretary in this program.

It is my intent with this Section that the educational material and curriculum that already exist within DOD and VA be adapted and provided to health professionals in civilian settings. We cannot afford to assume that our country will never have to experience a massive biological, chemical, or radiological attack. The combination of DOD's expertise in the field of treating casualties resulting from an unconventional attack and the VA's infrastructure of 171 medical centers, 800 clinics, satellite broadcasting capabilities and a pre-existing affiliation with 107 medical schools should enable current and future medical professions in this entire country to become knowledgeable and medically competent in the treatment of casualties of weapons of mass destruction.

Health care providers all across the country are not looking for anthrax, botulism, smallpox, and other such diseases. You do not diagnose what you have not been training to see. Now medical professionals will be trained to see and treat injuries or diseases from unconventional sources.

Let me also take a moment to explain what this provision does not do. It does not establish a federal curriculum for medical schools. It does not mandate that medical schools teach particular educational material. It does not set any new community standard with regard to health care and practice.

What I am interested in doing is sharing the information that is readily available through DOD and the VA with the civilian health care community. Our civilian health care system must develop effective, practical responses to these deadly weapons. It must do this through planning, training, preparation for future terrorist attacks. Section 105 will help.

Mr. Speaker, I would also like to briefly express my view regarding Title III of this bill, which addresses the security of our food, especially imported food. While I am pleased that this legislation pays special attention to the security of our food sources, let me be clear that I will encourage the Secretary of

HHS to exempt small businesses, and farms from the registration or the recordkeeping requirements of Title III. While I understand the bill exempts farms from recordkeeping, I do think that it is not necessary for American farmers to register with the Secretary of HHS as suppliers of food. Furthermore, I do not think that small retail food establishments, those in smaller rural communities, or those that serve a particular niche in a larger community should be required to register. To me, this is common sense, and I will be urging this approach to the Secretary.

This is a good measure that the Committee has worked very hard to produce and I urge the passage of the bill.

Mr. GILLMOR. Mr. Speaker, I rise in support of this anti-terror legislation and urge all my colleagues to vote in support of it.

Three months ago, to the date, our country was reminded that freedom is not free. It is a painful lesson, but one from which we have learned in the past and one we should never forget.

On one of the buildings here in Washington lies the inscription of John Philpot Curran's famous quote: "Eternal vigilance is the price of liberty." The legislation before us establishes the first down payment on securing our borders. I want to congratulate Chairman TAUZIN and the distinguished Ranking Member, JOHN DINGELL, for their vision on this project, as well as all the other subcommittee chairs, their ranking members and the committee staff for its hard work.

As Chairman of the House Subcommittee on Environment and Hazardous Materials, which has jurisdiction over hazardous chemicals and drinking water, I am particularly pleased with many of the sections in this bill. Our committee has been researching and evaluating over the last couple of months to come up with a reasoned and responsible approach. We have worked hard to encourage improvement in places that needed it and avoided either slowing or punishing those who have taken pro-active steps to secure our public's health and its environment.

For starters, Title II of this bill closes current reporting loopholes for those people either receiving or transporting select, dangerous toxic agents. Now, not only will there be an established screening process to keep suspected criminals or terrorists away from these chemicals, but all people who possess these chemicals must report that they have them to the Federal government.

In addition, Title III of our legislation provides new procedures to assess and detect efforts to intentionally harm our food and its delivery system. The legislation calls for advance notice of food coming into the country, extra maintenance of shipping records, and grants new authorities and money to the Federal government to commission food inspectors to handle any manpower shortages.

Finally, Title IV addresses the crucial issue of protecting our nation's drinking water. It encourages water systems to assess their vulnerabilities, come up with a response plan, and take any necessary actions to secure their facilities. Next, it calls for a review of current methods to diminish threats as well as for biomedical research on chemical, biological, and radiological contaminants. And on the issue of unfunded mandates, this title provides the funding to communities to make requirements become realities.

Mr. Speaker, again, I thank you for this time to speak in favor of this bill and I urge all my colleagues to support it. As I mentioned at the beginning of my remarks, freedom is not free. We can take the step of learning from September 11 and prepare for the future. Or, we can hold our breath and "wait for the other shoe to drop." I hope we will all decide to be vigilant.

Ms. SLAUGHTER. Mr. Speaker, I rise today in strong support of the Public Health Security and Bioterrorism Response Act.

Three months ago, our Nation was the victim of a vicious and unprincipled terrorist attack. Thousands of innocent Americans perished in New York, Virginia, and Pennsylvania. We owe it to the victims, survivors, and their families to ensure that this terrible tragedy cannot be repeated.

The Public Health Security and Bioterrorism Response Act is an important step toward guaranteeing the safety and security of all our citizens. This bill will make major strides in protecting our food supply and our water supply. It will allow the government to track the movement of deadly biological agents and toxins, such an anthrax. And perhaps most importantly, it will significantly upgrade our public health infrastructure to allow for coordination, information sharing, and dissemination of crucial data.

I would like to extend my personal gratitude to Commerce Committee Chairman BILLY TAUZIN and Ranking Member JOHN DINGELL for including in this package numerous provisions from by bill, H.R. 3106, the Protecting America's Children Against Terrorism Act. I was proud to sponsor this bill along with my colleague from New York, Senator HILLARY RODHAM CLINTON. Significant portions of this legislation were also included in the Senate's bioterrorism package, S. 1756.

The Public Health Security and Bioterrorism Response Act includes portions of H.R. 3106 addressing: The establishment of an advisory committee on children and terrorism; Training for health care personnel to meet the needs of children in the event of a public health emergency; Increased research on issues such as the proper dosages of vaccines and antidotes for children; and The inclusion of pediatric supplies and equipment in the National Pharmaceutical Stockpile Program.

These provisions are crucial to ensure that our nation is prepared to care for children in the event of any type of public health emergency. The events of September 11 revealed to us the gaps in our systems for dealing with such an emergency; it is our duty to address those needs before we are called upon to respond again.

Mr. Speaker, I fully support the Public Health Security and Bioterrorism Response Act and urge my colleagues to do the same.

Mr. UPTON. Mr. Speaker, I rise in strong support of the Public Health Security and Bioterrorism Response Act. Just as the horrendous terrorist attacks of September 11th brought home to Americans the cruel face of hate, fanaticism, and outright evil and the need to wage war on international terrorism, so the anthrax attacks have brought home to us our vulnerability to bioterrorism attacks on our homefront.

What was perhaps an abstract concern has become very, very real. I have traveled home to my district every week since September 11th, and I have heard the real fear in mothers' and fathers' voices and in the questions children ask me when I visit with them in their schools. Will we be ready should our communities suffer anthrax or smallpox attacks? Will we have the vaccines and antibiotics we need? Will emergency response teams and emergency medical services be ready to swing quickly into action? Will our health professionals be trained to recognize symptoms and quickly communicate suspicious outbreaks?

While home in Michigan, I have also met with emergency response teams at the local and state levels. While they are doing their best to prepare coordinated responses to worst-case scenarios, they need better tools—better weapons in their armories—to meet the threat of bioterrorist attacks.

Enacting the comprehensive, bipartisan bill before us today will go a long way in giving my local communities, my state, and this nation the tools and infrastructure needed to assure individuals and families and communities across the nation that we will have the strongest possible defense against potential acts and the ability to respond quickly and effectively should an attack nevertheless succeed.

Specifically, this bill will provide the funds necessary to substantially upgrade the Centers for Disease Control and Prevention's laboratories, facilities and communications capacities, as well as our state and local public health department's capabilities. It will create a national stockpile of vaccines, biologics, drugs, and medical devices to meet the health security needs of our people. The bill recognizes the enormous challenges that not only the CDC, but also the Food and Drug Administration must meet if we are to be prepared with sufficient vaccines and effective antibiotics. It provides the FDA with the authorities needed to meet those challenges without compromising public health. This bill will also slam shut some gaping loopholes in our regulation of the possession of chemical and biological agents that could be used to launch attacks. And it provides comprehensive protection for our drinking water and food supplies.

I am proud, not only as a Member of Congress, but also as a husband and father and community leader to be an original cosponsor of the Public Health Security and Bioterrorism Response Act of 2001. With the passage and enactment of this bill, we can say "YES" when a parent, a student, or a local community leader asks us if we are prepared for bioterrorism.

Ms. HARMAN. Mr. Speaker, I rise in strong support of the Public Health Security and Bioterrorism Response Act of 2001, and I commend Chairman TAUZIN and Ranking Member DINGELL for their leadership in fashioning this bipartisan measure. This important piece of legislation will take the first step toward ensuring that we will be able to prevent—and better respond to—any future bioterrorist attack.

The National Commission on Terrorism, on which I served last year, concluded that it is not a matter of if a bioterrorist attack will occur, but only a question of when. We saw that expectation realized in October and November, when anthrax-laden letters caused the death of six Americans. And we will likely see it happen again.

Substantial evidence exists that al Qaeda and rogue states like Iraq have attempted to acquire biological agents, and they have certainly proven their ability to inflict mass death on the United States. the treat of bioterrorism is real, and our nation must be prepared to respond to any eventuality.

Our Government's response to the bioterrorist attacks of October was deeply flawed. We have talented people and good plans, but we have been lacking the resources and coordination to make our response effective. We must act now to improve our terrorism response, before another tragedy occurs.

This legislation improves the coordination and capacity of bioterrorism response, the security of biological agents, and the safety of our food and water supplies. It makes a substantial investment in programs that fund communications systems, laboratory improvements, and training programs across the nation.

Most important, the bill directs this investment to the state and local governments that need it most. All terrorism response is local, but in the past far too much of our counterterrorism funding has remained at the federal level. This bill will begin to correct this deficiency.

I am particularly glad that this bill includes funds to speed up the renovation of CDC's buildings and facilities. I have visited to the Centers for Disease Control and Prevention in Atlanta and seen talented people working in shabby conditions. This legislation will invest $300 million in each of the next two years to improve the security of CDC facilities and construct much-needed research facilities. Improving our bioterrorism response must begin with the basics—and that means investing in critical infrastructure and facilities.

I am proud to cosponsor this legislation, and encourage all of my colleagues to support these needed measures.

Mr. TAUZIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 3448.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TAUZIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PROGRAMS ENHANCEMENT ACT OF 2001

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3447) to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, to provide an additional basis for establishing the inability of veterans to defray expenses of necessary medical care, to enhance certain health care programs of the Department of Veterans Affairs, and for other purposes.

The Clerk read as follows:

H.R. 3447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—ENHANCEMENT OF NURSE RECRUITMENT AND RETENTION AUTHORITIES

Subtitle A—Recruitment Authorities

Sec. 101. Enhancement of employee incentive scholarship program.
Sec. 102. Enhancement of education debt reduction program.
Sec. 103. Report on requests for waivers of pay reductions for reemployed annuitants to fill nurse positions.

Subtitle B—Retention Authorities

Sec. 121. Additional pay for Saturday tours of duty for additional health care professionals in the Veterans Health Administration.
Sec. 122. Unused sick leave included in annuity computation of registered nurses within the Veterans Health Administration.
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Subtitle C—Other Authorities

Sec. 131. Organizational responsibility of the Director of the Nursing Service.
Sec. 132. Computation of annuity for part-time service performed by certain health-care professionals before April 7, 1986.
Sec. 133. Modification of nurse locality pay authorities.

Subtitle D—National Commission on VA Nursing

Sec. 141. Establishment of Commission.
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TITLE II—OTHER MATTERS

Sec. 201. Authority for Secretary of Veterans Affairs to provide service dogs for veterans with certain disabilities.
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Sec. 206. Major medical facility construction.
Sec. 207. Sense of Congress on special telephone services for veterans.
Sec. 208. Recodification of bereavement counseling authority and certain other health-related authorities.
Sec. 209. Extension of expiring collections authorities.
Sec. 210. Personal emergency response system for veterans with service-connected disabilities.
Sec. 211. One-year extension of eligibility for health care of veterans who served in Southwest Asia during the Persian Gulf War.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ENHANCEMENT OF NURSE RECRUITMENT AND RETENTION AUTHORITIES

Subtitle A—Recruitment Authorities

SEC. 101. ENHANCEMENT OF EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM.

(a) PERMANENT AUTHORITY.—(1) Section 7676 is repealed.

(2) The table of sections at the beginning of chapter 76 is amended by striking the item relating to section 7676.

(b) MINIMUM PERIOD OF DEPARTMENT EMPLOYMENT FOR ELIGIBILITY.—Section 7672(b) is amended by striking "2 years" and inserting "one year".

(c) SCHOLARSHIP AMOUNT.—Subsection (b) of section 7673 is amended—

(1) in paragraph (1), by striking "for any 1 year" and inserting "for the equivalent of one year of full-time coursework"; and

(2) by striking paragraph (2) and inserting the following new paragraph (2):

"(2) in the case of a participant in the Program who is a part-time student, shall bear the same ratio to the amount that would be paid under paragraph (1) if the participant were a full-time student in the course of education or training being pursued by the participant as the coursework carried by the participant to full-time coursework in that course of education or training.".

(d) LIMITATION ON PAYMENT.—Subsection (c) of section 7673 is amended to read as follows:

"(c) LIMITATIONS ON PERIOD OF PAYMENT.—(1) The maximum number of school years for which a scholarship may be paid under subsection (a) to a participant in the Program shall be six school years.

"(2) A participant in the Program may not receive a scholarship under subsection (a) for more than the equivalent of three years of full-time coursework.".

(e) FULL-TIME COURSEWORK.—Section 7673 is further amended by adding at the end the following new subsection:

"(e) FULL-TIME COURSEWORK.—For purposes of this section, full-time coursework shall consist of the following:

"(1) In the case of undergraduate coursework, 30 semester hours per undergraduate school year.

"(2) In the case of graduate coursework, 18 semester hours per graduate school year.".

(f) ANNUAL ADJUSTMENT OF MAXIMUM SCHOLARSHIP AMOUNT.—Section 7631 is amended—

(1) in subsection (a)(1), by striking "and the maximum Selected Reserve member stipend amount" and inserting "the maximum Selected Reserve member stipend amount, the maximum employee incentive scholarship amount,"; and

(2) in subsection (b)—

(A) by redesignating paragraph (4) as paragraph (6); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) The term 'maximum employee incentive scholarship amount' means the maximum amount of the scholarship payable to a participant in the Department of Veterans Affairs Employee Incentive Scholarship Program under subchapter VI of this chapter, as specified in section 7673(b)(1) of this title and as previously adjusted (if at all) in accordance with this section.".

(g) TECHNICAL AMENDMENTS.—Section 7631(b) is further amended by striking "this subsection" each place it appears and inserting "this section".

SEC. 102. ENHANCEMENT OF EDUCATION DEBT REDUCTION PROGRAM.

(a) PERMANENT AUTHORITY.—(1) Section 7684 is repealed.

(2) The table of sections at the beginning of chapter 76 is amended by striking the item relating to section 7684.

(b) ELIGIBLE INDIVIDUALS.—Subsection (a)(1) of section 7682 is amended—

(1) by striking "under an appointment under section 7402(b) of this title in a position" and inserting "in a position (as determined by the Secretary) providing direct-patient care services or services incident to direct-patient care services"; and

(2) by striking "(as determined by the Secretary)" and inserting "(as so determined)".

(c) MAXIMUM DEBT REDUCTION AMOUNT.—Section 7683(d)(1) is amended—

(1) by striking "for a year"; and

(2) by striking "exceed—" and all that follows through the end of the paragraph and inserting "exceed $44,000 over a total of five years of participation in the Program, of which not more than $10,000 of such payments may be made in each of the fourth and fifth years of participation in the Program.".

(d) ANNUAL ADJUSTMENT OF MAXIMUM DEBT REDUCTION PAYMENTS AMOUNT.—(1) Section 7631, as amended by section 101(f) of this Act, is further amended—

(A) in subsection (a)(1), by inserting before the period at the end of the first sentence the following: "and the maximum education debt reduction payments amount"; and

(B) in subsection (b), by inserting after paragraph (4) the following new paragraph (5):

"(5) The term 'maximum education debt reduction payments amount' means the maximum amount of education debt reduction payments payable to a participant in the Department of Veterans Affairs Education Debt Reduction Program under subchapter VII of this chapter, as specified in section 7683(d)(1) of this title and as previously adjusted (if at all) in accordance with this section.".

(2) Notwithstanding section 7631(a)(1) of title 38, United States Code, as amended by paragraph (1), the Secretary of Veterans Affairs shall not increase the maximum education debt reduction payments amount under that section in calendar year 2002.

(e) TEMPORARY EXPANSION OF INDIVIDUALS ELIGIBLE FOR PARTICIPATION IN PROGRAM.—(1) Notwithstanding section 7682(c) of title 38, United States Code, the Secretary of Veterans Affairs may treat a covered individual as being a recently appointed employee in the Veterans Health Administration under section 7682(a) of that title for purposes of eligibility in the Education Debt Reduction Program if the Secretary determines that the participation of the individual in the Program under this subsection would further the purposes of the Program.

(2) For purposes of this subsection, a covered individual is any individual otherwise described by section 7682(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, who—

(A) was appointed as an employee in a position described in paragraph (1) of that section, as so in effect, between January 1, 1999, and December 31, 2001; and

(B) is an employee in such position, or in another position described in paragraph (1) of that section, as so in effect, at the time of application for treatment as a covered individual under this subsection.

(3) The Secretary shall make determinations regarding the exercise of the authority in this subsection on a case-by-case basis.

(4) The Secretary may not exercise the authority in this subsection after June 30, 2002. The expiration of the authority in this subsection shall not affect the treatment of an individual under this subsection before that date as a covered individual for purposes of eligibility in the Education Debt Reduction Program.

(5) In this subsection, the term "Education Debt Reduction Program" means the Department of Veterans Affairs Education Debt Reduction Program under subchapter VII of chapter 76 of title 38, United States Code.

SEC. 103. REPORT ON REQUESTS FOR WAIVERS OF PAY REDUCTIONS FOR REEMPLOYED ANNUITANTS TO FILL NURSE POSITIONS.

(a) REPORT.—Not later than March 28 of each of 2002 and 2003, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives and to the National Commission on VA Nursing established under subtitle D a report describing each request of the Secretary, during the fiscal year preceding such report, to the Director of the Office of Personnel Management for the following:

(1) A waiver under subsection (i)(1)(A) of section 8344 of title 5, United States Code, of the provisions of such section in order to meet requirements of the Department of Veterans Affairs for appointments to nurse positions in the Veterans Health Administration.

(2) A waiver under subsection (f)(1)(A) of section 8468 of title 5, United States Code, of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(3) A grant of authority under subsection (i)(1)(B) of section 8344 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(4) A grant of authority under subsection (f)(1)(B) of section 8468 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(b) INFORMATION ON RESPONSES TO REQUESTS.—The report under subsection (a) shall specify for each request covered by the report—

(1) the response of the Director to such request; and

(2) if such request was granted, whether or not the waiver or authority, as the case may be, assisted the Secretary in meeting requirements of the Department for appointments to nurse positions in the Veterans Health Administration.

Subtitle B—Retention Authorities

SEC. 121. ADDITIONAL PAY FOR SATURDAY TOURS OF DUTY FOR ADDITIONAL HEALTH CARE PROFESSIONALS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7454(b) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) Health care professionals employed in positions referred to in paragraph (1) shall be entitled to additional pay on the same basis as provided for nurses in section 7453(c) of this title.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

SEC. 122. UNUSED SICK LEAVE INCLUDED IN ANNUITY COMPUTATION OF REGISTERED NURSES WITHIN THE VETERANS HEALTH ADMINISTRATION.

(a) ANNUITY COMPUTATION.—Section 8415 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(i) In computing an annuity under this subchapter, the total service of an employee who retires from the position of a registered nurse with the Veterans Health Administration on an immediate annuity, or dies while employed in that position leaving any survivor entitled to an annuity, includes the days of unused sick leave to the credit of that employee under a formal leave system, except that such days shall not be counted in determining average pay or annuity eligibility under this subchapter.".

(b) DEPOSIT NOT REQUIRED.—Section 8422(d) of such title is amended—

(1) by inserting "(1)" before "Under such regulations"; and

(2) by adding at the end the following:

"(2) Deposit may not be required for days of unused sick leave credited under section 8415(i).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act and shall apply to individuals who separate from service on or after that effective date.

SEC. 123. EVALUATION OF DEPARTMENT OF VETERANS AFFAIRS NURSE MANAGED CLINICS.

(a) EVALUATION.—The Secretary of Veterans Affairs shall carry out an evaluation of the efficacy of the nurse managed health care clinics of the Department of Veterans Affairs. The Secretary shall complete the evaluation not later than 18 months after the date of the enactment of this Act.

(b) CLINICS TO BE EVALUATED.—(1) In carrying out the evaluation under subsection (a), the Secretary shall consider nurse managed health care clinics, including primary care clinics and geriatric care clinics, located in three different geographic service areas of the Department.

(2) If there are not nurse managed health care clinics located in three different geographic service areas as of the commencement of the evaluation, the Secretary shall—

(A) establish nurse managed health care clinics in additional geographic service areas such that there are nurse managed health care clinics in three different geographic service areas for purposes of the evaluation; and

(B) include such clinics, as so established, in the evaluation.

(c) Matters To Be Evaluated.—In carrying out the evaluation under subsection (a), the Secretary shall address the following:

(1) Patient satisfaction.

(2) Provider experiences.

(3) Cost of care.

(4) Access to care, including waiting time for care.

(5) The functional status of patients receiving care.

(6) Any other matters the Secretary considers appropriate.

(d) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation carried out under subsection (a). The report shall address the matters specified in subsection (c) and include any other information, and any recommendations, that the Secretary considers appropriate. The Secretary shall provide a copy of the report to the National Commission on VA Nursing established under subtitle D.

SEC. 124. STAFFING LEVELS FOR OPERATIONS OF MEDICAL FACILITIES.

(a) In General.—Section 8110(a) is amended—

(1) in paragraph (1), by inserting after "complete care of patients," in the fifth sentence the following: "and in a manner consistent with the policies of the Secretary on overtime,"; and

(2) in paragraph (2)—

(A) by inserting ", including the staffing required to maintain such capacities," after "all Department medical facilities";

(B) by striking "and to minimize" and inserting ", to minimize"; and

(C) by inserting before the period the following: ", and to ensure that eligible veterans are provided such care and services in an appropriate manner".

(b) Nationwide Policy on Staffing.—Paragraph (3) of that section is amended—

(1) in subparagraph (A), by inserting "the adequacy of staff levels for compliance with the policy established under subparagraph (C)," after "regarding"; and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) The Secretary shall, in consultation with the Under Secretary for Health, establish a nationwide policy on the staffing of Department medical facilities in order to ensure that such facilities have adequate staff for the provision to veterans of appropriate, high-quality care and services. The policy shall take into account the staffing levels and mixture of staff skills required for the range of care and services provided veterans in Department facilities.".

SEC. 125. ANNUAL REPORT ON USE OF AUTHORITIES TO ENHANCE RETENTION OF EXPERIENCED NURSES.

(a) Annual Report.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

"§ 7324. Annual report on use of authorities to enhance retention of experienced nurses

"(a) Annual Report.—Not later than January 31 each year, the Secretary, acting through the Under Secretary for Health, shall submit to Congress a report on the use during the preceding year of authorities for purposes of retaining experienced nurses in the Veterans Health Administration, as follows:

"(1) The authorities under chapter 76 of this title.

"(2) The authority under VA Directive 5102.1, relating to the Department of Veterans Affairs nurse qualification standard, dated November 10, 1999, or any successor directive.

"(3) Any other authorities available to the Secretary for those purposes.

"(b) Report Elements.—Each report under subsection (a) shall specify for the period covered by such report, for each Department medical facility and for each geographic service area of the Department, the following:

"(1) The number of waivers requested under the authority referred to in subsection (a)(2), and the number of waivers granted under that authority, to promote to the Nurse II grade or Nurse III grade under the Nurse Schedule under section 7404(b)(1) of this title any nurse who has not completed a baccalaureate degree in nursing in a recognized school of nursing, set forth by age, race, and years of experience of the individuals subject to such waiver requests and waivers, as the case may be.

"(2) The programs carried out to facilitate the use of nursing education programs by experienced nurses, including programs for flexible scheduling, scholarships, salary replacement pay, and on-site classes.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7323 the following new item:

"7324. Annual report on use of authorities to enhance retention of experienced nurses.".

(b) Initial Report.—The initial report required under section 7324 of title 38, United States Code, as added by subsection (a), shall be submitted to the National Commission on VA Nursing established under subtitle D as well as to Congress.

SEC. 126. REPORT ON MANDATORY OVERTIME FOR NURSES AND NURSING ASSISTANTS IN DEPARTMENT OF VETERANS AFFAIRS FACILITIES.

(a) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives and to the National Commission on VA Nursing established under subtitle D a report on the mandatory overtime required of licensed nurses and nursing assistants providing direct patient care at Department of Veterans Affairs medical facilities during 2001.

(b) Mandatory Overtime.—For purposes of the report under subsection (a), mandatory overtime shall consist of any period in which a nurse or nursing assistant is mandated or otherwise required, whether directly or indirectly, to work or be in on-duty status in excess of—

(1) a scheduled workshift or duty period;

(2) 12 hours in any 24-hour period; or

(3) 80 hours in any period of 14 consecutive days.

(c) Elements.—The report under subsection (a) shall include the following:

(1) A description of the amount of mandatory overtime described in that subsection at each Department medical facility during the period covered by the report.

(2) A description of the mechanisms employed by the Secretary to monitor overtime of the nurses and nursing assistants referred to in that subsection.

(3) An assessment of the effects of the mandatory overtime of such nurses and nursing assistants on patient care, including any reported association with medical errors.

(4) Recommendations regarding mechanisms for preventing mandatory overtime in other than emergency situations by such nurses and nursing assistants.

(5) Any other matters that the Secretary considers appropriate.

Subtitle C—Other Authorities

SEC. 131. ORGANIZATIONAL RESPONSIBILITY OF THE DIRECTOR OF THE NURSING SERVICE.

Section 7306(a)(5) is amended by inserting ", and report directly to," after "responsible to".

SEC. 132. COMPUTATION OF ANNUITY FOR PART-TIME SERVICE PERFORMED BY CERTAIN HEALTH-CARE PROFESSIONALS BEFORE APRIL 7, 1986.

Section 7426 is amended by adding at the end the following new subsection:

"(c) The provisions of subsection (b) shall not apply to the part-time service before April 7, 1986, of a registered nurse, physician assistant, or expanded-function dental auxiliary. In computing the annuity under the applicable provision of law specified in that subsection of an individual covered by the preceding sentence, the service described in that sentence shall be credited as full-time service.".

SEC. 133. MODIFICATION OF NURSE LOCALITY PAY AUTHORITIES.

Section 7451 is amended—

(1) in subsection (d)(3)—

(A) in subparagraph (A), by striking "beginning rates of" each place it appears;

(B) in subparagraph (B), by striking "beginning rates of" the first place it appears; and

(C) in subparagraph (C)(i), by striking "beginning rates of" each place it appears;

(2) in subsection (d)(4)—

(A) by striking "or at any other time that an adjustment in rates of pay is scheduled to take place under this subsection" in the first sentence; and

(B) by striking the second sentence; and

(3) in subsection (e)(4)—

(A) in subparagraph (A), by striking "grade in a";

(B) in subparagraph (B)—

(i) by striking "grade of a"; and

(ii) by striking "that grade" and inserting "that position"; and

(C) in subparagraph (D), by striking "grade of a".

Subtitle D—National Commission on VA Nursing

SEC. 141. ESTABLISHMENT OF COMMISSION.

(a) Establishment.—There is hereby established in the Department of Veterans Affairs a commission to be known as the "National Commission on VA Nursing" (hereinafter in this subtitle referred to as the "Commission").

(b) Composition.—The Commission shall be composed of 12 members appointed by the Secretary of Veterans Affairs as follows:

(1) At least two shall be recognized representatives of employees (including nurses) of the Department of Veterans Affairs.

(2) At least one shall be a representative of professional associations of nurses of the Department or similar organizations affiliated with the Department's health care practitioners.

(3) At least one shall be a nurse from a nursing school affiliated with the Department of Veterans Affairs.

(4) At least two shall be representatives of veterans.

(5) At least one shall be an economist.

(6) The remainder shall be appointed in such manner as the Secretary considers appropriate.

(c) CHAIR OF COMMISSION.—The Secretary of Veterans Affairs shall designate one of the members of the Commission to chair the Commission.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(e) INITIAL ORGANIZATION REQUIREMENTS.—All appointments to the Commission shall be made not later than 60 days after the date of the enactment of this Act. The Commission shall convene its first meeting not later than 60 days after the date as of which all members of the Commission have been appointed.

SEC. 142. DUTIES OF COMMISSION.

(a) ASSESSMENT.—The Commission shall—

(1) consider legislative and organizational policy changes to enhance the recruitment and retention of nurses and other nursing personnel by the Department of Veterans Affairs; and

(2) assess the future of the nursing profession within the Department.

(b) RECOMMENDATIONS.—The Commission shall recommend legislative and organizational policy changes to enhance the recruitment and retention of nurses and other nursing personnel in the Department.

SEC. 143. REPORTS.

(a) COMMISSION REPORT.—The Commission shall, not later than two years after the date of its first meeting, submit to Congress and the Secretary of Veterans Affairs a report on the Commission's findings and recommendations.

(b) SECRETARY OF VETERANS AFFAIRS REPORT.—Not later than 60 days after the date of the Commission's report under subsection (a), the Secretary shall submit to Congress a report—

(1) providing the Secretary's views on the Commission's findings and recommendations; and

(2) explaining what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and the Secretary's reasons for doing so.

SEC. 144. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this subtitle, hold hearings and take testimony to the extent that the Commission or any member considers advisable.

(b) INFORMATION.—The Commission may secure directly from any Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this subtitle.

SEC. 145. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The Secretary may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties.

(2) The Secretary may fix the pay of the staff director and other personnel appointed under paragraph (1) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Secretary, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

SEC. 146. TERMINATION OF COMMISSION.

The Commission shall terminate 90 days after the date of the submission of its report under section 143(a).

TITLE II—OTHER MATTERS

SEC. 201. AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO PROVIDE SERVICE DOGS FOR VETERANS WITH CERTAIN DISABILITIES.

(a) AUTHORITY.—Section 1714 is amended—

(1) in subsection (b)—

(A) by striking "seeing-eye or" the first place it appears;

(B) by striking "who are entitled to disability compensation" and inserting "who are enrolled under section 1705 of this title";

(C) by striking ", and may pay" and all that follows through "such seeing-eye or guide dogs"; and

(D) by striking "handicap" and inserting "disability"; and

(2) by adding at the end the following new subsections:

"(c) The Secretary may, in accordance with the priority specified in section 1705 of this title, provide—

"(1) service dogs trained for the aid of the hearing impaired to veterans who are hearing impaired and are enrolled under section 1705 of this title; and

"(2) service dogs trained for the aid of persons with spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility to veterans with such injury, dysfunction, or impairment who are enrolled under section 1705 of this title.

"(d) In the case of a veteran provided a dog under subsection (b) or (c), the Secretary may pay travel and incidental expenses for that veteran under the terms and conditions set forth in section 111 of this title to and from the veteran's home for expenses incurred in becoming adjusted to the dog.".

(b) CLERICAL AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§1714. Fitting and training in use of prosthetic appliances; guide dogs; service dogs".

(2) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1714. Fitting and training in use of prosthetic appliances; guide dogs; service dogs.".

SEC. 202. MANAGEMENT OF HEALTH CARE FOR CERTAIN LOW-INCOME VETERANS.

(a) PRIORITY OF ENROLLMENT IN PATIENT ENROLLMENT SYSTEM.—Section 1705(a) is amended by striking paragraph (7) and inserting the following new paragraphs:

"(7) Veterans described in section 1710(a)(3) of this title who are eligible for treatment as a low-income family under section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) for the area in which such veterans reside, regardless of whether such veterans are treated as single person families under paragraph (3)(A) of such section 3(b) or as families under paragraph (3)(B) of such section 3(b).

"(8) Veterans described in section 1710(a)(3) of this title who are not covered by paragraph (7).".

(b) REDUCED COPAYMENTS FOR CARE.—Subsection (f) of section 1710 is amended—

(1) in paragraph (1), by inserting "or (4)" after "paragraph (2)";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) In the case of a veteran covered by this subsection who is also described by section 1705(a)(7) of this title, the amount for which the veteran shall be liable to the United States for hospital care under this subsection shall be an amount equal to 20 percent of the total amount for which the veteran would otherwise be liable for such care under subparagraphs (2)(B) and (3)(A) but for this paragraph.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2002.

SEC. 203. MAINTENANCE OF CAPACITY FOR SPECIALIZED TREATMENT AND REHABILITATIVE NEEDS OF DISABLED VETERANS.

(a) MAINTENANCE OF CAPACITY ON A GEOGRAPHIC SERVICE AREA BASIS.—Section 1706(b) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting "(and each geographic service area of the Veterans Health Administration)" after "ensure that the Department"; and

(B) in clause (B), by inserting "(and each geographic service area of the Veterans Health Administration)" after "overall capacity of the Department";

(2) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (1) the following new paragraphs;

"(2) For purposes of paragraph (1), the capacity of the Department (and each geographic service area of the Veterans Health Administration) to provide for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, traumatic brain injury, blindness, prosthetics and sensory aids, and mental illness) within distinct programs or facilities shall be measured for seriously mentally ill veterans as follows (with all such data to be provided by geographic service area and totaled nationally):

"(A) For mental health intensive community-based care, the number of discrete intensive care teams constituted to provide such intensive services to seriously mentally ill veterans and the number of veterans provided such care.

"(B) For opioid substitution programs, the number of patients treated annually and the amounts expended.

"(C) For dual-diagnosis patients, the number treated annually and the amounts expended.

"(D) For substance-use disorder programs—

"(i) the number of beds (whether hospital, nursing home, or other designated beds) employed and the average bed occupancy of such beds;

"(ii) the percentage of unique patients admitted directly to outpatient care during the fiscal year who had two or more additional visits to specialized outpatient care within 30 days of their first visit, with a comparison from 1996 until the date of the report;

"(iii) the percentage of unique inpatients with substance-use disorder diagnoses treated during the fiscal year who had one or more specialized clinic visits within three days of their index discharge, with a comparison from 1996 until the date of the report;

"(iv) the percentage of unique outpatients seen in a facility or geographic service area during the fiscal year who had one or more specialized clinic visits, with a comparison from 1996 until the date of the report; and

"(v) the rate of recidivism of patients at each specialized clinic in each geographic service area of the Veterans Health Administration.

"(E) For mental health programs, the number and type of staff that are available at each facility to provide specialized mental health treatment, including satellite clinics, outpatient programs, and community-based outpatient clinics, with a comparison from 1996 to the date of the report.

"(F) The number of such clinics providing mental health care, the number and type of mental health staff at each such clinic, and the type of mental health programs at each such clinic.

"(G) The total amounts expended for mental health during the fiscal year.

"(3) For purposes of paragraph (1), the capacity of the Department (and each geographic service area of the Veterans Health Administration) to provide for the specialized treatment and rehabilitative needs of disabled veterans within distinct programs or facilities shall be measured for veterans with spinal cord dysfunction, traumatic brain injury, blindness, or prosthetics and sensory aids as follows (with all such data to be provided by geographic service area and totaled nationally):

"(A) For spinal cord injury and dysfunction specialized centers and for blind rehabilitation specialized centers, the number of staffed beds and the number of full-time equivalent employees assigned to provide care at such centers.

"(B) For prosthetics and sensory aids, the annual amount expended.

"(C) For traumatic brain injury, the number of patients treated annually and the amounts expended.

"(4) In carrying out paragraph (1), the Secretary may not use patient outcome data as a substitute for, or the equivalent of, compliance with the requirement under that paragraph for maintenance of capacity.".

(b) EXTENSION OF ANNUAL REPORT REQUIREMENT.—Paragraph (5) of such section, as so redesignated, is amended—

(1) by inserting "(A)" before "Not later than";

(2) by striking "April 1, 1999, April 1, 2000, and April 1, 2001" and inserting "April 1 of each year through 2004";

(3) by adding at the end of subparagraph (A), as designated by paragraph (1), the following new sentence: "Each such report shall include information on recidivism rates associated with substance-use disorder treatment."; and

(4) by adding at the end of such paragraph the following new subparagraphs:

"(B) In preparing each report under subparagraph (A), the Secretary shall use standardized data and data definitions.

"(C) Each report under subparagraph (A) shall be audited by the Inspector General of the Department, who shall submit to Congress a certification as to the accuracy of each such report.".

SEC. 204. PROGRAM FOR PROVISION OF CHIROPRACTIC CARE AND SERVICES TO VETERANS.

(a) REQUIREMENT FOR PROGRAM.—Subject to the provisions of this section, the Secretary of Veterans Affairs shall carry out a program to provide chiropractic care and services to veterans through Department of Veterans Affairs medical centers and clinics.

(b) ELIGIBLE VETERANS.—Veterans eligible to receive chiropractic care and services under the program are veterans who are enrolled in the system of patient enrollment under section 1705 of title 38, United States Code.

(c) LOCATION OF PROGRAM.—The program shall be carried out at sites designated by the Secretary for purposes of the program. The Secretary shall designate at least one site for such program in each geographic service area of the Veterans Health Administration. The sites so designated shall be medical centers and clinics located in urban areas and in rural areas.

(d) CARE AND SERVICES AVAILABLE.—The chiropractic care and services available under the program shall include a variety of chiropractic care and services for neuro-musculoskeletal conditions, including subluxation complex.

(e) OTHER ADMINISTRATIVE MATTERS.—(1) The Secretary shall carry out the program through personal service contracts and by appointment of licensed chiropractors in Department medical centers and clinics.

(2) As part of the program, the Secretary shall provide training and materials relating to chiropractic care and services to Department health care providers assigned to primary care teams for the purpose of familiarizing such providers with the benefits of chiropractic care and services.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(g) CHIROPRACTIC ADVISORY COMMITTEE.—(1) The Secretary shall establish an advisory committee to provide direct assistance and advice to the Secretary in the development and implementation of the chiropractic health program.

(2) The membership of the advisory committee shall include members of the chiropractic care profession and such other members as the Secretary considers appropriate.

(3) Matters on which the advisory committee shall assist and advise the Secretary shall include the following:

(A) Protocols governing referral to chiropractors.

(B) Protocols governing direct access to chiropractic care.

(C) Protocols governing scope of practice of chiropractic practitioners.

(D) Definition of services to be provided.

(E) Such other matters the Secretary determines to be appropriate.

(4) The advisory committee shall cease to exist on December 31, 2004.

SEC. 205. FUNDS FOR FIELD OFFICES OF THE OFFICE OF RESEARCH COMPLIANCE AND ASSURANCE.

(a) IN GENERAL.—Section 7303 is amended by adding at the end the following new subsection:

"(e) Amounts for the activities of the field offices of the Office of Research Compliance and Assurance of the Department shall be derived from amounts appropriated for the Veterans Health Administration for Medical Care (rather than from amounts appropriated for the Veterans Health Administration for Medical and Prosthetic Research).".

(b) APPLICABILITY TO FISCAL YEAR 2002.—In order to carry out subsection (e) of section 7303 of title 38, United States Code, as added by subsection (a), for fiscal year 2002, the Secretary of Veterans Affairs shall transfer such sums as necessary for that purpose from amounts appropriated for the Veterans Health Administration for Medical and Prosthetic Research for fiscal year 2002 to amounts appropriated for the Veterans Health Administration for Medical Care for that fiscal year.

SEC. 206. MAJOR MEDICAL FACILITY CONSTRUCTION.

(a) PROJECT AUTHORIZED.—The Secretary of Veterans Affairs may carry out a major medical facility project for the renovation from electrical fire of the Department of Veterans Affairs Medical Center, Miami, Florida, in an amount not to exceed $28,300,000.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for the Construction, Major Projects Account, for fiscal year 2002, $28,300,000 for the project authorized by subsection (a).

(c) LIMITATION.—The project authorized by subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 2002 pursuant to the authorization of appropriations in subsection (b);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2002 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2002 for a category of activity not specific to a project.

SEC. 207. SENSE OF CONGRESS ON SPECIAL TELEPHONE SERVICES FOR VETERANS.

It is the sense of Congress that the Secretary of Veterans Affairs should conduct an assessment of all special telephone services for veterans (such as help lines and hotlines) that are provided by the Department of Veterans Affairs and that any such assessment, if conducted, should include assessment of the geographical coverage, availability, utilization, effectiveness, management, coordination, staffing, and cost of those services and should include a survey of veterans to measure their satisfaction with current special telephone services and the demand for additional services.

SEC. 208. RECODIFICATION OF BEREAVEMENT COUNSELING AUTHORITY AND CERTAIN OTHER HEALTH-RELATED AUTHORITIES.

(a) STATUTORY REORGANIZATION.—Subchapter I of chapter 17 is amended—

(1) in section 1701(6)—

(A) by striking subparagraph (B) and the sentence following that subparagraph;

(B) by striking "services—" in the matter preceding subparagraph (A) and inserting "services, the following:"; and

(C) by striking subparagraph (A) and inserting the following:

"(A) Surgical services.

"(B) Dental services and appliances as described in sections 1710 and 1712 of this title.

"(C) Optometric and podiatric services.

"(D) Preventive health services.

"(E) In the case of a person otherwise receiving care or services under this chapter—

"(i) wheelchairs, artificial limbs, trusses, and similar appliances;

"(ii) special clothing made necessary by the wearing of prosthetic appliances; and

"(iii) such other supplies or services as the Secretary determines to be reasonable and necessary.

"(F) Travel and incidental expenses pursuant to section 111 of this title."; and

(2) in section 1707—

(A) by inserting "(a)" at the beginning of the text of the section; and

(B) by adding at the end the following:

"(b) The Secretary may furnish sensorineural aids only in accordance with guidelines prescribed by the Secretary.".

(b) CONSOLIDATION OF PROVISIONS RELATING TO PERSONS OTHER THAN VETERANS.—Such chapter is further amended by adding at the end the following new subchapter:

"SUBCHAPTER VIII—HEALTH CARE OF PERSONS OTHER THAN VETERANS

"§ 1782. Counseling, training, and mental health services for immediate family members

"(a) COUNSELING FOR FAMILY MEMBERS OF VETERANS RECEIVING SERVICE-CONNECTED TREATMENT.—In the case of a veteran who is receiving treatment for a service-connected disability pursuant to paragraph (1) or (2) of section 1710(a) of this title, the Secretary shall provide to individuals described in subsection (c) such consultation, professional counseling, training, and mental health services as are necessary in connection with that treatment.

"(b) COUNSELING FOR FAMILY MEMBERS OF VETERANS RECEIVING NON-SERVICE-CONNECTED TREATMENT.—In the case of a veteran who is eligible to receive treatment for a non-service-connected disability under the conditions described in paragraph (1), (2), or (3) of section 1710(a) of this title, the Secretary may, in the discretion of the Secretary, provide to individuals described in subsection (c) such consultation, professional counseling, training, and mental health services as are necessary in connection with that treatment if—

"(1) those services were initiated during the veteran's hospitalization; and

"(2) the continued provision of those services on an outpatient basis is essential to permit the discharge of the veteran from the hospital.

"(c) ELIGIBLE INDIVIDUALS.—Individuals who may be provided services under this subsection are—

"(1) the members of the immediate family or the legal guardian of a veteran; or

"(2) the individual in whose household such veteran certifies an intention to live.

"(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—Services provided under subsections (a) and (b) may include, under the terms and conditions set forth in section 111 of this title, travel and incidental expenses of individuals described in subsection (c) in the case of any of the following:

"(1) A veteran who is receiving care for a service-connected disability.

"(2) A dependent or survivor receiving care under the last sentence of section 1783(b) of this title.

"§ 1783. Bereavement counseling

"(a) DEATHS OF VETERANS.—In the case of an individual who was a recipient of services under section 1782 of this title at the time of the death of the veteran, the Secretary may provide bereavement counseling to that individual in the case of a death—

"(1) that was unexpected; or

"(2) that occurred while the veteran was participating in a hospice program (or a similar program) conducted by the Secretary.

"(b) DEATHS IN ACTIVE SERVICE.—The Secretary may provide bereavement counseling to an individual who is a member of the immediate family of a member of the Armed Forces who dies in the active military, naval, or air service in the line of duty and under circumstances not due to the person's own misconduct.

"(c) BEREAVEMENT COUNSELING DEFINED.—For purposes of this section, the term 'bereavement counseling' means such counseling services, for a limited period, as the Secretary determines to be reasonable and necessary to assist an individual with the emotional and psychological stress accompanying the death of another individual.

"§ 1784. Humanitarian care

"The Secretary may furnish hospital care or medical services as a humanitarian service in emergency cases, but the Secretary shall charge for such care and services at rates prescribed by the Secretary.".

(c) TRANSFER OF CHAMPVA SECTION.—Section 1713 is—

(1) transferred to subchapter VIII of chapter 17 of title 38, United States Code, as added by subsection (b), and inserted after the subchapter heading;

(2) redesignated as section 1781; and

(3) amended by adding at the end of subsection (b) the following new sentence: "A dependent or survivor receiving care under the preceding sentence shall be eligible for the same medical services as a veteran, including services under sections 1782 and 1783 of this title.".

(d) REPEAL OF RECODIFIED AUTHORITY.—Section 1711 is amended by striking subsection (b).

(e) CROSS REFERENCE AMENDMENTS.—Title 38, United States Code, is further amended as follows:

(1) Section 103(d)(5)(B) is amended by striking "1713" and inserting "1781".

(2) Sections 1701(5) is amended by striking "1713(b)" in subparagraphs (B) and (C)(i) and inserting "1781(b)".

(3) Section 1712A(b) is amended—

(A) in the last sentence of paragraph (1), by striking "section 1711(b)" and inserting "section 1784"; and

(A) in paragraph (2), by striking "section 1701(6)(B)" and inserting "sections 1782 and 1783".

(4) Section 1729(f) is amended by striking "section 1711(b)" and inserting "section 1784".

(5) Section 1729A(b) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph (7):

"(7) Section 1784 of this title.".

(6) Section 8111(g) is amended—

(A) in paragraph (4), by inserting "services under sections 1782 and 1783 of this title" after "of this title,"; and

(B) in paragraph (5), by striking "section 1711(b) or 1713" and inserting "section 1782, 1783, or 1784".

(7) Section 8111A(a)(2) is amended by inserting ", and the term 'medical services' includes services under sections 1782 and 1783 of this title" before the period at the end.

(8) Section 8152(1) is amended by inserting "services under sections 1782 and 1783 of this title," after "of this title).".

(9) Sections 8502(b), 8520(a), and 8521 are amended by striking "the last sentence of section 1713(b)" and inserting "the penultimate sentence of section 1781(b)".

(f) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of such chapter is amended—

(A) by striking the item relating to section 1707 and inserting the following:

"1707. Limitations.";

(B) by striking the item relating to section 1713; and

(C) by adding at the end the following:

"SUBCHAPTER VIII—HEALTH CARE OF PERSONS OTHER THAN VETERANS

"1781. Medical care for survivors and dependents of certain veterans.
"1782. Counseling, training, and mental health services for immediate family members.
"1783. Bereavement counseling.
"1784. Humanitarian care.".

(2) The heading for section 1707 is amended to read as follows:

"§ 1707. Limitations".

SEC. 209. EXTENSION OF EXPIRING COLLECTIONS AUTHORITIES.

(a) HEALTH CARE COPAYMENTS.—Section 1710(f)(2)(B) is amended by striking "September 30, 2002" and inserting "September 30, 2007".

(b) MEDICAL CARE COST RECOVERY.—Section 1729(a)(2)(E) is amended by striking "October 1, 2002" and inserting "October 1, 2007".

SEC. 210. PERSONAL EMERGENCY RESPONSE SYSTEM FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) EVALUATION AND STUDY.—The Secretary of Veterans Affairs shall carry out an evaluation and study of the feasibility and desirability of providing a personal emergency response system to veterans who have service-connected disabilities. The evaluation and study shall be commenced not later than 60 days after the date of the enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the evaluation and study under subsection (a). The Secretary shall include in the report the Secretary's findings resulting from the evaluation and study and the Secretary's conclusion as to whether the Department of Veterans Affairs should provide a personal emergency response system to veterans with service-connected disabilities.

(c) AUTHORITY TO PROVIDE SYSTEM.—If the Secretary concludes in the report under subsection (b) that a personal emergency response system should be provided by the Department of Veterans Affairs to veterans with service-connected disabilities—

(1) the Secretary may provide such a system, without charge, to any veteran with a service-connected disability who is enrolled under section 1705 of title 38, United States Code, and who submits an application for such a system under subsection (d); and

(2) the Secretary may contract with one or more vendors to furnish such a system.

(d) APPLICATION.—A personal emergency response system may be provided to a veteran under subsection (c)(1) only upon the submission by the veteran of an application for the system. Any such application shall be in such form and manner as the Secretary may require.

(e) DEFINITION.—For purposes of this section, the term "personal emergency response system" means a device—

(1) that can be activated by an individual who is experiencing a medical emergency to notify appropriate emergency medical personnel that the individual is experiencing a medical emergency; and

(2) that provides the individual's location through a Global Positioning System indicator.

SEC. 211. ONE-YEAR EXTENSION OF ELIGIBILITY FOR HEALTH CARE OF VETERANS WHO SERVED IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

Section 1710(e)(3)(B) is amended by striking "December 31, 2001" and inserting "December 31, 2002".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. Evans) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3447, the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. Although this bill was only recently introduced, it is the product of many months of work by both bodies. It is derived from the following bills: H.R. 2792 which passed the House on October 23; S. 1160; S. 1188; and S. 1221. The bill would accomplish improvements in health care and related services for our Nation's veterans.

The distinguished chairman of the Subcommittee on Health the gentleman from Kansas (Mr. MORAN) deserves special recognition for his original authorship of major components of this bill. I salute his leadership in formulating it for final House consideration in the first session of the 107th Congress. I also appreciate the hard work of our colleagues on the Senate Committee on Veterans' Affairs who have contributed major portions of this legislation as well.

Mr. Speaker, this bill would enhance nurse recruitment and staffing in the Department of Veterans Affairs health care system and improve VA health care for veterans. The bill would also authorize significant new veterans health care benefits, including VA chiropractic care for disabled veterans on a nationwide basis. This legislation would provide greater accountability in the conduct of VA health care programs and would give substantial relief from copayments now required of poor veterans in urban areas.

Mr. Speaker, all of these changes are good for veterans and they are good for the Nation. I anticipate that, after House passage, this bill will be taken up immediately by the Senate and passed without further amendment. It represents an agreement between the two Committees on Veterans' Affairs on these matters; and while it is a compromise on several House-authored provisions, we recommend it as sound, progressive policy.

Mr. Speaker, I want to thank our full committee ranking member the gentleman from Illinois (Mr. EVANS) for his close cooperation on this bipartisan bill. He is a valued partner as we work together to keep our great country's commitments to those men and women who have defended our precious freedoms. The gentleman from California (Mr. FILNER), the ranking member of our Subcommittee on Health, has also worked hard on this bill, in particular for the new chiropractic care services for our veterans. I thank him for his contributions as well.

The leadership on both sides of the aisle have facilitated the clearance for consideration of this bill, which the committee also deeply appreciates. I want to especially thank the majority leader, the gentleman from Texas (Mr. ARMEY), for facilitating that as well. We were able to work through this process in remarkably short order because our House leadership continues to make veterans issues a priority.

Mr. Speaker, I urge all of my colleagues to support this measure. It has broad backing and sends the right message: Congress will be attentive to the people's business and stand by those courageous men and women who have answered the call to arms.

Mr. Speaker, I reserve the balance of my time.

Mr. EVANS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. I want to thank the chairman again, the gentleman from New Jersey, who has been a long and undeterred advocate for this legislation. I want to thank the gentleman from Kansas (Mr. MORAN) and the gentleman from California (Mr. FILNER), the chairman and ranking member of the Subcommittee on Health, for their continuing work on the complex issues in this bill. I want to particularly recognize the abiding interest of the gentlewoman from California (Mrs. CAPPS) in ensuring better access to health care services for our veterans. At her urging, we have included a comprehensive study of telephone services available through the Department.

I also want to express my appreciation to members of the committee staff on both sides of the aisle for their persistence in reaching a good compromise on this bill.

For many years, I have strongly advocated the provision of chiropractic care as an alternative source of health care for veterans. Medicare, most State Medicaid programs, and the Department of Defense have developed means of reimbursing or even, in the latter case, hiring chiropractors to meet their beneficiaries' needs. VA, unfortunately, has been slower to adopt chiropractic care. As a result, the legislation requires VA to have a permanent, national chiropractic program; and I trust VA will now ensure that veterans are better able to access these important services.

The chairman mentioned the nurses that are the backbone of any health care system. We also listed them. I want to thank the gentleman from New Mexico (Mr. UDALL) for introducing H.R. 3017, which contains many of the nurse recruitment and retention provisions that have been included in this bill.

This bill recognizes that income alone is not a fair measure of a veteran's standard of living because of geographic cost-of-living differences, which can be significant. Veterans in the Chicago area, for example, may not be able to stretch their dollars as far as veterans in lower-cost areas. I am pleased that, in recognition of these differing costs of living, this bill will reduce the burden of acute hospital inpatient copayments for some veterans.

In a report I requested from the GAO last year, they said that VA could not confirm that these important but expensive programs for veterans with longer term service-connected conditions were not being eroded under fiscal pressure to treat more veterans at a lower cost per patient. I am pleased that this bill also provides a strong reporting requirement for specialized programs for disabled veterans.

Following the trend to place care in community and outpatient settings, the committee has been greatly concerned with the availability of VA health care services for seriously mentally ill veterans. Veterans' advocates, advocates of mentally ill people and even internal working groups have continually validated these concerns. The legislation will allow the Congress to monitor these important programs and intervene if measures indicate that would be necessary.

Mr. Speaker, I am proud to support this legislation. I believe in the long run we will be able to ensure an improved health care system for our Nation's veterans.

This important measure provides a number of changes in current law that will allow VA to remain competitive in recruiting and retaining its nurse workforce. Critically, this measure retains and strengthens reporting requirements on the specialized programs for veterans with disabilities, many of which VA has perfected since the days following World War II. It will provide some relief in meeting VA copayment requirements for acute hospital inpatient care to veterans with marginal incomes. It will also address a significant deficit in the VA's care continuum by developing a permanent program for chiropractic care within the Department of Veterans Affairs.

I believe this bill moves VA in the right direction to meet new and evolving challenges and I am proud to have participated in its development. I want to thank my Committee Chairman, the gentleman from New Jersey, CHRIS SMITH, who has been a strong and undeterred advocate of this legislation. I want to thank JERRY MORAN and BOB FILNER, the Chairman and Ranking Member of the Health Subcommittee, for continuing to work on the complex range of issues this bill addresses. I also want to thank Congresswoman LOIS

CAPPS for her abiding interest in ensuring better access to health care services for veterans. At her urging, we have included a comprehensive study of telephone services available through the Department. I also want to express my appreciation to members of the Committee staff from both sides of the aisle for their persistence in reaching a good compromise on this bill.

For many years, I have strongly advocated the provision of chiropractic as an alternative source of health care for veterans. Chiropractors are capable of promoting wellness and preventing illness without relying upon pharmaceutical drugs or surgical interventions. For the millions of Americans who choose to use chiropractors—often paying for their services "out-of-pocket"—the benefits of chiropractic care are clear. Gradually, the federal government has recognized the importance of the care chiropractors provide in the health care continuum—Medicare, most state Medicaid programs, and the Department of Defense have developed means or reimbursing or even, in the latter case, hiring chiropractors to meet their beneficiaries' needs. Many private insurers also reimburse care from chiropractors.

VA has been much slower to adopt chiropractic. Under the Veterans Millennium Health Care and Benefits Act, VA was directed to develop a policy on chiropractic care. Unfortunately, it appeared that the VA circled the wagons and resorted to practices that have actually reduced veterans' use of chiropractic in the last year. I called on VA and representatives of chiropractic providers to discuss opportunities for VA to develop a policy on chiropractic care as the Millennium Act had directed it to do. After several interactions with chiropractor representatives this summer, VA ultimately told me that if I and the other Members that participated in this dialogue wanted VA to increase or enhance its use of chiropractors in VA, we would have to mandate VA to do it. We have now developed an approach that requires VA to have a permanent, national chiropractic program, and I trust VA will now ensure that veterans are better able to access these important services.

This bill adjusts copayments for veterans with marginal incomes. In so doing, it recognizes that income alone is not a fair measure of a veteran's standard of living because of the often significant differences in geographic costs-of-living. Veterans in the Chicago area, for example, may not be able to stretch their dollars as far as veterans in lower cost areas. I am pleased that, in recognition of these differing "costs of living", this bill will reduce the burden of acute hospital inpatient copayments for some veterans.

The Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 will allow VA to remain a competitive employer during the current scarcity of nurses in the labor market. I want to thank my friend TOM UDALL for introducing H.R. 3017, which contains many of the nurse recruitment and retention provisions that have been included in this bill.

Nurses are the backbone of any health care system and their role is no less critical within VA. Yet, it is easy to see why this profession is once again facing a crisis in developing and maintaining its workforce. My mother was a nurse so I well understand the demands and pressures of this vocation—hours are long and often unpredictable. The work takes a psychic and physical toll. In recent years, nurses complain of having more of their time devoted to administrative activities than to working with their patients—often the most satisfying part of their job. H.R. 3447 will help address some of the reasons this profession is facing its current challenges by having experts offer solutions to some of the issues that confront the profession, by providing more flexible educational tools as incentives for its current and future workforce, and by ensuring that the Department is reviewing safe staffing patterns and practices to support its dedicated workforce.

I am pleased that this bill also provides a strong reporting requirement for specialized programs for disabled veterans. Some of these programs were developed in direct response to the needs of veterans returning from war with combat-incurred disabilities, such as spinal cord injuries, blindness, or post-traumatic stress disorder, and have become unique chronic care programs in a health care world that generally seems to prefer dealing with acute illnesses. In a report I requested from the General Accounting Office last year, GAO said that VA could not assure that these important, but expensive, programs for veterans with longer-term service-connected conditions were not being eroded under fiscal pressure to treat more veterans at a lower cost per patient.

Following a new trend to place care in community and outpatient settings, this Committee has also been greatly concerned with the availability of VA services for seriously mentally ill veterans—veterans' advocates, advocates of mentally ill people and even internal working groups have continually validated these concerns. This legislation will allow Congress to monitor these important programs and intervene if measures indicate that would be necessary.

Mr. Speaker, I am proud to support this legislation. I believe that in so doing we will ensure an improved health care system for our nation's veterans.

SUMMARY—H.R. 3447—DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PROGRAMS ENHANCEMENT ACT OF 2001

H.R. 3447 would:

1. Enhance eligibility and benefits for the Employee Incentive Scholarship and Education Debt Reduction Programs by enabling VA nurses to pursue advanced degrees while continuing to care for veterans, in order to improve recruitment and retention of nurses within the VA health care system.

2. Mandate that VA provide Saturday premium pay to title 5/title 38 hybrid employees. Such hybrid-authority employees include licensed vocational nurses, pharmacists, certified or registered respiratory therapists, physical therapists, and occupational therapists.

3. Require VA to develop a nationwide policy on staffing standards to ensure that veterans are provided with safe and high quality care, taking into consideration the numbers and skill mix required of staff in specific health care settings. Require a report on the use of mandatory overtime by licensed nursing staff and nursing assistants in each VA health care facility; include in report a description of the amount of mandatory overtime used by facilities.

4. Change reporting responsibility of the Director of the Nursing Service to report to the Under Secretary for Health.

5. Recompute annuities for part-time service performed by certain health care professionals before April 7, 1986.

6. Establish a 12-member National Commission on VA Nursing that would assess legislative and organizational policy changes to enhance the recruitment and retention of nurses by the Department and the future of the nursing profession within the Department, and recommend legislative and organizational policy changes to enhance the recruitment and retention of nursing personnel in the Department.

7. Authorize service dogs to be provided by VA to a veteran suffering from spinal cord injuries or dysfunction, other diseases causing physical immobility, hearing loss or other types of disabilities susceptible to improvement or enhanced functioning in activities of daily living through employment of a service dog.

8. Modify VA's system of determining non-service-connected veterans' "ability to pay" for VA health care services by introducing (as an upper income bound contrasted with current income limits) the "Low Income Housing Limits" employed by the Department of Housing and Urban Development (HUD), used by HUD to determine family income thresholds for housing assistance. This index is adjusted for all Standard Metropolitan Statistical Areas (SMSAs), and is updated periodically by HUD to reflect economic changes within the SMSAs. Would retain current-law means test national income threshold, but reduce co-payments by 80 percent for near-poor veterans who require acute VA hospital inpatient care.

9. Strengthen the mandate for VA to maintain capacity in specialized medical programs for veterans by requiring VA and each of its Veterans Integrated Service Networks to maintain the national capacity in certain specialized health care programs for veterans (those with serious mental illness, including substance use disorders, and spinal cord, brain injured and blinded veterans; veterans who need prosthetics and sensory aids); and extend capacity reporting requirement for 3 years.

10. Establish a program of chiropractic services in each Veterans Integrated Service Network and require VA to provide training and educational materials on chiropractic services to VA health care providers. Authorize VA to employ chiropractors as federal employees and obtain chiropractic services through contracts; create a VA advisory committee on chiropractic health care.

11. Require the Office of Research Compliance and Assurance, which conducts oversight and compliance reviews of VA research and development, be funded by the Medical Care appropriation, rather than the Medical and Prosthetic Research appropriation.

12. Authorize $28,300,000 for major medical facility construction project at the Miami, Florida VA Medical Center.

13. Require Secretary of Veterans Affairs to assess all special telephone services made available to veterans, such as "help lines" and "hotlines." Assessment would include geographical coverage, availability, utilization, effectiveness, management, coordination, staffing, cost, and a survey of veterans to measure effectiveness of these telephone services and future needs. A report to Congress would be required within 1 year of enactment.

14. Extend expiring authorities for VA to collect proceeds from veterans' health insurance policies for care provided for non-service connected care.

15. Provide authority for the Secretary to study, and then if determined feasible, obtain personal emergency-notification and response systems for service-disabled veterans.

16. Extend VA's authority to provide health care for those who served in the Persian Gulf until December 31, 2002.

Mr. FILNER. Mr. Speaker, I rise in support of the "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001". I want to thank Chairman CHRISTOPHER SMITH, Ranking Member LANE EVANS and Chairman JERRY MORAN of the Health Subcommittee for addressing some of the concerns I raised about earlier versions of the bill. We now have a bill to which I am pleased to lend my support.

Mr. Speaker, as a long-time advocate of chiropractic and a user of its services, I am, perhaps, most gratified that we have agreed to a comprehensive proposal to create a permanent chiropractic program within the Department of Veterans Affairs. This legislation will require VA to establish a national chiropractic program that will make chiropractic services available in each geographic service area. VA has rebuffed Congress and the chiropractic profession time and time again in an attempt to bring better access to chiropractic services under the VA's umbrella. We asked VA to develop a policy under the Veterans Millennium Health Care and Benefits Act, but leaving the policy development in VA's hands, veterans' access to chiropractic services has worsened. We simply cannot allow VA to keep barring the door to chiropractic care.

Today is a fresh start for chiropractic care in VA. While I prefer the chiropractic care version this House approved in H.R. 2792, as amended, the provision in the bill before us today ensures that chiropractic care will be available in every VA network. To ensure that this program's implementation is smooth, the conference agreement establishes a chiropractic advisory committee that will provide VA the expertise and advocacy needed to address the issues involved in hiring chiropractors and ensuring that chiropractors are able to participate in its workforce using their skills and training to their fullest potential. I believe that this bill offers the fundamentals from which VA can begin to develop a sound chiropractic program. Eventually, I believe it will be necessary for VA to establish a director of chiropractic service and for Congress to specify, in law, an established number of sites for chiropractic care. Still, for the first time, this law will ensure that veterans have a real opportunity to access this important part of the health care continuum.

In our Subcommittee hearing this Fall, we heard from many of the veterans' service organizations and animal trainers on the invaluable assistance provided by service dogs to severely disabled people. I am pleased that this bill retains this provision.

We have strengthened the requirements for VA to report to Congress on programs that serve some of our most vulnerable veterans. We have focused these reporting requirements on VA's mental health programs. I believe this will give Congress a much clearer idea about what types of valuable specialized services are eroding. I am also pleased that these reports will make geographic service areas accountable for maintaining programs under their authority. For too long, we have heard VA's central office indicate that they are helpless over controlling the activities of their field managers. Making the networks accountable for the maintenance of specialized programs to serve disabled veterans puts the responsibility where the authority lies.

Mr. Speaker, I believe thousands of veterans will benefit from a provision in this bill, strongly advocated by Chairman SMITH, that adjusts VA copayments for acute hospital inpatient care to the cost-of-living veterans experience in different areas of the country. Salaries, food, and housing costs vary greatly across this Nation. This legislation permits VA to use a widely employed index of geographic variances in cost of living—one already used by the Department of Housing and Urban Development to assess a family's ability to afford housing—to gauge veterans' ability to pay for health care services. This legislation ensures that veterans, who are eligible for low-income housing in a given geographic location, but who are not considered medically indigent under the national Department of Veterans Affairs means-test, are given a break on the acute inpatient hospital copayments they would otherwise have to make.

I want to extend a special thanks to Congresswoman LOIS CAPPS for introducing H.R. 1435. This bill raised the Committee's awareness of the need for a round-the-clock telephone crisis and referral service. We intend to have the VA investigate its current resources and recommend a strategy for enhancing its current capabilities.

This measure contains a charter for a new Commission on VA Nursing. As we know, the nursing profession, inside and outside of VA has changed and VA must be prepared to be an "employer of choice" in the future. This Commission can give expert advise on where VA must position itself now and in the future to attract the best nurses available to treat our veterans. In addition, it contains provisions from S. 1188, and its companion introduced in the House by TOM UDALL, H.R. 3017. These provisions will provide additional opportunities for VA to recruit and retain nurses—an invaluable component of its health care staff.

The Health Care Programs Enhancement Act is a strong measure and I urge my colleagues to support the bill.

Mr. EVANS. Mr. Speaker, I yield back the balance of my time.

□ 2310

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3447.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3447.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SUPPORT H.R. 3443, FAIRNESS TO ALL VIETNAM VETERANS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, I rise to introduce the Fairness to All Vietnam Veterans Act, H.R. 3443. This legislation directs the Secretary of Defense to report to Congress an appropriate way to recognize and honor Vietnam veterans who died in service of our Nation, but whose names are not listed on the Vietnam Veterans Memorial Wall.

Constituents began contacting my District Office regarding 74 members who died on the destroyer USS *Frank E. Evans* who are not listed on the Vietnam Veterans Memorial Wall. The names of these 74 brave Americans, and many others who have lost their lives serving the United States during the Vietnam conflict, deserve proper recognition. Some have been excluded due to technicalities. We should honor all the men and women of the Vietnam conflict who gave their lives serving our country.

The destroyer *Evans* was first launched near the end of the Second World War and was recommissioned for Korea and again for Vietnam. The *Evans* sailed from the Port of Long Beach for the last time in the spring of 1969. After seeing serious combat off the coast of Vietnam, the *Evans* was sent to a brief training exercise called Operation Sea Spirit in the South China Sea. This operation involved over 40 ships of the Southeast Asia Treaty Organization.

On the morning of June 3, 1969, the crew of the *Evans* awoke to the sounds of the Australian carrier, *Melbourne*, splitting in half the American destroyer *Evans*. The forward half, where all 74 deaths took place, sank in 3 minutes. Although they were in the South China Sea, these sailors have been excluded from the wall because their downed vessel was just outside the designated combat zone which determines inclusion on the Vietnam Veterans Memorial Wall.

Although these men did not die in direct combat, they were instrumental in forwarding American objectives in Vietnam and participated in conflict just days before the collision that claimed their lives. The historical and personal records of the *Evans* tell a story of valor and patriotism, and, for some, the ultimate sacrifice for their country.

I believe that after examining the important role these men played in the Vietnam conflict, I hope you will agree that those who died deserve the honor of being listed on the Vietnam Veterans Memorial Wall.

Unfortunately, the case of the *Evans* does not stand alone. There are many families across the United States whose loved ones have been excluded from proper recognition.

I believe it is time for the Department of Defense to examine current policies for placement on the Vietnam Veterans Memorial Wall. H.R. 3443 asks for a complete study of the current standards and for an examination of those who died, such as those 74 on the *Evans*, that seem appropriate for inclusion on the wall.

The Fairness to All Vietnam Veterans Act has the support of the United States Ship *Frank E. Evans* Association, as well as hundreds of family members across the country, hoping to see loved ones properly recognized. I urge my colleagues to support and pass this much-needed and overdue piece of legislation.

Mr. Speaker, I include for the RECORD the bill, as well as various comments from Mr. Hennessy, a distinguished columnist of the Press Telegram in Long Beach, California.

H.R. 3443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness to All Vietnam Veterans Act".

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Public Law 96-297 (94 Stat. 827) authorized the Vietnam Veterans Memorial Fund, Inc., (the "Memorial Fund") to construct a memorial "in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war".

(2) The Memorial Fund determined that the most fitting tribute to those who served in the Vietnam war would be to permanently inscribe the names of the members of the Armed Forces who died during the Vietnam war, or who remained missing at the conclusion of the war, on a memorial wall.

(3) The Memorial Fund relied on the Department of Defense to compile the list of individuals whose names would be inscribed on the memorial wall and the criteria for inclusion on such list.

(4) The Memorial Fund established procedures under which mistakes and omissions in the inscription of names on the memorial wall could be corrected.

(5) Under such procedures, the Department of Defense established eligibility requirements that must be met before the Memorial Fund will make arrangements for the name of a veteran to be inscribed on the memorial wall.

(6) The Department of Defense determines the eligibility requirements and has periodically modified such requirements.

(7) As of February 1981, in order for the name of a veteran to be eligible for inscription on the memorial wall, the veteran must have—

(A) died in Vietnam between November 1, 1955, and December 31, 1960;

(B) died in a specified geographic combat zone on or after January 1, 1961;

(C) died as a result of physical wounds sustained in such combat zone; or

(D) died while participating in, or providing direct support to, a combat mission immediately en route to or returning from such combat zone.

(8) Public Law 106-214 (114 Stat. 335) authorizes the American Battle Monuments Commission to provide for the placement of a plaque within the Vietnam Veterans Memorial "to honor those Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service, and whose names are not otherwise eligible for placement on the memorial wall".

(9) The names of a number of veterans who died during the Vietnam war are not eligible for inscription on the memorial wall or the plaque.

(10) Examples of such names include the names of the 74 servicemembers who died aboard the USS Frank E. Evans (DD-174) on June 3, 1969, while the ship was briefly outside the combat zone participating in a training exercise.

SEC. 3. STUDY AND REPORT.

(a) STUDY.—The Secretary of Defense shall conduct a study that—

(1) identifies the veterans (as defined in section 101(2) of title 38, United States Code) who died on or after November 1, 1955, as a direct or indirect result of military operations in southeast Asia and whose names are not eligible for inscription on the memorial wall of the Vietnam Veterans Memorial;

(2) evaluates the feasibility and equitability of revising the eligibility requirements applicable to the inscription of names on the memorial wall to be more inclusive of such veterans; and

(3) evaluates the feasibility and equitability of creating an appropriate alternative means of recognition for such veterans.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report based on the study conducted under subsection (a). Such report shall include—

(1) the reasons (organized by category) that the names of the veterans identified under subsection (a)(1) are not eligible for inscription on the memorial wall under current eligibility requirements, and the number of veterans affected in each category;

(2) a list of the alternative eligibility requirements considered under subsection (a)(2);

(3) a list of the alternative means of recognition considered under subsection (a)(3); and

(4) the conclusions and recommendations of the Secretary of Defense with regard to the feasibility and equitability of each alternative considered.

(c) CONSULTATIONS.—In conducting the study under subsection (a) and preparing the report under subsection (b), the Secretary of Defense shall consult with—

(1) the Secretary of Veterans Affairs;

(2) the Secretary of the Interior;

(3) the Vietnam Veterans Memorial Fund, Inc.;

(4) the American Battle Monuments Commission;

(5) the Vietnam Women's Memorial, Inc.; and

(6) the National Capital Planning Commission.

THEY MUST BE REMEMBERED

(By Tom Hennessy)

There will be speeches this weekend: Memorial Day remembrances of heroic people and hallowed names.

But those hallowed names are not likely to include the USS Frank E. Evans. Or the 74 largely forgotten crew members who died aboard the destroyer at the height of the Vietnam War.

And whose names are not listed on the Vietnam Wall.

This is their story.

Launched near the end of World War II, recommissioned for Korea and again for Vietnam, the Evans sailed from her home port, Long Beach, in the spring of 1969. It would be her last voyage.

After combat off the coast of Vietnam, she and her 272-man crew were ordered to join "Operation Sea Spirit," a training exercise involving 40-plus ships of the Southeast Asia Treaty Organization.

On the morning of June 3, she was in the South China Sea with companion ships that included the Melbourne, an Australian carrier.

"I had watched a movie the night before," says Tom Manley of Long Beach. "I'd left my clothes on because I had the early morning watch and had gone to sleep about midnight."

At 3:30 a.m., Manley and shipmates were awakened in terrifying fashion.

"The whole ship turned over on its side," says Manley. "Everybody fell down. A guy came down the ladder with a flashlight and said . . . that we needed to get out."

A boilerman 3rd class, Manley helped shipmates to their feet. One, Pete Taylor, had broken his arm. Together, he and Manley managed to reach the ship's fantail.

"A lot of guys were jumping in the water," says Manley. "Pete was worried. Because of his broken arm, he couldn't swim. I said I'd try to find a life jacket in case we had to go into the water. I walked toward the front of the ship where they kept the life jackets."

Manley was stunned by what he saw. "There was no front of the ship. It was gone."

HORRIFIC MESSAGE

Aboard the American carrier Kearsage, Doug Care of Santa Clarita was working the Sea Spirit radio circuit.

"I had been on the circuit about five minutes when the radio came to life with a fellow with an Australian accent and impeccable radio procedure. He gave a message I'll never forget:

"Melbourne has just collided with Evans. Envision many casualties. Request all possible assistance."

Care thought it was "a stupid time" for a drill. But as he read the message back to the Melbourne, he knew it was no drill. For one thing, "the admiral aboard the Kearsage was looking over my shoulder still in his bathrobe."

In the forward engine room of the Evans, Roy "Pete" Peters also knew it was no drill.

He had been standing messenger mid-watch when an order came to increase speed, followed by a second order to throttle down and stop.

We immediately stopped all forward movement and were all thrown forward and down," he recalls. "All the lights went out. Steam immediately filled the compartment and made it hard to breathe."

As Peters was slammed to the deck and burned by the steam, the ocean began entering the engine room. It was a mixed blessing.

"The cold water felt good, but I was a noqualified swimmer in boot camp and barely made it around the pool to qualify as a swimmer," he said

Peters began working his way toward the top of the engine room, hoping to find an air pocket.

"I felt the water rising up my chest toward my face. I knew I was going to die . . . I heard guys praying and crying. I remember hearing Terry Baughman (a shipmate) crying, 'God, please help us!'

"As the water rose, I could see the faces of my mother and father and I saw the face of my girlfriend, Karen. I promised that if I got out of there, I would go back and marry her if she would have me."

CHAOS ABOVE

Crew member Bill Thibeault of Norwich, Conn., managed to get topside.

"There were helicopters flying around and lights all over. I didn't really realize what had happened until I got onto the ship's uppermost deck. Then I saw all the torn-up metal and pipes and everything, and I thought, 'Where's the rest of the ship?' "

The Evans had been struck amidships, and cut in two. The forward half, where all the deaths took place, sank in three minutes. The other half would be destroyed months later in target practice.

"I give the Melbourne credit," says Manley. "They turned the ship around and it was back within minutes even though it had damage to its front. They were trying to help us."

Cargo nets were lowered on the carrier and its crew "came down and helped some of our people.

"We assembled on the fantail of the Melbourne," he says. "They must have broke out their full ration of Foster lager. There were cases all over the place."

Manley and others were transferred to the Kearsage.

"It took three days until we got to Subic Bay (in the Philippines)," he says. "There was no way to tell anyone who was alive and who wasn't. My sister was calling (the Navy) every day and they wouldn't tell her anything. The Navy wouldn't release any information. When I got to Subic, I was able to call."

In New York City, Dorothy Reilly, a Roman Catholic nun, caught the end of a newscast by Walter Cronkite. "He immediately broke in and said that the Frank E. Evans had been sunk . . . I said out loud, 'That's by brother's ship.'

"I ran to the radio to see if there was more news. I remembered someone saying that there were two ships with almost the same name, but when I heard on the radio that the ship was from Long Beach, I knew it was the ship my brother was on as well as his 20-year-old son."

Lawrence J. Reilly Sr. survived. His son, Lawrence Jr., did not.

There was a memorial service later for young Lawrence Reilly, who had lived in Long Beach. In the middle of it, his son, 15 months old, cried out, "Daddy."

"It was a heart-wrenching moment," says Dorothy. "The newspapers carried that picture and even if it were not in print, it would be indelibly printed in the hearts of all who heard that cry."

Peters, the Evans crew member who had been sure he was going to die, did not. Someone in the engine room had found a hatch leading to safety.

Peters was treated aboard the Melbourne for burns, then airlifted to the Kearsage, where he underwent surgery to remove burned skin. He was hospitalized in Subic Bay.

Of his injuries, he says, "I am sure others had it worse."

Yes, Peters did marry his girlfriend, Karen. They just celebrated their 31st anniversary. Peter has an insurance business in Redondo Beach.

The captain of the Evans was later reprimanded, "but most of us survivors never felt he was guilty of anything," says Peters.

The Melbourne's skipper was acquitted and then resigned from the Australian Navy.

THREE IN FAMILY

Seventy-four men, including five from Long Beach, lost their lives aboard the Evans in the dark, early hours of June 3, 1969. A list appears with this column, and three names on it resonate like the script from "Saving Private Ryan": Gary Loren Sage, Gregory Allen Sage, Kelly Jo Sage.

They were brothers.

"They were also my cousins," says Gayle Pierce, of Lincoln, Neb. "Their memorial is in Niobrara, Neb., their hometown. It is a great memorial."

Two years ago, on Memorial Day, a ceremony was held at the Sage Memorial. Eighteen members of the USS Frank E. Evans Association (which will convene in Long Beach in 2003) showed up in Niobrara to honor the three fallen shipmates.

"I think it is just wonderful that so many persons have kept the memories of these men alive," Pierce says.

MISSING NAMES

But on The Vietnam Memorial wall, the nation's most visible reminder of the war, the memory of the lost Evans crew members has not been kept alive. Their names are not listed.

Why not?

"Technicalities," Peters says with frustration. "I've done a lot of research on this."

To qualify for the wall, he says, a veteran had to have been killed in the combat zone, en route to it or while returning from a combat mission.

For the 74 lost Evans men that parameter is very thin, as Peters notes.

"We'd been on the gun line for two weeks. We came off the line and rendezvoused with the other ships for Operation Sea Spirit."

(A year earlier, appreciative Army officials had cited the Evans for "Conspicuously outstanding gunfire support in a critical and demanding phase of the war.")

Peters and everyone else interviewed for this column believe the names of the men belong on the wall.

"I think they should be there," says Manley, 54, and accounting manager. "I had three tours in Vietnam, but I knew guys on that ship who died who had more tours than I did. It's just not right."

His wife, Mary, agrees, but more tersely.

"It stinks," she says.

Thibeault, the Connecticut survivor, says the lost men should be regarded as combatants.

"They weren't killed in action. But we were there. We had fired our guns. These guys should be remembered."

He has tried to have them remembered in another way.

"I've contacted The History Channel. I've been trying to contact some Hollywood people as well, without any success. There should be a movie about this."

Through the years, Manley has remained somewhat tight-lipped. Mary says he has only begun to talk about it recently.

Yet, a few days ago, they note, their daughter, Jennifer, 24, asked, "What's the Evans?"

Says Manley, "Maybe I haven't talked about it enough."

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2002 AND THE 5-YEAR PERIOD FY 2002 THROUGH FY 2006

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 201 of the conference report accompanying H. Con. Res. 83, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2002 and for the five-year period of fiscal years 2002 through 2006. This status report is current through December 5, 2001.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 83. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2002 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority and outlays for discretionary action by each authorizing committee with the "section 302(a)" allocations made under H. Con. Res. 83 for fiscal year 2002 and fiscal years 2002 through 2006. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2002 with the "section 302(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is also needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) suballocation.

The fourth table gives the current level for 2003 of accounts identified for advance appropriations in the statement of managers accompanying H. Con. Res. 83. This list is needed to enforce section 201 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

The fifth table compares discretionary appropriations to the levels provided by section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985. If at the end of a session discretionary spending in any category exceeds the limits set forth in section 251(c) (as adjusted pursuant to section 251(b)), a sequestration of amounts within that category is automatically triggered to bring spending within the established limits. As the determination of the need for a sequestration is based on the report of the President required by section 254, this table is provided for informational purposes only. The sixth and final table gives this same comparison relative to the revised section 251(c) limits envisioned by the budget resolution.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2002 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 83—REFLECTING ACTION COMPLETED AS OF DECEMBER 5, 2001

[On-budget amounts, in millions of dollars]

	Fiscal year 2002	Fiscal years 2002–2006
Appropriate Level:		
Budget authority	1,666,635	n.a.
Outlays	1,615,644	n.a.
Revenues	1,638,202	8,878,506
Current Level:		
Budget authority	1,619,571	n.a.
Outlays	1,603,368	n.a.
Revenues	1,673,487	8,898,383
Current Level over (+) / under (−)		
Appropriate level:		
Budget authority	−47,064	n.a.
Outlays	−12,276	n.a.
Revenues	35,285	19,877

n.a.=Not applicable because annual appropriations Acts for fiscal years 2003 through 2006 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing new budget authority for FY 2002 in excess of $47,064,000,000 (if not already included in the current level estimate) would cause FY 2002 budget authority to exceed the appropriate level set by H. Con. Res. 83.

OUTLAYS

Enactment of measures providing new outlays for FY 2002 in excess of $12,276,000,000 (if not already included in the current level estimate) would cause FY 2002 outlays to exceed the appropriate level set by H. Con. Res. 83.

REVENUES

Enactment of measures that would result in revenue loss for FY 2002 in excess of $35,285,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate level set by H. Con. Res. 83.

Enactment of measures resulting in revenue loss for the period FY 2002 through 2006 in excess of $19,877,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 83.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION—REFLECTING ACTION COMPLETED AS OF DECEMBER 5, 2001

[Fiscal Years, in millions of dollars]

House Committee	2002		2002–2006 Total	
	BA	Outlays	BA	Outlays
Agriculture:				
Allocation	7,350	7,350	7,350	7,350
Current Level		2		
Difference	−7,350	−7,348	−7,350	−7,350
Armed Services:				
Allocation	146	146	398	398
Current Level				
Difference	−146	−146	−398	−398
Banking and Financial Services:				
Allocation				
Current Level	8	9	46	47
Difference	8	9	46	47
Education and the Workforce:				
Allocation	5	5	32	32
Current Level				
Difference	−5	−5	−32	−32
Commerce:				
Allocation	2,687	2,687	−6,537	−6,537
Current Level				
Difference	−2,687	−2,687	6,537	6,537
International Relations:				
Allocation				
Current Level				
Difference				
Government Reform:				
Allocation			−1,995	−1,995
Current Level			−4	−4
Difference			1,991	1,991
House Administration:				
Allocation				
Current Level				
Difference				
Resources:				
Allocation		−3	365	88
Current Level		−3		−3
Difference			−365	−91
Judiciary:				
Allocation				
Current Level	109	109	299	159
Difference	109	109	299	159
Small Business:				
Allocation				
Current Level				
Difference				
Transportation and Infrastructure:				
Allocation				
Current Level	3,000	4,200	8,600	11,300
Difference	3,000	4,200	8,600	11,300
Science:				
Allocation				
Current Level				
Difference				
Veterans; Affairs:				
Allocation	264	264	3,205	3,205
Current Level				
Difference	−264	−264	−3205	−3,205
Ways and Means:				
Allocation	1,360	900	15,409	15,069
Current Level	6,425	6,425	36,708	36,708
Difference	5,065	5,525	21,299	21,639

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2002—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

	Revised 302(b) suballocations as of September 20, 2001 (H.Rept. 107–208)		Current level reflecting action completed as of December 5, 2001		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development	15,668	16,044	16,018	16,282	350	238
Commerce, Justice, State	38,541	38,905	38,656	38,847	115	−58
National Defense	299,860	293,941	306,697	301,120	6,837	7,179
District of Columbia	399	415	452	454	53	39
Energy & Water Development	23,705	24,218	24,596	24,770	891	552
Foreign Operations	15,167	15,087	15,957	15,720	790	633
Interior	18,941	17,800	19,120	18,017	179	217
Labor, HHS & Education	119,725	106,224	108,509	101,486	−11,216	−4,738
Legislative Branch	2,892	2,918	2,974	2,941	82	23
Military Construction	10,500	9,203	10,500	9,190		−13
Transportation[1]	14,892	53,817	15,300	53,965	408	148
Treasury-Postal Service	17,022	16,285	17,069	16,256	47	−29
VA-HUD-Independent Agencies	85,434	88,062	85,434	88,463		401
Unassigned[2]				13,397		13,397
662,746	682,919	682,919	661,282	700,908	−1,464	17,989

[1] Does not include mass transit BA.

[2] Reflects 2002 outlays for FY2001 Appropriations contained in P.L. 107–38 the Emergency Supplemental Appropriations Act in Response to Terrorist Acts on the United States.

STATEMENT OF FY2003 ADVANCE APPROPRIATIONS UNDER SECTION 201 OF H. CON. RES. 83—REFLECTING ACTION COMPLETED AS OF DECEMBER 5, 2001

[In millions of dollars]

	Budget authority
Appropriate Level	23,159
Current Level:	
Commerce, Justice, State Subcommittee:	
Patent and Trademark Office	
Legal Activities and U.S. Marshals, Antitrust Division	
U.S. Trustee System	
Federal Trade Commission	
Interior Subcommittee:	
Elk Hills	36
Labor, Health and Human Services, Education Subcommittee:	
Employment and Training Administration	
Health Resources	
Low Income Home Energy Assistance Program	
Child Care Development Block Grant	
Elementary and Secondary Education (reading excellence)	
Education for the Disadvantaged	
School Improvement	
Children and Family Services (head start)	
Special Education	
Vocational and Adult Education	
Treasury, General Government Subcommittee:	
Payment to Postal Service	48
Federal Building Fund	
Veterans, Housing and Urban Development Subcommittee:	
Section 8 Renewals	4,200
Total	4,284
Current Level over (+) under (-) Appropriate Level	−18,875

COMPARISON OF CURRENT LEVEL TO DISCRETIONARY SPENDING LEVELS SET FORTH IN SECTION 251(c) OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985—REFLECTING ACTION COMPLETED AS OF DECEMBER 5, 2001

[In millions of dollars]

	Statutory cap [1]	Current level	Current level over (+) under (−) statutory cap
General Purpose:			
BA	546,945	659,524	112,579
OT	537,383	665,752	128,369
Defense: [2]			
BA	n.a.	333,047	n.a.
OT	n.a.	336,423	n.a.
Nondefense: [2]			
BA	n.a.	326,477	n.a.
OT	n.a.	329,329	n.a.
Highway Category:			
BA	n.a.	n.a.	n.a.
OT	28,489	28,489	
Mass Transit Category:			
BA	n.a.	n.a.	n.a.
OT	5,275	5,275	
Conservation Category:			
BA	1,760	1,758	−2
OT	1,232	1,392	160

n.a. = Not applicable.

[1] Established by OMB Sequestration Update Report for Fiscal Year 2002.

[2] Defense and nondefense categories are advisory rather than statutory.

COMPARISON OF CURRENT LEVEL TO DISCRETIONARY SPENDING LEVELS RECOMMENDED BY H. CON. RES. 83 REFLECTING ACTION COMPLETED AS OF DECEMBER 5, 2001

[In millions of dollars]

	Proposed statutory cap	Current level	Current level over (+)/under (−) proposed statutory cap
General Purpose:			
BA	699,687[2]	659,524	−40,163
OT	672,950[2]	665,752	−7,198
Defense:			
BA	n.a.	333,047	n.a.
OT	n.a.	336,423	n.a.
Nondefense: [1]			
BA	n.a.	326,477	n.a.
OT	n.a.	329,329	n.a.
Highway category:			
BA	n.a.	n.a.	n.a.
OT	28,489	28,489	
Mass Transit category:			
BA	n.a.	n.a.	n.a.
OT	5,275	5,275	
Conservation category:			
BA	1,760	1,758	−2
OT	1,232	1,392	160

n.a.=Not applicable

[1] Defense and nondefense categories would be advisory rather than statutory.

[2] Includes $20,001 million in BA and $9,347 million in OT for emergency-designated appropriations that are not included in the current level.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 6, 2001.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2002 budget and is current through December 5, 2001. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 83, the Concurrent Resolution on the Budget for Fiscal Year 2002. The budget resolution figures incorporate revisions submitted by the Committee on the Budget to the House reflect funding for emergency requirements, disability reviews, an Earned Income Tax Credit compliance initiative, and adoption assistance. These revisions are required by section 314 of the Congressional Budget Act, as amended. In addition, section 218 of H. Con. Res. 83 provides for an allocation increase to accommodate House action on the President's revised request for defense spending.

Since my last letter dated September 6, 2001, the following legislation has been enacted into law, and has changed budget authority, outlays, and revenues for 2002:

An act to provide for the expedited payment of certain public safety officer benefits (Public Law 107–37);

Emergency supplemental appropriations for recovery and response to terrorist attacks (Public Law 107–38);

Air Transportation Safety and System Stabilization Act (Public Law 107–42);

An act to implement an agreement for a U.S.-Jordan Free Trade Area (Public Law 107–43);

A joint resolution approving the extension of nondiscriminatory treatment to products of the Socialist Republic of Vietnam (Public Law 107–52);

The U.S.A. PATRIOT Act (Public Law 107–56);

The Departments of Interior and Related Agencies Appropriations Act, 2002 (Public Law 107–63);

The Military Construction Appropriations Act, 2002 (Public Law 107–64);

The Energy and Water Development Appropriations Act, 2002 (Public Law 107–66);

The Treasury and General Government Appropriations Act, 2002 (Public Law 107–67);

The Legislative Branch Appropriations Act, 2002 (Public Law 107–68);

An act making continued appropriations, 2002 (Public Law 107–70);

The Departments of Veterans, and Housing and Urban Development and Independent Agencies Appropriations Act, 2002 (Public Law 107–73);

The Agriculture, Rural Development, Related Agencies Appropriations Act, 2002 (Public Law 107–76); and

The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77)

In addition, the Congress has cleared for the President's signature the Department of Transportation and Related Agencies Appropriations Act, 2002 (H.R. 2299).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

FISCAL YEAR 2002 HOUSE CURRENT LEVEL REPORT AS OF DECEMBER 5, 2001

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues			1,703,488
Permanents and other spending legislation	984,540	934,501	
Appropriation legislation		280,919	
Offsetting receipts	−321,790	−391,790	
Total, previously enacted	662,750	893,630	1,703,488
Enacted this session:			
An act to provide reimbursement authority to the Secretaries of Agriculture and the Interior from wildland fire management funds (P.L. 107–13)		−3	
Fallen Hero Survivor Benefit Fairness Act of 2001 (P.L. 107–15)			−7
Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107–16)	6,425	6,425	−31,337
An act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees (P.L. 107–18)	8	9	8
An act to authorize funding for the National 4-H Program Centennial Initiative (P.L. 107–19)		2	
Supplemental Appropriations Act, 2001 (P.L. 107–20)	65	4,576	
An act to provide for expedited payments of certain benefits (P.L. 107–37)	5	5	
Emergency supplemental appropriations for response to terrorist attacks (P.L. 107–38)		13,397	
Air Transportation Safety and System Stabilization Act (P.L. 107–42)	3,000	4,200	1,400
An act to implement an agreement for a U.S.-Jordan Free Trade Area (P.L. 107–43)			−2
A joint resolution approving the extension of nondiscriminatory treatment of products of the Socialist Republic of Vietnam (P.L. 107–52)			−33
U.S.A. PATRIOT Act (P.L. 107–56)	104	104	

FISCAL YEAR 2002 HOUSE CURRENT LEVEL REPORT AS OF DECEMBER 5, 2001—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Interior and Related Agencies Appropriations Act, 2002 (P.L. 107–63)	19,148	11,901	
Military Construction Appropriations Act, 2002 (P.L. 107–64)	10,500	2,678	
Energy and Water Appropriations Act, 2002 (P.L. 107–66)	24,595	15,972	
Treasury, Postal Service, General Government Appropriations Act, 2002 (P.L. 107–67)	32,137	27,936	
Legislative Branch Appropriations Act, 2002 (P.L. 107–68)	2,974	2,509	2
Veterans, HUD, and Independent Agencies Appropriations Act, 2002 (P.L. 107–73)	109,229	64,803	−32
Agriculture, Rural Development Appropriations Act, 2002 (P.L. 107–76)	75,237	41,363	
Commerce, Justice, State Appropriations Act, 2002 (P.L. 107–77)	39,223	26,608	
Total, enacted this session	322,650	222,485	−30,001
Cleared, pending signature:			
Transportation and Related Agencies Appropriations Act, 2002 (H.R. 2299)	17,505	22,021	
Continuing Resolution:			
An act making continuing appropriations, 2002 (P.L. 107–70)	412,791	243,218	
Entitlements and Mandatories:			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	205,224	222,014	
Total Current Level	1,619,571	1,603,368	1,673,487
Total Budget Resolution	1,666,635	1,615,644	1,638,202
Current Level Over Budget Resolution			35,285
Current Level Under Budget Resolution	−47,064	−12,276	
Memorandum:			
Revenues, 2002–2006:			
House Current Level			8,898,383
House Budget Resolution			8,878,506
Current Level Over Budget Resolution			19,877

Source: Congressional Budget Office.

Notes: P.L. = Public Law.

Section 314 of the Congressional Budget Act, as amended, requires that the House Budget Committee revise the budget resolution to reflect funding provided in bills reported by the House for emergency requirements, disability reviews, an Earned Income tax Credit compliance initiative, and adoption assistance. In addition Sec. 218 of H. Con. Res. 83 provides for an allocation increase to accommodate House action on the President's revised request for defense spending. To date, the Budget Committee has increased the budget authority allocation in the budget resolution by $40,147 million and the outlay allocation by $25,170 million for these purposes. Of those amounts, $38,701 million in budget authority and $25,027 million in outlays are not included in current level because the funding has not yet been enacted.

For comparability purposes, current level budget authority excludes $1,349 million that was appropriated for mass transit. The budget authority for mass transit, which is exempt from the allocations made for the discretionary categories pursuant to sections 302(a)(1) and 302(b)(1) of the Congressional Budget Act, is not included in H. Con. Res. 83. Total budget authority including mass transit is $1,620,920 million.

TRIBUTE TO DISTINGUISHED PROFESSOR DAN DAVIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, there is no greater profession than that of teaching, and I rise to pay tribute to an outstanding educator who, over a 30 year span, has positively impacted the lives of thousands of people.

Dan Davis was recently selected Distinguished Professor of the Year by the faculty and staff of Malcolm X Community College in Chicago under the leadership of Dr. Wayne Watson, Chancellor of the Chicago City Colleges, and Mrs. Ziri Campbell, President of Malcolm X College.

Professor Davis graduated from Crane High School, All American, All State and All City in varsity basketball. He holds a BA degree in education, Summa Cum Laude, and a Masters Degree from Northwestern University in Health and Physical Education.

Dan and I both live in the same community and oftentimes are mistaken for each other since I, too, am sometimes called Dan Davis. I usually tell people that the difference is while Dan was scoring points in basketball, I was analyzing the game from the bench, and while he was graduating Summa Cum Laude, I was graduating "Thank You Laude."

Dan Davis played varsity basketball and was an All Big Ten Academic Selection in 1968–1969 from Northwestern. He has served as Athletic Director for Malcolm X College for the past 13 years, Project Administrator for the National Youth Sports Program for the past 13 years, and Illinois State Coordinator for the National Youth Sports Program for the past 9 years.

In addition to his regular teaching and directorship responsibilities, Coach Davis is an active participant in College Governance, Student Government, Local 1600 of the AFL–CIO, former Vice Chair, and the President's Scholarship Gala Committee.

In 1992, coach Davis was selected by the United States Department of State to teach and to serve as Athlete and Program Specialist in Africa. He taught and supervised sports clinics in Egypt, Uganda and Kenya. Professor Davis also served as Vice President for Personnel and Head Basketball Coach for the United States Upper Deck All Stars Professional Basketball Team, which toured Europe from 1996 to 1998.

Professor Davis has earned meritorious awards, among the top ten in the United States, from Malcolm X College for eight consecutive years.

□ 2320

In 1997, Malcolm X college won the Silver Conte Award, designating Malcolm X College's program as the best in the Nation.

Dan Davis has been instrumental in assisting more than 300 students and student athletes in acquiring scholarships as well as their college degrees. Equally important, Professor Davis is viewed by many of his professional peers as a coach, a master teacher and a mentor extraordinaire because of his high standards and unswerving commitments to his student, his community, education and his college, where he is indeed a distinguished professor.

In addition to being a distinguished professor, Dan Davis is a distinguished citizen, a good neighbor, a role model, a person who grew up in an inner city community, Crane High School, which at one time housed what is now Malcolm X College. He returned home, brought his skills and attributes and has given something back, has given something of himself on a regular basis.

Yes, I congratulate Dan Davis and his family for their outstanding citizenship. All of us who know him are proud of his accomplishments. I commend him for not only being a distinguished professor, he is indeed an outstanding citizen and a distinguished American.

IN HONOR OF THE CONSTRUCTION TRADES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, on the three-month anniversary of September 11, I rise to pay tribute to the unsung heroes of the World Trade Center disaster—the thousands of volunteers from the construction trades and the New York City construction industry.

As we all know, the rescue and recovery efforts in response to the attacks on the World Trade Center involved unprecedented, selfless acts of heroism by thousands of firefighters, police officers, Emergency Medical Service workers, and ordinary citizens, who all risked their lives to save others.

But often overlooked is the heroism of thousands of men and women from the building trades who ALSO risked their lives and their health working side-by-side uniformed rescue workers all along.

These volunteers—construction workers, iron and steel workers, and many others—toiled alongside firefighters and police officers, digging tunnels and gaining access to victims by operating cranes, burning steel, driving trucks, and moving debris by hand as part of the "Bucket Brigade."

Many of these individuals gave their time and labor for a week or more, giving up their salaries, families and the comforts of daily life to search for survivors around the clock.

They did so at great risk to their health as fires raged and toxic fumes emanated from the burning rubble.

Three months later, those fires are still smoldering, and the fumes are still endangering everyone working at Ground Zero.

But even as their boots melt from the heat of the fires below, hundreds of workers are persevering at the site, removing what remains of seven office buildings that once symbolized the center of the global economy.

They embrace this unprecedented and perilous challenge out of enduring determination to get New York get back on its feet and one day restore Lower Manhattan's majesty and vibrance.

Throughout this heartbreaking process, these unsung heroes have shown profound respect for the victims and their families.

The hushed silence at the site, which lasted for many days after the bombing, reflected an appreciation for the magnitude of the horror—and the fact that they were working on the surface of a mass grave.

I want to extend my deepest gratitude to the New York City Department of Construction and Design, who, at my request, preserved a segment of the ruins to be transformed into a national monument at an appropriate time in the future.

We all remember images of steel fragments from the towers that plunged upright into the pavement like arrows in the hearts of all New Yorkers, and nearby fire trucks that were partially submerged in the rubble.

Thanks to the care and respect that workers have demonstrated in dismantling and removing the wreckage, these images will be preserved in honor of those who were lost, and in remembrance of a black Tuesday that this nation must never forget.

The scores of companies, organizations and union members who have cooperated in clearing the site with extraordinary speed, efficiency and safety include, but are not limited to: a special team of the New York City Office of Emergency Management and the New York City Department of Design and Construction; with main contractors Turner Construction Co./Plaza Construction, Bovis Construction, Amec Construction and Tully Construction; and dozens of subcontractors, including Thornton-Tomasette Engineering, LZA Engineering, New York Crane, Bay Crane, Cranes Inc., Slattery Association, Grace Industries, Big Apple Demolition, Regional Scaffolding & Hoisting, Atlantic-Heydt Scaffolding, York Scaffolding, Weeks Marine, and Bechtel Corp.

In addition, many other entities worked to resolve the daily problems confronted by the Fire Department of New York, the New York City Police Department and the Port Authority Police Department in rescuing and recovering their own.

Every New York City agency, especially the New York City Department of Sanitation and the Department of Environmental Protection, was involved, as were the New York State Police, The National Guard, the Federal Emergency Management Administration, the Army Corps of Engineers, Con Edison, Verizon, and the Port Authority of New York and New Jersey.

Mr. Speaker, many Members of Congress and the Senate have come to Ground Zero. They have seen devastation, but also resilience and redemption in the work that's being done there.

I know I speak for this entire body in expressing our country's deep appreciation for the risks taken and sacrifices made by the unsung heroes at Ground Zero, who have reminded us what the American spirit is all about.

PAKISTAN TIES TO TALIBAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I come to the House floor this evening to talk about several matters of concern regarding Pakistan.

I appreciate Pakistan's willingness to assist us in the fight against Osama bin Laden and his terrorist networks, and I know that General Musharraf continues to make a concerted effort to cooperate with the United States in our global fight against terrorism. Under the current circumstances, due to the attacks of September 11, I do feel that it is appropriate to provide economic assistance to Pakistan for General Musharraf's willingness to support the U.S. in seizing Osama bin Laden and eliminating the al Qaeda terrorist network. In fact, I also felt that it was appropriate that the economic sanctions that were in place against Pakistan were rightfully lifted by President Bush earlier this year.

However, Mr. Speaker, I stand strong in my argument against military aid to Pakistan, even under the current circumstances. I oppose the lifting of military sanctions, and I still feel the U.S. should exercise its discretion not to provide military assistance.

The Pakistani dictatorial government has in the past been directly involved in the planning and logistical support of Taliban military operations. Not only has Pakistan provided institutional support to terrorist activities by the Taliban and other groups, it has also provided weapons as a result of its irresponsible weapons export policies. Withholding military assistance to Pakistan will help pressure Musharraf to withdraw its support to terrorist groups.

Mr. Speaker, there have been several recent reports that corroborate the difficulty Pakistan has in separating itself from the Taliban. According to an article from last Saturday's New York Times, Western and Pakistani officials report that one month after the Pakistani government agreed to end its support of the Taliban, its intelligence agency was still providing safe passage for weapons and ammunition to arm them.

In September, the U.S. issued an ultimatum to Pakistan that if they wanted to join the United States in the fight against terrorism, Pakistan had to end its ties to the Taliban.

Pakistani intelligence claims that the last sanctioned delivery of weapons to the Taliban occurred about a month after the U.S. issued this ultimatum. However, it is clear that the Inter-Services Intelligence, ISI, has perpetuated military support of the Taliban. The ISI is a powerful group of military jihadi who are not representatives of the government. Nevertheless, they operate fiercely within Pakistan; and accordingly, Pakistan inevitably engages in logistical and military support of the Taliban.

My other concern at this time, Mr. Speaker, regarding Pakistan is that it is a nuclear power. A country with nuclear power that has links to the Taliban and al Qaeda is a recipe for disaster. An article reported that nuclear experts in Pakistan may, in fact, have links to al Qaeda. The fear is that nuclear experts have the knowledge and experience to provide nuclear weapons and related technology to transfer these goods to terrorists.

The article in the New York Times reports that American intelligence officials are increasingly convinced that Pakistan may become the site of a furtive struggle between those trying to keep nuclear technology secure and those looking to export it for terrorism or for profit.

Mr. Speaker, my last comment is that historically, U.S. arms exports to Pakistan have been used against India, primarily through crossborder military action in Kashmir. Since the terrifying example of terrorism in India on October 1 when a suicide car bomb exploded in front of the Kashmir State Assembly while it was in session, there have literally been murder incidents on a daily basis in Kashmir. The escalated terrorist violence in India has been horrific and left numerous civilians and military men victim to cold-blooded murder.

Last week I read that suspected terrorists shot and killed a judge in Kashmir, along with his friends and two guards. This is the first attack on the judiciary of Jammu and Kashmir state. Over the weekend I read that an Islamic militant group invaded an Indian army convoy in Kashmir and the attack left nearly 10 men dead and over 20 wounded.

These examples of murder by Pakistani-based militant groups should be evidence enough that weapons can and will fall into the hands of terrorist networks and potentially be used against India and other U.S. allies.

Mr. Speaker, I realize that the Bush administration is not proposing any major change in policy with regard to military assistance to Pakistan, but with removal of congressional sanctions, stepped up military assistance remains a possibility. I continue to oppose that option, and I believe that the circumstances in Pakistan this weekend and over the last few weeks still do not warrant that kind of military assistance.

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from New Mexico (Mrs. WILSON) is recognized for half of the time until midnight as the designee of the majority leader.

Mrs. WILSON. Mr. Speaker, the hour is late, at least here on the east coast, but we have just prepared for passage tomorrow morning a landmark piece of legislation to improve health security in this country, and I think it deserves some additional explanation as to what is in that bill and how it will help America to prepare for and to defend against any bioterrorist attack against American citizens here at home, and I would like to take a few minutes to explain how we came to this legislation and what it is intended to do and some of its provisions.

We expect to vote on this bill tomorrow here in the House although we debated it here on the floor about half an hour ago.

We need to be better prepared for terrorist attacks involving biological agents. There are about 36 different pathogens, or germs, that are designated by the Centers for Disease Control as extremely dangerous. They are in a list that is maintained by the Centers for Disease Control, and we have got to be better prepared against those kinds of biological toxins, because the fact is that the world has changed.

The idea of using disease as a weapon of warfare is not a new one. It has existed for a long time, and countries have developed biological warfare capabilities even in spite of the fact that there were treaties against that.

In 1979 there was an anthrax outbreak in the former Soviet Union near the town of Sverdlovsk, and it created some casualties near that site. At the time, America suspected that there was a biological warfare in Sverdlovsk, but we were able to confirm that after the end of the Cold War.

In the Gulf War and its aftermath, we knew that Iraq was developing biological warfare capability, including anthrax, and we also knew that they had used chemical warfare agents, including against their own people; and we have no illusions about the willingness of Saddam Hussein to destroy his own people or to use biological warfare against the United States or any other enemy of the Iraqi Government.

□ 2330

The use of biological warfare or serious toxins by terrorists is something that people have contemplated, but in some ways it goes into the unthinkable.

In Japan, there was use by a terrorist network of a nerve agent in the subways which kind of alerted us to the potential for using, very toxic substances as a terrorist tool, but there was nothing like what we saw here on the east coast of the United States with the anthrax attack that followed on the September 11 attacks on the United States.

The fact is that terrorism has changed. It changed in a very significant way. In the 1970s and 1980s, most terrorist networks were either fighting in wars of national liberation, trying to get attention for a cause, trying to shock governments for effect, but they actually avoided mass casualties, and did not want to have a response against their cause by public opinion writ large. They did not want mass death.

But the terrorists we are dealing with now, and unfortunately, there are cells throughout the world, want to cause massive death and high numbers of casualties. The threat has changed, and America has to change with it.

In the 1970s and 1980s and certainly through the 1990s, our response to the threat of bioterrorism was largely to deal with our military. We developed a vaccine for anthrax, and while it was highly controversial and there were some problems with it, we began inoculating American military personnel against some strains of anthrax. We focused on military protection and not on homeland defense.

We also developed what are called National Guard civil support teams in about 27 States now, where there are teams of people who are designed to deal with unusual threats within the United States; but still, those were relatively small efforts, and focused on the capabilities of our military.

It was really about force protection for the military: How do we keep the American military able to continue to fight for the United States in the face of a potential biological warfare attack. We really did not deal completely with the threat of bioterrorism here at home.

The fact is that a new effort is required in the wake of the anthrax attacks and the new kind of terrorism represented by Osama bin Laden and his al-Qaeda network. What we saw in New York and in Washington, D.C. is frightening, but it is also something we have to cope with. We have seen a terrorist network that has the ability to organize and plan simultaneous attacks, rather sophisticated attacks, in the United States. They were able to maintain secrecy over a period of time within the United States. They did not come from outside, they were within us, within the United States. They had access to the money in order to carry out this very sophisticated operation, and their objective was not to shock or to win in the realm of world public opinion; their objective was mass casualties and the deaths of thousands of civilians.

In light of that, and in light of the anthrax attacks that followed on the attacks in New York and Washington, D.C., we know we have a new need that we have not faced in this country before. It is going to involve all levels of government, because it is the local fire department and the local emergency room of our hospitals that will see the first impact of any epidemic that is caused by a bioterrorist agent. We have to make sure that everybody is trained that needs to be trained.

Likewise, at the State level and at the Federal level, there are also different kinds of responsibilities. At the National Centers for Disease Control, they worked with States and other networks, but there are all levels of government involved, and it will involve also private entities.

If I am sick, I do not go to the government. If my children are sick, I do not go to the government, I go to our doctor. Our doctor has to be connected in to an early alert system, just as everyone's doctor needs to be. That will involve planning, it will involve training of people, it will involve the development of curricula and ways of communicating very quickly to medical professionals throughout this country what they should be looking for, what kinds of symptoms show up in the first hours; and how to distinguish those symptoms from other things that might not be so threatening: What is the difference between anthrax and the flu, and how as a doctor in rural New Mexico can I make that distinction so that I can care for my patients, but I do not have to frighten them unnecessarily?

The second thing we knew we needed to do was to expand the availability of vaccines and medical equipment to deal with a large crisis. That is something that the Secretary of Health and Human Services, Tommy Thompson, brought to our attention in the Committee on Energy and Commerce, that in the event of a mass outbreak, not a naturally-occurring outbreak of a disease but the intentional spreading of disease in different parts of the United States simultaneously, that we were not prepared for that kind of a man-made epidemic, and so we need to expand our stockpiles of vaccines. We need to increase the availability of smallpox vaccine. We need to make sure that we have the stockpiles of medical equipment and diagnostic equipment to be able to deal with any epidemic very quickly and effectively across the United States.

We knew that we needed to better control and know about what pathogens exist in the United States. One of the things that I think surprised a lot of people after the outbreak of anthrax here in Washington and New York and Florida was that one of the first questions the FBI asked was, well, what labs in the United States have anthrax?

The first answer was, we do not know, because there is no requirement to say what we have. The only requirement in Federal law is that one has to report or register, as it says in the law, we have to report when we transfer a culture from one entity to another entity.

So if I am a researcher working at the University of Iowa, and I have been for 20 years, on very dangerous pathogens, I do not have to tell anybody unless I take one of my samples and send it up to another university, the University of Minnesota. I would only have to tell them that I transferred it.

That does not make any sense. We need to know, of all these 36 very toxic pathogens, these germs that can cause such havoc to our health, we need to know who has them: and even more than that, in addition to requiring that we register what we have, we need to have a sample, a culture of what germs everybody has and is doing research on in the United States.

The reason is this: We can now map the genes not only of the human being but of almost any organism. If we can have an encyclopedia, if you will, of all of these dangerous toxins within the United States and know what their DNA, their genetic code is, then if there is an outbreak of anthrax, we can tell what the parents are or who the parents are, if you will.

Then we can help law enforcement deal with any outbreak and possibly determine where that outbreak is likely to come from, or, perhaps even more importantly, be able to rule out large numbers of samples, or even rule out that the sample came from within the United States.

So the bill that we are going to vote on tomorrow requires the registration of any of these dangerous serious germs, these 36 germs that are listed by the CDC, and also providing a sample of that, and creating a national registry, a genomic registry of what the genes of these germs look like.

We know that our food systems and our water systems are vulnerable to contamination. We have 54,000 community water systems across the country, most of them serving very small villages and communities across the country. We have probably 100 or 200 very large water systems, but most of our water systems are very small. They are often run on a voluntary basis or a cooperative basis, where people get together and they have treated well water. Unfortunately, they are also vulnerable because of that. We need to make sure that our water supply and our food supply is safe, and develop ways to survey any potential contamination of them.

We also knew that we needed to do more research, not only research on countermeasures, but research to better understand these pathogens, to know what their vulnerabilities are so that our vaccines and our public health response can be much better.

We need better ways of mapping and surveying disease outbreaks, and detecting when we have hazardous germs that are present.

All of us saw in the news in the last couple of weeks the men in the white suits with their Q-tip swabs going around testing things and wiping things and putting them on Petri dishes and trying to grow something, and then putting it under a microscope, and maybe 2 or 3 days later they would know whether they had anthrax or not on that particular sample that they took from the back of a telephone somewhere in the Capitol building.

Well, that does not make any sense in this day and age. We need to be able to research, develop, and deploy the technology for real-time continuous monitoring of the air, of the water; even do portal monitoring, so if one walks through a door and there is some kind of a germ that comes in with one that is a very serious germ, we can detect it, just like walking through a metal detector at the airport, entirely passively.

We know we need better communications, and to plan communications in advance, not only between public health doctors and State health laboratories and the CDC, but between Federal officials and the public. The public needs information.

□ 2340

If there is a problem, we need to know about it so we can deal with it. And that means getting the straight scoop from Federal agencies even if they do not know everything, if they can just in a clear way tell us what they do know. We need to plan those things in advance because once there is a crisis, everybody starts working off the back of an envelope; and it is much easier to have those things thought out in advance.

Finally, we know that we need to expand our laboratory capacity and expand the Centers for Disease Control. The anthrax attacks on the eastern coast of the United States were relatively small. They were frightening. They caused sickness and they caused death. But in a way maybe it was the canary in the mine shaft. They were relatively small attacks involving four letters in three different States. But it overwhelmed our laboratory system. We do not have the capacity in our laboratory system. We do not even have a level 4, which is to deal with the most serious pathogens; we do not even have a level 4 laboratory in the United States west of the Mississippi River.

We are not prepared to be able to deal with a potential outbreak and epidemic and we need to. So in a bipartisan way in the House we came up with the Public Health Security and Bio-Terrorism Response Act. We hope to vote on it tomorrow, and it has some very important things in it. It has $1 billion authorized for planning and preparedness activities, for training, for lab capacity, to educate health care personnel and develop curriculum for health care personnel and to develop new drugs and new therapies and new vaccines against the most serious toxins that we can face in a country in a man-made epidemic.

It authorizes $450 million for the Centers for Disease Control. We are going to update and modernize the CDC, and this bill will include funds to do that. We put into the bill $1 billion for the Secretary of Health and Human Services to expand the national stock piles of vaccine and medical equipment and other supplies, to purchase more small pox vaccines, to have things ready if we need it.

I remember as a young lieutenant in the Air Force I was stationed overseas in England, and one of the things we had in England were prepositioned hospitals that were kind of stored in pallets in these old World War II hangars that were rehabilitated for this purpose so that if we ever did go to war in Europe, we would have prepositioned hospitals ready to go there in storage in the event of an emergency. It is kind of still within the project that we are talking about, making sure we have the supplies on hand to counteract any man-made epidemic.

We establish a national data base of dangerous pathogens. The CDC can update that list anytime they want to. Right now there are 36 very different dangerous diseases on that list, and we require that they be registered and that they give us a culture of that germ so that we can have a national encyclopedia of the genomes of these different samples from around the country. There is $100 million that is authorized for the Food and Drug Administration to hire more inspectors at our borders to make sure we are monitoring our food supply.

We certainly need to increase the research and development to be able to detect things remotely and give these people the tools to make this meaningful so that they can reassure us that the food supply is safe, that it has not been contaminated. And there is $100 million in the bill to develop vulnerability analyses and emergency response plans for our water systems.

Overall this is a very good bill. It sets out national policy in public health safety. It will require that the establishment within the health and human services department of an office of emergency preparedness require the development of national plans to deal with a new bioterrorist threat.

There are some things that it does not do. We do not claim that this bill includes all the things we are going to need to do to protect the public health. We know that probably next year we are going to have to do some things with the National Guard and the military to strengthen that first response that every Governor turns to when something goes wrong in their State. We do know that this really deals mostly with living things, with pathogens, with organisms and not so much with other kinds of poisons, whether they be radionuclides or chemicals. And those surveillance systems are different than those you see for disease. And we need to think differently about how we do that.

Finally, it does not include water research and development for real-time monitoring. That is in a separate bill. It is sponsored by the gentleman from New York (Mr. BOEHLERT), and we may see that come forward here possibly this week or next week to really expand our research and development on water safety and water monitoring.

This is a very good solid bill. It is a very important bill, in some ways because it has been worked quietly and in a bipartisan way here in the House; we have not talked about it much. We have not explained what is in here, and I think it is a real concern of Americans. I know it is a concern of mine of, well, what if there is something that makes my family sick; and how do we know whether someone is trying to hurt them or hurt us. What if someone were to be as organized and as ruthless as there were in the attacks on September 11; but instead of using aircraft, they used disease. They use small pox or they were more effective with anthrax or ebola or all kinds of other things that would be devastating to our families and our communities.

The Federal Government has a responsibility to step up to the challenge, to change the way we think about our health and our health security. And I think this bill goes a long way to taking us there. And I commend the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) for their leadership on this. And I look forward to an overwhelming vote on this tomorrow to pass the bioterrorism bill.

RECESS

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 47 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 0900

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ISAKSON) at 9 a.m.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GONZALEZ (at the request of Mr. GEPHARDT) for today and December 12 on account of personal business.

Mr. LUTHER (at the request of Mr. GEPHARDT) for today on account of family matters.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today through December 13 on account of official business.

Mr. CULBERSON (at the request of Mr. ARMEY) for today and until noon on December 12 on account of official business.

Mr. WAMP (at the request of Mr. ARMEY) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DAVIS of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mrs. WILSON) to revise and extend their remarks and include extraneous material:)

Mr. HORN, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

SENATE CONCURRENT RESOLUTION

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 91. Concurrent resolution expressing deep gratitude to the government and the people of the Philippines for their sympathy and support since September 11, 2001, and for other purposes; to the Committee on International Relations.

ADJOURNMENT

Mr. BOEHNER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 1 minute a.m.), the House adjourned until today, December 12, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4780. A letter from the Chief, Programs and Legislation Division, Department of the Air Force, Department of Defense, transmitting notification that the Commander of Air Force Material Command is initiating a standard cost comparison of the Aircraft Maintenance and Support Activities at Edwards Air Force Base, California, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.

4781. A letter from the Secretary, Department of Education, transmitting Final Regulations—Direct Grant Programs, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

4782. A letter from the Acting Assistant General Counsel for Regulatory Services, Department of Education, transmitting the Department's final rule—Direct Grant Programs (RIN: 1890–AA02) received November 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4783. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a listing of gifts by the U.S. Government to foreign individuals during fiscal year 2001, pursuant to 22 U.S.C. 2694(2); to the Committee on International Relations.

4784. A letter from the Under Secretary for Export Administration, Department of Commerce, transmitting notification of certain foreign policy-based export controls which are being imposed on Liberia; to the Committee on International Relations.

4785. A letter from the Acting Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf—Revision of Requirements Governing Surety Bonds for Outer Continental Shelf Leases (RIN: 1010–AC68) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4786. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety and Security Zones; Naval Force Protection, Bath Iron Works, Kennebec River, Bath, Maine [CGD01–01–175] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4787. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety and Security Zones; Coast Guard Force Protection for Station Jonesport, Jonesport Maine; Coast Guard Group Southwest Harbor, Southwest Harbor, Maine; and Station Rockland, Rockland Harbor Maine [CGD01–01–164] (RIN: 2115–AA97) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4788. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Aircraft Security under General Operating and Flight Rules [Docket No. FAA–2001–10738; SFAR 91] (RIN: 2120–AH49) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A);

to the Committee on Transportation and Infrastructure.

4789. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Temporary Extension of Time Allowed for Certain Training and Testing [Docket No. FAA-2001-10797; SFAR 93] (RIN: 2120-AH51) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4790. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Change of Using Agency for Restricted Areas R-3008A, R-3008B, R-3008C, and R-3008D; Grand Bay Weapons Range, GA [Docket No. FAA-2001-10285; Airspace Docket No. 01-ASO-8] (RIN: 2120-AA66) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4791. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class D Airspace; White Plains, NY [Airspace Docket No. 01-AEA-05FR] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4792. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revocation of Class D Airspace, Fort Worth Carswell AFB, TX [Airspace Docket No. 2001-ASW-04] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4793. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment and Revision of Restricted Areas, ID [Airspace Docket No. 99-ANM-15] (RIN: 2120-AA66) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4794. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace, Farmington, NM [Airspace Docket No. 2001-ASW-08] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4795. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Coudersport, PA [Airspace Docket No. 01-AEA-16FR] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4796. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Israel Aircraft Industries, Ltd., Model 1125 Westwind Astra Series Airplanes [Docket No. 2001-NM-202-AD; Amendment 39-12362; AD 2001-15-27] (RIN: 2120-AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4797. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's final rule—Board of Veterans' Appeals: Rules of Practice—Notice of Appeal in Simultaneously Contested Claim (RIN: 2900-AJ73) received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4798. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's final rule—provision of Hospital and Outpatient Care to Veterans'—Enrollment Decision Level; Copayments for Inpatient Hospital Care and Outpatient Medical Care (RIN: 2900-AK50) received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4799. A letter from the Secretary, Department of the Treasury, transmitting a request to raise the statutory debt ceiling; to the Committee on Ways and Means.

4800. A letter from the Secretary, Department of Labor, transmitting the Department's eighth report on the impact of the Andean Trade Preference Act on U.S. trade and employment from 1999 to 2000, pursuant to 19 U.S.C. 3205; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 2440. A bill to rename Wolf Trap Farm Park as "Wolf Trap National Park for the Performing Arts", and for the other purposes; with an amendment (Rept. 107-330). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 311. Resolution providing for consideration of the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes (Rept. 107-331). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 312. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for the other purposes (Rept. 107-332). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska (for himself and Mr. Oberstar) (both by request):

H.R. 3441. A bill to amend title 49, United States Code, to realign the policy responsibility in the Department of Transportation, and for other purposes; to the Committee on Transportation and Infrastructure, considered and passed.

By Mr. LEWIS of Georgia (for himself, Mr. Watts of Oklahoma, and Mr. Regula):

H.R. 3442. A bill to establish the National Museum of African American History and Culture Plan for Action Presidential Commission to develop a plan of action for the establishment and maintenance of the National Museum of African American History and Culture in Washington, D.C., and for other purposes; to the Committee on Resources, and in addition to the Committees on House Administration, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HORN:

H.R. 3443. A bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial; to the Committee on Armed Services.

By Mr. YOUNG of Alaska:

H.R. 3444. A bill to amend title 39, United States Code, to direct the Postal Service to adhere to an equitable tender policy in selecting air carriers of nonpriority bypass mail to certain points in the State of Alaska, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself, Mr. George Miller of California, Mr. Kildee, Mr. Owens, Mr. Payne, Mrs. Mink of Hawaii, Mr. Scott, Ms. Woolsey, Ms. Rivers, Mr. Hinojosa, Mr. Tierney, Mr. Kind, Ms. Sanchez, Mr. Ford, Mr. Kucinich, Mr. Holt, Ms. Solis, and Ms. McCollum):

H.R. 3445. A bill to amend the Employee Retirement Income Security Act of 1974 to improve the retirement security of American families; to the Committee on Education and the Workforce, and in addition to the Committees on Armed Services, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself, Mr. George Miller of California, Mr. Kildee, Mr. Owens, Mr. Payne, Mrs. Mink of Hawaii, Mr. Scott, Ms. Woolsey, Ms. Rivers, Mr. Hinojosa, Mr. Tierney, Mr. Kind, Ms. Sanchez, Mr. Ford, Mr. Kucinich, Mr. Holt, Ms. Solis, and Ms. McCollum):

H.R. 3446. A bill to amend the Internal Revenue Code of 1986 to improve the retirement security of American families; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. Evans, Mr. Moran of Kansas, and Mr. Filner):

H.R. 3447. A bill to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, to provide an additional basis for establishing the inability of veterans to defray expenses of necessary medical care, to enhance certain health care programs of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs, considered and passed.

By Mr. TAUZIN (for himself, Mr. Dingell, Mr. Bilirakis, Mr. Brown of Ohio, Mr. Burr of North Carolina, Mr. Pallone, Mr. Gillmor, Ms. Harman, Mr. Barton of Texas, Mr. Waxman, Mr. Greenwood, Mr. Markey, Mr. Upton, Mr. Towns, Mr. Smith of Texas, Mr. Gordon, Mr. Buyer, Mr. Deutsch, Mr. Bryant, Mr. Rush, Mr. Ganske, Ms. Eshoo, Mr. Radanovich, Mr. Stupak, Mr. Tom Davis of Virginia, Mr. Engel, Mr. Sensenbrenner, Mr. Sawyer, Mr. Smith of New Jersey, Ms. McCarthy of Missouri, Mr. Whitfield, Mr. Strickland, Mr. Chambliss, Ms. DeGette, Mr. Linder, Mr. Barrett, Mr. Fletcher, Mr. Luther, Mr. Ehrlich, Mrs. Capps, Mrs. Wilson, Mr. John, Mr. Norwood, Mr. Conyers, Mrs. Cubin, Ms. Slaughter, Mr. Baldacci, Mr. Andrews, Ms. Pryce of Ohio, Mr. Watt of North Carolina, Mr. Sununu, Ms. Roybal-Allard, Mr. Platts, Mr. Larson of Connecticut, Mr. Green of Wisconsin, Mr. Schiff, Mr. Pickering, Mr. Ballenger, Mr. Terry, Mr. Diaz-Balart, Mr. Saxton, Mr. Foley, Mr. Frelinghuysen, Mr. McKeon, Mrs. Biggert, Mr. Deal of Georgia, Mr. Schrock, Mr. Shimkus, Mr. Walden of Oregon, Mr. Vitter, and Mr. Callahan):

H.R. 3448. A bill to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies; to the Committee on Energy and Commerce.

By Mrs. JO ANN DAVIS of Virginia:

H.R. 3449. A bill to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes; to the Committee on Resources.

By Mr. BILIRAKIS (for himself, Mr. Brown of Ohio, Mr. Tauzin, Mr. Dingell, Mr. Barrett, Mr. Bryant, Mr. Burr of North Carolina, Mr. Tom Davis of Virginia, Mr. Deal of Georgia, Mr. Ehrlich, Mr. Green of Texas, Mr. Greenwood, Mr. Gordon, Ms. Harman, Mr. Kennedy of Minnesota, Mr. Markey, Ms. McCarthy of Missouri, Mr. Norwood, Mr. Pallone, Mr. Pickering, Mr. Rush, Mr. Shimkus, Mr. Strickland, Mr. Towns, Mr. Upton, Mr. Waxman, Mr. Whitfield, and Mr. Wicker):

H.R. 3450. A bill to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GRAHAM:

H.R. 3451. A bill to enable the use of human capital investment contracts for the purposes of financing postsecondary education, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREENWOOD (for himself and Ms. Eshoo):

H.R. 3452. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children; to the Committee on Energy and Commerce.

By Ms. HART:

H.R. 3453. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Pennsylvania; to the Committee on Energy and Commerce.

By Mr. KUCINICH (for himself and Mr. LaTourette):

H.R. 3454. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to clarify the definition of qualified steel company under that Act; to the Committee on Financial Services.

By Mr. MARKEY (for himself and Mr. Cunningham):

H.R. 3455. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings; to the Committee on Ways and Means.

By Mr. MEEHAN:

H.R. 3456. A bill to prohibit the sale of tobacco products through the Internet or other indirect means to individuals under the age of 18, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHROCK (for himself and Mr. Bartlett of Maryland):

H.R. 3457. A bill to ensure the prompt research, development, manufacture, and distribution of new lifesaving drugs, biologics, and medical devices that prevent or mitigate the consequences of a bioterrorist attack, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG:

H.R. 3458. A bill to provide for the development and dissemination of educational materials about responding to terrorist events involving a nuclear, biological, or chemical element, and to provide for an emergency medicine alert network; to the Committee on Energy and Commerce.

By Ms. VELÁZQUEZ (for herself, Ms. Lee, Mr. Filner, Mr. Owens, Mr. Hinchey, Mr. Kucinich, Ms. McKinney, Mrs. Mink of Hawaii, and Mr. Serrano):

H.R. 3459. A bill to reform the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means.

By Mr. WALSH (for himself, Mr. Acevedo-Vilá, Mr. Boehlert, Mr. Bonior, Ms. DeLauro, Mr. Engel, Mr. Ferguson, Mr. Gilman, Mr. Grucci, Mr. Hinchey, Ms. Kaptur, Mrs. Kelly, Mrs. Lowey, Mrs. Maloney of New York, Mr. Markey, Ms. McKinney, Mr. McNulty, Mr. George Miller of California, Mr. Olver, Mr. Rahall, Mr. Serrano, Ms. Slaughter, and Mr. Udall of New Mexico):

H.R. 3460. A bill to prohibit oil and gas drilling in Finger Lakes National Forest in New York; to the Committee on Resources.

By Mr. ISSA:

H. Con. Res. 286. Concurrent resolution expressing support for the President in using all means at his disposal to encourage the establishment of a democratically elected government in Iraq; to the Committee on International Relations.

By Mr. SMITH of New Jersey:

H. Res. 310. A resolution providing for the concurrence by the House with an amendment in the amendments of the Senate to H.R. 1291; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. Cardin.

H.R. 162: Mr. Etheridge.

H.R. 179: Mr. Boozman.

H.R. 212: Mr. Simpson.

H.R. 267: Mrs. Cubin and Mr. Kennedy of Rhode Island.

H.R. 303: Mr. Cox.

H.R. 488: Ms. Norton.

H.R. 612: Mr. Hoeffel.

H.R. 638: Mrs. Napolitano.

H.R. 1090: Mrs. Lowey.

H.R. 1111: Mr. Andrews and Mr. Clay.

H.R. 1169: Mr. Paul.

H.R. 1296: Mr. Baird.

H.R. 1341: Mr. Ramstad.

H.R. 1436: Mr. Pastor, Mr. Tanner, and Mr. Wamp.

H.R. 1475: Mr. Weller.

H.R. 1509: Ms. McCollum.

H.R. 1520: Mr. Wynn and Mr. Ford.

H.R. 1609: Mr. Cooksey.

H.R. 1629: Mr. Bentsen.

H.R. 1657: Mr. McDermott.

H.R. 1671: Ms. Millender-McDonald, Mr. Ford, and Mr. Olver.

H.R. 1739: Mr. Hinojosa.

H.R. 1784: Mr. Israel and Mr. Rush.

H.R. 1795: Mrs. Northup.

H.R. 1808: Mr. Traficant.

H.R. 1948: Mr. Osborne.

H.R. 1990: Mr. Abercrombie.

H.R. 1997: Mr. Moran of Virginia.

H.R. 2125: Mr. Hoeffel, Mr. Udall of New Mexico, Mr. Shays, and Mr. Olver.

H.R. 2181: Mr. Strickland.

H.R. 2254: Mr. Simmons.

H.R. 2349: Mr. Markey and Mr. Hoeffel.

H.R. 2405: Mr. Leach.

H.R. 2426: Mr. Foley and Mr. Markey.

H.R. 2573: Mrs. Lowey.

H.R. 2610: Mr. Pascrell.

H.R. 2623: Mr. Kildee.

H.R. 2744: Mr. Portman.

H.R. 2836: Mr. Smith of New Jersey.

H.R. 2837: Mr. Matsui.

H.R. 2894: Mr. Etheridge.

H.R. 2989: Mr. Borski, Mr. Dingell, and Mrs. Maloney of New York.

H.R. 3014: Mr. Larson of Connecticut.

H.R. 3041: Mr. Kanjorski, Mr. Green of Texas, Mr. Fossella, Mr. Kingston, Mr. Rodriguez, Mr. Largent, and Mr. Ross.

H.R. 3054: Mr. Taylor of Mississippi, Mr. Deal of Georgia, Mr. Kind, Mr. Hoyer, Mr. Davis of Illinois, Mr. Fattah, Mr. Hilliard, Ms. Granger, and Mr. Kildee.

H.R. 3130: Mr. Upton and Ms. DeLauro.

H.R. 3175: Mr. Owens and Mr. Waxman.

H.R. 3184: Ms. McKinney.

H.R. 3206: Mr. Towns.

H.R. 3215: Mr. Cooksey, Mrs. Morella, Mr. Turner, Mr. Sandlin, Mr. Spratt, Mr. Osborne, and Mr. Nussle.

H.R. 3218: Mr. Platts and Mr. Mascara.

H.R. 3219: Mr. Baca and Mr. Barr of Georgia.

H.R. 3250: Mr. McGovern.

H.R. 3254: Mrs. Tauscher.

H.R. 3270: Mr. Ney.

H.R. 3318: Mr. Doyle.

H.R. 3339: Mr. Wynn.

H.R. 3341: Mrs. Napolitano, Mr. Pascrell, Mr. Sanders, Mr. Towns, and Mr. Baca.

H.R. 3351: Mr. Dicks, Mr. Lucas of Kentucky, Mr. McKeon, Mr. Davis of Florida, Mr. Gallegly, Mr. Kirk, Ms. Rivers, Mrs. Morella, Mrs. Emerson, Mr. Cunningham, Mr. Boucher, Mr. Gilchrest, Mr. Kildee, Mr. Schiff, Mr. Jefferson, Mr. Etheridge, Mr. Keller, Mr. Levin, Ms. Hooley of Oregon, Mr. Callahan, Mr. Nethercutt, and Mr. Ryun of Kansas.

H.R. 3368: Mr. Green of Wisconsin, Mr. Gordon, Mr. Underwood, and Ms. McCollum.

H.R. 3370: Mr. Rogers of Michigan.

H.R. 3371: Ms. Lee.

H.R. 3376: Mrs. ROUKEMA.

H.R. 3390: Mr. PICKERING.

H.R. 3397: Mr. LOBIONDO, Mr. JONES of North Carolina, Ms. DEGETTE, Mr. ISRAEL, Mr. KERNS, Mr. HAYES, and Mr. GRUCCI.

H.R. 3408: Ms. ROS-LEHTINEN.

H.R. 3414: Mr. BLAGOJEVICH and Ms. SLAUGHTER.

H.R. 3422: Mr. MCGOVERN.

H.R. 3424: Mr. DEFAZIO, Ms. SLAUGHTER, Ms. HARMAN, Mrs. JONES of Ohio, Mr. OTTER, Mrs. CUBIN, Mr. MCKEON, Mr. MATHESON, Mr. HINCHEY, Mr. LOBIONDO, Mr. CRANE, Mr. GREENWOOD, Mr. PAYNE, Mr. MARKEY, Mr. BOEHLERT, and Mr. SMITH of New Jersey.

H.R. 3431: Mr. OWENS, Mr. LEWIS of Georgia, Mr. PORTMAN, Ms. BROWN of Florida, Mr. UNDERWOOD, Mr. FORBES, Mr. OLVER, and Mr. WEXLER.

H.R. 3433: Mrs. MORELLA.

H.J. Res. 75: Mr. WELDON of Florida, Mr. ENGLISH, Mr. HILLEARY, Mr. BURTON of Indiana, Mr. TANCREDO, Mrs. JO ANN DAVIS of Virginia, Mr. JONES of North Carolina, Mr. FLAKE, Mr. FORD, Mr. LARGENT, Mr. CHAMBLISS, Mr. HORN, Mr. DAN MILLER of Florida, Mr. CHABOT, Mr. GOODE, Mrs. ROUKEMA, Mr. RAMSTAD, Mr. REYNOLDS, Mr. BACHUS, Mr. KERNS, Mr. BROWN of South Carolina, Mr. ISSA, and Mr. MANZULLO.

H. Con. Res. 181: Mr. NEY and Ms. DELAURO.

H. Con. Res. 199: Mr. WAXMAN, Mr. TIERNEY, and Mr. MCGOVERN.

H. Con. Res. 249: Mr. WEXLER, Mr. MEEHAN, Mr. CASTLE, Mr. GILLMOR, Mr. COBLE, Mr. HORN, Mr. KOLBE, Mr. LANTOS, Mr. SUNUNU, Mr. ROYCE, Mr. OTTER, Mr. HANSEN, Mr. FILNER, Mr. BARRETT, Mr. PAUL, Mr. DUNCAN, Ms. HART, Mr. KANJORSKI, and Mr. GONZALEZ.

H. Con. Res. 253: Mr. ABERCROMBIE, Mr. OWENS, and Mr. SPRATT.

H. Con. Res. 273: Mr. FALEOMAVAEGA and Mr. PITTS.

H. Con. Res. 279: Mr. CAMP, Mr. CANTOR, and Mr. GOODLATTE.

H. Con. Res. 284: Mr. KILDEE.

H. Con. Res. 285: Mr. BLUMENAUER, Mr. HINCHEY, Ms. HARMAN, Ms. LEE, Mr. HILLIARD, Ms. PELOSI, Mr. TOWNS, Mr. NADLER, Mr. PALLONE, Ms. NORTON, Mr. FILNER, and Mr. FROST.

H. Res. 280: Mr. WATT of North Carolina, Mr. VISCLOSKY, and Mr. GILMAN.

H. Res. 295: Mr. UNDERWOOD, Mr. LIPINSKI, and Mr. SPRATT.

H. Res. 300: Mr. GONZALEZ, Mr. PASTOR, Mr. BECERRA, Mrs. NAPOLITANO, Mr. PASCRELL, Mr. MCNULTY, Mr. ROTHMAN, Mr. MCGOVERN, and Mr. STARK.

H. Res. 308: Mr. KING.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolution as follows:

H.R. 2107: Mr. BECERRA.

H. Con. Res. 253: Mr. PALLONE.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3295

OFFERED BY MS. CARSON OF INDIANA

AMENDMENT NO.1 Add at the end of section 502 the following:

(8) The State does not prohibit any individual who is a veteran from registering to vote for any election for public office, or from voting in any election for public office, on the grounds that the individual has been convicted of a felony if (at the time the individual seeks to register to vote or vote) the individual is no longer in the custody of the State or the Federal government as a result of the individual's conviction. For purposes of this paragraph, the term "veteran" means a person who served in the active military, naval, or air service (as defined in section 101(24) of title 38, United States Code) and who was discharged or released therefrom under conditions characterized as honorable.

EXTENSIONS OF REMARKS

TRIBUTE TO ART VALENTI, PRESIDENT OF U.A.W. LOCAL 900 RETIREE CHAPTER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize a man who has dedicated more than 62 years to the United Automobile Workers, Art Valenti. As one of the original in-plant organizers who fought to bring the union to the Ford Motor Company, Art Valenti has dedicated his life the union movement. This year, as U.A.W. Local 900 members gathered to celebrate their 60th Anniversary, they recognized the Art "Little Caesar" Valenti for dedicating his life to Local 900 and the U.A.W. organization.

Beginning work at the old Ford-Lincoln plant on Livernois in 1939, Art was discharged just a year later on Friday, December 13, 1940. This marked the start of his long and laborious fight against the anti-labor programs in place at the Ford Service Department. Regardless of the many obstacles, Art began his efforts to organize workers in Detroit. Holding dances that raised countless funds to support union efforts, Art began organizing at his base, and was actively involved in many battles and a strike at the Ford Rouge Plant. When the U.A.W. Ford Agreement was signed in June of 1941, Art was reinstated to his job at the Ford Lincoln Plant and became an organizer and Charter member of Local 900, then a part of Local 600. Art "Little Caesar" Valenti continued as a union representative, and while Treasurer and activist continued his fight against unfair practices of the Ford-Lincoln supervision and Service Department. In the years following, Art served his local and cause as a trustee, guide, and Executive Board member to Local 900, as well as served as District Committeeman, Bargaining Committeeman, and finally President of Local 900. His hard work and tireless efforts established dinners for Retirees as appreciation for their years of service, won the largest individual back pay award at the time, and was one of only 25 American Trade Unionists to be sent to Denmark to visit with Danish Trade Unionists in 1952.

Art's dedication only continued with time, gaining appointment to the Vice President of the International Union's staff in 1957, where he remained until his retirement in June of 1980. Even after retirement, "Little Caesar" Valenti's commitment carried him to become elected as President of the U.A.W. Local 900 Retiree Chapter in 1981, where he has continued to bring the same fire and loyalty to his brothers and the union cause.

I applaud Art Valenti for his leadership, commitment, and service, and I urge my colleagues to join me in saluting him for his exemplary years of leadership and service.

TRIBUTE TO STEVEN E. HYMAN

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. KENNEDY of Rhode Island. Mr. Speaker, Dr. Steve Hyman, Director of the National Institute of Mental Health at NIH, recently left NIMH to become Provost of Harvard University. While I am very happy that he has chosen to take this important step, I very much regret that public service is losing such a significant figure working on behalf of patients and families affected by mental illness.

Steve is a very well known neuroscientist, and also a gifted communicator. We have worked together on several issues and events, most recently a briefing for Members and staff on the mental health effects of terrorism in the wake of the awful events of September 11, 2001. Steve has a remarkable ability to leave his audience—whether it is lay or scientific—with a more complete understanding of whatever complex issue he is addressing. This is critical to those of us who work to reduce and eliminate the entrenched stigma about mental illness that so unfairly plagues patients and families. As a scientist, Steve has many times asserted that science shows us absolutely no reason to treat those with mental illnesses as anything other than respected individuals affected by treatable illnesses who deserve health insurance coverage completely commensurate with the coverage provided for physical ailments. In fact, NIMH recently held a meeting in which I participated, focusing on the very real relationship between depression and physical disorders—something that is critical to understand.

For too long, those suffering from depression, bipolar disorder, schizophrenia, anxiety disorders, or any of the other diseases that affect our brain and behavior, have faced discrimination, shame, and even scorn. Leaders like Steve have given us the tools we need to argue forcefully and credibly for equal treatment and equal justice. I believe that his leadership, scientific expertise, and his active participation in trying to educate policymakers like us, as well as our constituents—the American public—have moved us far down the path to eliminating stigma. Steve and NIMH were very much involved in the development of the unprecedented Surgeon General's Report on Mental Health, a groundbreaking document that has had a major impact in this country. He also was a key participant in the equally groundbreaking White House Conference on Mental Health held in June of 1999, a public event that featured the President and First Lady, the Vice President and Mrs. Gore, and many, many Members of Congress.

While we will miss Steve Hyman, I am confident that the course he has set for NIMH, and the people he has left to steer it, will enable it to continue to move steadily forward. I know that Steve has left a strong institution, but he has also left a major challenge for his successor—to continue the momentum that he has built up over the five and one-half years he served us as NIMH Director. I haven't known him for a long number of years, but I do know Steve Hyman well enough to know that he will continue his role as champion of patients and their families, and that we are all better off for it.

TRIBUTE TO AMANDA JENKINS, SARAH GOSHMAN, AND MELISSA NUNNENKAMP

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. ISRAEL. Mr. Speaker, it is with great pride that I rise today to recognize three of New York's outstanding young students: Amanda Jenkins, Sarah Goshman and Melissa Nunnenkamp. In January, the young women of their troop will honor them by bestowing upon them the Girl Scouts Gold Medal.

Since the beginning of this century, the Girl Scouts of America have provided thousands of youngsters each year the opportunity to make friends, explore new ideas, and develop leadership skills while learning self-reliance and teamwork.

These awards are presented only to those who possess the qualities that make our nation great: commitment to excellence, hard work, and genuine love of community service. The Gold Awards represent the highest awards attainable by junior and high school Girl Scouts.

I ask my colleagues to join me in congratulating the recipients of these awards, as their activities are indeed worthy of praise. Their leadership benefits our community and they serve as role models for their peers.

Also, we must not forget the unsung heroes, who continue to devote a large part of their lives to make all this possible. Therefore, I salute the families, scout leaders, and countless others who have given generously of their time and energy in support of scouting.

It is with great pride that I recognize the achievements of Amanda, Sarah and Melissa and bring the attention of Congress to these successful young women on their day of recognition.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. GUTIERREZ. Mr. Speaker, a previously scheduled commitment prevented me from being in Washington, D.C. and voting on H. Con. Res. 280 on December 4, 2001. Consistent with my record of strong support for Israel, I would have voted yes on this important legislation. H. Con. Res. 280 expresses solidarity with the people of Israel in the fight against terrorism.

The horrific murders of 26 innocent people by Palestinian terrorists during the weekend of December 1–2 make clear the need for all Americans to show their support for the people and Israel during this dangerous and troubled time. Our nation has no more consistent friend and ally in the international struggle against terrorism than Israel. The people of Israel set an invaluable international example with their commitment to democracy and freedom and dedication to working for peace. The people of Israel continue to pay a high price for these ideals. Their nation remains a target of a deadly and unrelenting terror campaign that is often aimed directly at young people and families. Israel deserves and needs our unwavering support at this difficult time.

I strongly support the resolution's call for the Palestinian Authority to destroy the infrastructure of Palestinian terrorist groups and to pursue and arrest terrorist whose incarceration has been called for by Israel. I strongly urge President bush to take any and all steps to assure these goals are met, including suspending all relations with Yasir Arafat and the Palestinian Authority if necessary.

The safety and security of all people of the world who value freedom and respect the rule of law has never been more threatened. The United States and Israel must remain the closest of allies in our mutual quest to stop terrorism and work for peace. I am pleased to give H. Con. Res. 280 my unqualified support.

TRIBUTE TO ANNETTE M. RAINWATER, DEDICATED ACTIVIST AND COMMUNITY ORGANIZER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. BONIOR. Mr. Speaker, I rise today to honor a woman who has given her life to the pursuit of justice and equality.

Annette M. Rainwater is one of Detroit's most committed activists. She came of age at a time when our country and our democracy were at a crossroads. When Dr. King called on Americans to join together to stand up for their rights, to register voters, to fulfill the promise of democracy, she answered that call. She answered it with passion, intelligence, and faith that we could shape a better future. Not only did Annette get involved, she stayed involved. Over the years, she has held leadership positions with such organizations as the Southern Christian Leadership Council, the NAACP, the Student Nonviolent Coordinating Committee, and the National Political Congress of Black Women, just to name a few. But in all of these roles, her capacity to inspire others and her determination shone through.

Annette also worked tirelessly in her community. As a precinct delegate, she knocked on countless doors and recruited many volunteers. When it came time to get out the vote, Annette was always ready to help. She has offered her skills as an organizer as well, through her roles as a Board member of the Fifteenth Democratic District Congressional Organization and Democratic Party State Central member. She has also been a dedicated public servant, serving as the chief of staff for Councilman Clyde Cleveland.

Although Annette is retiring, she will leave a legacy of activists and public servants to continue her work. She has been a mentor to many, including Llenda Jackson-Leslie, Vice President of the National Women's Political Caucus, Judge Greg Mathis, and Wayne County Commissioner Jewel Ware. These leaders and others will help keep the stories of the civil rights struggle alive—and help make sure that we move forward, and never forgot where we've been.

To paraphrase Dr. Martin Luther King, the measure of a person is not where she stands in moments of comfort and convenience, but where she stands at times of challenge and controversy. During one of the most difficult times in our history, Annette Rainwater stood for justice, equality, and a future that would allow all Americans the opportunity to reach our fullest potential.

Detroit is a better place because Annette Rainwater calls it home. She has earned our thanks for her half-century of selfless dedication to creating a more just city, state and nation.

BOOK DEVELOPED BY RON MORGAN

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. WELDON of Florida. Mr. Speaker, Ron Morgan of Cape Canaveral, Florida, is becoming a well known expert on the U.S. flag. He has developed a comprehensive book, The American Spirit in the New Millennium, that endeavors to renew pride in our flag and to present a fair case about its legal protections, effectively countering the arguments of those who would allow our flag to be desecrated. He wants to inspire further research and study of not just the history of the flag, but United States history, law and government. I am proud that Ron Morgan is my constituent on Florida's Space Coast, and I thank him for his hard work and dedication to promote the values represented in our flag. I wish to enter into the CONGRESSIONAL RECORD a chapter from his book that was updated since the September 11 attacks:

AMERICA UNITED—A CALL TO HONOR

On January 1 in the year 2000, the entire world was transfixed as a glowing ball of light descended above Times Square, amid the cheers and adulations of over one million New Yorkers. The amazing technology of the last century provided live pictures of this joyous event to every nation in the world, as the global celebration of Y2K signaled the grand commencement of this new millennium.

On September 11 in the year 2001, the entire world was transfixed as the symbol of this new millennium, the mighty twin towers of the World Trade Center, descended in a horrendous roar of fiery steel and concrete, with the unspeakable loss of thousands of innocent men, women and children from America and from 80 sovereign nations around the globe. The amazing technology of the last century provided live pictures of this insane crime against humanity, as the world reeled in terror.

As the immensity of the horror overcame the paralyzing visual shock, people from every nation on earth truly believed they were witnessing the beginning of the end of the civilized world—or as many describe it, the Apocalypse. The bright sunshine was instantly transformed into the pitch-blackness of a moonless night by billowing clouds of black carbon, grey concrete and white ash. Clouds that had not been seen in our nation for 70 years, since the towering clouds of brown dust swept relentlessly across the Great Plains in the 1930's and turned America's heartland into America's wasteland.

Fellow human beings began to emerge from those clouds, from the darkness into the light. Some walked, some ran, some carried each other—but all moved with dignity. The eerie, ash covered figures that stepped out of those clouds into the waiting arms of the rescuers, displayed no recognizable ethnic or racial characteristics visible to the naked eye.

We were one with them, and they were ours. New York City was truly united in a heroic display of courage, self-sacrifice, and compassion.

The mightiest city on the planet was brought to its knees in seconds by an act of barbarism unparalleled in history. But as the dust settled amid the raging fires that still burned, a wondrous transformation slowly enveloped that scene of mindless carnage.

The true American spirit began to rise higher than the tall towers that once dominated the skyline of New York. It gave vibrant notice that we have suffered a grievous wound, we have lost uncounted lives, but we will not be bowed, we will endure!

The spirit of courage that drove our fearless and tireless firefighters, police officers, medical personnel and scores of civilian volunteers, who offered their own lives to save others. The spirit of help that mobilized the entire city to aid and comfort the victims, their families and the rescuers who continued to brave unrelenting danger. The spirit of prayer that brought people of all faiths together, as never before in memory.

The spirit that galvanized the entire nation, with volunteers from every state and even foreign nations streaming in New York to help in the enormous effort of recovery. The United States Congress and the Administration were truly unified for the first time since World War II. Our nation spoke with one voice, with one purpose and with one message—This terror shall not endure. Our citizens and our freedoms shall be defended and preserved. Justice under law will prevail!

And the unyielding symbol of the American spirit began to appear on the helmets and the tunics of the incredible rescue personnel. It began to appear on cabs, buses, trucks, cars and subway trains. It appeared on apartments, shop windows, buildings, houses, street signs, light poles and trees. It was worn on lapels, shirts, jackets and hats. It was carried by hand and was waved on high. It was draped on the smoldering steel frames of a once mighty edifice, as a proud badge of honor and an unmistakable pledge of resolve and perseverance in the face of unconscionable evil. The Flag of the United States of America became our rallying cry and our inspiration, just as it has countless times before in the face of tragedy and adversity. It asked nothing in return, just the chance to serve us if we needed something beyond ourselves to remind us of our goal.

There is an incredible historical mosaic that blends and intertwines the past and the present in every city, town, and village in America. That mosaic was never more vividly displayed than in the streets of downtown New York on those fateful days in September 2001.

212 years ago President George Washington knelt down in St. Paul's Chapel, nestled near the Battery on the island of Manhattan, New York. It was April 30, 1789. He had walked to St. Paul's from Federal Hall, where he had just been inaugurated as the first President of the United States. He prayed for guidance to lead a fledgling nation, with honor, into the unknown waters of a new concept of government.

On September 16, 2001 Mayor Rudy Giuliani knelt down in St. Paul's Chapel on the island of Manhattan in the area now known as Ground Zero. He prayed for guidance to lead his wounded city, with honor, in a humanitarian rescue and recovery effort of unparalleled proportions.

St. Paul's is a stone's throw from the World Trade Plaza. It was saved and preserved during the skyscraper construction that totally surrounds it, only because it was listed on the Historic Registry! The twin towers rained down million of tons of debris that rocked the ground with the force of an earthquake. Loose steel and concrete tore apart mightly buildings and filled the city streets around this hallowed site. But not one pane of stained glass in the chapel windows was broken.

At Washington's National Cathedral, President George W. Bush spoke for America to the clerics of all faiths, to our national leaders and to the United Nations representatives assembled in the pews of the cathedral. He humbly prayed for guidance to lead this country and indeed the civilized world, into a new age of freedom from terror and tyranny.

We now realize that the splendor of this new millennium cannot be achieved if we do not meet this worldwide challenge to our very way of life. A challenge that heretofore existed only in shadows and darkness, but now is clear and visible and formidable. The task that lies ahead is a daunting task that will require courage, judgment, patience and—above all—perseverance. The American people are up to the task!

Let us pledge to each other our will, our commitment, our strength and our steadfast unity. Working together as one people, we can strive to meet the three primary goals of this great nation that are so eloquently described in the Declaration of Independence: That personal security of life without fear; the cherished freedoms of our individual and societal liberty; and, the profound enjoyment inherent in the pursuit of happiness and prosperity.

Our nation has issued a Call to Honor. The American people and our noble leaders have stood up bravely and answered the call. They have answered the call with their sacrifice, their deeds and their generosity. They have proudly proclaimed their unity by gathering together with the one and only tangible object that truly represents each one of us individually and all of us collectively—the Flag of the United States.

America United is no longer a slogan. America United is now a reality!

SPEECH BY COUNTY COMMISSIONER RON RANKIN OF KOOTENAI COUNTY, IDAHO

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. OTTER. Mr. Speaker, I rise today to bring to the attention of the House a recent speech by County Commissioner Ron Rankin of Kootenai County, Idaho. Ron is a veteran of the United States Marines and is a tireless defender, like all Idahoans, of the rights our veterans preserved for us through their devotion. This speech was given by Commissioner Rankin on the occasion of the dedication of a new veteran's memorial. I urge my colleagues to read this speech and remember the sacrifices our veterans made for us and the continued sacrifices being made today by our men and women in uniform. With the consent of the House I would like to insert that speech for the record.

KOOTENAI COUNTY VETERANS MEMORIAL WALL DEDICATION, NOVEMBER 10, 2001

(By Commissioner Ronald D. Rankin)

Once there was a nation of patriots, men, women, and children who loved their country, their flag, and their freedom, and the independence guaranteed by their divinely inspired United States Constitution. They honored their soldiers who fought to preserve their freedom and independence.

Then came the Korean War, the first war our country fought that we were politically prohibited from winning. This was followed by the Viet Nam War where hoards of drug crazed traitors cursed and spat upon combat veterans returning from a war that cost over 50 thousand casualties. Our fighting men and women were pilloried for the treasonous political decisions that protracted that war far longer than any other in our history.

That "hippie generation" is now being replaced by a generation which has never witnessed a war like those of the 20th Century—a generation that will determine the future of our country, our United States constitution, and our freedom.

They must be taught and reminded what American veterans have sacrificed for them to be able to live in freedom.

To that end, and through most generous private contributions, Kootenai County citizens are carving highlights of history into stone. A remembrance of some of the great moments in history that have molded and formed our futures.

Each of the fourteen laser-etched stone photo panels on this wall will represent a major military mark in history.

On the inside of the foyer/gallery, will be found separate pamphlets each describing a great event of military history.

One will describe in detail the infamous attack on Pearl Harbor, not the entire World War II but only Pearl Harbor. Another will describe in detail the barbaric Bataan Death March, where American prisoners of war were tortured, murdered and taken to Japan to work as slaves in the mines; another, the turning point of World War II in the Pacific—the Battle of Midway, where the sinking of so many Japanese aircraft carriers effectively broke the back of the Japanese fleet.

Iwo Jima; how that well known flag photograph came to be, and at what terrible cost.

The Navajo Code Talkers; American Indian patriots who saved the lives of thousands of their fellow Marines, sending and receiving combat messages in their ancient tongue that was undecipherable by Japanese intelligence.

A detailed account of the Battle of the Chosin Reservoir in 1950 in North Korea—an epic in Marine Corps history.

The epic landing at Normandy on "D" Day—1944.

The heroic 2nd Rangers scaling a 100 ft. cliff to take a German pill box at the top of the coastal cliffs of Normandy.

The Battle of the Bulge. The hard fought heroic battles that were the turning point in the war in Europe.

The air war over Europe and the heroes of the B-17's.

The emergence of helicopters and river gun boats as weapons of choice in Vietnam. These and more to be added, will be a source of unrevised history for our youth of future generations as well as some of our adults of today who have little knowledge of the sacrifice of our combat veterans past and present.

It is our resolve here today in dedicating this memorial wall, that our veterans will retake their places of honor and respect in the minds of those so blessed by the freedom they enjoy. A legacy of the sacrifices of the generations of patriots past and present who have worn the uniform of our country with pride and dedication to the principles we all hold dear.

May God Continue to Bless America in all of her righteous endeavors.

This I ask humbly in the name of Jesus Christ—Amen.

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

SPEECH OF

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to H.R. 3005, the Trade Promotion Authority Act.

I certainly recognize the value of trade, but contrary to the claims of the GOP leadership and Administration, passing fast track is not just about trade and the economy. It's about health, human rights, consumer and environmental standards. Unfortunately, the Thomas "fast track" bill is a roadmap to undermining these standards globally.

As members of Congress, we have an important role in shaping future trade agreements. As the influence of trade extends to other areas including health, education, and the environment, we must ensure that trade agreements reflect the values and standards that we have worked so hard to uphold. If we pass H.R. 3005, we give up our authority to influence the content of future trade agreements, and we erode the government's ability to guard against direct attacks on the progress we have made. Even more important, we eliminate a crucial piece of the constitutional process by limiting democratic debate and stifling the voice of the people. That's undemocratic and it's not smart public policy.

The GOP leadership argues that passing H.R. 3005 is the patriotic thing to do. Make no mistake, "fast track" does not rebuild, it does not restore, it does not heal and it will not bring America together. Instead, by pushing this divisive issue forward, we are driving America and its government apart when what America needs is unity.

H.R. 3005 will not advance fair trade policies, but policies that are harmful to our nation and the world. We CAN foster trade while ensuring that American jobs, civil rights, and our natural resources are protected. We just can't accomplish this goal through the enactment of H.R. 3005. With its lack of enforcement measures, H.R. 3005 jeopardizes international environmental agreements, compromises job security for American workers and curbs economic growth. That's why I will continue to urge my colleagues to support free trade, but only when it's *fair* trade.

TRIBUTE TO JOSEPH M. CARKENORD OF THE L'ANSE CREUSE PUBLIC SCHOOLS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize Mr. Joseph Carkenord as he retires from nearly 50 years of service to the L'Anse Creuse Public Schools. Mr. Carkenord has been a teacher, administrator, and Board of Education Member in the L'Anse Creuse Public Schools for nearly 50 years, and today marks the end of an era of dedication to the school district.

Raised in Indiana, Mr. Carkenord attended Ball State University, where he completed a Bachelor of Science degree in 1950. It was then that his teaching career began. Soon thereafter, Mr. Carkenord accepted a position at South River Elementary School in the L'Anse Creuse School District. This began a remarkable career of devotion to education and public service in Michigan. By 1955, Mr. Carkenord had earned a Master's degree and was appointed Principal of the elementary school.

In 1959, while still Principal at South River Elementary, Mr. Carkenord became the Director for Special Education in the district until 1969. At the same time, he served as Director of the L'Anse Creuse Summer Program. He also served as Principal of the Neil E. Reid Elementary School.

During his tenure, Mr. Carkenord has had the pleasure of serving as President of the Macomb County Elementary Principal's Association, on the Michigan Principal's Board of Directors, and on the L'Anse Creuse Board of Education, as President and Treasurer. Although Mr. Carkenord has exhibited tireless support for public education, his commitment is just as strong. He and his wife Joann have resided in the L'Anse Creuse community for over 35 years. Their daughter and son, Barbara and Dr. David Carkenord are graduates of L'Anse Creuse High School North. We all expect his retirement not to diminish in way his continued commitment to the L'Anse Creuse Public Schools and its school board on which he serves.

It has been a privilege to our community to have Mr. Carkenord demonstrate leadership and commitment to public education and the L'Anse Creuse School District. I ask that my colleagues join me in celebrating Mr. Carkenord's retirement after nearly 50 years of public service to his community.

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

SPEECH OF

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. NUSSLE. Mr. Speaker, earlier this year the President submitted to Congress his legislative agenda for international trade. I believe this agenda benefits America's consumers, farmers, and workers. Beyond that, I believe it will successfully advance a strategy for promoting freedom, economic development and increased living standards abroad. The keystone of the President's agenda is Trade Promotion Authority or "TPA". TPA provides the President with a powerful tool to promote U.S. agriculture and manufactured goods abroad.

As I travel through Iowa, farmers have expressed to me their support for opening world markets for U.S. farm goods. According to U.S. Trade Representative Robert Zoellick, the President's primary trade negotiator, agriculture will be a primary factor in future trade negotiations. Indeed, agriculture currently accounts for more than 30% of all U.S. exports. On a national level, agricultural exports create 750,000 jobs, both on and off the farm.

Expanded trade opportunities very clearly benefit Iowa farms and the commodities that are raised on them. In my home district, approximately 35% of farm products are sold abroad. One in every five rows of corn are exported. This includes not just the unprocessed corn but value-added goods that create jobs including: meat, dairy and poultry products, corn feed, biodegradable plastics, and corn syrup. Soybean producers benefit from free and open trade as well. In the year 2000, U.S. exports of soybeans, soybean meal, and soybean oil totaled more than $7 billion. Farmers want to earn a living from the land and with the free market without dependence on the government for financial assistance. TPA is essential to reach that goal. Congress is currently in the process of creating a new Farm Bill. However, any farm program devised would be fruitless without opening markets for farmers to sell their goods.

Agriculture is not the only business in my district that would benefit from opening international markets. According to the U.S. Department of Commerce, 217 manufacturers in northeast Iowa export goods on a regular basis. The track record for business exports in Dubuque and the Waterloo-Cedar Falls area since the North American Free Trade Agreement (NAFTA) has been impressive to say the least. Since 1993, when NAFTA was signed into law, Dubuque has seen a 75% increase in export sales. Waterloo and Cedar Falls together have posted an impressive 95% increase in export sales during that time period!

Deere & Company, a Quad Cities-based company, has several facilities throughout Iowa, including facilities in both Dubuque and Waterloo. This company's stake in opening foreign markets is very high. Deere exported $1.8 billion in U.S.-made products in 2000. This reflects 16% of its total sales and 35,000 jobs that are export dependent. Deere has a stated mission of increasing its sales overseas. This mission is of great benefit to Iowa's working families. Deere's Waterloo Works is the company's largest exporting plant. One in four of the green tractors produced in Waterloo is headed overseas. TPA is important to companies like Deere because it will help stabilize our domestic farm economy, and gives the President more latitude in negotiating tariffs with countries that are seeking to modernize their agricultural development.

Waterloo Industries is much smaller than Deere, but also has a very large stake in the global marketplace. Approximately 10% of is products are sold abroad. Waterloo Industries produces high quality tool boxes and cabinets for both home and industrial use. On average, this company ships 3 semi-truckloads of these products abroad every day. This reflects $105,000 per day in sales and 1450 export dependent jobs, 10% of the company's workforce. Currently a third of Waterloo Industry's products to Canada. the remaining two-thirds are sold, among other places, in Europe, Australia, and Japan. It is my understanding that Waterloo Industries would like to expand its market in Asia and the Pacific. Tariffs for toolboxes in some Pacific rim countries are as high as 30%. I am hopeful that TPA can aid the President in negotiating a decrease of these high tariffs.

For some 60 years, Presidents have used a TPA-like system to open markets abroad. Congress allowed trade negotiating authority for the President to lapse in 1995. While our economy has continued to grow and our exports have increased since that time, we can and should still do more. The European Union currently has 27 preferential agreements with other countries, Japan has 130, and the United States is a party to only three of them.

This summer House Ways and Means Committee Chairman Thomas worked extensively with pro-trade Democrats to forge legislation to grant TPA while allowing Congress to retain its right to oversee the process. H.R. 3005 establishes a special trade oversight committee in Congress to consider environmental, labor, and human rights aspects of trade negotiations, and mandates the U.S. trade Representative to consult this committee on a regular basis. In addition, this legislation complies with rules established by the World Trade Organization and our other trading partners.

Mr. Speaker, as we begin the 21st Century, it is becoming increasingly apparent that the world is becoming a smaller place. More efficient means of transportation and communication have connected countries and regions of the world in ways that were unimaginable just a decade ago. Given these unprecedented changes and the United States' role in the world economy, it is critical that the United States be able to negotiate fair trade agreements with overseas nations. TPA offers the tools we need to face the challenges of our changing world economy. I urge my colleagues to vote in support of the H.R. 3005.

NATIONAL PEARL HARBOR REMEMBRANCE DAY

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. ROEMER. Mr. Speaker, I rise today in recognition of the Sixtieth Anniversary of the attack on Pearl Harbor. This day allows Americans of all ages to honor and remember those who lost their lives in the attack on Pearl Harbor.

Early on the morning of Sunday, December 7, 1941, the Empire of Japan launched a brutal and unprovoked attack on the U.S. Navy, Army, Air Force, and Marine Corps bases at Pearl Harbor, Hawaii. Over 2,400 Americans were killed and 1,200 wounded on that fateful day—the day that President Roosevelt said "will life in infamy."

It was not until after World War II ended that the American people were fully apprised of what a severe, crippling blow the attack on Pearl Harbor inflicted on our defenses. The best of our Navy and our Army in the Pacific was virtually wiped out in a single devastating blow. But the Japanese empire did not count on the galvanizing effect that this dastardly attack would have on the American people. In the wake of the events of September 11, 2001, we have once again witnessed how this powerful effect unites our country against evil.

Prior to December 7, 1941, the role of the United States in world affairs was the topic of intense debate. That debate ended as the bombs fell on Pearl Harbor. All Americans became united in the effort for victory with a vigor and determination unknown in any American conflict, before or since, perhaps with the exception of the resolve demonstrated by the American people since September 11th. The ultimate tragedy of Pearl Harbor was the fact that it could have been predicted and prevented. Candidates for graduation at the Japanese military academies had been asked to plan an attack on Pearl Harbor as part of their final examinations each year since 1931. The Japanese secret code had been broken, and the State Department was aware that an attack was imminent. However, the location was not known, and so our commanders were not notified in a timely fashion.

Mr. Speaker, this does not mean, however, that our 3,600 casualties were killed or wounded in vain. The heroism demonstrated that fateful Sunday morning did much to inspire millions of Americans to greater sacrifice and heroism which was necessary for our ultimate victory. This year will mark the 60th Anniversary of Pearl Harbor and our thoughts and prayers will be those survivors and their families as well as the families who have lost sons and daughters in the war that followed.

RETIREMENT OF JOSEPH THOMPSON

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. QUINN. Mr. Speaker, the Department of Veterans Affairs, and the Veterans Benefits Administration (VBA) in particular, is losing a remarkable leader. Joseph Thompson, former Under Secretary for Benefits, is retiring after 26 years of service to veterans.

I met Joe at the start of my tenure as chairman of the Subcommittee on Benefits of the Veterans' Affairs Committee. I had a lot of detail to learn about the VA's claims process, and Joe's knowledge of the VBA was vast. A Vietnam veteran, Joe began his career with VA as a claims examiner in 1975, and through the years he worked in the Education Service, VA's Regional Office and Insurance Center in Philadelphia as Assistant Director, and spent seven years as the Director of the Regional Office in New York. It was in this position that Joe reengineered the regional office's business processes and former Vice President Gore awarded the first "Hammer Award" for reinventing government to the New York Regional Office. Joe asked his coworkers personally to accept the award from the Vice President, which they did in Joe's presence. It was only natural that Joe Thompson would take the helm of the VBA. While managing almost 13,000 equally dedicated employees, Joe was responsible for administering the service-related disability compensation programs, needs-based pension programs, home loan guarantees, GI Bill education assistance, vocational rehabilitation and job placement services, and life insurance programs—and he rose to the task.

Joe Thompson is indeed a visionary person. Under his direction, VBA developed the Roadmap to Excellence in an effort to improve service delivery, the Balanced Scorecard, which measured performance by each regional office, and established a system to improve the integrity of performance data in order to greatly reduce false or erroneous reporting of outcome measures. These were seen at the time by some as unorthodox ideas, but veterans and VA's stakeholders are better off today because Joe challenged the status quo. Joe laid the bench mark for future VBA employees, and he set the bar rather high, in my opinion. He is one of the most creative and innovative public servants I have known. And the well-spring of growth and change that Joe inspired is Joe's legacy to his fellow veterans.

I have enjoyed a strong working relationship with Joe Thompson and consider him a friend. He is the epitome of the federal employee who reports to work each day because he wants to make a difference, especially for disabled veterans. And I can say without reservation that Joseph Thompson has met the challenge of leadership in public service. I wish Joe and his family all the best following retirement. I am sure Joe's family is proud of him; I know I am.

SENATE—*Wednesday, December 12, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we praise You for Your faithfulness. Now in this sacred season, we join with Jews all over the world as they light their menorahs and remember Your faithfulness in keeping the eternal light burning in the temple. We gather with Christians around a manger scene and praise You for Your faithfulness in sending the Light of the World to dispel darkness. Your indefatigable love is incredible. You never give up on us. You persistently pursue us, offering us the way of peace to replace our perplexity. You offer Your good will to replace our grim wilfulness. In spite of everything humankind does to break Your heart, You are here, once again sending Your angel to tell us of Your good will, Your pleasure in us just as we are, and for all we were intended to be. Change all of our grim "bah humbug" attitudes to humble adoration.

Help us to be as kind to others as You have been to us, to express the same respect and tolerance for the struggles of others as You have expressed to us by turning our struggles into stepping stones, to understand us as we wish to be understood. Help us to shine with Your peace and good will. In the name of the Light of the World. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 12, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, this morning we are going to be on the farm bill. There is going to be 50 minutes of debate equally divided and there will be a vote at approximately 10:20 this morning.

The majority leader has asked me to announce that he wants to work into the evening tonight to make significant progress on this bill. It is Wednesday. For those who want to leave Friday or this weekend, it is very clear to everyone we have to make progress on this bill. So I hope everyone will understand there will be no windows. We will have to work right through the evening, working as late as possible, as long as the managers think we are making progress on the bill.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1731, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes.

Pending:

Daschle (for Harkin) Amendment No. 2471, in the nature of a substitute.

Lugar/Domenici Amendment No. 2473 (to Amendment No. 2471), of a perfecting nature.

AMENDMENT NO. 2473

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 50 minutes of debate equally divided and controlled on the Lugar amendment, No. 2473.

The Senator from Indiana.

Mr. LUGAR. Madam President, I yield to myself the time I may require. Being mindful there are others who may wish to speak on my amendment but seeing none for the moment, let me review the amendment for the benefit of Senators who, perhaps, followed the debate yesterday.

I have offered an amendment which, in essence, changes substantially the ways in which farm families are supported in the United States of America. I have moved to a concept of a safety net in which, essentially, each farm family—regardless of the State, regardless of what products or farm animals or timber or what have you which comes from that farm—has equal standing. I think that amendment ought to be appealing to most States.

As I cited yesterday, just 6 States of the 50 receive about half of the payments under the current system. That would be concentrated further in the bill that now lies before us. That concentration really occurs regardless of State, although many States receive very few benefits at all. If, in fact, 6 States receive about half, the 44 divide the rest and, as I cited yesterday, many States have fewer than 10 percent of their farm families who participate in these payments at all.

I make that point again because I suspect it is not apparent to many Senators, to many people in the public as a whole, who believe we are talking today about the totality of agriculture in our country, farm families of all sizes. Much is said about small farm families, those who are in stress, in danger of losing their farms.

Without being disrespectful of anyone's views on these subjects, I pointed out these small family farms are not likely to gain much sustenance from the subsidies that are being suggested presently. Let me cite, without getting into anyone else's backyard, the situation in the State of Indiana.

The current program targets 16 percent of the payments in Indiana to 1 percent of the farms—1,007 farms. In fact, it becomes equally apparent at the top 2 percent, which gets 26 percent, a quarter of all the farms. By the time you get to the top 10 percent, which now includes 10,000 farms out of roughly 100,000 that received payments from 1996 to 2000, the top 10 percent receive 66 percent of all of the money.

Any way you look at it, the reasons for this are perfectly clear. Essentially, the payments are made on the basis of acreage and yield. Those farmers who

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

are strongest make use of research; they make use of marketing techniques. They, in fact, have costs that are less than the floor, so there are incentives to produce more each time we come along with another farm bill. And that will be the case again. Therefore, the gist of my amendment is we must change.

The distinguished chairman of the committee, as he responded last evening, said the Lugar amendment contemplates so much change it will be shocking to country bankers; it will be shocking to farmers generally. When you knock the props out of all kinds of layers of programs that have been built up year after year, one subsidy on top of another, even if it only touched 40 percent of farm families generally with 60 percent not touched at all, certainly there will be an impact on the 40 percent.

My point is the 40 percent overstates it. The real impact will be upon the 1's, the 2's, the very top numbers in terms of people who have very large enterprises. I think that is not the will of the Senate. But the effect of the policies has been this, as detailed State by State by the Environmental Working Group Web site. Any Senator, prior to a vote on this amendment, can go to that Web site and find out, person by person, every farm that has received subsidies during the last 5-year period that is covered, plus the summary I have cited.

The change I am suggesting is one that is still a generous amount of taxpayer money. Yesterday Investor Daily editorialized about the debate we are having and commended my bill as the best of the lot but suggested it is still a lot of money from some taxpayers in America to farmers. Indeed, it is to the extent that I am suggesting a farmer receive a voucher worth 6 percent of all that he or she produces on the farm and that it not be simply curtailed to wheat, corn, cotton, rice, and soybeans but to livestock, to fruits and vegetables, to wool, to whatever comes from that entity—all things added up on the Federal tax return that arrive at a total farm revenue picture.

I used the hypothetical farmer yesterday who received, say, $100,000 of total receipts from all sources getting a voucher for $6,000, enough to pay for a full farm insurance policy that guarantees 80 percent of the revenue based on the last 5 years.

There are very few businesses, if any, in America that could purchase this kind of revenue assurance that would guarantee—given the ups and downs of our economy—at least 80 percent of the revenue would be available come hell or high water, including bad weather, bad trade policies, and whatever. This $6,000 voucher would not be paid for by the farmer. It is by virtue of the production indicated on the tax returns that he or she submits. It is possible, because we already have a generous crop insurance program as I pointed out that undergirds agriculture now, that not all farmers will take advantage of that, which is too bad. The educational process must continue so farmers understand how much insurance and assurance they could obtain under current legislation.

My point is, we ought to be providing a safety net that has equality for all States, all crops, all conditions, and all sizes of farms and that genuinely meet the needs of a safety net as opposed to a haphazard disaster relief bill here or there on the appropriations of agriculture, and the perennial summer debates about supplemental assistance, that somehow there are shortfalls, even though this year we are having a record net income for all of agriculture—$61 billion. It has never been higher.

Yet this debate proceeds as if the totality of American agriculture were in crisis. The 10-year bill suggested by the House of Representatives suggests the crisis inevitably goes on for 10 years adding one subsidy on top of another throughout that period of time.

That is what my amendment tries to stop. I appreciate that for many Senators the problem of explaining all of this to their constituents may be difficult. The easier course may be simply to say: I did my best for you.

As I witnessed the debate thus far, I have an impression that many Senators have come into that mode as they approach the distinguished chairman of the committee, or me, or other Members who have been involved in the debate. The question is not that overlayers of subsidies on top of subsidies is good for the country, good for farmers generally, good for the deficit, or good for whatever. The question is, what is in this bill for me, or my farmers, or the political support I can gain from the person to whom I can write that I was in there fighting for the last dollar for you.

I must admit that the bill which has been laid down before us by the Agriculture Committee has a lot of money in it. The disillusionment will come that 60 percent of farmers will find there is nothing in the bill for them—nothing. I hope they understand that before we conclude the debate.

In my State of Indiana, two-thirds of the farmers will find out very rapidly that there was very little left for them after the top 10 percent took the money. That will come as a disillusion, perhaps. But hope springs eternal, perhaps. A trickle-down theory might occur even in farm subsidy bills.

Let me point out that there is an opportunity here for both a safety net for farmers and finally a turnaround from a policy that came in a long time ago with deep origins in the row crops coming out of the Depression but less and less relevant to the actualities of farming in America today and what people actually do.

The 2 million farms that are listed by the census in most cases do not have active farmers on the farm. The most rapidly rising source of new farms in the country are persons who are professionals, doctors, lawyers, teachers, and others who purchase 50 acres, or sometimes more within a reasonable driving distance of their urban offices, or locations, because they like some space. If they produce on that entity of 50 acreas or 100 or whatever the acreage may be, at least $20,000 in sales of anything agricultural, they are classified under USDA standards as a farmer. So the 2 million are made up principally of persons who gain some income from the farm.

The only persons who gain the bulk of their income from the farm are commercial farmers in America. Most of them have 1,000 acres or more. They comprise roughly 10 percent to 15 percent of all of the entities. Even on those farms it is usual that one member of the family has a day job in the city or somewhere else.

That is the nature of the business. I mention this because, in an attempt to have a comprehensive farm bill, it is virtually impossible to target and to find 2 million people. I think my bill does this the best because it simply says whether you produce $20,000, and you are in fact a lawyer, you still qualify as a farm so that there is at least something more than a casual interest in the farm. If you have $20,000 in sales of any sort, you are eligible for the 6 percent voucher.

My bill is not excessively generous as you rise in income because after the first $250,000 total revenue the voucher percentage drops to 4 percent to the next $250,000. After $500,000 to $1 million in revenue, it is 1 percent. Then sales on your farm over $1 million would not have the voucher. Thus, there is a limit effectively of about $30,000 for a farm family coming from this program.

The distribution to all farm families in America in all States means that the money that is finally provided in my bill is spread even over a 10-year stretch. We are talking about a 5-year bill. Because many of these bills have been scored for 10, it is still less than the bill before us. But the cost of my bill in the 5 years we are talking about is dramatically less in large part because, although a lot of money is going to all the farm families at the rate of 6 percent of everything they are doing, essentially we are winding up the target prices, the loans, and the other subsidies on top of another. Therefore, as you subtract those savings, OMB has scored this 5-year experience in the commodity section of the Lugar bill of only $5 billion as opposed to, as I recall, the $27 billion for 5 years in the bill before us now. That is substantial money.

Let me point out that in addition there are some important aspects in the second section of my bill. The distinguished chairman of the committee, as he responded yesterday, pointed out that the committee bill has much more generous provisions for the nutrition section. I applaud that. I worked with the chairman to make certain we had very strong bipartisan support for doing more in the food stamp area, in the WIC Program, in the School Lunch Program, and in the feeding of people wherever they may be in America.

But there is a difference between the two bills—my bill, essentially, is the amendment before the Senate now—with some of the savings that come from this remarkable difference between $5 billion for commodities in my bill and $27 billion in Senator HARKIN's bill. My bill provides $3.7 billion for nutrition in the first 5 years and the Harkin substitute $1.6 billion. That is a substantial difference.

Yesterday, I detailed the extraordinary efforts of hunger groups throughout our country, of advocates not only for the poor but for better nutrition, of people involved in the School Lunch Program who regularly testified before our committee, as well as those who have been advocates for full coverage of the Women, Infants, and Children Program—the WIC Program—to fulfill those objectives.

My bill allocates $3.7 billion in the next 5 years. If it were scored over 10 years, it would be up to $11.9 billion. The Harkin substitute has $1.6 billion in the first 5 years, scoring $5.6 billion in the 10-year period, with less than half the nutrition impact. That is not by chance.

For Senators who believe one of the major points of a farm bill that comes from Agriculture, Nutrition, and Forestry ought to be the feeding of all Americans, in addition to targeted benefits for very few Americans on the production side, I hope they will find my amendment appealing. It was meant to be that way. The priorities are significant.

For the moment, Madam President, I will yield the floor so I will have a few moments, perhaps, at the end of the debate to refresh memories of Senators who may not have heard all of this presentation today and may be preparing for their votes.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LUGAR. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LUGAR. Madam President, I ask unanimous consent that the time in the quorum call I am about to propound be charged equally against the two sides.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. LUGAR. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Madam President, as I understand, again, for the benefit of all Senators, we are under an hour of debate evenly divided on the Lugar amendment regarding nutrition with a vote to occur at 10:30; is that correct?

The ACTING PRESIDENT pro tempore. Under the previous order, there is to be a 50-minute debate equally divided and controlled with the vote to occur at 10:25.

Mr. HARKIN. I understand I must have about 25 minutes.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HARKIN. I thank the Presiding Officer.

Madam President, now that we have had some opportunity over the evening to look at Senator LUGAR's proposed nutrition title, I would like to discuss a little bit of the difference between his approach and the approach we came out of the committee with, again, keeping in mind that our nutrition title did come out of committee, if I am not mistaken, on a unanimous vote on that title.

Again, like so many other things that have come through any legislative process here, but especially on agriculture, I am sure there were things we might have wanted to do differently in one way or the other. Would we like to put more money in nutrition? Yes. But then we have to balance it with everything else we have. So we tried to come out with a balanced bill, as I said yesterday.

I really believe my colleague's amendment would upset that balance greatly. And even though we might want to do more for nutrition, I believe we have met our responsibilities for nutrition in this bill to meet the nutritional needs of our people. I will go through that shortly.

I did want to correct one thing. I believe my colleague and friend said that on nutrition our spending over 5 years is $1.6 billion. Our data shows that our outlays for 5 years are $2.2 billion. I just wanted to make that correction. I think his is $3.7 billion and we are at $2.2 billion. I do know his outlays are more than ours; at least I believe his budget authority is $3.7 billion. I do not know what the outlays are for 5 years, and perhaps Senator LUGAR could enlighten us on that. But I just want to talk about some of the differences and some of the potential problem areas I see in the title proposed by Senator LUGAR.

I think we have all agreed that the outreach for the Food Stamp Program is vitally important to make sure that eligible people understand they can participate and to get them to participate. In the past, this has really been a problem. So we put provisions in our bill that would provide for more outreach to go out and make people understand they are eligible for food stamps. That, I believe, is lacking in the Lugar proposal.

Again, this is one area where, if you look at the amount of money we have for nutrition, you have to understand that food stamps are an entitlement; that if the economy goes down, if people are out of work, if they qualify, they get food stamps. That is not included in our bill. That is just an entitlement. What is important is whether or not people know they can get food stamps, whether or not they know they are eligible, and the outreach programs that will bring people into the Food Stamp Program. That is where I believe we have met that obligation. The Lugar proposal does not. It is important to go out and get people to understand they are eligible for the Food Stamp Program. So we included a number of provisions to make sure that information about the Food Stamp Program and the applications are made available to eligible people who are not now participating in the program.

We also include pilot programs, testing different ways to go out and reach people. Those pilot programs are not in the Lugar proposal.

The committee bill also includes provisions that will help able-bodied adults without dependents—subject to time limits under the Food Stamp Program rules—to find jobs. For example, the committee bill allows a rigorous job search activity to count as a work requirement for able-bodied people without dependents. Quite frankly, if people are making an honest effort to find work, if they are in an approved job search program, why should they be penalized? They should be eligible. We have that in our bill. That is not in the Lugar proposal.

In our bill we have also designated funds specifically for employment and training activities for this very group of people. While States should have flexibility to use their employment and training funding as they see fit, they should be able to draw upon a special reserve for people who are subject to a time limit. If there is a time limit, they ought to be able to have some leeway for employment and training activities. Again, we have that in our bill. That is not in the Lugar proposal.

Our bill also acknowledges that people who participate in employment and training activities have certain additional expenses, such as transportation. If they are looking for a job—let's say they are in a training activity. They may have to go clear across town or across the city to this training activity. That costs money. We increase the amount of money available to States to help defray those costs. That is in our bill. That is not in the Lugar proposal.

Another key difference between what is in the committee-passed bill and Senator LUGAR's proposal is that we include a substantial commodity purchase of $780 million over 5 years. At least $50 million of that will go to purchase fruits and vegetables for the School Lunch Program. At least $40 million a year must be used to purchase commodities for the TEFAP Program—The Emergency Food Assistance Program. Again, Senator Lugar's proposal only provides funding for TEFAP commodities, not for the School Lunch Program. Again, if we are talking about low-income families on food stamps who need nutritional help, it is their kids who are in school who get the free meals—free or reduced-price meals; mostly free in this case. So we provide money in the bill to go out and buy apples and to buy oranges and to buy other fruits and other vegetables for the School Lunch Program to meet the free and reduced-price School Lunch Program for these needy kids. That is not in the Lugar proposal. We provide $40 million for the TEFAP Program; Senator LUGAR provides $30 million, $10 million less.

We also included a pilot program. This may seem insignificant, but I don't think so. We included a pilot program to test in public schools in four States to see whether or not distributing free fruits and vegetables is beneficial and whether students would take advantage of that. In other words, the idea is, if a student is in a public school, rather than going to the vending machine and putting in their 75 cents or a dollar now and getting a candy bar or something like that—usually in the vending machines there is candy, and then down at the bottom there is usually an apple at the same price—the kid is not going to buy the apple.

Let's say you provided in the school lunchroom free apples, free oranges. Let's say a student has a hunger pain. They can go to that vending machine and put in their $1 or 75 cents or they can go to the lunchroom and pick up a free apple. We provide for that pilot program in four States. That is not in the Lugar proposal. This would also be a proposal beneficial to our fruit and vegetable growers. Certain vegetables we are talking about—carrots, broccoli, whatever, celery, different things such as that—that kids could get free under this pilot program, it is not included in the Lugar proposal.

We also in our bill include a provision to strengthen nutrition education efforts in the Food Stamp Program. A lot of people in the Food Stamp Program use their food stamps and they buy Twinkies and potato chips and fat-filled kinds of food. It may not be very nutritious. We need more nutrition education in the Food Stamp Program. We include a provision to strengthen that. I do not believe that is in the Lugar proposal.

There is one other point I want to make, and that is in terms of whether or not people who are in certain programs, who rely on certain programs for noncash assistance, such as the Temporary Assistance to Needy Families—if you are getting child care and things such as that, if you are in that category, basically we are saying you should be eligible for the Food Stamp Program. You should not have to go back and qualify for this, qualify for that, and go through all the redtape. Senator LUGAR includes a provision that would have the effect of making people who rely on this noncash assistance ineligible for the Food Stamp Program. Again, a lot of times these people use the Food Stamp Program as a boost to help get back on the road to self-sufficiency.

Last year we worked to give States the option of liberalizing the food stamp vehicle. A number of States have already done this. They have changed their policies on the value of a car you can have. I wonder if it is going a bit far, as Senator LUGAR does, to require that all States exclude all vehicles from consideration in determining food stamp eligibility. We want to liberalize it. I think my State is way too low. When you have a State that says you can only have a car worth $3,500, these are the people who need transportation to go back and forth to work. That is the kind of car that breaks down all the time. These rules ought to be raised. Some States are much higher.

I stand to be corrected, but I think Utah, for example, is several thousand—maybe more than that—higher in an automobile. It just makes sense to allow a person to have a decent car that doesn't break down all the time.

Senator LUGAR says we will require all the States to exclude all vehicles, as I read the amendment. I could be corrected on that, but that is the way I read it. That is going a bit far. We ought to let the States rate the eligibility, but to require them to exclude all vehicles may be loosening it up too much.

The restoration of the immigrant benefits provision is very controversial to some people. We tried to take a targeted approach where benefits are restored to the most needy legal immigrants; that is, children, the disabled, refugees, asylum seekers. We say the kids who are of legal immigrants should not have to wait to get food stamps. Again, this is in line with our thinking that if you are a child, you ought to get nutrition because it saves on health care. We know that children who receive nutrition learn better. They will be better students. As far as kids go, we are saying: If you are a child of a legal immigrant, you should get food stamps now.

As I read the Lugar amendment, he says they have to wait 5 years—all immigrants who have been in the United States for at least 5 years. Under the committee-passed bill, we don't wait 5 years to restore benefits to children. We do it immediately, not 5 years from today.

Again, there are some significant differences between what Senator LUGAR is proposing and what we have done in the committee. It is true, I admit quite frankly, that Senator LUGAR puts more money into nutrition than we do. That is true. But I still will say that in terms of the program that most needy people rely on to meet their nutritional needs—that is, the Food Stamp Program—the most critical part of that is outreach, information, and support to people who are not now applying but who are eligible to get into the Food Stamp Program. That is what we do. That doesn't cost a lot of money. And if it does get people into the program, and they get food stamps, that is not counted. That is not counted on our ledger sheet.

I believe our bill actually will provide more nutritional support to people than the Lugar proposal, even though it doesn't show up on the balance sheet as such.

The other part is simply the fact that where Senator LUGAR is getting the money for this really does upset the balance we had in our commodity programs. I don't think this is the time to demolish farm commodity programs in order to adopt a wholly untested voucher system as a total replacement. That is the other side of this amendment. Farm programs are not perfect. I will be the first to admit it. But we cannot abandon the safety net at a time when it is obviously inadequate already.

What this amendment does is weaken help for all program crops—dairy, sugar, peanuts, everything—and it replaces it with a voucher program whereby a farmer can go out with a voucher and get crop insurance and can get insurance, not just for destruction of crops but for lack of income. It has been untested. We don't know if it would work.

This is something that probably ought to be done on a pilot program basis at some point, but not right now, a whole commodity program that we have structured. Quite frankly, I believe that on our committee we have a lot of expertise. We have Senators on both sides who have been involved in agriculture for a long time. We have former Governors on our committee. We have former Congressmen on our committee. We have people who have been on the agriculture committees of their State legislatures, of the House of Representatives, and now in the Senate. We have people with a lot of expertise in agriculture on our committee.

These are not people who just sort of off the cuff decide to do something in agriculture. These are people, Senators, such as the present occupant of the Chair, who think very deeply about what is best for their people and what is best for the commodities in their State.

The Senators know their commodities and the programs. So we hammered out and worked out compromises and a commodity structured program that will benefit all of agriculture in America. Again, it may not be perfect. I daresay I haven't seen a Government program yet that is perfect. But to throw it all out the window and to substitute this untested, untried voucher program when we have no basis to understand how it would ever work right now would cause chaos and disruption all over agricultural America.

On the nutrition side, I believe that our approach, the committee approach we have come out with is responsible, reasonable; it gets to the kids who need nutrition; and it has a good outreach program to make sure people who are not on food stamps understand it. On the other hand, on the commodity side, I believe our commodity program is well structured, sound, responsible, evenhanded all over America, and it is built upon programs and ideas that we know work. We know direct payments work. We know loan rates work. We know that conservation payments work. These things out there have been tested and tried and they work. Now is not the time to pull the rug out from underneath our farmers for an untested program.

For both of those reasons—on the commodity side and nutrition side—I respectfully oppose the Lugar amendment and urge all Senators to support the well-thought-out, responsible nutrition title that we brought out from the committee. It is good, solid, and it is something for which I think we can be proud.

With that, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I respectfully say to my distinguished colleague that the only well-thought-out aspect of the bill before us are thoughts as to how a Senator might be enticed by more money for particular crops for his or her State. It is a catchall bill. It really has no particular philosophy. One subsidy is piled on top of another.

That is my point. Somebody has to bring an end to this chaos. The chaos is not going to be joyous if continued as the Senator from Iowa pointed out. Sixty percent of farmers get nothing from this; they are not going to get a dime. I hope that understanding finally comes through to agricultural America. This bill is targeted at a very few farmers. Forty percent at least have a chance; but as a matter of fact, as we pointed out numerous times, half of the payments go to 8 percent of those farmers who have a chance. And very sharply, large percentages go to a very few that fall behind the top 8 percent. In fact, by the time you get to the top 20 percent, 80 percent of the money is gone, even for that segment that is getting something.

This bill has been a grab bag of trying to figure out how various Senators might be enticed into a coalition if a certain amount of money was promised, regardless of who it goes to—the size of the farmers and the problems of the farmers notwithstanding. I have tried to shake up the order and say that if we are going to distribute money, let us do so to all farmers, all States, all crops, all animals, as opposed to the very few that are clearly the targets of the bill that came out of the Agriculture Committee.

The chairman is right. We have been doing it this way for almost 70 years. With increasing overproduction, increasing reduction of prices, this bill stomps down prices. They have no chance to come up. I hope there will not be any speeches next year on why prices are at an alltime low. Of course, they are going to be low. If you stimulate overproduction, they will go down every time. We have been doing that consistently year after year. To suggest that chaos ensues because you try to bring an end to this seems to me not very logical.

I admit that it would be a total surprise to the country if all farmers shared, if all States shared—a remarkable surprise. I think it would be a good surprise, as a matter of fact. That is why I am suggesting what is admittedly a very large change. We are winding up the old and trying out a true safety net for all of us in agriculture.

Let me respond briefly on the nutrition side. The distinguished chairman has pointed out what he believes are deficiencies in my approach. Let me say that, at the bottom line, we may not provide as much information about how you get the benefits, and perhaps that is a deficiency, but we simply provide more food, more nutrition for millions more Americans. That is pretty fundamental.

The outlays in our bill are $4.1 billion, and the chairman's bill is $2.1 billion. That is twice as much food. In ours, the budget authority is 3.7 and his is 1.6—twice again. It is very hard to match the quantity of the service, the number of people being affected, by getting into the particulars.

Having said that, I am perfectly willing to work with the chairman, as he knows, to try to find whatever deficiencies we can meet, making certain that all Americans know of the possibility for whole meals. That is our intent, to have a very strong nutrition safety net with the assistance of almost every group in our society; they have been working at this longer than the chairman and I have.

I hope Members will vote for my amendment. I believe it is a significant change that will lead not only to less subsidization but to higher prices, higher real market values that come to farmers, with a safety net in the event there are weather disasters, trade disasters, and other things well beyond the ability of farmers to control.

I yield the floor.

Ms. CANTWELL. Mr. President, I rise today to discuss the Lugar amendment to the Farm bill before us and to express my strong support for the nutrition provisions included in the underlying bill as introduced by Senator HARKIN.

I want to make it clear that while I appreciate Senator LUGAR's investment in food stamps and food nutrition programs, I oppose the Lugar provisions on the commodity title because it undermines a crucial safety net for our Nation's farmers. These commodity assistance programs are vital to the competitiveness and survival of the U.S. farming base and the rural communities that depend on a healthy agricultural economy.

I applaud Senator LUGAR's attention to the need to expand the Food Stamp Program in this difficult economic time. The Food Stamp Program is one of the most effective and efficient ways we directly help low-income families, and the elderly and disabled. The language in Senator HARKIN's bill will make this important program more efficient and effective for those who rely on it most.

There is no doubt that the economy is weaker than it was at this time last year—or even this summer when we passed President Bush's tax cuts. In fact, the Congressional Budget Office, CBO, announced on Monday that the country has a $63 billion deficit in the first 2 months of the new fiscal year. CBO's report attributes most of the extra spending to increased Medicaid costs and unemployment benefit claims.

This does not surprise me, especially when one considers these indicators of the current state of Washington's economy: Unemployment rose a half-point in October to reach 6.6 percent in the State—the highest rate in the Nation; new claims filed for unemployment insurance claims rose 33 percent over the same month last year; we now have the highest number of initial unemployment insurance claims since 1981; and unfortunately, one of our strongest and most stable employers—Boeing—has announced that 14,000 of its workers in Washington State are going to be out of a job by next summer. This news is absolutely devastating for my State—according to the Seattle Chamber of Commerce, for every Boeing job lost the region loses another 1.7 jobs.

There is no doubt that our economy works best when people are working. But when people lose their jobs, they need help to manage their unemployment, train for new jobs, and make an easy transition to new careers. And this includes broad-based assistance to families, especially through the food stamp and other Federal nutrition programs. If families are hungry and not meeting their basic needs, they certainly cannot focus on the training they need to attain long-term stability and self-sufficiency.

I believe that strengthening the Food Stamp Program to assist low-wage workers and those recently out of work is a critical component of Congress's response to the weakening economy. Unfortunately, as the economy deteriorates many working families are joining the lines at local food banks. Just this week, the Seattle Times reported on the food shortages in our area food banks and the fact that so many families are now seeking assistance from the very food banks to which they once donated. In fact, food stamp participation in Washington State increased over the last 12 months by 8.2 percent. But I am particularly concerned about those who are eligible for food stamps but do not use them since we passed the 1996 welfare reform legislation, food stamp participation rate decreased 32.2 percent in Washington State.

Sadly, the percentage of households with children facing food insecurity—those who do not know where their next meal is coming from—is higher in Washington State than across the rest of the country. And food insecurity among emergency food recipients—those going to food banks, to emergency kitchens and shelters—is nearly 50 percent higher in Washington than the rest of the country. And this is despite the fact that over 315,000 people in the State of Washington participate in the Food Stamp Program, and 153,000 people participate in the Women, Infants, and Children, WIC, Program.

I strongly support the nutrition provisions in the underlying bill. In order to address the increasing need for food stamp and other Federal nutrition support, Senator HARKIN has increased mandatory food stamp spending by $6.2 billion over the next 10 years.

The Harkin Farm bill provides an extension for transitional food stamps for families moving from welfare to work; extension of benefits for adults without dependents; and increased funding for the employment and training program. The bill would allow households with children to set aside larger amounts of income before the food stamp benefits would begin to phase out.

Importantly, the bill simplifies the program for State administrators and participating families. Specifically, it simplifies income and resource counting, calculation of expenses for deductions, and determination of ongoing eligibility in the program. Together, these improvements will help both States and recipients because they lower burdens and increase coordination with other programs, such as Medicare, TANF, and child care, that the States administer.

I am particularly pleased that the bill restores food stamp benefits for all legal immigrant children and persons with disabilities. According to Census data, 27 percent of children in poverty live in immigrant families, 21 percent are citizen children of immigrant parents, and 6 percent are immigrants themselves.

Unfortunately, many citizen children of legal immigrants who remain eligible for the Food Stamp Program are not participating. Many of their families are confused about food stamp eligibility rules, and in some cases, the child's benefit is too small for the household to invest the effort to maintain eligibility. In fact, since 1994, over 1 million citizen children with immigrant parents have left the program despite remaining eligible.

After the Federal Government eliminated food stamp benefits for legal immigrants Washington State was the first State to put its own funds toward restoring food stamp eligibility for legal immigrants. The State Food Assistance Program uses State funds to support legal immigrants who were disqualified as a result of the 1996 welfare reform law. In fact, 11 percent of all food assistance clients in WA State are legal immigrants. This bill restores the Federal commitment to ensuring that legal immigrants have access to these important Federal programs.

When we passed President Bush's tax cut, I said that I believed the country is at a critical juncture in setting our fiscal priorities—deciding between maintaining our fiscal discipline and investing in the Nation's future education and health care needs, or cutting the very services used daily by our citizens. That statement is even more relevant today. Passing the food stamp expansions included in the Harkin Farm bill gives working families struggling to make ends meet the security they need in these uncertain times.

The PRESIDING OFFICER. Who yields time? If no one yields time, time is charged equally to both sides.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, my understanding is that I have a minute and a half, which is declining as time goes by equally charged to both sides. So as opposed to seeing all of that decline, let me say I am most hopeful we are going to have a strong vote for the Lugar amendment because I believe it is a good amendment for all Americans.

I stress that because sometimes in our zeal in these agricultural debates we are doing the very best we can for those in agricultural America, and that may be in many of our States as much as 2 percent of the population. But the rest of America also listens to this debate and wonders why there should be, as in the underlying bill, a transfer of $172 billion over the next 10 years from some Americans to a very few Americans—particularly, if 60 percent of the farmers don't participate at all and if it is narrowed to those who have very large farms. Most Americans, when confronted with that proposition, don't like it.

I am preaching today, I suppose, to the choir of all Americans and hoping that agricultural America also understands that if we are ever to have higher prices and market solutions on farms, we must get rid of the subsidies that are a part of the underlying bill. And I do that. At the same time, I provide assurance and a safety net which I believe is equitable to all farmers and likewise to all Americans who look into this and find at least some hope for farm legislation as we discuss the Lugar amendment. I ask for the support of my colleagues. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes.

Mr. HARKIN. Mr. President, the Senator from Indiana just mentioned in rebuttal to my remarks about how not all farmers are getting benefits under this farm program. He is right. I believe the committee bill begins to change that somewhat. We include a conservation title in our bill that was supported unanimously by the committee that will begin to direct some funds toward those farmers who have not been included in our farm programs in the past—our vegetable farmers, organic farmers, fruits, minor crops. Now they will be able to get benefits from farm programs if they practice responsible stewardship of the land, protect the soil, and protect the water.

Quite frankly, I believe this is going to be one of the best provisions for other areas of the country that have not participated before in our farm programs. That is in the committee bill. I know Senator LUGAR's amendment does not touch that, but I understand there is going to be an amendment offered by Senators COCHRAN and ROBERTS that will take that away.

I hope those who believe that we have to expand our reach and include more farmers in our farm programs will oppose that amendment because this is the one element that will go out to help those smaller farmers and the farmers who have not been in the major crops before.

We also have an energy title. That energy title is new in this bill. Again, the Lugar amendment does not touch that. I understand that. I am not talking about that. The Cochran-Roberts amendment will basically defund all that. That is another provision that can help a lot of our smaller farmers and others who have not been included in farm programs in the past.

I wanted to make the point we have taken strides to reach out in this bill to get farm program benefits to all regions of America.

Senator LUGAR also spoke about low prices and overproduction. The answer to low farm prices is not to idle half of America and to put all these farms out of business. That certainly should not be our answer. If you like imported oil, you will love imported food. That seems to be the answer. We will just shut down all the farms in America and buy our food from overseas. Good luck when that starts happening.

We need agriculture. We need food security for our own Nation. We need to find new markets, new outlets for the great productivity, the great production capacity of American agriculture. That is what we need—new markets.

Conservation is a marker. I believe energy is a new marker. Whatever we can make from a barrel of oil we can make from a bushel of soybeans or a bushel of corn or a bushel of wheat. Biomass energy, plastics, biodiesel, ethanol—think of the possibilities—pharmaceuticals. There are all kinds of items that come from our crops that we have not even tried. I believe that is what this bill also starts to do: find those new markets for the great productive capacity of America in agriculture.

The answer is not just to shut down half of America. That is not the answer at all. Think what that is going to do to our small towns, our rural communities, our families if we do that.

We have to keep the production going. We have to find new markets, and that is what we start to do in this bill.

I believe also we have met all of the objectives of the nutrition community. We met with them. They testified before our committee on more than one occasion. Quite frankly, we met basically their objectives.

I also point out when Senator LUGAR says he provides more money for food—maybe yes, maybe no. Really what the Lugar amendment does is it increases the standard deduction a little bit. There are some additional provisions for able-bodied adults without dependents, but most of the money that is in the Lugar amendment is in simplifying rules, in simplifying programs. We include some of those in ours, but he goes a little bit further.

I still believe the most important thing we can do is to provide the underpinning of nutrition, as we did in the committee bill, and then do more outreach to make sure people who are eligible for food stamps know they can get them and make it easier for them to apply for food stamps. We do that in our bill. That outreach, quite frankly, is not in the Lugar amendment.

I think it is arguable whether the Senator provides more food than we do. I believe I can make the case we actually would provide more food because we do more outreach and get more people involved in the Food Stamp Program. We provide better commodity purchases for our school lunch programs. I believe that is a wash. Keep in mind the Lugar amendment destroys all our commodity programs, and we are not going to do that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. I understand all time has expired. I move to table the Lugar amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 70, nays 30, as follows:

[Rollcall Vote No. 363 Leg.]

YEAS—70

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Byrd
Cantwell
Carnahan
Carper
Cleland
Clinton
Cochran
Conrad
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham
Gramm
Grassley
Harkin
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stabenow
Torricelli
Warner
Wellstone
Wyden

NAYS—30

Allard
Bennett
Bunning
Burns
Campbell
Chafee
Collins
Corzine
Domenici
Ensign
Enzi
Frist
Gregg
Hagel
Hatch
Kennedy
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Reed
Smith (NH)
Stevens
Thomas
Thompson
Thurmond
Voinovich

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, we are making progress on the farm bill. We have a couple of big amendments that were very thoroughly debated and voted on. We are ready to move ahead with other amendments. We are ready to move on. If other Senators have amendments, we are open for business. We hope people will come forward. We have maybe some reasonable time limits. On the Lugar amendment we had a decent time limit. We debated it thoroughly.

It is vitally important that we finish this farm bill and that we do it expeditiously. I do not know exactly when we are going to go home for Christmas. This farm bill needs to be finished. We need to finish it expeditiously. The House passed their bill, and we need to pass ours and go to conference.

We can finish this bill today. I see no reason we can't finish it today if we have some healthy debate on a couple more amendments. I know Senators COCHRAN and ROBERTS have an amendment they want to offer, which is a major amendment. We could debate that today and have a vote on that today. There are perhaps other amendments. I haven't seen any, but I have heard about some. I think we could move through this bill today and get it finished and go to conference.

I urge all Senators who have amendments to come to the floor.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. HARKIN. I am delighted to yield to my friend from North Dakota for a question.

Mr. DORGAN. Mr. President, I certainly share the Senator's interest in trying to conclude this farm bill or consideration of the farm bill. I am wondering, is there any opportunity at some point today to attempt to get a list of those who have amendments who wish to offer them on this legislation?

Mr. HARKIN. I think the Senator has made a good suggestion and a good inquiry. I hope that at sometime today, with the leaders of both sides, we can have a finite list of amendments, that we can agree on those, and move ahead, because if we do not, we will just be here day after day after day after day, and, as the Senator well knows from his experience here, this could go on indefinitely.

So we do need to get a finite list. I hope we can get that done, I say to my friend.

Mr. DORGAN. If the Senator will yield further, I know it is certainly the goal of the Senator from Iowa to get a bill through the Senate, have a conference, and then get it on the President's desk for signature before we conclude this session of Congress. While I know that is ambitious, it certainly is achievable. I think we have the opportunity to finish this bill today or tomorrow. I know the chairman of the House Agriculture Committee is very anxious to go to conference.

Is the Senator aware that the chairman of the House committee has indicated he is very anxious to begin a conference, which suggests if we can get a bill completed through the Senate, and get it to conference, we will be able to perhaps get it out of conference and on to the White House?

Mr. HARKIN. I say to my friend from North Dakota, I think it is definitely possible we can get this done. I know that Congressman COMBEST and Congressman STENHOLM, the two leaders of the Agriculture Committee on the House side, are anxious to get to conference. They have basically looked over what we have here, and we have looked over what they have in their bill. Really, I do not think the conference would take that long. But we just have to get it out of the Senate.

Mr. DORGAN. One final question, if I might. I suspect the Senator from Iowa has been asked a dozen times now, before 11 o'clock, when we are going to finish this session of Congress or when we are going to finish this bill. I think everyone around here kind of wants to know when this session of Congress might end.

That makes it all the more urgent we finish our work on this bill because this bill, the stimulus, Defense appropriations, and a couple of others need to be completed. I appreciate the work of the Senator from Iowa and the Senator from Indiana. And I know the Senator from Mississippi is going to have an amendment.

I really hope we can have a good debate on important farm policy and then proceed along and see if we can get this bill into conference in the next 24, 48 hours. I appreciate the work of the Senator from Iowa and the Senator from Indiana.

Mr. HARKIN. I thank the Senator from North Dakota.

Seeing the Senator from Minnesota, who wants to speak, I yield the floor.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Minnesota.

Mr. BYRD. Will the Senator yield?

Mr. DAYTON. Sure.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, while the leader is on the floor and while Mr. BAUCUS is on the floor, will the Senator yield to me for 5 minutes?

Mr. DAYTON. I yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAST TRACK

Mr. BYRD. Has the Finance Committee reported out the fast track?

Mr. BAUCUS. No.

Mr. BYRD. Is it going to today?

Mr. BAUCUS. Yes.

Mr. BYRD. When?

Mr. BAUCUS. In about an hour.

Mr. BYRD. Does the committee have permission to meet?

Mr. BAUCUS. I don't know.

Mr. HARKIN. No.

Mr. BYRD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, for the information of the Senate, what is the rule with respect to the meeting of committees during the operation of the Senate while the Senate is in session?

The PRESIDING OFFICER. When the Senate is in session, the committees may meet for 2 hours, but not beyond that, and not beyond 2 p.m.

Mr. BYRD. As of today, when would that time expire?

The PRESIDING OFFICER. At 11:30.

Mr. BYRD. At 11:30.

The PRESIDING OFFICER. At 11:30 a.m.

Mr. BYRD. So the committee may not meet after 11:30 without the permission of the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I put the Senate on notice I will object to that committee meeting after 11:30 today while the Senate is in session.

Mr. President, along that line, may I say I have asked the chairman of the Finance Committee to give some of those of us who are opposed to fast track an opportunity to appear before the committee. I am not on the Finance Committee. I would like to have an opportunity to appear before that committee and speak against fast track. That is all I am asking.

I made that personal request of the chairman of the committee yesterday, and he said: Well, I could appear before the committee after it had acted on fast track, after it had marked up the bill.

Well, there is no point in my appearing before the committee after it has marked up the bill. That is a really silly suggestion, if I might say so: I will make my impassioned plea to the committee after the committee has met and marked up the bill. Why should I go appear before the committee after that committee has marked up the bill? What a silly proposition.

Mr. President, there are those of us—there are a few around here—who object to fast track. And I am sorry the distinguished chairman of that committee said no.

Now, as chairman of the Appropriations Committee, I don't think I would say that to any Senator. I would not say it to a Republican Senator; I would not say it to a Democratic Senator. The very idea, on a matter as important as fast track to discuss around here—I am just disappointed a Senator would get that kind of a brushoff.

Now understand, I went to the distinguished chairman yesterday and asked him if he would mind putting that matter off and allow some of us—or a few of us; I know one Senator who is against fast track—to allow us to appear before the committee. And I got kind of a brushoff, I would say. Well, all I could say was I was disappointed. I am still disappointed.

Let me read a section of the Constitution to Senators. Section 7 of article I, paragraph 1:

> All Bills for raising Revenue shall originate in the House of Representatives; but——

Get this——

> but——

Mr. President, may we have order in the rear of the Senate.

The PRESIDING OFFICER. The Senate will come to order, please.

Mr. BYRD. So I come to the conjunction "but"—paragraph 1, section 7, article I, of the U.S. Constitution. Here is what it says:

> but the Senate may propose or concur with Amendments as on other Bills.

Now, we all know that when fast track is brought to the Senate, Senators may not propose amendments. In my way of reading the Constitution, that is not in accordance with what the Constitution says. What did the Framers mean? It is obvious that they meant the Senate could amend on any bill.

Let me read the whole section again, the whole paragraph, section 7:

> All Bills for raising Revenue shall originate in the House of Representatives; but——

B-U-T——

> the Senate may propose or concur with Amendments as on other Bills.

It doesn't say it "shall." The Senate may not want to offer any amendments, but it "may."

But now we come along with this so-called trade promotion authority. Ha, what a misnomer that is. And that is plain old fast track. And a lot of Senators and House Members are going to go to their oblivion on fast track if the people back home ever wake up to what is going on.

> . . . but the Senate may propose or concur with Amendments as on other Bills.

It doesn't say "on some other Bills" or "on certain other Bills." It says "as on other Bills."

It seems to me the Senate has a right to amend. And I know there are some of us who sought to appear before the Supreme Court on the subject of the line-item veto, and the Supreme Court ruled that we do not qualify because we personally were not injured by the line-item veto. But on a case which was later brought by parties that did qualify as having been injured, the Supreme Court ruled the line-item veto was unconstitutional.

I wonder what the Supreme Court would say about fast track, especially in light of this constitutional provision. I am here to raise that question. If the committee can complete its business before 11:30, that will be in accordance with the rules. But if it doesn't, I hope somebody on that committee will make the point that the committee does not have permission to meet. I would object to any request made for that today.

I thank the distinguished Senator for yielding.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank the distinguished Senator from West Virginia for raising a very important issue at this time. I ask unanimous consent that I may be permitted to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Will the Senator yield briefly for a unanimous consent request?

Mr. DAYTON. I will yield while retaining my right to the floor.

Mr. BIDEN. I ask unanimous consent that at the cessation of the Senator's 15 minutes I be recognized to proceed for up to 15 minutes as in morning business, unless the managers of the bill have some business relating to the bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, we should give the Republicans, if they wish, 15 minutes in morning business following the Senator from Delaware.

The PRESIDING OFFICER. Is there objection to the request as amended by the Senator from Nevada?

Without objection, it is so ordered.

The Senator from Minnesota.

ECONOMIC STIMULUS

Mr. DAYTON. Mr. President, much has been said during the last weeks, regarding the negotiations between the Senate and the House over economic stimulus legislation. Most recently, the rhetoric of House Republican leaders and even a couple of our Senate colleagues has become heated and even vitriolic. Some of their comments about our majority leader would be expected from a bunch of adolescents in a junior high school locker-room. They reflect much more on those who utter them than on the person about whom they are intended.

The House Republican leadership also seems unduly preoccupied with the process our Senate Democratic Caucus reportedly might use to consider this proposed legislation. I really don't see how that is any of their concern. What they should be concerned about, instead, is how their proposals will affect our national economy and the citizens of our country.

If people are wondering why we Senate Democrats are being so resolute, they should look at what the House Republicans are trying to foist upon us. Remember that their package was called "show business" by the Secretary of the Treasury. And that's the nicest thing one could say about it! It is a huge bundle of holiday goodies to the people who need them the very least: the wealthiest Americans and the largest corporations.

Much of the House bill has nothing to do with providing an economic stimulus. Rather, it is a massive giveaway of taxpayer dollars. Take their proposal to repeal the corporate alternative minimum tax. That is a provision which requires profitable businesses, with numerous deductions, to pay a minimum amount of corporate taxes. Without it, they would pay little or even nothing.

But the House Republicans did not only repeal this tax, they also made it retroactive to 1985, and they would immediately refund all the money companies paid under this provision during the last 15 years.

According to the Wall Street Journal, that would result in a lump sum payment of $2.3 billion to the Ford Motor Company; $1.4 billion to IBM; $671 million to General Electric; $608 million to Texas Utilities Company; $572 million to Chevron Texaco; $254 million to Enron—in total, $25.4 billion of corporate payouts.

It is bad enough that these huge checks come from the U.S. Treasury, from the taxes paid by working Americans. What is even worse is that they would actually come out of the Social Security Trust Fund's surplus. That is because the surpluses in the other funds—in the Federal general fund and in the Medicare Fund—have already been wiped out by last spring's excessive tax cut and by the current recession. Now the House Republicans want to use the only surplus left: in the Social Security Trust Fund, to give these huge cash payments to mostly profitable corporations, and masquerade them as economic stimulus. Minnesota's largest newspaper, the Star-Tribune, in an editorial, called the House stimulus package, ". . . a brazen giveaway to affluent corporations." The Star-Tribune went on to say,

> Senate Republicans vowed to do better—and they introduced an economic stimulus package that is a brazen giveaway to affluent individuals.
>
> What the two packages have in common, apart from appeasing narrow constituencies, is that they have turned fiscal stimulus inside out. They would do almost nothing to help the ailing economy today, but would continue to drain away Federal tax revenues for years to come, long after the economy has recovered.
>
> To their credit, Senate Republicans rejected most of the corporate tax breaks that somehow found their way into the House fiscal package. Those provisions are so arcane and so irrelevant to the economy's current plight, that they could only have been written by corporate lobbyists.
>
> But the Senate GOP approach has an entirely different set of flaws. Its main tactic is to accelerate a series of rate cuts in the individual income tax, cuts that were supposed to phase in during the next several years. Because these rate reductions go exclusively to upper-bracket taxpayers, the Center on Budget and Policy Priorities estimates that 55 percent of the tax relief would go to the top one percent of households. That is bad stimulus policy, because such households, already spending at high levels, tend to save more new money than they spend. It is also disastrous fiscal policy, because three-quarters of the tax cuts would take place after 2002, making Washington's long-term budget outlook even worse than it is today."

The Senate Republicans' proposal, which is also the President's proposal, would give $500,000 over 4 years to families making $5 million a year. And that figure illustrates another unwise feature of their plan. It's not just a one-time, economic stimulus, it gives continuing tax reductions to the wealthiest Americans, even after an economic recovery is underway.

The Republicans' insistence on these egregious proposals is why we don't have an economic stimulus bill today. I want to thank—and I believe the American people will thank—our Majority Leader, Senator DASCHLE, and our two principal Democratic negotiators, Senator BAUCUS and Senator ROCKEFELLER, for standing strongly against these giveaways, and for insisting on a bill that will provide a real, immediate economic stimulus. Our Democratic stimulus bill will direct money to working Americans, to people who have lost their jobs during this recession, and to businesses specifically for reinvestments in our economic recovery.

As the negotiations continue, I am hopeful that leaders in both Houses, from both parties, will retain those principles.

I am approaching the end of my first year of service in the U.S. Senate. I remain extraordinarily grateful to the people of Minnesota for giving me this opportunity. It has been a remarkable year for me, and for all of us. I have developed an enormous respect for the Senate, as an institution, and for many of its Members.

Yet, this economic stimulus debate reminds me of what I most disliked about Washington before I arrived here, and what I have seen too much of while I have been here. It is the national interest being subverted by special interests; subverted by the special interests of the most affluent people and the most powerful corporations in America, by the individuals and institutions who already have the most and want more and more and more.

When I arrived here a year ago, we were looking at optimistic forecasts of Federal budget surpluses totaling trillions of dollars during the coming decade. What a wonderful opportunity, I thought we all would have to put this money to work for America by improving our Nation's schools, highways, sewer and water systems, and other infrastructure.

What an opportunity for all of us to work together and fulfill a 25-year broken promise that the Federal government would pay for 40 percent of the costs of special education in schools throughout this country. What a tremendous accomplishment in which we could all share: provide better educations and lifetime opportunities to thousands of children with disabilities; allow school boards and educators to restore funding for regular school programs and services, so that all students would receive better educations; and reduce the local property tax burdens of taxpayers to make up for this broken Federal promise.

I thought another of our top priorities would be a prescription drug program, to help our nation's senior citizens and people with severe disabilities afford the rising costs of their prescription medicines. During my campaign last year, I listened to so many heartbreaking stories of suffering and despair by elderly men and women—the most vulnerable, aged, and impoverished among us. They are good people, who have worked hard and been upstanding citizens throughout their lives. Yet, their retirement years are now being ravaged by the effects of these escalating drug prices on their fixed and limited incomes. Many seniors have cried as they told me their stories. Some have even told me they prayed to die rather than to continue to live in such desperation.

The budget resolution we passed last spring provided $300 billion to fund a prescription drug program to help relieve these terrible financial burdens and to lift these good and deserving people out of their black despair. Yet, not one piece of legislation to accomplish this purpose has made it to this Senate floor this year. Not one.

Now, we're told, these anticipated budget surpluses have disappeared. There won't be enough money to fully fund special education. There won't be enough money for a prescription drug program.

Yet, there was enough money last spring to fund a $1.3 trillion tax cut—40 percent of whose benefits will go to the wealthiest one percent of Americans. Not enough for schoolchildren and the elderly. Over $5 billion to millionaires and billionaires.

And now they are at it again. Those in Congress who championed last spring's huge tax giveaway are proposing another one under the guise of an economic stimulus. And at the very same time, House Republicans on the Education Conference Committee have rejected the Senate's proposal to increase funding for special education to its promised 40 percent.

They claim the entire IDEA program must first be reformed. Yet, a few weeks ago in the House, they passed an energy bill, giving over $30 billion in additional tax breaks to energy companies and utilities. They didn't require any reform from them. The administration hadn't even requested these tax breaks—but the House Republicans just gave them to the big energy companies and utilities anyway.

There always seems to be enough money around here for the rich and the powerful, be they people, corporations, or other special interests. But there's no money for special education funding for children or for prescription drug coverage for seniors.

It's very hard for me to understand how 535 Members of Congress, who were elected to represent the best interests of all the American people, could have produced this result. It's very hard for me to explain it to the schoolchildren, parents, educators, and senior citizens I see back in Minnesota. And it's, thus, very, very hard for me to witness yet more of the same going into this so-called economic stimulus legislation.

We should pass a good economic stimulus package. It would benefit our country. But we would better do nothing than to pass another shameful example of greed and avarice once again.

I yield the floor.

Mr. BIDEN. Mr. President, parliamentary inquiry: Am I able to proceed for 15 minutes as in morning business?

The PRESIDING OFFICER. Under the previous unanimous consent, the Senator may proceed for 15 minutes.

DEFEATING AND PREVENTING TERRORISM TAKES MORE THAN MISSILE DEFENSE

Mr. BIDEN. Mr. President, I rise this morning to speak to a decision that I am told and have read is about to be made by the President—a very significant decision and, I think, an incredibly dangerous one—to serve notice that the United States of America is going to withdraw from the ABM Treaty.

Under the treaty, as you know, a President is able to give notice 6 months in advance of the intention to withdraw.

Mr. President, we live in tumultuous times. The transition from the old cold war alignments to new patterns of conflict and cooperation is picking up speed. This transition is not quiet, but noisy and violent. For 3 months now, it has been propelled by a new war.

In the modern world, high technology and rapid communications and transportation put our own country and our own people on the front lines of that war. We are on the cutting edge of revolutionary developments in everything from medicine to military affairs.

We are also on the receiving end of everything from anthrax to the attacks of September 11—and we will remain vulnerable in the years to come. The question is: how vulnerable?

How shall we deal with this accelerated and violent transition? How well is the Administration dealing with it?

And is their primary answer—withdrawing from ABM and building a star wars system—at all responsive to our vulnerabilities?

We can find some answers in both the experience of the last 3 months and the President's speech yesterday at the Citadel.

Wars are chaotic events, but they impose a discipline upon us.

We must focus on the highest-priority challenges.

We must use our resources wisely, rather than trying to satisfy every whim.

We must seek out and work with allies, rather than pretending that we can be utterly self-reliant.

How well have we done? In the short run, very well indeed.

Our people and institutions rose to the occasion on September 11 and in the weeks that followed.

We took care, and continue to take care, of our victims and their families.

We resolved to rebuild.

We brought force to bear in Afghanistan, and used diplomacy in neighboring states and among local factions, to prevail.

We have also gained vital support from countries around the world, although we have been slow to involve them on the ground. We have shared intelligence and gained important law enforcement actions in Europe in the Middle East, and in Asia.

We have begun to take action to combat bioterrorism. At home, we have learned some lessons the hard way and we have accepted the need to do more. We are stepping up vaccine production.

But we have yet to take the major actions that are needed to improve our public health capabilities at home—or our disease surveillance capabilities overseas, to give us advance notice of epidemics or potential biological weapons.

Neither have we moved decisively to find new, useful careers for the thousands of biological warfare specialists in Russia who might otherwise sell their goods their technology or their capabilities to Iran or Iraq, to Libya, or to well-funded terrorists.

This is no longer a matter for just those of us who have intelligence briefings to know—and we have known this for a long time. Now the world knows that rogue states and terrorists have, in fact, attempted to buy nuclear weapons, biological weapons, and chemical weapons.

The President recognizes the problem of bioterrorism, and listed it in his speech yesterday. At the Crawford summit, President Putin and he promised more cooperation to combat bioterrorism. So far, however, there has been a great deal more talk than action. Al-Qaida's eager quest for weapons of mass destruction has, in my view, highlighted and brought home to every American the importance of nonproliferation, of closing down the candy store, so to speak, where all these radical wackos go to shop.

The President understands this. In his speech yesterday, after talking about the need to modernize our military, he said:

> America's next priority to prevent mass terror is to protect against proliferation of weapons of mass destruction and the means to deliver them. . . .
>
> Working with other countries, we will strengthen nonproliferation treaties and toughen export controls. Together we must keep the world's most dangerous technology out of the hands of the world's most dangerous people.

That is correct and well-phrased rhetoric. It gives nonproliferation a high priority. It recognizes the importance of international treaties. But where, Mr. President, are the actions to match that rhetoric? The President offers only a new effort "to develop a comprehensive strategy on proliferation," something he has been promising for over a year.

Meanwhile, just last week, the United States of America singlehandedly brought to an abrupt and confusing halt the Biological Weapons Convention Review Conference that is held every 5 years. Why? Because the administration was determined not to allow any forum for the negotiation of an agreement to strengthen that convention.

This was diplomacy as provocation, in my view, and it was and is a self-defeating approach. It undermined our efforts to achieve agreement on proposals we made earlier in the conference, such as to address the need for countries to enact legislation making Biological Weapons Convention violations a crime. We asked that it be made a crime to violate the convention. We proposed that, but then we shut down the conference, killing even our own proposal, because we did not want any further discussion or a possible new agreement.

The President may understand the need to work with other countries, but some people under his authority do not seem to get it. For that matter, where are the actions to promote nonproliferation across the board?

The White House review of our programs in the former Soviet Union has been limping along for over 10 months. But when the fiscal year 2002 budget was presented, we were told the funds for Nunn-Lugar were being reduced. Those are the funds we use to send American personnel to Russia to dismantle their nuclear weapons delivery systems their strategic bombers and missiles.

We were told that the cut was not permanent, that the reason was they were reviewing whether or not the money was being well spent. While they are reviewing, those nuclear-tipped missiles sit there, and the inability of the Russians to dismantle them because of lack of money or capability still exists. Thus, we got promises of new efforts, but in the fiscal year 2002 budget there is actually a cut in these programs. The Department of Defense has left so many funds unspent that the appropriators tried to cut the Nunn-Lugar program just to get the Pentagon's attention.

Nonproliferation is, thus, our No. 2 priority, but the engine is still in first gear. The same is true of our supposed top priority: modernizing our military. The vaunted rethinking process in the Defense Department has yet to produce much that is new, and the fine performance of our forces in Afghanistan owes more to strategy and equipment developed in the Gulf War and the "revolution in military affairs" of the last decade than it does to anything new this year.

If you want action with your rhetoric, go down to the No. 3 priority in the President's speech: missile defense. Even there, however, the action is more diplomatic, or rather undiplomatic. If news reports are correct—and I know they are, based on my conversation today with the Secretary of State—the President will shortly announce his intention to withdraw in 6 months' time from the Anti-Ballistic Missile Treaty of 1972.

Russia will not like that. Some here will say: So what? What does it matter what Russia likes or does not like? But none of our allies likes it either. And China, I predict, will respond with an arms buildup, increasing tensions in South Asia, causing India and Pakistan to reconsider whether to increase their nuclear capability and, as strong as it sounds, in the near term—meaning in the next several years—this will cause the Japanese to begin a debate about whether or not they should be a nuclear power in an increasingly dangerous neighborhood. All of that is against our national interest.

But the President will invoke Article XV of the ABM Treaty, which allows a party to withdraw "if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interest." In my view, invoking this clause is a bit of a stretch, to say the least. No new enemy has fielded an ICBM missile, which is the only missile our national missile defense is intended to stop. Tactical missile defense is not barred by the ABM Treaty, and Russia has said it would even amend the treaty to permit an expanded United States testing program. So where is the jeopardy to our supreme interest?

The administration has said it wants to conduct tests that would breach the ABM Treaty, but the head of the Ballistic Missile Defense Organization in the Pentagon told Congress earlier this year that no breach was needed to do all the tests that were needed and scheduled.

Informed scientists say the features added to the test program that might breach the treaty, which the Defense Department presented to the Armed Services Committee several months ago, are far from necessary, especially at this time. Phil Coyle, the former chief of testing for the Pentagon, says we can conduct several years of needed testing without having to breach the treaty's terms.

The administration wants to build an Alaska test bed with several missile silos at Fort Greely that it says could be used for an emergency deployment. But the new interceptor missile for the missile defense will not be ready yet. The so-called "kill vehicle," the thing that separates from the interceptor missile and hits the incoming warhead, will not have been tested against realistic targets yet. And the radars supporting this system, the battle management capabilities, are pointed at Russia, so they will not even see a North Korean missile as it flies into southern California, following the scenario cited by those who try to justify building a limited missile defense system.

So where is the real action on missile defense? Is the announcement of our intent to withdraw from the ABM Treaty a real action, or is it a White House Christmas present for the right wing, who dislike arms control under any circumstances and see this season of success in Afghanistan, unity on foreign policy, and Christmas as a propitious moment to make this announcement?

Is now the time for unilateral moves—now, while we are still building coalitions for a changed world in which old enemies can reduce their differences, at a minimum on the margins, and maybe even work together out of their own self-interest?

We are in a time of great risk. But there is also great opportunity. Despite the horrors visited upon us on September 11, the truth is we were attacked by the weakest of enemies. Al-Qaida is a group that no civilized state can tolerate. It was sheltered by a regime with almost no international legitimacy and little support, even in its own land. Its goals and methods were so extreme as to be an object lesson to the world on why we must oppose all international terrorism. Many of its members and supporters, lacking in Afghanistan the popular support that in other wars have enabled guerillas to blend into the landscape, were left to fight an armed conflict in which our side could readily prevail, as we have done.

Meanwhile, the vast majority of countries, including some longtime adversaries, have lined on up on our side. Their cooperation has been and will remain important in our war effort, in the war against terrorism. The war has also opened doors that have been shut for many years. Opportunities have expanded for cooperation on issues of mutual concern. As the President said yesterday at the Citadel:

> All at once, a new threat to civilization is erasing old lines of rivalry and resentment between nations. Russia and America are building a new cooperative relationship.

We must seize the opportunity that this war has afforded us. Clausewitz long ago explained that triumph in war lies not so much in winning battles, but in following up on your victories. The same is true in the broader arena of international politics. We must follow up on the cooperation of the moment and turn it into a realignment of forces for decades to come—so that our grandchildren and great-grandchildren can look back on the 21st century and say that it did not replicate the carnage of the 20th century.

How many Presidents get that opportunity? How many times does a nation have that potential?

Withdrawal from the ABM Treaty will not make nonproliferation, which should be our highest priority and which combats our clearest danger, any easier to achieve. I find that especially worrisome.

A year ago we were on the verge of a deal with North Korea to end that country's long-range ballistic missile program and its sales of missiles and missile technology. Now we seem far away from such a deal, pursuing instead a missile defense that will be lucky to defend against a first-generation attack, let alone one with simple countermeasures, until the year 2010 or much later. What good will a missile defense in Alaska do, if North Korea threatens Japan or sells to countries that would attack our allies in Europe, or sells to terrorist groups that would put a nuclear weapon in the hull of a rusty tanker coming up the Delaware River or into New York Harbor or San Francisco Bay? How does withdrawal from the ABM Treaty help defend against those much more realistic, near-term threats?

What expenditures of money are we going to engage in? How are we going to deal with what Senator Baker, our Ambassador to Japan and former Republican leader, said is the single most urgent unmet threat that America faces, made real by the knowledge that al-Qaida was trying to purchase a nuclear capability?

We must corral the fissile material and nuclear material in Russia as well as their chemical weapons. The Baker-Cutler report laid out clearly for us a specific program that would cost $30 billion over the next 8 to 10 years, to shut down one department—the nuclear department—of the candy store that everyone is shopping in.

Senator LUGAR actually went to a facility with the Russian military that housed chemical weapons. He describes it as a clapboard building with windows and a padlock on the door, although its security has been improved with our help. He could fit three Howitzer shells in his briefcase. Those shells could do incredible damage to America.

How does withdrawal from the ABM Treaty defend against any of that? Which is more likely—an ICBM attack from a nation that does not now possess the capability, with a return address on it, knowing that certain annihilation would follow if one engaged in the attack; or the proliferation of weapons of mass destruction technology and weaponry, so it can be used surreptitiously?

If you walk away from a treaty with Russia, will that make Russia more inclined to stop its assistance to the Iranian missile program? Or will Russia be more attempted to continue that assistance? Russia has now stated, in a change from what they implied would happen after Crawford, that expansion of NATO, particularly to include the Baltic States, is not something they can likely tolerate—not that we should let that influence our decisions on NATO enlargement. Which do we gain more by—expanding NATO to the Baltic States, or scuttling the ABM Treaty with no immediate promises of gaining a real ability to protect against any of our genuine and immediate threats? If we end the ABM Treaty, will Russia stop nuclear deals of the sort that led us to sanction Russian institutions, or will it cozy up to Iran's illegal nuclear weapons program?

The President made nonproliferation the No. 2 priority yesterday and missile defense No. 3. I truly fear, however, that his impending actions on that third priority will torpedo his actions on his No. 2 priority. If that should occur, we and our allies will surely be the losers.

So far, the administration's conduct in the war on terrorism has shown discipline, perseverance, the ability to forge international consensus, and the flexibility to assume roles in the Middle East and in Afghanistan that the administration had hoped it could avoid. In this regard, the American people have been well served, and I compliment the President.

The war is only 3 months old, however, and the new patterns of cooperation and support are young and fragile. We should nourish them and build on them. This is not the time to throw brickbats in Geneva or to thumb our noses at treaties.

We read in Ecclesiastes: A time to tear down and a time to build up. In Afghanistan and elsewhere, we are rightfully and wonderfully tearing down the Taliban and al-Qaida. But if our victories are to be lasting and give lasting benefit, we must simultaneously build up the structures of international cooperation and nonproliferation. The opportunities afforded by a war will not last forever. Today the doors to international cooperation and American leadership are wide open. But if we slam them shut too often, we will lose our chance to restructure the world and we will be condemned to repeat the experience of the last century, rather than move beyond it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2002—Continued

Mr. REID. Mr. President, we have been on this bill now—we started Monday with debate. We had good amendments offered yesterday, with full discussion. Today we have had a vote on Senator LUGAR's bill, which was in the form of an amendment.

I hope during the next few hours we can have other amendments offered. We are arriving at a point—staff has drawn up a unanimous consent request that I, at a later time, will propound to the Senate. That will be that there be a finite list of amendments so we know the universe from which we are working.

On our side, I say to my friend from Indiana, it appears we have just a few amendments, a very few. Maybe some of those won't even require a vote.

I have been told by various people on the minority side that they have some amendments to offer. I saw here, a minute ago, my friend from New Hampshire. He usually offers a sugar amendment. That is what he might be doing today.

In short, in the not too distant future I will seek approval by unanimous consent agreement to have a time for a finite list of amendments, and then, of course, after that we will ask that there be a cutoff period for the filing of amendments. So I will just put everyone on alert that is what we are going to do. I hope we can move this legislation along.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I have listened to the Democratic assistant leader, the whip. I appreciate the sense of urgency of moving this legislation at this late hour.

We are dealing with a 5-year agricultural policy for our Nation. There is no question that it is critical and necessary that we deal with it. He and others have chosen to bring it before this body in the final hours of what should be a week toward recess or adjournment, awaiting the next session. I had hoped this would not be the case, but it is.

I would truly appreciate—and I think American agriculture would appreciate—a full debate. We have had that on the bill of the ranking member, Senator LUGAR—his alternative. It was important because it is a clear point of view that needs to be—must be—debated. We will have other alternatives up. I think the Cochran-Roberts alternative provision to the Harkin bill expresses clearly a balanced approach toward a 5-year agricultural policy.

The Senator from Nevada has within the Harkin bill a provision that, for western Senators and arid Western States, is an issue that is an anathema to western water law and the rights of States to determine the destiny of their own water. I and others will want to engage the Senator from Nevada on that issue. That could take some time.

I know of a good number of amendments that I think will be coming. The Senator from New Hampshire is now on the floor to offer an amendment in relation to the sugar program that is both within the Harkin provision and in the Cochran-Roberts provision. That, again, is another important issue for many of the Western States and many of the Southern States. My guess is it will deserve a reasonable and right amount of debate. In my State of Idaho, hundreds of farmers will be impacted, depending upon the success or failure of this amendment.

What I am trying to suggest to the Senator from Nevada is that even at a late hour and this rush to get things done, you don't craft 5-year policy in a day or in a few days. You do a year's policy, oftentimes, because we know we will come back to revisit it again and again every year.

We hope that when we are through here, our work product will be conferenced with the House and with the Secretary of Agriculture and this administration in a way that will establish a clear set of directions for production agriculture in this country. We know that production agriculture over the last good number of years has suffered mightily, under a situation of at or below break-even costs for commodities, for all kinds of reasons.

The chairman of the Agriculture Committee is trying to remedy that in his bill. The ranking member has offered an alternative, and others will offer alternatives that have to be debated. I cannot, nor will I, support a rush to judgment.

Agriculture policy for my State is critical to the well-being of the No. 1 feature of Idaho's economy, and we cannot decide simply, on the eve of Christmas, in an effort to get things done quickly, that we debate something that does not expire until next September.

While I think we have adequate time this week to do so, and maybe next week, to address other issues—because it appears we will be here for some time—then we must do it thoroughly and appropriately. I hope the Senator will not push us to try to get us to a point of collapsing this into just a few more hours of debate. It is much too important to do so.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Nevada is recognized.

Mr. REID. I say briefly to my friend from Idaho, the Senator answered his own question—certainly mine. There is a lot to do on this bill. I acknowledge that. But we completed our last vote before 11 o'clock today. For the last hour, we have basically listened to people talking about the stimulus bill and the antiballistic missile treaty. The reason they have been talking about those things is there is nothing happening on the farm bill.

If we have these important issues—for example, everyone is familiar with the Cochran-Roberts legislation—let's get them here and get them voted on.

I am happy to see my friend from New Hampshire here. The distinguished Senator has always had a real issue with how sugar is handled. Good, he is here. Let's debate this and vote on it.

I hope, with other matters raised by the Senator from Idaho, people will come forward and do that, that we not have a slow walking of these amendments. We are not trying to rush anyone into anything. But we are saying when there is downtime here when people are not doing anything relating to the farm bill, it is not helping the cause. That is why I think no matter how many amendments there are, there should be a time for filing those amendments.

We are arriving at a point where I am going to ask consent to have a finite list of amendments, and we are going to see if they will agree to have a cutoff time for filing amendments. If that is not the case, then other action will have to be taken.

This legislation is important to America. We are doing everything we can to move it as expeditiously as possible. It is unfortunate that we are working under time constraints. That is how it works in the Senate. We are always busy. There is always something coming up, this holiday or that holiday. The fact is, the farming community of America is more concerned about getting this legislation done than when we go home.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I come to the floor to offer an amendment on behalf of myself, Senator LUGAR, and Senator MCCAIN, cosponsors of the amendment. This amendment deals with what has been a fairly well-debated and discussed issue in our farm policy; that is, how we price sugar in this country. The sugar program in this country has been, in my humble opinion, a fiasco and an atrocity with the inordinate and inappropriate burden on American consumers for years.

I call up my amendment.

AMENDMENT NO. 2466 TO AMENDMENT NO. 2471

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself, Mr. MCCAIN, and Mr. LUGAR, proposes an amendment numbered 2466 to amendment No. 2471.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To phase out the sugar program and use any resulting savings to improve nutrition assistance)

Beginning on page 54, strike line 1 and all that follows through page 87, line 8, and insert the following:

CHAPTER 2—SUGAR

Subchapter A—Sugar Program

SEC. 141. SUGAR PROGRAM.

(a) IN GENERAL.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended—

(1) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) LOANS.—The Secretary shall carry out this section through the use of recourse loans.";

(2) in subsection (f), by striking "2003" each place it appears and inserting "2006";

(3) by redesignating subsection (i) as subsection (j);

(4) by inserting after subsection (h) the following:

"(i) PHASED REDUCTION OF LOAN RATE.—For each of the 2003, 2004, and 2005 crops of sugar beets and sugarcane, the Secretary shall lower the loan rate for each succeeding crop in a manner that progressively and uniformly lowers the loan rate for sugar beets and sugarcane to $0 for the 2006 crop."; and

(5) in subsection (j) (as redesignated), by striking "2002" and inserting "2005".

(b) PROSPECTIVE REPEAL.—Effective beginning with the 2006 crop of sugar beets and sugarcane, section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is repealed.

SEC. 142. MARKETING ALLOTMENTS.

Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 143. CONFORMING AMENDMENTS.

(a) PRICE SUPPORT FOR NONBASIC AGRICULTURAL COMMODITIES.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "milk, sugar beets, and sugarcane" and inserting ", and milk".

(b) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting "(other than sugar beets and sugarcane)" after "agricultural commodities".

SEC. 144. CROPS.

Except as otherwise provided in this subchapter, this subchapter and the amendments made by this subchapter shall apply beginning with the 2003 crop of sugar beets and sugarcane.

Subchapter B—Food Stamp Program

SEC. 147. MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION.

(a) FISCAL YEARS 2002 THROUGH 2004.—

(1) IN GENERAL.—Section 5(e)(7)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(B)) is amended—

(A) in clause (v), by striking "and" at the end; and

(B) by striking clause (vi) and inserting the following:

"(vi) for fiscal year 2002, $354, $566, $477, $416, and $279 per month, respectively;

"(vii) for fiscal year 2003, $390, $602, $513, $452, and $315 per month, respectively; and

"(viii) for fiscal year 2004, $425, $637, $548, $487, and $350 per month, respectively.".

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act.

(b) FISCAL YEAR 2005 AND THEREAFTER.—

(1) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by striking subparagraph (B).

(2) EFFECTIVE DATE.—The amendment made by this subsection takes effect on October 1, 2004.

Mr. REID. Mr. President, if the Senator will yield for a question, again, I am not trying to hurry the Senator. Does the Senator have any idea how long his statement will take?

Mr. GREGG. My statement won't take more than about 15 or 20 minutes. I understand Senator McCAIN will speak and Senator LUGAR may wish to speak. I don't know how long anyone else will want to take. I am going to ask for the yeas and nays as soon as our dialog is over.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, there are only meetings going on from 1 until 2 o'clock. If we could vote at quarter to 1, that would be fine.

Mr. GREGG. I can't really at this time agree to a timeframe because of the fact that I am not sure who wants to speak in opposition. I want to give them adequate time. I don't mind going to a vote as soon as we can.

Mr. President, the sugar program as constituted and as it has evolved over the years has regrettably become a raid on the pocketbooks of the American consumer to benefit a small number of sugar producers in this Nation.

The price of sugar in the United States is approximately 2 to 2½ times what the price of sugar is on the world market. The burden of that inflated price is borne by the consumers. In fact, the cost to the consumers is approximately $1.4 billion to $1.8 billion a year depending on whose estimate you use. That inflated price is a function of the fact that we have set up a system of nonrecourse loans, a very arcane system which essentially guarantees to the producer of sugar in this country 18 cents for its cane sugar and 22.99 cents for sugar beet sugar. In comparison with the fact that if they were to grow and try to sell that type of sugar in the open markets, the amount they would actually get would be somewhere in the vicinity of 9 cents. The effect is that the U.S. consumer is paying the difference between 9 cents, which is what the world price is, and 22 cents for sugar.

If the market were appropriately adjusted to reflect world price, you would probably end up with a sugar price in the United States of around 12 cents, or approximately 55 percent of what the present price is in the United States.

The effect of this is that all products that use sugar have an inflated cost. It costs a lot more than it should.

Who bears that cost? The American consumer bears that cost. Who is the American consumer?

We hear all of this debate about small family farms and how we are trying to protect small family farms. That is a worthy cause, indeed. But the American consumer is also under a lot of economic pressure. The American consumer—especially if you are living on a fixed income, if you are a senior citizen living off your Social Security check, if you are a welfare mother living off payments from the Government, if you are in a family with a mother and a father working two jobs trying to make ends meet, trying to send children to school, and trying to make sure they have a good lifestyle for their family—is under a lot of economic pressure, too.

But it turns out that in order to benefit a very small number of growers—believe me, it is an incredibly small number of growers—we require all of these Americans to pay a lot more for the food they eat than they should have to pay if we had a market economy for sugar.

Forty-two percent of the benefit of the subsidy for sugar goes to 1 percent of the growers. There are some extraordinarily wealthy families and businesses in this country who are essentially putting their hands not in the cookie jar but in the pockets of the American citizenry and taking money out of that pocket so that they can have this ridiculous subsidy on sugar that is so unrelated to what it costs, No. 1, to produce it, and No. 2, what the world price is.

The sugar producer industry has told us for years: Well, this program doesn't cost a thing. It doesn't cost the American taxpayer anything because there was no tax payment to support the sugar program. That was true for many years. In fact, there was an assessment fee they paid into the Treasury. It was sort of what I call a purchase fee. They got to buy, with one dollar, five dollars. It was a great deal to them. They paid $1 into the Treasury but they got $5 back from the consumer.

This is one of the great sweetheart deals in American political history. They could charge the sugar producers their assessment fee and pay into the Treasury $260 million, which I think they paid in on the average—something like that. What they failed to mention was that for that little assessment fee they got $1.5 billion of subsidy.

That is a pretty good deal. There are not too many deals in this country even in our capitalist system where you get a guaranteed return of $1.5 billion when you pay in $260 million. There are not that many good deals like that out there anymore. I don't think there ever was. But there are for the sugar producers. That is history. That situation no longer exists.

Today, they are not paying in any more as a net issue. They are actually now getting paid tax dollars on top of this subsidy they get—tax dollars which amounted to about $465 million because the Government, under the nonrecourse loan process, had to go out and buy the sugar. Not only do we have to buy the sugar, but we have to store the sugar. We are getting back to that time of the 1970s and 1980s when President Reagan came in and found warehouses full of butter. There were people in this country who needed butter. Reagan was smart enough to ask why we were storing all of this butter and to get rid of it. They gave it to people who needed it.

We are starting to do that with sugar again, just like we did with butter. We are starting to store sugar. Now we have one million tons of sugar. It is projected we are going to have 12 million tons of sugar in the next 10 years. It is going to cost us $1.4 billion in tax dollars.

This isn't the subsidy that consumers pay. We are going to first hit people with a subsidy. They are going to have to pay more for sugar than they should have to pay. Then we are going to hit them with a tax to produce the sugar for which they are already paying too much—$1.4 billion it is projected. We are going to have 12 million tons of sugar.

I do not know where we are going to put it. Maybe we are going to fill up the Grand Canyon. When you float the Grand Canyon, you will get all the sugar you ever wanted. We will have to find a place to put it. I am sure somebody will come up with a creative idea of where we are going to put it. Storing it will cost a huge amount of money. I have forgotten, but I think it is maybe $1 million. But there is an estimate for that, too. You have to figure we have to pay to store the sugar.

So we are going to have all this sugar we do not need. We are going to pay all these taxes we should not have to pay to buy this sugar we do not need. And then we are going to have this program which continues to produce sugar we do not need at a price which has no relationship to what the open market charges for sugar.

Just to reflect on that for a moment, I have a chart which shows the difference between the world market and the American price on sugar.

Some people will say: Oh, but this world market is a subsidized market. In some places it is. I acknowledge that. In some places it is a subsidized market. But not universally and not for a majority of the sugar producers in the world. In fact, if we were to open American markets to competition, you could be absolutely sure we could structure it in a way that the sugar that came into the country in a competitive way was not subsidized. So we would not have that problem. So as a practical matter, we can get around that issue, and it is not a legitimate issue.

So where are we? Basically, where we have been for many years. In the mid 1980s, the Congress had the good sense to say: Listen, this program makes very little sense. There are a lot of people making a lot of money at the expense of the consumers, and there is no market forces at work here at all. And there is no reason why we should continue a program that has all these detrimental effects.

There is another detrimental effect I need to mention, as long as we are at it, that is not a monetary one. It is an environmental one. We know that because we have so grossly overpriced the sugar production that there has been more of an impetus to create more sugar cane capability, especially in Florida. The effect of that, on especially the Everglades, has been devastating—so devastating, in fact, that last year, under the leadership of Senator SMITH from New Hampshire, we had to pass a new bill to correct the problems in the Everglades, which is another bill that is going to cost us a huge amount of money in order to correct the problem that was created by the subsidized sugar prices and the overproduction of sugar.

We know as we clear these fields for sugar cane production, especially in Florida—although there is now in place a system to try to get some logic to that process—we know that has a huge detrimental impact on the environment of that area because most of these areas are marginal wetlands and also critical wetlands and especially recharge areas for the Everglades.

So on top of all the other problems the program has, it has had this unintended consequence of creating a significantly environmentally damaging event, at least in Florida.

So where does that leave us? As I was mentioning, in the mid-1980s, we had the good sense, as a Congress, to say: Hey, listen. This makes no sense. This program makes no sense. Why should we be paying twice the price of sugar on the open market? Why should we be paying taxes to buy sugar we do not need? And why should we be sending the majority of this money to a small number of producers when the vast majority of Americans are affected?

So we actually had a few years without a sugar program. There will be an argument made, I suspect, that is what caused the price of sugar to fluctuate. Yes, it did. That was the idea, that you would start to see market activity in the sugar commodity. Unfortunately, we did not participate in this experiment long enough to find out whether we could bring market forces to bear. But we were clearly moving in that direction.

The argument that that fluctuation in price, which was the precursor of having a market event, is one reason you do not want to have sugar production subsidized or one reason you have to have sugar production subsidized is as if to say because Ford Motor Company cuts the price of its car and comes out with zero financing, we should suddenly subsidize Ford Motor Company because the market is clearly having an effect on their price.

This program is obviously important to a number of States that have producers. But you cannot justify it in its present structure. It needs to be reorganized.

So what my amendment does is to eliminate the nonrecourse loan event. It makes the loans recourse and takes the savings and moves them over to the Food Stamp Program so that people who are on food stamps and who need to buy food commodities which are suffering from an inflated price because of the sugar industry will have more money available to them to do that.

Remember, sugar goes beyond candy, by the way. Some people think it is always candy. Sugar is in just about any product you buy that is a processed product. It has sugar in it. So if you are on food stamps, and you are trying to buy some pasta or you are trying to buy a meat sauce or you are trying to buy some sort of hamburger assistance that gives it a little flare, all of those products, which are important to the nutrition of a person on food stamps, are having an inflated price because they have sugar in them.

This amendment says, let's take the savings which will be regenerated here and move it into the Food Stamp Program. It is a very reasonable amendment. I am sure it is going to pass this year, even though it may not have passed in the last 7 years that I have offered it.

I reserve the remainder of my time.

Actually, I do not have any time left, so I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire yields the floor.

Who seeks recognition?

The Senator from Idaho.

Mr. CRAIG. Mr. President, let me use some time now. I know other colleagues want to speak to this issue of the Gregg amendment. I will speak for a time on it because there are some important issues to be discussed.

The Senator from New Hampshire has, once again, portrayed the sugar program that has been a part of agricultural policy in this country for a good number of years as somehow evil and unjust, going to a small select group of people.

For the hundreds of farmers in Idaho who, for the last 2 years, have lost a lot of money raising sugar beets—and under the new provisions within the Harkin bill or the Cochran-Roberts substitute would make no more money—I find the arguments of the Senator from New Hampshire interesting and unique—interesting because he said he would eliminate the recourse loan program and transfer the money to the Food Stamp Program.

It is pretty difficult to transfer money that does not exist, No. 1, because under the no-net-cost approach that is provided within both versions that we are debating today, there is no authorized money specific to this program.

As we know, over the last good number of years, because of the buyout of the market store and resell into the market concept, actually the Department and the Secretary of Agriculture were making money. There has been this brief period of time when recourse loans were purchased back, but from 1991 to 1999 about $279 million was actually made for the U.S. Treasury, all from the program. About 1.5 percent of the commodity program expenditure actually got caught up in recourse loans over the last year. But, again, that is that pool of money out there used for these purposes, with no specificity directed to the sugar program itself.

As the Senator has mentioned, the sugar program, as we call it, has—and his graph showed it—brought relative stability to the sugar market in this country. I say relative stability because during that period of time that he was talking about, in which there was not a program, there was a substantial runup and decline in price.

Not only were there dramatic peaks and valleys, not only did the consuming public feel it, but the large wholesale consumers were, when it was at its peak, very concerned. It shoved the cost of their commodities—candy bars or soft drinks, other uses of sugar—up. But when that price then declined, of course, they didn't reduce the price of their product because they had already established a price in the market.

I find it most fascinating because there is the general assumption on the part of the Senator from New Hampshire that, if his amendment were to pass, the consumer would benefit, and there is absolutely no evidence in fact that that would happen. In fact, there is argument quite to the contrary.

Over the last couple of years we have seen a dramatic decline in sugar prices in this country, even with the current program. Nowhere have we seen any one retail product on the consumer market shelf decline as a result of the reduction in sugar. Where does it go? My guess is it goes into the profitable bottom line of that commercial producer out there. I don't argue that. It is the reality of what we are dealing with.

I don't think the amendment the Senator is offering brings down the price one penny on a candy bar, one penny on a bottle of pop, or any other commodity in the marketplace, from boxed cereal to any other product that has sugar added to it to enhance flavor and to characterize the product to see it come down. That is simply a false argument. The reason I use the word "false" is because the evidence that it would is quite to the contrary. The evidence is that it would not because clearly we have seen that kind of price not happen in the last several years.

The U.S. producer price for sugar has been running at 20-year lows for almost 2 years, down more than a fourth since 1996. That is under the current program. That is why this past year we have seen some forfeiture of sugar, and that is why the Department of Agriculture now owns some sugar.

The bill that is before us, the new policy that will become agricultural policy, changes that and moves us clearly back to a no-net cost to the consumer.

Grocers and manufacturers are not passing through these lower prices, as I have mentioned, whatever the product. While we have seen this drop in price almost to a historic low, the harm has not been to the consumer because they have not felt it, or, the positive side, it has been to the farm family who has been the producer of the product and has had to offer the flexibility that they must in a production scenario to offset those kinds of costs.

There are a good many other issues out there. I see several of my colleagues in the Chamber to debate this issue. I will deal with other portions of it as we come along.

The United States is required to import, under current law, nearly 1.5 million tons of sugar or about 15 percent of its consumption. We already buy sugar off the world market. Each year, whether the U.S. market requires that sugar or not, that is the agreement. That is what the program offers.

In addition, unneeded sugar has entered the U.S. market outside of the sugar import quota through the creation of products from import quota circumvention. We, for the last several years, have had the frustration of what we call stuffed product, product that is intentionally enhanced with sugar, brought into this market reprocessed. The sugar is pulled out of the product—in this case molasses—to get around these kinds of limitations in the marketplace and limitations to the market itself. Why? Obviously, sugar is a commodity that moves. And we have now had court tests against that saying, yes, those are violations.

We also have an agreement with Mexico under the North American Free Trade Agreement that brings sugar into this market. So to suggest that we are immune to a world market is not all of the story. The story is that 15 percent of the sugar that is in the U.S. market is world market sugar.

When the Senator from New Hampshire quotes the world market price, he is quoting the open price. He is not quoting the price of Western Europe. He is not quoting the price anywhere else in the world. All prices differ based on supply, demand, and access to markets.

What we have tried to do over the years with the sugar program is create stability, stability to the consumer and to the producer. Historically, we have been very successful in doing just that.

We have done it in large part at no cost to the American taxpayer and, in fact, at less cost to the American consumer. The dramatic runups in sugar prices that had to be passed immediately through to the consumer simply have not existed.

There are a good number of other arguments I know my colleagues want to make on this issue. It is an important part of an overall agricultural policy for this country. It is an important part of an overall farming scenario for my State and for many other States in the Nation. It creates stability in the farm communities of my State. It has historically been a profitable commodity to raise in Idaho. It is no longer today.

I hope the programs we are debating that are within the Harkin bill and that are within the Roberts-Cochran substitute will bring stability back to the sugar beet producer in the Western States and in the Dakotas and Michigan, and certainly to the cane producer in the South.

I yield the floor. When the appropriate time comes, as the Senator from New Hampshire has already requested the yeas and nays on his amendment, I will ask my colleagues to stand in opposition to it.

The PRESIDING OFFICER. The Senator from Wyoming, Mr. THOMAS.

Mr. THOMAS. Mr. President, I appreciate the comments of my friend from Idaho. It is an interesting issue. It affects much of the country, all the way from Wyoming to Hawaii cane sugar, Louisiana, down to Florida, back through our part of the world. We are talking about an industry that provides nearly 400,000 jobs.

It has been said that this is a small, minute industry. It is not. In fact, in my State it is one of the few agricultural crops which are refined, ready for the market, ready for the shelf when they leave our State. So we have factories there that provide employment, of course. In many rural communities, sugar is a very important economic issue, not only to farmers but also to processors. Economically, it generates $26 million annually.

The debate over sugar takes place nearly every year, and the same arguments come up year after year. The fact is, there is a solid reason to have an industry of this kind, and I hope it will continue in the future. By world standards, U.S. producers are highly efficient—eighteenth lowest in the cost of production out of 96 producing countries and regions—despite, of course, having the highest labor and environmental standards. Some of the lowest cost is produced in the West. So we are interested and involved in that.

As was pointed out, often there is talk about the world market. The fact is, the world market is a dump market. It is what remains after the other countries use all they can and put it on the market. It is not an economic cost. To compare that is simply not true. The current prices in all world export markets are dumped.

Of course, as was mentioned, one of the things we have just gone through in terms of Canada is the unfair situation called stuffed molasses, where it is against the trade arrangements to bring in sugar. So they mix sugar and molasses, bring it across the line, take it back out of the molasses and market it as sugar. Fortunately, we were able to get a court decision on that. Hopefully that gimmick is closed. We will continue to work on it, of course.

The fact is that consumers do benefit. The retail price of sugar is virtually unchanged since 1990. Our prices are 20 percent below developed market prices. And interestingly enough, as is the case with lots of agriculture, the product price to the producer is quite different than to the consumer. I think it points it out here. The producer price, since 1996, is down 23 percent. At the same time, the consumer price is up 6 percent. So the idea that this program is a handicap to consumers is simply not accurate.

As I said, the price for sugar to the producer has fallen 23 percent, but grocery stores have not lowered their price. Cereal is up 6 percent. Cookies and cake are up 10 percent. Ice cream—my favorite thing—up 21 percent. So we have a program that affects many people, which has been good for consumers in this country. We have a program that has generated a good deal of money and since 1990 in market assessment tax. We have lots of good things in this program, and we need to continue to make sure it is there for consumers and it is there for producers.

I want to mention a couple of other items. As an industry, the U.S. retail price is 20 percent below the average of developed countries. It is third from the lowest in the world in the retail price of sugar. That is interesting, and it is good for consumers. Certainly, in terms of the work required to buy a pound of sugar, the United States is third from the bottom, only above Switzerland and Singapore. So in terms of our economy, sugar is a bargain for the consumer. As I mentioned, these prices have gone up.

So we have a program that has worked, a program that is very important to consumers, to producers and processors, and it will be changed some. We are going to have more within the industry an effort to control production so we don't have excessive production. That is going to be done. Not only have we had a good program, we are in the process of having an even stronger program. I will resist the amendment on the floor and urge my fellow Senators to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I rise in opposition to the amendment related to the sugar program. That has become sort of a biannual exercise, where we must come to the floor and defend a program that has really worked in favor of not only the American producer but also the consumer of sugar products.

I don't know how many Members of Congress, the mail situation being what it is, have had a lot of people writing and telling us: You have to do something about this terrible sugar program because the price of sugar is so high that I can't afford to buy sugar to sweeten my tea or to use on the food in my home.

The fact is that the program has worked very well for both the producer of the product and also for the consumers of the products. It is a program that has a great deal of history. Since about 1985, the sugar program has had a loan much as the other commodities have had. The loan has been about 18 cents a pound for cane sugar producers. That has been the loan level for a number of years—for about 15 years now. It has allowed the American sugar producer to survive.

Very simply, the program works. If the market that exists for sugar is above the loan level, our producers are able to sell it for whatever they can get above the 18 cents level. If the price falls below the 18 cents level for sugarcane, then the Government will provide, in the form of a loan, that amount per pound to the American sugar producer. That allows them to stay in business.

The good news is, unlike some of the other commodities, our Government can help guarantee there will be a minimum price, trying to control the imports that come into this country. Some would argue that we should have free trade and they should be able to sell into this country anything they want anytime they want. The reality of the situation is that most countries—over 100-some countries in the world that try to sell sugar in this country—take care of their own domestic needs, and then they dump the rest into the U.S. market for any price they want. They don't care whether they get 18 cents, or 5 cents, or 8 cents for it; they just want to get rid of it. They attempt to dump whatever they don't need into the U.S. market, which, obviously, if we didn't have a program, would be allowed to destroy the industry in this country completely.

So the farm bill—it is a good package, and I thank the folks who have worked in committee to put it together—will continue that type of program, at no cost to the American taxpayer, which I think is unique in itself as far as this commodity is concerned. It is a good program, and it has worked.

This is really interesting, and I will use one chart. When people look at whether the price of sugar is going up—well, the price to the people who produce it is going down. Since 1996—these are producer prices, the people out in the field. Since 1996, the producer wholesale price level for sugar has gone down 23.4 percent. That is since 1996. So when people argue that somehow producers are getting rich off the program, the reality is that the price, according to the U.S. Department of Agriculture, has gone down 23.4 percent over the last 5 years for the people who actually produce the product.

If anybody has a complaint about the price of sugar—and what I mentioned in my opening comments is that we don't have people marching on Washington, or making phone calls, or writing letters saying the price of sugar is too expensive. Nobody is complaining about it. If you look at the facts, the products that have increased in price and some of the products you should go after are the candy industry, cereal, cookies and cakes, bakery products, and ice cream. Those products have gone up substantially higher over these years than the wholesale refined sugar price. Retail sugar increased only 5.8 percent; that is all. So the housewife, or the person buying groceries for the family, has not noticed an inordinate increase in the price of sugar at all. It is in keeping with the cost of other inflationary price increases we have seen, or even more than the regular increases.

But there have been increases in products that use sugar. If there is a complaint, we ought to look at them. The wholesale price at which they buy the sugar has gone down 23 percent, but their price at the retail level has increased by as much as 21.4 percent in the case of ice cream and 14 percent in bakery products.

We have a program that has worked well. We have a loan program that sets a price that has been 18 cents since about 1985. It is a good program, and it operates at no cost to the taxpayer. It keeps beet farmers and sugarcane farmers in business. In Louisiana, all of our cane farmers are small family farmers; they are not large. They work hard every day. The only thing they need is a little bit of assistance that we provide in this program, at no cost to the taxpayer.

To change something that has worked would be the wrong policy. I strongly urge that we defeat the Gregg amendment to this important piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota, Mr. Conrad, is recognized.

Mr. CONRAD. Mr. President, I thank my colleague from Louisiana for his remarks because he is right on target with respect to this amendment.

This amendment of the Senator from New Hampshire is a mistake. When the Senator from New Hampshire gets up and tells our colleagues that the world price for sugar is just over 9 cents a pound, it is not true.

That is not what the world price of sugar is. If one thinks about it for a moment, it could not possibly be because the cost of producing sugar is over 16 cents a pound. In fact, it is about 16.3 cents a pound. So how could it possibly be that the world price for the commodity is just over half of what it costs to produce? It cannot be, or the entire sugar industry worldwide would be bankrupt. This is very clear.

I do not think there is anybody who really knows the sugar industry who does not understand that the cost of producing sugar is between 16 and 18 cents a pound. That is what it costs to produce. So anybody who tells you that the world price is a fraction of what it cost to produce is firing with blanks.

The hard reality is, that is not the world price of sugar. That is a dump price for sugar. I guess it is easy to understand how these misassumptions occur because people are not familiar with the industry. The fact is, the vast majority of sugar in the world moves under long-term contracts. When they go to this so-called world price, they do not have what is the true price of sugar. What they have is what sugar is dumped for outside long-term contracts. It is a fraction of the sugar that is sold in the world.

If you want to do a reality test, what I am saying has to be true because if it was not, the entire industry would have gone bankrupt long ago because they would be getting a price for their product that is a fraction of what it cost to produce.

I respect the Senator from New Hampshire. I like him. I serve with him on the Budget Committee. He is one of our most able members. But when he talks about the world sugar market, he just has it wrong. When he says the price of world sugar is less than 10 cents a pound, that is not accurate. That is a dump price. That is the sugar that sells outside of long-term contracts.

The occupant of the chair, the Senator from Hawaii, is deeply knowledgeable on this matter. The Senator from Hawaii has helped lead this debate many years in this Chamber. He understands the industry, and he knows that the vast majority of sugar in the world sells under a long-term contract.

That is what I think is misleading the Senator from New Hampshire. Those long-term contracts are not part of this calculation on the so-called world price because, in fact, it is not a world price; it is a dump price. It is for sugar that sells outside of long-term contracts, that those who have produced more than they sell under long-term contracts go out and dump.

I want to go to the next point that I think is very important for people to understand. That is the developed countries' retail sugar prices. The United States is 20 percent below the average. This chart shows what retail sugar prices are in developed countries: Norway, 86 cents a pound; Japan, 84 cents a pound; Finland, 83 cents a pound; Belgium, 75 cents a pound; Denmark, 75 cents a pound, and on it goes. I am part Swedish, 62 cents. I am part Danish. Sugar is 75 cents there. Norway—I am part Norwegian, too—is 86 cents. They are paying a lot more in those countries for the retail price of sugar than we are paying.

I am part German, too. Germans are paying 45 cents per pound. Where is the United States? We are third from the bottom.

When our colleague from New Hampshire runs out here and says to everybody that the consumers are getting gouged, it is not true. It just does not stand up to any analysis. The fact is, we are third from the bottom in the developed world on what we pay for sugar.

I can understand how confusing the economics of this industry are to those who are not familiar with the industry and not familiar with agriculture, but the reality is very simple: What farmers are getting has been going down and going down substantially over the last several years. We are on the brink of a massive failure of sugar producers all across this country because of the collapse in the prices they are being paid for their product.

The Senator from Louisiana showed the prices that sugar producers are receiving is down 24 percent. That is the reality. The other reality is that consumers in this country are getting on a relative basis, on a comparative basis, looking at what consumers pay in other developed countries, a very good deal. The truth is, it is a very competitively priced product in this country and right around the world.

Finally, the point I think is so important to me and so important to understand is when the Senator from New Hampshire says the world price of sugar is under 10 cents a pound and farmers are getting paid 18 cents or 22 cents and there is this huge profit, he does not have it right.

The world price of sugar is not 9.5 cents a pound. That is the dump price. That is what a small minority of the sugar produced in the world sells for, that sugar which is outside of long-term contracts. That is where the vast majority of sugar sells, and the vast majority of sugar sells for about 20 cents a pound. That is the reality, that is the fact, and we should not be misled or misguided as to the economics of this industry.

It would be a disaster for thousands of families who produce sugar all across this country if the Senator from New Hampshire were to prevail. You cannot be an island unto yourself. The fact is, the sugar industry is supported in virtually every country within which it is produced—in fact, every country. Not virtually every, not almost every, but every single country. That is what we are up against.

Either we can fight back and give our people a fair fighting chance or we can roll over and play dead and wave the white flag of surrender—give up, give in, and let these people go broke and be poorer for it as a nation.

I hope the Senate will respond, as we have, so many times in the past in recognizing that this industry is important to the strength of rural America, just as the rest of agriculture is critically important to the strength of rural America.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Montana, Mr. BAUCUS, is recognized.

Mr. BAUCUS. Mr. President, I thank my good friends from North Dakota, Louisiana, and others who are speaking against this amendment and explaining the facts. Once the facts are known, I believe Senators will know this amendment is not a good idea.

We want a strong agriculture policy in America, and we want a level playing field. We know that much too often other countries tend to favor their producers, their industries, their companies at the expense of the United States, at least more so than we Americans do.

Every other country has a more, if I can use the term, socialistic policy; that is, tends more toward Government intervention in helping the producers and companies and their industries, than does the United States. Frankly, it is the view of the United States that we be a more free market, more independent, and let producers and companies pursue their own agenda. At least on a comparative basis that has made us stronger than other countries. It is a major strength of America. Having said that, we clearly don't want to make matters worse.

In the meantime, even though other countries do subsidize their producers or their companies or industries more than we do, we, through our ingenuity—this is a general statement; there are exceptions—are able to fight back with greater ingenuity, creativity, good old American can-do, common sense, and find a way to get the job done. We don't moan and complain but fight and get the job done.

This amendment moves us in the opposite direction. It says although the playing field is not level, although it is tilted today against the United States with respect to sugar, we will tilt it even more against American sugar producers. That is what this amendment does.

As other Senators have ably demonstrated, the facts show that compared to other countries the United States ranks, for Government support for sugar, third from the bottom. Other countries protect their sugar industry much more than the United States. Sugar prices in the United States are lower, significantly, to the consumer.

I am having a hard time understanding why this amendment is on the floor. Why would we as Americans want to hurt ourselves? It is unfathomable. I cannot come up with a reason—unless it sounds good on the surface because we have a quota system in the United States that provides stability to American producers. If that system in the United States were eliminated, or if the amendment pending of the Senator from New Hampshire were adopted, not only do producers already suffering suffer more—prices are down 23 percent—but local communities suffer: the shops, businesses, and gas stations. It is not just those who work in factories and the fields producing the cane or the beets.

Sugar is a valuable commodity in my state of Montana. More than $188 million in economic activity is generated in Montana each year by the sugar and sweetener industries and creates close to 3,300 jobs in my state.

The production of sugar in the United States is a large and competitive operation. Throughout the Nation, the sugar industry generates 373,000 jobs in 42 States and creates $21.2 billion in economic activity.

Our American sugar producers are among the most efficient in the world. The United States ranked 28 our of 102 sugar-producing countries for the lowest cost in overall sugar production. And the United States is the world's fourth largest sugar producer, trailing only Brazil, India, and China.

But despite these positive statistics, our sugar producers are hurting. Producer prices for sugar have fallen sharply since 1996. Wholesale refined beet sugar prices are down 23 percent. Prices for sugar have been running at a 20-year low for most of the past two years. This has caused a deep hardship for American sugarbeet and sugar cane farmers. Many have gone out of business and many more are on the brink of economic ruin.

We have seen 17 permanent sugar mill closures in the nation since 1996. These closing are devastating to entire communities. Devastating to our producers, mill employees, transportation, restaurants, small businesses, and the list goes on. Some producers are trying to buy mills that are on the brink of bankruptcy in order to protect further communities from these losses.

For example, the Rocky Mountain Sugar Growers Cooperative is in the process of purchasing several mills in the Montana, Colorado and Wyoming areas. These producers, and the cities that depend upon them, need a sugar policy that they can depend upon so that they can once again flourish.

We need a strong sugar policy. American sugar farmers are efficient by world standards, and are willing and prepared to compete on a level playing field against foreign sugar farmers, but they cannot compete against foreign governments. We must give them the level playing field they need.

I strongly urge this amendment be defeated. It does not make sense. Once the Senators know the facts, Senators will realize this amendment should not be adopted.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I join my colleagues, who have spoken so eloquently and forcefully on this subject, in urging the Senate to defeat the Gregg amendment.

Mr. President, Louisiana is a sugar State. There are 18 sugar mills and two sugar refineries in Louisiana and we have more acreage devoted to sugarcane than any other State. Many of our parishes rely on the sugar industry for their economic vitality. It is an important industry that is hundreds of years old in the State of Louisiana and throughout many parts of our Nation. Nationwide, the sugar industry directly and indirectly affects 37,200 jobs in 42 States. It is a $21 billion industry.

At this time in our Nation's history, with a recession underway, and with our efforts to try to build ourselves out of this recession, we want to do things in Congress that help, not hurt. The Gregg amendment is taking us in the wrong direction. We need to be creating jobs, not eliminating them. The sugar industry means thousands of jobs to Louisiana.

Are 'consumers harmed by our national sugar policy? Absolutely not. Sugar prices have been relatively stable because of this sugar mechanism in the farm bill. There are different provisions in this farm bill, but the sugar provision is unique in that it is a provision that can actually return money to the Federal Treasury. It is a self-help mechanism. From 1991 to 1999, this policy was a net revenue raiser of $279 million. Sugar loans last year amounted to only a little over one percent of federal commodity expenditures, and this negligible cost will be defrayed as that sugar is gradually sold back into the market. In addition, between 1997 and 2001, the government rightly spent $90 billion to save rural America from other commodity forfeitures. None of that money went to sugar producers.

Because the sugar industry does not enjoy the same types of price supports as other commodities, we have developed over many years in Congress a program that both maintains low retail prices and provides support to an industry that must compete with heavily subsidized foreign sugar programs. The Senator from New Hampshire's Amendment would replace production by efficient, unsubsidized American sugar farmers with sugar from less efficient, heavily subsidized producers from Brazil and Europe.

I believe the American sugar program is one worth supporting. It has been carefully crafted, and helps retain jobs in Louisiana and around the Nation. It is something we need to continue to support, not one to move away from.

Let me also add, I am particularly pleased with the vote the Senate had yesterday on the dairy provisions. By a one-vote margin we came to a compromise that will help strengthen the underlying farm bill. Rejecting the Senator from New Hampshire's amendment gives additional strength to a farm bill that helps keep price supports in place, that appropriately subsidizes certain crops, that enables the sugar industry to continue to flourish in Louisiana and throughout the Nation and, most importantly, protects jobs that are so important to our Nation at this particular time.

We have other challenges. We have trade issues that have to be worked out, but this amendment offered by Senator GREGG should be defeated.

I am happy to join my colleagues in support of that effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I rise in opposition to the Gregg amendment. In my opinion, this is a terrible amendment. Essentially it abolishes the sugar program and significantly injures a good many family farmers who are struggling under ordinary circumstances to try to make a decent living.

I will try to correct some of the misconceptions about the sugar program. First, I thought I would point out that this debate is about this.

This is the fun-sized Baby Ruth candy bar. This debate is about candy corporations versus family farmers.

I intend to eat this Baby Ruth when I am finished. That is why I don't have a large, full-sized Baby Ruth. This is a fun size. Let me read for a moment the ingredients of this candy bar.

For the corporation that makes it, I am not casting aspersions upon your product. Since I intend to eat it, I would be telling people it is a pretty decent product. Let me describe what is in it.

Ingredients: Sugar. That is not in bold type, it just says sugar. That, of course, misses the point. There is a lot of sugar in this candy bar. That is what this debate is about. This debate is about the price of the sugar that this company is paying for and putting in this candy bar.

What else is in this candy bar? Although this debate is about sugar only, I thought it would be useful, perhaps, to read the entire list of ingredients: Roasted peanuts, corn syrup, partially hydrogenated palm kernel, coconut and soybean oils, high fructose corn syrup, dextrose, skim milk. And then emulsifiers—with a couple of emulsifying words I cannot pronounce—and artificial flavors, TBHQ. Maybe I won't eat this after I finish; maybe I will. Emulsifiers: Artificial flavors, carrageenan, TBHQ, and citric acid to preserve freshness. Then they have added caramel color.

So that is what is in this little old Baby Ruth. This issue is about the sugar, the first ingredient in this candy bar.

This amendment is not new. We have had this amendment time and time and time again because those who produce candy in this country, among others, want a lower cost of sugar.

Let me ask the question. Has anyone noticed recently that the price of candy bars has decreased? Go to the store, go to the candy counter and pick out a bar, any bar, and ask yourself, has there been a reduction in the price of that bar? Maybe a 10-percent cost reduction? Maybe 20? Maybe 30? Maybe 40? Anybody see any of that? I don't think so. Same candy, same price or higher price, but they are paying less for sugar.

Who gets the benefit of that so-called less for sugar? Those who receive lower prices for sugar are the families out there in North Dakota and Minnesota and the Red River Valley who are producing sugar beets. They are good, hard-working honest folks. They produce a good product. They plant those beets and they hope very much they will get a decent crop. When they get a decent crop, they hope, through their marketing mechanisms, they will have a decent price.

But you know what has happened to the sugar producers and beet producers and cane producers and so on? The underlying farm bill has been so poor, so badly constructed in the last 6 or 8 years, that farmers, because the underlying farm bill for other crops has been so poor, farmers have planted more in beets. That is the fact. It relates, of course, to the underlying Freedom to Farm bill, which has been a terrible failure. But it is not just that there has been some additional acreage planted. That is not the issue that drives this today. We have had some price problems but that is not the issue that is driving all this.

Let me give an example of what is driving it. It always comes back to this, it seems to me. We have a circumstance where, for example, today, on Wednesday, we are going to import sugar from Brazil into this country. It is not supposed to be coming in. It is highly subsidized by Brazil. And Brazil ships its highly subsidized sugar to Canada. Then they load liquid molasses with Brazilian sugar and ship it into the United States in contravention of our trade laws. It is a so-called legal way of cheating. It happens in our trade laws virtually all the time and nobody can do a blessed thing about it.

So those who are farming out there in the Red River Valley, trying to produce beets, and hope beyond hope they can support their family and get a price for their beets, they take a look at this and say, what about this cheating in international trade, this so-called stuffed molasses?

I hold up a Baby Ruth. We all know what a Baby Ruth is. Has anybody ever eaten stuffed molasses? Stuffed molasses is a term of art in international trade that means someone has taken Brazilian sugar, ran it through Canada, added it to a liquid and moved it to the United States, taken the sugar out of it, and moved it back to Canada. It comes back again and again and again. All it is is a transport for Brazilian sugar which is unfairly subsidized, and that cuts the legs out from under our producers and nobody wishes to do anything about it.

I wish someone would come to the Chamber with half the energy with which they come to the Chamber on these kinds of bills to try to get rid of the sugar program and cut the legs out of our producers. I wish they would come to the Chamber with that energy and say, let's stop the cheating in international trade.

Let's stop the stuffed molasses, stop it dead. It is cheating, it is unfair, and undercuts American producers.

When we are talking about trade, does anyone think of the farmer in Minnesota or North Dakota who is out there trying to raise beets, that their responsibility is to compete against Brazilian producers who are being unfairly subsidized? Is that trade that is fair? I don't think so, not where I come from. In my hometown, we understand what fairness is. We grew up understanding the definition of the word "fair."

What is happening to our farmers in international trade, all of our farmers? And I can go through long lists dealing with the issue of durum wheat in Canada and others, but let me focus on this issue of trade in sugar to demonstrate how unfair it is to American producers. Yet we do not have any energy coming to the Chamber, except those of us who have been trying desperately to write a law which prohibits that molasses coming down here under the term of "stuffed molasses." That is simply a liquid truck to bring Brazilian sugar into this country to hurt American producers.

We have had people say today that the world price for sugar is way down here. The U.S. price for sugar is way up here. I guess they just miss the facts about how sugar is both produced and then marketed around the world. Almost all sugar around the world is traded by contract, country to country. That which is not is the residual amount of sugar surplus that is dumped on the open market at an artificial price. It has nothing at all to do with the market value at which sugar is selling or is being bought and sold. It has nothing to do with that,

So we have people come out here with a chart with a price that is irrelevant. It is just irrelevant. If this were automobiles, that would be the salvage price but it is irrelevant to what a new car is selling for.

On the issue of price, let's put that to rest once and for all. The price for sugar is the price at which sugar is traded internationally and predominantly the price at which it is traded internationally by contract is not at all related to the dump price that has been alleged as the world price by those who offer this amendment.

Let me hold up a couple of charts that other of my colleagues have used as well. Some say, well, this really doesn't matter. All that matters here is the price of sugar in the grocery store. The fact is, what matters is that this is an important part of this country's economy. It provides over 400,000 jobs, a good many of those jobs in North Dakota and the Red River Valley, men and women who have a dream to run a family farm and make a living, and they expect public policy to support that. They expect public policy to weigh in in their favor against unfair trade.

Instead, too many bring public policy to the floor of the Senate that says let's give the candy corporations a little more benefit and take it away from those who are trying to run a family farm. I have nothing against candy corporations. I eat candy—probably more than I should. As I said, I intend to eat this piece of candy. But the candy corporations have done right well. What has happened is they have seen a substantial reduction in the price of sugar and they love it. They have seen a substantial increase in their profits and they enjoy it, but has the consumer seen any evidence that the price of sugar is lower than it was? No. This is a transfer from the pockets of those running a family farm trying to produce sugar beets to the corporate coffers in the accounts called "profits" in the pockets of some of the largest candy companies in the country. That is what it is. It is revenuesharing. It takes from those who have not and gives to those who have.

When you strip away all the pieces of this debate, this dispute is very simple at its core. This industry produces a great many jobs in this country. It is important to this country. It faces fundamentally unfair trade, and it has a sugar program that for many, many years has worked, contrary to other farm programs that have been miserable failures. Now we have had, routinely, people come to the floor of the Senate to say we want to take apart that which works. It doesn't make any sense to me.

The producer prices for sugar plummet. The wholesale refined price for sugar—you see what happened, a 23.4-percent reduction.

I asked the question about the candy bar, but let me ask it about a box of cereal. That cereal aisle in the grocery store is a wonderful aisle. It has so many different kinds of cereal these days you can hardly stop to see them all or understand them all. There are just lots and lots of boxes of cereal.

When I take my kids to the grocery store with me, they know all those names. They have seen them advertised. They want to buy the most byzantine boxes of cereal I have ever heard of. Occasionally they sneak them into the grocery cart.

Has anyone ever seen a reduction in the price of cereal as a result of a reduction in the price of sugar? I don't think so. Has anyone seen a reduction in the price of cookies or cakes at the retail level? No. They are heavy users of sugar. How about other bakery products? What about ice cream? Is ice cream selling at a substantial reduction? Of course, that is a tremendous carrier of sugar as well. No. I don't think so. What about doughnuts? Is the price of doughnuts down because the price of sugar has plummeted? I don't think so. I think the price of doughnuts is up. I think the price of candy bars and cookies is up, including the profits of candy manufacturers who now want more. They want more. This is not enough. They want more.

They want to kill the sugar program. The answer to those interests that want to do that is, you are not going to be able to do it—not today, not tomorrow, not next month, and not next year. This is a program that works. It is constructed in a way that works. It works for American family farmers and for American consumers.

We have a stable supply of sugar and a stable price. We had it for a long time until the most recent problems that, in my judgment, came about because the underlying farm bill didn't work.

Stability of supply and price serves both the family farmer interests and consumer interests. I think there are other interests here. I admit that. There is the interest of the candy manufacturers, and there are interests of others. But I am most especially interested in the broader question of public interest that reflects those who live and work on our land in this country—family farms—and the interests of the broader spectrum of the American public who want a stable supply at reasonable prices on their grocery store shelves. That is what this issue is about.

I don't disparage those who have offered this. They come from their perspective. They represent the candy manufacturers. Some other interests want lower sugar prices.

I represent family farmers who want a fair deal. All they want is a fair deal. They are not getting it. This amendment would further destroy their opportunity to make a living. We are going to kill this amendment, I hope, in the next couple of hours.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise today to speak against the amendment being offered by my colleague from New Hampshire, Mr. GREGG, that will terminate the sugar program. This program is a vital subsidy that provides valuable assistance to U.S. sugar farmers and ensures that sugar remains an affordable commodity for American consumers. While we are all facing difficult times, I must remind my colleagues that American farmers are hurting.

We must also realize that should we lose the sugar program in our country, our sugar farmers would go out of business and we would be at the mercy of world sugar. We would be suffering with high prices. We would not be in control of prices, and the American public would be hurt.

United States producer prices for sugar have decreased by close to 30 percent since 1996. Many sugar farmers have gone out of business and a number of beet and cane mills have closed. In the same period, 17 sugar mills have closed. Seven of those sugar mills were located in the State of Hawaii. Today we have just two sugar mills in Hawaii.

Opponents of the sugar program believe that this program is outdated and artificially inflates sugar prices for consumers. In fact, the opposite is true. The program has acted as a cushion against imports from the world dump market. Our sugar program has been successful in ensuring stable sugar supplies at reasonable prices. United States consumers pay an average of 17 cents less per pound of sugar than their counterparts in other industrialized nations. Low U.S. prices save consumers more than $1 billion annually. Consumers elsewhere around the globe do not enjoy the low prices we have in America. Most American consumers would be amazed at the price of sugar in other industrialized nations, as revealed by my colleague from North Dakota. That is why I say that the sugar program is critical to American consumers.

While the sugar program had a modest cost for forfeitures of sugar loans in 2000, this cost amounted to only 1.5 percent of the Federal commodity program expenditures. These costs will be defrayed as sugar is gradually sold back into the market. Furthermore, U.S. retail sugar prices have remained virtually unchanged for more than a decade and are 20 percent below the developed-country average.

I urge my colleagues to reject this amendment No. 2466. If Congress terminates the sugar program, not only will a dynamic part of the economy disappear from many rural areas, but consumers will also lose a reliable supply of high-quality, low-price sugar.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I was at a labor rally on the economic recovery plan and lost my voice, but I came back here to speak on this amendment. I have been following this debate a little bit. I wanted to comment on what I heard on the floor.

In that rally there were indeed some steel workers from the Iron Range of Minnesota, I say to my colleague from Minnesota. Basically, the message was this: We are out of work through no fault of our own. We are running out of unemployment insurance benefits, and we don't have coverage for our loved ones, for our children, or for our families. I believe this is sort of a test case of whether or not we in the Senate, or for that matter in the administration, care about hard-working people. We are very much a part of our country coming together. In fact, we keep celebrating the firefighters and policemen and others. Now when America's working families really need help, where are we?

I will tell you, any economic recovery plan is just simply, as far as I am concerned, unconscionable without making sure we extend the unemployment insurance benefits to make sure that part-time workers are covered and to make sure we get the health care benefits to these people.

I do not know how we can possibly take these working families and put them in parentheses. We have had tens of billions of dollars of assistance for the airline industry. I look at the House of Representatives, and they have about $30 billion-plus of tax breaks for the energy companies, including oil companies that made huge profits last year. They want to do away with the alternative minimum tax and give $1 billion here and $1 billion to this multinational corporation. They want to lock in these "Robin Hood in reverse" tax cuts, which provide more for the wealthiest top 1 percent. However at the same time we are worried about the Social Security surplus and say we have no money for children, for education, for the IDEA program, for children with special needs, or to help people who are out of work right now.

I will tell you, this is a test case of whether we have "compassionate conservatism" or the heart and soul of my party. Democrats need to fight hard for these working people. In any case, I think that is a transition to this debate because I am hearing a number of my colleagues in this Chamber talking about eliminating the sugar program.

By the way, a lot of our sugar beat growers, as my colleague from Minnesota knows, are independent producers. What is interesting is that this particular sugar program really sets the loan rate at good level, which gives our producers the ability to bargaining to get a decent price in the market, which, frankly, I want for all our farmers, far more than depending on AMTA payments and other direct Government money.

But I have to say to Senators—I have to figure out the right way to say this; if I say "cynical," it sounds as if that is too shrill—but I am skeptical about this commitment to the Food Stamp Program and more funding for nutrition programs. I am skeptical because during the debate on the welfare bill in 1996 that significantly cut food stamp benefits, which, by the way, is the major child nutrition safety net program in our country, and very successful, some of the very Senators who are on the floor today are saying the reason we need to cut the sugar program is because we need to dramatically expand food nutrition programs. I think this is basically a cynical tradeoff, which will put under a bunch of independent producers and farmers, saying the reason we need to do this is because we need to dramatically expand food nutrition programs. I ask where were these Senators when we had a 30 percent reduction in food stamp enrollment. That was in the 1996 so-called welfare reform program. The fact is these Senators who had not a word to say.

I say to those Senators, where were you? In the committee, Senator HARKIN and Senator DAYTON and I have fought hard for food nutrition programs. Frankly, my bottom line in conference is, anything less than $6.2 billion in the food nutrition program is unacceptable.

By the way, the House of Representatives, with a Republican majority, has $3.6 billion for food nutrition programs. That is it. Now, all of a sudden, the very Senators—this is not a one-to-one correlation—but many of the very same Senators I have never seen out here as advocates for expanding food nutrition programs, for expanding the Food Stamp Program, all of a sudden, when it comes to this nifty, clever little way of trading off a farm program that gives producers some leverage in the market price to get a decent price versus the Food Stamp Program, now we have the amendment offered on the floor. This is transparent.

In our Agriculture Committee deliberations, I voted for the higher pricetag of $10 billion for food nutrition programs. Senator LUGAR has been a good, strong advocate for food nutrition programs. I will say that. There is no question about it. My comments are not aimed at the Senator from Indiana because I think he has been a true champion on this issue. I am talking about a variety of things I have heard from a variety of different Senators. And I see where this vote is going.

But I said in the Agriculture Committee, I refuse to accept this cynical tradeoff of a commodity program that provides some income assistance for farmers and/or provides some leverage for our farmers to get a decent price in the marketplace, especially if they are family farmers—that is, the people who work the land, live on the land—and food nutrition programs.

Now, I along with others will have an amendment later on to target some of these commodity prices. From my point of view, not only can we take some of that for a higher loan rate and a better price for our producers, we can take some of that and put it in the food nutrition programs. Fine. But do not come out of here with an amendment that basically eliminates the program which will eliminate independent producers. In this particular case, we are talking about sugar beat producers, especially in the Red River Valley and other parts of our State of Minnesota.

Again, I would say that I am a little bit skeptical. I am a little bit skeptical of Senators who are coming out here who I have never heard a word from about cuts in the Food Stamp Program before, and now all of a sudden they become passionate advocates for the Food Stamp Program, if it gives them an opportunity to eliminate a whole bunch of independent producers, family farmers.

Do I think that some of these farm programs are an inverse relationship to need? Yes. Do I want to more target them? Yes. But I refuse to accept in tradeoff that is explicit—not implicit, but explicit—in this amendment that is before us today on the floor of the Senate.

Let me also say quite a few of the Senators who are out here with this amendment, and they can come out here and debate me, but I would bet that the historical record will show this: While we have had, in the past several years, a dramatic rise in the use of food shelves and food pantries, and while we have had any number of different reports that have come out, especially by the religious community, about the rise in the number of "food insecure households"—which is just another way of saying homes where people are hungry, maybe to the tune of about 30 million or thereabouts; I do not remember the exact figure, many of them children—while we have had reports about the dramatic rise of hunger and homelessness in our country, I have not heard one word from many of the Senators who have come out here today, who, all of a sudden, have become champions for the Food Stamp Program, if they can eliminate a farm program that will eliminate family farmers, independent producers in my State of Minnesota.

I say no to that. I hope my colleagues will join me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I rise in opposition to the amendment. We have heard a lot of discussion over the years about the sugar amendment and the sugar program in the United States. In fact, as the distinguished Senator from Louisiana indicated, we seem to have this debate on at least a biennial basis. We have had this debate since I have been in Congress, and long before that.

It would seem people in the country, and particularly here in Congress, would ultimately come to recognize what the true facts about this program are. But, nevertheless, we continue to debate it.

I would like to talk a little bit about what really is at stake. There is a lot of discussion about the fact that the United States supposedly subsidizes its sugar and that that is a great cost to the taxpayer, a great cost to the consumer, and an inequity in international trade.

The reality is, although there is a lot of talk about the world sugar price—and I am going to discuss that in more detail in a minute—it is a trumped-up argument.

The United States, as a matter of fact, has the sugar program because other nations are subsidizing their sugar. The world sugar price, as is so often debated in these halls, is a world-dumped sugar price.

What happens is, most nations that produce sugar produce enough sugar for what is consumed in their nation, and then they have some amount of sugar left over. That sugar that is left over is then able to be dumped on the world market through very anticompetitive and even predatory practices by these nations, where they are subsidizing the sugar production and dumping it into the world market in an effort to basically help their producers gain an unfair advantage against the producers in other nations.

What the United States did long ago was to recognize that if we were to allow this subsidized sugar to be dumped unjustifiably in the U.S. markets, it would drive the price of sugar in the United States unreasonably low and drive our producers out of business, thereby resulting in a capture of the market by these other nations and their producers. What we always see in the economic cycle when that happens is that then the price can go up, as those who have driven out their competitors and the competition can, then more easily control the price.

I show on this first chart what we are talking about in terms of the world sugar dump market price. The world average production cost to produce sugar is $16.26, and the world market price that we often hear about is $9.52, which is why we have deemed it the world dump price. What happens is that a price far below the cost of production of sugar is generated by those nations that subsidize and provide other anticompetitive barriers to the proper movement of sugar in a real market. It is this subsidized sugar that would flow into U.S. markets, significantly jeopardizing our producers in a way that would cause many of them to go out of business, that the U.S. sugar program is designed to stop. That is really what is at issue.

The question we must ask ourselves is, Is the United States going to step up to the plate and protect its sugar producers in an anticompetitive world market environment where clearly the competition is out there trying to drive our producers out of business?

Some respond by saying the U.S. sugar producers ought to be able to produce their sugar more efficiently or it really isn't a world dump price, and the fact is that U.S. sugar producers want to keep their sugar at unreasonably high prices.

Again, the reality is, when we study the nations that have retail sugar prices—I distinguish here between a retail sugar price, the price the consumer pays at the marketplace to buy their sugar—the United States is clear down at the bottom of the developed countries in terms of the retail price paid for sugar in our markets. Our sugar producers are producing sugar efficiently. The price of sugar at our retail level in our markets is very competitive worldwide. In fact, as you can see here, we are clear down toward the bottom. The United States is third from the bottom among developed countries in terms of the low price of sugar.

The argument that our consumers are being hurt somehow by the sugar program is simply false. What is really at stake is that there are those who would like to push production of dumped sugar, of subsidized sugar, and dump that sugar into the U.S. markets to gain advantage.

If you want to look at whether that will cause the price of goods that utilize sugar to go down, you have to look at the marketplace in the United States. Every year we debate this, the argument is made that the sugar prices are unreasonably high because of the sugar program, and if we could get those sugar prices down, we would save the consumers in the United States a lot of money. If you look at what has happened to the price of sugar for the last 4 years, it has come down. It has come down about 25 percent.

We haven't seen the price of products that utilize sugar come down at all. The price of those products has generally gone up over the last 4 years. The savings there have not been passed on to consumers. Those savings, if any, in the reduction of the sugar price in the United States over the last 4 years, have gone directly into the pockets of the producers, those who utilize the lower cost sugar in their products but then continue to sell their products for either the same or an increased price.

The real issue is whether the United States will continue to protect its sugar beet farmers. Right now, talking about sugar beets, the sugar farmers throughout the United States are running at 20-year lows. For the past 2 years, the farmers in the United States are getting 20-year low prices, whereas the prices for the goods that utilize sugar have not come down at all.

We need to debunk some of these false theories or false rumors that have been placed out in the American public about what is happening in the sugar debate.

Another argument that is often made is that the sugar program involves the U.S. Government subsidizing heavily its own sugar to protect against this anticompetitive conduct. There are those who say even though we do recognize that there are predatory practices worldwide, the U.S. taxpayers should not be expected to be the ones who step up to the plate and protect.

Again, let's talk about the real facts. The way the sugar program works, the sugar producers themselves pay an assessment on their crops to help to fund the nonrecourse loan program that is established to protect the sugar industry. The sugar program basically consists of two very easy pieces: One, a nonrecourse loan; and, two, quotas on imports to protect us from dumped sugar being forced into U.S. markets.

If you look at what the cost to the U.S. Treasury has been as a result of this nonrecourse loan program, you find something very interesting. If you look at the last 12 years, this chart basically covers 9 or 10 years. The U.S. Treasury has gained money because of the sugar program because in each of the years 1991 through 1999, I believe in almost every year prior to that, the assessment paid by the sugar growers was more than was necessary to pay for the cost of the loan program, and the excess went right into the U.S. Treasury. The Federal Government was making money off of the sugar program to the taxpayers, not costing the taxpayers money.

It is true that in the year 2000 that reversed, and the loan assessments were not enough to cover it. And in that year there were costs to the taxpayer as a result of the nonrecourse loan program. We can't say that in every single year there is going to be a benefit to the U.S. Treasury. But we can look at history and historically, in the vast majority of the years, the U.S. sugar program operates at no cost to the U.S. taxpayer. In fact, it puts dollars in the Treasury which we then allocate to other important priorities in the United States.

Whether we are talking about the consumer, whether we are talking about the taxpayer, or whether we are talking about the sugar growers in the United States, the sugar program is a program that is designed for well-intentioned purposes and is working well. There is no reason we should have to go through this debate endlessly, as those who would like to drive the price of sugar down even further in the United States continue to attack the sugar program.

I encourage my colleagues to oppose the amendment to strike the sugar provisions from this bill.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I associate myself with the remarks made by the Senator from Idaho and by the two Senators who preceded him from Minnesota and North Dakota. I was not aware until the Senator from Idaho pointed out the history in the sugar program, but I think this testimony today certainly underscores the bipartisan support for this program and also the benefits not only to sugar beet producers in these respective States but, as Senator CRAPO has pointed out, to the American people.

I see no one else is here right now so I thought I would take a moment. I have been asked by the chairman of the Agriculture Committee, Senator HARKIN, who is managing this bill, to sit in for him briefly because he has to chair a conference committee on one of the appropriations subcommittees. In baseball terms that is called "reaching deep into the bench" to put me in that position. It does give me an opportunity to speak for a moment about the superb job which the chairman, Senator HARKIN, has done in leading our Agriculture Committee and also in bringing this bill to the floor.

As the Presiding Officer knows, since he and I were both on this committee for this first year, we have had the good fortune to serve under two very distinguished and outstanding chairmen of the committee. Senator LUGAR from Indiana, when we first joined the committee, provided magnificent leadership. His longstanding commitment and concern not only to American farmers and to setting the right policy for American farmers is evident, but also his deep support for the nutrition programs and benefiting children, consumers throughout this country.

When Senator HARKIN became chairman, I had the opportunity then, along with the Presiding Officer, to watch him provide the same kind of outstanding leadership. He has had the responsibility to bring this bill through our committee and to the Senate floor. I can honestly say, after watching him over the last couple months, one of the positions I would least want to assume is that of chairman of the Senate Agriculture Committee. While it has great responsibility and great opportunity to be of service to those States, such as Nebraska, Minnesota, and others, which are so heavily dependent on agriculture, frankly, the work the chairman has performed I think has been nothing short of miraculous, trying to pull together all the agricultural interests in our very diverse country.

We have had some of our differences and disagreements, certainly, but I think they have been more based on representing the interests of the farmers in our particular States than anything else. Maybe some are on philosophy and views on what the Government's role in agriculture policy ought to be. Most of all, we come from 50 diverse States with very different agricultural interests, and we are trying to knit that all together here.

Again, I think Senator HARKIN has been phenomenal in his ability to bring together all the points of view and to reflect not only the interests of his own State of Iowa—which, coincidentally, is contiguous to my State of

Minnesota, so we share many issues in common—but also those interests from all over the country. I think the bill that the chairman brought forward is really remarkable.

I have listened to the debate over the last couple of days. Again, there are many different points of view, and they all have considerable merit. I hear some who are critical of this effort because of the costs involved and the need to provide some of these supports to American farmers and producers, and I sometimes think we have lost the context for this legislation and the reason that we, even in the committee, had to adopt some of these provisions.

As a Senator from Minnesota, where commodities such as corn, wheat, soybeans, and dairy are certainly beneficiaries of these programs, I wish—and I know every farmer in Minnesota wishes and would greatly prefer not to—we did not have to receive any Government payments or subsidies whatsoever—call them AMTA, countercyclical, or whatever. They would much rather make a decent price and get a good profit in the marketplace.

I come from a business family, and I know the Presiding Officer has been involved in business as well. You don't stay in business in this country if you can't make a profit on what it is you produce and sell. That is what American farmers want to do. They are business men and women first and foremost. They love the land and the work they do, but they are in agriculture to make a profit—a sufficient profit to pay for all their equipment, their seed, and other investments, and to get a fair return. Most important, they want to be able to provide for their families.

Something strikes me as terribly wrong in this country when these hard-working men and women—America's farmers—want to spend their lives and devote their careers to feeding the people in our country and throughout this hungry world, yet they can't make a decent profit on what it is that they themselves produce. I know farm families in Minnesota where the families and their children are literally going hungry because they can't make enough producing commodities to be able to buy what they need for their own families.

That is the crisis we have seen in the past. I think we have seen it clearly—at least speaking from Minnesota's perspective—get worse and worse under the current farm bill. It was put together with all the best intentions. I don't think there was anybody in the Senate or in the House 6 years ago, when this bill was put together, who had any intention other than to best serve the interests of American farmers and the American people. But the fact remains that in the aftermath of that legislation, the decoupling of prices from payments and setting up of AMTA payments that were based on pre-1996 levels of production has essentially locked in historical production, as well as the payments made according to the size of these farm operations, and that is, prices declined for many key commodities, and in subsequent years Members of Congress from both parties came back and agreed together, under the administration of the former Democratic President—so this was bipartisan—they came back together year after year and authorized these emergency payments.

Last year in the United States, the Federal Government was the largest provider of financing and income for American farmers. In some States, including parts of my own, net farm income in these areas was less than the amount of the Federal Government payments in support of these commodities. In other words, in the marketplace the farmers lost money. If they had not received these Government payments, they would have been out of business. That is again why, from my perspective, the Congress, and the administration, year after year, acted as they did, because they knew if they did not do so, given the market prices that were not just through the floor; they were in the sub-basement, the farmers would be going out of business. If they hadn't acted as they did, Minnesota farmers, by the thousands, would have been out of business.

Therefore, if we don't act as we are today, if we were to say take away all these subsidies and let's return the dollars and use them for some other purpose, that would absolutely bankrupt farmers in Minnesota and, I believe, throughout significant parts of this country.

So the goal of Chairman HARKIN's work and our work on the committee, as I view it, has been to take the predicament in which we find ourselves today with American agriculture and say how do we move ourselves out from behind this economic eight ball that we find ourselves behind and move forward in a way that restores some of the market prices, at least if I had my way, to levels that are such that farmers could make a good price and profit.

Even though we dodge that issue in this country, frankly, there are forces—and some have been referred to by some of my colleagues—who prefer to see the price that goes to the farmers themselves as low as possible, and who benefit from having low market prices for basic commodities because then, through the processing and the transport and retail and the like, they have a greater margin for profit in their own enterprises, striking that balance so that the American consumer, at the end of that, still pays a reasonable amount, which the consumers do today—remarkably less of their total family income as a percentage for basic food than virtually any other country in the world, because we have an efficient agriculture system, one that overall provides food for the consumer at a low price, providing for quality as well.

Those who want to keep prices low—and we have had this discussion in the Agriculture Committee, the Chair will remember, with the Secretary of Agriculture, where I asked the Secretary, because there are some in that administration and part of that Department who reportedly, from what I have read of their remarks, think the prices should be kept fairly low, should not get too high, because then it would have a negative effect on our efforts to expand trade and the like.

So I asked the Secretary if she could provide for us what are the target market prices for these commodities that the administration thinks are in the best interests of American farmers, as well as trade and everything else. I have not yet received an answer to that question that I raised some time ago.

So to lay all the cards on the table here, clearly, as I say, there are many competing forces, and Chairman HARKIN, in my view, has done an extraordinary job of balancing them and putting this bill before us. I might say the same about the conservation title. I know Senator HARKIN and other Members have worked closely on that. He has been working on these new initiatives in conservation for the last couple of years. I know because I had an opportunity—and some of the environmental groups and farm groups in Minnesota told me even before I took office about how they have been working with Senator HARKIN and with his excellent staff for the last couple of years framing these conservation programs.

Senator HARKIN recognized that we have already in current law—through, again, bipartisan efforts and with bipartisan support—such very important conservation programs as CRP, WRP, the ways in which we have encouraged farmers and paid them through Federal funds to set aside lands that are probably better off not being in agricultural production—they may be marginal for that purpose; they may have environmental issues with extensive farm production—and where we therefore make it possible financially for farmers to do the right thing. What they would like to do is act as stewards of that land and to go ahead.

So we have seen those programs. They produce wonderful results and support the men and women in my State of Minnesota and across the country—environmental groups and farmers. This is one of those times when people from all different interests, backgrounds, and perspectives seem to agree that, again, within the right balance, setting aside this amount of acreage has been in the best interests of our country.

These are Federal Government programs that have worked for farmers and environmentalists. They have worked to preserve our resources. They have worked for sports men and women, fisher men and women, and hunters.

Senator HARKIN wanted to focus in particular on those farmers who have land in production but who themselves, especially during these times of economic hardship, would like to undertake some improvements for conservation purposes and do not have the resources, sometimes even the technical know-how, to do so.

He crafted this new conservation program, the Conservation Security Act, which is a major component. It should be called the Harkin Conservation Security Act, to give due recognition to the leadership he has provided in support of farm organizations, environmental groups, and others in Minnesota and elsewhere in the country.

If we initiate a new approach which is successful, I believe it will be a tremendous cornerstone of our nationwide conservation efforts by providing farmers with funds and working with them and with people with expertise in farmland conservation so they can bring more of their agricultural production into the best conservation practices known and provide them with funds to do so. I think that is an extraordinarily important part of the legislation.

Finally, Mr. President, since I have the opportunity, I want to say how important I think the energy title of this legislation is. Again, I commend Senator HARKIN for his leadership in this area as well. He has been one of the champions in the Senate for a number of years in taking our agricultural commodities, such as corn, which is certainly prevalent in his State of Iowa and my State of Minnesota, and using corn for purposes of ethanol production, providing what is a winner all around, providing an additional market for domestic commodities so we raise the prices, as I said earlier, in the marketplace, and providing for cleaner fuel as an alternative, as a substitute for some of the hydrocarbon additives. Ethanol is an enormous contribution to a cleaner environment across this country, and also to domestic oil reserves.

I look forward next year to working in the area of expanding the use of soybeans for diesel fuel as an additive, and I know Senator HARKIN has been willing to take the leadership, along with myself and others, in that area as well.

Again, I commend the chairman. I certainly commend the ranking member as well, but I think through the chairman's hard work especially, we have a bill today I am very proud to support.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, when I saw the Senator from Minnesota was speaking on the farm bill, I wanted to come and thank him publicly for the role he has played as a new member of the Senate Agriculture Committee.

The Senate Agriculture Committee deals with some of the most difficult issues when we are dealing with a new farm bill. This has been a debate that has extended over a long time. I point out that the Senator from Minnesota, as a new member of the Senate Agriculture Committee, in my judgment, has become one of its most thoughtful members. We saw that with respect to the amendments he offered and his debate, both in the public sessions and also the sessions in which there were only members discussing how we would proceed.

I thank him. It is awfully good to have a new colleague from a neighboring State who has done his homework on the issues in this farm bill. I believe that is the case with the Senator from Minnesota. I commend him for the role he has already played.

One of the things that happens around here is you develop respect based on your credibility, and the Senator from Minnesota I think has laid a basis that will serve him well for many years to come in the Senate.

I would be remiss if I did not acknowledge the role of the current occupant of the chair as well who is also a new member of the Senate Agriculture Committee, the former Governor of the State of Nebraska, almost a neighbor to North Dakota, but someone with whom we have shared interests and somebody who has played a very important role as well in bringing this farm bill before the Senate.

We can acknowledge there were many who said we would never be here. There are many who said we could not get a bill through the committee this year, we could not get a bill on to the floor of the Senate. Now they are saying we cannot get it out of the Senate. We will see. We know there are those who are opposed to moving this legislation this year. I think they are badly in error. Let me say why.

We are faced with the lowest prices in 50 years in agriculture. In October, the price review for agriculture came out, the so-called producer price index. It indicated the biggest drop in prices that farmers received in 91 years—the biggest monthly reduction.

Our major competitors are not waiting. The Europeans have clearly a plan and a strategy they are pursuing and pursuing aggressively. They are already providing their producers nearly 10 times as much in per acre support. They are providing 28 times as much in export subsidy to take markets that have traditionally been ours. They hope we are asleep. They hope we will not act. They hope we will debate this bill to death and not move forward.

I hope they are wrong. I believe they will be proven wrong. It is incredibly important to this country that they are wrong because if Europe prevails, if they are able to maintain this differential in which they are continuing to grab market share that traditionally has been ours—remember, in the last 20 years they have gone from the biggest importing region in the world to the biggest exporting region. They have done it in 20 years. They have done it the old-fashioned way: They have gone out and bought these markets.

We in this country will regret it for a very long time if we lose our world dominance in agriculture. We are very close. The stakes are enormous, and this farm bill is the test. I hope we pass it.

I thank the Chair and yield the floor.

Mr. INOUYE. Mr. President, I rise to strongly oppose the Gregg amendment, which would essentially abolish the sugar program and place the remaining two sugarcane producers in my state out of business.

Hawaii cannot afford the dramatic increase in unemployment that will result from the shutdown of the remaining sugar operations. Sugar supports much of the employment base on the Islands of Kauai and Maui. If there is no relief to sugar prices, approximately 300 to 400 sugar and related workers will become unemployed. For a small island economy, this would be an enormous loss of jobs at a time when there are few alternative employment opportunities in the state. The sugar industry in Hawaii has declined to about one-third of its size compared to five years ago, and the remaining operations can remain globally competitive only as long as the U.S. sugar program is in place. The U.S. sugar program provides a cushion against imports from the world dump market, where prices have run about half the world average cost of producing sugar for most of the past two decades.

U.S. producer prices for sugar have been running at 20-year lows for the last two years, and it is extremely difficult for our producers to compete because sugar production around the world is heavily subsidized. Because of foreign subsidized surpluses the world dump market price has averaged, for the past decade and a half, only about half of the price it would have been in the absence of subsidies. For example, the European Union (EU) has transformed itself from one of the world's biggest sugar importers to one of the world's biggest exporters with extremely generous producer subsidies. The EU subsequently unloaded its surplus sugar onto the world dump market with massive export subsidies. Some 6 million metric tons of subsidized sugar is dumped on the world market each year, for whatever price it can bring in.

The U.S. sugar policy was a net revenue raiser of $279 million from 1991 to

1999. The sugar provisions in S. 1731 allows American sugar farmers and producers to compete on a level playing field against foreign sugar farmers. I urge my colleagues to defeat the Gregg amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, a couple of hours ago, I came to the Chamber and indicated we needed to move this legislation along. We have not moved it very far, although this has been a stimulating debate on the topic of sugar.

I have spoken to the Republican manager Senator LUGAR, and he has indicated he wants to speak, Senator ENZI wants to speak. And I see my friend from Arizona. I do not know if he has had an opportunity to speak yet. I say through the Chair to the Senator from Indiana, I do not know if the Senator from Arizona has spoken. I have not been in the Chamber all day. He may want to speak.

It appears not.

When Senator LUGAR finishes his statement and the Senator from Wyoming finishes his statement, I will move to table this amendment.

I also say to the manager of the bill for the minority, I hope sometime this afternoon we can have a cutoff for filing of amendments. If we are not able to determine how many amendments there will be and some time for a filing deadline, it appears people are not serious about moving this bill along.

I look forward to the next vote, and we can talk to the two leaders at that time.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I say to the distinguished colleague from Nevada in response, it is indeed my impression that following the debate on the sugar amendment, Senator DOMENICI wishes to offer an amendment, and then Senator BOND from Missouri will come in, and then Senator MCCAIN.

Mr. REID. That sounds good.

Mr. LUGAR. At least we know there will be some activity. I want to speak on the sugar program. For the moment, I am prepared to yield to my distinguished colleague from Wyoming because I will be here for quite awhile, and to conserve his time so he might be heard, I yield the floor, and I will ask for recognition again.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in opposition to the Gregg amendment which is to phase out the sugar program. The goal of U.S. sugar policy is for our producers to provide a consistent supply of inexpensive sugar to consumers. We have met that goal. Sugar is an important part of almost every food product. The U.S. sugar policy has provided food manufacturers with an unwavering supply of sugar without cost fluctuations. All consumers have benefited from this steady supply. The U.S. sugar policy has allowed producers in Wyoming and other States to provide for the country's sugar needs without going out of business.

The Senator from New Hampshire claims the U.S. would be better served if we purchased our sugar from the world market. I will not deny the prices for sugar on the world market are less expensive than the current U.S. sugar prices. It is important to note that the world market is a dump market. It is comprised of surplus sugar from subsidized countries.

Countries such as Mexico supply the world market. Mexico now has an average overproduction of 631,000 pounds. Even though 250,000 pounds of that surplus production is accepted into our market under the NAFTA side level, the Mexican Government recently bought and paid the debts on almost half of the sugar refineries in Mexico. If that is not subsidization, I don't know what is.

I met with the folks from the Mexican senate yesterday. They were in the United States to talk about sugar. I had to remind them of their overproduction, and if the world market opens up it will grow even greater. I had to talk to them about the NAFTA side letter so that our high fructose corn syrup can go to Mexico and eliminate some of the overage we have here.

I know for a fact some of the people who served in this body at the time that NAFTA came up only voted for NAFTA on the basis of that side letter. That side letter is now not being recognized by the Mexican Government..

They are creating a crisis in America, a crisis in Wyoming. The sugar beet growers in Wyoming are working desperately to make their product work, to make sure there is an even domestic supply. We shifted all of our energy supply overseas—not all, but a good deal of it. You can see the crisis that this is causing at the present time in this country. Should we do that to sugar too; get rid of our local producers and have those countries in the other parts of the world ban together to control the price of sugar and make us pay through the nose for sugar? I don't think that is a very good idea.

Our sugar producers in Wyoming are coming up with alternate ways to make their production work better. One of the ways they are doing that is to buy the refineries. They are not asking the Federal Government to buy the refineries. They are buying the refineries. They are forming co-ops and putting their land up against the refinery. Why? They get a little bit of profit off of the sugar, off of the production of the sugar. They will get another little bit of profit off of the refining of the sugar. If they can put together enough of the different layers that are presently going to other people, they will be able to make a living from the sugar.

Don't be fooled by the glut of sugar in the world market. The price may be low now, but I guarantee that will change. As soon as the U.S. accepts this amendment and begins buying from the world market, the price for sugar in that market will rise. We will be left at the mercy of the world market because our growers will no longer be in business.

In Wyoming alone, the Main Streets of at least four rural communities would become ghost towns. They will no longer be able to meet the needs of our own country. While sugar beets remain the No. 1 cash crop in Wyoming, the price farmers receive for their sugar is at a 20-year low. That shows the dire situation all agricultural producers are in this year. The companies that refine the sugar beets into sugar in Wyoming can no longer afford to remain open.

The farmers in my State and others have banded together to try to purchase the refineries. They are attempting and fighting to do everything they can to remain viable and competitive. These are not farmers waiting for the U.S. Government to bail them out; they are fighting for their own future.

The Senate should defeat this amendment. We should continue to support sugar beet and sugarcane farmers just as we support all farmers who produce agricultural commodities in the United States. The sugar program portion of the total net outlays for all commodity programs from 1996 to 2001 was only .19 percent, a small cost to maintain a steady supply of sugar to our consumers and to provide for communities that rely on the sugar community.

This becomes a domino effect. We talked about the problem with airlines and how people rely on airlines. If you are in a small community, one of the four small communities in Wyoming that rely on sugar beets, when the industry goes down, the whole economy goes—I don't care how well the airlines are flying. They are not asking for the United States to buy the sugar refineries as they have in Mexico. They are just asking for a fair chance at their economy and a little longer to develop these co-ops. I hope Members stick with us on the sugar amendment.

I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent that following the statement of the Senator from Indiana, Senator BURNS be recognized for up to 15 minutes to speak on this amendment; Senator CRAIG be recognized to speak up to 15 minutes on this amendment; and that I then be recognized. I will move to table the underlying Craig amendment.

Mr. LUGAR. Reserving the right to object, my understanding—perhaps someone can advise me—is that Senator GREGG wanted to make a final argument. Could the leader offer at least a proviso of time for Senator GREGG?

Mr. REID. That is appropriate, and I also ask unanimous consent that there be no intervening amendment prior to my motion to table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise in support of the amendment offered by my distinguished colleague from New Hampshire, Senator GREGG, which, as has been pointed out by all speakers, effectively phases out the subsidies provided under the existing Federal sugar program.

Apropos of the comments made by my colleague from Wyoming, almost all farmers are supported by some program, as I attempted to point out this morning, and only about 40 percent of farmers in our country receive any benefits from all of these programs. I appreciate that colleagues find this difficult to believe, but nevertheless it happens to be the case. It is the case because historically programs arise attached to very specific crops. In the case of the row crop of wheat, corn, cotton, and rice and the evolution of things, soybeans have come into that category and there have been very special programs over the course of time established for sugar or peanuts, for tobacco, for wool and mohair. In due course, programs have come up largely through a sense of equity and disaster areas that have somehow touched upon so-called specialty crops.

But after all is said and done, the farm bill essentially is a focused bill historically on program crops. Sugar is one of these. As a result, those who are involved in the sugar program are among the 40 percent who are beneficiaries as opposed to the 60 percent of American farmers who are not.

Having said that, in the amendment I offered this morning I did not offer discriminatory comments with regard to the sugar program any more than other programs. Rather inclusively, I suggested that $1 of revenue from sugar ought to be treated the same as $1 of revenue, say, from honey or from wool or whatever. That would be true, in my judgment, for sugar farmers. If the farm does only the production of sugar, that is going to be the only item in the list. But, nevertheless, that sugar grower would have been entitled to a 6-percent voucher on the first $250,000 of value, 4 percent on the next $250,000. Admittedly, that would bring a certain amount of discomfort to a very small number of sugar growers.

But, as Senator GREGG pointed out, a very small number receive 40 percent of all the money in the sugar program, as is the case again and again in agricultural programs as they are now. They go to a minority of farmers to begin with. A very small minority of that minority receive a disproportionate amount of the payments—such as, in the totality of things, 47 percent of payments going to just 8 percent of farmers.

The sugar distribution is even more pronounced, with a vengeance. Therefore, the amendment Senator GREGG offers, a phaseout of these sugar subsidies over the course of a period until we get to zero in the year 2006. There is a transition that phases into the world market that has been discussed. I will touch upon that. It offers, at least, a glidepath out of this, given the fact we are not going to have a whole farm view but continue with very specific commodities because the program has had very unfortunate results, as Senator GREGG has detailed and that I want to underline.

In essence, his amendment would phase out the so-called loan rate for sugar beets and sugarcane, reducing it to zero. Marketing allotments and quotas for both sugar beets and sugarcane would be eliminated beginning with the year 2003 crops. Senator GREGG's proposal would make the funding offset of approximately $1.2 billion over 10 years, according to CBO estimates, available to lift the shelter cap in place in the Food Stamp Program. So, in essence, Senator GREGG is moving this money, which is going disproportionately to very large sugar growers, to nutrition programs for the poor.

Eliminating this cap, as the Senator points out, will help a large number of families whose actual housing and utility costs put them in a situation of choosing between shelter and food.

This morning, as we discussed my amendment, I chose to offer a solution of roughly doubling the amount of money over the course of 5 years in food programs. Senator GREGG goes about this in a different way, given the loss of my amendment this morning.

The Senate committee bill maintains, as it stands, many of the current sugar program provisions and, in fact, provides additional benefits that proponents have required as well. It eliminates the marketing assessment on sugar, reduces the CCC interest rate on pricing board loans, authorizes a payment-in-kind program, reestablishes the no-net-cost feature of the program, and provides the Secretary with authority to implement allotments on domestic sugar production.

The loan forfeiture penalty on sugar also is eliminated. The taxpayer cost of all of this is expected to be about $530 million in mandatory new spending, above baseline, during the next 10 years. This is the CBO 10-year score.

I mention that because there has been considerable discussion. Whatever may be the merits or demerits of the sugar program, the costs to the taxpayers is de minimis. Albeit, a small problem in the past year, but nevertheless this was an aberration, as suggested. But it is no aberration when CBO scores the sugar program in the Harkin bill as $530 million. That is real money, taxpayer money over the next 10 years. This is hardly a harmless procedure.

There has been long debate about the effectiveness in the administration of the program. I wish to touch upon some of those problems as an illustration of unintended consequences of the sugar program.

The U.S. Government, for many years, as all have pointed out, has subsidized domestic sugar production through a combination of price supports but, perhaps equally effectively, import quotas. That has led to, if we were discussing this in a foreign policy debate, some very serious problems. For example, throughout the 1980s, as this body and the President of the United States seriously talked about democracy in Central and South America and in the Philippines, the sugar situation arose every time. The countries were attempting to help find their way to the ballot box but then, fairly rapidly, due to some type of economic consequences in which the newly elected officials could be supported, they ran up against the fact that we restrict the amount of sugar imports to this country and restrict them rather severely.

A so-called sugar quota system occurred in the world, country by country—literally of how many pounds each country was allowed to ship to us. It mattered not what the price was. The entire situation was carefully regulated. Why? Because those who had formulated the sugar program readily saw that if we were offering stimulus to production in this country at the same time mandating imports from other countries, a collision was going to occur—which has occurred, from time to time. But what also happened was that other countries around the world were prohibited, really, from the economic sustenance that those exports to our country would have meant for them.

So on the one hand we talked about foreign assistance, foreign aid to these countries to shore up their fledgling economies and fledgling democracies, but not through allowing them to ship to us something of which they had surpluses and in fact produced at a fairly low production cost.

Throughout this debate, the production cost, the worldwide cost has been mentioned at approximately 16.5 cents. But that is the average cost. That is almost saying there is some type of average cost for the production of corn in the United States of America, which means maybe approximately half of corn growers are more efficient than that. Some are very much more so, as a matter of fact.

I mention this because some countries have a natural advantage in the production of sugar that we do not have. This is an acquired skill in the United States. Our problem, then, in terms of foreign policy, was exacerbated further, as has been pointed out, when we came into the NAFTA agreement. This is a serious problem on the horizon, not touched upon in great detail today but it would be by anybody in a sugar conference because we pledged to have a fairly free flow of Mexican sugar.

This gets into other internal agricultural disputes because those who are producing high fructose syrup—and this is largely corn growers who are interested in this situation—feel badly treated by the Mexicans. They have protested in about every way, in all the various settlement fora, that they are being shut down by Mexican intransigence. Mexicans are replying: By the way, you are supposed to take our sugar.

So to say the least we have a problem here between corn growers, if we were in that fora, and sugar growers. Likewise, our treaty obligations somehow are in some disarray when it comes to this issue.

In any event, domestic sugar processors have benefited from price support loans that guarantee them at least two to three times the world price of sugar and sometimes more.

We touch upon, once again, this price of sugar. And others have pointed out that the true average of 16.5 cents is the world price. I took a look at the Wall Street Journal this morning, and it is now somewhat less than 8 cents. It has not been a good week for sugar.

The proponents at least of the sugar program point out that this is so-called dumped sugar and that what I and others don't understand is countries and big users contract with each other. Presumably the idea is that they contract at some price that must be adverse to their situation because clearly it must be higher than the world price. Apparently, do this year after year, and keep on doing it regardless of how far above the world price it is.

For a commonsense listener of this debate, that listener might say: Why, just to test out the system, don't you just buy the 8-cent sugar? Why would you want to make a contract at 15, 16, 17, or 18 cents? The sophisticated sugar producer might very well say: Well, because that is about what it cost. And, by and large, that is where the bulk of it is if you have a big contract. You really need a lot. You need a certainty of supply. You need continuity of management, and so forth, as some have pointed out, and long-term contracts. But you don't look at the daily posting in the Wall Street Journal. But if you have something out there, I understand that.

We have sophisticated discussions about sugar prices that involve all of these aspects of certainty.

With regard to the pricing of various commodities, in my farm experience from time to time the starch company has suggested that, if I would guarantee a flow of corn month by month, which means that I would bear the storage costs and the problems of transportation and marketing, and what have you, they would be prepared to pay a premium for every bushel of corn well above anything that I could sell it for in the futures market, for example. Why would they do that? Because a guarantee of a certain number of thousands of bushels month by month with a fairly short haul and certainty in the neighborhood is valuable to them.

I can well understand why people would come to contractual agreements on sugar that might be above the fluctuations of the world market at some point. However, for the domestic consumer of sugar—this includes others well beyond candy companies or those who are commercially involved in these operations—it would be attractive to consumers in the United States if they could consider the possibility of buying this dumped sugar. It is as inexpensive as the sugar that was not dumped. As a matter of fact, domestic producers say that would be unfair because our production costs are well above that cost.

One can understand their argument on this despite the contracts which they claim to have made at prices that are much higher in a situation. But consumers are always helped by markets and by genuine competition. There is a lot of it out there.

The suggestion is that somehow if we were seduced by the idea of 8-cent sugar and started buying, that suddenly it would be gone, and that it would be back to 16 cents. That is nonsense. My experience, at least in visiting people all over the world who are involved—in the Caribbean, South America and Philippines—is they have a lot of sugar. It would not just be dumped. It would come in a steady flow, and it would come at a cost that is substantially less than that which is now paid by consumers. We would have tax reductions across the board.

It has the same effect as a drop in the price of gasoline, which we all applaud. No one, to my knowledge, is condemning Saudi Arabia for dumping gasoline on the American market. As a matter of fact, we want them to dump some more—as much as they can. We fear that our good fortune might end at some point; that the cartel might get together and somehow remedy the predicament. But for the moment, as consumers of gasoline, we understand the issue clearly. So should we as consumers understand the issue of sugar, a common substance used by most of us.

I am saying in terms of our standard of living that our situation would be enhanced. It would be a tax cut through the Gregg amendment.

For the moment, however, imports are restricted through quotas that are among the last remaining protection barriers in U.S. trade law. That, of course, means even with our barrier with Mexico with whom we thought we had reduced the barrier—the whole purpose of NAFTA—and despite claims that the sugar program operated at no net cost in fiscal 2000, the sugar program cost the taxpayers—not consumers but taxpayers—$465 million, according to the U.S. Department of Agriculture. That is a substantial sum of money.

Furthermore, as we have heard, the Federal Government ended fiscal year 2001, the last year we were in, owning 1 million tons of surplus sugar, some of which is now given back to producers as payment for plowing up their growing crops.

USDA projects that by decade's end, the Government will own not 1 million but 4 million tons of sugar acquired through this program—through forfeiture of sugar pledged for collateral for nonrecourse loans under the program.

Senator GREGG has said—and I affirm—that we cannot follow this indefensible path. Under our current international trade commitments, we must soon permit increasing imports and obligations under "WTO" and NAFTA, which, coupled with record high domestic projections, will result in a sugar supply far in excess of demand. A long-term and rational solution must be implemented in the near future.

I compliment the Senator from New Hampshire for at least a bypass solution rather than an abrupt termination. The sugar program, in essence, is a transfer of wealth from many who are not able to pay—low-income persons—to a fairly small group of producers, many of whom are, in fact, very large corporations and wealthy individuals.

We are now talking about the sugar producers—not the candy companies that have been given some criticism for their wealth and their financial means.

Nearly all other farm programs make transfer payments from the Treasury. Thus, the transfers—whatever their merits—bear some relation to ability to pay since they utilize funds generated by the progressive income tax. But the sugar program works just the opposite. Any tax on food places a greater burden on low-income Americans. Thus my point: Any decrease in the price, such as the ability of incoming shipments of sugar at the world market, serves as a tax decrease for the same reason.

The sugar program ultimately must hurt consumers, despite the pledge that somehow stability is maintained, somehow that a moderate price is maintained, as opposed to prophecies that the price literally would take off if we were going to buy in the world exports at 8 cents.

Finally, I would just say, simply, the price of all food that contains sugar would be affected in addition to the raw product. Sugar growers' own statistics show that in developed countries with access to this world-priced sugar—and I cite particularly our friends in Australia and Canada; these are countries that really have not been so inhibited in utilizing the world-priced sugar at these prices—retail prices in Canada and Australia are lower than in the United States.

Only countries with protectionist sugar regimes—and that would include the European Union, of course—have consumer prices that are higher.

If this were entirely an economic debate, it would be serious enough because we are talking about consumers all over the country in what amounts to a tax increase. And now this is augmented by actual Treasury payments in the hundreds of millions of dollars.

Senator GREGG touched upon the Everglades. Let me go into this further.

Sugar production on approximately 500,000 acres at the top of the Everglades has substantially contributed to the environmental degradation of the Everglades. In 1996, the Senate Agriculture Committee supported the inclusion of $200 million in that year to purchase lands in the Everglades agricultural area, simply to help in the process of restoration. This was a bipartisan effort and one which Florida Governor Bush called "the linchpin of Everglades restoration."

From my personal experience, for a variety of reasons, I was campaigning in Florida that year and was made well aware of what was a collision of cultures, so to speak. A very huge number of Floridians described the situation to me in detail. I went to the Everglades to see this degradation for myself, as well as the sugar plantations and all that was involved.

People could have rationalized, in times gone by, that, after all, human beings should be supported in agriculture, that the spoilation of whatever was there had happened elsewhere in our country at various times in history, that it was too bad if additives to the crop: fertilizers, chemicals, what have you, floated downstream and even got offshore and created all sorts of ecological difficulties; that is the way it goes. And to seriously talk about winding this up, at this point in history, even if it meant that you could never restore the Everglades, or even the waterways of Florida, was really beside the point.

But for many Floridians it was not beside the point. As a matter of fact, they proceeded to a very tough referendum campaign that was decided ultimately by a very narrow margin in favor of the sugar growers, not those who were in favor of restoring the Everglades.

Thus, as a result of that debate, and in part because many of us in the Nation as a whole believed that this is a very important environmental project, the Congress has come into it in a big way to try to work with those in the State of Florida who still, in a fairly modest way, are trying to wind up the worst of the predicaments and wrestle with the history of the past.

Let me just make the point, Members who are thoughtful about this sugar amendment need to think about the economics. I appreciate the problem is the Everglades, not North Dakota or Minnesota or sugar beets in the North. One cannot describe the same environmental catastrophes to those, and yet they are caught in the same economic problem. But we really need to consider the expenditures that are now going to be involved as the Congress, the President, and others, including the Governor of Florida, have become not only aware but determined, really, to turn around the course of history which ecologically has been disastrous in this situation.

Clearly, we ought not to be doing, in this bill, what we are doing, I fear, with almost every other crop; that is, offering incentives for more production. And that, I fear, we are doing again here. One can say that, after all, what is sauce for the goose is sauce for the gander. If you are going to offer more incentives to corn farmers to plant more corn, why be sparing with regard to the sugar brethren at this point?

I suppose there is a certain rough equity. If you are planning to simply overproduce everything, then, perhaps, consistency gets in the way here. But I would suggest that would be a mistake not only with regard to the sugar program but clearly with regard to the ecological and environmental consequences.

The right move is to wind up the sugar program. Members have pointed out such amendments have been offered seemingly for time in memorial. During the 25 years I have served on the committee, I cannot remember how many sugar amendments have arisen, but they have come frequently, at least one every farm bill, usually with great discouragement to the proponents.

I believe three farm bills back, if memory serves me right, a modest proposal came during the markup around the Agriculture Committee table. A Senator offered a suggestion that the loan rate be reduced by 2 cents. I think even in those days it was 18 cents or 16 cents. The suggestion was 2 cents be subtracted from that. That was roundly defeated. If it got three votes, that may overstate it. How could this be? Why such support of a reduction of such a modest amount?

The fact is, around the table in the Agriculture Committee—and this is not news to the Senator from Delaware—many of us who are deeply interested in the crops and in the agricultural practices in our States have a feeling we have come to that table to protect whatever is there. Sometimes that is very difficult for Members. The case is tougher and tougher to defend as the years go on, but that does not deter most. Apologetically, we will say: I have to do what I have to do. I can be a statesman somewhere else, but not when it comes to sugar or peanuts or tobacco or even corn.

I understand that. As a result, what I often have observed, in 25 years, is that those who have something to protect, as a matter of fact, make up a very large majority of us around the table. The situation would be—I think simplicity may be overstating this, but, essentially, if you are there to protect tobacco, you call upon your brethren who are protecting sugar or protecting peanuts or wool and mohair or indigo or honey or whatever the program may be—all of these programs have been highly suspect for years. From time to time, some have actually been wound up. There was good fortune in this respect a couple of farm bills ago when I think we finished the honey program. Wool and mohair certainly was gone, but it reappeared, not because of a farm bill but in the dead of night, in an appropriations bill at the end of a session, such as now, the proponents have managed to bring it back. So even around the table, when we make reforms, they do not necessarily stick. Therefore, I admire the courage, the foresight, statesmanship, and the wisdom of the Senator from New Hampshire in trying again today.

He has offered a constructive amendment which is good for America. At some point we really have to think about that. We can become so parochial and so narrow in our focus that we believe that a very few growers of any crop, whether it be sugar or something else, are worthy of our utmost attention.

But Americans generally listening to this debate, I believe, will find the equation I have offered a reasonable one; namely, we welcome the so-called dumping of oil by Saudi Arabia and others; we welcome the lower price of gasoline because our cost of living situation is helped. We would welcome, in my judgment, the purchase of sugar at the world price. We would welcome the fulfillment of our agreement with Mexico because that is so important not only with regard to agriculture but with regard to general trade and prosperity with our neighbor to the south as well as an enhanced standard of living in this country. And we welcome fulfillment of our WTO obligations because all of us want to export more of the things we do well in our States.

We cannot withhold our obligations to recognize that in other places sometimes people do things well also, and our consumers benefit from those laws of trade.

I call for support of the Gregg amendment and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized for 15 minutes.

Mr. BURNS. Mr. President, it is hard to follow my friend from Indiana because he makes his argument so sound that it is hard to argue with him. I look upon the support we give American agriculture, no matter what segment, as an insurance policy.

The figure was that the sugar program costs the American taxpayers some $460 million a year, something like that. That is in the neighborhood. That may not be correct. That is less than $1.60 per American. I can't insure my car for that price. What we are talking about here is that even though sugar prices go down, we still see prices of those products that have a high preponderance of sugar in them continue to go up. That is the record. It is there for all to see.

If one looks at the total picture of $73 billion a year we put into the agriculture budget, one has to remember that over half of that is programs on nutrition, food stamps, WIC, many others, meals on wheels, school lunch programs, all subsidized by the American taxpayer. The rest of it is farm programs and the administration of those farm programs.

I look at it as an insurance policy. No other country in the world has a grocery store like we do. Americans have to agree with me that when you go into a grocery store, there is a variety of anything you want to eat. I realize that maybe we don't look upon that as an important thing, but the second thing we do every day when we get up is eat. I don't know what the first thing you do is; that is up to you. But we all need it. We would like to have a little insurance and a little security in the food we buy both from a quality and quantity standpoint. And we do.

You can buy your meat, prepare it any way you want. Same thing with your fresh fruits and vegetables. This is just about the only country in the world, that has fresh vegetables even in the northern tier of States. When there is blowing snow outside, we can still buy fresh lettuce and vegetables. It is an infrastructure and a distribution system that is unmatched in the world.

Getting back to farmer income, for many years agriculture, at the production level, lived on 15 to 20 cents—and that varied—of the consumer dollar which went back to the American farmer. Now we are trying to get by on 9 or 10 cents. Our cost of production, our cost of vehicles, our cost of machinery, of our fertilizer, our chemicals, everything it takes to produce a crop is higher. Let's take, for instance, wheat. In my State it is around $2.75 a bushel. That is lower than it was coming out of World War II, 50 years ago.

We are a blessed nation. We can produce. The American farmer can turn it up, and they can produce it. My goodness, can they produce it. Yet when it comes time to write the check, not near as many of those dollars and pennies filter down to the American farmer. Think about this: When you buy a loaf of bread, less than a nickel's worth of wheat is in it.

Yes, the retail price of sugar in Canada is lower than in the United States, 6 cents a pound. No wonder the people who handle sugar in Canada like the idea of stuffing. This is the only industry where it is mandatory by law and by trade negotiations and trade agreements that we import so much sugar—not trying to overproduce here in the United States, but it is mandatory. It comes to about 15 to 20 percent of our total production is mandatorily put on our market. If we look at the surplus, that is just about our surplus.

We can talk about numbers and figures. In fact, we can swim in those numbers and figures. But at some time we have to take a real look at the men who are on the ground in charge of producing. They are the ones. It is on their backs that this good economy operates. We don't spend 50, 60, 70, or 80 percent of our income just to put a meal on the table. We do it for less than 20 cents.

In order to ensure that supply of quality and quantity, and also prepared in any way that you want, there has to be some sort of an insurance policy that that, too, will remain. We have bigger things to argue about in this Senate than this sugar program and what it costs. In fact, the cost, when you compare it to the rest of the economy, is nothing.

We could talk about food safety. We could talk about terrorism and its impact on our ability to move food from the producer to the table.

That is what we are talking about here. It is an industry that should be allowed to survive. Sugar producers did put forth a plan for why inventory management is the plan for sugar farmers, consumers, and taxpayers. Let's not get caught up in saying that if we take away a sugar program, the cost will go down to the consuming public, when the figures bear out that it is not true. That was very ably pointed out. That is not true.

If we had assurance that we could do a lot of things and provide food for those who are in need—that is what this does, and it makes it affordable. What it saves on the consumer side also saves on the Government side whenever we start talking about nutrition programs and programs that we are willing, as Americans, to provide those who are in need. Nobody ever thinks about those savings.

On the loans—nobody ever thinks that—while we have the sugar, it is sold. Where did the money go? We just hear about the initial appropriation for the program, but we never get an accounting on how much the Government owned, how much it sold and the difference. If we lost a little money, then that takes that so-called—everybody hates this word—subsidy number way back. It is hard to get those accounting numbers.

So what I am saying is that Americans are willing to ensure the stability, the quality, and the supply. They are willing to accept and pay for that insurance policy. If you look at the whole bill, I think it is around $250, $270 a household across the country. You can't insure your car or your house for that, and you can't insure your life.

I had a cookie while coming over here. Obviously, I've had a lot of cookies in my life. I have never missed a meal, nor do I intend to. But I also understand that this society is the benefactor of people who really know how to produce. Now, talking about limitations and all of that, let me tell you folks that on the farm and ranch, the people who were inefficient, just playing around and trying to farm and could not, they are gone.

We are talking about an agriculture that is down to the point where these are the good people who know how to operate and they are efficient. Our production, as far as increasing our production per acre, has almost been capped out. We can't increase that any more. So the old analogy saying we have to be more efficient and increase our production per acre, and our cost —we will have more to sell, but our cost of production continues to edge up there, also.

I am always reminded of the two fellows in Montana—brothers—and they go to Mississippi and buy watermelons for 75 cents apiece and haul them to Montana and sell them for 74 cents apiece. One looked at the other and said: We are not making any money. The other suggested: We have to get a bigger truck. Well, that is not happening in agriculture anymore. That is not happening there.

So the consumers of America, who are benefactors of this great production, are willing, I think, to buy that insurance policy that says, yes, we will have a supply; yes, it will be ample; yes, it will be quality; and, yes, it is guaranteed to be at that grocery store that is open 24 hours a day and the ability to buy anything you want to eat, in any amount, at any quality, prepared in any way. That is what we are talking about there. That is what American agriculture is all about.

We want to help people. I don't know of anybody who ever showed up at our house who didn't get fed when mealtime rolled around. That is the way of the people of the prairies of this great country.

The Senator from Indiana knows of the values in rural America. They deserve to make a living—just to make a living. Sugar is no different. That is all they deserve.

Now, are there people who abuse the system? Sure, there are. There always are, but they are few. The people who really need the help are people who didn't buy a new pickup last year and didn't buy one all through this boom. We have seen cattle prices a little bit better now, but we haven't seen a great boom on the farm or ranch through this great economic recovery we came through. We did see our cost of production escalating. For everything we bought, prices went up because of the last boom.

I hope we will table this amendment and not send the wrong signal to agriculture and the American people that, yes, we like the insurance policy that we have and, yes, we like that security.

I yield the floor and yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized for 15 minutes.

Mr. CRAIG. Mr. President, debate on the Gregg amendment to the Harkin farm bill is nearly at an end. We have had an ample period of time to discuss the pros and cons of a national sugar policy not just for the producing beet or cane farmer in the great North, Northwest, or the South, but also a sugar policy for the American consumer, who has seen very stable sugar prices for well over a decade.

What I have recognized in my years of involvement with this issue is that the producing side of the sugar industry is very willing to create a dynamic program that does not cost the American taxpayer any money, creates a stability of price both at the farm level and also at the manufacturing level and, ultimately, the consumer level. That has been the historic pattern of a sugar policy, except for just the last 2 years.

In fact, over the course of the last decade, this program has not cost the American taxpayer any money. It has returned money to the Treasury of the United States. In fact, it has made money for taxpayers. The program of acquiring from the market, holding, and ultimately entering the market with the product has served us well.

There is now a large supply of sugar worldwide, including in the United States. We have seen some efforts of importers outside and inside our country to try to avoid the 15-percent volume level we allow coming into this country. Some have argued that if you kill the program, down comes the price and the consumer benefits. Ironically, that just isn't true. The price is now down well below what it was a few years ago. Yet the price of a product that has substantial sweetener in it—sugar, I should say, as there are other forms of sweetener—hasn't gone down; it has gone up. Nearly 80 percent of the price of any food product on the market today is not the food itself; it is the cost of labor, the cost of processing, advertising, marketing, and shelving. All of that goes into the price the consumer pays.

So when a less than 20-percent item in the overall cost of a product declines, as other costs of input are going up, the consumer sees no difference and, in many instances, there is an increase, as some have talked about in the Chamber this afternoon.

In the Harkin bill that is before us, in a substitute that will be offered, known as the Cochran-Roberts bill, the sugar industry, working with the Congress in shaping the new policy, has recognized again the need to change, to be dynamic—not only to comport to budget requirements but also to deal with the consumer and make sure the consumer gets a reasonable shake and the producer gets stability in the market.

The sugar titles in both the House and Senate proposed farm bills direct the Secretary of Agriculture to operate the U.S. sugar policy "at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation."

It is that forfeiture that some have seized on today that has only happened twice in a period of well over a decade that we want to get away from.

For somebody to suggest there is going to be a good deal of money to transfer to some other program within agriculture policy or the bill or the appropriations, that just is not the case. The new farm bill will restore to the Secretary of Agriculture a key authority that was suspended in the 1996 farm bill—the authority to limit domestic sugar sales during times of surplus through flexible marketing allotments.

The bill also grants the Secretary the authority to reduce Government sugar stocks and the potential for future sugar loan forfeitures by accepting bids for Government sugar in return for reducing future production.

The United States is required, as I mentioned earlier in the debate, to import 1.5 million tons of sugar, or about 15 percent of its consumption each year, whether the U.S. market requires that sugar or not.

In addition, unneeded sugar has entered the U.S. market—again, something mentioned by myself and others—to avoid the import quotas in creative ways, what we call stuffing or the stuffing of the product. Because of the special concessions of NAFTA and the concessions to Mexico combined with this stuffing effort, we go beyond the 15 percent of total U.S. consumption or the 1.5 million tons.

The Secretary's current lack of ability to limit domestic supplies in the face of large and relatively uncontrolled imports resulted last year in historically low domestic sugar prices and the first significant sugar loan forfeiture in nearly two decades.

Once again, none of that translated to the market shelf; none of it translated to the consumer's pocketbook; all of it translated to the bottom line of the processor or the confectioners, and their profits went up at the cost of the consumer and not at the profit of the farmer.

Under the new farm bill, sugar marketing allotments will automatically be in place unless triggered by a high level of imports greater than 1.532 million short tons. With domestic sugar supplies under control, we believe the Secretary will be able to balance market supply and demand and ensure market price sufficient to avoid sugar loan forfeiture and any Government costs.

The Congressional Budget Office scoring of the new no-cost sugar policy, however, shows a modest cost. I recognize that even though it is clearly the intent and the purpose of the legislation not to have that.

Since CBO cannot assume other policy changes, it must assume that import quota circumvention problems will persist, that U.S. sugar imports will be high, and that marketing allotments in other years will not be triggered, and absent marketing allotments, sugar loan forfeitures might occur again.

Remember, I keep talking about the flow of product into the market. That is part of that world sugar my colleague from New Hampshire talks about, exposing well over 15 percent of the U.S. domestic market to the availability of that world product.

The industry, however, is convinced that policy changes will occur to rectify the import quota circumvention problems. We have had court tests in our favor. We are working now to block the ability of importers to stuff product with the hope of pulling that sugar out and entering it into the market. A successful U.S. Court of Appeals ruling, as I mentioned, has halted circumvention of the import sugar quota by a product entering through Canada and, as we know, it is called stuffed molasses.

Legislation is pending in the Senate, of which I am a coauthor, that addresses the circumvention problem. I hope we can move it. I hope all will join with us to disallow that kind of illegal act.

I believe that brings the debate full circle. The Senator from New Hampshire is worried and wants to eliminate the existing program. We are concerned about the taxpayer and want to recreate the program in a way that not only protects the producer and stability but protects the taxpayer and offers the consumer stable prices in the market. We believe what we are offering today, what the Senator from New Hampshire is trying to strike, can accomplish that purpose.

I ask my colleagues to join us in voting to table the Gregg amendment and to give the adjusted policy, again, the opportunity to work its will in the market with the producer, with the consumer, to the advantage of all.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Cleland). Under the previous order, the Senator from New Hampshire is recognized for 5 minutes.

Mr. GREGG. I thank the Chair.

Mr. President, we have heard a lot of debate on this program. I must take exception to some of the things said by the opposition because it appears they are inconsistent with the facts.

For example, the representation that this program is not going to continue to cost the taxpayers money is one which is not supported by the facts. In fact, USDA, which is responsible for the agricultural products of this country, has said we will purchase close to 4 million tons of sugar over the next decade. Where we are going to put this we do not know—somebody's garage, I guess—and that will cost us $1.6 billion in tax revenue. So this is an expensive program. If we put it back into a marketplace concept, we will save the taxpayers those dollars, which dollars under this amendment can be used to assist people who are on food stamps who are trying to buy staples to live a decent life and have adequate nutrition.

Secondly, the point was made, and I do not understand the concept here, that foreign sugar is coming in through molasses, through spiking of molasses, and that is clearly affecting the availability of sugar in this country, and that is what we have to stop. Why do you think it is coming in? It is coming in because the price of sugar in this country is so absurdly high.

You can actually go through the huge exercise of taking molasses, spiking it in some other country, then shipping it into our country and refining it off, and you can still produce sugar that is dramatically less in cost than what it costs the American consumer to get sugar because we have this price which is 2½ to 3 times the going market rate of the sugar—22 cents and 18 cents versus about 9 cents. It is as if they are saying: The marketplace actually might work, but we are not going to allow it to work. If there is anything that shows that we can reduce the price of sugar to the American people, it is the fact people are willing to go through this huge machination to get sugar into this country, around all the barriers the sugar producers have produced. It is counterintuitive at the extreme to make that argument.

This debate comes down to a very simple fact, which is this: 42 percent of the revenues and the benefit of this program are going to 1 percent of the farmers, but all the American people are paying $1.9 billion in extra cost to support that program. The price of sugar is 2½ to 3 times the cost on the world market because we are trying to benefit a very narrow group of people who are very effective constituents, I guess, and argue their case effectively as constituents but clearly have no equity to their argument. As a practical matter, they are reaching into the pockets of the American people and taking dollars out of those pockets which could otherwise be used to purchase more food or better commodities.

It is a program which is totally counter to everything for which we as a capitalist, market-oriented society stand. It cannot be justified under any scenario other than it represents the power of one interest group to benefit at the expense of the American people and the American consumer.

I greatly appreciate the statement of the Senator from Indiana who knows more about agricultural policy than I will ever know, who forgot more about agricultural policy than I will ever know. In his support of the amendment he gave one of the clearest statements as to why this program is such a disaster from a standpoint of economics and from a standpoint of production and from a standpoint of its impact on the consumers of America and from a standpoint of its impact on the American taxpayer. I thank him for his support of this amendment. I hope people will listen to his logic and his reason and oppose the motion to table this amendment, which I understand is going to now be made by the assistant leader.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Would the Senator have any objection to the manager of the bill speaking for 3 minutes prior to the vote?

Mr. GREGG. I have no objection.

Mr. REID. I ask Senator Harkin be recognized for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I have not had anything to say about this amendment yet. I point out sugar is so cheap in this country you cannot believe it. It is cheap for the consumers buying it in the store. It is cheap when you go out to eat. The people who benefit from the Gregg amendment would be the manufacturers. They are not going to pass this on to the consumer. No way.

We want to keep our sugar farmers in business; 420,000 Americans are employed in the sugar industry. It would ruin them. It would ruin our corn sweetener market, further depressing extremely low corn prices in my part of the country. This is wrapped up in a lot more than just what the price of sugar is that Senator Gregg is trying to get at. I have always said sugar is probably one of the cheapest products anywhere for consumers.

Here is a bag of sugar, Holly Sugar. I am not pushing Holly Sugar, but that is what I happen to have. They are little bags of sugar. How expensive is this sugar? Go into any restaurant and take the sugar, put it in a glass, in your coffee; you can take two bags of sugar and put it in your coffee. Do you know what the price is? Nothing. It is so cheap that the restaurants do not even charge for it. Next time you go to a restaurant, have a cup of coffee, reach over and grab the bowl of sugar and put in a couple of teaspoons. They don't even charge because it is so cheap.

There has been a lot of talk in the Chamber about the sugar products. Sugar is one of the best buys for the American consumer today. A 5-pound bag of sugar at Safeway is $2.

If you want to gouge the consumer and give more to the processors and the candy manufacturers and everybody else, then you want to vote for the amendment of Senator Gregg. If you want to help the sugar farmers and the 420,000 Americans who work in the sugar industry and corn farmers all over America who depend upon this, we ought to defeat the Gregg amendment. I point out on July 20, 2000, we had the same basic amendment before the Senate. It was defeated 65-32. I hope the same happens again today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I move to table the Gregg amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 71, nays 29, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—71

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Cleland
Clinton
Cochran
Conrad
Craig
Crapo
Daschle
Dayton
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Graham
Grassley
Hagel
Harkin
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kerry
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
McConnell
Mikulski
Miller
Murkowski

Murray
Nelson (FL)
Nelson (NE)
Reid
Roberts
Rockefeller
Sessions
Shelby
Smith (OR)
Stabenow
Stevens
Thomas
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—29

Biden
Brownback
Chafee
Collins
Corzine
DeWine
Ensign
Feingold
Feinstein
Fitzgerald
Frist
Gramm
Gregg
Hutchinson
Kennedy
Kohl
Kyl
Lugar
McCain
Nickles
Reed
Santorum
Sarbanes
Schumer
Smith (NH)
Snowe
Specter
Thompson
Voinovich

The motion was agreed to.

Mr. HARKIN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, we are making headway. We are making good progress. I thank the people who are offering these amendments. We have had good debates. We are moving right along. So I hope now we can have another amendment up and we can have more votes today and get this bill completed.

I understand Senator DOMENICI has an amendment he will be offering in a couple minutes. With that, again, I hope Senators will be ready to offer amendments. I hope we can have some time agreements and move through them. I hope we will have another vote very shortly.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I appreciate the words, as always, of our chairman. My understanding is, in a couple minutes Senator DOMENICI will offer an amendment. After disposition of the Domenici amendment, we are anticipating an amendment to be offered by Senator BOND, and then, following that, an amendment by Senator MCCAIN.

In the meanwhile, amendments might come from the other side of the aisle. But these three amendments are known quantities with the Members who wish to be recognized as we dispose of the amendments.

I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2502 TO AMENDMENT NO. 2471

Mr. DOMENICI. Mr. President, I am going to offer an amendment on behalf of seven or eight Senators. I will name them in a moment. For the interest of the Senators, my discussion about this amendment will probably take about a half hour, and then I understand about five or six Senators would like to speak. Nobody will be speaking extremely long, but we think this is a very important issue. More than just the Senator from New Mexico are desirous of being heard on this amendment.

I send the amendment to the desk and ask for its immediate consideration. I offer this on behalf of myself, Senators CRAIG, CRAPO, BURNS, HUTCHISON, ENZI, THOMAS, KYL, SMITH of Oregon, HATCH, ALLARD, and CAMPBELL. I have submitted it to other Senators. I fully expect more to join soon. I send it to the desk with those cosponsors at this point. As I receive others, I will submit them.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. CRAIG, Mr. BURNS, Mr. CRAPO, Mrs. HUTCHISON, Mr. ENZI, Mr. THOMAS, Mr. KYL, Mr. SMITH of Oregon, Mr. HATCH, Mr. ALLARD, and Mr. CAMPBELL, proposes an amendment No. 2502 to amendment No. 2471.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the water conservation program)

On page 202, strike lines 14 through 22 and insert the following: "technical assistance)" after "the programs"; and

(3) in paragraph (2), by striking "subchapter C" and inserting "subchapters C and D".

Beginning on page 121-118, strike line 4 and all that follows through page 121-130, line 19.

Mr. DOMENICI. Mr. President, I understand we are engaged in what some would call a very serious effort. I want everyone to know my intention is not to in any way delay our process. As this issue evolves, Senators will know that for the West, this is a very important decision.

I note the presence of Senator REID who is also a western Senator. He had something to do with putting the provisions in that I would like to take out. So hopefully we will have some discussion before we are finished.

This is a motion to strike essentially all of the provisions, brand new provisions in the law, that would take the conservation program that we have in effect—that is called the conservation reserve program—and would create a brand new one for 1,100,000 acres of land in the West. It would say that the Secretary of Agriculture, not the Secretary of the Interior, as we have now, would have the authority to acquire this acreage, up to 1.2 million acres, and the water rights that come with it, and then to use the water rights for the first time in derogation of State water law. In other words, they could be used for Federal purposes, not bound by State law.

This is a very big decision for States such as New Mexico and many Western States, as you can see, that in just a few hours, most of the Western States' Senators are on board trying to prevent this from becoming effective.

Actually, the conservation reserve program has been a very effective program. The Senator from New Mexico in no way intends to change that program. In fact, I believe the underlying bill that was produced by various Members who have been speaking in the Chamber even makes the conservation program bigger and perhaps even better. But there is another provision I am referring to that is brand new.

The language contained in this substitute requires that the Secretary of Agriculture devote 1.1 million acres of the conservation reserve program to a new water conservation program. That didn't exist before. We now have a water conservation program.

Specifically, this program will allow the Secretary of Agriculture to enter into contracts with private landowners, estates, or Indian tribes for the transfer of water or the permanent acquisition of water rights to benefit environmental concerns out in our waterways and in our various waters in the West.

When enrolling this new acreage, this language requires that the Secretary of Agriculture give priority to land associated with water rights. Heretofore water rights were not necessarily considered as a paramount reason or a high-priority reason for selecting these various acreages to make up the conservation reserve. This now says the Secretary of Agriculture will give high priority to these lands that are going into this reserve, if they have water rights along with them.

The purpose of the old program was to remove vulnerable land from production, not for the acquisition of water rights. Everybody here who has praised the conservation reserve program praised it because it removed vulnerable acreage from production and it had no higher purpose. Now we have established a brand new higher priority, and that is to acquire land if it has water rights.

In essence, this is an attempt to pirate private water rights from individuals for purely Federal interests. Allowing the Secretary of Agriculture to permanently acquire these water rights gives the Federal Government control over State water.

I don't think we ought to do this. I wish I would have had a chance to sit down across the table and discuss this approach with those who have put it in this Agriculture bill, including my good friend Harry Reid. I don't think western Senators, when confronted with their constituents and asked by their constituents in water-short

States whether it would be prudent to create a high-priority program that could take those water rights as part of a conservation reserve program and attribute them to the Federal Government so the Federal Government could use it for Federal purposes, environmental or otherwise, and in that manner run inconsistent, if they so desire, with State water law, would agree.

We already have shortages that are sufficient, which means we don't have enough water for the natural uses that we have been making for years. We don't have enough water in two of our basins in New Mexico that are alongside of rivers, be it the Rio Grande or the Pecos. We don't have enough water for the current users under existing State law, which is a water rights system built upon first in use and application.

The first in time that does that is first in time in terms of ownership and priority. That is an already existing system. It has existed under Spanish law in our State. Many States in the West have first in time of use, which creates first in right for waters along streams.

Here in the East there are many Senators who are going to say: This doesn't have anything to do with us. They are probably right. They don't have any shortage of water. In fact, many of the Eastern States do not have this allocation method. They use what is referred to in law school as the riparian rights system. If you are alongside of a stream, you use the water alongside the stream. Not so in States such as mine and Arizona and the others, Idaho, Iowa, Oregon. You use the water in proportion to your having taken it from the stream and put it to a beneficial use. In the Western States, that is either constitutionally established or statutorily established, but it is powerful proprietary interest in situations up and down and across our borders as water becomes more and more scarce.

In essence, all I choose to do in this amendment, where I am joined by the various Senators I have just named, is to say at the end of the session we should not be considering a change in water rights for the West.

(Ms. STABENOW assumed the chair.)

Mr. DOMENICI. I urge that Senators help us by just taking this out of the bill and saying another time, another place, we will have some significant hearings. Let's hear from our States and our communities, and let's hear from water ownership districts and associations, be they in Wyoming, New Mexico, or wherever. Let's hear from them and let's see how inserting this new bargaining chip in the middle of a river basin might have either a negative or positive effect.

I actually believe we do not need in the basins of New Mexico—which are very short of water right now, and some are arguing whether there is enough for the already existing rights —another player plunked down on the stream that can, in fact, apply this water to another separate use and even abandon the State water law that controls how it is used, where it is applied, and what it is used for. I just don't think it is the right time.

I would have thought if we were going to make such a change or imposition on State law as it pertains to water, we would have gone a little slower and would not have come up with an agriculture bill where these water rights have not been part of any hearings in the appropriate committees. As a matter of fact, I am not sure but that these provisions would have been subject to the jurisdiction of the other committees besides Agriculture. I believe the Energy and Natural Resources Committee would have liked to look at this new language in terms of new priorities and new rights.

So this is an attempt on my part not to change but to just strike these provisions. I don't have amendments to the provisions crafted on behalf of Senator REID, or whomever, and put in this bill. I don't think we ought to do them tonight on an agriculture bill, when it could have a profound impact on water rights in the West. There are certain groups that maybe can't get all the water they want in our States, for what they see as important uses. They have come along and said maybe we can do it this way; we can let the Secretary of Agriculture acquire these water rights as part of an old program that had nothing to do with acquiring water rights but had to do with acquiring properties to be put in a reserve so that we would have a better chance for these properties and these lands to develop and become usable if they are taken out of use and put into a reserve.

Now somebody has found that we can take a piece of that and grab with it water rights and then let the Federal Government decide how to use them under Federal law, not State law. Changing the program—this old, good, solid program, the CRP program—could force many farmers to choose not to participate in a program for fear that they could be coerced into giving up their water rights.

I don't think this is the right thing to do. I don't believe we are anywhere close to correct in assuming that this should be a highest priority for the CRP in the future. I cannot believe that of all the uses out there that go along with the CRP, Conservation Reserve Program, that we could establish without any serious and significant hearings that the Secretary of Agriculture—a new person in this equation, as it used to be the Secretary of the Interior. Now we have added the Secretary of Agriculture in this bill, and I don't think that is a move we should have made without significant hearings either, but this would change that.

So I close my first round on the Senate floor by asking my distinguished friend, Senator REID, if he will consider taking these provisions out of this bill. I don't believe they belong here at this time, when we haven't had an opportunity for significant hearings regarding the subject, and when it is clear and obvious to this Senator that we are going to give the Secretary of Agriculture a whole new series of rights under a program that is working well now, working well to take lands out of production. Now we are going to say we are giving the Secretary of Agriculture a new authority—and it is of highest priority—to acquire lands for this program if they have water rights so the Federal Government has both water rights and Conservation Reserve Program land. Then once the Federal Government has it, the Secretary of Agriculture is no longer bound by State law but can accomplish in a basin that is strapped for water a conflicting use just to come along and plunk itself on the water with a brand new right not governed by the State law that has been in effect, in many cases, for decades on these river basins.

So I hope that Senators will go along with the huge preponderance of western Senators and say let's strike this provision for now. Let's go back next year and have hearings on what will this do to the water rights in the West. What will it do to water districts and river basins that are already so short of water that the next legal wars for the next decade or two are going to be over whether there is enough water for the existing priorities under State law. I think in many cases we are going to say there probably isn't. We are probably going to say, if there isn't, how can we justify a new high priority for the Federal Government to acquire these water rights as part of a Conservation Reserve Program and then use it as they see fit.

It is a pretty clear-cut case. Is now the time to do this or not? Again, I work on many issues with my distinguished friend, Senator REID from Nevada. We are chair and ranking members on an appropriations subcommittee that does a lot of great things. We understand each other very well. I actually didn't know anybody was working on this provision, including my friend, Senator REID, that would change or have the potential for changing the water rights priorities from State priorities to an imposition of Federal priorities on river basins that don't have enough water for what rights already exist and that are being applied under State law.

Mr. NICKLES. Will the Senator yield?

Mr. DOMENICI. Yes, I will.

Mr. NICKLES. Will the Senator be kind enough to add me as a cosponsor?

Mr. DOMENICI. I am delighted to do that. I yield the floor at this point.

Mr. REID. Madam President, I am happy to respond to my friend from New Mexico. However, there are a number of myths. A myth is something which I guess takes a long time to perpetuate, so maybe we will not call these full-blown myths, but there is some misinformation the Senator has been given.

I will talk about the first myth: Some claim that the water conservation program will preempt State law and allow the Federal Government to run water law in the States. That is simply not true.

Any application to enroll in the program would have to be approved by the State in which the farmer farms. For example, if a rancher in Nevada decided he or she wanted to be part of this program and the Department of Agriculture decided it was a good deal, they would have to go to Mike Turnipseed, Nevada's water engineer, and if he said no deal, there would be no deal. All this talk of coercion is without logic.

I find, and I say with respect to the senior Senator from New Mexico, when we have legislation and there are not any meritorious arguments against it, the first thing one says is there is another committee that has jurisdiction or it has multiple committee jurisdiction. That has been raised in this debate.

The other argument continually raised when one does not have substantive arguments to good legislation is: We need more hearings. Whenever you hear that, it should trigger figuring out what the real merits of the opposition might be, and the merits of the opposition to this program are very weak.

Myth No. 1: The water conservation program would preempt State law and allow the Federal Government to run water law in the States. Not true. It does not preempt State water law. Also, 41 million acres are in this big bad program. There are 41 million acres in the overall program. This little program Senator DOMENICI is talking about has 1.1 million acres. So 40 million acres basically are untouched by this.

Myth No. 2: The water conservation program would create a huge new Federal program to permanently buy water rights.

Fact, not fiction: 90 percent of the program is focused on short-term, 1- to 5-year contracts to lease water. Why do we focus on short-term leasing of water rights? We do it because, No. 1, leasing water for the short term keeps farmers in farming. After they have to deal with the Department of Agriculture for 1 year, they retain full ownership of their water.

No. 2, it provides a source of water for endangered species, for example, in drought years when other conflicts are very severe. That is when these conflicts come about dealing with endangered species, such as fish. It is because there is a shortage of water.

No. 3, it will provide a supplement to farmer income in years in which they face water supply restrictions due to Endangered Species Act concerns. This actually helps the farmers.

Keep in mind, this program requires a willing seller, a willing buyer, and we protect property rights. Why shouldn't somebody who is a rancher or farmer have the same property rights as somebody who runs an automotive dealership, or a manufacturer? Why shouldn't a rancher or farmer have the right to do with his property what he wishes?

Even if we say a willing seller and willing buyer, and that is what we have, they do not even have the ability to do that unless they get approval of the State water engineer, whether it is Wyoming, New Mexico, or Nevada. So all this talk about coercion is absolutely senseless.

Also, I would think my friends from the West would be happy for a change. We have a farm bill that gives help and actual money rather than verbiage to the western part of the United States. That is what the conservation section in this bill is about. I have stood in this Chamber and I have been to press conferences with the chairman of this committee. One thing about Senator HARKIN, in his legislative career in the House and the Senate, he has always been willing to do things that change the world in which we live for the better.

He, in this instance, has been willing to change the traditional way we do agriculture. That does not mean it is bad. It means it is wonderful; it is progressive. That is what this legislation is about. This legislation protects every farmer in the State of Iowa, but also it recognizes there are other parts of the country than the breadbasket of this country. Most of our groceries come from the State he represents and the States surrounding him.

The reason I have been willing to go forward on this legislation—and I say the whole bill. This is a big bill. I do not know how long the bill is, but it is big. We have a tiny little section, but I would vote for the bill anyway because I recognize what the Senator has done is excellent. There is more support for this legislation because it helps other parts of the country.

The people who are giving information, that the Senator from New Mexico is receiving, are giving bad information. Senator DOMENICI is a smart man. He has been mayor of a city. He has been here longer than I have. But when he says this program coerces farmers and States, he is wrong, it does not do that: Willing seller and willing buyer. If a farmer or rancher does not want to do a deal it is his property. He does not have to do a deal.

Another myth: The water conservation program would undermine private property rights. I have touched on this a little bit. The water program is pro-private property rights—that is, the program is supportive of private property rights. This is a willing seller-lessor program. A farmer decides whether or not to lease or sell his water rights. There is nothing more pro property rights than allowing property owners to decide what to do with their own land and their own water.

Let's take, for example, the State of Nevada. I was telling someone the other day about Nevada. Nevada is a huge State. It is the seventh largest State in the country by acre. From the tip of the State to the top of the State is 750 miles, maybe 800 miles. It is very wide, more than 500 miles in the north. Madam President, we have very little water. We share the Colorado River with a lot of States, and the mighty Colorado has done a great deal for the western part of the United States. Compare that with some of the rivers in the State of Michigan.

I will never forget when I first came to Washington, I went to Virginia on a congressional retreat. I said: This must be the ocean. It was a river. The river was more than a mile wide. We do not have rivers like that in Nevada. What people in the east call creeks we call rivers.

I would like to name some rivers in Nevada. We have the Colorado that we share. We have the tiny, little Walker River. It is so important to Nevada, but it is a tiny river. One can walk across it in most places some of the year. The Truckee River, which is so important to Reno and Sparks, it has an irrigation district at the end of it. It is also a tiny little river, and there are many times of the year one can walk right across the river in various places.

Carson River is a little river that runs hard in the spring. It is a wild river in the mountains, but it is a little river. Many rivers in Nevada have no water most of the time.

We understand in Nevada what water is and what a shortage of water is, and I am not about to give away Nevada's water. I understand, though, that if a rancher in Nevada has land and he has water which he owns, he should be able to do with it what he wants. If there is a program out of 41 million acres—we have been able to get a program that has 1.1 million acres that allows this farmer, this rancher, for once, to do something with his property.

For example, I started talking about Nevada and I got carried away with my great State.

If a farmer in the Truckee River Basin in Nevada decided he would like to switch from growing alfalfa, a very intense water crop—and we grow a lot of it in Nevada, but it takes huge amounts of water—but he decides that he wants to grow native seed to help with restoration of ranchland in the Great Basin.

We have had fires in the desert, especially in the high desert, and we need to have seed to plant there. If a farmer decided he wanted to switch and grow native seed, why shouldn't he be able to go and say, I want to make a deal? We will lease your land for 2 years. We have saved the water. Something else can be done with it. It doesn't sound like we are doing bad things.

In fact, it seems to me we are giving a property owner, for lack of a better description, more tools in his tool box with which to make money and provide for his family. We are doing the right thing.

I have heard the term "taking." I know what a taking is. I am familiar in the Constitution that you cannot take a person's private property without due compensation. This has nothing to do with that. If the rancher decides he does not want to do native seed, he simply does not grow it. No one will force him to do it. Once he and the department decide they want to do it, they still have to get approval of the State water engineer.

I had somebody call me today complaining about the program. I said: Tell me what is wrong with the program. Listen to what they said. I was stunned. They said: Well, if somebody decides with their own property—I am paraphrasing—to make a deal and lease it for a year, 2, 3, or 4, up to 5 years, what they are doing in parched, arid Nevada, they are saying if they do that and you take certain land out of agriculture, it changes the ground water. And what they are saying is, if you allow the water to go downriver, you are stopping people from drilling wells and pumping water because of the irrigation that takes place.

That doesn't make very good sense for voting against this legislation.

Let me give another example. We have a beautiful lake in Nevada. We have two lakes like it. They are called freshwater desert terminus lakes. They are freaks of nature. Pyramid Lake was basically saved after work in this body to save it. Pyramid Lake, because of the first ever Bureau of Reclamation project, was going dry. Lake Winnemucca, the overflow from Pyramid Lake, did dry up. It is as dry as the ground on which I stand. But we have another desert terminus lake called Walker Lake. It is in the middle of nowhere. It is in a place called Mineral County.

Mineral County has always been very good to me. I have always carried Mineral County. On one occasion I was elected to the Senate I carried two counties: Clark County, where Las Vegas is, and Mineral County. I lost every other county in the State of Nevada. Mineral County always sticks with me. They have this big lake. There are only 28 lakes like Walker Lake and Pyramid Lake in the whole world. The lake has been drying up. We have been very fortunate in the last 7 years. We have had a lot of water and it has been able to get into the lake. About 6 or 7 years ago we had a year and a half to go before all the fish in the lake would be dead it was so starved for new water. There are people who believe the lake is worth saving.

As I have indicated, we can do it and still take care of agriculture. There is an Indian reservation that depends on the water, little tiny Walker River. We can handle that. We have to do things differently from the past. We cannot do what we have done in the past because everyone will fail if that is the case.

Here is an example if somebody wanted to change their income and make more money, they go to native seed and do a deal with the Government. Some of the water would run into the lake and preserve that great natural beauty we have, Walker Lake. They should be able to do that. Or, the alternative is wait until we get into a real bad problem, and endangered species problem, and lawsuits are filed. This is a way to avoid that or have money available to help solve the problems. There are places all over the Western United States that benefit from this.

I repeat, farmers who choose not to participate in the program will not be hurt. Some farmers who choose to enter into short-term agreements to transfer water during drought years will actually benefit their colleague farmers who decide not to participate because, if some farmers lease water for fish and drought years, it will ensure there is enough water for both farming and farmers and those who are dealing with the threatened and endangered species.

Mr. CRAPO. Will the Senator yield?

Mr. REID. I will be happy to at some point, but I have a statement that is quite long. If the Senator would be kind enough to keep track of the questions, I will be happy to explain.

Another myth: The U.S. Department of Agriculture has no authority for businesses offering to help mitigate farmers for endangered species or other conflicts. Federal agencies have affirmative obligations. They have no choice under the Endangered Species Act to do all they can to conserve species.

I say to my friend from Idaho, his predecessor, now the Governor of Idaho, and I, Senator CHAFEE and Senator BAUCUS, had a great endangered species bill we brought to the floor. For various reasons, the then-majority leader, Senator LOTT, decided not to bring it up. We lost a great opportunity for a bipartisan revamping of the Endangered Species Act. We didn't do that. It is too bad.

I talked to Senator BAUCUS earlier today about another subject and that came up. That was a good move we made. It is too bad the legislation did not become law.

All Federal agencies have affirmative obligation under the Endangered Species Act to do all they can to conserve species. When it comes to conserving endangered fish, agriculture and water is the main issue. This program will help USDA and the States help farmers and help mitigate these endangered species conflicts.

The Department of Agriculture is the perfect agency to interact with farmers in the conflicts. They trust the USDA more than, say, the Fish and Wildlife Service.

Madam President, willing sellers, willing buyers—this legislation in this bill that the committee supported is legislation that is pro-private property. There is nothing that prevents a State from saying: I don't like what you are doing, farmer. You cannot change what you have been doing. The State water engineer has the right to do that.

The conservation title in this legislation is a very important new program to help mitigate the conflicts between farmers and the environment. It is not only for that purpose; it is to give farmers and ranchers the ability to do things differently than they have in the past, to make money in a different way than in the past. This has nothing to do with making money. If they don't want to do it, no one orders them to do it.

The controversies I talked about, which come up on occasion, usually come to a head in drought years when Endangered Species Act protections trump water over ranchers for farmers and ranchers. There is example after example. We had legislation here earlier this year. I don't recall the exact date, but Senator SMITH from Oregon was very concerned about what was going on. I don't know his feelings on this legislation but if this legislation had been in effect when the problem started in Oregon there wouldn't be the problems. Farmers would have some alternative. As I understand it, we have given them some financial relief. But they are in bad shape. This could have helped them.

These controversies result in some really difficult situations. Irrigation pumps providing water to farmers are on occasion cut off so threatened and endangered fish, for example, don't go extinct. You may not like the endangered species law, but it is the law. You have to deal with it. You cannot avoid it.

When these conflicts reach this critical stage, there is not much we can do to alleviate the economic impact. This happens to ranchers and farmers and the regional economies tied to farming and ranching.

There is, in the West, a new West. When I was raised in Nevada, mining and ranching were really big. They are still big, but the rest of my State has grown. Las Vegas has grown so much, 70 percent of the people live in that metropolitan area now. All the ranches and farms that were in Clark County are gone now. There may be a few people raising a little bit of hay for their horses, but basically it is gone now. So there is a new West, in the sense that there are things other than ranching and mining.

That does not take away from the importance of these two industries. I have spoken on the floor for long periods of time defending mining. People say to me all the time—and people write nasty letters to the editor—asking, how can somebody who says he is for the environment support mining?

I do it for a lot of reasons. One is my father was a miner. In fact, my staff brought to my attention yesterday some news articles that one of them found, going through the Library of Congress, I guess, out of curiosity about me. When I was 10 days old, my father was blasted—what we call blasted. He was working in a mine. The bad fuse did not have the workplace protection they have now. They lit the holes, one of the pieces of fuse ran, one of the holes went off, and of course blew him into the air, blew the soles off his shoes, blew out his light. He was in a vertical mine shaft.

When they set off the holes, they have a ladder they can take up with them they call a sinking ladder. He was, I guess, in a state of shock. He tried to climb out of this hole. He didn't realize one of the legs of the ladder had been blown off, so every time he tried to climb up, he would fall. He couldn't figure it out.

It was a brave man who heard the hole go off and knew that he hadn't come up to the next level. Knowing there were 10 other levels burning, this man named Carl Myers came down to that shaft—my dad was a bigger man than he—and carried my dad out of that mine. He received a Carnegie Medal for saving my dad's life when I was 10 days old. That is when that incident took place.

So I defend mining for a lot of reasons. I do it for my father. I do it because it is good for Nevada. We have thousands and thousands—the best blue-collar jobs we have in Nevada relate to mining. I think a lot of people who complain about mining don't know what they are talking about, for lack of a better description.

Ranching is important. Ranching doesn't create a lot of jobs, but it creates a way of life that we should all envy. So that is why I do what I can to recognize that we have a new West but we also have an old West that we need to protect. This legislation is about protecting the old West, keeping farmers and ranchers in business. Those people who are crying out in a shrill voice that this legislation hurts them, I do not believe that.

We need to create programs to help lessen conflicts in drought years. The water conservation program included in Chairman HARKIN's bill is the first tool we have in a Federal farm policy that actually addresses this problem. I commend him again and again for doing this. This legislation has support of people who had never supported this legislation before. I am sorry to say there are some ranchers and farmers who are being given bad information. They should be happy that we are trying to give them other tools, I say, in their toolbox, so that they can do things they have never been able to do before.

Again, I repeat for a fifth time: Willing sellers and willing buyers. If a rancher or farmer decides he wants to do something different and he has the ability to work something out with the Department of Agriculture, great, I hope they can do that. But if they do that and the State water engineer, rightly or wrongly, denies them the ability to go forward, that is his prerogative. That is what State water law is all about. And this legislation protects State water law.

Here is how this program works. It is very similar to a program farmers already are familiar with, which is extremely popular, called the Conservation Reserve Program, CRP.

Under CRP, farmers enroll land in the farm, reducing farming on their land and improving wildlife habitat on other land. This is the law now. The farmer collects a payment for participating for a 10- to 15-year contract term. That is the law now. We decided not to go for a 15-year contract period but for a 1- to 5-year contract period. Under the new Conservation Water Program, the one they are trying to strip from this bill, a farmer could enroll that land to a program and do farming on their land, but instead of focusing on wildlife improvements on the land, the farmer could agree to transfer the water associated with the land to provide water for all kinds of reasons.

Unlike the CRP, the Water Conservation Program would provide farmers with very flexible options and terms of how they would agree to transfer water. They can enter into contracts of 1 to 5 years, as I have said, with the Department of Agriculture, to provide water. This shorter contract term works for this program because what we are focused on in the program is building a drought water supply in years when there are threatened species or other problems arise because of the drought.

Farmers also can enter into option contracts with the USDA, where they would just give the Department of Agriculture an option on their water which would be exercised in a drought year. Again, the farmer makes money. Farmers would keep on farming unless or until the option were exercised.

The issue of transferring water sometimes can be controversial for my colleagues. Some express concern this program will enable the Federal Government to buy water rights where a State doesn't want the rights sold. This simply is not true. It is simply not true. The program specifically provides that State water law is paramount. Under this program, a water transfer will not happen unless the State approves that transfer under its own law, not under this law. We are not changing State water law. But under the State law as it now exists, the State approves the transfer under its own law. In States where the water law does not permit transferring water for these programs, the program simply couldn't be used.

To show how sincere we are about this, we had a couple of staffers come to my staff and say: I am not sure my Senator wants part of this program.

Fine, we will opt you out.

Oh, no, we don't want to be opted out.

We gave them the alternative: If you don't like it—I think you are losing a tremendous advantage for your agricultural community—we will opt you out.

They didn't want that.

But there are some very good reasons that States should want to participate in the program and facilitate such transfers. Let me give but three reasons.

First, these transfers will help ensure that water is available for freshwater life during dry months, helping increase flows during historic times of seasonal low water.

Second, protecting freshwater species is among the most important conservation objectives related to endangered species. This is the law.

Freshwater species are North America's most endangered class. They are vanishing five times faster than North America's mammals or birds and as quickly as tropical rain forest species. That is a matter of fact. Habitat loss and degradation are the single biggest threat to freshwater species in trouble. Inadequate streamflow is the largest habitat-related threat.

Third, a program which provides for flexible options for water transfers, not simply permanent acquisition, but short-term options will help mitigate farming in rough years and allow farmers to continue farming. It seems like a pretty good idea.

I am happy to yield for a question without my losing the floor to my friend, the junior Senator from Idaho.

Mr. CRAPO. Madam President, the Senator talked about the fact this is based on a willing relationship. But if I understand the amendment correctly, it is willing only in the sense that any landowner who wanted to participate in the new CRP acreage that is authorized under the farm bill would be required to either temporarily or permanently yield his or her water rights or could simply choose not to participate in the new acreage.

The question is, Is there any way for a landowner to participate in the acreage program for the CRP that is being expanded here without being required by contract to yield up their water rights?

Mr. REID. No. But why would someone want that? Why should they have it both ways?

Mr. CRAPO. The response to that is the CRP works very well. It is doing a lot of good for wildlife in the United States. It is not specifically focused on the acquisition of water rights. The expansion of the CRP, which we are trying to accomplish in this farm bill, will expand the successful operations of the CRP.

The concern I have and that many others have is the Senator is providing in his amendment that no landowner in America can participate in the expansion of the CRP without being required to yield their water rights. Although I realize that is voluntary in the sense they do not have to participate, it is not voluntary in the sense that a landowner who wants to participate cannot do so without having to yield water rights.

Mr. REID. Madam President, as I have indicated, the program we are talking about is approximately 1 million acres out of 41 million acres. We are talking about 1 million acres which will alleviate some of the most desperate problems we have in the West. It seems to me that breaking out of the curve a little bit is the way to go. I guess the Senator from Idaho might have a different philosophy. I think no one is being forced into doing anything. If they want to participate in the program subject to their wanting to do it—the Department of Agriculture acknowledging it is a good idea—then the State water authority can approve.

I think it is a pretty good deal. It is a small part of land. Some people have talked to me who do not understand the program. Once I explained it to them, they felt pretty good about it. A lot of people thought we were wiping out the other program. We are not.

Mr. CRAPO. Will the Senator yield for one additional question?

Mr. REID. I am happy to yield.

Mr. CRAPO. With regard to the issue of whether State law still applies or whether State law must be complied with in the transfer, let me ask the question. The additional question I wanted to raise is whether State law applies. The Senator from Nevada indicated State law would still be required to be complied with in any transfer of water rights. In Idaho, as I am sure in many States, when a water right is transferred the State authority evaluates it and takes into account a number of considerations before they authorize the transfer. Will it injure any other water user rights? Are the priorities established in State law for the use of the water being met?

Is the Senator telling us that if a landowner wanted to participate and yield his water rights in this new acreage that the State water law would still be applicable and the State authorities could say this does not fit the requirements of State law and prohibit that transfer?

Mr. REID. Let me, first of all, make sure I stated my previous answer properly. When I talked about 41 million acres, I want everyone to understand that it was originally 36.4 million acres and we increased that and set aside 1.1 million acres for this water conservation program.

In response to the Senator's question, if State engineers, for whatever reason, decided under State law they didn't want to do whatever the State authority is, it wouldn't be done.

We have had a troubling situation with the Truckee River. I get so upset at that State engineer. I think sometimes he does not know what he is doing. He knows a lot more about water rights than I do. He has a right to do whatever he wants to do. This wouldn't change that.

Mr. CRAPO. I appreciate that response from the Senator. I guess we have a disagreement on the level of voluntarism and whether it is appropriate in the CRP. I appreciate the Senator clarifying that point.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I understand the distinguished Senator from Montana wants to speak. I wanted to say to Senator REID that I appreciate his compliments. When he opened up, he said I was smart because I was a mayor. I want the Senator to know that the fact I was a mayor doesn't make me very smart.

Mr. REID. Can I respond briefly?

Mr. DOMENICI. Of course.

Mr. REID. Having worked with the Senator for the entire time I have been in the Senate, the fact that he was a mayor has certainly helped me understand why he knows so much about budgetary matters. No one works harder on the budget than a mayor.

Setting all of that aside, I don't need to enumerate the Senator's qualifications for everyone here to know how knowledgeable and how versed he is on legislative matters. He has a great educational background. He is a good athlete. He is a fine man. The fact that he was a mayor only adds to his qualifications.

Mr. DOMENICI. I thank the Senator very much. I want to give my friend from Nevada a thought. He made a very serious and significant series of statements about the voluntary nature of this, that the truth is, for States such as mine—I don't know about Nevada—the major water districts and the river waters that will be used by farmers, ranchers, cities, et cetera, do not need another big purchaser of water rights called the U.S. Government's Secretary of Agriculture. We don't need one of those for our basins. Voluntary means how high the person who is buying will go in paying. I imagine the Secretary of Agriculture has a lot more money than any other buyer around. The purchasing in the district will be distorted by the gigantic reach of the Secretary of Agriculture.

What will they be looking for? They will want to buy the acreage to do something different than we are planning to do with that water now, just as sure as we are here. They are not going to be acquiring it to do what the basin currently permits. It is going to be for another purpose.

We are just plunging down in the middle of an already totally occupied water district a new buyer, the great big Secretary of Agriculture. They can come in and purchase this for Federal Government purposes. There is no question about it.

Frankly, I don't think anybody who has assets and resources in their States would want to say everything will be OK, even though everything is tight right now. We don't know if there is enough water for the city. We don't know if there is enough water for the fishpond, the lake, or the streams. But that is all right. We are going to approve that program so big daddy, the U.S. Agriculture Secretary, can come in and buy up water rights. Of course, it is all going to work out because they are benevolent anyway and willing. Everybody is going to be OK. The State water superintendent has to say OK anyway. Frankly, I don't think we ought to give them the right to get into a district with that kind of power and end up calling it willing and calling it equal and calling it equality. It is not so. It is going to be tremendously distorted on the side of the Department of Agriculture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I thank my good friend from New Mexico for leading the charge on this particular part of the farm bill.

A while ago we were talking about myths. If this section does not erode the State adjudication process and the State would have to give its OK, if there is a section of willing seller and willing buyer—which, by the way, they already have that right—why have the legislation? What other purpose does this legislation serve than the landowner and the water right owner in that community?

Some 8 or 9 years ago a Secretary of the Interior made a speech and said: We can't change the culture of the West until we take over the financing and get control of their water.

I know the Senator from Nevada very well, and he understands the State of Nevada very well, that whiskey is for drinking and water is for fighting. That has been pretty well accepted throughout the West. But in this piece of legislation, which has been inserted into this bill, is language that would make it possible for the Federal Government to purchase water rights from individuals to protect sensitive species.

We have a hard time defining "endangered" or "threatened." Now we come up with a new term called "sensitive species." When the Government owns the water rights, do we see, all over again, Klamath Falls, OR, where we had a vote in this Chamber that sent a signal throughout the agricultural community that this body was more sensitive to a sucker fish than we were to 1,500 farm families in this country? You just stand there and watch your crop dry up because of a law and an insensitive Government?

Now, this was first introduced as a bill. The bill was S. 1737. The bill has never had a hearing. It has never seen the light of day until today with the introduction of this piece of farm legislation. Though it may be well-intentioned, I would say this: Whenever the Federal Government enters the picture, and willing seller/willing buyer, or coercion, when you are going broke, and the fellow in town has the biggest checkbook, and it happens to be the Federal Government, don't you bet your last paycheck on whether the Government knows who has the biggest checkbook. They also know the position you are in to finance your situation, and where that water is going to go.

Just about every State in the West—I know it is true in Oregon and I know it is true in Montana—has a water trust. They are already in place. If a farmer or a rancher wants to give up what he is growing now and does not want to use that water, or he wants to sell or lease that water to another irrigator who still has a crop that requires large amounts of water, he can do that now. It does not require this legislation. It does not need the big checkbook coming out putting him in a position where he must sell to the big checkbook.

If people doubt that, then I suggest they go out and try to run one of these irrigated farms. They are already in place. So the intrusion, although not intended, or the coercion, also not intended, happens in the real world. And I hope this body operates in the real world.

My good friend from Nevada says it may change the groundwater. Let me tell you, it does. I live in an irrigated valley. I used to, anyway. I am up on a hill now.

I say to Senator REID, let's take Clark County in your State where that county has grown and pushed out the agriculture. You and I will not see it, nor do I think our kids will see it, but there will come a time when we will pay the penalty for building houses on the valley floor covering up good, productive agricultural land that tends to provide great benefits to us. We had better start building our homes and our houses and our businesses on dry land and let the valley produce. That is the way societies have done it before, and those societies still are with us today. We may have to take a look at that.

I will tell you, when they turn the water out of the ditch, the wells at my house go dry because the water table drops. That happens every fall. So that is not a myth, I say to the Senator. It is true.

I have a letter here from the National Cattlemen's Beef Association. The president of that association, Lynn Cornwell, is a resident of Montana. He is a good friend and a good rancher out of Glasgow, MT. They would like to see this part of the agriculture bill deleted because they, too, understand what it does and the effect it has on farming and ranching operations, even on dry land. I would say the biggest share of the Cornwell ranch is on dry land.

I want to change the tone and restore the spirit of the law of the CRP, the Conservation Reserve Program. I will have an amendment that will do that which I will offer in a little bit.

But my concern is, the willing buyer-willing seller is not the real world. It is not the real world. It may be up to us, and those of us who probably have never trod on a farm or a ranch, to deal with this.

I have been a very fortunate person. I have been an auctioneer for a long time. I have had the painful experience of selling out some friends who did not make it. The big checkbook always came into play. So that is not the real world.

Then, I say, if this has nothing to do with circumventing the State's rights, water rights, and the adjudication process in that State, then why do we need the legislation? There is absolutely no reason for it. So there must be another motive that cannot be seen just by reading the words of this particular section.

I would hope that we would use a little common sense in this 17-square miles of a logic-free environment and not do anything that upsets the balance between the States, the Federal Government, irrigation districts, and private land owners. Because it is my interpretation of the language that once you sign up in the Conservation Reserve Program, then you might not have any choice but to relinquish those water rights, even on a temporary basis. And that is a very dangerous precedent in itself, of relinquishing those water rights to the Federal Government.

I have always taken the advice of an old rancher over in Miles City, MT: There is a way to survive in a harsh country. Never ever let anybody erode or give away your water rights, always keep a little poke of gold, and you will survive out here in pretty good shape.

Madam President, I ask unanimous consent that the letter from the National Cattlemen's Beef Association be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL CATTLEMEN'S
BEEF ASSOCIATION,
Washington, DC, December 12, 2001.

Hon. THOMAS A. DASCHLE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATE MAJORITY LEADER DASCHLE: Throughout the formulation of the Senate farm bill, the National Cattlemen's Beef Association (NCBA) worked diligently with members of the Committee to develop a Conservation title that would reflect the interests of NCBA and this nation's cattlemen. NCBA was pleased with the bipartisan, voice vote approved Committee title. However, modifications that are to be incorporated into the bill by a manager's amendment take back many of the positive strides supported by NCBA.

The manager's amendment will increase the Conservation Reserve Program (CRP) to 41.1 million acres. This exceeds the 40 million acres that NCBA found acceptable. At this level, CRP will negatively impact the economy of rural communities, local feed grain and forage prices for livestock producers and devote taxpayer dollars to setting aside land that could be better spent on working lands. NCBA asked that increase in CRP acreage be limited to no more than 40 million acres with new acreage focused on riparian areas, buffer strips and continuous sign-up acreage. Additionally, the managers' amendment still does not provide for a reduction in rental rates on CRP acres used for haying or grazing.

Long term funding of the Environmental Quality Incentive Program (EQIP), at the time when producer needs are likely to peak, has been reduced by $650 million dollars per year, from the Committee passed bill. Reductions in funding in 2007 and the out years, will put the long-term success of the program at risk. By contrast, the Committee passed bill provided continued funding that amounted to an additional $3 billion over 10 years. NCBA, in addition to increased funding, asked for a number of programmatic changes that continue in the legislation. Our support for existing measures is dependent on changes that will provide for program access to all producers and ensure that soil, air and water quality are the priorities for the program.

The manager's amendment includes a number of disconcerting provisions related to the Water Conservation Program. This new program would authorize the use of 1.1 million acres of the CRP authorized enrollment acreage to acquire water rights, both short-term and permanent, primarily for endangered and threatened species recovery. This program also specifically allows for the temporary lease of water or water rights in the Klamath River basin of Oregon and California. NCBA cannot support this program, despite the fact that only "willing sellers" may participate. Willing sellers are often found where there are endangered species; the Klamath basin is a perfect example. Many farmers and ranchers have become "willing sellers" because they can no longer afford to farm. Buying all the water rights in the west will not solve our nation's endangered species problems, which in large part is due to the Endangered Species Act itself. It is inappropriate in the context of a farm bill to attempt to do so.

The Grassland Reserve Program (GRP) is another new program that has garnered much support in this farm bill debate. NCBA supports this program because it provides an option for preserving the economic viability of grazing operations while protection the grasslands upon which both wildlife and ranching depend through the purchase of 30-year and permanent easements. However, the Committee proposal strips the option for non-profit conservation and agricultural land trusts to hold and enforce the easements, which is critical for NCBA.

Conservation easements are rapidly becoming a valuable tool in the protection of agricultural lands. However, many landowners remain skeptical. As with any contract, it is important to be able to develop a trust relationship among the parties to the agreement. By allowing third party non-profit land trusts to also be eligible to carry out the administrative responsibilities of the easement, the landowner has the flexibility to work with the entity they feel most comfortable. Several states have developed land trust organizations for the purpose of holding and enforcing agricultural conservation easements. Without the ability of non-profit or agriculture land trust participation, the GRP will not serve the interest of those family farmers and ranchers for which it was designed.

We look forward to working with all Members of the Senate to create a final package that meets the needs of today's ranchers. In closing, NCBA believes that last minute amendments to a balanced and bipartisan Committee passed bill are lacking in a number of key areas and less attractive to US beef producers.

Thank you for the opportunity to communicate with you on these important issues. If you need further information or if we can provide clarity to any points in this letter, please contact us.

Sincerely,

LYNN CORNWELL,
President.

Mr. BURNS. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I heard the comments made by my good friend from Nevada earlier. I agree with him. The conservation title of the Harkin bill is there to help mitigate western water conflicts.

I have been on the Agriculture Committee for 26 years now. It was the first committee I went on when I came here. I have heard a lot of the debates on conservation practices and on water matters. We get concerned about water in the East for different reasons than they do in the West.

We have heard the comments of my friend from Montana. My home in Vermont has a well. We live on a dirt road. We have to provide our own water. We are certainly very careful about protecting the water we have. Our home had once been a farm. They had to have water for the cattle. We know what it is.

This is not a case where you are going to willy-nilly transfer water away. In fact, under the amendment that the Senator from Nevada, Mr. REID, has proposed to the Harkin bill, it provides specifically that the State law is paramount. In other words, if Nevada or Montana or anywhere else has a water transfer law, then nothing happens unless it is approved under the State law. It is not a case where the Federal Government just comes over and takes over things.

This proposal is here to make sure we plan before we are in trouble, before we are in a drought situation. When you get into a drought situation, when you have those kinds of problems, there is not an awful lot you can do to help farmers or alleviate their economic impact, or, for that matter, the regional impact on farmers because they fail.

So what this amendment would do is try to create those kinds of programs that would help lessen water conflicts—not for the good years, because in the good years there aren't any conflicts. In the good years, everybody has plenty of water; nobody really thinks about it. This is the plan for those drought years. It is almost the biblical 7 fat years and 7 lean years.

The Water Conservation Program that is included in Chairman HARKIN's bill is the first tool we will have in the Federal farm policy to actually address the program. This program actually is very familiar. Most farmers know about the CRP program, the Conservation Reserve Program. Farmers know that program. The program is extremely popular. This follows it. In fact, under the new water conservation program, a farmer could enroll land in the program, reducing farming on that land, but it is totally voluntary. This is not something where Big Brother comes in saying you to have do it. It is totally voluntary. You can't transfer anything anyway if your State has already passed a law saying you can't.

It is really designed to put as much power in the hands of the farmer as their own State would allow. Instead of focusing on wildlife, for example, wildlife improvements on the land, the farmer could agree to transfer the water associated with that land to provide water for fish and other wildlife, something that those who hunt, fish, or just are concerned with the environment should like very much.

It actually operates basically the same way as every other conservation program in this bill. All the protections have been built in here, protections of saying that you can't override State law. You have to make it voluntary. The farmers and ranchers themselves are going to make these decisions. We have done this in CRP.

We have done the Conservation Reserve Program in the past. That has proved very popular. I have some very careful farmers in my State, good Yankee stock. They want to make darn sure they are doing something that protects the farmers' sons and daughters afterwards. They sign up for the CRP because they know it works.

I know the Senator from California is here. I yield to the Senator from California.

The PRESIDING OFFICER (Mr. DAYTON). The Senator yields the floor for a question.

Mr. LEAHY. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont has yielded the floor. Senators may compete for recognition.

The Senator from California.

Mrs. BOXER. I say to my friends, I will be brief and to the point. I thank my friend from Vermont. This particular part of the farm bill is very important to our State that is having so many issues surrounding water, the availability of water, and the ability to have enough water for everyone—for the farmers, for the urban areas, for the suburban areas, for the environment, for fish and wildlife.

I had the experience of taking a hike along a river that is pretty dry. It is in a State park. They have a wonderful series of parks along this river that is now so dry. This was the place where the salmon would come. There is nothing sadder than seeing this happen, seeing us lose our habitat. It is our responsibility to make sure we do right by the environment, right by the farmers, right by the urban users, right by the suburban users. That means we all have to live within this gift we get from God that sustains us—the water. We have to use it wisely. We have to be smart about it. We have to share it. If we do that, everyone will thrive in the end.

What Senator REID has done by his excellent work on this bill—and I so much oppose this move to remove it from the bill—is to understand this reality, that this is a precious resource, this water; that we do need it for all the stakeholders. We know when we took up the issue of the Klamath what a terrible situation we had there with the farmers literally crying because they didn't have enough water to farm. They didn't have an option to sell what water they had.

What Senator REID does, through a leasing and a purchase program, is to make sure that on a voluntary basis farmers have the option to lease or sell some of their water. For example, suppose they choose to go to another crop and they need less water. They can go to that other crop and then sell the excess water that they have and increase and enhance their incomes.

This is something that is very popular. In my State, I heard from farmers who really support very strongly what HARRY REID is trying to do. They tell me this would be a welcome opportunity for them. So when people get up and say the West this and the West that, you can't speak for the whole West because there are farmers in my State, in my region, who believe this kind of a provision is going to help them survive. Let me repeat that. This kind of provision will help them survive. They have told me that. They have written this to me.

Therefore, when Senator REID was putting together this provision, I thanked him on behalf of those farmers who call the Reid provision a win-win situation. Farmers could sell water they could not otherwise use and, in exchange, get funds they need to keep on going, and fish and wildlife get the needed water.

I find it interesting that in this debate some on the other side talk about the big, bad, evil Federal Government coming in and stealing water away from farmers. First of all, I know Ann Veneman, and I don't think of her in that way, and I don't think of the Federal Government as evil. I think people see the Federal Government as a necessary tool for them to do the right thing, whether it is in foreign policy, domestic policy, or protection of the environment. I don't think this administration, or any administration, would come in like Big Brother or Big Sister and disrupt a farmer's life. On the contrary, I think in fact that because this is voluntary, this is an option for farmers.

In closing, I don't need to go on at great length. I wanted to support my colleague from Nevada, the assistant Democratic leader, who I think has done an incredible job of crafting a very good provision. I am disappointed that we always seem to pit farmers against the fishing people, fishing people against the urban and suburban people. In California, we have learned that we have to live together. We don't come to this floor—Senator FEINSTEIN and I—picking a fight with any of them. We try to bring everybody together. Senator REID has done a good job in trying to bring all the stakeholders together. In this case the farmers stand to win, the environment stands to win, the fish stand to win, as does the wildlife and everybody else.

I think what I hear on the other side of the aisle is the old water wars, the old language, and it is the old threat, the old gloom and doom. I urge colleagues to work with Senator REID, give this a chance. I think this program could work. It could be a win-win for everybody.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, I will limit my comments. I want to say this while Senator REID is on the floor. I used to live in his part of the country and I understand his concern. If you haven't spent much time in Nevada—I listened to his comments. I listened about Pyramid Lake and Walker Lake, two lakes that rivers come into. And there is a place called Tumble Sink in his State—the only place in the United States where the further you go downstream, the smaller the river gets, until it just disappears.

I think this is a question that probably should have been fully debated, with some kind of a hearing, and not attached to this bill. The Senator from Montana, Mr. BURNS, mentioned what we often call the law of unintended consequences. That is what I am concerned about, too, without adequate input. I know this may help a rancher or a farmer survive, but I can tell you they won't survive very long once the water is gone. I don't know how many Members of this body farm or ranch. I know there are several, including me. You might make a short-term agreement to sell or lease some water, but if there is a change in the water usage and you don't get it back, that is the end of your farming and ranching in the arid West, where we have to store something like 80 percent of our yearly water needs.

As I understand this part of the bill, the Secretary of Agriculture can acquire the water for purposes other than agriculture during this period of time, even though I understand it is on a willing-seller/willing-buyer arrangement and that he cannot participate in a CRP unless he also agrees to the water provision. You take them both or you get neither.

Now, I am reminded of something that happened. I did a hearing on water in Fort Collins, CO, about a year and a half ago. One of the men who testified—I was thinking about him when I was listening—was a man, like a lot of ranchers, who moves his water around, depending on what he is planning and where he wants the irrigated water to go. He had a field that was dry as a bone, and he had ample water rights. So he put a ditch in to carry some of the excess water he already owned to this very dry field. Lo and behold, the field obviously came up very rich and beautiful and produced a wonderful stand of hay. Since there was water and seed in the ground, a little mouse moved in called a Preble's meadow jumping mouse, which is on the Endangered Species List, or the Threatened Species List.

As you know, the Endangered Species Act takes into consideration habitat. Once the mouse moved in, he found he could not move his ditches anymore from there because it was declared habitat for that mouse. That is one of the concerns with this. Maybe it will work fine; maybe it won't.

What if the rancher agrees to take his water out of production and put it in this Federal designation for a period of time, and wherever that water is—as an example, out West—it is used for something else and, therefore, where it was in those fields is now dried up. As you probably know, there is a program in the West reintroducing the blackfooted ferret on the Endangered Species List. They are beginning to grow little by little. There are a few more colonies established. What if something like that moved into that area where he had his water because they live on prairie dogs and live in dry ground, not near water? My question would be: Is there a possibility that he could not get his water use back because that land he had irrigated might then come under some kind of a criterion that would prevent him under the Endangered Species Act?

It is that kind of unanswered ambiguity about this section that makes me oppose it. I am not opposed to the concept. I am always looking for ways that farmers and ranchers can survive because it is not easy. We have more ranchers and farmers in the West whose wives are now driving school buses to make ends meet. It is a tough lifestyle. There is no question that as the urbanization takes place in the West, there is going to be a bigger need for water.

Maybe someday we will have to change the way we use water, as they do in Israel and other dry countries where they have gone to drip irrigation and other things, rather than flood irrigating, which is so wasteful of water. But under the water law that exists now in the Western States, I think this could really upset things, even though the language says it cannot be done without the approval of the water authority. Something, it seems to me, should be fleshed out completely through hearings and much better debate, rather than simply in the last few minutes before the agriculture bill moves.

With that, I thank the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I rise in opposition to this section of the bill and in support of the amendment to strike it as well. I think it is important as we debate this amendment we recognize that the Senate Agriculture Committee never considered this provision. It was never raised in any of the hearings we held on the conservation title of the farm bill earlier this year, nor was it included in any version of the conservation title on which this committee has worked. It has simply been introduced on the floor now while debating the bill. It hasn't been vetted nationwide.

We are in the process of debating it now, as water users, water lawyers, and those who are involved in this issue around the Nation are hurriedly trying to evaluate it and get their information to us to determine what impact and what consequences it will have. I believe the law of unintended consequences, which was discussed by several other Senators here, is going to be played out if this becomes law and we will then see what happens without having had the kind of thorough evaluation that it deserves in this body.

What the proposal does is to adjust the CRP, which is a very useful and time-tested program in the conservation title of the farm bill that has been extremely successful over the years in helping us to improve the habitat for wildlife, and for fish, and for species around the Nation by addressing those concerns without doing it in the context of the Endangered Species Act but doing it in the context of the conservation effort that we seek to achieve in our farm policies in this Nation.

In fact, I have worked very hard this year and in the last couple of years to put together a conservation title for the farm bill, and a part of that conservation title is to try to expand the CRP to make it even more useful in protecting habitat and improving circumstances nationwide for our wildlife.

Yet we have not seen this effort to try to hook Federal acquisition of water rights into the administration of the CRP until today. I have worked very closely with many of the Senators in the Chamber in other efforts to protect and strengthen our salmon and steelhead in Idaho under the Endangered Species Act, another endangered species as well.

I worked hard to improve the Endangered Species Act to authorize our landowners to have habitat conservation plans and options where they can commit to use their land in certain ways that will help achieve the objectives of the Endangered Species Act and protect them from some of the onerous implications of the impacts the act may have on them in the administration and use of their land.

Never until today have we debated a proposal to merge the CRP with the Endangered Species Act and to do so in a way that facilitates and, in fact, initiates the Federal acquisition of water rights. That is what is causing such a significant concern around the country.

In my discussion with the Senator from Nevada earlier, he acknowledged that, although there is a lot of talk about the use of the voluntariness in this package, it is only voluntary in the sense that a farmer does not have to participate in the CRP if he does not want to give up his water rights. But with regard to this 1.1 million acres that is outlined in this proposal, any farmer in America has only one choice: Either do not participate in this part of the expansion of the CRP or give up your water rights, either on a temporary or permanent basis. Such a choice, in my opinion, is not very voluntary.

In fact, it will cause a lot of farmers who otherwise would have taken advantage of this expansion of the CRP to do really good things on their land and improve habitat to say: I am not going to give up my water rights. So I am not going to participate in this program and they will make that so-called "voluntary" decision, but what it really means is they have been deprived of this ability to participate in the expansion of the CRP because the condition of giving up their water rights has been placed on it. That is what the debate comes down to.

Why is it necessary for us to expand into the CRP the Federal effort to gain control over water by acquisition of water rights and to fund it so the Federal Government can then come in with the deepest pocket in the market and buy water rights with the pressure or the tool of access to the CRP used as the hammer?

The real debate here is: Why are we seeing this? I think the reason is one that has been suggested by several of the others who have spoken. Historically, we have seen an increasing effort by the Federal Government to gain access to and control over the water in this Nation. That is a continuous issue we fight often in the West, and I know in other parts of the country it is fought as well. So there is an automatic alertness by those who own water rights or who deal with water rights or who seek to manage the water issues in the States, when they see a new program with Federal dollars being pumped in and Federal conditions being brought in to a program that otherwise was working wonderfully with the purpose of saying we are going to utilize this good program and restrict access for it to the new people who want to get in and do so on the basis that the only way they can use it is if they give up their Federal water rights.

In a sense that is voluntary because they do not have to do it, but it is making it so anyone who wants to participate in the expansion of the program cannot do so unless they fall within this provision.

The proposal I have made, and I hope still will be the one that prevails in the Senate with regard to the CRP lands, is indeed we focus our expansion of the CRP on those buffer strips and those areas where we can have the most impact on habitat for wildlife, but not do it in a way that excludes every landowner in America who does not want to give up their water rights.

Let's not create just a limited application of this new expansion of the CRP in a way that would essentially disqualify everyone who is not willing to give up their right to water. That is my biggest concern with regard to the so-called voluntariness issue and the purpose behind this legislation.

Another point I think is critical to make is that those who advocate this provision say it is important we protect these threatened species and species that could be benefited if the Federal Government could take control of this water and utilize it for their benefit. It is a good point. Utilization of the water resources of this Nation for the benefit of species is critical, and yet under existing Federal laws, such as the Endangered Species Act, the Clean Water Act, and so forth, and under existing State laws, almost everything that has been discussed as a very positive thing that should be done under the Endangered Species Act can already be done.

If you stop to think about it, as the Senator from Montana already said, the Federal Government can already buy water rights in a willing buyer/willing seller arrangement. What is being added here is that lever or that hammer that says you cannot any longer participate in the expansion of the CRP unless you sell your water rights. Just a little bit of a hammer—maybe not such a little hammer—on the water users of this Nation.

Yet already we are achieving some of those objectives under the existing law. For example, in my State of Idaho, the need for water for salmon and steelhead has long been established, has been debated actually, but has long been something that has been sought to be addressed under the Endangered Species Act. For years, hundreds of thousands of acre-feet of water in Idaho on an annual basis have been made available on this true willing buyer/willing seller basis where the Federal Government has come in and obtained on fair evenhanded negotiations the ability to get water out of the waterbank or out of some projects or out of water users who do not need it for that year and to utilize it for the salmon and the steelhead.

That can be done, but it does not have to be done with the added hammer of prohibiting access to the CRP.

In the State of Idaho, for example, the U.S. Bureau of Reclamation, as I indicated, has been able to rent water from the State waterbank from willing sellers for almost a decade. Recently, in another context, the Bureau has rented water in the Lemhi River area, a tributary of the Salmon River for the benefit of species. All of this was done under State law and Federal with the current system.

I have a letter from the Governor of the State of Idaho who asked us to oppose this legislation because it is in conflict with Idaho's water law and because, as he says:

> In addition, the goal of implementing water quantity and water quality improvement demonstrated to be required for species listed under the Endangered Species Act can largely be achieved under existing State laws.

The Governor goes on to give examples that explain we have those abilities and the desires in the States right now to achieve these objectives.

What this comes down to, frankly, is: Are we going to modify and take a step into the arena of our conservation title of the farm bill now and modify the CRP in a way that creates a hammer to force those who would like to participate in it, would like to improve the habitat under this program, would like to take the incentive that it provides and say: You cannot do it unless you give up your water rights? Or are we going to use the existing voluntary basis of addressing these issues under the Endangered Species Act, in terms of obtaining and utilizing water rights, and let the CRP work as it has been intended to work and as it has so effectively worked over the last years to let farmers, without having to jeopardize their water rights, do those things they know are going to benefit the species that reside on their property?

I think that it would be better, actually. If you want to look at what is going to actually result in the best results for species and for wildlife in general in the United States, I think it is going to be best if we allow those who own land and who operate land in agricultural endeavors to continue to utilize this expansion of the CRP program without the threats of giving up their water rights because you will have many more people willing to participate then, many more lands that will be available and be competitive for this expansion, and the Secretary will be able to have a broader array of choices in terms of the allocations of the new CRP land.

A last question that perhaps the Senator from Nevada can answer, a question raised by some of the water users as they struggle to evaluate what will happen: What happens if a water user who enters into a contract with the Secretary agrees on a temporary basis to give up his water rights and then chooses, for whatever reasons—economic reasons or whatever—to break out of the contract and go back into production? I understand there are financial penalties for that. That is understood. By then taking that water back from the Federal Government's utilization to the utilization of the farmer, which I assume would be possible, would that then result in a section 9 violation of the Endangered Species Act by taking water away from a species?

A lot of questions come up under this law as to what will happen if this new regime for utilization of water is implemented. I know the Senator from Nevada says State law is not being superseded. The fact is, under the State laws in the West, many different evaluations have to be made before a water right can be transferred. In many cases, the water right is actually owned by a canal company or irrigation district, not by the land owner. So permission there would have to be obtained. Then approval from the State water authorities would have to be obtained.

I assume from the answers we have gotten that would be left in place and no farmer would be able to participate unless he got approval from the entities that were the actual owners of the water and from the State that manages the water. Again, that will limit dramatically the number of people who can take advantage of this expansion of the CRP. But assuming that is in place, what happens if the Endangered Species Act becomes applicable to the new utilization of the water regime and the farmer wants to take it back? We have a lot of questions that need to be answered.

In summary, we have not had a chance to thoroughly vet this issue. It has not been reviewed in committee or hearings. There is a tremendous amount of unrest building and developing around the country over what this will do. The bottom line is, there is no established reason for trying to connect the Endangered Species Act and the desire for expansive Federal control over water to a very effective CRP that is doing its job under the conservation title of the farm bill.

I encourage those Senators who will make their decision on this issue soon as we come to vote on it to recognize we should reject this section of the farm bill and support the amendment to strike this provision and work in a collaborative fashion to develop the approaches to the farm bill that will expand and strengthen our conservation title, but not do so in a way so divisive.

I conclude with this. I have maintained for many years probably the most significant piece of environmentally positive legislation we have worked on in Congress is the farm bill. It has tremendous incentives in the conservation title to make sure the private land users in this country and the way we utilize our agricultural land and its production are incentivised for good, positive, conservation practices that benefit species, our air quality, our water quality, and the like. That is what this conservation title does. That is what the CRP is designed to do. Do not saddle the CRP with this unnecessary effort to extend Federal control over water and Federal acquisition over water. Let the CRP work as it was intended.

The PRESIDING OFFICER. The senior Senator from Idaho.

Mr. CRAIG. Mr. President, I join with my colleague and partner from Idaho with what I think is, for Idaho, an arid Western State, probably one of the more critical debates of new farm policy for our country.

Those who live east of the Mississippi have no comprehension of the value of a raindrop, the value of a bank of snow, or the value of a large body of water retained behind an impoundment, known as a reservoir. My forbears and Senator CRAPO's forbears for generations have recognized the value of storing water under State law and allocating this very scarce commodity to make the deserts of the West bloom and to become productive.

There is no question in anyone's mind, I hope, that the ability to allocate water is the sole responsibility of the States. That is a fundamental right that has been well established in law. While oftentimes disputed by those who disagree, it is rarely ruled against in court.

Why are we gathered here tonight? Because an amendment would propose in some nature, yet to be argued, that that fundamental principle of western water law is somehow overridden by a Federal law.

My colleague from Idaho was very clear in pointing out the rather perverse incentive created within this bill. The authors take a very popular conservation program known as CRP and suggest if you wish to enter it anew, somehow you have to give up something increasingly more valuable. That has never been the concept. The benefit of CRP and the intent of CRP—and I am one who has been here long enough to say I was there at the beginning of this idea—said it was to take erosive lands out of the market, give that land owner something in return for the value of the conservation that would result.

What has happened in the meantime is a well established record that these lands once tilled were turned into grasses and stubbles and root base that held the water, stopped the erosion, and became some of the finest upland game bird habitat in the West.

In my State of Idaho, it is an extremely popular program where pheasant, chukar, and sage grouse now flourish because of the program. The incentive was the right and natural incentive. It was not: I want to provide you something, but to do so, I want to take something away.

The Senator from California, a few moments ago, opined about the fact of a dry river bed. I am not going to suggest States have allocated their water always in the proper fashion. We in the West are in a tug today, a tug of war over water because we are populating at a very rapid and historic rate compared to the last century. Agriculture, some manufacturing, and human consumption were the dominant consumptive uses of water. We failed to take into recognition the value of fisheries on occasion or riparian zones. We now understand that.

But here is the catch-22. My State, for 100 years, added to its water base. My State created more water than that State ever had before the Western European man came. Why? Because we created impoundments, we saved the spring runoff, and we increased the abundance of water in my State by hundreds of thousands of acre-feet. But about a decade and a half ago, because of environmental interests and attitudes, we stopped doing that. The Federal Government said: We will build no more dams. It is not a good thing to dam up rivers. So it stopped. We stopped adding water to a very arid Western State. And it is true across the West. So we locked into place the amount of water that was there. We could add no more.

Two decades ago, I joined with the Senator from Colorado to establish a new water project in southeastern Colorado and we have fought it for two decades. It still is not constructed. Yet it would have added an abundance of new water to that corner of the State. It was denied by environmental interests and others. That is really a very encapsulated history as I know it.

Now what is happening, in an area where we have been locked into a limited amount of water, unable to store or generate more by spring runoff, we are saying you have to divide that which is currently used for other uses.

I will tell you, the arguments are pretty legitimate: Fisheries, water quality, in-stream flow, riparian zones—something we all want. It is something we all believe in. But because of the situation the arid West has been put in, when we offer up to do this, we have to take it away from somebody else. We can't add because we have no more water with which to work.

We are at the headwaters of a mighty water system in my State known as the Snake-Columbia system. The mighty Snake River begins just over the mountain in Wyoming, springs through Idaho, and picks up the tributaries and dumps from the Idaho into the Columbia River, and our rivers and our streams are the habitat for salmonoid fisheries—salmon, a marvelous species of fish. They come up from the ocean to spawn, and their offspring go back to the ocean. That has become an increasingly important issue in my State because they are now listed as endangered or threatened under the Endangered Species Act.

The State of Idaho has sent upwards, at times, of 700,000 acre-feet of their water, under law, downriver to help those fish. But there are those who want more.

As my colleague from Idaho said, the Bureau of Reclamation in Idaho is, in fact, acquiring water from Idaho and its willing seller. That is the appropriate thing to do. It is not an adversary relationship. If you have surplus available and it is in a nonuse way, we will acquire it and put it to some other use.

But that fight doesn't occur here in the Nation's capital. It occurs in Boise, in Idaho's capital, in the State capital of our State where water law, water fights ought to exist. If you are going to fight water in Colorado, you fight it in Denver, you don't fight it here, because it is not our right to do so. If you are going to fight water in New Mexico, you fight it in Albuquerque.

And we will have those fights. The West is replete with a history of water fights. Why? Because it is a scarce commodity. It is a lifegiving commodity—to the human species, to the fish, to the wildlife, to the plants that become the abundant crops that have made our States the great productive States that they are. But it was the men and women of Idaho from the beginning who decided how Idaho's water ought to be allocated—not the Federal Government, not the Agriculture Committee of the Senate, not the Secretary of Agriculture, but the citizens of the State of Idaho.

So the senior Senator from New Mexico offers an amendment to strike the provision for the water conservation program as proposed by the Senator from Nevada, and he is right to do so. It doesn't mean a program such as this couldn't exist. It doesn't mean a program such as this should not exist. But if it does exist, it ought to be the right of the State to decide whether its citizens can participate in it because it is the State's right to decide how that water gets allocated and not the Federal Government's.

When I first came to Congress in the early 1980s, there were some very wise environmentalists who were scratching their heads and saying: Wait a minute, if Idaho is 63 percent owned by the Federal Government and the citizens of the Nation and most of the tops of those watersheds where that water system of the West begins are Federal land, why isn't it Federal water? And there was a thrust and a move to take it.

We blocked it. We stopped it. Why? Because of the precedent and the history and the reality that when you are in a State such as mine and that of Senator MIKE CRAPO, where we get about 15 inches of rainfall a year, water is sacred. What do we get here, 60-plus in a good year? People east of the Mississippi don't worry about water so much. They don't realize that you have to control it and impound it. Actually, they are trying to control it to keep it off their lands most of the time, to keep it out of their farms because it floods and does damage. We have had those fights here—reclamation fights and all of that drainage kind of thing in wetlands. Quite the reverse is true out there on the other side of the Rockies, on the other side of the Mississippi.

Mr. CAMPBELL. Will the Senator yield for a question?

Mr. CRAIG. I am happy to yield.

Mr. CAMPBELL. I worked with the Senator from Idaho on a good number of water bills for a number of years. Maybe I should correct him because we have one more water project to build, and that is what he and I have been working on in Colorado for the last two decades. But something came to my mind as I have been listening to the debate, and I would like to ask the Senator a question, since he is the only one on the floor.

Most of the western States have several problems including over appropriation, which means more people own the water than there is water. That is why we have been fighting back and forth. One of the things common to the West but not common to the East is called water compacts. We have them between counties sharing scarce water, we have them between States. Colorado happens to be an upper basin State, as it is called; California, a lower basin State; and we share the water that goes down the Colorado River. We also share the water, under a contractual agreement, that goes down the Rio Grande that starts in Colorado, that goes to Texas.

In addition to interstate compacts, we have international compacts because we have a compact with Mexico to provide a certain amount of water from both of those rivers to that nation.

Most of the water that is in ranching now recharges back to the ground. It goes back either through runoff irrigation, which goes back to the river, or if it is sprinkled, it usually recharges the aquifer to some degree. One of the big unknown questions for me is if there is a possibility, if we change the use or allow the Federal Government to change the use, it would in any way upset existing compacts. I would like to ask the Senator if he has thought about that, if he has any views on that.

Mr. CRAIG. I appreciate the Senator asking the question. I am not sure I can respond. What the Senator has clearly demonstrated though, by the question, is the complex character of western water and western water relationships. The Senator is in the headwaters of the mighty Colorado River. Yet the citizens of the State of Colorado don't have a right to drain the river because the Colorado is the headwaters of a river system that goes all the way to the Gulf of California. All of those relationships have developed over the years.

I am not sure I can answer that question. I think it is literally that technical. That is why, when somebody says, Oh, this causes no problem—until you review it and put it into the context of the law that governs water, a clear answer cannot be given. And I am not a water attorney.

Mr. CAMPBELL. Exactly the point. We don't know the problems that will be created, and that is why I think it is wrong to move forward with this bill with this section in it until we have had some really in-depth hearings as to how it would affect water in all the States of the West.

I appreciate the time.

Mr. CRAIG. The Senator from Colorado also mentioned something else in the context of his question that I think is often not understood. The Idaho Fish and Game Department would tell any citizen, or any questioning person, that there is more wildlife and more abundance of wildlife in Idaho today than ever in our known history except for maybe prehistoric times. Before the crust shifted and the glaciers receded totally, we were a fairly tropical area, and there may have been a more abundant wildlife at that time. But I am talking about known history.

We have more wildlife in our State today, in the general sense, than ever in our State's history. They will tell us very simply why. There is more water.

While some of our citizens are concerned that it isn't where they would like it to be as it relates to their particular interest—whether it be a fish or a riparian zone—the abundance of deer, elk, antelope, and some of our upland game birds is in direct proportion to the amount of water that is now being spread upon the land by humans. It is that multiplier that I talked about earlier on that Idahoans have been increasing the overall volume of water in their State, on an annualized basis, ever since we set foot in the State and began to homestead it and turn the land and make it productive.

For example, we used to flood irrigate, spread the water openly on the land, over the Idaho aquifer. Because we wanted to conserve the water, we have moved from flood irrigation to sprinkler irrigation.

We dramatically reduced the amount of water that is now being returned to the aquifer. We changed the very character of a climate that we created in the beginning upon which wildlife depended. Herein lies the question that needs to be asked of the impact of what the Senator might want to do with his amendment.

Let us suggest that you, for a period of time, leased your water from a given acreage of land and it became arid, and certain wildlife moved on the land that liked arid land. Then, later on, you chose to irrigate the land which might drown out the particular arid species and somebody filed on you because you were threatening that species and risking its endangerment. Are you in violation of the law when you say you are only returning the land to its pre-existing use?

Let us say you dried up the land and caused the species that were rare to leave because the lack of moisture turned it arid.

Those are all the kinds of simple complication because we have made the law so critical and caused some of our friends to become such critics. Those are reasonable questions to ask.

In the West and in the arid regions of our country, a long while ago this Congress recognized how important it was for those who lived in the arid areas to determine the use of the water. Some scholars called it the oasis theory. My grandfather said that very early on when he was homesteading: he homesteaded where the water was. Why? Because it is life for you and your family, and the livestock. In that case, it was my granddad's sheep ranch. It wasn't by accident that he became the owner and controller of water because it was a very limited commodity and it allowed him to grow and to expand his business, if he had to.

That has been the history of the West. That is why we must not allow this amendment to exist. I am not saying the purpose isn't right, nor am I saying the Secretary of Agriculture might not want to ask the State to participate. But they ought to be asking and the State ought to have a right to say yes or no, and there ought not be any perverse incentive that if you do not, you won't get something in return that others can get.

That isn't the way conservation programs ought to be developed. There ought to clearly be incentives. The additional CRP offers just that. It has been a very successful program in the foothill countries of the upland areas, in the steep countries, and the erosive lands that were once farmed. That is what ought to happen this time.

I hope we can work out those differences. If not, we will have to not only attempt to strike, as the Senator from New Mexico is now attempting to do, but we will have to follow any effort through to conference and work with our colleagues in the House to make that happen.

That is how critically important this is for the West and for all of us involved.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, we are going to put ourselves in a quorum because the principals involved are working on a way to resolve the issue that is brought to the Senate in the Domenici amendment to strike. That is why we are not going to be speaking for just a while. We hope we are saving time by doing this.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I rise in strong support of Senator DOMENICI's amendment to strike the conservation provisions of this legislation.

As former chairman of the Energy and Natural Resources Committee with jurisdiction over western water, and now the ranking member, I have labored with my colleagues for a good deal of time to try to resolve these issues. This proposal coming in without any hearings, and without any input from the Western States that care so much for their prosperity over water, and this particular portion of this legislation is absolutely premature and inappropriate. It doesn't belong in here.

Senator DOMENICI's amendment to strike the conservation provision is something I wholeheartedly support. We simply do not need to have another program with the intent of taking water away from farmers. That is just what this does.

This program, as I indicated, has not had a hearing, and it will directly affect programs within the jurisdiction of our Committee on Energy and Natural Resources. It took us years and years to craft and enact the Upper Colorado Fish Recovery Program. I am of the opinion that this could be adversely affected if these provisions are adopted.

We are presently in the midst of considering reauthorization of the CALFED Program in California. I know Senator FEINSTEIN worked very hard on that. Its effects on Federal and local obligations in the Central Valley of California are paramount. This new program could significantly affect the effort and directly increase obligations of Federal contractors in the Central Valley.

There is a multispecies program under consideration in the lower Colorado that could be directly and adversely affected as well.

Further, there is not the slightest reference to the requirements of reclamation law, and most farmers west of the Mississippi are dependent on the operation of reclamation law. That is what they are governed by; that is what they live by; that is the gospel. There is no reference to that.

As a consequence, these people have to feel very uneasy and very insecure about this proposal.

Again, there is certainly justification for Senator Domenici's amendment to strike. The entire chapter in the Daschle amendment should be introduced as separate legislation. It should be referred to the proper committee, the Committee on Energy and Natural Resources, and have full hearings. Consideration should be given before any action is taken.

I certainly don't subscribe to the theory that these programs are voluntary. We have seen too much of that.

We have ample evidence from the last administration of the ability of the Federal Government to coerce people to agree. We also had ample evidence from the last administration of their ability to use Federal law to reinterpret State water law. Secretary Babbitt's proposal by regulation to declare nonuse to be a beneficial use in the Lower Basin of Colorado is evidence of that.

There is nothing to give us any comfort that another Secretary, such as Secretary Babbitt, could not use this authority to completely abrogate State water law and force the farmers to adhere or simply go out of business.

I support the amendment by the Senator from New Mexico to strike these provisions. I urge my colleagues to do the same. I think we have discussed this to the point where it is evident and clear that this is not good legislation.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I think that the debate was a very good one. I think we all understand each other much better. Senator REID and I have reached an agreement, and my fellow Senator from New Mexico has been a participant and a helper.

AMENDMENT NO. 2502, AS MODIFIED

I send to the desk a modification of my amendment, the strike amendment. This amendment, as modified, is offered on behalf of myself, my colleague, Senator BINGAMAN, and Senator REID.

The PRESIDING OFFICER. The Senator has that right.

The amendment is modified.

The amendment, as modified, is as follows:

> On page 130, line 9, insert the following: "Before the Secretary of Agriculture begins to implement the program created under this section in any State, the Secretary shall obtain written consent from the governor of the State. The Secretary shall not implement this program without obtaining this consent. In the event of the election or appointment of a new governor in a State, the Secretary shall once again seek written consent to allow for any new enrollment in the program created under this section in that State."

Mr. DOMENICI. Now, Madam President, rather than explain it, I will just read it. Tthen everybody will understand what we have done is make this a consensual program. That means that the Governor of the State must agree for his State to be in this new program. And that right is given to each Governor if, in fact, there is a new Governor while the program is still in existence.

So I am just going to read it:

> Before the Secretary of Agriculture begins to implement the program created under this section in any State, the Secretary shall obtain written consent from the governor of the State. The Secretary shall not implement this program without obtaining this consent. In the event of the election or appointment of a new Governor in a State, the Secretary shall once again seek written consent to allow for any new enrollment in the program created under this section in that State.

I yield to Senator BINGAMAN who wants to comment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I thank my colleague. First, let me compliment him for raising concerns about the provision. I also compliment Senator REID for his commitment to try to help deal with some of these issues requiring additional attention to water conservation in the West.

I do think that is a real need. It is a real need we see all the time. Senator DOMENICI, my colleague, raised questions about the particular program and how that would affect our States and whether it would be an appropriate program to implement. Those were very valid questions.

This modification that Senator DOMENICI has now sent to the desk, on behalf of himself and me and Senator REID, is a very good compromise. What it does is make it very clear that each State can make its own determination as to whether this is a program in which it wants to be involved. If it does not, then clearly it should not be forced to do so. This is a very good result. It certainly meets our needs in New Mexico.

I compliment Senator DOMENICI for this modification. I compliment Senator REID as well for his leadership on this whole range of issues.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, so the record is clear, I want everyone to know that Senator DOMENICI and Senator BINGAMAN have been most reasonable in their approach. We early on tried to get an opt-out provision. This makes much more sense and is mechanically something that will work very well. I also appreciate the dialog we have had off the floor with Senator CRAPO, who is a water law lawyer. He is going to come back later with some other questions he has. We will be happy to visit with him.

I am grateful for moving this issue along. As I have said all along, this is one of the real strong points of this new bill. I am grateful this amendment will be accepted shortly.

Mr. CRAIG. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. CRAIG. I appreciate what the Senator is working to do with our colleagues from New Mexico. This is a vast improvement without question over what I believe is a major intrusion into water law and the very reclamation laws that many of our colleagues before us have written. I am not quite sure we have bridged the gap yet. I do believe there is a very real precedent here that is risky at best as it relates to our reclamation laws.

This particular amendment has not withstood that test. Nor has it had the very intricacy of water law reviewed against it. That is critical.

I know the intent and the good intentions of the Senator from Nevada. This is a phenomenally complicated area. To study water law today and to look at the court proceedings over the last decades would argue that very clearly.

My colleague from Idaho has spent a good deal of time with water law. I am not a lawyer; I have not. But I do recognize a precedent when I see it and something that is new and unique to a very important body of law. I hope we can continue to work to perfect this. I do believe there is a very clear perverse incentive here that no person, nor public policy, should have embodied within it.

I thank the Senator for yielding.

Mr. REID. I respond to my friend from Idaho, his elucidation is the reason we have the States having the obligation, if they want in this program, to say "we want in the program." I think from what the Senator outlined, if a State doesn't want in, then they don't come in. As I have indicated earlier in my remarks, I would be happy to work with Senator CRAIG's colleague, Senator CRAPO, who now is in the Chamber, to see if we can come up with something that will meet his questions and some of his concerns.

I have indicated to him that I certainly will not reject outright anything he has to say. I have an open mind and would be happy to visit with him. I have also indicated to Senator KYL that there is absolutely no question that this has nothing to do with changing State law. The Senator has indicated at a subsequent time he will submit to us some language, and we will be happy to take a look at that, if he believes this language in our legislation is not clear enough. He also has had experience in water law, as has the Senator from Idaho. I would be happy to take a look at that.

I have had great experience working with the Senator from Arizona, who has been extremely important in our working on one of the most difficult water problems we have had in the entire West. The State of Arizona and the State of Nevada were at war for about 3 years, a bitter water war. As a result of our help and the water expertise of the Senator from Arizona, and perhaps a little of my political work on the issue, we were able to work something out. So now the States of Arizona and

Nevada are working together hand in glove.

I look forward to working with these Senators in the near future on this issue.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, parliamentary inquiry: Has the amendment been adopted?

The PRESIDING OFFICER. It has not.

Mr. DOMENICI. I yield back any time we might have on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Idaho.

Mr. CRAPO. I was not on the floor when Senator DOMENICI made his request. What is the status of the procedure at this point?

Mr. DOMENICI. I should have stated that when the Senator arrived. I had the privilege of offering a substitute amendment for my amendment to strike. I merely substituted the new one for the motion to strike. So if it is adopted or when it is adopted, we will have accomplished one significant step. And that is that the program cannot be implemented in any State without the concurrence of the Governor of that State in writing.

There remains other issues that do not have to do with the consent and whether the program can be used in a State, but rather how will it be applied vis-a-vis the 1.1 million acres that were intended for Western States, for States, under this new provision. The Senator is working on that. He now has some other people working on it. I have the utmost confidence that he will come up with some language. I anxiously await it, and I will be there to help and support him. I think we have eliminated a major concern our States had, and that was that this law would be there, and it would be a new imposition. Even if the States didn't want it, if they thought it was not good, they would be stuck with it. I think we have eliminated that. All of the things we think are perverse about that are not going to happen.

I thank the Senator, because I didn't do it heretofore, for his help. He has been here most of the afternoon. I do believe together we made an important contribution. I thank the Senator for that.

Mr. CRAPO. Madam President, I would like to make a couple comments on the amendment before we vote, if I might.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CRAPO. Madam President, I will support the amendment Senator DOMENICI from New Mexico has proposed. I appreciate the opportunity to work with him, and I believe he has done a tremendous job in identifying a serious problem and getting, as he indicated, a significant part of it solved. There is still an additional problem with which I have a concern. That is, even though we now have reached an agreement which will basically provide an opt-in situation in which the Governor of each State has the authority to determine whether his State or her State will opt into these provisions, the problem we face is that the States that choose to opt out or to stay out are then deprived of their ability to participate in this 1.1 million acres of CRP land that is being added to the CRP.

There is a hammer there on the States now to either opt in or not have access to this expansion of the CRP.

I have discussed this issue with the good Senator from Nevada, and I appreciate his willingness to work with me on trying to resolve the issue. He has agreed that we will try to work out the differences and, hopefully, be able to come forward with a unanimous consent request or some type of approach that is agreed to. But if not, we will be able to propose additional amendments to try to address this issue, including striking the provision, if we are not able to work it out.

I appreciate all of those here who have worked on this matter. Senator CRAIG has worked diligently, and Senator DOMENICI has worked so strongly in bringing this forward. I appreciate the willingness of Senator from Nevada, Mr. REID, to try to iron out the concerns we have on western water law. I believe several other Senators from the West have strong concerns. They may want to make brief comments. I will support Senator DOMENICI's amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I made a mistake. I should have included as a cosponsor of the Domenici amendment all of those who are cosponsors of my motion to strike. They have indicated they want to be on the amendment. We don't have any objection; quite the contrary. I ask unanimous consent that they be original cosponsors as it is tendered to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. KYL. Madam President, I thank Senator REID for the comments he made. He is absolutely right that after years of acrimony, representatives of the State of Nevada and Arizona solved a real difficult water issue which became a win-win for both States. I am hoping that the kind of work we need to do in the Senate on this proposal can likewise result in win-win situations.

Western water law issues become very complex very quickly, and we want to ensure that nothing we do here in any way adversely affects the long-established, traditional water policies of the West. Senator REID has assured me that it is not his intention that this legislation be contrary to State procedural or substantive water law, interstate compacts, or, of course, Federal law. We are preparing language that will affirm that.

I appreciate the Senator's concurrence in that view. Given the comments of Senator DOMENICI, I am prepared to support his amendment as well. There are additional concerns that I have about this. We will try to work those out and deal with them in an appropriate way.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 2502), as modified, was agreed to.

Mr. DOMENICI. Madam President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, I wish to inquire of the Senator from Iowa, if I might get his attention. First of all, I congratulate those who worked on this amendment. It sounds to me as if they have done a lot of hard work in reaching a solution. I inquire of the Senator from Iowa and, perhaps, the Senator from Indiana of the progress in trying to find a list or to elicit information about what kind of a list of amendments might be about to be offered on this bill. The reason I ask the question is, it is 6:30 this evening and, of course, we are nearing the end of the session. It is coming very close to Christmas. We want to finish this bill so we have time remaining for a conference with the House and time to get the bill to the President.

Because we have had long discussions and good discussions today on a number of amendments, I am inquiring on the part of both the manager and the Senator from Iowa and the Senator from Indiana whether we have a capability of exploring a list of amendments that might be available at this point.

Mr. LUGAR. If I may respond, Madam President, with the disposition of the Domenici amendment, the next amendment—at least on our side—that we are prepared to offer is that of the distinguished Senator from Missouri, Mr. BOND. Then Senator BURNS has an amendment that he wishes to offer, Senator MURKOWSKI has an amendment, and Senator MCCAIN has one. These are ones that are clearly identifiable at this point. Senator BURNS may have more than one amendment, but he will commence in this batting order with his initial amendment.

Mr. DORGAN. I understand there is likely to be a larger amendment, or a more significant amendment, the Cochran-Roberts amendment—not to suggest that the others are not significant. But we have all been awaiting an amendment by Cochran-Roberts, which is not on the list. Is he anticipating that?

Mr. LUGAR. I anticipate that the Senators will offer their amendment. They have been working on it, and I understand they are not prepared to do so today. Perhaps they will be prepared to do so tomorrow.

Mr. DORGAN. If I might inquire one more time, is there an anticipation that there is an opportunity perhaps to finish this bill by sometime tomorrow evening, or does the chairman or the ranking member expect this is going to take longer than that? In the context of that, is there a time when one might be able to get a finite list of amendments?

Mr. LUGAR. I respond, respectfully, to the Senator that at this point a finite list is not possible. But it may be possible sometime tomorrow. We are attempting to canvas. I have simply identified amendments that I think are significant, and the amendment the Senator identified would be, too. The two amendments that we have dealt with this afternoon have taken about 3¼ hours and 2½ hours, respectively, so these were not insignificant debates, which Members on both sides of the aisle engaged in in a spirited way.

Mr. DORGAN. Again, I thank the Senator for his response. I invite the response of the Senator from Iowa, but I hope that perhaps we can find a way to get a list of amendments and also agree to reasonable time limits on amendments. There is Parkinson's law that the time required expands to fit the time available. So because we are nearing the end of the session, it is really important to find a way to reach an end stage. I ask the Senator from Iowa if he might respond on whether we can get a finite list.

Mr. HARKIN. Well, I hope by this evening, perhaps before we go out tonight. I will work with my distinguished ranking member, my good friend, Senator LUGAR, to see if we can get some kind of a list. It is true, as the Senator says, that the longer you stay here, more and more—it is like that old game you play at the arcade, whack-a-mole, where they keep popping up. If we don't have a finite list, those lobbyists and everybody out there who is trying to get their year-end counts up and get that year-end bonus, all their lobbying, and they can gin up all kinds of amendments around here to show the kind of work they are doing. I am hopeful that we can get a finite list. I don't know if we can do it tonight. I hope early tomorrow we can get a finite list.

I want to assure the Senator from North Dakota, and every other Senator who is listening, we will finish this farm bill before we go home. If there is anyone here who thinks that by slowing things down or something like that, that it is going to work, it is not. We are going to finish this farm bill. We should finish it this week. I believe we can finish it this week. As long as we expedite the amendments, with a reasonable time for debate, I see no reason why we can't.

I have a letter sent to Senators DASCHLE and LOTT, and they sent a copy to me, and probably to Senator LUGAR, too. It is from a whole list of farm groups. I don't know how many, maybe 30 or more of them. They said:

> We believe it is vitally important this legislation be enacted this year to provide an important economic stimulus to rural America before Congress adjourns.

This was sent on the 10th. They said:

> We fully understand that policy differences exist regarding this important legislation and would encourage a healthy debate on these issues. However, we are very concerned that the timeframe to pass this legislation is rapidly drawing to a close. We believe this will require the Senate to complete a thorough debate and achieve passage of the legislation by Wednesday evening, December 12.

That is tonight, and we are not there yet. They say:

> We urge you to allow Members an opportunity to offer amendments that are relevant to the development of sound agricultural policy while opposing any amendments designed to delay passage of this important legislation by running out the clock prior to the adjournment of Congress.

I can say to the signers of this letter that thus far all of the amendments have been relevant, they have been germane, they have been meaningful amendments, and we have had good debate. I hope we can continue on in that spirit and not cut off anybody, but I hope we can have reasonable limits on time. We will be here, and we will finish this bill before we leave this week.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 10, 2001.

Hon. TOM DASCHLE,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATORS DASCHLE AND LOTT: The undersigned farm, commodity and lender organizations write to thank you for your efforts to expedite the debate and consideration of a new farm bill in the United States Senate, and to urge that the legislation be completed in a timely manner without delay. We believe it is vitally important that this legislation be enacted this year to provide an important economic stimulus to rural America before Congress adjourns.

We fully understand that policy differences exist regarding this important legislation, and would encourage a healthy debate on these issues. However, we are very concerned that the timeframe to pass this legislation is rapidly drawing to a close. We believe this will require the Senate to complete a thorough debate and achieve passage of the legislation by Wednesday evening, December 12.

We urge you to allow members an opportunity to offer amendments that are relevant to the development of sound agricultural policy while opposing an amendments designed to delay passage of this important legislation by running out the clock prior to the adjournment of Congress.

New farm legislation must be enacted this year to stimulate and stabilize our rural economy that has been in a economic downturn for five years with no turn-around in sight. Unlike many sectors of the economy, production agriculture did not share in the economic growth of the last decade and has been devastated by depressed commodity prices, declining market opportunities and increasing costs.

It is critical to producers, farm lenders and rural communities that a new farm bill be approved this fall to provide the assurance necessary to plan for next year's crop production.

We encourage you and your colleagues in the Senate to complete action on a new farm bill as soon as possible to provide adequate time for a conference with the House of Representatives in order to ensure a final bill can be enacted this year.

Sincerely,

Agricultural Retailers Association.
Alabama Farmers Federation.
American Association of Crop Insurers.
American Bankers Association.
American Corn Growers Association.
American Farm Bureau Federation.
American Sheep Industry Association.
American Soybean Association.
American Sugar Alliance.
CoBank.
Farm Credit Council.
Independent Community Bankers Association.
National Association of Farmer Elected Committees.
National Association of Wheat Growers.
National Barley Growers Association.
National Cooperative Business Association.
National Corn Growers Association.
National Cotton Council.
National Farmers Organization.
National Farmers Union.
National Grain Sorghum Producers.
National Mild Producers Federation.
National Sunflower Association.
South East Dairy Farmers Association.
Southern Peanut Farmers Federation.
The American Beekeeping Federation.
US Canola Association.
US Dry Pea and Lentil Council.
US Rice Producers Association.
United Egg Producers.
Western Peanut Growers Association.
Western Unite Dairymen.

Mr. DORGAN. Madam President, I wonder if there is an expectation of having a recorded vote on the Bond amendment this evening and what time that might be expected. I do not know what the amendment is, but is it expected there will be a recorded vote required on the Bond amendment?

Mr. LUGAR. I have not inquired of the Senator as to whether he wishes to have a recorded vote. That would be his privilege and I would support that. I do not know the degree of controversy that will attend his amendment or how many Senators wish to speak on it.

Mr. DORGAN. At this point, the Senator does not know if we will have recorded votes this evening or when?

Mr. LUGAR. I cannot respond to the Senator on that.

Mr. HARKIN. I say to the Senator from North Dakota, I hope we have votes this evening. We have to finish this bill. We are here. Let's get the job done. I do not want to be here in the evening any more than anyone else. We have spent all day on this bill, and we have had two votes today—three votes. We need more than that. I see no reason why we cannot have a couple more votes before we go home.

Mr. DORGAN. Madam President, I share that view, and I encourage us to move along. I understand Senator BOND is here to offer an amendment. The quicker we move through these amendments, the better it is for American farmers.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, the staff has advised me they are working on getting a time agreement which would lead to a vote on this measure tomorrow. I will be proposing an amendment that has a number of bipartisan cosponsors. I think the cosponsors will want to speak on it. I imagine there will be others who wish to speak in opposition. Since this will be of some import, I hope we can work out an agreement on both sides for effective consideration of this amendment.

Let me describe my amendment so people will get a flavor of what we are talking about in order to come to an agreement on the time and perhaps others may want to speak on it. I hope they will because I think it is a very significant amendment.

The purpose of the amendment I wish to propose is to provide some protection to farmers. The farm bill is designed to preserve and promote the agricultural base of this country and provide a safe, abundant, and affordable food supply for our people. Farmers continue to do more with less than any other sector of this economy and remain the backbone of our economy providing our Nation and a large part of the world with an inexpensive and safe source of food and fiber.

There are many ways to help farmers. One is to send them financial assistance. Another is to help provide know-how through research and to help open foreign markets, and they are all very important. I support the efforts that are being made to provide that assistance to farmers, but another way to help farmers is for Government not to hurt them, the absence of pain. This is important.

However important or well intentioned Government seems to be, one of the problems facing those in agriculture is the demands placed upon farmers by various agencies of the Federal Government through the regulatory process. I have farmers in my State who tell me they spend more time preparing for public hearings than they spend on their combines. Some of the regulatory requirements and new rules clearly are necessary and justified, but for those who may not meet the test, it is critical that we provide the Department of Agriculture, specifically the Secretary, with tools to represent the interests of farm families when conflicts arise.

We need to empower the USDA Secretary to have a stronger voice when she represents the needs of farmers in interagency matters.

The bipartisan amendment I will offer is cosponsored by Senators GRASSLEY, ENZI, HAGEL, and MILLER. It is supported by the American Farm Bureau Federation, the National Cattlemen's Beef Association, the National Corn Growers Association, the National Association of Wheat Growers, the National Cotton Council, and the Southern Peanut Farmers Federation.

I also have a letter in which the Missouri organizations support the amendment, including many of the significant entities in Missouri.

The amendment simply authorizes the Secretary of Agriculture to review proposed Federal agency actions affecting agricultural producers to determine if an agency action is likely to have a significant adverse economic impact or to jeopardize the personal safety of agricultural producers.

Should the Secretary find that an agency action would jeopardize the safety or the economic health of agricultural producers, i.e., farmers, it authorizes the Secretary to consult with the agency head and to identify for the agency alternatives that are least likely to harm farmers.

It makes sense that the agency serving agriculture looks at other regulations which may have a significant impact on farmers and say: This is going to cause a real problem. Can we not achieve the objectives of your regulation? Can we not carry out your purposes without having such a harmful impact on agriculture?

If the USDA and the Secretary cannot come to an agreement with the other agency proposing the regulatory action and the agency decides, despite the USDA's best efforts to push forward with a final action that will have a significant adverse economic impact on or jeopardize the personal safety of agricultural producers, then the Secretary can elevate the decision to the White House, and the President is authorized under limited circumstances to reverse or amend the agency action if doing so is necessary to protect farmers and if it is in the public interest.

Under this amendment, the President would not be authorized to do so if the agency action is necessary to protect human health, safety, or national security. The President would have to consider the public record, the purpose of the agency action and competing economic interests, if any.

Finally, the legislation provides that a Presidential action taken pursuant to this authority could be subjected to expedited congressional review. In other words, the Secretary of Agriculture tries to work out an agreement with the agency. If the agency says, no, we are not going to make any changes, we are not going to work with you, then the Secretary has an option. The Secretary can take it to the President. The President says to the agency proposing to take this action: Stop, you are not going to do it. At that point, Congress, by expedited action procedures we have already approved in other laws, can vote to overturn that Presidential action. So Congress has a role in this regulatory procedure that would not be subjected to filibuster.

In short, this proposal is designed to give farmers through their advocates and USDA a limited but considerable voice in agency actions that impact them directly.

In offering this amendment, it is my intention to provide additional discretion to the President to solve disputes between agencies when mandates may be in conflict and they are unable to come to terms and discretion would better serve the public than gridlock, legal action, or other delaying actions or unnecessary confusion. With discretion comes responsibility and accountability. I believe very strongly it is in the public interest to have political accountability and to limit the circumstances where the elected officials who are accountable to the citizens are not hiding behind bureaucrats when controversial issues arise.

Too many times we have had people say: That agency has sole discretion. Somebody in an agency, never elected by the people, not with any visibility or public accountability, makes a decision with a serious impact on agriculture. Then the Secretary of Agriculture can raise it to the highest elected official in the land and say: You look at it, Mr. President. If you agree that it is an unwarranted overreaching action that has an economic impact or health and safety impact on farmers, then the President can act. But we in Congress could, if we wished, overturn that action of the President. So Congress has a built-in protection against an overreaching Presidential action. We are bringing questions with major impact on the agricultural sector up to the level of public discourse by people elected by the American electorate.

This amendment, I believe, is an excellent opportunity to prompt USDA to play a more active and visible role fighting on behalf of farmers. Frankly, I have always thought they should take a more active role. They have not always done so, much to the disappointment of the farm community, which is supposed to be served by them and much to the distress of those who support farmers.

Further, this amendment should help make other agencies more responsive to USDA when USDA raises concerns on behalf of farmers.

We are debating farm legislation because we care deeply about our agricultural base. We care deeply about the economic and social value of farm families. We want to protect our food security and thus, by extension, our national security. While we can help many farmers with $170 billion in spending, we want USDA to be better able to take the simple role of standing up for farmers if another agency that may know little, if anything, about food production is taking action that will harm farmers economically or physically. The Government can help farmers by providing economic assistance. But the Government can also help by trying not to hurt them. That is what this amendment is all about.

We are rightly concerned in this country if an ant is endangered or any other species, but we should also be concerned if a farm community is threatened or endangered. I believe we should give farmers an extra measure of leverage at the table if it is their personal livelihoods or their personal safety which is jeopardized. This limited, and I believe measured, amendment is designed to do just that. What we are doing is strengthening laws that protect farm families.

I urge my Senate colleagues to consider this amendment very carefully, to provide their support, and to send a message to farmers that we believe farmers are worthy of protection; we want the Government to make every sensible attempt to act as advocates for farmers. We believe USDA should be active and visible, fighting for farmers, and we believe the President and the Congress are capable of and can be trusted to weigh the public interest.

This says to the administration that farmers don't always have to be at the very bottom of the food chain. Frankly, they start the food chain and they should be treated as part of that food chain.

I ask unanimous consent to have printed in the RECORD two letters of support, one from various national organizations dated December 7, and one dated December 10 from Missouri organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

December 7, 2001.

Hon. KIT BOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOND: We are writing to urge your support for the Bond amendment providing authority to the Secretary of Agriculture to review proposed federal agency actions that may have a significant adverse economic impact or jeopardize personal safety of farmers and ranchers.

These are very difficult times for agricultural procedures. The cost and burden of regulation on agriculture has grown exponentially over time and it is an important factor in their struggle to remain competitive, both domestically and internationally. We strongly support the Bond amendment and believe that it will result in government policy being implemented in a more efficient and cost-effective manner. We appreciate your concern for the well being of farmers and ranchers and urge your support of this amendment.

Sincerely,

AMERICAN FARM BUREAU FEDERATION.
NATIONAL ASSOCIATION OF WHEAT GROWERS.
NATIONAL CATTLEMEN'S BEEF ASSOCIATION.
NATIONAL CORN GROWERS ASSOCIATION.
NATIONAL COTTON COUNCIL.

December 10, 2001.

Hon. CHRISTOPHER S. BOND,
U.S. Senate, Washington, DC.

DEAR SENATOR BOND: We applaud your ongoing efforts to reduce the regulatory burden facing our nation's farmers and ranchers. It is entirely appropriate that the farm bill include language that will stifle the regulatory onslaught brought upon by bureaucrats who know little about modern agricultural practices.

Today, farmers and ranchers have enough to worry about—commodity prices are pitiful and input prices more volatile than ever. Our members are being told they must be more competitive if they are to succeed in an increasingly global trade environment. But unfortunately, our nation's agricultural producers today find themselves fighting the federal government on issues such as water quality and quantity, access to crop and livestock protection tools, and appropriate nutrient management.

We believe your amendment will add much needed commonsense to the regulatory process. Additional review of regulations by the Secretary of Agriculture, consultation with other agency heads, and the authority for Presidential intervention are dramatic improvements over current law.

We strongly support your amendment and urge other Senators to support its passage.

Sincerely,

Missouri Farm Bureau: Missouri Corn Growers Association: Missouri Pork Producers Association: Coalition to Protect the Missouri River: Missouri Cattlemen's Association; Missouri Soybean Association: MFA, Inc.; Missouri Dairy Association: The Poultry Federation.

Mr. BOND. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, we have made some progress today on the bill. I appreciate the cooperation of many of our colleagues. I know there is an amendment pending.

The distinguished Senator from Indiana has indicated other amendments could be offered tonight. I notify our colleagues we do not anticipate any other rollcall votes tonight. I hope some might still be prepared to offer amendments. We could stack the votes for tomorrow morning. We would like to keep going for awhile yet tonight. But in the interests of accommodating Senators with conflicting schedules, we will preclude the need for any additional rollcalls tonight. We will have those votes tomorrow should they be required.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

AMENDMENT NO. 2511 TO AMENDMENT NO. 2471

Mr. DASCHLE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself and Mr. LUGAR, proposes an amendment numbered 2511 to amendment No. 2471.

Mr. DASCHLE. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To direct the Secretary of Agriculture to establish within the Department of Agriculture the position of Assistant Secretary of Agriculture for Civil Rights)

Strike the period at the end of section 1021 and insert a period and the following:

SEC. 1022. ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.

(a) IN GENERAL.—Section 218 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6918) is amended by adding at the end the following:

"(f) ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.—

"(1) DEFINITION OF SOCIALLY DISADVANTAGED FARMER OR RANCHER.—In this subsection, the term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

"(2) ESTABLISHMENT OF POSITION.—The Secretary shall establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights.

"(3) APPOINTMENT.—The Assistant Secretary of Agriculture for Civil Rights shall be appointed by the President, by and with the advice and consent of the Senate.

"(4) DUTIES.—The Assistant Secretary of Agriculture for Civil Rights shall—

"(A) enforce and coordinate compliance with all civil rights laws and related laws—

"(i) by the agencies of the Department; and "(ii) under all programs of the Department (including all programs supported with Department funds);

"(B) ensure that—

"(i) the Department has measurable goals for treating customers and employees fairly and on a nondiscriminatory basis; and

"(ii) the goals and the progress made in meeting the goals are included in—

"(I) strategic plans of the Department; and

"(II) annual reviews of the plans;

"(C) ensure the compilation and public disclosure of data critical to assessing Department civil rights compliance in achieving on a nondiscriminatory basis participation of socially disadvantaged farmers and ranchers in programs of the Department on a nondiscriminatory basis;

"(D)(i) hold Department agency heads and senior executives accountable for civil rights compliance and performance; and

"(ii) assess performance of Department agency heads and senior executives on the basis of success made in those areas;

"(E) ensure, to the maximum extent practicable—

"(i) a sufficient level of participation by socially disadvantaged farmers and ranchers in deliberations of county and area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(ii) that participation data and election results involving the committees are made available to the public; and

"(F) perform such other functions as may be prescribed by the Secretary.".

(b) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (2)" and inserting "Assistant Secretaries of Agriculture (3)".

(c) CONFORMING AMENDMENTS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(5) the authority of the Secretary to establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights under section 218(f).".

Mr. DASCHLE. Madam President, minority farmers have worked America's soil throughout our history. And while these farmers have done so much to advance American agriculture, they have experienced intense and often institutionalized discrimination in the process.

From the broken promise of "40 acres and a mule" during Reconstruction, to the discrimination inherent in many of the New Deal agriculture programs, to the first and second great migrations—during which so many left the land, never to return—the history of minority farmers in America has often been a history of hardship and struggle.

Our Nation has seen the result of that hardship in the dwindling number of minority farmers, and the dwindling acreage of minority farms.

In 1920, blacks owned 14 percent of our nation's farms. Today there are only 18,000 black farmers, representing less than 1 percent of all farms.

Hispanics—who make up such a large share of farm labor—account for a mere 1½ percent of all farm operators. For Native Americans, that number is half of 1 percent.

Perhaps most saddening is that the United States Department of Agriculture—the agency which was founded by Abraham Lincoln to be "the people's Department" has often been part of the problem.

A 1982 report issued by the Civil Rights Commission stated that the United States Department of Agriculture was "a catalyst in the decline of the black farmer." Statistics from that time show that only African-Americans received only 1 percent of all farm ownership loans.

A lawsuit filed in 1997 by more than 1,000 black farmers resulted in a historic settlement in which the government acknowledged significant civil right abuses against black farmers.

It is not enough to recognize and remedy past failings. We need to work to ensure that the USDA serves all of its customers fairly in the future.

That is why Senator LUGAR and I are proposing that we establish an Assistant Secretary of Agriculture for Civil Rights.

The Assistant Secretary of Agriculture for Civil Rights would be responsible for compliance and enforcement of all civil rights laws within the USDA, including the compilation and disclosure of information regarding minority, limited resource, and women farmers and ranchers. He or she would set target participation rates for minorities, and make sure that other agency heads and senior executives will enforce for civil rights laws.

Last week, I received a letter in support of this amendment from the chairs of the Congressional Black Caucus, the Congressional Hispanic Caucus, and the Congressional Asian Pacific Americans Caucus.

If they can speak with one voice in supporting this amendment, it is my hope that we can speak with one voice in passing it.

A while ago, PBS aired a film entitled "Homecoming." It is a chronicle of black farmers from the Civil War to today. In it, a farmer named Lynmore James is interviewed.

I think his words guide our consideration of this amendment:

> There's no question in my mind that a lot of land has been lost, and it was lost because of discrimination. But I don't think we need to just close the books on it. I think that where people have been wronged, it should be righted.

The most lasting way to truly see those wrongs made right is to ensure that they are never repeated.

That is exactly what an Assistant Secretary of Agriculture for Civil Rights would do, and that is why I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I am pleased to be a cosponsor of an amendment that I think is truly important. The majority leader certainly outlined the basic reasons for it. But let me illuminate further.

From hearings we had before the Agriculture Committee in recent years during the period of time when I was privileged to serve as chairman, in each of those years we asked for reports from those responsible in USDA on progress in the area of civil rights disputes. There were so many. They were so complex and pervasive, and the backlog always seemed to be unusually and uncomfortably large.

Just last year we had an extensive hearing, and this came because the Secretary of Agriculture, then Dan Glickman, our former colleague from the House who had become the Secretary, had taken a great interest in this issue as a Member of the House and likewise in his new capacity. He recommended, after following the lead of the Civil Rights Action Team of the Department of Agriculture, that the head of civil rights become an Assistant Secretary. I think this is an appropriate time, in the farm bill, as we project agriculture and its governance for the coming years.

I would simply say that the reasons for civil rights problems at the Department of Agriculture appear legion, but they are not simply problems of committees in the field, often a point of dispute in the past, but frequently allegations of discrimination in the administration of the Department itself, which is something that is here in Washington—or at least very much under the control of those who administer the Department.

Whatever the reason—and certainly some will say this is precedent for the appointment of a similar Assistant Secretary ad seriatim in Cabinet after Cabinet post—and I appreciate that argument that has been offered from time to time—this is, I believe, a fortunately unique situation. Despite the best observation in a bipartisan way in our committee, and even with the cooperation of the Secretary of Agriculture, we have not overcome.

So I am pleased the distinguished majority leader has taken this initiative. I was immediately pleased that he asked me to be involved with this effort, which I am delighted to do. I think this is a constructive amendment, and I am hopeful it will find the approval of our colleagues.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I thank the distinguished senior Senator from Indiana for his eloquence and for his willingness to be supportive of this amendment. It is always a pleasure to work with him. Certainly in this case it is, again, a matter of import. I appreciate very much his willingness to be involved.

I hope by the next time we pass a farm bill the numbers and the statistics and reports of continued erosion of minority involvement in agriculture can be turned around. As the distinguished Senator from Indiana has noted, this has not been necessarily by design. I think in large measure it has happened for reasons beyond the control of any one individual or any particular division of the Department of Agriculture. But we can do better. It is our hope that by putting somebody in charge we will do better.

It is our expectation that by the time we do another farm bill we can look back with some satisfaction that we indeed have done better and responded in a way that would make us far more satisfied about the progress that I believe we can make in this area.

With that, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Idaho.

AMENDMENT NO. 2512 TO AMENDMENT NO. 2511

Mr. CRAIG. Madam President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 2512 to amendment No. 2511.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I ask the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To add provisions regarding nominations)

At the appropriate place, add the following:

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that, before Congress creates new positions that require the advice and consent of the Senate, such as the position of Assistant Secretary for Civil Rights of the Department of Agriculture, the Senate should vote on nominations that have been reported by committees and are currently awaiting action by the full Senate, such as the nomination of Eugene Scalia to be Solicitor of the Department of Labor.

Mr. HARKIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there further debate on the second-degree amendment?

Mr. DASCHLE. Madam President, I ask unanimous consent that the second-degree amendment and the Daschle amendment be set aside to accommodate an amendment to be offered by the Senator from Missouri, Mr. BOND.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Madam President, reserving the right to object, might I inquire of the majority leader when he would want to bring this back up for the purpose of debate?

Mr. DASCHLE. Certainly we can bring it up at some point tomorrow. As I understand it, Senator BOND was hoping to have at least an hour on the amendment to be offered tonight. It would be my expectation that sometime tomorrow we would return to this issue.

Mr. CRAIG. Madam President, recognizing that the set-aside would not in any way infringe upon the right of myself as a person who offered the second degree, and certainly the majority leader offered the first degree, I do not object.

AMENDMENT NO. 2511 WITHDRAWN

Mr. DASCHLE. Madam President, to make things simpler, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. DASCHLE. I thank the Chair.

Mr. CRAIG. I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I would like to inquire of the Senator from Missouri, as I understand it, the Senator wants an hour and a half on his amendment. Could we use some of that time tonight so that in the morning we could perhaps have some time?

Mr. REID. Madam President, if my friend will yield, I spoke to Senator BOND. He indicated he would like to speak tonight. He has four or five people who wish to speak tomorrow. He indicated he would be willing to accept 1½ hours equally divided in the morning. He would want his time tonight to count against the 90 minutes.

Mr. BOND. Madam President, there are a number of cosponsors who wish to speak in support of this amendment. My thought is maybe not everybody in this body will support it. By tomorrow morning, I think there may be others who will wish to present opposing ideas. It would be my desire after my cosponsors speak on it, if there is no opposition, that we could yield back some of that time. I simply asked for 90 minutes tomorrow in case there are other people who want to weigh in. I expect there will be more than the number who have registered as cosponsors.

I think this has a significant impact on the entire agricultural community across the country. I would like to have the possibility of using the 90 minutes in the light of day so people understand all sides of this issue.

Mr. DASCHLE. Madam President, will the Senator yield for the purpose of a unanimous consent request?

Mr. BOND. Certainly.

Mr. DASCHLE. Madam President, I appreciate very much the Senator from Missouri yielding for that purpose.

I was going to inform my colleagues that we have already noted there will be filing of cloture tonight. I know there are Senators who are asking about Friday and Monday. I am not going to propound the unanimous consent request because I don't think it has been properly vented on each side. I suggest that perhaps we could have cloture tomorrow and that we would be prepared to forego votes on Friday and Monday and still take into account the need to consider the so-called Cochran-Roberts amendment regardless of cloture.

My thought is that we file cloture and vote on cloture and have consideration of the Cochran-Roberts amendment with some expectation of a vote at a later time on that. Whether or not that could be accomplished is still in question. But that is something that I suggest. I notify our colleagues that will be a possibility: File cloture tonight, have a vote on that either tomorrow or Friday. If we have it tomorrow, we could still bring up the so-called Cochran-Roberts amendment for consideration.

I thank my colleague. I thank the Senator from Missouri.

Mr. REID. Madam President, will the majority leader yield for a question?

Mr. DASCHLE. Yes.

Mr. REID. As I understand the majority leader, cloture will be filed tonight, and, if we have a vote on that tomorrow, we will not be in session on Friday—at least no votes on Friday or Monday.

Mr. DASCHLE. I draw the distinction. We will certainly be in session on Friday. My hope is we could bring up a conference report, and maybe a conference report on education on Monday, but not have any votes.

That, again, will be up to all of our colleagues on both sides of the aisle. We have not hot-lined it. I just wanted to make that proposal and see what kind of reaction we would get. That would be the proposal, and I will have more to say about that at a later time.

I thank the Senator from Missouri.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Missouri.

Mr. BOND. Madam President, we had discussed a 90-minute time agreement on this amendment.

First, what is the pending business so we may be sure the amendment is to the appropriate measure?

The PRESIDING OFFICER. The pending business is the Daschle substitute amendment.

Mr. BOND. Amendment number 2471?

The PRESIDING OFFICER. That is correct.

Mr. DASCHLE. Madam President, if the Senator will yield for a unanimous consent request which I think he thought I was going to make the first time, I ask unanimous consent that when the Senate resumes consideration of S. 1731 at 9:30 on Thursday, December 13, there be 90 minutes for debate prior to vote in relation to the Bond amendment with the time equally divided and controlled in the usual form with no intervening amendment in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2513 TO AMENDMENT NO. 2471

Mr. BOND. Madam President, I send an amendment to the desk on behalf of myself and Senator GRASSLEY, Senator ENZI, Senator HAGEL, and Senator MILLER, and I ask that it be considered pursuant to the time agreement just entered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. GRASSLEY, Mr. ENZI, Mr. HAGEL, and Mr. MILLER, proposes an amendment numbered 2511 to amendment No. 2471.

Mr. BOND. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize the Secretary of Agriculture to review Federal agency actions affecting agricultural producers)

Strike the period at the end of section 1034 and insert a period and the following:

SEC. 1035. REVIEW OF FEDERAL AGENCY ACTIONS AFFECTING AGRICULTURAL PRODUCERS.

(a) DEFINITIONS.—In this section:

(1) AGENCY ACTION.—The term "agency action" has the meaning given the term in section 551 of title 5, United States Code.

(2) AGENCY HEAD.—The term "agency head" means the head of a Federal agency.

(3) AGRICULTURAL PRODUCER.—The term "agricultural producer" means the owner or operator of a small or medium-sized farm or ranch.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) REVIEW OF AGENCY ACTION BY SECRETARY.—

(1) IN GENERAL.—The Secretary may review any agency action proposed by any Federal agency to determine whether the agency action would be likely to have a significant adverse economic impact on, or jeopardize the personal safety of, agricultural producers.

(2) CONSULTATION; ALTERNATIVES.—If the Secretary determines that a proposed agency action is likely to have a significant adverse economic impact on or jeopardize the personal safety of agricultural producers, the Secretary—

(A) shall consult with the agency head; and

(B) may advise the agency head on alternatives to the agency action that would be least likely to have a significant adverse economic impact on, or least likely to jeopardize the personal safety of, agricultural producers.

(c) PRESIDENTIAL REVIEW.—

(1) IN GENERAL.—If, after a proposed agency action is finalized, the Secretary determines that the agency action would be likely to have a significant adverse economic impact on or jeopardize the safety of agricultural producers, the President may, not later than 60 days after the date on which the agency action is finalized—

(A) review the determination of the Secretary; and

(B) reverse, preclude, or amend the agency action if the President determines that reversal, preclusion, or amendment—

(i) is necessary to prevent significant adverse economic impact on or jeopardize the personal safety of agricultural producers; and

(ii) is in the public interest.

(2) CONSIDERATIONS.—In conducting a review under paragraph (1)(A), the President shall consider—

(A) the determination of the Secretary under subsection (c)(1);

(B) the public record;

(C) any competing economic interests; and

(D) the purpose of the agency action.

(3) CONGRESSIONAL NOTIFICATION.—If the President reverses, precludes, or amends the agency action under paragraph (1)(B), the President shall—

(A) notify Congress of the decision to reverse, preclude, or amend the agency action; and

(B) submit to Congress a detailed justification for the decision.

(4) LIMITATION.—The President shall not reverse, preclude, or amend an agency action that is necessary to protect—

(A) human health;

(B) safety; or

(C) national security.

(d) CONGRESSIONAL REVIEW.—Reversal, preclusion, or amendment of an agency action under subsection (c)(1)(B) shall be subject to section 802 of title 5, United States Code.

Mr. BOND. Madam President, I thank my colleagues for their courtesy. We look forward to continuing this debate in the morning.

I thank the Chair.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle for Harkin substitute amendment No. 2471 for Calendar No. 237, S. 1731, the farm bill:

Tim Johnson, Harry Reid, Barbara Boxer, Thomas R. Carper, Zell Miller, Max Baucus, Bryon L. Dorgan, Ben Nelson, Daniel K. Inouye, Tom Harkin, Kent Conrad, Mark Dayton, Deborah Stabenow, Richard J. Durbin, James M. Jeffords, Thomas A. Daschle, Blanche Lincoln.

COUNTRY OF ORIGIN LABELING

Mr. JOHNSON. Madam President, it has been brought to my attention that there are unique concerns about how perishable agricultural commodities are labeled under the country of origin labeling provision in the farm bill. Unlike meat products that are oftentimes either wrapped or displayed behind glass, shoppers physically handle produce to evaluate such characteristics as size or ripeness. Quite honestly, after being handled by a consumer, a fruit or vegetable item is not always returned to the original bin in which the product was displayed. For this reason, each individual produce item may need to be labeled when physically possible to ensure accuracy about the country of origin information.

I am confident the method of notification language in the labeling provision in the farm bill will ensure responsibility in information-sharing on the part of processors, retailers, and others under this act. Our language requires any person that prepares, stores, handles, or distributes a covered commodity for retail sale to maintain records about the origin of such products and to provide information regarding the country of origin to retailers. Nonetheless, I understand retailers have some concerns about making sure they are provided with accurate information. Therefore, so that we can be confident this is workable for retailers and others, I would like to recommend to my lead cosponsor of this legislation, Senator GRAHAM of Florida, that we consult with the growers, packers and retailers to develop a means to provide such labels or labeling information to the grocery stores.

Mr. GRAHAM. Mr. President, I thank the Senator from South Dakota. Senator JOHNSON, I appreciate your comments.

My primary objective in pursuing country-of-origin legislation is to provide consumers with accurate information about where their produce is grown. My home State of Florida has required mandatory country-of-origin labeling of fresh fruits and vegetables for over 20 years, and Florida consumers have made it known that they appreciate the availability of this information.

Many domestic products are already labeled for promotion purposes. Our proudly labeled "Florida Oranges" are a great example of a successful marketing tool. There are any number of ways to label produce, including price-look-up stickers, plastic attachments, paper wrapping, signs next to barrels of produce. Produce items are increasingly being branded as another method of labeling. In recognition of this fact, the labeling provision included in Senator HARKIN's farm bill provides the flexibility to label items by any visible and practical means.

That said, I understand retailers would prefer to receive their produce shipments with country-of-origin labels already affixed to each piece of produce. To some degree, growers and packers are already labeling their products, and retails are not required to provide further information if this in the case.

Regarding those products that do not arrive at the grocery store already labeled, I encourage growers and shippers to continue to do this and to work with retailers to find the most efficient methods to provide accurate country-of-origin information and labeling.

I agree with the Senator from South Dakota that we should continue discussion with the industries impacted by this amendment, and I look forward to helping everyone identify the best methods to implement labeling legislation and ensure that consumers have ready access to country-of-origin information.

Ms. CANTWELL. Madam President, I rise today, along with my distinguished colleagues Senator MURRAY from Washington State and Senator INOUYE from Hawaii in support of two amendments to the Agriculture, Conservation, and Rural Enhancement Act of 2001 to promote cooperation between Indian tribes and the United States Forest Service in the management of forest lands.

This legislation would amend the Cooperative Forestry Assistance Act of 1978 to establish an Office of Tribal Relations and other cooperative programs within the Forest Service to better provide for the joint efforts of the Forest Service and Indian tribes. If the purpose of the Cooperative Forestry Assistance Act is to improve the management, resource production, and environmental protection of nonfederal forest lands, then the 17 million acres of land held by Indian tribes and individual Indians should be included as a component of this law to facilitate cooperative management of our forests.

Tribes have a significant role to play towards our national goal of ensuring that forests are managed as both sustainable resources and enduring habitats. Again, tribes or tribal members are responsible for the management of approximately 17 million acres of forest land, which is eligible for about 750 million board feet of sustainable annual harvest. Much of this land shares borders with Forest Service land, and tribes also possess treaty rights within Forest Service land. The Forest Service and tribes are linked not only by common interest but also by a very practical need to work together.

Currently tribes may participate in the Forestry Incentives and Forest Stewardship programs under sections 4 through 6 of the Cooperative Forestry Assistance Act. These programs provide assistance to private landowners in order to keep their forest land healthy and viable. However, the programs are designed for cooperation with State governments and do not appropriately take into account the government-to-government and trust relationships that tribes have with the Federal Government. Also, there is general lack of understanding among tribes and Forest Service personnel regarding how the existing cooperative assistance programs would extend to individual Indians with land held in trust. As a result, tribes and individual American Indian and Native Alaskan landowners seldom participate in the programs.

In October 1999, the Chief of the Forest Service established a National Tribal Relations Task Force to study tribal involvement in the management of both Forest Service and Indian-held lands. The Task Force included representatives from the Forest Service, the Bureau of Indian Affairs, BIA, and the Intertribal Timber Council. The Task Force found that, indeed, cooperative forestry programs that specifically work with tribal communities are greatly in need in order to establish equity in forestry assistance and to fulfill stewardship responsibilities towards the management of forestry lands held in trust.

This legislation responds to the need to improve tribal-Forest Service coordination by allowing the Secretary of the Department of Agriculture to provide financial, technical, and educational assistance for coordination on shared land, land under the jurisdiction of Indian tribes, and Forest Service land to which tribes may have interests and rights.

The Task Force similarly found, and I quote directly from the report, that "the current Forest Service tribal relations program lacks the infrastructure and support necessary to ensure high quality interactions across programs with Indian Tribes on a government-to-government basis." My colleagues and I would like to improve the Forest Service's ability to interact effectively with tribes by adding an Office of Tribal Relations within the Forest Service to be headed by a Director appointed by the Chief of the Forest Service.

This office will be responsible for the oversight of all programs and policies relating to tribes. This legislation outlines that it would be the duty of the Office of Tribal Relations to consult with tribal governments, monitor and evaluate the relations between tribal governments and the Forest Service, and coordinate matters affecting tribes in a way that is comprehensive and responsive to tribal needs. This office will also cooperate with the other agencies of the Department of Agriculture, the Department of Interior, and the Environmental Protection Agency.

It is important that the Forest Service be able to effectively work with tribal communities. At this point, we know from the Forest Service, the BIA, and the Intertribal Timber Council that the Forest Service lacks the programmatic structure to be able to accommodate and effectively work with tribes and those holding trust lands due to their unique legal and organizational status. As an arm of the Federal Government, the Forest Service must uphold the trust responsibilities we have towards tribes. I believe that we have a duty, to tribes and to our forests, to respond to tribes' expressed desire for assistance with forest resource planning, management, and conservation with this legislation. I would like to thank Senator DASCHLE, Senator BAUCUS, and Senator WELLSTONE for their support, and I urge the rest of my colleagues to support these amendments as well.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. I ask consent that the Senate now proceed to morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED TO PASS MTBE LEGISLATION

Mr. SMITH of New Hampshire. Mr. President, I would like to engage the majority leader in a colloquy. As the majority leader knows, I have been working for nearly two years on legislation to deal with the numerous problems associated with the gasoline additive MTBE. The use of MTBE as a fuel additive grew tremendously starting with the Clean Air Act's reformulated gasoline program that was implemented in 1995. Today, MTBE makes up approximately 3 percent of the total national fuel market.

Unfortunately, when leaked or spilled into the environment, MTBE can cause serious drinking water quality problems. MTBE moves quickly through land and water without breaking down. Small amounts of MTBE can render water supplies undrinkable.

This contamination is persistent throughout the nation, and New Hampshire is certainly a State that has been hard hit. According to State officials, up to 40,000 private wells may be contaminated with MTBE. Up to 8,000 of those wells may have MTBE contamination over the State health standards. Areas especially hard hit include both rural and urban areas. In the past few years I have visited, as well as received many calls and letters from, a number of the families whose wells are contaminated and they are extremely frustrated. When I was the chairman of the Environment & Public Works Committee, I held a field hearing in Salem, NH on this issue. Last Congress, I introduced legislation to clean up this contamination and ban the further use of MTBE. The bill was reported out of the EPW Committee, however, circumstances prevented the full Senate from considering that bill. Again this year, I introduced MTBE legislation, and once again the EPW Committee reported it out with a strong bipartisan vote. S. 950 will provide for the clean up of MTBE contamination, ban the additive, and ensure that environmental benefits of the clean gasoline program will be maintained. This is a hardship in many communities, and it will continue to escalate unless it is dealt with soon. No American should have to be concerned with the water they drink.

Mr. DASCHLE. Yes, I do understand the problems associated with MTBE and I recognize your hard work in helping to bring about a resolution to this important issue. I also share the concerns of the Assistant Majority Leader, co-sponsor of S. 950, with regards to the devastating contamination found in communities surrounding Lake Tahoe, NV.

Mr. SMITH of New Hampshire. Because this is such a vital issue to New Hampshire and the nation, it is my intention to do all within my power to see that the Senate acts on this matter. I appreciate all of the efforts of the majority leader to work with me in bringing this bill to the floor and would hope that the Senate will consider S. 950 in the near future. Will the majority leader provide me an assurance that this will happen?

Mr. DASCHLE. I agree that the Senate should vote on MTBE legislation in the near future and have included S. 950 in the comprehensive energy bill that I introduced with Senator BINGAMAN last week. I can assure the Senator from New Hampshire that it is my intention to bring up for debate and votes before the full Senate that energy bill, including S. 950, prior to the President's Day recess in February 2002.

ZIMBABWE DEMOCRACY AND ECONOMIC RECOVERY ACT: A SIGNAL OF U.S. COMMITMENT TO RULE OF LAW, HUMAN RIGHTS, AND DEMOCRATIC PRINCIPLES

Mr. BIDEN. Madam President, I am pleased to see that after a delay of several months, the House has acted on the Zimbabwe Democracy and Economic Recovery Act of 2001, of which I am a co-sponsor, and that we can finally send this bill to the President for his signature.

The Foreign Relations committee reported this bill in July, and it passed the Senate by unanimous consent on August 1. Since then, the situation in Zimbabwe has deteriorated rapidly. Respect for human rights and the rule of law have been systematically subverted by Zimbabwe's ruling party, and indeed by President Robert Mugabe himself. President Mugabe has supported the invasion of farms by so called "war veterans," he has intimated judges, harassed the free press, forbidden international monitors to observe next year's presidential elections and packed the supreme court with cronies in a misguided attempt to give his actions a patina of legitimacy.

Under Mugabe's leadership the economy of Zimbabwe has been driven into the ground. The deployment of troops to the Democratic Republic of Congo was an expensive ill thought fiasco which has cost millions. The illegal farm invasions have resulted in the loss of income from the country's major cash crop. Unsound fiscal policies have resulted in a suspension of aid from the international Monetary Fund, inflation is soaring, international investment has dried up and unemployment is on the rise.

The World Food Program has had to start a food distribution program in a country that should be exporting food to its neighbors. That in itself is bad enough. Worse, however, is the fact that the Zimbabwean government has stated that private relief agencies are prohibited from delivering food to the needy. Only the government can distribute food. Given the current political climate this can mean only one thing: the government will attempt to coopt the population by giving food in exchange for votes in the upcoming presidential elections.

The bill itself is very straightforward. It offers money for a credible program of land reform, and plans for U.S. support for bi-lateral and multilateral debt relief if the President certifies to Congress that rule of law has been restored in Zimbabwe, including subordination of law enforcement organizations to the civilian government, that conditions for free and fair elections exist, that a credible program of land reform has been put in place, and that the government of Zimbabwe is adhering to agreements to withdraw its troops from the Democratic Republic of Congo. No new sanctions are imposed on the government, but the legislation does very wisely ask the administration to look into personal sanctions for high level members of the Zimbabwean government and their families, such as travel bans and visa restrictions.

The actions undertaken in the last two years by Robert Mugabe can be characterized as nothing more, or less, than a shameless power grab. According to news reports current polls show that the leading opposition party has more support than Mugabe. No doubt this will cause an even more heinous crackdown on political opponents in the lead up to the elections. While I sincerely hope that Mugabe comes to his senses and allows for the presence of international observers during the upcoming presidential elections, I doubt that he will. Perhaps passage of this bill will send a signal to the government of Zimbabwe that the United States is serious about its position on the rule of law, human rights and democracy. The tragedy that has unfolded in what was once a stable prosperous country must not be ignored.

INTRODUCING ADOLFO FRANCO

Mr. McCAIN. Madam President, last week I had the privilege of introducing Adolfo Franco, the President's nominee to be Assistant Administrator for Latin America at the United States Agency for International Development, to the Committee on Foreign Relations. The President has made a wise choice for this important position, and I commend him for it. I also commend Mr. Franco to all of my colleagues as they consider their vote on his nomination, and I ask unanimous consent to print in the RECORD, my statement introducing Mr. Franco before the Committee.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

INTRODUCING ADOLFO A. FRANCO TO THE SENATE COMMITTEE ON FOREIGN RELATIONS

Adolfo Franco was born in Cardenas, Cuba. His family emigrated to the United States in 1961, when he was 5 years old, and settled in Cedar Falls, IA.

Blessed with wonderful parents and the opportunities afforded him in a free society, Adolfo has led an accomplished life of public service. And the good and faithful service he has given our country for nearly seventeen years is a splendid tribute to his own fine character, to his parents, and to the great civilization that welcomes the genius and industry of all Americans, whether native born or newly arrived.

He is a graduate of the University of Northern Iowa and the Creighton University School of Law. He came to Washington in 1984 and in 1985 began work in the General Counsel's office at the Inter-American Foundation, where he served with great distinction for fifteen years as Deputy General Counsel, General Counsel, Senior Vice President and, finally, President of the Foundation.

For the last two years, Adolfo has served as a Professional Staff Member on the House International Relations Committee where, as Chairman Hyde will attest, he has provided invaluable counsel on the full range of foreign assistance programs including U.S.A.I.D. programs and operations.

He is uniquely well-qualified for the position the President has selected him for, Assistant A.I.D. Administrator for Latin America. And I am very confident that in that capacity, Adolfo, with his characteristic energy, intelligence and patriotism, will quickly prove himself an invaluable asset to A.I.D., to the President and to the country he has long served so well.

He is an exceptional person, a devoted and talented public servant of exemplary character. I commend and thank the President for nominating him, and I consider it an honor to introduce him to the Committee.

America is among his parents' greatest gifts to Adolfo, a gift he has more than earned as the kind of career public servant all Americans can be proud of. I recommend him to the Committee with the highest praise I can offer an American: he is a credit to his country.

CHANGES TO H. CON. RES. 83 PURSUANT TO SECTION 215

Mr. CONRAD. Madam President, section 215 of H. Con. Res. 83, the fiscal year 2002 budget resolution, permits the chairman of the Senate Budget Committee to make adjustments to the allocation of budget authority and outlays to the Senate Committee on Health, Education, Labor, and Pensions, provided certain conditions are met.

Pursuant to section 215, I hereby ask unanimous consent to print in the RECORD the following revisions to H. Con. Res. 83.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	Dollars in millions
Current Allocation to the Senate Health, Education, Labor, and Pensions Committee:	
FY 2002 Budget Authority	$10.179
FY 2002 Outlays	9.419
FY 2002–06 Budget Authority	48.155
FY 2002–06 Outlays	46.411
FY 2002–11 Budget Authority	102.173
FY 2002–11 Outlays	97.860
Adjustments:	
FY 2002 Budget Authority	0
FY 2002 Outlays	0
FY 2002–06 Budget Authority	+3.440
FY 2002–06 Outlays	+2.840
FY 2002–11 Budget Authority	+7.665
FY 2002–11 Outlays	+6.590
Revised Allocation to the Senate Health, Education, Labor, and Pensions Committee:	
FY 2002 Budget Authority	10.179
FY 2002 Outlays	9.419
FY 2002–06 Budget Authority	51.595
FY 2002–06 Outlays	49.251
FY 2002–11 Budget Authority	109.838
FY 2002–11 Outlays	104.450

INCENTIVES TO TRAVEL

Mr. KYL. Madam President, three months ago, we experienced an unprovoked attack on our country. America took a terrible hit, but we have rebounded and we have reminded the world of the strength of the American people.

Three months ago, one industry in particular was stricken, and it continues to struggle to regain its footing. When our government shut down our airlines and our airports, it also shut down our travel and tourism industry.

Under the headline, "Travel Downtown Spreads More Woes," the December 11 Wall Street Journal reminded us that the industry remains in dire straits. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1)

Mr. KYL. The article focuses on the neighborhood around Los Angeles Airport, but it describes a scene all too familiar to many of us:

> Today, planes are once again buzzing just 300 feet above the head of the people of Lennox. But something even scarier has befallen them. The meltdown in the travel and tourism business has claimed thousands of their jobs.

Working together, the government and industry leaders can help the industry recover. By now, my colleagues no doubt have seen the television advertisements sponsored by the Travel Industry Association of America. Featuring President Bush, this privately supported advertising campaign encourages Americans to travel, to see our great country again, and to enjoy our many blessings. Now that the industry has stepped forward, it is time for us to do our part.

The time has come to enact a personal travel credit to get Americans on the road and in the air again. I am pleased that travel-credit legislation has broad, bipartisan support. Now is the time to translate that support into action. With the slowest travel months of the year about to begin, let's give the American public an incentive to travel. Let's get a credit enacted quickly. Let's bring families together and let's get Americans enjoying the blessings of our country again. In short, let's get America traveling again.

EXHIBIT 1

[From the Wall Street Journal, Dec. 11, 2001]

TRAVEL DOWNTURN SPREADS MORE WOES

(By Eduardo Porter)

LENNOX, CALIF.—Something strange washed over this area following the terrorist attacks on Sept. 11: quiet.

With planes grounded across the U.S., residents of this crowded community abutting Los Angeles airport weren't assaulted by the sound of jet engines for the first time in anybody's memory. The sudden silence was so at odds with the usual deafening roar that "kids were scared" by it, says Maria Van Deventer, assistant principal at Jefferson Elementary School.

Today, planes are once again buzzing just 300 feet above the heads of the people of Lennox. But something even scarier has befallen them. The meltdown in the travel and tourism business has claimed thousands of their jobs.

As much as any place in America, this 1.3-square-mile unincorporated area of Los Angeles County has been the victim of post-Sept. 11 economic fallout. Because this is practically a company town, with many of its 23,000 residents employed at the third busiest airport in the world and related businesses, Lennox has become a ground zero of sorts for the devastated travel and tourism industry.

The impact of the near collapse in the industry has left a broad footprint. Airline industry revenue should decline 30% in the fourth quarter over the year-earlier period, estimates Kevin C. Murphy of Morgan Stanley, and PKF Consulting estimates that room revenue at hotels in major urban centers will be down 17.5%. Other travel-dependent firms, from airline caterers to airport concession owners, have also been hit hard.

There is no precise count of how many Lennox residents, who are overwhelmingly immigrants from Mexico and Central America, have been laid off in the past 2½ months. But job losses—more than 8,000 at the airport alone and thousands more at area shops, hotels and other companies that depend on travel—have shot through the community. Isabel Gurdián lost her job cleaning planes on Sept. 12. A few weeks later Gladys Barraza was laid off as a cashier at the airport's City Deli, Margarita Urióstegui, who washed dishes at airline caterer Dobbs International Services, was let go, too. Alfonso Martínez, a barman at the New Otani hotel, got lucky. His workweek—and income—were cut by only two-thirds.

The impact has rippled through Lennox's dusty streets. Sales are down about 30% at Daisy's Party Supply on Inglewood Ave., Where a piñata of Osama bin Laden dangles from the roof between a huge can of Modelo beer and Winnie the Pooh. And they're off about a fifth at El Taco Macho, just across the border in Hawthorne, even though $9 American flags have been added to an eclectic menu of tacos and seafood cocktails. Business also has plummeted at Noemy's Beauty Salon, which doubles as remittance outlet that wires money from local residents back to relatives in Latin America. On a recent Friday, shop owner Margot Noemy Canizales waited all morning for customers to show. None did.

The pain is felt as far away as Jiquilpan, in central Mexico, which has dispatched workers to Lennox for decades. "The whole town depends on money sent from here," says Martín Orejel, a Lennox resident who has had his work hours slashed as a bartender and bus-boy at a Ramada hotel not far from the airport. "Now," he jokes, "we need them to send money here."

At the second floor offices of local 814 of the Hotel and Restaurant Employees International Union, the newly laid off lined up to register, for unemployment benefits. But many Lennox residents are illegal immigrants and can't get such financial assistance. Downstairs, union volunteers handed out bags of food. Life in Lennox is pretty difficult to begin with. With an average of nearly five people per household, it is one of the most densely populated communities in California. More than 94% of the students in the local school district are in a program that provides free or reduced-cost lunches to poor children, one of the highest rates in the state.

Hispanic immigrants began coming here in the late 1960's, sucked into the U.S. to help sate the explosive demand for low-wage service workers. Now, hit by the first wave of layoffs in a decade, "it seems like the end of the world," laments Ms. Urióstegui, a mother of three whose husband is still hanging on to a job at a tortilla shop. Most days she hits the road looking for work, leaving applications everywhere from a factory for stamping T-shirts to a plant making refrigerator parts.

To cope, some people are resorting to uncomfortable measures. After losing her job, Gladys Barraza, her husband and two children moved into her parent's two-bedroom home, also in Lennox. Rosa Saldivar is facing starker options. Her husband, Martin, who lost his job at a bakery that served airport restaurants, is pressuring her to take their three kids back to the family home in Durango, in northern Mexico.

They wouldn't be the only ones to go. Ms. Van Deventer, the assistant principal, says that 50 to 60 children, out of a student body of about 1,100, have dropped out of Jefferson Elementary since Sept. 11. Some, she says, have gone back to Mexico and El Salvador, where it's cheaper to be unemployed and where extended families can provide support. Others have left to look for work in other American cities, including Las Vegas, where it is rumored there might be jobs.

For those who are staying, the stress is growing. Health workers and parent-group coordinators at the schools are detecting more alcohol abuse and depression. A few days ago, Carmen Torres, a parent counselor at Jefferson Elementary, saw a couple bickering. The wife was dragging in her recently laid-off husband to register for English-language lessons. The husband, crying in despair, complained that the classes were beyond him.

But many are confident that the community will prove its resilience. Yvonne Moreno, a counselor at a health program run by the school district, notes that most of those in Lennox have been working since they were six or seven years old. Many crossed the desert on foot, eluding border patrolmen, to get here. "They are survivors," she says.

CIVILIAN FEDERAL AGENCY USE OF REMOTE SENSING

Mr. AKAKA. Madam President, I commend to your attention a report entitled "Assessment of Remote Sensing Data Use By Civilian Federal Agencies," which was prepared by Dr. Sherri Stephan of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services and the Congressional Research Service. The report will be available on the Subcommittee's website.

In January 2001, I asked the CRS to conduct a survey of remote sensing data and technology use by Federal non-military agencies. Subcommittee staff used the CRS survey results, included in the report as an appendix, and collected agency responses to analyze how Federal agencies use remote sensing. It is my hope that this report will enable Congress to better understand the issues that arise in obtaining and applying the technology.

The widespread availability of detailed and accurate satellite imaging data has made the world increasingly transparent. Observational capabilities that only a few decades ago were classified and strictly limited are now owned and operated by both government and private-sector organizations. For example, Space Imaging, a private satellite data company's web site contains satellite photos of the attack on Kandahar.

Satellite images have also revolutionized the study of the natural environment and global hazards, agriculture, transportation and urban planning, law enforcement, education, energy use, public health trends, and international policy. Researchers in my State of Hawaii, in partnership with NASA, NOAA and others, use remote sensing data for many purposes, such as to monitor water temperature and climate variability for tsunami early warning and evacuation planning, environmental impacts on fisheries, and volcanic activity monitoring.

There is now a national capability to provide remote-sensing data products and value-added information services directly to end users, such as farmers, foresters, fishermen, natural resource managers, and the public. Just this fall, researchers demonstrated on the island of Kauai how remote sensing data from unmanned aerial vehicles could be used to help determine precisely when a coffee crop is ready for harvesting.

New imaging technology and new data systems provide a rich opportunity for federal agencies to improve their services. The nineteen agencies included in this study span the roles of the federal government from basic research centers to law enforcement. All but four report some use of remote sensing data and technology. These agencies use data for environmental and conservation purposes, early warning and mitigation of natural disasters; basic and applied research, mapping activities, monitoring and verifying compliance with laws and treaties, agricultural activities, and transportation and shipping.

We also asked the agencies to share their concerns with remote sensing data. These concerns expressed their desire to use the data and technology more fully and efficiently. Many agencies had difficulties due to cost and licensing of commercial data and value-added products and analysis, as well as other access concerns. Several agencies were concerned about their capacity to exploit fully remote sensing data and technology, mostly due to a shortage of trained personnel within the agencies to analyze and interpret data.

This report offers several options to alleviate these concerns, but these are not the only possible solutions. Nor are they suggestions for action. The Federal Government uses remote sensing data in many ways, and it is unlikely that a single solution will solve all the problems associated with this use.

Since the first photographs of enemy troop positions from a hot air balloon in 1860, there have been military and intelligence applications of remote sensing data. Today, in this new age of terrorism and homeland security concerns, users now include local first responders, city planners, and State officials. This creates a new challenge for commercial and government data providers to translate our impressive imagery technology into a capability that can be exploited by users quickly and easily.

I would like to thank the staff of the Congressional Research Service, especially Marcia Smith, for her able assistance in preparing this report.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred November 5, 1994 in Laguna Beach, CA. A gay man was attacked by two men yelling anti-gay slurs. The assailants, Donald Nichols, 18, and an unnamed 16-year-old boy, were charged with robbery and assault with a deadly weapon in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

LIFT THE HOLD ON S. 1499

Mr. KERRY. Madam President, I would like to submit for the RECORD a letter to our majority leader, Senator DASCHLE, regarding my request to hold all non-judicial nominations that come before the Senate until all holds are lifted on S. 1499, the American Small Business Emergency Relief and Recovery Act of 2001. I want to make sure that my colleagues are aware of what I am doing and why.

As I just mentioned, my actions have everything to do with emergency assistance for small businesses. They are literally dying in the aftermath of the terrorist attacks on September 11. They badly need access to affordable financing and management counseling until business returns to normal, and the administration's approach is not adequately helping those who need it.

Senator BOND and I introduced S. 1499 on October 4 to address the needs of small businesses trying to hold on in the aftermath of the terrorist attacks. For almost 2 months, emergency legislation with 63 sponsors has been blocked from being considered because the administration and two Republican Senators have chosen to put holds on legislation rather than debate the bill and cast a vote.

Today there is an article in the Miami Herald that says, ". . .[there aren't] any objections to having the Kerry-Bond bill come to the floor for a debate as long as the Administration's and the Small Business Administration's concerns were aired." That implies that we haven't given them a chance to express their concerns and to work with us to pass this bill, when we have.

We went to great efforts to work with SBA, Senator KYL and his staff, and the administration. This has gone on long enough. I have not placed a hold on non-judicial nominees in haste. I do it because I have no alternative. Small businesses need assistance, the administration's approach isn't adequate to meet the needs of those businesses, and Senator BOND and I have a sensible approach to reach them. I ask my colleagues to lift their holds on the bill, let us debate the bill, and let us vote.

Mr. President, I ask unanimous consent that a copy of my letter to Senator DASCHLE be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 12, 2001.

Hon. TOM DASCHLE,
Majority Leader, United States Senate, Washington, DC.

DEAR MR. LEADER: As you know, Senator Bond and I have introduced and are trying to gain Senate passage of S. 1499, the "American Small Business Emergency Relief and Recovery Act of 2001." This legislation, supported by 63 Senators, would provide emergency and immediate financial assistance to small businesses around the country who are suffering tremendous financial loss following the terrorist attacks of September 11, 2001. More specifically, the bill would leverage $860 million in federal dollars to make available $25 billion in loans and venture capital to ailing small businesses. The bill has widespread support in the business community, and is endorsed by 36 groups concerned with the financial health of small businesses including the US Chamber of Commerce, the National League of Cities, the US Conference of Mayors and the National Restaurant Association.

Despite the widespread and bipartisan support for this legislation, Senator Kyl continues to block its consideration by the Senate. Yesterday, Senator Kyl noted his concerns are based in large part on objections raised by the Administration. Senator Bond and I have attempted to negotiate with Senator Kyl and the Administration so that an agreement could be reached to move this legislation. However, it has become increasingly clear that Senator Kyl and the Administration are not interested in negotiating our differences. Rather, they are interested in delaying consideration of this important relief interminably—"running out the legislative clock" at the expense of the thousands of small businesses who are finding it more and more difficult to keep their doors open without the relief they so desperately need in these difficult economic times.

For this reason, and regrettably, I have come to the conclusion that, having tried to negotiate in good faith, my only remaining option is to demonstrate, conclusively, that under no circumstances will we back away from our commitment to small businesses. To bring Sen. Kyl and the Administration back to the negotiating table in earnest, I would like to place a hold on all non-judicial executive nominations that may come before the Senate. It is my hope that this hold will be short-lived, as it will lead to more serious negotiations and ultimately Senate consideration of S. 1499. However, I am prepared to keep this hold in place until the Senate considers our bill. A simple yes or no vote on this important relief for small businesses is not too much to ask, and I hope that our Republican colleagues in the Senate will at long last allow us the opportunity to make good on our promise to help struggling businesses nationwide.

Thank you for your prompt attention to this matter.

Sincerely,

JOHN F. KERRY.

THE USA PATRIOT ACT OF 2001

Mr. BENNETT. Madam President, I rise to offer some guidance to the Secretary of the Treasury on the regulatory authority assigned to him by the Congress with the recent enactment of H.R. 3162, "The Patriot Act of 2001."

As a member of the Senate Banking Committee, I authored an amendment to that legislation's anti-money laundering title, title III, the "International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001," which was included in the final legislation as signed by the President at Sec. 311. My amendment directs the Secretary of the Treasury to promulgate regulations defining "beneficial ownership of an account" for purposes of Section 5318A and subsections (i) and (j) of Section 5318 of the Bank Secrecy Act. I would like to offer some guidance to the Secretary of the Treasury concerning the Secretary's determination of "reasonable" and "practicable" steps for domestic financial institutions to ascertain the "beneficial ownership" of certain accounts as provided in Section 311 of the bill.

Section 311 of this legislation authorizes the Secretary of the Treasury to require domestic financial institutions and agencies to take one or more of five "special measures" if the Secretary of the Treasury finds that reasonable grounds exist to conclude that a foreign jurisdiction, a financial institution operating outside the United States, a class of international transactions, and/or types of accounts is of "primary money laundering concern."

The second measure would require domestic financial institutions to take such steps as the Secretary determines to be "reasonable" and "practicable" to ascertain beneficial ownership of accounts opened or maintained in the United States by a foreign person, excluding publicly traded foreign corporations, associated with what has been determined to be a primary money laundering concern.

In both Section 5318A(b)(1)(B)(iii) and (b)(2), the Secretary is given the authority to require steps the Secretary determines to be "reasonable and practicable" to identify the "beneficial ownership" of funds or accounts. Neither the phrase "beneficial ownership" nor the phrase "reasonable and practicable steps" is defined in the legislation, and there is no single accepted statutory or common-law meaning of either phrase that the legislation is meant to incorporate.

During the 106th Congress, the issue was dealt with by the House Banking Committee, which favorably reported H.R. 3886, which contained provisions nearly identical to those contained in Section 311 of H.R. 3162, but without the mandatory rulemaking requirement which my amendment added this year. Both in the 106th Congress and again this year, the concern has been expressed that this lack of statutory definition conceivably could result in a rule or order under either Section 5318A(b)(1)(B)(iii) or (b)(2) that requires financial institutions to identify all beneficial owners of funds or of an account, which in turn might result in some circumstances in clearly excessive and unjustifiable burdens. As the author of the amendment requiring the Secretary to undertake rulemaking in this area, I am sensitive to this concern, and I would expect the Secretary to address it when implementing this act, including when making determinations under the following provisions: (1) Section 5318A(a)(3)(B)(ii), which requires the Secretary to consider, in selecting which special measure to take, "whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;" and (2) those above-referenced provisions that permit only those steps that the Secretary determines to be "reasonable and practicable" to identify the beneficial ownership of accounts or funds, which provisions impose an enforceable constraint on the substance of any rule or order under either Section 5318A(b)(1)(B)(iii) or (b)(2).

In addition, Section 5318A(e)(3) requires the Secretary to "promulgate regulations defining beneficial ownership of an account" for purposes of Section 5318A and subsections (i) and (j) of Section 5318. This is the Bennett amendment. Section 5318A(e)(4) gives the Secretary the authority, inter alia, to "define . . . terms for the purposes of" Section 5318A "by regulation." I would strongly encourage the Secretary to define the meaning of the phrases "beneficial ownership" as well as "reasonable and practicable steps" for the purposes of Sections 5318A(b)(1)(B)(iii) and (b)(2), through formal rulemaking subject to notice and comment, taking due consideration of the potential impact of such regulations on smaller institutions, and on all institutions, with an eye toward balancing regulatory burden, legitimate privacy interests, and the ability of United States financial institutions to compete globally. To the extent the Secretary opts for informal guidance on "reasonable and practicable steps," I would urge informal consultation with interested parties.

Specifically, I would note that several agencies have issued regulations or supervisory guidance defining the term "beneficial owner" or outlining what constitutes reasonable steps to obtain beneficial ownership information, in each instance for the issuing agency's own purposes. See, e.g., 17 C.F.R. §228.403; 26 C.F.R. §1.1441 1(c)(6); 28 C.F.R. §9.2(e); Letter re: Public Securities Association (Sept. 29, 1995) (SEC staff "no action" letter addressing 17 C.F.R. §240.10b 10); Guidance on Sound Risk Management Practices Governing Private Banking Activities, prepared by the Federal Reserve Bank of New York (July 1997); and Office of the Comptroller of the Currency Bank Secrecy Act Handbook (September 1996). These sources may be instructive for the Secretary in providing definitions of the phrases "beneficial ownership" and "reasonable and practicable steps."

ADDTIONAL STATEMENTS

IN MEMORY OF STANLEY FOSTER

• Mrs. BOXER. Mr. President, I would like to take this moment to reflect on the life of my friend and well-known philanthropist, Stanley Foster.

Stan died of cancer on November 14, 2001 in San Diego, CA, at the age of 74. His death represents a great loss for the people of San Diego, the State of California and the Nation, who benefitted immensely from his extraordinary dedication and commitment to his community. His strong passion to make a difference, particularly reflected in his work to prevent gun violence, has made a lasting impact on all our lives.

Stan Foster was the son of a scrap-dealer from Ukraine. After graduating from the University of Washington, he owned a retail furniture store in Portland before settling in San Diego in 1954.

A man from humble beginnings, Stan gradually rose to become a successful businessman as the owner of the popular Hang Ten sportswear label. Throughout his career, he took great pride in reinvesting in the community. He was actively involved in organizations including the Chamber of Commerce, the United Way, the Jewish Federation and the Combined Arts Council. He also played a significant role in the political sphere, earning respect and admiration from legislators on both sides of the aisle. But he is most well known for his unwavering commitment to the fight against gun violence.

In the 1980s, Stan sold the Hang Ten company and shifted his priorities towards his civic work. Affected by an incident that occurred in his teenage life, Stan dedicated much of his time to help combat gun violence. In pursuit of this mission, he founded San Diegans Against Handgun Violence in 1988 and also became national vice chairman of Handgun Control, Incorporated. As a leader of San Diegans Against Handgun Violence, he fought for gun safety and tougher gun laws. He was a true national leader in this fight.

I will miss Stan Foster. He enriched many lives in California and throughout our Nation. Although we mourn the loss of a great leader, we will always remember his powerful voice for justice. His generosity and compassion will remain in our hearts, inspiring us to follow his unforgettable legacy.•

COMCAST CARES DAY AT ANACOSTIA SENIOR HIGH SCHOOL

• Mr. BIDEN. Mr. President, on October 13, 2001, as part of Comcast's nationwide Day of Service, and in conjunction with Greater DC Cares, several hundred Comcast employees from the Washington, DC area volunteered to clean, landscape, and paint Anacostia Senior High School. In the wake of the tragedy of September 11, the Comcast Foundation has contributed $100 to disaster relief efforts in New York City and at the Pentagon for every employee and family member who participated in the clean-up. Comcast and every participating employee should be commended for their outstanding dedication and commitment to improving their community.

Nationwide, more than five thousand Comcast employees from twenty-six States volunteered their time on Comcast Cares Day. Though it may have been the work of only one corporation and one group of employees, Comcast's community service and the volunteer spirit of its employees represents the best of America.

The best of America can also be seen in other places around our country. Since September 11, Americans have risen to the occasion to aid their fellow citizen. In every city and town across America, individuals have taken the lead in community efforts like the one at Anacostia Senior High School. In my home State of Delaware, corporations such as Daimler-Chrysler, MBNA Bank and the DuPont Corporation have lent a helping hand to assist those in need. Furthermore, fire companies, school children, and individuals from all walks of life have come together providing assistance and comfort to the victims of the horrible September 11 attack.

Not to overstate the case, but there seems to be a renewed spirit of community in America where, not long ago, we seemed more divided by differences than united by common concerns and shared values. Corporations like Comcast and their employees have heard the call. They have pulled together and responded where there is a need and, in the District of Columbia, Anacostia Senior High School was the place. It was not the work that was done there on October 13, or the time and sweat of all those who volunteered, that should inspire us the most, but the overriding sense that all of us working together can make a difference in our communities.

After the tragedy of September 11, Americans responded when we saw the courage and dedication of New York police, firemen, and emergency workers. From their example have come story after story of corporations like Comcast reaching out, taking a lead in their communities, and making a difference. Comcast, The Comcast Foundation, and the dedicated employees who participated in making a difference at Anacostia Senior High School should be commended by all of us in the United States Senate who know how much we can accomplish when we work together.

Yet, this sense of corporate responsibility is not new for the Comcast Corporation. Comcast always has been an active participant in the communities it serves. Whether it is their support of the Boys and Girls Clubs of America, the Red Cross, or the Easter Seals, Comcast has insisted on excellence not only in all aspects of its operation, but in its record of public service. This is a testament to the leadership of its founder and Chairman, Ralph Roberts, President, Brian Roberts, and Vice President, Joe Waz. These men serve as role-models in their communities and are true heroes in every sense of the word.

If we learned anything from September 11 it was that the will and resolve of the American people cannot be shaken by those who would use terror as a weapon and religion as a shield. We are strongest and at our best when we are defending American values and the bedrock principles of democracy. If anything changed on September 11 it was a renewed determination for all of us to reach out where and when we can, and to recognize that we are much more united by our common concerns and shared values than divided by our individual differences. Companies like Comcast have recognized a community need, reached out, and made a difference, and they deserve the recognition of a grateful Nation.●

TRIBUTE TO JAMES V. PARILLO

● Mr. CORZINE. Madam President, I would like to bring to the attention of my colleagues a great man from the State of New Jersey, Mr. James V. Parrillo. A 66 year old native of Newark, Mr. Parrillo is a man of integrity who has devoted his time and talents to making his city a thriving urban center.

A graduate of East Side High School, Mr. Parrillo currently serves as a community relations specialist at the Newark Housing Authority. In this capacity he is responsible for coordinating special events, including an annual parade and senior citizen fashion show.

A grassroots coalition-builder and youth advocate, Mr. Parrillo is also involved in strengthening the community and promoting the development of children. For the past fifteen years he has sponsored a little league baseball team in Newark's Ironbound section, providing a much needed recreational outlet for the city's young people. Most recently, he was elected to serve as a member of the Newark Board of Education and is chairman of its Community Development Committee.

In 1981, Jimmy, as he is affectionately known, established the Jimmy Parrillo Civic Association, an organization comprised of representatives from the business, educational, and political communities. Each year the association recognizes the achievements of individuals who have contributed to promoting stable communities in the city of Newark.

I want you to know that James V. Parrillo is a true American and believes that all people should have access to America's Promise. An unselfish man, he has the gift of bringing people together to work for a common cause.

Jimmy believes that he can make a difference. The city of Newark is a better city today because of his dedication and leadership.

Lastly, I am proud to call Jimmy a friend and it is an honor for me to bring him to your attention.●

TRIBUTE TO VERNON ALLEY

● Mrs. BOXER. Mr. President, earlier this year our country was treated to "Jazz," the latest documentary by Ken Burns. The ambitious, multi-part series traced the personalities, culture and, of course, music of jazz from its origins in turn of the century New Orleans until the present day. Like his critically acclaimed documentaries on the Civil War and baseball, Mr. Burns' production was as much a meditation on America and the nature of our democracy as it was an overview of jazz itself. For those who have not yet had a chance to see this wonderful exploration, I highly recommend it.

Jazz is a distinctly American art form, born of many different influences and nurtured in a wide variety of contexts and communities. Although often over-shadowed by cities such as New Orleans, New York and Kansas City, San Francisco was and remains one such community. Over the years, it has been home and played host to many of jazz's greatest talents.

Perhaps no musician better personifies San Francisco's connection and contributions to jazz than bassist Vernon Alley. Vernon Alley is a longtime San Franciscan. He grew up in the City and has maintained a band here off and on since the mid-forties. As jazz vocalist Jon Hendricks once remarked, "[Vernon is] the dean of San Francisco jazz."

Mr. Alley began his lifelong association with San Francisco and jazz when he accompanied his parents to see a performance by the incomparable Jelly Roll Morton at Maple Hall. Thus inspired, Vernon went on to dedicate his life to music. Arriving in New York as a young man at the high point of the swing era, he played with some of the biggest names in the business, including both the Lionel Hampton and Count Basie Orchestras. Always a sought after accompanist, in later years he would play with such other legends as Duke Ellington, Ella Fitzgerald, Dizzy Gillespie, Erroll Garner and more.

Although he may have been able to gain wider exposure or acclaim if he remained in New York, Vernon returned to San Francisco after World War II. Here he is beloved, not only for the power, warmth and lyrical quality of his music, but also for his great personal charm. I have had the pleasure of meeting Vernon Alley and seeing him perform. He is a gifted and gracious man and certainly a Bay Area treasure.

Vernon was honored this year at the prestigious San Francisco Jazz Festival with the SFJAZZ Beacon Award for his achievements in music and as a stalwart in the community. Mayor Willie Brown declared October 30, 2001 "Vernon Alley Day." That evening Vernon joined 15 friends on the stage for a three and a half hour tribute concert. By all accounts it was night filled with joy and an appreciation of how the gifts of one man can be gifts to us all.

I am greatly encouraged by what I see as a renewed sense of love for America and respect for its traditions and achievements. In Jazz, we see a reflection of ourselves at our finest. And in Vernon Alley we see the embodiment of jazz at its finest. For keeping this art form alive, we owe him our deepest thanks.●

MESSAGES FROM THE HOUSE

At 12:28 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to section 3(b) of the Public Safety Officer Medal of Valor Act of 2001 (Public Law 107–12), the Majority Leader appoints the following individuals to the Medal of Valor Review Board: Mr. Oliver"Glenn" Boyer of Hillsboro, Missouri and Mr. Richard "Smokey" Dyer of Kansas City, Missouri.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 10) to provide for pension reform, and for other purposes.

The message further announced that the House has agreed to the amendments of the Senate to the bill (H.R. 2540) to amend title 38, United States Code, to make various improvement to veterans benefits programs under laws administered by the Secretary of Veterans Affairs, and for other purposes.

The message also announced that the House has agreed to the amendment of the Senate to the bill (H.R. 2716) to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

The message further announced that the House has agreed to the amendment of the Senate to the amendment of the House to the bill (S. 1196) to amend the Small Business Investment Act of 1958, and for other purposes.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 1291) to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI bill, with an amendment; in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 26. A joint resolution providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 58. Concurrent resolution expressing support for the tenth annual meeting of the Asia Pacific Parliamentary Forum.

The message further announced that the House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 259. Concurrent resolution expressing the sense of Congress regarding the relief efforts undertaken by charitable organizations and the people of the United States in the aftermath of the terrorist attacks against the United States that occurred on September 11, 2001. H. Con. Res. 281. Concurrent resolution honoring the ultimate sacrifice made by Johnny Michael Spann, the first American killed in combat during the war against terrorism in Afghanistan, and pledging continued support for members of the Armed Forces.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 38. An act to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes.

H.R. 1576. An act to designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes.

H.R. 1989. An act to reauthorize various fishery conservation management programs, and for other purposes.

H.R. 2069. An act to amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Act of 2000 to authorize assistance to prevent, treat, and monitor HIV AIDS in sub-Saharan African and other developing countries.

H.R. 2121. An act to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society in that country and to support independent media.

H.R. 2440. An act to rename Wolf Trap Farm Park as "Wolf Trap National Park for the Performing Arts," and for other purposes.

H.R. 2595. An act to direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia.

H.R. 2742. An act to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

H.R. 3030. An act to extend the basic pilot program for employment eligibility verification, and for other purposes.

H.R. 3216. An act to amend the Richard B. Russell National School Lunch Act to exclude certain basic allowances for housing of an individual who is a member of the uniformed services from the determination of eligibility for free and reduced price meals of a child of the individual.

H.R. 3282. An act to designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the "Mike Mansfield Federal Building and United States Courthouse."

H.R. 3370. An act to amend the Coast Guard Authorization Act of 1996 to modify the reversionary interest of the United States in a parcel of property conveyed to the Traverse City Area School District in Traverse City, Michigan.

H.R. 3441. An act to amend title 49, United States Code, to realign the policy responsibility in the Department of Transportation, and for other purposes.

H.R. 3442. An act to establish the National Museum of African American History and Culture Plan for Action Presidential Commission to develop a plan of action for the establishment and maintenance of the National Museum of African American History and Culture in Washington, D.C. and for other purposes.

H.R. 3447. An act to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, to provide an additional basis for establishing the inability of veterans to defray expenses of necessary medical care, to enhance certain health care programs of the Department of Veterans Affairs, and for other purposes.

At 2:37 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two houses on the amendment of the Senate to the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1230. An act to provide for the establishment of the Detroit River International Wildlife Refuge in the State of Michigan, and for other purposes.

H.R. 1761. An act to designate the facility of the United States Postal service located at 8588 Richmond Highway in Alexandria, Virginia, as the "Herb E. Harris Post Office Building."

H.R. 2061. An act to amend the charter of Southeastern University of the District of Columbia.

H.R. 2944. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

At 5:09 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1022. An act to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United Sates do not preclude the flying of flags at half mast when ordered by city and local officials.

H.R. 3209. An act to amend title 18, United States Code, with respect to false communications about certain criminal violations, and for other purposes.

H.R. 3295. An act to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.

The message also announced that the House has agreed, to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 282. Concurrent resolution expressing the sense of Congress that the Social Security promise should be kept.

At 6:08 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

For consideration of division A of the House bill and division A of the Senate amendment, and modifications committed to conference: Mr. LEWIS of California, Mr. YOUNG of Florida, Mr. SKEEN, Mr. HOBSON, Mr. BONILLA, Mr. NETHERCUTT, Mr. CUNNINGHAM, Mr. FRELINGHUYSEN, Mr. TIAHRT, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. VISCLOSKY, Mr. MORAN of Virginia, and Mr. OBEY.

For consideration of all other matters of the House bill and all other matters of the Senate amendment, and modifications committed to conference: Mr. YOUNG of Florida, Mr. LEWIS of California, and Mr. OBEY.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 10. An act to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

H.R. 2540. An act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rate of dependency and indemnity compensation for survivors of such veterans.

H.R. 2716. An act to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and service for homeless veterans.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1022. An act to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials; to the Committee on the Judiciary.

H.R. 1576. An act to designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1989. An act to reauthorize various fishery conservation management programs; to the Committee on Commerce, Science, and Transportation.

H.R. 2069. An act to amend the Foreign Assistance Act of 1961 to authorize assistance to prevent, treat, and monitor HIV AIDS in sub-Saharan African and other developing countries; to the Committee on Foreign Relations.

H.R. 2121. An act to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society in that country and to support independent media; to the Committee on Foreign Relations.

H.R. 2440. An act to rename Wolf Trap Farm Park as "Wolf Trap National Park for the Performing Arts", and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2595. An act to direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia; to the Committee on Armed Services.

H.R. 3209. An act to amend title 18, United States Code, with respect to false communications about certain criminal violations, and for other purposes; to the Committee on the Judiciary.

H.R. 3216. An act to amend the Richard B. Russell National School Lunch Act to exclude certain basic allowances for housing of an individual who is a member of the uniformed services from the determination of eligibility for free and reduced price meals of a child of the individual; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3295. An act to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes; to the Committee on Rules and Administration.

H.R. 3370. An act to amend the Coast Guard Authorization Act of 1996 to modify the reversionary interest of the United States in a parcel of property conveyed to the Traverse City Area School District in Traverse City, Michigan; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 259. Concurrent resolution expressing the sense of Congress regarding the relief efforts undertaken by charitable organizations and the people of the United States in the aftermath of the terrorist attacks against the United States that occurred on September 11, 2001; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 281. Concurrent resolution honoring the ultimate sacrifice made by Johnny Micheal Spann, the first American killed in combat during the war against terrorism in Afghanistan, and pledging continued support for members of the Armed Forces; to the Committee on Armed Services.

H. Con. Res. 282. Concurrent resolution expressing the sense of Congress that the Social Security promise should be kept; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4882. A communication from the Chairman of the Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Eleventh Annual Report relative to health and safety activities during calendar year 2000; to the Committee on Armed Services.

EC–4883. A communication from the Deputy Director of the Office of Enforcement Policy, Wage and Hour Division, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Adjustment of Civil Money Penalties for Inflation" (RIN1215–AB20) received on December 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–4884. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Leasing Regulations" (RIN1024–AC78) received on December 10, 2001; to the Committee on Energy and Natural Resources.

EC–4885. A communication from the Comptroller of the Currency, Administrator of National Banks, Legislative and Regulatory Activities Division, transmitting, pursuant to law, the report of a rule entitled "Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Capital Treatment of Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations" (12 CFR Part 3, Appendix A) received on December 10, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–4886. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Report of the Office of the Inspector General for the period April 1, 2001 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4887. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–201, "Child Support Enforcement Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC–4888. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–199, "Advisory Neighborhood Commissions Annual Contribution Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC–4889. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–194, "Emergency Economic Assistance Temporary Act of 2001"; to the Committee on Governmental Affairs.

EC–4890. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–195, "Unemployment Compensation Terrorist Response Temporary Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC–4891. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–196, "Office of Administrative Hearings Establishment Act of 2001"; to the Committee on Governmental Affairs.

EC–4892. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–198, "Litter Control Administration Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC–4893. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–200, "Advisory Neighborhood Commissions Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC–4894. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Truck Air Braking Requirements; Final Rule" (RIN2127–AH11) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4895. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Advanced Air Bags; Final Rule; Response to Petitions for Reconsideration" (RIN2127–AI10) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4896. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reduced Vertical Separation Minimum (RVSM)" (RIN2120–AH12) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4897. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Criminal History Records Checks" (RIN2120–AH53) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4898. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Flightcrew Compartment Access and Door Designs" (RIN2120–AH54) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4899. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Part 145 Review: Repair Stations; Reopening of the Comment Period" ((RIN2120–AC38)(2001–0002)) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4900. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; School Bus Body Joint Strength" (RIN2127–AC19) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4901. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (including 47 regulations)" ((RIN2115–AA97)(2001–0149)) received on December 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4902. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Louisiana Regulatory Program" (LA–020–FOR) received on December 11, 2001; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

H.R. 3167: A bill to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 1762: A bill to amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

S. 1793: A bill to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 86: A concurrent resolution expressing the sense of Congress that women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan.

S. Con. Res. 90: A concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea.

S. Con. Res. 92: A concurrent resolution recognizing Radio Free Europe/Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

*Harold Craig Manson, of California, to be Assistant Secretary for Fish and Wildlife.

*Jeffrey D. Jarrett, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

*Michael Smith, of Oklahoma, to be an Assistant Secretary of Energy (Fossil Energy).

*Kathleen Burton Clarke, of Utah, to be Director of the Bureau of Land Management.

*Rebecca W. Watson, of Montana, to be an Assistant Secretary of the Interior.

*Margaret S.Y. Chu, of New Mexico, to be Director of the Office of Civilian Radioactive Waste Management, Department of Energy.

*Beverly Cook, of Idaho, to be an Assistant Secretary of Energy (Environment, Safety and Health).

By Mr. BIDEN for the Committee on Foreign Relations.

*Jorge L. Arrizurieta, of Florida, to be United States Alternate Executive Director of the Inter-American Development Bank.

*John Price, of Utah, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of The Comoros and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John Price.

Post: Ambassador.

Contributions, Amount, Date, and Donee;

1. Self, $500, 5-7-97, New Mexico for Redmond; $1,000, 5-16-97, Bennet 98 Committee; $500, 5-23-97, Bennet 98 Committee; $1,000, 10-3-97, Kit Bond for Senate; $(500), 11-3-97, Bennett 98 Committee; $1,000, 12-3-97, Campaign America; $1,000, 12-3-97, Chris Cannon for Congress; $2,500, 1-16-98, Nareit PAC; $5,000, 2-13-98, Republican Leadership Council; $500, 3-13-98, Dylan Glenn for Congress; $1,000, 3-26-98, Merrill Cook for Congress; $10,000, 5-1-98, Utah Republican Party; $1,000, 5-14-98, Jim Hansen Committee; $1,000, 6-26-98, Merrill Cook 98; $1,000, 7-21-98, Ron Schmidt for Senate; $25,000, 7-21-98, House Senate Dinner Trust; $15,000, 9-25-98, National Republican Senatorial Committee; $1,000, 3-5-99, George Bush Presidential Committee; $100,000, 4-23-99, Republican National Committee; $1,000, 5-27-99, Chris Cannon for Congress; $1,000, 6-18-99, West PAC; $250, 7-28-99, Western States Republican Leadership Conference; $1,000, 8-10-99, Elizabeth Dole Exploratory Committee; $2,200, 10-1-99, Western States Republican Leadership; $1,000, 10-15-99, Bush for President Committee; $2,000, 3-31-00, Ashcroft 2000 Committee; $25,000, 4-14-00, Republican National Committee; $2,000, 4-14-00, Orrin Hatch Senate Committee; $500, 4-14-00, Jim Hansen Committee; $161,500, 6-1-00, Republican National State Elections Committee, $18,500, 6-01-00, Republican National Committee; $3,600, 6-28-00, RNSEC; $5,000, 7-13-00, Victory 2000 Program; $1,000, 7-17-00, Republican Party Arkansas; $5,000, 7-26-00, Mark Shurtleff; $(5,000), 8-18-00, Republican National Committee; $20,000, 10-13-00, Victory 2000; $14,842, 1-24-01, Republican National Committee.

2. Spouse: Marcia Prece, $80,000, 10-31-00, RNC Republican National State Elections; $20,000, 6-27-00, Republican National Committee; $1,000, 3-24-99, Bush for President.

3. Children and spouses: John Steven Price, Drue Price, Jennifer Price Wallin, Anthony Wallin, $1,000, 3/24/99, Bush for President; $1,000, 3/24/99, Bush for President; $1,000, 3/24/99, Bush for President; $1,000, 3/24/99, Bush for President; Deirdra Price, none; Farhad Kamani, none.

4. Parents: Simon Price (deceased) and Margaret Price Kalb (deceased).

5. Grandparents: NA.

6. Brother: Wolfgang Price, none.

7. Sisters and spouses: NA.

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*William R. Brownfield, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: William R. Brownfield.

Post: U.S. Ambassador to Chile.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Kristie A. Kenney, none.

3. Children: None.

4. Parents: Albert R. Brownfield, Jr., $20, 7/97, Repub. Nat'l. Comm. (RNC); $20, 7/97, RNC; $40, 4/98, RNC; $25, 9/28, George Bush Campaign; $50, 12/98, Republican Pres. Task Force; $100, 9/99, John McCain Campaign; $50, 10/99, Ronald Reagan Foundation; $50, 10/99, RNC; $100, 7/00, RNC; $50, 8/00, Ronald Reagan Foundation; $100, 10/00, Ronald Reagan Foundation; $50, 10/00, RNC, $35, 10/00, Bush Presidential Campaign; $50, 12/00, RNC; $50, 1/01, RNC; $30, 1/01, Ronald Reagan Foundation; $30, 4/01, Ronald Reagan Foundation; Virginia E. Brownfield (deceased).

5. Grandparents: All deceased for more than 30 years.

6. Brothers and spouses: Albert R. III and Marcia T. Brownfield, none.

7. Sisters and spouses: Barbara B. and Francis W. Rushing, none; Anne Elizabeth and Christopher W. Fay, none.

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*Gaddi H. Vasquez, of California, to be Director of the Peace Corps.

*Charles S. Shapiro, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Bolivarian Republic of Venezuela.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Charles S. Shapiro.

Post: Ambassador to Venezuela.

Contributions, Amount, Date, and Donee:

1. Self, None.

2. Spouse: Robin L. Dickerson, None.

3. Children and spouses: Jacob C.D. Shapiro, None; Thomas E.D. Shapiro, None.

4. Parents: Joseph Benjamin Shapiro (deceased); Deloris S. Shapiro, None.

5., Grandparents: Jacob and Harriet M. Schneider (deceased) and Paul and Bertha Shapiro (deceased).

6. Brothers and spouses: J. Benjamin and Nancy Shapiro, $25, 6/01, Republican Nat'l Committee.

7. Sisters and spouses: Jill and James Thorton, None.

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*James David McGee, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: James David McGee.

Post: Swaziland.

Contributions, Amount, Date, and Donee:

1. Self, None.

2. Spouse: Shirley J. McGee, None.

3. Children and spouses: N/A.

4. Parents: Ruby Mae McGee; None; Jewel L. McGee, (deceased).

5. Grandparents: James and Malvena West and Mary McGee (deceased).

6. Brothers and spouses: Ronald N. and Kathy McGee, None.

7. Sisters and spouses: Mary Ann and Tyrone Dillahunty, None.

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*Earl Norfleet Phillips, Jr., of North Carolina, to be Ambassador Extraordinary and

Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee Earl N. Phillips, Jr.

Post: Ambassador.

Contributions, Amount, Date, and Donee:

1. Nominee: Self, $80,000, 6/09/2000, RNC Republican National State Elections Committee; $3,600, 7/07/2000, RNC Republican National State Elections Committee; $460, 1/26/2001, RNC Republican National State Elections Committee; $5,000, 4/30/1998, Republican National Committee—RNC; $20,000, 6/09/2000, Republican National Committee—RNC; $1,000, 3/24/2000, NcNairy for Congress; 1,000, 9/09/1997, Faircloth, Duncan M., VIA Faircloth for Senate Committee 1998; $1,000, 6/15/1998, Faircloth, Duncan M., VIA Faircloth for Senate Committee 1998; $1,000, 6/08,1999, Dole, Elizabeth VIA Elizabeth Dole for President Exploratory Committee, Inc.; $1,000, 11/24/1999, Bush George W., VIA Bush-Cheney 2000 Compliance Committee, Inc.; $500, 3/31/1999, Bush, George W., VIA Bush for President, Inc.; $250, 7/26/2000, Ballenger, Thomas Cass, VIA Cass Ballenger for Congress Committee; $1,000, 2/25/1997, Coble, John Howard, VIA Coble for Congress; $5,000, 9/25/1998, Business Leaders Salute Faircloth; $25,000, 12/15/1999, 1999 State Victory Fund Committee; $75,000, 10/03/2000, RNC Republican National State Elections Committee paid by Phillips Interests, Inc., High Point, NC, owned by Mr. E. N. Phillips and Family; $56,250, 7/26/2000, RNC Republican National State Elections Committee paid by Phillips Interests 2, Inc., High Point, NC, Majority ownership by Mr. E. N. Phillips and Family; $18,750, 07/26/2000, RNC Republican National State Elections Committee paid by Phillips Interest 3, Inc., High Point, NC, majority ownership by Mr. E. N. Phillips and Family.

2. Spouse: Sallie B. Phillips, $1,000, 3/31/1999, Bush, George W., VIA Bush for President Inc.; $1,000, 9/09/1997, Faircloth, Duncan M., VIA Faircloth for Senate Committee 1998; $1,000 6/15/1998, Faircloth, Duncan M. VIA Faircloth for Senate Committee 1998; $25,000 12/15/1999, 1999 State Victory Fund Committee.

3. Children and spouses: Courtney D. Phillips, $1,000, 3/31/1999, Bush, George W., VIA Bush for President Inc.; Jordan N. Phillips, none.

4. Parents (deceased).

5. Grandparents (deceased).

6. Brothers and spouses: S. Davis Phillips, $1,000, 7/27/1998, Livingston, Robert L. "Bob", VIA Friends of Bob Livingston; $1,000, 10/13/1998, Etheridge, Bob, VIA Bob Etheridge for Congress Committee; $1,000, 10/22/1999, Etheridge, Bob, VIA Bob Etheridge for Congress Committee; $500, 7/20/2000, Etheridge, Bob, VIA Bob Etheridge for Congress Committee; $1,000, 5/02/1998, Martin, David Grier, Jr., VIA D. G. Martin for US Senate Committee; $1,000, 1/07/1997, North Carolina Democratic Party—Federal; Katherine A. Phillips, $1,000.00, 10/12/1999, Bush, George W., VIA Bush for President, Inc.

7. Sisters and spouses, none.

*Kenneth P. Moorefield, of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic.

*Kenneth P. Moorefield, of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Career Minister Kenneth P. Moorefield.

Post: Gabon, Sao Tome and Principe.

Contributions, Amount, Date and Donee:

1. Self, none.

2. Spouse: Geraldine C. Moorefield, none.

3. Child: Vanessa S. Moorefield, none.

4. Parents: Virginia R. Moorefield, none; Col. Jesse P. Moorefield (deceased).

5. Grandparents: Louis R. and Helen M. Sommer (deceased); William James and Francis Jane Moorefield (deceased).

6. Brothers and spouses; Robert D. Moorefield (deceased); Steven D. Moorefield, none; Bruce A. Moorefield, none.

7. Sisters and spouses: Helen J. Moorefield, none.

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*John D. Ong, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to informed me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John D. Ong.

Post: U.S. Ambassador to Norway.

Contributions, Amount, Date, and Donee:

1. Nominee: Self, $1,500, 1/15/97, Ohio Republican Party; $1,000, 1/22/97, DeWine for U.S. Senate; $1,000, 3/31/97, Voinovich for Senate; $8,500, 4/8/97, Republican Eagles; $10,000, 5/7/97, Senatorial Trust; $1,000, 7/9/97, Regula for Congress; $500, 9/4/97, Friends for Houghton (Amo); $200, 11/21/97, Tom Sawyer Committee; $1,000, 12/5/97, Voinovich for Senate; $5,000, 12/18/97, Ohio Republican Party—Federal Account; $500, 3/4/98, Friends for Houghton (Amo): $1,000, 6/12//98, Tom Sawyer Committee; $250, 8/31/98, Regula for Congress Committee; $10,000, 9/22/98, Senatorial Trust; $1,000, 10/30/98, Slovenec for Congress; $1,000, 2/22/99, Santorum $2,000, $1,500, 2/23/99, Ohio Republican Party—-1999 Early Bird; $935.25, 5/13/99, Bush Presidential Exploratory Committee; $500, 6/15/99, The Ohio Republican Senate Campaign Committee; $10,000, 6/16/99, Senatorial Trust; $500, 7/15/99, Friends for Houghton; $5,000, 7/28/99, Republican Eagles; $150, 9/9/99, The Tom Sawyer Committee; $1,000, 10/11/99, Bill Bradley for President, $1,000, 11/12/99, Gov. George W. Bush for President Compliance Committee Inc.; $8,500, 12/23/99, 1999 State Victory Fund Comm.; $5,000, 2/7/00, Ohio Republican Party—Federal Account; $1,000, 3/10/00, DeWine for U.S. Senate; $1,000, 5/12/00, Santorum 2000; $250, 6/6/000, The Tom Sawyer Committee; $1,000, 6/8/00, Voinovich for Senate; $10,000, 6/14/00; Republican National Comm. Presidential Trust; $25,000, 6/14/00, Elections Comm.; $65,000, 6/14/00, Republican National State Elections Comm.; $300, 7/17/00, People with Hart Committee (Sen. Melissa Hart); $5,000, 11/17/00, Bush-Cheney Recount Fund; $5,000, 12/5/00, Bush-Cheney Presidential Transition; $25,000, 1/9/01, Presidential Inaugural Comm.; $5,000, 2/23/01, Republican Governor's Assoc.; $500, 3/20/01, Friends for Houghton (Amo); $1,000, 4/20/01, Voinovich for Senate.

2. Spouse: Mary Lee Ong, $1,000, 3/31/97, Voinovich for Senate; $1,000, 7/28/98, Voinovich for Senate; $1,000, 8/6/99, Bush for President Inc.;

3. Children and spouses: John F. H. Ong, $220, 1/7/97, Republican National Committee; $220, 3/20/98 Republican National Committee, $245, 2/2/99, Republican National Committee; $1,000, 1/28/00, Bush for President Inc.; $270, 3/12/00, Republican National Committee, Helen Ong, None.

Richard P. B. Ong, $1,000, 8/17/99, Bush for President Inc.; Donalee Ong, $1,000, 8/17/99, Bush for President Inc.

Mary Katherine C. Ong-Landini, $1,000, 8/19/99, George Bush for President Inc.; $250, 9/7/00, Craley for Congress; Michael J. Landini, Jr. $1,000, 8/19/99, George Bush for President Inc.

4. Parents: Louis Brosee Ong (deceased), None; Mary Ellen Ong, None.

5. Grandparents: Dr. William Franklin and Adelaid Brosee Ong (deceased); Frank Arthur and Nora Belle Penn Liggett (deceased).

6. Brothers and spouses: James F. Ong, $75, 1/7/99, National Republican Senatorial Committee; $60, 11/24/99, Republican Presidential Task Force; $70, 9/30/00, DeWine for Senate; Carol Ong, none.

Joseph W. and Rose Ong, none.

7. Sisters and spouses: N.A.

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*Josephine K. Olsen, of Maryland, to be Deputy Director of the Peace Corps.

*John V. Hanford III, of Virginia, to be Ambassador at Large for International Religious Freedom.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: John V. Hanford III.

Post: Ambassador at Large for International Religious Freedom.

Contributions, Amount, Date, and Donee:

1.Self, $1,000, 01/24/2000, Bush for President; $1,000, 03/31/1999, Elizabeth Dole for President Exploratory Committee.

2. Spouse: Laura Bryant Hanford, none.

3. Children and spouses: NA.

4. Parents: John V. Hanford Jr. (father), $500, 9/13/2000, Hayes for Congress; $500, 5/01/2000, Sue Myrick for Congress; $200, 3/13/2000, Friends of Giuliani; $500, 2/14/2000, N.C. Republican Exec. Committee; $1,000, 2/03/2000, Bush for President; $1,000, 1/30/1999, Elizabeth Dole for President, Exploratory Committee; $200, 6/08/1999, Keadle for Congress; $100, 1/21/1999, Natl. Republican Congressional Cmt.; $100, 12/31/1998, Republican National Committee; $250, 10/20/1998, Keadle for Congress; $250, 10/16/1998, Sue Myrick for Congress; $1,000, 9/22/1998, Business Leaders Salute Faircloth; $250, 9/19/1998, Keadle for Congress; $50, 9/19/1998, Natl. Republican Congressional Cmt.; $250, 3/13/1998, Keadle for Congress; $100, 1/21/1998, Hayes for Congress; $1,000, 5/08/1997, Sue Myrick for Congress; $100, 4/24/1997, Natl. Republican Congressional Cmt.; $1,000, 3/24/1997, Faircloth for Senate Committee.

Mrs. John V. Hanford Jr. (stepmother), 3/30/1999, Elizabeth Dole for President, Exploratory Committee; $500, 9/22/1998, Faircloth for Senate Committee; $1,000, 5/30/1997, Faircloth for Senate Committee.

Mr. and Mrs. John V. Hanford Jr., $500, 7/21/2000, Sue Myrick for Congress; $250, 11/30/1998, Faircloth Debt Retirement.

Dottie G. Nelson (mother), $100, 12/12/1999, Friends of John McCain; $1,000, 3/31/1999, Elizabeth Dole for President, Exploratory Committee.

L. Clair Nelson (stepfather), deceased.

5. Grandparents: Mrs. Mary C. Hanford (grandmother), $100 8/12/2001, Republican National Committee; $150 4/29/2001, Natl. Fed. of Republican Women; $150, 4/29/2001, Republican National Committee; $250 12/30/2000, Hayes for Congress; $200, 6/06/2000, N.C. Republican Executive Cmt.; $150, 5/14/2000, Republican National Committee; $500, 5/06/2000, Hayes for Congress; $200, 3/12/2000, Friends of Giuliani; $110, 2/21/2000, Republican National Committee; $25, 2/12/2000, Republican Women's Federation; $150 1/06/2000, Natl. Fed. Of Republican Women; $110, 3/30/1999, Republican National Committee; $110, 12/31/1998, Republican National Committee; $150, 12/02/1998, Natl. Fed. Of Republican Women; $250, 9/29/1998, Scott Keadle for Congress; $106, 8/03/1998, Hayes for Congress; $100, 2/16/1998, Republican National Committee; $200, 2/09/1998, Hayes for Congress; $100, 12/08/1997, Natl. Fed. Of Republican Women; $100, 12/01/1997, Hayes for Congress; $200, 11/21/1997, Coble for Congress; $250, 10/29/1997, Faircloth for Senate; $100, 9/16/1997, Natl. Fed. Of Republican Women; $200, 8/14/1997, Helms for Senate; $100, 2/24/1997, Natl. Fed. or Republican Women; $200, 2/18/1997, Helms for Senate; $100, 2/11/1997, Republican National Committee.

John V. Hanford Sr. (deceased).

Mr. and Mrs. Joseph Groome (deceased).

6. Brothers and spouses: Joseph G. Hanford, none.

7. Sisters and spouses: NA.

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*Adolfo A. Franco, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

*Arthur E. Dewey, of Maryland, to be an Assistant Secretary of State (Population, Refugees, and Migration).

*Donna Jean Hrinak, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Dona J. Hrinak.

Post Ambassador: Brasilia.

Contributions, Amount, Date, and Donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Wyatt A. Flores, none.
4. Parents: John Hrinak (deceased); Mary Hrinak, none.
5. Grandparents: John and Anna Hrinak (deceased); Joseph and Julia Pukach (deceased).
6. Brothers and spouses: David J. Hrinak, none.
7. Sisters and spouses: NA.

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*Francis Joseph Ricciardone, Jr., of New Hampshire, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Philippines and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Palau.

Nominee: Francies Joseph Ricciardone, Jr.

Post: Manilla, The Philippines.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Francesca Mara and Chiara Teresa Ricciardone, none.
4. Parents: Francis J. Ricciardone, none; mother deceased.
5. Grandparents: (deceased).
6. Brothers and spouses: Michael and Elizabeth Ricciardone, none; James and Lisa Ricciardone, none; David and Beverly Ricciardone, none.
7. Sisters and spouses: Maruerite R. and David Stone, none; Theresa R. and Peter Thayer, none.

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* Roger P. Winter, of Maryland, to be an Assistant Administrator of the United States Agency for International Development.

* Frederick W. Schieck, of Virginia, to be Deputy Administrator of the United States Agency for International Development.

Mr. BIDEN. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Foreign Service nominations beginning Shaun Edward Donnelly and ending Charles R. Wills, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 16, 2001.

Foreign Service nominations beginning Patrick C. Hughes and ending Mason Yu, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 27, 2001.

Foreign Service nominations beginning Kathleen T. Albert FL and ending Sunghwan Yi, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 27, 2001. .

* Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before and duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself and Ms. LANDRIEU):

S. 1808. A bill to amend the Mineral Leasing Act to encourage the development of natural gas and oil resources on Federal land; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON:

S. 1809. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in west Houston, Texas; to the Committee on Energy and Natural Resources.

By Mr. DURBIN:

S. 1810. A bill to amend the Internal Revenue Code of 1986 to provide credits for individuals and businesses for the installations of certain wind energy property; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. LUGAR, Mr. DURBIN, and Mr. AKAKA):

S. 1811. A bill to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to streamline the financial disclosure process for executive branch employees; to the Committee on Governmental Affairs.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 1812. A bill to repeal the provision of the September 11th Victim Compensation Fund of 2001 that requires the reduction of a claimant's compensation by the amount of any collateral source compensation payments the claimant is entitled to receive, and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE:

S. 1813. A bill to require the United States Trade Representative to keep the House of Representatives Committee on Resources and the Senate Committee on Commerce, Science, and Transportation informed with respect to negotiations on fish and shellfish; to the Committee on Finance.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 1814. A bill to name the national cemetery in Saratoga, New York, as the Gerald B. H. Solomon Saratoga National Cemetery, and for other purposes; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. AKAKA, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 1067

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1067, a bill to amend the Internal Revenue Code of 1986 to expand the availability of Archer medical savings accounts.

S. 1209

At the request of Mr. BINGAMAN, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1278

At the request of Mrs. LINCOLN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

S. 1478

At the request of Mr. SANTORUM, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1482

At the request of Mr. HARKIN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1482, a bill to consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

S. 1503

At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1503, a bill to extend and amend the Promoting Safe and Stable Families Program under subpart 2 of part B of title IV of the Social Security Act, to provide the Secretary of Health and Human Services with new authority to support programs mentoring children of incarcerated parents, to amend the Foster Care Independent Living Program under part E of title IV of the Social Security Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

S. 1570

At the request of Ms. COLLINS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1570, a bill to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001.

S.1707

At the request of Mr. JEFFORDS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1738

At the request of Mr. KERRY, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 1738, a bill to amend title XVIII of the Social Security Act to provide regulatory relief, appeals process reforms, contracting flexibility, and education improvements under the medicare program, and for other purposes.

S. 1739

At the request of Mr. CLELAND, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1739, a bill to authorize grants to improve security on over-the-road buses.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1805

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1805, a bill to convert certain temporary judgeships to permanent judgeships, extend a judgeship, and for other purposes.

S.J. RES. 13

At the request of Mr. WARNER, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S.J. Res. 13, a joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 86

At the request of Mr. DODD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Con. Res. 86, a concurrent resolution expressing the sense of Congress that women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself and Ms. LANDRIEU):

S. 1808. A bill to amend the Mineral Leasing Act to encourage the development of natural gas and oil resources on Federal land; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Madam President, I rise today to introduce the Federal Acreage Chargeability Act of 2001. The Mineral Leasing Act of 1920 restricts the interests a company can own in Federal oil and gas leases in any one State to 246,080 acres. This legislation alters the acreage cap for oil and gas leases on federal lands so that producing leases are not included in the existing Statewide acreage limitation. This provides an incentive for producers to keep domestic acreage in production or to turn the leases over to another operator who will.

Historically, the acreage limitation in the Mineral Leasing Act responded to public concern over a few major integrated oil companies locking up potential supplies of crude oil from Federal lands in the West. As originally enacted, the Act forbade any person from owning more than three Federal oil and gas leases in any state and more than one lease in an oil and gas field. In 1926, the restriction was converted from leases into acres and the acreage limit was increased to 7,680 acres in any state. The Congress, on three other occasions, has further expanded the number of acres a lessee may hold to 15,360 acres in 1946, to 46,080 acres per state in 1954, and to its present 246,080 acres in 1960. Under present-day conditions increased acreage and more time are necessary to protect the huge investments now needed to maintain rates of discovery.

Today, companies are able to administratively exempt Federal acreage from the 246,080-acre limit per state either through unitization or by the creation of a development contract. At this time, the BLM only allows development contracts in situations where the acreage is considered wildcat. The BLM has been extremely cooperative in working with companies that find themselves bumping up against or exceeding the acreage cap. However, the time has come to pass legislation that will encourage the sizeable capital investment that will be needed to promote orderly and environmentally responsible exploration, development, and production of natural gas and oil from the public lands of the United States.

In our modern economy, the acreage limitations of the Mineral Leasing Act appear as historical relics, ill suited to their original task of promoting competition. The acreage limitations of the Act are once again inhibiting a company's ability to assemble sufficient blocks of acreage to efficiently explore promising natural gas and oil prospects. Companies are also unable to adequately finance the development of those prospects and related infrastructure such as pipelines. Exacerbating the acreage situation further, is the trend toward mergers and acquisitions taking place in the oil and gas industry.

The Federal Acreage Chargeability Act of 2001 amends the acreage limitation provisions of the Mineral Leasing Act of 1920 in such a manner that is truly reflective of today's exploration and production techniques and economics. Given the uncertain natural gas and oil supply situation that this country faces, it is even more critical to reform the outdated existing Federal acreage limitation provisions. The Federal Acreage Chargeability Act of 2001 amends the Mineral Leasing Act of 1920 by exempting oil and natural gas producing acreage from being counted against the Federal acreage cap.

Acreage limitations for other federal minerals such as coal and trona have also been revised upward over the years. Last Congress, I authored legislation that passed and was signed into law that raised the acreage limits for both Federal coal and trona leases due to industry consolidation and international competition. The domestic natural gas and oil industry is certainly facing these same concerns.

In recognition of the economics and technological advances of exploring for and producing domestic natural gas and oil on our public lands, and the national goal of increasing both domestic production and environmental efficiency, make now the right time to enact the Federal Acreage Chargeability Act of 2001.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mineral Leasing Act Revision of 2001".

SEC. 2. DEVELOPMENT OF NATURAL GAS AND OIL RESOURCES.

(a) IN GENERAL.—Section 27(d) of the Mineral Leasing Act (30 U.S.C. 184(d)) is amended—

(1) in the first sentence of paragraph (1), by inserting "producing acreage and" after "*Provided, however*, That"; and

(2) by adding at the end the following:

"(3) DEFINITION OF PRODUCING ACREAGE.—In this subsection, the term 'producing acreage' means any lease—

"(A) for which minimum royalty, royalty, royalty in kind, or compensatory royalty has been—

"(i) paid during the calendar year; or

"(ii) waived by the Secretary of the Interior; or

"(B) that has been committed to a federally approved cooperative plan, unit plan, or communitization agreement.".

(b) APPLICATION.—Section 27 of the Mineral Leasing Act (30 U.S.C. 184) shall apply separately to land leased under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

By Mr. DURBIN:

S. 1810. A bill to amend the Internal Revenue Code of 1986 to provide credits for individuals and businesses for the installations of certain wind energy property; to the Committee on Finance.

Mr. DURBIN. Madam President, today I am pleased to introduce the Home and Farm Wind Energy Systems Act of 2001. At a time when the United States clearly needs to reduce its dependence on fossil fuels, and particularly on imported oil, I offer legislation to spur the production of electricity from a clean, free and literally limitless source, wind. My bill offers a tax credit to help defray the cost of installing a small wind energy system to generate electricity for individual homes, farms and businesses. It is my hope that this credit will help make it economical for people to invest in small wind systems, thereby reducing pressures on the national power grid and increasing America's energy independence one family or business at a time.

Any serious attempt to create a national energy policy must include innovative proposals for exploring and developing the use of alternative and renewable energy sources. I look forward to debating a comprehensive energy policy for America in the next session of the 107th Congress, and I ask unanimous consent that a summary of the Home and Farm Wind Energy Systems Act of 2001 be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE HOME AND FARM WIND ENERGY SYSTEMS ACT

The bill would provide a 30 percent federal investment tax credit for homeowners, farmers and businesses when they install small wind energy systems with a capacity of up to 75 kilowatts (kW). The tax credit would be available for installation occurring over the next ten years.

Investments in renewable energy provide many benefits, including:

1. Enhancing the energy security and independence of the United States;
2. Increasing farmer and rancher income;
3. Promoting rural economic development;
4. Providing environmental and public health benefits such as cleaner air and water;
5. Improving electric grid reliability, thereby reducing the likelihood of blackouts;
6. Providing farm and residential customers with insulation from electricity price volatility resulting from electric deregulation.

Small wind systems are the most cost-competitive home sized renewable energy technology, but the high up-front cost has been a barrier. Phil Funk, for instance, a farmer in Dallas County, IA, invested $20,000 in a 20kW wind turbine system that saves him $3000 dollars per year on his electricity bill. Funk made use of an existing tower on his property to reduce his total costs significantly. The simple return-on-investment period for Funk, however, was still 7 years—too long to interest many farmers. A 30 percent tax credit would be a powerful incentive in its own right. It would also bring down production costs for small wind systems by increasing sales and production volume.

A typical rural residential wind system uses a 60 foot to 80 foot tower, has a 10 kW capacity and costs $30,000 to $35,000 to install. It produces up to 13,000 kWh of electricity per year, and offsets seven tons of carbon dioxide per year. This could yield savings of $1000 or more per year in energy costs, depending on prevailing commercial rates. In addition, in most states, system owners whose homes are connected to the power grid can sell excess electricity back to the local power company, improving efficiency and further reducing demands on local power grids.

While a few states offer incentives, the Federal Government has not offered tax credits for small wind systems since 1985.

A recent USA TODAY/CNN/Gallup poll showed that 91 percent of the public favors incentives for wind, solar, and fuel cells. But, while there are tax credits for very large commercial wind turbines, Production Tax Credit, there is currently no federal program to support small systems.

According to the American Wind Energy Association, Illinois ranks 16th in the contiguous states for wind energy potential. A new map produced by the National Renewable Energy Laboratory, NREL, for the U.S. Department of Energy indicates that over 2/3 of Illinois has a "class 3" or better wind resource, making rural areas and the higher elevations in those areas appropriate for small wind turbine siting.

Illinois has a strong wind energy heritage. Chicago and Batavia were the leading centers of wind energy manufacturing in the United States at the end of the last century, with millions of farm water pumping windmills and battery-charging wind turbines built in the area between 1870 and 1910. Batavia is still known as "The Windmill City".

In 1999, the Danish large-wind-turbine manufacturer NEG Micon chose Champaign for the site of its first American assembly and servicing facility, continuing the wind energy tradition in Illinois.

Only a handful of States provide incentives for small wind systems.

Illinois currently offers a buy-down or rebate on the purchase of wind energy systems of up to 50 percent or $2/watt. Eligible applicants include associations, individuals, private companies, public and private schools, colleges and universities, not-for-profit organizations and units of State and local government. Potential recipients must be located within the service area of an investor-owned or municipal gas or electric utility or an electric cooperative that imposes the Renewable Energy Resources and Coal Technology Development Assistance Charge. Grant payments under current operating procedures are, however taxable, which reduces their value significantly.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. LUGAR, Mr. DURBIN, and Mr. AKAKA):

S. 1811. A bill to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to streamline the financial disclosure process for executive branch employees; to the Committee on Governmental Affairs.

Mr. THOMPSON. Madam President, I am introducing today the Presidential Appointments Improvement Act of 2001 on behalf of myself and Senator LIEBERMAN, and Senators AKAKA, DURBIN, LUGAR, and VOINOVICH. This proposal reflects multiple recommendations made by the many commissions and organizations that have studied the Presidential appointments process. These include a number of national commissions, non-profit organizations like the Presidential Appointee Initiative and the Transition to Governing Project, and a 1993 study and recommendations by the American Bar Association.

Clearly, we have a problem. The Presidential appointments process is unnecessarily long, burdensome, and complex. And although President Bush has sent a notable number of nominees to Congress at this point in his first year, major gaps remain in critical positions throughout government. We are faced with responding to the events of September 11 with a 25-percent vacancy rate in positions considered important to Homeland Security.

The time it takes for a new President to put his team in place exacerbates the human capital problems that our government faces. There is a growing recognition that we need to manage our people better. But with the downsizing of the past decade and the impending wave of retirements, the time consuming nature of the appointments process will leave many federal departments and agencies hollow and headless.

While the appointments process is, collectively, a tangled mess, there is no question that it has parts that are important and should be preserved. Conflict of interest statutes are critical, because a fundamental principle of government is one should not have a direct financial interest in the decisions that one is making. Likewise, background investigations are critical to ensure that the Government's highest officials can be trusted with national security information. And, of course, the Congress has an obligation, enshrined in the Constitution, to provide its advice and consent for the President's nominees.

This committee first took action to improve the Presidential appointments process when we passed the Presidential Transition Act of 2000. In that legislation, we included a number of provisions to allow a new President to hit the ground running once he takes office. In addition, that bill asked the Office of Government Ethics to report within six months on its recommendations to streamline the forms we require of Executive Branch nominees. The administration submitted those recommendations and they are included in this legislation.

In addition to streamlining the financial disclosure form, our legislation directs the Executive Clerk of the White House to provide a list of appointed positions to each Presidential candidate, Republican and Democrat, after their respective nominating conventions. That way the President, whomever he or she may be, can have an early start at picking his most trusted advisors. We also ask each Executive Department to recommend an elimination of Senate-confirmed positions, which would greatly shorten the entire process.

As I've said, this legislation is not the only action we are taking to improve the Presidential appointments process. Senator LIEBERMAN and I earlier asked Senate Committees to work to simplify the forms they require of nominees, we have simplified the Governmental Affairs Committee form, and I have written White House Chief of Staff Andrew Card, asking him to examine the need for all Presidential nominees to undergo a full-field FBI background investigation. Clearly, there are some positions in the Federal Government that do not require the same background investigations as, say, the Secretary of Defense.

We will continue to look for ways to improve this process. The legislation we are introducing today makes reasonable but overdue changes to the Presidential appointments process. Whether in a time of crisis or not, there is no question that the country benefits when the President's team, from either party, takes office as quickly as possible.

I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL APPOINTMENTS IMPROVEMENT ACT OF 2001—SECTION-BY-SECTION ANALYSIS

Section 1 of the bill. Sets forth the short title of the bill.

Section 2 of the bill. Sets forth the purposes of the bill.

Sec. 3 of the bill. Sets forth the public financial disclosure requirements for judicial and legislative personnel by amending Title I of the Ethics in Government Act to excise all current references in title which were necessary to apply the title to the officers and employees of the executive branch. No change to current financial disclosure requirements for judicial and legislative personnel have been made.

Sec. 4 of the bill. Sets forth the public financial disclosure requirements for executive branch personnel by enacting a new title II of the Ethics in Government Act. The references below are to the sections of title II of the Ethics in Government Act and not to the sections of this Act.

Section 201. Persons required to file

Subsection (a) establishes the filing deadlines for new entrants to a filing position. This does not change current requirements.

Subsection (b), Paragraphs (1) and (2) establish the filing deadlines for Presidential nominees (and individuals whom the President has announced his intent to nominate) to positions requiring Senate confirmation (other than Foreign Service Officers or certain uniformed service officers) and including the requirement to update information regarding income and honoraria to within 5 days of the confirmation hearing. This does not change current requirements.

Subsection (c), paragraph (1) contains the current filing requirements for candidates for President or Vice President. This does not change current requirements.

Paragraph (2) requires that an individual who is sworn in as President or Vice President and who did not hold either of those two positions immediately before taking the oath of office shall file a report within 30 days of taking the oath. This is new. It is intended to make clear that a newly- elected President or Vice President or an individual who takes the oath of office of either of those two positions outside the normal election cycle shall file a report within 30 days of taking the oath. A newly-elected President and Vice President who are not incumbents have previously filed as candidates. This amendment would clarify the change from candidate to incumbent and give the public timely information regarding these two officials. An individual who is re-elected as President or Vice President would not be affected by this provision and would continue to file annually on May 15.

Subsection (d) contains the requirements for annual reports. This does not change current requirements.

Subsection (e) contains the requirements for termination reports. It has been changed only to make clear that an individual who moves from any covered position to an elected position in the executive branch need not file a termination report for the first position.

Subsection (f) contains the descriptions of the officers and employees of the executive branch who must file a public financial disclosure. This does not change current requirements, except that paragraph (6) has been amended to clarify which officers or employees of the Postal Service are required to file by referencing the levels of the Postal Career Executive Service rather than an amount of basic pay.

Subsection (g) contains the provisions for extensions for filing. This does not change current provisions.

Subsection (h) contains a time-limited exception for filing by persons who are not reasonably expected to serve in their positions for more than sixty days in a calendar year. This does not change current authority.

Subsection (i) provides OGE with waiver authority for the filing requirements primarily for certain special Government employees. This does not change current waiver authority.

Section 202. Contents of reports

Subsection (a), paragraph (1), subparagraph (A) requires the reporting of the source, description and category of amount of earned income including honoraria aggregating more than $500 in value. For purposes of honoraria received during Government service, the report must include the exact amount and the date it was received. This provision does not include the current requirements for reporting exact amounts of earned income; exact amounts of any income that are not dividends, rents, interest and capital gains; contributions made to charitable organizations in lieu of honoraria; and the corresponding confidential reporting requirement of the recipients of the payments in lieu of honoraria. It also changes the threshold from "$200 or more" to "more than $500" to conform the style of the threshold descriptions and raise the amount.

Subparagraph (B) requires the reporting of the source, description and category of amount of investment income which exceeds $500 during the reporting period. This change allows all investment income to be reported by category of amount rather than only dividends, rents, interest and capital gains, and it raises the reporting threshold from $200 to $500.

Subparagraph (C) sets forth the categories of amounts for reporting earned and investment income. This provision substitutes 5 categories for the current 11 categories used for certain types of investment income.

Paragraph (2), subparagraph (A) requires the reporting of gifts aggregating more than the minimal value established by the Foreign Gifts Act (currently $260). This does not change current requirements.

Subparagraph (B) requires the reporting of reimbursements received for travel when valued at more than the minimal value established by the Foreign Gifts Act. This changes current requirements in that it eliminates the requirement to report the "itinerary" of the trip but maintains the requirement to report the dates and the nature of the expenses provided.

Subparagraph (C) provides for a publicly available waiver for reporting gifts. This does not change current authority.

Paragraph (3) contains the requirements for reporting interests in property or in a trade or business, or for investment or the production of income property held for the production of income which has a fair market value in excess of $5,000 except that deposit accounts in a financial institution aggregating $100,000 or less and any federal Government securities aggregating $100,000 or less need not be reported. This changes the current requirements by raising the general threshold reporting requirement to $5,000, by raising the threshold reporting requirement for deposit accounts from $5,000 to $100,000 and by creating a new threshold for Government securities at over $100,000 where it currently is treated as other personal property with a $1,000 reporting threshold.

Paragraph (4) contains the requirements for reporting the identity and category of value of liabilities which exceed $20,000 at any time during the reporting period except that revolving charge accounts need only be reported if the outstanding liability exceeds $20,000 as of the close of the reporting period. This changes the current requirements by raising the threshold from $10,000 to $20,000.

Paragraph (5) contains the reporting requirements for real property and securities that were: purchased, sold or exchanged during the preceding calendar year; the value of the transaction exceeded $5,000; and the property or security is not already required to be reported as a source of income or as an asset. This replaces the current requirements to report the date and category of value of any purchase, sale or exchange of real property or a security which exceeds $1,000 and eliminates some redundant reporting required by current law.

Paragraph (6), subparagraph (A) requires the reporting of certain positions (e.g. officerships, directorships, . trusteeships, partnerships, etc.) held by the reporting official during the period that encompasses the preceding calendar year and the current calendar year in which the report is filed. This changes the current requirement only in that it shortens the look-back in the reporting period from two years plus the current to one year plus the current.

Subparagraph (B) requires a non-elected new entrant to report the sources of individual compensation for personal services rendered by the reporting individual valued in excess of $25,000 in the calendar year prior to or the calendar year in which the first report was filed. It specifically exempts from reporting those sources that have already been reported previously as a source of earned income over $500. It also contains a provision that allows the reporting individual not to report any information required by this provision if the information is confidential as a result of a privileged relationship or the person for whom the services were provided had a reasonable expectation of privacy. This changes the current requirements by raising the threshold from $5,000 to $25,000; by shortening the look-back in the reporting period from two years plus the current to one year plus the current year; by deleting, through exception, the current requirement to again report sources of earned income required to be reported elsewhere; and by adding an additional exception for reporting information where the person for whom the services were provided (client) had a reasonable expectation of privacy.

Paragraph (7) requires the reporting of a description of the parties to and the terms of any agreements or arrangements for future employment (including the date of any formal agreement for future employment), leaves of absence, continuation of payments by a former employer and continuing participation in an employee benefits plan maintained by a former employer. This changes the current requirements only in that it eliminates the requirement that dates of all such agreements must be included, requiring only the dates of formal agreements for future employment.

Paragraph (8) specifies that a category of value shall be used to report the total cash value of the reporting individual in a qualified blind trust. This does not change the requirement that the total cash value of a blind trust is to be reported by category of amount, but it does eliminate a reference to blind trusts executed prior to July 24, 1995 where the trust document prohibited the beneficiary from receiving this information. There are no such trusts that would be qualified in the executive branch.

Subsection (b), paragraph (1) provides for reporting periods for candidates, Presidential nominees and other new entrants. For income, positions held and client-type information the reporting period will be the year of filing and the preceding calendar year. For assets and liabilities, the reporting period is as of a date that is less than 31 days before the filing date. For agreements and arrangements, the reporting period is as of the filing date. This maintains the current reporting periods except that it reiterates that positions held and client-type information will only be required to be reported for the preceding calendar year plus the current calendar year.

Paragraph (2), subparagraphs (A) and (B) provides for authority to allow a filer to use a format other than the standard form developed by the Office of Government Ethics or to provide exact amounts instead of reporting by category of amount. This does not change current authority.

Subsection (c) provides for reporting periods for certain first annual report filers and for those terminating Government service. This does not change current requirements.

Paragraph (1) provides OGE with regulatory authority to expand a reporting period to cover days in which the filer actually served the Government in a filing position, but information for those days was not otherwise included on a public financial disclosure. This is a new requirement intended to allow OGE to define an additional reporting period, by regulation, to fill a reporting gap that can occur between a nominee or new entrant report and the first annual report the individual is required to file. Typically the gap appears for an individual who enters Government service in November or December as a new appointee or as a regular new entrant who filed a first report promptly before the end of the year and whose next annual does not cover any of the November/December time frame when they first entered government service.

Paragraph (2) requires that reports filed at the termination of Government service shall include that part of the calendar year of filing up to the date of the termination of employment. This does not change current requirements; it is simply a renumbering.

Subsection (d), paragraph (1) sets forth the five categories of value for reporting assets. This changes the current eleven categories to five and eliminates the requirement that liabilities and trusts be reported using the same categories as assets.

Paragraph (2) sets forth the alternative methods for valuing an asset. This does not change current alternatives.

Paragraph (3) sets forth the four categories of value for reporting liabilities and qualified blind trusts. This is a new provision that sets forth categories of value for reporting liabilities and qualified blind trusts that are different from the categories of value for reporting assets, and provides for only four categories instead of the current eleven.

Subsection (e), paragraph (1), subparagraph (A) requires that a report include the sources (but not the amounts) of earned income (including honoraria) earned by the spouse which exceed $500 except that when the spouse is self-employed, only the nature of the business need be reported. This changes the current requirement by lowering the threshold amount from $1,000 to match the $500 threshold for filers, and eliminates the requirement that amounts of honoraria earned by a spouse be reported.

Subparagraph (B) requires that the same information regarding investment income required of a filer will be required to be reported for the spouse or dependent child. This changes the current requirement by requiring the reporting of all reportable investment income rather than specifying only income from assets that are required to be reported.

Subparagraphs (C) and (D) set forth the reporting requirements for gifts and reimbursements received by a spouse or dependent child. These do not change current requirements.

Subparagraph (E) sets forth the test for the certification that would provide an exemption for reporting certain spousal and dependent child's information. There is no change to the longstanding OGE requirement regarding certification, although there is a grammatical correction.

Subparagraph (F) specifies that reports filed by nominees, candidates and new entrants need only contain information regarding sources of income, assets and liabilities of a spouse and dependent child. This does not change current requirements.

Paragraph (2) provides for the non-disclosure of information of a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or of information relating to income or obligations arising from the dissolution of a marriage or permanent separation. This does not change current authority.

Subsection (f), paragraph (1) sets forth the general requirement for reporting information regarding the holdings of and the income from a trust in which the filer, spouse or dependent child has a beneficial interest in principal or income, and references the exceptions. This does not change current requirements.

Paragraph (2) describes the three types of trusts for which the holdings and income would not be subject to the general reporting requirements set forth in subparagraph (1). This does not change current descriptions.

Paragraph (3) sets forth the requirements for a qualified blind trust. This does not change current requirements except that a reference to trusts qualified prior to January 1, 1991 has been eliminated as no longer necessary.

Paragraph (4) sets forth the requirements for a diversified blind trust. This does not change current requirements.

Paragraph (5) sets forth the requirements for the public documents that must be filed in relation to a trust. It does not change current requirements except that it eliminates a requirement that the filer file a public copy of a list of the trust assets with the Office of Government Ethics upon dissolution of the trust.

Paragraph (6) sets forth the restrictions applicable to the trustee and the reporting individual with regard to disclosing and soliciting certain information about a blind trust and the penalties for violating those restrictions. This does not change current restrictions or penalties.

Paragraph (7) sets forth the requirements for qualifying as blind a pre-existing trust. This does not change current requirements.

Paragraph (8) sets forth the exception for reporting the financial interests held by a widely held investment fund. This does not change the current exception.

Paragraph (9), subparagraph (A) sets forth the requirements that must be met by a new entrant or nominee in order to not disclose the assets of certain trust and investment funds where reporting would result in the disclosure of financial information of another not otherwise required to be report; disclosure of the information is prohibited by contract or the information is not otherwise publicly available; and the reporting individual has agreed to divest of the interest within 90 days of the date of the agreement.

This is a new provision included to address the reporting requirements for investment vehicles such as limited partnerships where the filer may not have specific information about the underlying holdings of the fund necessary to complete a financial disclosure form; where the investment manager does not ordinarily disclose his investments; or where other investors do not want the identity of their investments disclosed. In these cases, the filer's agreement to divest, and interim recusals when necessary, adequately address conflict of interest concerns.

Subparagraph (B) sets forth the requirements that must be met by annual and termination report filers in order not to disclose the assets of certain trust and investment funds acquired involuntarily during the reporting period and otherwise described by subparagraph (A). This is new and is complementary to subparagraph (A).

Subsection (g) provides that financial information regarding political campaign funds is not required to be reported in any report pursuant to the title. This does not change current law.

Subsection (h) provides that gifts and reimbursements received when the filer was not an officer or employee need not be included on any report filed pursuant to the title. This does not change current law.

Subsection (i) provides that assets, benefits and income from federal retirement systems or Social Security need not be reported.

This does not change current law.

Subsection (j) provides that Designated Agency Ethics Officers shall submit, on a monthly basis, a list of recently granted criminal conflict-of-interest waivers to the Office of Government Ethics. It further provides that the Office of Government Ethics publish notice of these waivers and of the waivers that has itself granted. This is a new requirement designed to expedite public notice of waivers.

Paragraph (k) provides that waivers be included with the filing for the year in which it was granted. This is a new requirement designed to expedite public availability of waivers.

Section 203. Filing of reports

Subsection (a) provides for the filing of most reports with the agency in which the individual will serve. This does not change current requirements.

Subsection (b) provides that the President and Vice President shall file reports with the Director of the Office of Government Ethics. This does not change current requirements for these individuals although it eliminates the reference to Independent Counsels and their staffs.

Subsection (c) provides that copies of certain forms that are filed with an agency shall also be transmitted to the Office of Government Ethics. This does not change current requirements.

Subsection (d) requires that the reports filed directly with the Office of Government Ethics shall be available immediately to the public. This does not change current requirements.

Subsection (e) requires that candidates for President and Vice President shall file with the Federal Election Commission. This does not change current requirements.

Subsection (f) requires that reports of members of the uniformed services shall be filed with the Secretary concerned. This does not change current requirements.

Subsection (g) provides that the Office of Government Ethics shall develop the forms for reporting for the executive branch. This does not change current requirements.

Section 204. Failure to file or filing false reports

Subsection (a) provides for civil actions and penalties for knowing and willful falsification and willful failure to file or report information. This does not change current law.

Subsection (b) directs OGE, agency heads and Department Secretaries to refer to the Attorney General the names of individuals for whom there is reasonable cause to believe have willfully falsified or willfully failed to file information required to be reported. This does not change current law.

Subsection (c) provides for authority to take appropriate administrative action for failure to file or falsifying or failing to report required information. This does not change current law.

Subsection (d), paragraph (1) provides a late filing fee of $500. This raises the current fee from $200 to $500.

Paragraph (2) provides OGE with the authority to waive a late filing fee for good cause shown. This changes the standard of the test for a waiver from "extraordinary circumstances." Experience has shown a good cause test to be more appropriate to meet the circumstances where OGE has felt that the fee should be waived, particularly when the failure to file on a timely basis has not been the fault of the filer.

Section 205. Custody of and public access to reports

Subsection (a) sets forth the authority that allows agencies to make the reports filed pursuant to the title public and the authority to except from public release certain reports filed by individuals engaged in intelligence activities. This does not change current requirements.

Subsection (b), Paragraph (1) sets forth the requirements for when the reports must become available to the public and the authority to recover reproduction costs. This does not change current requirements.

Paragraph (2) sets forth the requirement for a written request in order to obtain a copy of an individual's report. This does not change current requirements.

Subsection (c) sets forth the restrictions on obtaining or using a report for specified purposes and the penalties for such unlawful activities. This does not change current law.

Subsection (d) provides for the periods a report must be retained and available for public inspection and for its subsequent destruction. This does not change current law.

Section 206. Review of reports

Subsection (a) sets forth the time during which an agency should review a report filed with it. This does not change current requirements.

Subsection (b), paragraphs (1)–(6) set forth the procedures to be followed by a reviewing agency including OGE in seeking to certify a form including steps for assuring compliance with applicable laws. This does not change current procedures except that paragraph (b)(2)(A) clarifies that a reviewer may request additional information if he believes it is necessary for the form to be complete or for conflicts of interest analysis. Current law is more general about why a reviewer may request additional information.

Paragraph (7) gives OGE specific authority to render advisory opinions interpreting this title and provides a precedential standard for these opinions. This does not change current law.

Section. 207. Confidential reports and other additional requirements

Subsection (a) Paragraph (1) gives OGE the authority to establish an additional financial disclosure system for the executive branch. This does not change current authority.

Paragraph (2) provides that financial disclosure reports filed pursuant to this authority will be confidential. This does not change current authority.

Paragraph (3) makes clear that nothing in this authority exempts an individual from filing publicly information required to be reported elsewhere in the title. This does not change current authority.

Subsection (b) provides that this authority shall supersede any general requirement for filing financial information for the purposes of conflicts of interest with the exception of the information required by the Foreign Gifts and Decorations Act. This does not change current law.

Subsection (c) makes clear that reporting any information does not authorize the receipt of the reported income, gifts or reimbursements or holding assets, liabilities or positions, or the participation in transactions that are prohibited. This does not change current law.

Section 208. Authority of the Comptroller General

This section provides the CG with access to any financial disclosure report filed pursuant to this title for the purposes of carrying out his statutory responsibilities. This does not change current law with regard to the access to forms. It does, however, eliminate a current requirement that the CG conduct regular studies of the financial disclosure system. Such elimination is consistent with efforts to eliminate periodic Government reports, but does not in any way affect the CG's authority to conduct such a study on an as needed or requested basis:

Section 209. Definitions

The following terms are defined: (1) dependent child; (2) designated agency ethics official; (3) executive branch; (4) gift; (5) honoraria; (6) income; (7) personal hospitality of any individual; (8) reimbursement; (9) relative; (10) Secretary concerned; and (11) value. All terms retain their current definitions except "gift" no longer includes an exception for consumable products provided by home-State businesses because of its primary relevance for Members of Congress and includes an exception for gifts accepted or reported pursuant to the Foreign Gifts Act; "honoraria" no longer references a section of a law that has been ruled unconstitutional and/or unenforceable for the executive branch and instead is now defined as a thing of value for a speech, article or appearance; and "income" now specifically includes prizes and awards as a part of the items that are considered income. This changes current law as described above and eliminates individual terms that were only required to be defined if the legislative and/or judicial branch filing requirements were included.

Section 210. Notice of actions taken to comply with ethics agreements

Subsection (a) sets forth the notification requirements that must be followed by an individual who has agreed to take certain actions in order to avoid conflicts of interest. Notification must first be made no later than the date specified in the agreement or no later than 3 months after the date of the agreement. If all actions have not been taken by the time the first notification is required, the individual must thereafter, on a monthly basis, file such notifications until all agreements are met. Current law only requires one notification; this adds the continuing monthly requirement to report the status of steps taken to comply until all terms of the agreement have been met.

Subsection (b) describes the documentation required to be filed for an ethics agreement that includes a promise to recuse. This does not change current requirements.

Section 211. Administration of provisions

This provides OGE with clear authority to issue regulations, develop forms and provide such guidance as is necessary to implement and interpret this title. This clarifies current law for the executive branch.

Sec. 5. Provides that the Executive Clerk of the White House will transmit a list of Presidentially-appointed positions to each presidential candidate following the nominating conventions. This is a change to current law, under which such a list could only be provided to the President-elect after the November election. This section is intended to speed the process of identifying and vetting major Presidential appointees.

Sec. 6. Provides that the head of each agency will submit a plan, within 180 days of enactment of the Act, that details the number of Presidentially-appointed positions within the agency and outlines a plan to reduce the number of those positions. This is clearly a new requirement, one intended to begin the dialogue of reducing the large number of appointees and speeding up the process for positions that remain.

Sec. 7. Provides that the Attorney General will review the Federal criminal conflict of interest laws and suggest coordination and improvements that might be made. This section is designed to aid in the decriminalization of such laws, in the case when honest mistakes are made in the process of recording extensive financial transactions.

Sec. 8. Provides that the amendments made by Section 4 take effect on January 1 of the year following the date of enactment of the Act.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 1812. A bill to repeat the provision of the September 11th Victim Compensation Fund of 2001 that requires the reduction of a claimant's compensation by the amount of any collateral source compensation payments the claimant is entitled to receive, and for other purposes; to the Committee on the Judiciary.

Mr. CORZINE. Madam President, today along with Senator TORRICELLI I am introducing legislation to ensure that the families who suffered tremendous losses in the terrorist attacks on September 11th receive the compensation they deserve and need to move forward with their lives. The bill would eliminate provisions in current law that reduce the compensation to which they are entitled because of contributions received from other sources.

New Jersey has been tragically affected by the terrorist attacks of September 11. This past weekend, I met with over 400 family members who lost a loved one on the 11th. These people are dealing with unimaginable pain, and many are struggling as they try to provide for the security of their families.

To obtain assistance, families are being forced to navigate through extensive paperwork burdens. They have filled out countless forms and made countless calls seeking answers about the benefits to which they are entitled. Yet many fear that, notwithstanding their efforts, they will be unable to secure the assistance that they need so badly.

The American people want to help these victims, and Congress has acted in an effort to make that happen. Soon after September 11, as part of broader legislation to support the airline industry, Congress established a fund to compensate the victims of the attacks, the September 11 Victim Compensation Fund.

Under that legislation, victims and their families can choose to seek compensation from the Fund, in return for relinquishing their right to file suit against an airline. Those victims who opt-in are eligible for full economic and non-economic damages, but not punitive damages. The amount of compensation will be determined by a Special Master, Kenneth Feinberg.

The purpose of the Fund is to ensure that victims are fully compensated without having to go to court, a process that could take many years for families who urgently need assistance. I support this goal. Unfortunately, in our desire to both aid the industry by limiting their liability and to provide compensation to the victims and their families, we rushed the legislation to enactment without sufficient consideration of how the Fund would operate.

As a result, the law contains a glaring flaw. It includes a "collateral source" rule, which requires the Special Master to deduct the amount of life insurance and pension payments from the amount of compensation that would otherwise be available to victims and families under the Fund. This rule, in my view, is a serious mistake, and threatens to deny needed compensation for many of these victims.

It is wrong to treat victims of the disaster on September 11 any differently. Reducing their awards not only harms these families, it also runs counter to the goals of the original legislation. After all, if families cannot obtain the compensation they need through the Victims Compensation Fund, some of them will be forced to go straight to court. That will delay the compensation they need, and subject airlines to costs and liability that Congress sought to protect them against.

I would note, that in addition to repealing the collateral source rule, my legislation makes clear that charitable donations should not be considered collateral sources and should not count against compensation awarded under the Fund. This no only ensures that families get the compensation they need, but its ensures that those who have made charitable contributions are not treated unfairly. After all, those who have generously sent checks to charitable organizations did not think that their contributions would reduce Federal compensation. In effect, such a reduction would be a tax on people who have contributed their own funds in an effort to help. In addition, without such a clarification, charities may withhold funds for victims until after they recover from the fund, in order to avoid an offset.

Recovery under the Victims' Compensation Fund is not the only relief that these grieving families need. Although charities have provided some assistance to families over the past three months, that funding has only been a stopgap measure. These families need immediate tax relief. I am pleased that just before Thanksgiving the Senate passed a comprehensive victims' tax relief bill, but unfortunately the House has only passed a more narrow version of the legislation.

These families need immediate relief so that they can plan and provide for their families. They need: a waiver of federal income tax liability for this year and last year; payroll tax relief—this is particularly important to low-wage workers, who are less likely to benefit from the waiver of income tax liability, and are also less likely to have left their families with life insurance and pensions; reduced estate taxes; exclusion of survivor, disability and emergency relief benefits from taxation; and finally, we need to make it easier for charitable organizations to make disaster relief payments to help victims and their families with both short-term and long-term needs, such as scholarships for victims' children.

Many of these proposals are based on provisions in current law that provide tax relief to soldiers who die in combat and government employees who die in terrorist attacks outside the United States. Extending these provisions to the victims of the terrorist attacks is appropriate because the attacks of September 11 were attacks on our entire nation.

Last week some families came down here to meet with the New Jersey delegation and House and Senate leadership to plead for immediate assistance, so that they can pay their mortgages, keep children in school, and keep their heads above water. They made their case powerfully and effectively, and we in Congress must no let them down.

I urge my colleagues to stand up for these victims and support my legislation. I asks unanimous consent the text of the bill be printed in the Record.

There being no object, the bill was ordered to be printed in the Record, as follows:

S. 1812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "September 11th Victim Compensation Fund Fairness Act".

SEC. 2. REPEAL OF COLLATERAL COMPENSATION PROVISION.

(a) Repeal of Collateral Compensation Provision.—Section 405(b)(6) of the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note) is hereby repealed.

(b) Application of the September 11th Victim Compensation Fund of 2001.—The compensation program established under the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note) shall be administered as if section 405(b)(6) of that Act had not been enacted.

SEC. 3. AMENDMENT OF COLLATERAL SOURCE DEFINITION.

Paragraph (6) of section 402 of the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note) is amended by adding at the end the following: "The term 'collateral source' does not include payments or other assistance received from a nonprofit organization, if such organization is described in paragraph (3) or (4) of section 501(c) of the Internal Revenue Code of 1986 and is exempt from tax under section 501(a) of such Code.".

AMENDMENTS SUBMITTED AND PROPOSED

SA 2481. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

SA 2482. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2483. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1650, to amend the Public Health Service Act to change provisions regarding emergencies; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 2484. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1765, to improve the ability of the United States to prepare for and respond to a biological threat or attack; which was ordered to lie on the table.

SA 2485. Mr. TORRICELLI (for himself and Mr. Reid) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

SA 2486. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2487. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2488. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2489. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2490. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2491. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2492. Mrs. MURRAY (for herself, Ms. Cantwell, Mr. Inouye, Mr. Baucus, Mr. Wellstone, and Mr. Daschle) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2493. Mrs. MURRAY (for herself, Ms. Cantwell, Mr. Inouye, Mr. Baucus, Mr. Wellstone, and Mr. Daschle) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2494. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2495. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2496. Mr. SANTORUM (for himself, Mr. Durbin, and Mr. Feingold) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2497. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2498. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2499. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2500. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2501. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2502. Mr. DOMENICI (for himself, Mr. Craig, Mr. Burns, Mr. Crapo, Mrs. Hutchison, Mr. Enzi, Mr. Thomas, Mr. Kyl, Mr. Smith, of Oregon, Mr. Hatch, Mr. Allard, and Mr. Campbell) proposed an amendment to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra.

SA 2503. Mr. REID (for Mr. Kennedy (for himself, Mr. Warner, Mr. Frist, Mrs. Clinton, Mr. Wellstone, Ms. Collins, Mrs. Murray, and Mr. Domenici)) proposed an amendment to the bill S. 1729, to provide assistance with respect to the mental health needs of individuals affected by the terrorist attacks of September 11, 2001.

SA 2504. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table.

SA 2505. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2506. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2507. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2508. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2509. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2510. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 1731, supra; which was ordered to lie on the table.

SA 2511. Mr. DASCHLE (for himself and Mr. LUGAR) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2512. Mr. CRAIG (for himself and Mr. GREGG) proposed an amendment to amendment SA 2511 submitted by Mr. DASCHLE and intended to be proposed to the amendment SA 2471 proposed by Mr. DASCHLE to the bill (S. 1731) supra.

SA 2513. Mr. BOND (for himself, Mr. GRASSLEY, Mr. ENZI, Mr. HAGEL, and Mr. MILLER) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra.

SA 2514. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) supra; which was ordered to lie on the table.

SA 2515. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 1499, An act to amend the District of Columbia College Access Act of 1999 to permit individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school and individuals who attend private historically black colleges and universities nationwide to participate in the tuition assistance programs under such Act, and for other purposes.

TEXT OF AMENDMENTS

SA 2481. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homestead Preservation Act".

SEC. 2. MORTGAGE PAYMENT ASSISTANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Labor (referred to in this section as the "Secretary") shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) ELIGIBILITY.—To be eligible to receive a loan under the program established under subsection (a), an individual shall—

(1) be—

(A) an adversely affected worker who is receiving benefits under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); or

(B) an individual who would be an individual described in subparagraph (A) but who resides in a State that has not entered into an agreement under section 239 of such Act (19 U.S.C. 2311);

(2) be a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) be enrolled in a job training or job assistance program.

(c) LOAN REQUIREMENTS.—

(1) IN GENERAL.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) ACCOUNT.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) REPAYMENT.—

(1) IN GENERAL.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2003 through 2007.

SA 2482. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homestead Preservation Act".

SEC. 2. MORTGAGE PAYMENT ASSISTANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Labor (referred to in this section as the "Secretary") shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) ELIGIBILITY.—To be eligible to receive a loan under the program established under subsection (a), an individual shall—

(1) be—

(A) an adversely affected worker who is receiving benefits under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); or

(B) an individual who would be an individual described in subparagraph (A) but who resides in a State that has not entered into an agreement under section 239 of such Act (19 U.S.C. 2311);

(2) be a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) be enrolled in a job training or job assistance program.

(c) LOAN REQUIREMENTS.—

(1) IN GENERAL.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) ACCOUNT.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) REPAYMENT.—

(1) IN GENERAL.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2003 through 2007.

SA 2483. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1650, to amend the Public Health Service Act to change provisions regarding emergencies; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

At the end of the bill, add the following:

SEC. . PUBLIC HEALTH EMERGENCIES.

(a) SHORT TITLE.—This section may be cited as the "Public Health Emergencies Accountability Act".

(b) AMENDMENT.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by striking section 319 and inserting the following:

"SEC. 319. PUBLIC HEALTH EMERGENCIES.

"(a) EMERGENCIES.—If the Secretary determines, after consultation with the Director of the Centers for Disease Control and Prevention and other public health officials as may be necessary, that—

"(1) a disease or disorder presents a public health emergency; or

"(2) a detected or suspected public health emergency, including significant outbreaks of infectious diseases or terrorist attacks involving biological, chemical, or radiological weapons, otherwise exists,

the Secretary may take such action as may be appropriate to respond to the public health emergency, including making grants and entering into contracts and, acting through the Centers for Disease Control and Prevention, conducting and supporting investigations into cause, treatment, or prevention of a disease or disorder as described in paragraphs (1) and (2), directing the response of other Federal departments and agencies with respect to the safety of the general public and Federal employees and facilities, and disseminating necessary information to assist States, localities, and the general public in responding to a disease or disorder as described in paragraphs (1) and (2).

"(b) DETERMINATION.—A determination of an emergency by the Secretary under subsection (a) shall supersede all other provisions of law with respect to actions and responsibilities of the Federal Government, but in all such cases the Secretary shall keep the relevant Federal departments and agencies, including but not limited to the Department of Justice, the Federal Bureau of Investigation, the Office of Homeland Security, and the committees of Congress listed in subsection (f), fully and currently informed.

"(c) FULL DISCLOSURE.—In cases involving, or potentially involving, a public health emergency, but where no determination of an emergency by the Secretary, under the provisions of subsection (a), has been made, all relevant Federal departments and agencies, including but not limited to the Department of Justice, the Federal Bureau of Investigation, the Office of Homeland Security, shall keep the Secretary and the Centers for Disease Control and Prevention and the committees of Congress listed in subsection (f), fully and currently informed.

"(d) PUBLIC HEALTH EMERGENCY FUND.—

"(1) IN GENERAL.—There is established in the Treasury a fund to be designated as the "Public Health Emergency Fund" to be made available to the Secretary without fiscal year limitation to carry out subsection (a) only if a public health emergency has been declared by the Secretary under such subsection. There is authorized to be appropriated to the Fund such sums as may be necessary.

"(2) REPORT.—Not later than 90 days after the end of each fiscal year, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Commerce and the Committee on Appropriations of the House of Representatives a report describing—

"(A) the expenditures made from the Public Health Emergency Fund in such fiscal year; and

"(B) each public health emergency for which the expenditures were made and the activities undertaken with respect to each emergency which was conducted or supported by expenditures from the Fund.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this section shall be used to supplement and not supplant other Federal, State, and local public funds provided for activities under this section.

"(f) EMERGENCY DECLARATION PERIOD.—A determination by the Secretary under subsection (a) that a public health emergency exists shall remain in effect for a time period specified by the Secretary but not longer than the 180-day period beginning on the date of the determination. Such period may be extended by the Secretary if the Secretary determines that such an extension is appropriate and notifies the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Appropriations of the Senate and the Committee on Commerce of the House of Representatives and the Committee on Appropriations of the House of Representatives.".

SA 2484. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1765, to improve the ability of the United States to prepare for and respond to a biological threat or attack; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . DEVELOPMENT OF CAMPUSES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

Section 319D of the Public Health Service Act (42 U.S.C. 274d-4), as amended by section 202, is further amended by adding at the end the following:

"(d) DEVELOPMENT OF CAMPUSES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.—

"(1) IN GENERAL.—Notwithstanding the provisions of the Public Buildings Act of 1959 (40 U.S.C. 601 et seq), or any other provision of law inconsistent with this subsection other than Federal environmental and historic preservation laws, the Secretary, in order to relocate the Centers for Disease Control and Prevention's public health research, policy making, and administrative operations that are housed on the date of enactment of this title in various leased properties, may enter into leases with any public or private person or entity to develop or facilitate the development of real property that is under the jurisdiction or control of the Secretary at the Edward R. Roybal and Chamblee Campuses of the Centers for Disease Control and Prevention in Atlanta, Georgia. Any such lease shall be referred to as a 'cooperative development lease'.

"(2) PRE-LEASE REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may not enter into a cooperative development lease under this subsection until—

"(i) the Secretary submits to the appropriate committees of Congress a business plan for the development of the Edward R. Roybal and Chamblee Campuses;

"(ii) the expiration of the 30-day period beginning on the date on which the business plan is received by such committees; and

"(iii) the Secretary has conduct 2 public meetings, 1 of which shall be held at or near the Edward R. Roybal Campus, and the other of which shall be held at or near the Chamblee Campus, for purposes of informing the local community of the pending cooperative development lease proposal.

"(B) CONTENTS OF BUSINESS PLANS.—A business plan submitted under subparagraph (A) shall include the following information:

"(i) The Proposed location of the building as shown on a campus site plan.

"(ii) The gross and net usable square feet of the building and adjacent parking areas and structures.

"(iii) The proposed organizational units and personnel of the Centers for Disease Control and Prevention to be housed in the building.

"(iv) The estimated design, construction, and financing costs and terms of the building.

"(v) A projected milestone schedule for the design, construction, and occupancy of the building.

"(C) NOTICE.—The Secretary shall provide reasonable notice of the public meetings under subparagraph (A)(iii) in a newspaper of local circulation, and by other means as necessary, at least 15 days in advance of the meetings.

"(D) DEFINITION.—In subparagraph (A), the term 'appropriate committees of Congress' means the authorizing and appropriations committees for the Department of Health and Human Services.

"(3) PROPERTY NOT UNUTILIZED OR UNDERUTILIZED.—Property that is leased to another party under a cooperative development lease may not be considered to be unutilized or underutilized for purposes of Section 501 of the Stewart B. McKinney Homeless Assistance Act.

"(4) SELECTION PROCESS.—In awarding a cooperative development lease, the Secretary shall use selection procedures determined appropriate by the Secretary that ensure the integrity of the selection process.

"(5) TERM OF LEASE.—The term of a cooperative development lease may not exceed 50 years.

"(6) CONSIDERATION.—Any cooperative development lease shall be for fair consideration, as determined appropriate by the Secretary. Consideration under such a lease may be provided in whole or in part through consideration-in-kind. Such consideration-in-kind may include the provision of goods or services that are of benefit to the Centers for Disease Control and Prevention, including construction, repair and improvements, and maintenance of property and improvements of the Centers, or the provision of office, storage, or other usable space.

"(7) SPECIFICATIONS FOR LEASE.—The specifications of a cooperative development lease may provide that the Secretary will—

"(A) obtain facilities, space, or services on the leased property under such terms as the Secretary considers appropriate to protect the interests of the United States and to promote the purposes of this section;

"(B) use appropriated funds for any payments, including rental of space, and for capital contribution payments applicable to the operation, maintenance, and security of real property, personal property, or facilities on the leased property; and

"(C) provide any service determined by the Secretary to be a service that supports the operation, maintenance, and security of real property, personal property, or facilities on the leased property.

"(8) CONSTRUCTION STANDARDS.—

"(A) IN GENERAL.—Unless other provided for by the Secretary, the construction, alteration, repair, remodeling, or improvement of the property that is the subject of a cooperative development lease shall be carried out so as to comply with all standards applicable to Federal buildings. Any such construction, alteration, repair, remodeling, or improvement shall not be subject to any State or local law relating to building codes, permits, or inspections unless otherwise applicable to Federal buildings or unless the Secretary provides otherwise.

"(B) INSPECTIONS.—If Federal construction standards are applicable to a property under this subsection, the Secretary shall conduct periodic inspections of any such construction, alteration, repair, remodeling, or improvement for the purpose of ensuring that such standards are complied with.

"(9) APPLICABILITY OF STATE OR LOCAL LAWS.—The interest of the United States in any property subject to a cooperative development lease, and any use by the United States of such property during such lease, shall not be subject, directly or indirectly, to any State or local law relative to taxation, fees, assessments, or special assessments, except sales tax charged in connection with any construction, alteration, repair, remodeling, or improvement project carried out under the lease.

"(10) TREATMENT AS OPERATING LEASE.—A cooperative development lease shall be considered an operating lease in accordance with the Budget Enforcement Act of 1990, if the term of legal obligation of the Centers for Disease Control and Prevention under the lease does not exceed 75 percent of the estimated economic life of the asset or assets that are subject to the lease, and the present value of the Centers' legal obligation during any lease term does not exceed 90 percent of the market value of such asset or assets at the beginning of the lease.

"(11) EXPIRATION.—The authority of the Secretary to enter into cooperative development leases under this subsection shall expire on September 30, 2009.".

SA 2485. Mr. TORRICELLI (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of subtitle C of title X and insert a period and the following:

SEC. 10 . PEST MANAGEMENT IN SCHOOLS.

(a) SHORT TITLE.—This section may be cited as the "School Environment Protection Act of 2001".

(b) PEST MANAGEMENT.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating sections 33 and 34 (7 U.S.C. 136x, 136y) as sections 34 and 35, respectively; and

(2) by inserting after section 32 (7 U.S.C. 136w-7) the following:

"SEC. 33. PEST MANAGEMENT IN SCHOOLS.

"(a) DEFINITIONS.—In this section:

"(1) BAIT.—The term 'bait' means a pesticide that contains an ingredient that serves as a feeding stimulant, odor, pheromone, or other attractant for a target pest.

"(2) CONTACT PERSON.—The term 'contact person' means an individual who is—

"(A) knowledgeable about school pest management plans; and

"(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

"(3) EMERGENCY.—The term 'emergency' means an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"(4) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 3 of the Elementary and Secondary Education Act of 1965.

"(5) SCHOOL.—

"(A) IN GENERAL.—The term 'school' means a public—

"(i) elementary school (as defined in section 3 of the Elementary and Secondary Education Act of 1965);

"(ii) secondary school (as defined in section 3 of that Act);

"(iii) kindergarten or nursery school that is part of an elementary school or secondary school; or

"(iv) tribally-funded school.

"(B) INCLUSIONS.—The term 'school' includes any school building, and any area outside of a school building (including a lawn, playground, sports field, and any other property or facility), that is controlled, managed, or owned by the school or school district.

"(6) SCHOOL PEST MANAGEMENT PLAN.—The term 'school pest management plan' means a pest management plan developed under subsection (b).

"(7) STAFF MEMBER.—

"(A) IN GENERAL.—The term 'staff member' means a person employed at a school or local educational agency.

"(B) EXCLUSIONS.—The term 'staff member' does not include—

"(i) a person hired by a school, local educational agency, or State to apply a pesticide; or

"(ii) a person assisting in the application of a pesticide.

"(8) STATE AGENCY.—The term 'State agency' means the an agency of a State, or an agency of an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), that exercises primary jurisdiction over matters relating to pesticide regulation.

"(9) UNIVERSAL NOTIFICATION.—The term 'universal notification' means notice provided by a local educational agency or school to—

"(A) parents, legal guardians, or other persons with legal standing as parents of each child attending the school; and

"(B) staff members of the school.

"(b) SCHOOL PEST MANAGEMENT PLANS.—

"(1) STATE PLANS.—

"(A) GUIDANCE.—As soon as practicable (but not later than 180 days) after the date of enactment of the School Environment Protection Act of 2001, the Administrator shall develop, in accordance with this section—

"(i) guidance for a school pest management plan; and

"(ii) a sample school pest management plan.

"(B) PLAN.—As soon as practicable (but not later than 1 year) after the date of enactment of the School Environment Protection Act of 2001, each State agency shall develop and submit to the Administrator for approval, as part of the State cooperative agreement under section 23, a school pest management plan for local educational agencies in the State.

"(C) COMPONENTS.—A school pest management plan developed under subparagraph (B) shall, at a minimum—

"(i) implement a system that—

"(I) eliminates or mitigates health risks, or economic or aesthetic damage, caused by pests;

"(II) employs—

"(aa) integrated methods;

"(bb) site or pest inspection;

"(cc) pest population monitoring; and

"(dd) an evaluation of the need for pest management; and

"(III) is developed taking into consideration pest management alternatives (including sanitation, structural repair, and mechanical, biological, cultural, and pesticide strategies) that minimize health and environmental risks;

"(ii) require, for pesticide applications at the school, universal notification to be provided—

"(I) at the beginning of the school year;

"(II) at the midpoint of the school year; and

"(III) at the beginning of any summer session, as determined by the school;

"(iii) establish a registry of staff members of a school, and of parents, legal guardians, or other persons with legal standing as parents of each child attending the school, that have requested to be notified in advance of any pesticide application at the school;

"(iv) establish guidelines that are consistent with the definition of a school pest management plan under subsection (a);

"(v) require that each local educational agency use a certified applicator or a person authorized by the State agency to implement the school pest management plans;

"(vi) be consistent with the State cooperative agreement under section 23; and

"(vii) require the posting of signs in accordance with paragraph (4)(G).

"(D) APPROVAL BY ADMINISTRATOR.—Not later than 90 days after receiving a school pest management plan submitted by a State agency under subparagraph (B), the Administrator shall—

"(i) determine whether the school pest management plan, at a minimum, meets the requirements of subparagraph (C); and

"(ii)(I) if the Administrator determines that the school pest management plan meets the requirements, approve the school pest management plan as part of the State cooperative agreement; or

“(II) if the Administrator determines that the school pest management plan does not meet the requirements—

“(aa) disapprove the school pest management plan;

“(bb) provide the State agency with recommendations for and assistance in revising the school pest management plan to meet the requirements; and

“(cc) provide a 90-day deadline by which the State agency shall resubmit the revised school pest management plan to obtain approval of the plan, in accordance with the State cooperative agreement.

“(E) DISTRIBUTION OF STATE PLAN TO SCHOOLS.—On approval of the school pest management plan of a State agency, the State agency shall make the school pest management plan available to each local educational agency in the State.

“(F) EXCEPTION FOR EXISTING STATE PLANS.—If, on the date of enactment of the School Environment Protection Act of 2001, a State has implemented a school pest management plan that, at a minimum, meets the requirements under subparagraph (C) (as determined by the Administrator), the State agency may maintain the school pest management plan and shall not be required to develop a new school pest management plan under subparagraph (B).

“(2) IMPLEMENTATION BY LOCAL EDUCATIONAL AGENCIES.—

“(A) IN GENERAL.—Not later than 1 year after the date on which a local educational agency receives a copy of a school pest management plan of a State agency under paragraph (1)(E), the local educational agency shall develop and implement in each of the schools under the jurisdiction of the local educational agency a school pest management plan that meets the standards and requirements under the school pest management plan of the State agency, as determined by the Administrator.

“(B) EXCEPTION FOR EXISTING PLANS.—If, on the date of enactment of the School Environment Protection Act of 2001, a State maintains a school pest management plan that, at a minimum, meets the standards and criteria established under this section (as determined by the Administrator), and a local educational agency in the State has implemented the State school pest management plan, the local educational agency may maintain the school pest management plan and shall not be required to develop and implement a new school pest management plan under subparagraph (A).

“(C) APPLICATION OF PESTICIDES AT SCHOOLS.—A school pest management plan shall prohibit—

“(i) the application of a pesticide (other than a pesticide, including a bait, gel or paste, described in paragraph (4)(C)) to any area or room at a school while the area or room is occupied or in use by students or staff members (except students or staff members participating in regular or vocational agricultural instruction involving the use of pesticides); and

“(ii) the use by students or staff members of an area or room treated with a pesticide by broadcast spraying, baseboard spraying, tenting, or fogging during—

“(I) the period specified on the label of the pesticide during which a treated area or room should remain unoccupied; or

“(II) if there is no period specified on the label, the 24-hour period beginning at the end of the treatment.

“(3) CONTACT PERSON.—

“(A) IN GENERAL.—Each local educational agency shall designate a contact person to carry out a school pest management plan in schools under the jurisdiction of the local educational agency.

“(B) DUTIES.—The contact person of a local educational agency shall—

“(i) maintain information about the scheduling of pesticide applications in each school under the jurisdiction of the local educational agency;

“(ii) act as a contact for inquiries, and disseminate information requested by parents or guardians, about the school pest management plan;

“(iii) maintain and make available to parents, legal guardians, or other persons with legal standing as parents of each child attending the school, before and during the notice period and after application—

“(I) copies of material safety data sheet for pesticides applied at the school, or copies of material safety data sheets for end-use dilutions of pesticides applied at the school, if data sheets are available;

“(II) labels and fact sheets approved by the Administrator for all pesticides that may be used by the local educational agency; and

“(III) any final official information related to the pesticide, as provided to the local educational agency by the State agency; and

“(iv) for each school, maintain all pesticide use data for each pesticide used at the school (other than antimicrobial pesticides (as defined in clauses (i) and (ii) of section 2(mm)(1)(A))) for at least 3 years after the date on which the pesticide is applied; and

“(v) make that data available for inspection on request by any person.

“(4) NOTIFICATION.—

“(A) UNIVERSAL NOTIFICATION.—At the beginning of each school year, at the midpoint of each school year, and at the beginning of any summer session (as determined by the school), a local educational agency or school shall provide to staff members of a school, and to parents, legal guardians, and other persons with legal standing as parents of students enrolled at the school, a notice describing the school pest management plan that includes—

“(i) a summary of the requirements and procedures under the school pest management plan;

“(ii) a description of any potential pest problems that the school may experience (including a description of the procedures that may be used to address those problems);

“(iii) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

“(iv) the following statement (including information to be supplied by the school as indicated in brackets):

‘As part of a school pest management plan, (insert school name) may use pesticides to control pests. The Environmental Protection Agency (EPA) and (insert name of State agency exercising jurisdiction over pesticide registration and use) registers pesticides for that use. EPA continues to examine registered pesticides to determine that use of the pesticides in accordance with instructions printed on the label does not pose unreasonable risks to human health and the environment. Nevertheless, EPA cannot guarantee that registered pesticides do not pose risks, and unnecessary exposure to pesticides should be avoided. Based in part on recommendations of a 1993 study by the National Academy of Sciences that reviewed registered pesticides and their potential to cause unreasonable adverse effects on human health, particularly on the health of pregnant women, infants, and children, Congress enacted the Food Quality Protection Act of 1996. That law requires EPA to reevaluate all registered pesticides and new pesticides to measure their safety, taking into account the unique exposures and sensitivity that pregnant women, infants, and children may have to pesticides. EPA review under that law is ongoing. You may request to be notified at least 24 hours in advance of pesticide applications to be made and receive information about the applications by registering with the school. Certain pesticides used by the school (including baits, pastes, and gels) are exempt from notification requirements. If you would like more information concerning any pesticide application or any product used at the school, contact (insert name and phone number of contact person).’.

“(B) NOTIFICATION TO PERSONS ON REGISTRY.—

“(i) IN GENERAL.—Except as provided in clause (ii) and paragraph (5)—

“(I) notice of an upcoming pesticide application at a school shall be provided to each person on the registry of the school not later than 24 hours before the end of the last business day during which the school is in session that precedes the day on which the application is to be made; and

“(II) the application of a pesticide for which a notice is given under subclause (I) shall not commence before the end of the business day.

“(ii) NOTIFICATION CONCERNING PESTICIDES USED IN CURRICULA.—If pesticides are used as part of a regular vocational agricultural curriculum of the school, a notice containing the information described in subclauses (I), (IV), (VI), and (VII) of clause (iii) for all pesticides that may be used as a part of that curriculum shall be provided to persons on the registry only once at the beginning of each academic term of the school.

“(iii) CONTENTS OF NOTICE.—A notice under clause (i) shall contain—

“(I) the trade name, common name (if applicable), and Environmental Protection Agency registration number of each pesticide to be applied;

“(II) a description of each location at the school at which a pesticide is to be applied;

“(III) a description of the date and time of application, except that, in the case of an outdoor pesticide application, a notice shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled;

“(IV) information that the State agency shall provide to the local educational agency, including a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied based on—

“(aa) a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied, as stated on the label of the pesticide approved by the Administrator;

“(bb) information derived from the material safety data sheet for the end-use dilution of the pesticide to be applied (if available) or the material safety data sheets; and

“(cc) final, official information related to the pesticide prepared by the Administrator and provided to the local educational agency by the State agency;

“(V) a description of the purpose of the application of the pesticide;

“(VI) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

"(VII) the statement described in subparagraph (A)(iv) (other than the ninth sentence of that statement).

"(C) NOTIFICATION AND POSTING EXEMPTION.—A notice or posting of a sign under subparagraph (A), (B), or (G) shall not be required for the application at a school of—

"(i) an antimicrobial pesticide;

"(ii) a bait, gel, or paste that is placed—

"(I) out of reach of children or in an area that is not accessible to children; or

"(II) in a tamper-resistant or child-resistant container or station; and

"(iii) any pesticide that, as of the date of enactment of the School Environment Protection Act of 2001, is exempt from the requirements of this Act under section 25(b) (including regulations promulgated at section 152 of title 40, Code of Federal Regulations (or any successor regulation)).

"(D) NEW STAFF MEMBERS AND STUDENTS.—After the beginning of each school year, a local educational agency or school within a local educational agency shall provide each notice required under subparagraph (A) to—

"(i) each new staff member who is employed during the school year; and

"(ii) the parent or guardian of each new student enrolled during the school year.

"(E) METHOD OF NOTIFICATION.—A local educational agency or school may provide a notice under this subsection, using information described in paragraph (4), in the form of—

"(i) a written notice sent home with the students and provided to staff members;

"(ii) a telephone call;

"(iii) direct contact;

"(iv) a written notice mailed at least 1 week before the application; or

"(v) a notice delivered electronically (such as through electronic mail or facsimile).

"(F) REISSUANCE.—If the date of the application of the pesticide needs to be extended beyond the period required for notice under this paragraph, the school shall issue a notice containing only the new date and location of application.

"(G) POSTING OF SIGNS.—

"(i) IN GENERAL.—Except as provided in paragraph (5)—

"(I) a school shall post a sign not later than the last business day during which school is in session preceding the date of application of a pesticide at the school; and

"(II) the application for which a sign is posted under subclause (I) shall not commence before the time that is 24 hours after the end of the business day on which the sign is posted.

"(ii) LOCATION.—A sign shall be posted under clause (i)—

"(I) at a central location noticeable to individuals entering the building; and

"(II) at the proposed site of application.

"(iii) ADMINISTRATION.—A sign required to be posted under clause (i) shall—

"(I) remain posted for at least 24 hours after the end of the application;

"(II) be—

"(aa) at least 8½ inches by 11 inches for signs posted inside the school; and

"(bb) at least 4 inches by 5 inches for signs posted outside the school; and

"(III) contain—

"(aa) information about the pest problem for which the application is necessary;

"(bb) the name of each pesticide to be used;

"(cc) the date of application;

"(dd) the name and telephone number of the designated contact person; and

"(ee) the statement contained in subparagraph (A)(iv).

"(iv) OUTDOOR PESTICIDE APPLICATIONS.—

"(I) IN GENERAL.—In the case of an outdoor pesticide application at a school, each sign shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled.

"(II) DURATION OF POSTING.—A sign described in subclause (I) shall be posted after an outdoor pesticide application in accordance with clauses (ii) and (iii).

"(5) EMERGENCIES.—

"(A) IN GENERAL.—A school may apply a pesticide at the school without complying with this part in an emergency, subject to subparagraph (B).

"(B) SUBSEQUENT NOTIFICATION OF PARENTS, GUARDIANS, AND STAFF MEMBERS.—Not later than the earlier of the time that is 24 hours after a school applies a pesticide under this paragraph or on the morning of the next business day, the school shall provide to each parent or guardian of a student listed on the registry, a staff member listed on the registry, and the designated contact person, notice of the application of the pesticide in an emergency that includes—

"(i) the information required for a notice under paragraph (4)(G); and

"(ii) a description of the problem and the factors that required the application of the pesticide to avoid a threat to the health or safety of a student or staff member.

"(C) METHOD OF NOTIFICATION.—The school may provide the notice required by paragraph (B) by any method of notification described in paragraph (4)(E).

"(D) POSTING OF SIGNS.—Immediately after the application of a pesticide under this paragraph, a school shall post a sign warning of the pesticide application in accordance with clauses (ii) through (iv) of paragraph (4)(B).

"(c) RELATIONSHIP TO STATE AND LOCAL REQUIREMENTS.—Nothing in this section (including regulations promulgated under this section)—

"(1) precludes a State or political subdivision of a State from imposing on local educational agencies and schools any requirement under State or local law (including regulations) that is more stringent than the requirements imposed under this section; or

"(2) establishes any exception under, or affects in any other way, section 24(b).

"(d) EXCLUSION OF CERTAIN PEST MANAGEMENT ACTIVITIES.—Nothing in this section (including regulations promulgated under this section) applies to a pest management activity that is conducted—

"(1) on or adjacent to a school; and

"(2) by, or at the direction of, a State or local agency other than a local educational agency.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended by striking the items relating to sections 30 through 32 and inserting the following:

"Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.
"Sec. 31. Environmental Protection Agency minor use program.
"Sec. 32. Department of Agriculture minor use program.
  "(a) In general.
  "(b)(1) Minor use pesticide data.
  "(2) Minor Use Pesticide Data Revolving Fund.
"Sec. 33. Pest management in schools.
  "(a) Definitions.
    "(1) Bait.
    "(2) Contact person.
    "(3) Emergency.
    "(4) Local educational agency.
    "(5) School.
    "(6) Staff member.
    "(7) State agency.
    "(8) Universal notification.
  "(b) School pest management plans.
    "(1) State plans.
    "(2) Implementation by local educational agencies.
    "(3) Contact person.
    "(4) Notification.
    "(5) Emergencies.
  "(c) Relationship to State and local requirements.
  "(d) Exclusion of certain pest management activities.
  "(e) Authorization of appropriations.
"Sec. 34. Severability.
"Sec. 35. Authorization of appropriations.".

(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect on October 1, 2001.

SA 2486. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

In section 605, in the matter proposed to be added to section 601 of the Rural Electrification Act of 1936, insert after subsection (i) the following new subsection (j):

"(j) GRANTS FOR PLANNING AND FEASIBILITY STUDIES ON BROADBAND DEPLOYMENT.—

"(1) IN GENERAL.—In addition to any other grants, loans, or loan guarantees made under this section, the Secretary shall make grants to eligible entities specified in paragraph (2) for planning and feasibility studies by such entities on the deployment of broadband services in the areas served by such entities.

"(2) ELIGIBLE ENTITIES.—The entities eligible for grants under this subsection are State governments, consortia of local governments, tribal governments, telecommunications cooperatives, and appropriate State and regional non-profit entities (as determined by the Secretary).

"(3) ELIGIBILITY CRITERIA.—The Secretary shall establish criteria for eligibility for grants under this subsection, including criteria for the scope of the planning and feasibility studies to be carried out with grants under this subsection.

"(4) APPLICATION.—An entity seeking a grant under this subsection shall submit to the Secretary an application for such grant. The application shall be in such form, and contain such information, as the Secretary shall require.

"(5) USE OF GRANT AMOUNTS.—An entity receiving a grant under this section shall use the grant amount for planning and feasibility studies on the deployment of broadband services in the area of an Indian tribe, State, region of a State, or region of States.

"(6) LIMITATION ON GRANT AMOUNTS.—

"(A) STATEWIDE GRANTS.—The amount of the grants made under this subsection in or with respect to any State in any fiscal year may not exceed $250,000.

"(B) REGIONAL OR TRIBAL GRANTS.—The amount of the grants made under this subsection in or with respect to any region or tribal government in any fiscal year may not exceed $100,000.

"(7) FUNDING.—

"(A) IN GENERAL.—Of the amount available for grants, loans, and loan guarantees under this section in any fiscal year, up to $5,000,000 shall be available for grants under this subsection in such fiscal year.

"(B) DATE OF RELEASE.—The amount available under subparagraph (A) in a fiscal year for grants under this subsection may not be granted under this subsection until after March 31 of the fiscal year.

"(8) SUPPLEMENT NOT SUPPLANT.—Eligibility for a grant under this subsection shall not affect eligibility for a grant, loan, or loan guarantee under another subsection of this section. The Secretary shall not take into account the award of a grant under this subsection, or the award of a grant, loan, or loan guarantee under another subsection of this section, in awarding a grant, loan, or loan guarantee under this subsection or another subsection of this section, as the case may be.

SA 2487. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of chapter 1 of subtitle C of title I and insert a period and the following:

SEC. 1 . LOANS AND GRANTS TO IMPROVE MILK PROCESSING FACILITIES IN MILK SHORTAGE STATES.

Chapter 1 of subtitle D of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7251 et seq.) is amended by adding at the end the following:

"SEC. 153. LOANS AND GRANTS TO IMPROVE MILK PROCESSING FACILITIES IN MILK SHORTAGE STATES.

"(a) DEFINITION OF MILK SHORTAGE STATE.—In this section, the term 'milk shortage State' means a State in which at least 70 percent of the milk consumed in the State is produced outside the State on the date of enactment of this section.

"(b) LOANS; GRANTS.—The Secretary shall make loans and grants to milk shortage States to promote and expand milk processing facilities and the dairy industry in the milk shortage States.

"(c) USES.—A loan or grant under this section may be used—

"(1) to upgrade, design, and construct milk processing facilities;

"(2) to improve methods of packaging and delivering to market of Class I and Class II milk and milk products;

"(3) to purchase milk processing and related equipment; and

"(4) for such other uses as are approved by the Secretary.

"(d) ELIGIBILITY OF MILK PROCESSING FACILITIES.—To be eligible to obtain a loan or grant under this section (other than for a use described in subsection (c)(1)), a milk processing facility in a milk shortage State must be located, incorporated, and operating in the milk shortage State.

"(e) MAINTENANCE OF EFFORT.—The expenditure of funds by a milk shortage State or an eligible milk processing facility for the purposes described in subsection (c), as of January 1, 2001, shall not be diminished as a result of loans and grants made under this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2005.".

SA 2488. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. . REPORT TO CONGRESS ON POUCHED AND CANNED SALMON.

Not later than 120 days from the date of enactment of this Act, the Secretary shall issue a report to Congress on efforts to expand the promotion, marketing and purchase of pouched and canned salmon harvested and processed in the United States within the food and nutrition programs under his jurisdiction. The report shall include: an analysis of existing pouched and canned salmon inventories in the United States available for purchase; an analysis of the demand for pouched and canned salmon as well as for value-added products such as salmon "nuggets" by the Department's partners, including other appropriate Federal agencies, and customers; a marketing strategy to stimulate and increase that demand; and, a purchasing strategy to ensure that adequate supplies of pouched and canned salmon as well as other value-added salmon products are available to meet that demand.

SA 2489. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Amendment 2471 is amended—

(1) on page 932, by inserting after line 5 the following:

"(9) WILD FISH.—The term "wild fish" includes naturally-born and hatchery-raised fish and shellfish harvested in the wild, including fillets, steaks, nuggets, and any other flesh from wild fish or shellfish, and does not include net-pen aquaculture or other farm-raised fish";

(2) on page 932, line 22 by inserting "(I)" after "(B)";

(3) on page 932, by inserting after line 23 the following:

"(II) in the case of wild fish, is harvested in waters of the United States, its territories, or a State and is processed in the United States, its territories, or a State, including the waters thereof; and"; and

(4) on page 933, by inserting after line 3 the following:

"(3) WILD AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish, and in the case of wild salmon shall indicate State of origin.".

SA 2490. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agriculture producers to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table, as follows:

At the appropriate place, insert the following:

SEC. . CERTIFICATION AND LABELING OF ORGANIC WILD SEAFOOD.

"(a) EXCLUSIVE AUTHORITY OF SECRETARY OF COMMERCE.—The Secretary of Commerce shall have exclusive authority to provide for the certification and labeling of wild seafood as organic wild seafood.

"(b) RELATIONSHIP TO OTHER LAW.—The certification and labeling of wild seafood as organic wild seafood shall not be subject to the provisions of the Organic Foods Production Act of 1990 (title XXI of Public Law 101-624; 104 Stat. 3935, 7 U.S.C. 6501 et. seq.).

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Secretary of Commerce shall prescribe regulations for the certification and labeling of wild seafood as organic wild seafood.

"(2) CONSIDERATIONS.—In prescribing the regulations, the Secretary—

"(A) may take into consideration, as guidance, to the extent practicable, the provisions of the Organic Foods Production Act of 1990 and the regulations prescribed in the administration of that Act; and

"(B) shall accommodate the nature of the commercial harvesting and processing of wild fish in the United States.

"(3) TIME FOR INITIAL IMPLEMENTATION.—The Secretary shall promulgate the initial regulations to carry out this section not later than one year after the date of enactment of this Act.".

SA 2491. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table, as follows:

Strike section 132 and insert the following:

SEC. 132. DAIRY FARMERS PROGRAM.

The Federal Agriculture Improvement and Reform Act of 1996 (as amended by section 772(b) of Public Law 107-76) is amended by inserting after section 141 (7 U.S.C. 7251) the following:

"SEC. 142. DAIRY FARMERS PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) APPLICABLE FISCAL YEAR.—The term 'applicable fiscal year' means each of fiscal years 2001 through 2006.

"(2) CLASS III MILK.—The term 'Class III milk' means milk classified as Class III milk under a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

"(b) PAYMENTS.—For each applicable fiscal year, the Secretary shall make a payment to producers on a farm that, during the applicable fiscal year, produced milk for commercial sale, in the amount obtained by multiplying—

"(1) the payment rate for the applicable fiscal year determined under subsection (c); by

"(2) the payment quantity for the applicable fiscal year determined under subsection (d).

"(c) PAYMENT RATE.—

"(1) IN GENERAL.—Subject to paragraph (2), the payment rate for a payment made to producers on a farm for an applicable fiscal year under subsection (b) shall be determined as follows:

"If the average price received by producers in the United States for Class III milk during the preceding fiscal year was (per hundredweight)—	The payment rate for a payment made to producers on a farm for the applicable fiscal year under subsection (b) shall be (per hundredweight)—
$10.50 or less	.50
$10.51 through $11.00	.42
$11.01 through $11.50	.34
$11.51 through $12.00	.26
$12.01 through $12.50	.18.

"(2) INCREASED PAYMENT RATE.—If the producers on a farm produce during an applicable fiscal year a quantity of all milk that is not more than the quantity of all milk produced by the producers on the farm during the preceding fiscal year, the payment rate for a payment to the producers on the farm for the applicable fiscal year under paragraph (1) shall be increased as follows:

"If the average price received by producers in the United States for Class III milk during the preceding fiscal year was (per hundredweight)—	The payment rate for a payment made to the producers on the farm for the applicable fiscal year under paragraph (1) shall be increased by (per hundredweight)—
$10.50 or less	.30
$10.51 through $11.00	.26
$11.01 through $11.50	.22
$11.51 through $12.00	.18
$12.01 through $12.50	.14.

"(d) PAYMENT QUANTITY.—

"(1) IN GENERAL.—Subject to paragraph (2), the quantity of all milk for which the producers on a farm shall receive a payment for an applicable fiscal year under subsection (b) shall be equal to the quantity of all milk produced by the producers on the farm during the applicable fiscal year.

"(2) MAXIMUM QUANTITY.—The quantity of all milk for which the producers on a farm shall receive a payment for an applicable year under subsection (b) shall not exceed 26,000 hundredweight of all milk.".

SA 2492. Mrs. MURRAY (for herself, Ms. CANTWELL, Mr. INOUYE, Mr. BAUCUS, Mr. WELLSTONE, and Mr. DASCHLE) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 816, strike line 23 and insert the following:

SEC. 8 . TRIBAL COOPERATIVE AND CONSERVATION PROGRAMS.

The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end the following:

"SEC. 21. ASSISTANCE TO TRIBAL GOVERNMENTS.

"(a) DEFINITION OF INDIAN TRIBE.—In this section, the term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(b) ESTABLISHMENT.—The Secretary may provide financial, technical, educational and related assistance to Indian tribes for—

"(1) tribal consultation and coordination with the Forest Service on issues relating to—

"(A) tribal rights and interests on Forest Service land (including national forests and national grassland);

"(B) coordinated or cooperative management of resources shared by the Forest Service and Indian tribes; and

"(C) provision of tribal traditional, cultural, or other expertise or knowledge;

"(2) projects and activities for conservation education and awareness with respect to forest land under the jurisdiction of Indian tribes;

"(3) technical assistance for forest resources planning, management, and conservation on land under the jurisdiction of Indian tribes; and

"(4) the acquisition by Indian tribes, from willing sellers, of conservation interests (including conservation easements) in forest land and resources on land under the jurisdiction of the Indian tribes.

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate regulations to implement subsection (b) (including regulations for determining the distribution of assistance under that subsection).

"(2) CONSULTATION.—In developing regulations under paragraph (1), the Secretary shall engage in full, open, and substantive consultation with Indian tribes and representatives of Indian tribes.

"(d) COORDINATION WITH THE SECRETARY OF THE INTERIOR.—The Secretary shall coordinate with the Secretary of the Interior during the establishment, implementation, and administration of subsection (b) to ensure that programs under that subsection—

"(1) do not conflict with tribal programs provided under the authority of the Department of the Interior; and

"(2) meet the goals of the Indian tribes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2002 and each fiscal year thereafter.".

TITLE IX—ENERGY

SA 2493. Mrs. MURRAY (for herself, Ms. CANTWELL, Mr. INOUYE, Mr. BAUCUS, Mr. WELLSTONE, and Mr. DASCHLE) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 871, strike line 23 and insert the following:

SEC. 8 . OFFICE OF TRIBAL RELATIONS.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 19 (16 U.S.C. 2113) the following:

"SEC. 19A. OFFICE OF TRIBAL RELATIONS.

"(a) DEFINITIONS.—In this section:

"(1) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(2) OFFICE.—The term 'Office' means the Office of Tribal Relations established under subsection (b)(1).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish within the Forest Service the Office of Tribal Relations.

"(2) DIRECTOR.—The Office shall be headed by a Director, who shall—be appointed by the Chief, in consultation with interested Indian tribe.

"(3) ADMINISTRATIVE SUPPORT.—The Secretary shall ensure, to the maximum extent practicable, that adequate staffing and funds are made available to enable the Office to carry out the duties described in subsection (c).

"(c) DUTIES OF THE OFFICE.—

"(1) IN GENERAL.—The Office shall—

"(A) provide advice to the Secretary on all issues, policies, actions, and programs of the Forest Service that affect Indian tribes, including—

"(i) consultation with tribal governments;

"(ii) programmatic review for equitable tribal participation;

"(iii) monitoring and evaluation of relations between the Forest Service and Indian tribes;

"(iv) the coordination and integration of programs of the Forest Service that affect, or are of interest to, Indian tribes;

"(v) training of Forest Service personnel for competency in tribal relations; and

"(vi) the development of legislation affecting Indian tribes;

"(B) coordinate organizational responsibilities within the administrative structure of the Forest Service to ensure that matters affecting the rights and interests of Indian tribes are handled in a manner that is—

"(i) comprehensive;

"(ii) responsive to tribal needs; and

"(iii) consistent with policy guidelines of the Forest Service;

"(C)(i) develop generally applicable policies and procedures of the Forest Service pertaining to Indian tribes; and

"(ii) monitor the application of those policies and procedures throughout the administrative regions of the Forest Service;

"(D) provide such information or guidance to personnel of the Forest Service that are responsible for tribal relations as is required, as determined by the Secretary;

"(E) exercise such direct administrative authority pertaining to tribal relations programs as may be delegated by the Secretary;

"(F) for the purpose of coordinating programs and activities of the Forest Service with programs and actions of other agencies or departments that affect Indian tribes, consult with—

"(i) other agencies of the Department of Agriculture, including the Natural Resources Conservation Service; and

"(ii) other Federal agencies, including—

"(I) the Department of the Interior; and

"(II) the Environmental Protection Agency;

"(G) submit to the Secretary an annual report on the status of relations between the Forest Service and Indian tribes that includes, at a minimum—

"(i) an examination of the participation of Indian tribes in programs administered by the Secretary;

"(ii) a description of the status of initiatives being carried out to improve working relationships with Indian tribes; and

"(iii) recommendations for improvements or other adjustments to operations of the Forest Service that would be beneficial in strengthening working relationships with Indian tribes; and

"(H) carry out such other duties as the Secretary may assign.

"(d) Coordination.—In carrying out this section, the Office and other offices within the Forest Service shall consult on matters involving the rights and interests of Indian tribes.".

TITLE IX—ENERGY

SA 2494. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Section 335, add the following:

(c) Effective Date.—The amendments made by this section shall not take effect until the President certifies to Congress that Cuba is not a state sponsor of international terrorism.

SA 2495. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Section 336, add the following:

(d) Agriculture Trade With Nations Supporting International Terrorism.—It is the sense of the Congress that an important factor in agricultural trade in all multilateral, regional, and bilateral negotiations is to make sure that the national security of the United States is not aversely effected by favorable trade agreements with nations that support international terrorist organizations.

SA 2496. Mr. SANTORUM (for himself, Mr. Durbin, and Mr. Feingold) submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 945, line 5, strike the period at the end and insert a period and the following:

SEC. 1024. IMPROVED STANDARDS FOR THE CARE AND TREATMENT OF CERTAIN ANIMALS.

(a) Socialization Plan; Breeding Restrictions.—Section 13(a)(2) of the Animal Welfare Act (7 U.S.C. 2143(a)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(C) for the socialization of dogs with other dogs and people, through compliance with a standard developed by the Secretary based on the recommendations of animal welfare and behavior experts that—

"(i) prescribes a schedule of activities and other requirements that dealers and inspectors shall use to ensure adequate socialization; and

"(ii) identifies a set of behavioral measures that inspectors shall use to evaluate adequate socialization; and

"(D) for addressing the initiation and frequency of breeding of female dogs so that a female dog is not—

"(i) bred before the female dog has reached at least 1 year of age; and

"(ii) whelped more frequently than 3 times in any 24-month period.".

(b) Suspension or Revocation of License, Civil Penalties, Judicial Review, and Criminal Penalties.—Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended—

(1) by striking "Sec. 19. (a) If the Secretary" and inserting the following:

"SEC. 19. SUSPENSION OR REVOCATION OF LICENSE, CIVIL PENALTIES, JUDICIAL REVIEW, AND CRIMINAL PENALTIES.

"(a) Suspension or Revocation of License.—

"(1) In general.—If the Secretary";

(2) in subsection (a)—

(A) in paragraph (1) (as designated by paragraph (1)), by striking "if such violation" and all that follows and inserting "if the Secretary determines that 1 or more violations have occurred."; and

(B) by adding at the end the following:

"(2) Mandatory revocation.—If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12, has violated any of the rules, regulations, or standards governing the humane handling, transportation, veterinary care, housing, breeding, socialization, feeding, watering, or other humane treatment of dogs under section 12 or 13 on 3 or more separate inspections within any 8-year period, the Secretary shall immediately suspend the license of the person for 21 days and, after providing notice and a hearing not more than 30 days after the third violation is noted on an inspection report, shall revoke the license of the person unless the Secretary makes a written finding that the violations were minor and inadvertent, that the violations did not pose a threat to the dogs, or that revocation is inappropriate for other good cause.";

(3) in subsection (b), by striking "(b) Any dealer" and inserting "(b) Civil Penalties.—Any dealer";

(4) in subsection (c), by striking "(c) Any dealer" and inserting "(c) Judicial Review.—Any dealer"; and

(5) in subsection (d), by striking "(d) Any dealer" and inserting "(d) Criminal Penalties.—Any dealer".

(c) Regulations.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to carry out the amendments made by this Act, including development of the standards required by the amendment made by subsection (a).

SA 2497. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 322 on line 3, strike "Force." and insert in lieu thereof "Force, in conjunction with the Secretary of the Interior.

At the end of Section 262(b)(2)(I), strike "and".

At the end of Section 262 262(b)(2)(J), strike "Survey." and insert the following: "Survey;

"(K) the Secretary of the Interior;

"(L) The Secretary of Commerce; and

"(M) the Secretary of Agriculture."

In Section 262(b)(3), following "for the purposes of—", insert:

"(A) sustaining and strengthening a healthy agricultural economy in the Klamath Basin;"

and reletter the subsequent phrases accordingly.

SA 2498. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. Daschle and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 258, strike lines 10 through 16, inclusive.

SA 2499. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr.

DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. 1 . COMMODITY CREDIT CORPORATION FUNDING.

Notwithstanding any other provision of this Act or an amendment made by this Act, any funds that would otherwise be made available through the transfer of funds from the Secretary of the Treasury to the Secretary of Agriculture under this Act or an amemdment made by this Act (other than funds made available through a user fee) shall be available through funds of the Commodity Credit Corporation.

SA 2500. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle B of title X, insert the following:

SEC. 10 . ADJUSTED GROSS INCOME CROP INSURANCE PILOT PROGRAM.

The Federal Crop Insurance Corporation shall—

(1) convert the adjusted gross income crop insurance pilot program under section 523(a) of the Federal Crop Insurance Act (7 U.S.C. 1523(a)) to a permanent program of insurance; and

(2) extend the program to the State of California beginning with crop year 2003.

SA 2501. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 629, lines 19 and 20, strike "that is located in a rural area".

SA 2502. Mr. DOMENICI (for himself, Mr. CRAIG, Mr. BURNS, Mr. CRAPO, Mrs. HUTCHISON, Mr. ENZI, Mr. THOMAS, Mr. KYL, Mr. SMITH of Oregon, Mr. HATCH, Mr. ALLARD, and Mr. CAMPBELL) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

On page 202, strike lines 14 through 22 and insert the following: "technical assistance)" after "the programs"; and

(3) in paragraph (2), by striking "subchapter C" and inserting "subchapters C and D".

Beginning on page 121–118, strike line 4 and all that follows through page 121-130, line 19.

SA 2503. Mr. REID (for Mr. KENNEDY (for himself, Mr. WARNER, Mr. FRIST, Mrs. CLINTON, Mr. WELLSTONE, Ms. COLLINS, Mrs. MURRAY, and Mr. DOMENICI)) proposed an amendment to the bill S. 1729, to provide assistance with respect to the mental health needs of individuals affected by the terrorist attacks of September 11, 2001; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Post Terrorism Mental Health Improvement Act".

SEC. 2. PLANNING AND TRAINING GRANTS.

Section 520A of the Public Health Service Act (42 U.S.C. 290bb-32) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting before the semicolon the following: ", including the training of mental health professionals with respect to evidence-based practices in the treatment of individuals who are victims of a disaster";

(B) in paragraph (3), by striking "and" at the end;

(C) in paragraph (4), by striking the period and inserting a semicolon; and

(D) by inserting after paragraph (4), the following:

"(5) the development of coordinated response plans for responding to the mental health needs (including the response efforts of private organizations) that arise from a disaster, including the development and expansion of the 2-1-1 or other universal hotline as appropriate; and

"(6) the establishment of a mental health disaster response clearinghouse.";

(2) by redesignating subsection (f) as subsection (h); and

(3) by inserting after subsection (e) the following:

"(f) STATE COMMENTS.—With respect to a State or local public entity that submits an application for assistance under this section and that intends to use such assistance as provided for in subsection (a)(5), such entity shall provide notice of such application to the chief executive officer of the State, the State mental health department, and the State office responsible for emergency preparedness who shall consult with providers and organizations serving public safety officials and others involved in responding to the crisis, and provide such officer, department and office with the opportunity to comment on such application.

"(g) DEFINITION.—For purposes of subsection (a)(2) ,the term 'mental health professional' includes psychiatrists, psychologists, clinical psychiatric nurse specialists, mental health counselors, marriage and family therapists, clinical social workers, pastoral counselors, school psychologists, licensed professional counselors, school guidance counselors, and any other individual practicing in a mental health profession that is licensed or regulated by a State agency.".

SEC. 3. GRANTS TO DIRECTLY AFFECTED AREAS TO ADDRESS LONG-TERM NEEDS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall award grants to eligible State and local governments and other public entities to enable such entities to respond to the long-term mental health needs arising from the terrorist attacks of September 11, 2001.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a) an entity shall—

(1) be a State or local government or other public entity that is located in an area that is directly affected (as determined by the Secretary) by the terrorist attacks of September 11, 2001; and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—A grantee shall use amounts received under a grant under subsection (a)—

(1) to carry out activities to locate individuals who may be affected by the terrorist attacks of September 11, 2001 and in need of mental health services;

(2) to provide treatment for those individuals identified under paragraph (1) who are suffering from a serious psychiatric illness as a result of such terrorist attack, including paying the costs of necessary medications; and

(3) to carry out other activities determined appropriate by the Secretary.

(d) SUPPLEMENT NOT SUPPLANT.—Amounts expended for treatments under subsection (c)(2) shall be used to supplement and not supplant amounts otherwise made available for such treatments (including medications) under any other Federal, State, or local program or under any health insurance coverage.

(e) USE OF PRIVATE ENTITIES AND EXISTING PROVIDERS.—To the extent appropriate, a grantee under subsection (a) shall—

(1) enter into contracts with private, nonprofit entities to carry out activities under the grant; and

(2) to the extent feasible, utilize providers that are already serving the affected population, including providers used by public safety officials.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary in each of fiscal years 2002 through 2005.

SEC. 4. RESEARCH.

Part A of title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

"SEC. 229. RESEARCH.

"Notwithstanding any other provision of law, the Secretary may waive any restriction on the amount of supplemental funding that may be provided to any disaster-related scientific research project that is funded by the Secretary.".

SEC. 5. CHILDREN WHO EXPERIENCE VIOLENCE-RELATED STRESS.

(a) IN GENERAL.—Section 582(f) of the Public Health Service Act (42 U.S.C. 290hh-1(f)) is amended by striking "2002 and 2003" and inserting "2002 through 2005".

(b) SENSE OF CONGRESS.—It is the sense of Congress that the program established under section 582 of the Public Health Service Act (42 U.S.C. 290hh-1) should be fully funded.

SA 2504. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 479, strike line 7 and insert the following:

SEC. 460. SENSE OF CONGRESS REGARDING ELIGIBILITY OF ELDERLY INDIVIDUALS TO PARTICIPATE IN THE COMMODITY SUPPLEMENTAL FOOD PROGRAM.

It is the sense of Congress that the Secretary of Agriculture should restore to 185 percent of the poverty line the elderly income guidelines for participation in the commodity supplemental food program under section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) so that the guidelines are the same as the income guidelines for participation by mothers, infants, and children in the program.

SEC. 461. EFFECTIVE DATE.

SA 2505. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 382, strike line 15 and insert the following:

SEC. 337. FARMERS FOR AFRICA AND CARIBBEAN BASIN PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) many farmers in Africa and the Caribbean Basin use antiquated techniques to produce crops, resulting in poor crop quality and low crop yields;

(2) many of those farmers are losing business to farmers in Europe and Asia who use advanced planting and production techniques and are supplying agricultural produce to restaurants, resorts, tourists, grocery stores, and other consumers in Africa and the Caribbean Basin;

(3) a need exists for the training of farmers in Africa and the Caribbean Basin and other developing countries in farming techniques that are appropriate for the majority of eligible farmers in Africa or the Caribbean Basin, including—

(A) standard growing practices;

(B) insecticide and sanitation procedures; and

(C) other farming methods that will produce increased yields of more nutritious and healthful crops;

(4) African-American and other American farmers and banking and insurance professionals are a ready source of agribusiness expertise that would be invaluable for farmers in Africa and the Caribbean Basin;

(5) it is appropriate for the United States to make a commitment to support the development of a comprehensive agricultural skills training program for farmers in Africa and the Caribbean Basin that focuses on—

(A) improving knowledge of insecticide and sanitation procedures to prevent crop destruction;

(B) teaching modern farming techniques that would facilitate a continual analysis of crop production, including—

(i) the identification and development of standard growing practices; and

(ii) the establishment of systems for recordkeeping;

(C) the use and maintenance of farming equipment that is appropriate for the majority of eligible farmers in Africa and the Caribbean Basin;

(D) expanding small farming operations into agribusiness enterprises through the development and use of village banking systems and the use of agricultural risk insurance pilot products, resulting in increased access to credit for the farmers; and

(E) marketing crop yields to prospective purchasers for local needs and export;

(6) the participation of African-American and other American farmers and American agricultural farming specialists in such a training program promises the added benefit of improving—

(A) market access in African and Caribbean Basin markets for American agricultural commodities and farm equipment; and

(B) business linkages for American insurance providers offering technical assistance on agricultural risk insurance and other matters; and

(7)(A) programs that promote the exchange of agricultural knowledge and expertise through the exchange of American and foreign farmers have been effective in promoting improved agricultural techniques and food security; and

(B) accordingly, the extension of additional resources to such farmer-to-farmer exchanges is warranted.

(b) DEFINITIONS.—In this section:

(1) AGRICULTURAL FARMING SPECIALIST.—The term "agricultural farming specialist" means an individual trained to transfer information and technical support relating to—

(A) agribusiness;

(B) food security;

(C) mitigation and alleviation of hunger;

(D) mitigation of agricultural risk;

(E) maximization of crop yields;

(F) agricultural trade; and

(G) other needs specific to a geographical area, as determined by the President.

(2) CARIBBEAN BASIN COUNTRY.—The term "Caribbean Basin country" means a country that is eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

(3) ELIGIBLE FARMER.—The term "eligible farmer" means an individual who owns or works on farm land (as defined by the law of the country in which the land is situated) in—

(A) the sub-Saharan region of Africa;

(B) a Caribbean Basin country; or

(C) any other developing country in which the President determines there is a need for farming expertise or for information or technical support described in paragraph (1).

(4) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a college or university (including a historically black college or university) or a foundation maintained by a college or university; and

(B) a private organization (including a grassroots organization) or corporation with an established and demonstrated capacity to carry out a bilateral exchange program described in subsection (c).

(5) PROGRAM.—The term "program" means the Farmers for Africa and Caribbean Basin Program established under subsection (c).

(c) ESTABLISHMENT OF PROGRAM.—The President shall establish a grant program, to be known as the "Farmers for Africa and Caribbean Basin Program", to assist eligible entities in carrying out bilateral exchange programs under which African-American and other American farmers and American agricultural farming specialists share technical knowledge with eligible farmers regarding—

(1) maximization of crop yields;

(2) use of agricultural risk insurance as a financial tool and a means of risk management (as allowed by Annex II of the World Trade Organization rules);

(3) expansion of trade in agricultural products;

(4) enhancement of local food security;

(5) mitigation and alleviation of hunger;

(6) marketing of agricultural products in local, regional, and international markets; and

(7) other means of improving farming by eligible farmers.

(d) GOAL.—The goal of the program shall be to have at least 1,000 farmers participating in the training program by December 31, 2005, of whom—

(1) 80 percent of the number of participating farmers should be eligible farmers in developing countries; and

(2) 20 percent of the number of participating farmers should be American farmers.

(e) TRAINING.—Under the program—

(1) training shall be provided to eligible farmers in groups to ensure that information is shared and passed on to other eligible farmers; and

(2) eligible farmers shall be trained to be specialists in their home communities and encouraged not to retain enhanced farming technology for their own personal enrichment.

(f) USE OF COMMERCIAL AND INDUSTRIAL CAPABILITIES.—Through partnerships with American businesses in the agricultural sector, the program shall use the commercial and industrial capabilities of the businesses to—

(1) train eligible farmers on farming equipment that is appropriate for the majority of eligible farmers in their home countries; and

(2) introduce eligible farmers to the use of insurance as a risk management tool.

(g) SELECTION OF PARTICIPANTS.—

(1) APPLICATION.—To participate in the program, an eligible farmer or African-American and other American farmer or agricultural farming specialist, shall submit to the President an application in such form as the President may require.

(2) QUALIFICATIONS OF AMERICAN PARTICIPANTS.—To participate in the program, an American farmer or agricultural farming specialist—

(A) shall have sufficient farm or agribusiness experience, as determined by the President; and

(B) shall have obtained certain targets, specified by the President, regarding the productivity of the farm or business of the American farmer or agricultural farming specialist.

(h) GRANT PERIOD.—Under the program, the President may make grants for a period of 5 years beginning on October 1 of the first fiscal year for which funds are made available to carry out the program.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2006.

TITLE IV—NUTRITION

SA 2506. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 961, line 11, strike "fiscal year 2002" and insert "each of fiscal years 2002 through 2006".

SA 2507 Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other proposes; which was ordered to lie on the table; as follows:

On page 911, strike lines 7 through 10 and insert the following:

"(A) a college or university or a research foundation maintained by a college or university;".

SA 2508. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of section 1023 and insert a period and the following:

SEC. 10. LIMITATION ON EXHIBITION OF POLAR BEARS.

The Animal Welfare Act is amended by inserting after section 17 (7 U.S.C. 2147) the following:

"SEC. 18. LIMITATION ON EXHIBITION OF POLAR BEARS.

"An exhibitor that is a carnival, circus, or traveling show (as determined by the Secretary) shall not exhibit polar bears.".

SA 2509. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 452 and renumber subsequent sections accordingly.

SA 2510. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

"Notwithstanding any other provision of law or of this bill, any individual whose annual income is equal to or greater than 300% of the national median family income, as last reported by the Bureau of the Census (adjusted for family size and inflation), shall not be eligible to receive any cash benefit, subsidy, loan, or payment authorized by this bill."

SA 2511. Mr. DASCHLE (for himself and Mr. LUGAR) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

Strike the period at the end of section 1021 and insert a period and the following:,

SEC. 1022. ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.

(a) IN GENERAL.—Section 218 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6918) is amended by adding at the end the following:

"(f) ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.—

"(1) DEFINITION OF SOCIALLY DISADVANTAGED FARMER OR RANCHER.—In this subsection, the term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

"(2) ESTABLISHMENT OF POSITION.—The Secretary shall establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights.

"(3) APPOINTMENT.—The Assistant Secretary of Agriculture for Civil Rights shall be appointed by the President, by and with the advice and consent of the Senate.

"(4) DUTIES.—The Assistant Secretary of Agriculture for Civil Rights shall—

"(A) enforce and coordinate compliance with all civil rights laws and related laws—

"(i) by the agencies of the Department; and

"(ii) under all programs of the Department (including all programs supported with Department funds);

"(B) ensure that—

"(i) the Department has measurable goals for treating customers and employees fairly and on a nondiscriminatory basis; and

"(ii) the goals and the progress made in meeting the goals are included in—

"(I) strategic plans of the Department; and

"(II) annual reviews of the plans;

"(C) ensure the compilation and public disclosure of data critical to assessing Department civil rights compliance in achieving on a nondiscriminatory basis participation of socially disadvantaged farmers and ranchers in programs of the Department on a nondiscriminatory basis;

"(D)(i) hold Department agency heads and senior executives accountable for civil rights compliance and performance; and

"(ii) assess performance of Department agency heads and senior executives on the basis of success made in those areas;

"(E) ensure, to the maximum extent practicable—

"(i) a sufficient level of participation by socially disadvantaged farmers and ranchers in deliberations of county and area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(ii) that participation data and election results involving the committees are made available to the public; and

"(F) perform such other functions as may be prescribed by the Secretary.".

(b) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (2)" and inserting "Assistant Secretaries of Agriculture (3)".

(c) CONFORMING AMENDMENTS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(5) the authority of the Secretary to establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights under section 218(f).".

SA 2512. Mr. CRAIG (for himself and Mr. GREGG) proposed an amendment to amendment SA 2511 submitted by Mr. DASCHLE and intended to be proposed to the amendment SA 2471 proposed by Mr. DASCHLE to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that, before Congress creates new positions that require the advice and consent of the Senate, such as the position of Assistant Secretary for Civil Rights of the Department of Agriculture, the Senate should vote on nominations that have been reported by committees and are currently awaiting action by the full Senate, such as the nomination of Eugene Scalia to be Solicitor of the Department of Labor.

SA 2513. Mr. BOND (for himself, Mr. GRASSLEY, Mr. ENZI, and Mr. MILLER) proposed an amendment to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; as follows:

Strike the period at the end of section 1034 and insert a period and the following:

SEC. 1035. REVIEW OF FEDERAL AGENCY ACTIONS AFFECTING AGRICULTURAL PRODUCERS.

(a) DEFINITIONS.—In this section:

(1) AGENCY ACTION.—The term "agency action" has the meaning given the term in section 551 of title 5, United States Code.

(2) AGENCY HEAD.—The term "agency head" means the head of a Federal agency.

(3) AGRICULTURAL PRODUCER.—The term "agricultural producer" means the owner or operator of a small or medium-sized farm or ranch.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) REVIEW OF AGENCY ACTION BY SECRETARY.—

(1) IN GENERAL.—The Secretary may review any agency action proposed by any Federal agency to determine whether the agency action would be likely to have a significant adverse economic impact on, or jeopardize the personal safety of, agricultural producers.

(2) CONSULTATION; ALTERNATIVES.—If the Secretary determines that a proposed agency action is likely to have a significant adverse economic impact on or jeopardize the personal safety of agricultural producers, the Secretary—

(A) shall consult with the agency head; and

(B) may advise the agency head on alternatives to the agency action that would be least likely to have a significant adverse economic impact on, or least likely to jeopardize the personal safety of, agricultural producers.

(c) PRESIDENTIAL REVIEW.—

(1) IN GENERAL.—If, after a proposed agency action is finalized, the Secretary determines that the agency action would be likely to have a significant adverse economic impact on or jeopardize the safety of agricultural producers, the President may, not later than 60 days after the date on which the agency action is finalized—

(A) review the determination of the Secretary; and

(B) reverse, preclude, or amend the agency action if the President determines that reversal, preclusion, or amendment—

(i) is necessary to prevent significant adverse economic impact on or jeopardize the personal safety of agricultural producers; and

(ii) is in the public interest.

(2) CONSIDERATIONS.—In conducting a review under paragraph (1)(A), the President shall consider—

(A) the determination of the Secretary under subsection (c)(1);

(B) the public record;

(C) any competing economic interests; and

(D) the purpose of the agency action.

(3) CONGRESSIONAL NOTIFICATION.—If the President reverses, precludes, or amends the agency action under paragraph (1)(B), the President shall—

(A) notify Congress of the decision to reverse, preclude, or amend the agency action; and

(B) submit to Congress a detailed justification for the decision.

(4) LIMITATION.—The President shall not reverse, preclude, or amend an agency action that is necessary to protect—

(A) human health;

(B) safety; or

(C) national security.

(d) CONGRESSIONAL REVIEW.—Reversal, preclusion, or amendment of an agency action under subsection (c)(1)(B) shall be subject to section 802 of title 5, United States Code.

SA 2514. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2471 submitted by Mr. DASCHLE and intended to be proposed to the bill (S. 1731) to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, to ensure consumers abundant food and fiber, and for other purposes; which was ordered to lie on the table; as follows:

On page 937, between lines 16 and 17, insert the following:

SEC. 10 . CROP INSURANCE AND NONINSURED CROP DISASTER ASSISTANCE PROGRAM.

(a) 7. U.S.C. 7333, as amended by P.L. 104-127, is amended—

(1) in Section (a)(3) by striking "or" and

(2) in Section (a)(3) by striking "as determined by the Secretary." and inserting in lieu thereof "as determined by the Secretary, or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation." and

(3) in Section (c)(2) by striking "or other natural disaster, as determined by the Secretary." and inserting in lieu thereof "other natural disaster (as determined by the Secretary), or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation,".

(b) 7 U.S.C. 1508 is amended—

(1) in Section (a)(1) by striking "or other natural disaster (as determined by the Secretary)." and inserting "natural disaster (as determined by the Secretary), or disaster caused by direct federal regulatory implementation or resource management decision, action, or water allocation." and

(2) in Section (b)(1) by striking "or other natural disaster (as determined by the Secretary)," and inserting in lieu thereof "other natural disaster (as determined by the Secretary), or direct federal regulatory implementation or resource management decision, action, or water allocation,".

(c) The Secretary is encouraged to review and amend administration rules and guidelines describing disaster conditions to accommodate situations where planting decisions are based on federal water allocations. The Secretary is further encouraged to review the level of disaster payments to irrigated agriculture producers in such cases where federal water allocations are withheld prior to the planting period.

SA 2515. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 1499, An act to amend the District of Columbia College Access Act of 1999 to permit individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school and individuals who attend private historically black colleges and universities nationwide to participate in the tuition assistance programs under such Act, and for other purposes; as follows:

In subparagraph (A) of section 3(c)(2) of the District of Columbia College Access Act of 1999, as added by section 2—

(1) in clause (i), strike "or" after the semicolon;

(2) redesignate clause (ii) as clause (iii); and

(3) insert after clause (i) the following:

"(ii) for individuals who graduated from a secondary school or received the recognized equivalent of a secondary school diploma before January 1, 1998, and is currently enrolled at an eligible institution as of the date of enactment of the District of Columbia College Access Improvement Act of 2001, was domiciled in the District of Columbia for not less than the 12 consecutive months preceding the commencement of the Freshman year at an institution of higher education; or".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, December 12, 2001, at 2:30 p.m. to hold a business meeting.

Agenda

The committee will consider and vote on the following agenda:

Legislation

S. 1779, A bill to authorize Radio Free Afghanistan.

H.R. 3167, The Gerald B.H. Solomon Freedom Consolidation Act of 2001, A bill to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

S. Con. Res. 86, A concurrent resolution expressing the sense of Congress that women from all ethnic groups in Afghanistan should participate in the economic and political reconstruction of Afghanistan.

H. Con. Res. 77, A concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea.

H. Con. Res. 211, A concurrent resolution commending Daw Aung San Suu Kyi on the 10th anniversary of her receiving the Nobel Peace Prize and expressing the sense of the Congress with respect to the Government of Burma.

Nominations:

Jorge L. Arrizurieta, of Florida, to be United States Alternate Executive Director of the Inter-American Development Bank.

William R. Brownfield, of Texas, to be Ambassador to the Republic of Chile.

Arthur E. Dewey, of Maryland, to be Assistant Secretary of State (Population, Refugees, and Migration).

Adolfo Franco, of Virginia, to be an Assistant Administrator (Latin America and the Caribbean) of the United States Agency for International Development.

John V. Hanford, III, of Virginia, to be Ambassador at Large for International Religious Freedom.

Donna Hrinak, of Virginia, to be Ambassador to the Federative Republic of Brazil.

James McGee, of Florida, to be Ambassador to the Kingdom of Swaziland.

Kenneth P. Moorefield, of Florida, to be Ambassador to the Gabonese Republic and to serve concurrently and without additional compensation as Ambassador to the Democratic Republic of Sao Tome and Principe.

Josephine K. Olsen, of Maryland, to be Deputy Director of the Peace Corps.

John D. Ong, of Ohio, to be Ambassador to Norway.

Earl Phillips, Jr., of North Carolina, to be Ambassador to Barbados, and to serve concurrently and without additional compensation as Ambassador to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

Frederick Schiek, of Virginia, to be Deputy Administrator of the United States Agency for International Development.

Charles S. Shapiro, of Georgia, to be Ambassador to the Bolivarian Republic of Venezuela.

Gaddi H. Vasquez, of California, to be Director of the Peace Corps.

Roger Winter, of Maryland, to be an Assistant Administrator (Democracy, Conflict, and Humanitarian Assistance) of the United States Agency for International Development.

Additional nominees to be announced.

Foreign Service Officer Promotion List

Mr. Dobbins, et al., dated October 16, 2001. (With the exception of James Dobbins)

Mr. Hughes, et a., dated November 27, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BOND. Madam President, I ask unanimous consent that John Stoody, a detailee to my office from the Environmental Protection Agency, be given the privilege of the floor for the remainder of the consideration of S. 1731.

The PRESIDING OFFICER. Without objection, it is so ordered.

BEST PHARMACEUTICALS FOR CHILDREN ACT

Mr. REID. Madam President, this has been approved by the minority.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 271, S. 1789.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant bill clerk read as follows:

A bill (S. 1789) to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. I congratulate my friend from Connecticut, Senator DODD, and my friend from Ohio, Senator DEWINE, for bringing us the Best Pharmaceuticals for Children Act. Since 1977, we've had great success increasing the number of studies of drugs in children, and it's important that we reauthorize pediatric exclusivity to continue this success. One improvement in this reauthorization is that section 4 of your bill will see to it that, when a drug company declines an FDA request to study its patented drug for children, the drug will nonetheless be studied for children.

Mr. DODD. That is correct.

Mr. KENNEDY. You bill has these studies being conducted by, for example, universities, hospitals, contract research organizations, and pediatric pharmacology units. The studies will happen after referral to the Foundation for the National Institutes of Health, which, if it has the money to do so, provides money to the NIH for it to fund the studies, or passes it on to the NIH to pay for the studies with money that the bill itself authorizes.

Mr. DEWINE. Yes, that's how the process works.

Mr. KENNEDY. And after the research is conducted, the results are submitted to the Secretary of Health of Human Services. Once the Secretary has received the results, the Secretary, through the FDA, analyzes the information from the studies and determines what is necessary to provide appropriate pediatric labeling of the drug.

Mf. DODD. Yes, that is what we intend.

Mr. KENNEDY. So, it is fair to conclude that pediatric research conducted by third parties, using a commercially available drug, and paid for by the Foundation of the National Institutes of Health or by NIH under your bill, will not infringe any patent on the drug and shall be considered to be an activity conducted for the purpose of development and submission of information to the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act?

Mr. DEWINE. Yes. I agree with that conclusion.

Mr. DEWINE. Madam President, I rise today to thank my colleagues for supporting and passing the conference report on a bill that Senator DODD and I have been working on for some time. This bill, S. 1789, the Best Pharmaceuticals for Children Act, is reauthorization legislation designed to ensure that more medicines are tested for children and that useful prescribing and dosing information appears on labels.

Before I say anything else, I'd like to thank Senator DODD for his tireless efforts on behalf of children. He is a true champion for children. And, passage of our bill today, is just one more example of how he has dedicated so much of his time and energy to protect our Nation's kids, our Nation's future.

Our Best Pharmaceuticals bill is really vital in protecting our children when they are sick. This bill will make sure that we test drugs for kids on kids. Right now, most drugs are designed and tested on and for use by adults. Prescribing medicine for children is difficult for a variety of reasons. Proper dosing depends on a child's weight and metabolisms. Furthermore, children's bodies grow and change quickly. Children also may not give doctors accurate information about how medicines are affecting them, making diagnoses difficult, involving a large-degree of guess work.

A recent six-week study in Boston, at two of its most well-respected hospitals, found that over that time, 616 prescriptions written for children contained errors. Of those, 26 actually harmed children. Of the errors that were caught before the medication was administered, 18 could have been fatal. And, a study in the a recent Journal of the American Medical Association, found that medication errors in hospitals occur three times more frequently with children than with adults.

Four years ago, Senator DODD and I first learned that the vast majority of drugs in this country that came on the market every week, in fact over 80 percent, had never been formally tested or approved for pediatric use and therefore lacked even the most basic labeling information regarding dosing recommendations for children. When we found that out, we began writing what is now referred to as the pediatric exclusivity law. In the three years since that law went into effect, the FDA has issued about 200 written requests for pediatric studies.

Companies have undertaken over 400 pediatric studies, of which over 58 studies have been completed, for a wide range of critical diseases, including juvenile diabetes, the problem of pain, asthma, and hypertension.

Thirty-seven drugs have been granted pediatric exclusivity. Some studies generated by this incentive have led to essential dosing information. Take, for example, the drug, Luvox. Luvox is a drug prescribed to treat obsessive-compulsive disorder. Pediatric studies performed pursuant to our law have shown inadequate dosing for adolescents, which resulted in ineffective treatment. The studies also have shown that some girls between the ages of eight and 11 were potentially overdosed, with levels up to two to three times that which was really needed.

Our Better Pharmaceuticals law has done a great deal of good. We are seeing more drugs for children on the market that have a label that tells how they can be used, and more basic information for pediatricians. So when they look at that little child and they know the age of that child and they know the weight of that child, doctors can look it up and see exactly what the prescription should be, what the dosage should be, what the indicators are for that child. They can do that because we have given the pharmaceutical companies an incentive to do the research, research they were doing in only 20 percent of the cases prior to passage of the Better Pharmaceuticals law.

Despite our progress, we have further to go. That's why we passed the Best Pharmaceuticals conference report today. Senator DODD and I and the other cosponsors knew that the Better Pharmaceuticals bill, could be improved. We knew that it had some holes in it. We set out to fill those gaps and address the outstanding issues, such as the testing of off-patent drugs, which the original law was never designed to include.

In the conference report we passed today, we have built upon the existing law's basic incentive structure to further ensure that we will help improve the medication labeling process. Since our law has not been implemented for very long, many labels are still in the process of being requested and negotiated by the FDA. In our legislation, the new timeframes established for labeling negotiations, together with the enforcement authority under the existing misbranding statute, will help ensure that essential pediatric information generated from studies implemented under this law, will result in necessary and timely labeling changes. tested for children.

Our legislation creates a mechanism to "capture" the off-patent drugs for which the Secretary determines additional studies are needed to assess the safety and effectiveness of the drug's use in the pediatric population. In other words, our bill provides for the testing of some cases of these off-patent drugs.

By expanding the mission of the existing NIH Foundation to include collecting and awarding grants for conducting certain pediatric studies, we have provided a funding mechanism for ensuring studies that are completed for both off-patent drugs and those marketed on-patent drugs that a company declines to study—and for which the Secretary determines there is a continuing need for information relating to the use of the drug in the pediatric population.

By first seeking funding through the Foundation, we provide a mechanism for drug companies to contribute to the funding of mainly off-patent drugs and also to a narrow group of on-patent drugs, including those for neonates, for which companies have declined to accept the written request to pursue the six month market exclusivity extension.

Finally, to further ensure that the safety of children in clinical trials is protected, our legislation requires that the Institute of Medicine, IOM, conduct a review of Federal regulations, reports, and research involving children and provide recommendations on best practices relating to research Senator DODD and I included as part of the Children's Health Act last year.

In conclusion, I again thank Senator DODD for his efforts, along with Senators FRIST, KENNEDY, BOND, COLLINS, and CLINTON. Their support and dedication to children is what is behind this legislation. Because of them, we are sending this conference report to the President for his signature. I thank them for their work and their commitment to children.

Mr. REID. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1789) was read the third time and passed, as follows:

S. 1789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Best Pharmaceuticals for Children Act".

SEC. 2. PEDIATRIC STUDIES OF ALREADY-MARKETED DRUGS.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) by striking subsection (b); and

(2) in subsection (c)—

(A) by inserting after "the Secretary" the following: "determines that information relating to the use of an approved drug in the pediatric population may produce health benefits in that population and"; and

(B) by striking "concerning a drug identified in the list described in subsection (b)".

SEC. 3. RESEARCH FUND FOR THE STUDY OF DRUGS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended—

(1) by redesignating the second section 409C, relating to clinical research (42 U.S.C. 284k), as section 409G;

(2) by redesignating the second section 409D, relating to enhancement awards (42 U.S.C. 284l), as section 409H; and

(3) by adding at the end the following:

"SEC. 409I. PROGRAM FOR PEDIATRIC STUDIES OF DRUGS.

"(a) LIST OF DRUGS FOR WHICH PEDIATRIC STUDIES ARE NEEDED.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs and experts in pediatric research, shall develop, prioritize, and publish an annual list of approved drugs for which—

"(A)(i) there is an approved application under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j));

"(ii) there is a submitted application that could be approved under the criteria of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j));

"(iii) there is no patent protection or market exclusivity protection under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

"(iv) there is a referral for inclusion on the list under section 505A(d)(4)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(d)(4)(C)); and

"(B) in the case of a drug referred to in clause (i), (ii), or (iii) of subparagraph (A), additional studies are needed to assess the safety and effectiveness of the use of the drug in the pediatric population.

"(2) CONSIDERATION OF AVAILABLE INFORMATION.—In developing and prioritizing the list under paragraph (1), the Secretary shall consider, for each drug on the list—

"(A) the availability of information concerning the safe and effective use of the drug in the pediatric population;

"(B) whether additional information is needed;

"(C) whether new pediatric studies concerning the drug may produce health benefits in the pediatric population; and

"(D) whether reformulation of the drug is necessary.

"(b) CONTRACTS FOR PEDIATRIC STUDIES.—The Secretary shall award contracts to entities that have the expertise to conduct pediatric clinical trials (including qualified universities, hospitals, laboratories, contract research organizations, federally funded programs such as pediatric pharmacology research units, other public or private institutions, or individuals) to enable the entities to conduct pediatric studies concerning one or more drugs identified in the list described in subsection (a).

"(c) PROCESS FOR CONTRACTS AND LABELING CHANGES.—

"(1) WRITTEN REQUEST TO HOLDERS OF APPROVED APPLICATIONS FOR DRUGS LACKING EXCLUSIVITY.—The Commissioner of Food and Drugs, in consultation with the Director of the National Institutes of Health, may issue a written request (which shall include a timeframe for negotiations for an agreement) for pediatric studies concerning a drug identified in the list described in subsection (a)(1)(A) (except clause (iv)) to all holders of an approved application for the drug under section 505 of the Federal Food, Drug, and Cosmetic Act. Such a written request shall be made in a manner equivalent to the manner in which a written request is made under subsection (a) or (b) of section 505A of the Federal Food, Drug, and Cosmetic Act, including with respect to information provided on the pediatric studies to be conducted pursuant to the request.

"(2) REQUESTS FOR CONTRACT PROPOSALS.—If the Commissioner of Food and Drugs does not receive a response to a written request issued under paragraph (1) within 30 days of the date on which a request was issued, or if a referral described in subsection (a)(1)(A)(iv) is made, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs, shall publish a request for contract proposals to conduct the pediatric studies described in the written request.

"(3) Disqualification.—A holder that receives a first right of refusal shall not be entitled to respond to a request for contract proposals under paragraph (2).

"(4) Guidance.—Not later than 270 days after the date of enactment of this section, the Commissioner of Food and Drugs shall promulgate guidance to establish the process for the submission of responses to written requests under paragraph (1).

"(5) Contracts.—A contract under this section may be awarded only if a proposal for the contract is submitted to the Secretary in such form and manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(6) Reporting of studies.—

"(A) In general.—On completion of a pediatric study in accordance with a contract awarded under this section, a report concerning the study shall be submitted to the Director of the National Institutes of Health and the Commissioner of Food and Drugs. The report shall include all data generated in connection with the study.

"(B) Availability of reports.—Each report submitted under subparagraph (A) shall be considered to be in the public domain (subject to section 505A(d)(4)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(d)(4)(D)) and shall be assigned a docket number by the Commissioner of Food and Drugs. An interested person may submit written comments concerning such pediatric studies to the Commissioner of Food and Drugs, and the written comments shall become part of the docket file with respect to each of the drugs.

"(C) Action by commissioner.—The Commissioner of Food and Drugs shall take appropriate action in response to the reports submitted under subparagraph (A) in accordance with paragraph (7).

"(7) Requests for labeling change.—During the 180-day period after the date on which a report is submitted under paragraph (6)(A), the Commissioner of Food and Drugs shall—

"(A) review the report and such other data as are available concerning the safe and effective use in the pediatric population of the drug studied;

"(B) negotiate with the holders of approved applications for the drug studied for any labeling changes that the Commissioner of Food and Drugs determines to be appropriate and requests the holders to make; and

"(C)(i) place in the public docket file a copy of the report and of any requested labeling changes; and

"(ii) publish in the Federal Register a summary of the report and a copy of any requested labeling changes.

"(8) Dispute resolution.—

"(A) Referral to pediatric advisory subcommittee of the anti-infective drugs advisory committee.—If, not later than the end of the 180-day period specified in paragraph (7), the holder of an approved application for the drug involved does not agree to any labeling change requested by the Commissioner of Food and Drugs under that paragraph, the Commissioner of Food and Drugs shall refer the request to the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee.

"(B) Action by the pediatric advisory subcommittee of the anti-infective drugs advisory committee.—Not later than 90 days after receiving a referral under subparagraph (A), the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee shall—

"(i) review the available information on the safe and effective use of the drug in the pediatric population, including study reports submitted under this section; and

"(ii) make a recommendation to the Commissioner of Food and Drugs as to appropriate labeling changes, if any.

"(9) FDA determination.—Not later than 30 days after receiving a recommendation from the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee under paragraph (8)(B)(ii) with respect to a drug, the Commissioner of Food and Drugs shall consider the recommendation and, if appropriate, make a request to the holders of approved applications for the drug to make any labeling change that the Commissioner of Food and Drugs determines to be appropriate.

"(10) Failure to agree.—If a holder of an approved application for a drug, within 30 days after receiving a request to make a labeling change under paragraph (9), does not agree to make a requested labeling change, the Commissioner may deem the drug to be misbranded under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

"(11) No effect on authority.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under the Federal Food, Drug, and Cosmetic Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude, delay, or serve as the basis to stay the other course of action.

"(12) Recommendation for formulation changes.—If a pediatric study completed under public contract indicates that a formulation change is necessary and the Secretary agrees, the Secretary shall send a nonbinding letter of recommendation regarding that change to each holder of an approved application.

"(d) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to carry out this section—

"(A) $200,000,000 for fiscal year 2002; and

"(B) such sums as are necessary for each of the 5 succeeding fiscal years.

"(2) Availability.—Any amount appropriated under paragraph (1) shall remain available to carry out this section until expended.".

SEC. 4. WRITTEN REQUEST TO HOLDERS OF APPROVED APPLICATIONS FOR DRUGS THAT HAVE MARKET EXCLUSIVITY.

Section 505A(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(d)) is amended by adding at the end the following:

"(4) Written request to holders of approved applications for drugs that have market exclusivity.—

"(A) Request and response.—If the Secretary makes a written request for pediatric studies (including neonates, as appropriate) under subsection (c) to the holder of an application approved under section 505(b)(1), the holder, not later than 180 days after receiving the written request, shall respond to the Secretary as to the intention of the holder to act on the request by—

"(i) indicating when the pediatric studies will be initiated, if the holder agrees to the request; or

"(ii) indicating that the holder does not agree to the request.

"(B) No agreement to request.—

"(i) Referral.—If the holder does not agree to a written request within the time period specified in subparagraph (A), and if the Secretary determines that there is a continuing need for information relating to the use of the drug in the pediatric population (including neonates, as appropriate), the Secretary shall refer the drug to the Foundation for the National Institutes of Health established under section 499 of the Public Health Service Act (42 U.S.C. 290b) (referred to in this paragraph as the 'Foundation') for the conduct of the pediatric studies described in the written request.

"(ii) Public notice.—The Secretary shall give public notice of the name of the drug, the name of the manufacturer, and the indications to be studied made in a referral under clause (i).

"(C) Lack of funds.—On referral of a drug under subparagraph (B)(i), the Foundation shall issue a proposal to award a grant to conduct the requested studies unless the Foundation certifies to the Secretary, within a timeframe that the Secretary determines is appropriate through guidance, that the Foundation does not have funds available under section 499(j)(9)(B)(i) to conduct the requested studies. If the Foundation so certifies, the Secretary shall refer the drug for inclusion on the list established under section 409I of the Public Health Service Act for the conduct of the studies.

"(D) Effect of subsection.—Nothing in this subsection (including with respect to referrals from the Secretary to the Foundation) alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

"(E) No requirement to refer.—Nothing in this subsection shall be construed to require that every declined written request shall be referred to the Foundation.

"(F) Written requests under subsection (b).—For drugs under subsection (b) for which written requests have not been accepted, if the Secretary determines that there is a continuing need for information relating to the use of the drug in the pediatric population (including neonates, as appropriate), the Secretary shall issue a written request under subsection (c) after the date of approval of the drug.".

SEC. 5. TIMELY LABELING CHANGES FOR DRUGS GRANTED EXCLUSIVITY; DRUG FEES.

(a) Elimination of User Fee Waiver for Pediatric Supplements.—Section 736(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(a)(1)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraph (G) as subparagraph (F).

(b) Labeling Changes.—

(1) Definition of priority supplement.—Section 201 of the Federal Food Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) Priority supplement.—The term 'priority supplement' means a drug application referred to in section 101(4) of the Food and Drug Administration Modernization Act of 1997 (111 Stat. 2298).".

(2) Treatment as priority supplements.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by adding at the end the following:

"(l) Labeling Supplements.—

"(1) Priority status for pediatric supplements.—Any supplement to an application under section 505 proposing a labeling change pursuant to a report on a pediatric study under this section—

"(A) shall be considered to be a priority supplement; and

"(B) shall be subject to the performance goals established by the Commissioner for priority drugs.

"(2) Dispute Resolution.—

"(A) Request for Labeling Change and Failure to Agree.—If the Commissioner determines that an application with respect to which a pediatric study is conducted under this section is approvable and that the only open issue for final action on the application is the reaching of an agreement between the sponsor of the application and the Commissioner on appropriate changes to the labeling for the drug that is the subject of the application, not later than 180 days after the date of submission of the application—

"(i) the Commissioner shall request that the sponsor of the application make any labeling change that the Commissioner determines to be appropriate; and

"(ii) if the sponsor of the application does not agree to make a labeling change requested by the Commissioner, the Commissioner shall refer the matter to the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee.

"(B) Action by the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee.—Not later than 90 days after receiving a referral under subparagraph (A)(ii), the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee shall—

"(i) review the pediatric study reports; and

"(ii) make a recommendation to the Commissioner concerning appropriate labeling changes, if any.

"(C) Consideration of Recommendations.—The Commissioner shall consider the recommendations of the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application to make any labeling change that the Commissioner determines to be appropriate.

"(D) Misbranding.—If the sponsor of the application, within 30 days after receiving a request under subparagraph (C), does not agree to make a labeling change requested by the Commissioner, the Commissioner may deem the drug that is the subject of the application to be misbranded.

"(E) No Effect on Authority.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under this Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude, delay, or serve as the basis to stay the other course of action.".

SEC. 6. OFFICE OF PEDIATRIC THERAPEUTICS.

(a) Establishment.—The Secretary of Health and Human Services shall establish an Office of Pediatric Therapeutics within the Food and Drug Administration.

(b) Duties.—The Office of Pediatric Therapeutics shall be responsible for coordination and facilitation of all activities of the Food and Drug Administration that may have any effect on a pediatric population or the practice of pediatrics or may in any other way involve pediatric issues.

(c) Staff.—The staff of the Office of Pediatric Therapeutics shall coordinate with employees of the Department of Health and Human Services who exercise responsibilities relating to pediatric therapeutics and shall include—

(1) 1 or more additional individuals with expertise concerning ethical issues presented by the conduct of clinical research in the pediatric population; and

(2) 1 or more additional individuals with expertise in pediatrics as may be necessary to perform the activities described in subsection (b).

SEC. 7. NEONATES.

Section 505A(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(g)) is amended by inserting "(including neonates in appropriate cases)" after "pediatric age groups".

SEC. 8. SUNSET.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by striking subsection (j) and inserting the following:

"(j) Sunset.—A drug may not receive any 6-month period under subsection (a) or (c) unless—

"(1) on or before October 1, 2007, the Secretary makes a written request for pediatric studies of the drug;

"(2) on or before October 1, 2007, an application for the drug is accepted for filing under section 505(b); and

"(3) all requirements of this section are met.".

SEC. 9. DISSEMINATION OF PEDIATRIC INFORMATION.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by section 5(b)(2)) is amended by adding at the end the following:

"(m) Dissemination of Pediatric Information.—

"(1) In general.—Not later than 180 days after the date of submission of a report on a pediatric study under this section, the Commissioner shall make available to the public a summary of the medical and clinical pharmacology reviews of pediatric studies conducted for the supplement, including by publication in the Federal Register.

"(2) Effect of subsection.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.".

SEC. 10. CLARIFICATION OF INTERACTION OF PEDIATRIC EXCLUSIVITY UNDER SECTION 505A OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND 180-DAY EXCLUSIVITY AWARDED TO AN APPLICANT FOR APPROVAL OF A DRUG UNDER SECTION 505(j) OF THAT ACT.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by section 9) is amended by adding at the end the following:

"(n) Clarification of Interaction of Market Exclusivity Under This Section and Market Exclusivity Awarded to an Applicant for Approval of a Drug Under Section 505(j).—If a 180-day period under section 505(j)(5)(B)(iv) overlaps with a 6-month exclusivity period under this section, so that the applicant for approval of a drug under section 505(j) entitled to the 180-day period under that section loses a portion of the 180-day period to which the applicant is entitled for the drug, the 180-day period shall be extended from—

"(1) the date on which the 180-day period would have expired by the number of days of the overlap, if the 180-day period would, but for the application of this subsection, expire after the 6-month exclusivity period; or

"(2) the date on which the 6-month exclusivity period expires, by the number of days of the overlap if the 180-day period would, but for the application of this subsection, expire during the 6 month exclusivity period.".

SEC. 11. PROMPT APPROVAL OF DRUGS UNDER SECTION 505(j) WHEN PEDIATRIC INFORMATION IS ADDED TO LABELING.

(a) In General.—Section 505A of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 355a) (as amended by section 10) is amended by adding at the end the following:

"(o) Prompt Approval of Drugs Under Section 505(j) When Pediatric Information Is Added to Labeling.—

"(1) General rule.—A drug for which an application has been submitted or approved under section 505(j) shall not be considered ineligible for approval under that section or misbranded under section 502 on the basis that the labeling of the drug omits a pediatric indication or any other aspect of labeling pertaining to pediatric use when the omitted indication or other aspect is protected by patent or by exclusivity under clause (iii) or (iv) of section 505(j)(5)(D).

"(2) Labeling.—Notwithstanding clauses (iii) and (iv) of section 505(j)(5)(D), the Secretary may require that the labeling of a drug approved under section 505(j) that omits a pediatric indication or other aspect of labeling as described in paragraph (1) include—

"(A) a statement that, because of marketing exclusivity for a manufacturer—

"(i) the drug is not labeled for pediatric use; or

"(ii) in the case of a drug for which there is an additional pediatric use not referred to in paragraph (1), the drug is not labeled for the pediatric use under paragraph (1); and

"(B) a statement of any appropriate pediatric contraindications, warnings, or precautions that the Secretary considers necessary.

"(3) Preservation of Pediatric Exclusivity and Other Provisions.—This subsection does not affect—

"(A) the availability or scope of exclusivity under this section;

"(B) the availability or scope of exclusivity under section 505 for pediatric formulations;

"(C) the question of the eligibility for approval of any application under section 505(j) that omits any other conditions of approval entitled to exclusivity under clause (iii) or (iv) of section 505(j)(5)(D); or

"(D) except as expressly provided in paragraphs (1) and (2), the operation of section 505.".

(b) Effective Date.—The amendment made by subsection (a) takes effect on the date of enactment of this Act, including with respect to applications under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) that are approved or pending on that date.

SEC. 12. STUDY CONCERNING RESEARCH INVOLVING CHILDREN.

(a) Contract With Institute of Medicine.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for—

(1) the conduct, in accordance with subsection (b), of a review of—

(A) Federal regulations in effect on the date of the enactment of this Act relating to research involving children;

(B) federally prepared or supported reports relating to research involving children; and

(C) federally supported evidence-based research involving children; and

(2) the submission to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, not later than 2 years after the date of enactment of this Act, of a report concerning the review conducted under paragraph (1)

that includes recommendations on best practices relating to research involving children.

(b) Areas of Review.—In conducting the review under subsection (a)(1), the Institute of Medicine shall consider the following:

(1) The written and oral process of obtaining and defining "assent", "permission" and "informed consent" with respect to child clinical research participants and the parents, guardians, and the individuals who may serve as the legally authorized representatives of such children (as defined in subpart A of part 46 of title 45, Code of Federal Regulations).

(2) The expectations and comprehension of child research participants and the parents, guardians, or legally authorized representatives of such children, for the direct benefits and risks of the child's research involvement, particularly in terms of research versus therapeutic treatment.

(3) The definition of "minimal risk" with respect to a healthy child or a child with an illness.

(4) The appropriateness of the regulations applicable to children of differing ages and maturity levels, including regulations relating to legal status.

(5) Whether payment (financial or otherwise) may be provided to a child or his or her parent, guardian, or legally authorized representative for the participation of the child in research, and if so, the amount and type of payment that may be made.

(6) Compliance with the regulations referred to in subsection (a)(1)(A), the monitoring of such compliance (including the role of institutional review boards), and the enforcement actions taken for violations of such regulations.

(7) The unique roles and responsibilities of institutional review boards in reviewing research involving children, including composition of membership on institutional review boards.

(c) Requirements of Expertise.—The Institute of Medicine shall conduct the review under subsection (a)(1) and make recommendations under subsection (a)(2) in conjunction with experts in pediatric medicine, pediatric research, and the ethical conduct of research involving children.

SEC. 13. FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH.

Section 499 of the Public Health Service Act (42 U.S.C. 290b) is amended—

(1) in subsection (b), by inserting "(including collection of funds for pediatric pharmacologic research)" after "mission";

(2) in subsection (c)(1)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following:

"(C) A program to collect funds for pediatric pharmacologic research and studies listed by the Secretary pursuant to section 409I(a)(1)(A) of this Act and referred under section 505A(d)(4)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(d)(4)(C)).";

(3) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) in clause (ii), by striking "and" at the end;

(II) in clause (iii), by striking the period and inserting "; and"; and

(III) by adding at the end the following:

"(iv) the Commissioner of Food and Drugs."; and

(ii) by striking subparagraph (C) and inserting the following:

"(C) The ex officio members of the Board under subparagraph (B) shall appoint to the Board individuals from among a list of candidates to be provided by the National Academy of Science. Such appointed members shall include—

"(i) representatives of the general biomedical field;

"(ii) representatives of experts in pediatric medicine and research;

"(iii) representatives of the general biobehavioral field, which may include experts in biomedical ethics; and

"(iv) representatives of the general public, which may include representatives of affected industries."; and

(B) in paragraph (2), by realigning the margin of subparagraph (B) to align with subparagraph (A);

(4) in subsection (k)(9)—

(A) by striking "The Foundation" and inserting the following:

"(A) In general.—The Foundation"; and

(B) by adding at the end the following:

"(B) Gifts, grants, and other donations.—

"(i) In general.—Gifts, grants, and other donations to the Foundation may be designated for pediatric research and studies on drugs, and funds so designated shall be used solely for grants for research and studies under subsection (c)(1)(C).

"(ii) Other gifts.—Other gifts, grants, or donations received by the Foundation and not described in clause (i) may also be used to support such pediatric research and studies.

"(iii) Report.—The recipient of a grant for research and studies shall agree to provide the Director of the National Institutes of Health and the Commissioner of Food and Drugs, at the conclusion of the research and studies—

"(I) a report describing the results of the research and studies; and

"(II) all data generated in connection with the research and studies.

"(iv) Action by the Commissioner of Food and Drugs.—The Commissioner of Food and Drugs shall take appropriate action in response to a report received under clause (iii) in accordance with paragraphs (7) through (12) of section 409I(c), including negotiating with the holders of approved applications for the drugs studied for any labeling changes that the Commissioner determines to be appropriate and requests the holders to make.

"(C) Applicability.—Subparagraph (A) does not apply to the program described in subsection (c)(1)(C).";

(5) by redesignating subsections (f) through (m) as subsections (e) through (l), respectively;

(6) in subsection (h)(11) (as so redesignated), by striking "solicit" and inserting "solicit,"; and

(7) in paragraphs (1) and (2) of subsection (j) (as so redesignated), by striking "(including those developed under subsection (d)(2)(B)(i)(II))" each place it appears.

SEC. 14. PEDIATRIC PHARMACOLOGY ADVISORY COMMITTEE.

(a) In General.—The Secretary of Health and Human Services shall, under section 222 of the Public Health Service Act (42 U.S.C. 217a), convene and consult an advisory committee on pediatric pharmacology (referred to in this section as the "advisory committee").

(b) Purpose.—

(1) In general.—The advisory committee shall advise and make recommendations to the Secretary, through the Commissioner of Food and Drugs and in consultation with the Director of the National Institutes of Health, on matters relating to pediatric pharmacology.

(2) Matters included.—The matters referred to in paragraph (1) include—

(A) pediatric research conducted under sections 351, 409I, and 499 of the Public Health Service Act and sections 501, 502, 505, and 505A of the Federal Food, Drug, and Cosmetic Act;

(B) identification of research priorities related to pediatric pharmacology and the need for additional treatments of specific pediatric diseases or conditions; and

(C) the ethics, design, and analysis of clinical trials related to pediatric pharmacology.

(c) Composition.—The advisory committee shall include representatives of pediatric health organizations, pediatric researchers, relevant patient and patient-family organizations, and other experts selected by the Secretary.

SEC. 15. PEDIATRIC SUBCOMMITTEE OF THE ONCOLOGIC DRUGS ADVISORY COMMITTEE.

(a) Clarification of Authorities.—

(1) In general.—The Pediatric Subcommittee of the Oncologic Drugs Advisory Committee (referred to in this section as the "Subcommittee"), in carrying out the mission of reviewing and evaluating the data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pediatric cancers, shall—

(A) evaluate and, to the extent practicable, prioritize new and emerging therapeutic alternatives available to treat pediatric cancer;

(B) provide recommendations and guidance to help ensure that children with cancer have timely access to the most promising new cancer therapies; and

(C) advise on ways to improve consistency in the availability of new therapeutic agents.

(2) Membership.—

(A) In general.—The Secretary shall appoint not more than 11 voting members to the Pediatric Subcommittee from the membership of the Pediatric Pharmacology Advisory Committee and the Oncologic Drugs Advisory Committee.

(B) Request for participation.—The Subcommittee shall request participation of the following members in the scientific and ethical consideration of topics of pediatric cancer, as necessary:

(i) At least 2 pediatric oncology specialists from the National Cancer Institute.

(ii) At least 4 pediatric oncology specialists from—

(I) the Children's Oncology Group;

(II) other pediatric experts with an established history of conducting clinical trials in children; or

(III) consortia sponsored by the National Cancer Institute, such as the Pediatric Brain Tumor Consortium, the New Approaches to Neuroblastoma Therapy or other pediatric oncology consortia.

(iii) At least 2 representatives of the pediatric cancer patient and patient-family community.

(iv) 1 representative of the nursing community.

(v) At least 1 statistician.

(vi) At least 1 representative of the pharmaceutical industry.

(b) Pre-Clinical Models To Evaluate Promising Pediatric Cancer Therapies.—Section 413 of the Public Health Service Act (42 U.S.C. 285a–2) is amended by adding at the end the following:

"(c) Pre-Clinical Models To Evaluate Promising Pediatric Cancer Therapies.—

"(1) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the National Cancer Institute shall expand, intensify, and coordinate the activities of the Institute with respect to research on the development of preclinical models to evaluate which therapies are likely to be effective for treating pediatric cancer.

"(2) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities under paragraph (1) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that those Institutes and agencies have responsibilities that are related to pediatric cancer.".

(c) CLARIFICATION OF AVAILABILITY OF INVESTIGATIONAL NEW DRUGS FOR PEDIATRIC STUDY AND USE.—

(1) AMENDMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 505(i)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(1)) is amended—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) the submission to the Secretary by the manufacturer or the sponsor of the investigation of a new drug of a statement of intent regarding whether the manufacturer or sponsor has plans for assessing pediatric safety and efficacy.".

(2) AMENDMENT OF THE PUBLIC HEALTH SERVICE ACT.—Section 402(j)(3)(A) of the Public Health Service Act (42 U.S.C. 282(j)(3)(A)) is amended in the first sentence—

(A) by striking "trial sites, and" and inserting "trial sites,"; and

(B) by striking "in the trial," and inserting "in the trial, and a description of whether, and through what procedure, the manufacturer or sponsor of the investigation of a new drug will respond to requests for protocol exception, with appropriate safeguards, for single-patient and expanded protocol use of the new drug, particularly in children,".

(d) REPORT.—Not later than January 31, 2003, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs and in consultation with the Director of the National Institutes of Health, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on patient access to new therapeutic agents for pediatric cancer, including access to single patient use of new therapeutic agents.

SEC. 16. REPORT ON PEDIATRIC EXCLUSIVITY PROGRAM.

Not later than October 1, 2006, the Comptroller General of the United States, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report that addresses the following issues, using publicly available data or data otherwise available to the Government that may be used and disclosed under applicable law:

(1) The effectiveness of section 505A of the Federal Food, Drug, and Cosmetic Act and section 409I of the Public Health Service Act (as added by this Act) in ensuring that medicines used by children are tested and properly labeled, including—

(A) the number and importance of drugs for children that are being tested as a result of this legislation and the importance for children, health care providers, parents, and others of labeling changes made as a result of such testing;

(B) the number and importance of drugs for children that are not being tested for their use notwithstanding the provisions of this legislation, and possible reasons for the lack of testing; and

(C) the number of drugs for which testing is being done, exclusivity granted, and labeling changes required, including the date pediatric exclusivity is granted and the date labeling changes are made and which labeling changes required the use of the dispute resolution process established pursuant to the amendments made by this Act, together with a description of the outcomes of such process, including a description of the disputes and the recommendations of the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee.

(2) The economic impact of section 505A of the Federal Food, Drug, and Cosmetic Act and section 409I of the Public Health Service Act (as added by this Act), including an estimate of—

(A) the costs to taxpayers in the form of higher expenditures by medicaid and other Government programs;

(B) sales for each drug during the 6-month period for which exclusivity is granted, as attributable to such exclusivity;

(C) costs to consumers and private insurers as a result of any delay in the availability of lower cost generic equivalents of drugs tested and granted exclusivity under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), and loss of revenue by the generic drug industry and retail pharmacies as a result of any such delay; and

(D) the benefits to the government, to private insurers, and to consumers resulting from decreased health care costs, including—

(i) decreased hospitalizations and fewer medical errors, due to more appropriate and more effective use of medications in children as a result of testing and re-labeling because of the amendments made by this Act;

(ii) direct and indirect benefits associated with fewer physician visits not related to hospitalization;

(iii) benefits to children from missing less time at school and being less affected by chronic illnesses, thereby allowing a better quality of life;

(iv) benefits to consumers from lower health insurance premiums due to lower treatment costs and hospitalization rates; and

(v) benefits to employers from reduced need for employees to care for family members.

(3) The nature and type of studies in children for each drug granted exclusivity under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), including—

(A) a description of the complexity of the studies;

(B) the number of study sites necessary to obtain appropriate data;

(C) the numbers of children involved in any clinical studies; and

(D) the estimated cost of each of the studies.

(4) Any recommendations for modifications to the programs established under section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) and section 409I of the Public Health Service Act (as added by section 3) that the Secretary determines to be appropriate, including a detailed rationale for each recommendation.

(5) The increased private and Government-funded pediatric research capability associated with this Act and the amendments made by this Act.

(6) The number of written requests and additional letters of recommendation that the Secretary issues.

(7) The prioritized list of off-patent drugs for which the Secretary issues written requests.

(8)(A) The efforts made by Secretary to increase the number of studies conducted in the neonate population; and

(B) the results of those efforts, including efforts made to encourage the conduct of appropriate studies in neonates by companies with products that have sufficient safety and other information to make the conduct of studies ethical and safe.

SEC. 17. ADVERSE-EVENT REPORTING.

(a) TOLL-FREE NUMBER IN LABELING.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate a final rule requiring that the labeling of each drug for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (regardless of the date on which approved) include the toll-free number maintained by the Secretary for the purpose of receiving reports of adverse events regarding drugs and a statement that such number is to be used for reporting purposes only, not to receive medical advice. With respect to the final rule:

(1) The rule shall provide for the implementation of such labeling requirement in a manner that the Secretary considers to be most likely to reach the broadest consumer audience.

(2) In promulgating the rule, the Secretary shall seek to minimize the cost of the rule on the pharmacy profession.

(3) The rule shall take effect not later than 60 days after the date on which the rule is promulgated.

(b) DRUGS WITH PEDIATRIC MARKET EXCLUSIVITY.—

(1) IN GENERAL.—During the one-year beginning on the date on which a drug receives a period of market exclusivity under 505A of the Federal Food, Drug, and Cosmetic Act, any report of an adverse event regarding the drug that the Secretary of Health and Human Services receives shall be referred to the Office of Pediatric Therapeutics established under section 6 of this Act. In considering the report, the Director of such Office shall provide for the review of the report by the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee, including obtaining any recommendations of such Subcommittee regarding whether the Secretary should take action under the Federal Food, Drug, and Cosmetic Act in response to the report.

(2) RULE OF CONSTRUCTION.—Paragraph (1) may not be construed as restricting the authority of the Secretary of Health and Human Services to continue carrying out the activities described in such paragraph regarding a drug after the one-year period described in such paragraph regarding the drug has expired.

SEC. 18. MINORITY CHILDREN AND PEDIATRIC-EXCLUSIVITY PROGRAM.

(a) PROTOCOLS FOR PEDIATRIC STUDIES.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended in subsection (d)(2) by inserting after the first sentence the following: "In reaching an agreement regarding written protocols, the Secretary shall take into account adequate representation of children of ethnic and racial minorities.".

(b) STUDY BY GENERAL ACCOUNTING OFFICE.—

(1) In General.—The Comptroller General of the United States shall conduct a study for the purpose of determining the following:

(A) The extent to which children of ethnic and racial minorities are adequately represented in studies under section 505A of the Federal Food, Drug, and Cosmetic Act; and to the extent ethnic and racial minorities are not adequately represented, the reasons for such under representation and recommendations to increase such representation.

(B) Whether the Food and Drug Administration has appropriate management systems to monitor the representation of the children of ethnic and racial minorities in such studies.

(C) Whether drugs used to address diseases that disproportionately affect racial and ethnic minorities are being studied for their safety and effectiveness under section 505A of the Federal Food, Drug, and Cosmetic Act.

(2) Date Certain for Completing Study.—Not later than January 10, 2003, the Comptroller General shall complete the study required in paragraph (1) and submit to the Congress a report describing the findings of the study.

SEC. 19. TECHNICAL AND CONFORMING AMENDMENTS.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by sections 2(1), 5(b)(2), 9, 10, 11, and 17) is amended—

(1)(A) by striking "(j)(4)(D)(ii)" each place it appears and inserting "(j)(5)(D)(ii)";

(B) by striking "(j)(4)(D)" each place it appears and inserting "(j)(5)(D)"; and

(C) by striking "505(j)(4)(D)" each place it appears and inserting "505(j)(5)(D)";

(2) by redesignating subsections (a), (g), (h), (i), (j), (k), (l), (m), (n), and (o) as subsections (b), (a), (g), (h), (n), (m), (i), (j), (k), and (l) respectively;

(3) by moving the subsections so as to appear in alphabetical order;

(4) in paragraphs (1), (2), and (3) of subsection (d), subsection (e), and subsection (m) (as redesignated by paragraph (2)), by striking "subsection (a) or (c)" and inserting "subsection (b) or (c)"; and

(5) in subsection (g) (as redesignated by paragraph (2)), by striking "subsection (a) or (b)" and inserting "subsection (b) or (c)".

POST TERRORISM MENTAL HEALTH IMPROVEMENT ACT

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 236, S. 1729.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1729) to provide assistance with respect to the mental health needs of individuals affected by the terrorist attacks of September 11, 2001.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2503

Mr. REID. Madam President, I understand that Senators KENNEDY and WARNER have a substitute amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KENNEDY, for himself, Mr. WARNER, Mr. FRIST, Mrs. CLINTON, Mr. WELLSTONE, Ms. COLLINS, Mrs. MURRAY, and Mr. DOMENICI, proposes an amendment numbered 2503.

Mr. REID. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Post Terrorism Mental Health Improvement Act".

SEC. 2. PLANNING AND TRAINING GRANTS.

Section 520A of the Public Health Service Act (42 U.S.C. 290bb-32) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting before the semicolon the following: ", including the training of mental health professionals with respect to evidence-based practices in the treatment of individuals who are victims of a disaster";

(B) in paragraph (3), by striking "and" at the end;

(C) in paragraph (4), by striking the period and inserting a semicolon; and

(D) by inserting after paragraph (4), the following:

"(5) the development of coordinated response plans for responding to the mental health needs (including the response efforts of private organizations) that arise from a disaster, including the development and expansion of the 2-1-1 or other universal hotline as appropriate; and

"(6) the establishment of a mental health disaster response clearinghouse.";

(2) by redesignating subsection (f) as subsection (h); and

(3) by inserting after subsection (e) the following:

"(f) State Comments.—With respect to a State or local public entity that submits an application for assistance under this section and that intends to use such assistance as provided for in subsection (a)(5), such entity shall provide notice of such application to the chief executive officer of the State, the State mental health department, and the State office responsible for emergency preparedness who shall consult with providers and organizations serving public safety officials and others involved in responding to the crisis, and provide such officer, department and office with the opportunity to comment on such application.

"(g) Definition.—For purposes of subsection (a)(2) ,the term 'mental health professional' includes psychiatrists, psychologists, clinical psychiatric nurse specialists, mental health counselors, marriage and family therapists, clinical social workers, pastoral counselors, school psychologists, licensed professional counselors, school guidance counselors, and any other individual practicing in a mental health profession that is licensed or regulated by a State agency.".

SEC. 3. GRANTS TO DIRECTLY AFFECTED AREAS TO ADDRESS LONG-TERM NEEDS.

(a) In General.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall award grants to eligible State and local governments and other public entities to enable such entities to respond to the long-term mental health needs arising from the terrorist attacks of September 11, 2001.

(b) Eligibility.—To be eligible to receive a grant under subsection (a) an entity shall—

(1) be a State or local government or other public entity that is located in an area that is directly affected (as determined by the Secretary) by the terrorist attacks of September 11, 2001; and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) Use of Funds.—A grantee shall use amounts received under a grant under subsection (a)—

(1) to carry out activities to locate individuals who may be affected by the terrorist attacks of September 11, 2001 and in need of mental health services;

(2) to provide treatment for those individuals identified under paragraph (1) who are suffering from a serious psychiatric illness as a result of such terrorist attack, including paying the costs of necessary medications; and

(3) to carry out other activities determined appropriate by the Secretary.

(d) Supplement Not Supplant.—Amounts expended for treatments under subsection (c)(2) shall be used to supplement and not supplant amounts otherwise made available for such treatments (including medications) under any other Federal, State, or local program or under any health insurance coverage.

(e) Use of Private Entities and Existing Providers.—To the extent appropriate, a grantee under subsection (a) shall—

(1) enter into contracts with private, nonprofit entities to carry out activities under the grant; and

(2) to the extent feasible, utilize providers that are already serving the affected population, including providers used by public safety officials.

(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section such sums as may be necessary in each of fiscal years 2002 through 2005.

SEC. 4. RESEARCH.

Part A of title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

"SEC. 229. RESEARCH.

"Notwithstanding any other provision of law, the Secretary may waive any restriction on the amount of supplemental funding that may be provided to any disaster-related scientific research project that is funded by the Secretary.".

SEC. 5. CHILDREN WHO EXPERIENCE VIOLENCE-RELATED STRESS.

(a) In General.—Section 582(f) of the Public Health Service Act (42 U.S.C. 290hh-1(f)) is amended by striking "2002 and 2003" and inserting "2002 through 2005".

(b) Sense of Congress.—It is the sense of Congress that the program established under section 582 of the Public Health Service Act (42 U.S.C. 290hh-1) should be fully funded.

Mr. KENNEDY. Madam President, mental illnesses inflicted by tragedies like the assault on the World Trade Center and the Pentagon are a serious problem. Every American family is at risk, whether a loved one worked at the World Trade Center or the Pentagon, or whether the family simply watched the attack on television from a continent away. Studies of other disasters teach us that the most vulnerable are those who are most directly affected, but even those less directly touched by these tragedies are vulnerable.

The hearing on September 26 made it clear that Congress has an obligation to assure that these mental health needs are met and that we are better prepared for the mental health consequences of future tragedies. Our witnesses, as well as other experts in the field, identified four key needs: better advance planning and preparedness, training of mental health professionals to treat the specific mental health needs arising from disasters, resources to identify and treat those who will suffer long-term mental health problems as a result of the September 11 attack, research on how to improve our responses to the needs of disaster victims.

The legislation passed through the Senate today by unanimous consent intended to meet all four of these needs. This help is essential for the individuals and families who were injured or lost a loved one, for the brave public safety officers who put their lives on the line trying to rescue or recover victims, and for the many other Americans of all ages in communities across the country who have suffered psychological trauma as the result of these attacks. The bill was developed in close collaboration with Senator WARNER. Senator FRIST, Senator CLINTON, Senator WELLSTONE, and Senator GREGG made important contributions and I thank them for their efforts.

It is my hope that it will be approved by the House, and that it will be followed by an adequate allocation of funds to help all those who need it.

Mr. WARNER. Madam President, yesterday marked the three month anniversary of one of the most tragic days in American history. While the loathsome, cowardly acts of terrorism that took place on September 11, 2001 have deeply wounded our country, they have not, and never will, dull the spirit and resolve of the American people.

My thoughts and prayers continue to be with those who lost loved ones on that horrific day. And, I continue to express my deepest appreciation to the thousands of individuals who stepped up on the face of danger to assist in the devastating aftermath at the Pentagon, the World Trade Center, and at the Pennsylvania crash site.

The Congress has come together, speaking with a unified bipartisan voice, on several pieces of legislation. Members of Congress have joined together in support of our President and his determination to punish the perpetrators of these attacks. We have joined together on legislation to help law enforcement prevent additional acts of terrorism and to help law enforcement bring terrorists to justice. We have also come together to provide additional resources to bolster our public health infrastructure to better prepare this country in the event of a more widespread biological attack.

I rise today to express my gratitude for my colleagues' willingness to work in a bipartisan fashion on yet another piece of legislation in response to the September 11 attacks. On November 27, 2001, the Health, Education, Labor, and Pensions Committee reported out legislation to provide assistance with the mental health needs of individuals affected by the terrorist attacks of September 11, 2001.

Today, I am pleased to report that this legislation, which I worked so closely on with Senators KENNEDY, FRIST, and GREGG, has passed the Senate by unanimous consent.

The legislation has three main components. First, it authorizes the Secretary of Health and Human Services to provide grants to areas that are directly affected by the attacks of September 11, 2001, such as Northern Virginia and New York City. Grants can be used by State and local governments to respond to the long-term mental health needs arising from that disaster, particularly for the treatment of those individuals who do not have mental health insurance coverage or who are under-insured.

Second, the bill permits the Secretary to provide grants for training mental health professionals in the treatment of certain disorders, such as post traumatic stress disorder, that may result from disasters.

Finally, the legislation permits the Secretary to make grants to States and localities to develop a coordinated mental health response plan in the event of a future disaster.

While the extent of the long term mental health consequences of September 11, 2001 are not entirely known, the needs are certain to be serious. This legislation makes it clear that Congress is committed to meeting the essential mental health needs of the individuals and families who were injured or killed in the terrorist attacks on this great Nation.

I thank my colleagues for their support of this legislation.

Mr. REID. Madam President, I ask unanimous consent that the amendment be agreed to, the motion to reconsider be laid upon the table; the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2503) was agreed to.

The bill (S. 1729), as amended, was read the third time and passed.

ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

Mr. REID. Madam President, I ask unanimous consent that the Senate immediately proceed to Calendar No. 256, H.R. 3323.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3323) to ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3323) was read the third time and passed.

Mr. DORGAN. Madam President, today the Senate has passed H.R. 3323, a bill that waives the penalties for state health programs, health care providers, and health plans that are unable to comply with the transactions and code sets regulation of the Health Insurance Portability and Accountability Act by October 16, 2002. This bill is different from the bill passed by the Senate on November 27, and frankly, I would prefer that we simply provide the one-year extension to those entities that need it, as provided for in the Senate bill. However, the time remaining in this session of Congress is short, and the House bill will offer a measure of help to those in our states.

The House bill would require that, in order to receive a waiver, those entities needing more time to comply with the transactions and code sets regulation would have to submit a plan to the Secretary of Health and Human Services explaining how they plan to come into compliance by October 16, 2003. When Senator CRAIG and I first introduced legislation on this issue more than six months ago, we are attempting to help alleviate a burden on covered entities. It is not our intention in passing this bill to place a significant new burden on health care providers, states, and health plans.

Mr. CRAIG. Madam President, I share Senator DORGAN'S concern that the compliance plans called for in the House bill not be unduly burdensome. The terrorist attacks of September 11th, and concern about bioterrorism, are putting an additional pressure on our already overtaxed public health system, so imposing new burdens is something we should try to minimize. Therefore, we strongly encourage Health and Human Services Secretary Thompson to ensure that the requirement to file a compliance plan imposes as little a burden as possible.

Mr. BAYH. I want to associate myself with the remarks of my colleagues, Senators DORGAN and CRAIG. As a former governor, I also want to raise a potential concern that has been brought to my attention by some states. The Medicaid program is explicitly covered by HIPAA, but there are many other state programs with health components that may or may not be covered. Before states go through the potentially unnecessary work of submitting compliance plans that may not be needed, I feel strongly that HHS should provide guidance to states about what other plans are required. In addition, HHS should provide technical assistance as to what resources states can use for developing the compliance plans called for by the House bill. States should submit their plans for the Medicaid program and receive guidance from the HHS before submitting state plans that deal with other programs. Only with the appropriate and critical information can HHS and the states create a successful partnership.

Mr. DORGAN. I thank the Senator for raising this important concern. I agree that HHS should provide states with the necessary guidance. I also want to note that when Senator CRAIG and I first introduced legislation on this issue it was our intention not to affect the implementation of the medical privacy regulation. I'm pleased that this bill accomplishes that goal, and the medical records privacy rule will not be delayed or affected in any way.

Mr. CRAIG. I, too, am glad that we have been able to protect the privacy rule, and I want to make one final point in that regard. Nothing in this bill is designed to create any new covered entities under the privacy rule. Our intention in safeguarding the privacy rule was to keep it intact but not to expand the class of covered entities currently contemplated by it.

Mr. DORGAN. In closing, I thank Senator CRAIG for his long and hard work on this issue, as well as Senators BAUCUS, GRASSLEY, KENNEDY, and the many cosponsors of our original legislation, for their help in reaching enactment of this bill.

EXPRESSING THE SENSE OF CONGRESS REGARDING TUBEROUS SCLEROSIS

Mr. REID. I ask unanimous consent that the health committee be discharged from further consideration of H. Con. Res. 25, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 25) expressing the sense of the Congress regarding tuberous sclerosis.

There being no objection, the Senate proceeded to the immediate consideration of the concurrent resolution.

Mr. REID. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (H. Con. Res. 25) was agreed to.

The preamble was agreed to.

DISTRICT OF COLUMBIA COLLEGE ACCESS IMPROVEMENT ACT OF 2001

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 244, H.R. 1499.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1499) to amend the District of Columbia College Access Act of 1999 to permit individuals who graduated from a secondary school prior to 1998 and individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school to participate in the tuition assistance programs under such Act, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia College Access Improvement Act of 2001".

SEC. 2. PUBLIC SCHOOL PROGRAM.

Section 3(c)(2) of the District of Columbia College Access Act of 1999 is amended by striking subparagraphs (A) through (C) and inserting the following:

"(A)(i) for individuals who begin an undergraduate course of study within 3 calendar years (excluding any period of service on active duty in the armed forces, or service under the Peace Corps Act (22 U.S.C. 2501 et seq.) or subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.)) of graduation from a secondary school, or obtaining the recognized equivalent of a secondary school diploma, was domiciled in the District of Columbia for not less than the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education; or

"(ii) for all other individuals and for those applicants re-enrolling after more than a 3-year break in their post-secondary education, has been domiciled in the District of Columbia for at least 5 consecutive years at the date of application;

"(B)(i) graduated from a secondary school or received the recognized equivalent of a secondary school diploma on or after January 1, 1998;

"(ii) for applicants that did not graduate from a secondary school or receive a recognized equivalent of a secondary school diploma, is accepted for enrollment as a freshman at an eligible institution on or after January 1, 2002; or

"(iii) for applicants who graduated from a secondary school or received the recognized equivalent of a secondary school diploma before January 1, 1998, is currently enrolled at an eligible institution as of the date of enactment of the District of Columbia College Access Improvement Act of 2001;

"(C) meets the citizenship and immigration status requirements described in section 484(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(5));".

SEC. 3. PRIVATE SCHOOL PROGRAM.

Section 5(c)(1)(B) of the District of Columbia College Access Act of 1999 is amended by striking "The main campus of which is located in the State of Maryland or the Commonwealth of Virginia".

SEC. 4. GENERAL REQUIREMENTS.

Section 6 of the District of Columbia College Access Act of 1999 is amended—

(1) by striking subsection (b) and inserting the following:

"(b) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Mayor of the District of Columbia may not use more than 7 percent of the total amount of Federal funds appropriated for the program, retroactive to the date of enactment of this Act (the District of Columbia College Access Act of 1999), for the administrative expenses of the program.

"(2) DEFINITION.—In this subsection, the term 'administrative expenses' means any expenses that are not directly used to pay the cost of tuition and fees for eligible students to attend eligible institutions.";

(2) by redesignating subsections (e) and (f) as subsections (f) and (g);

(3) by inserting after subsection (d) the following:

"(e) LOCAL FUNDS.—It is the sense of Congress that the District of Columbia may appropriate such local funds as necessary for the Program."; and

(4) by inserting at the end the following:

"(h) DEDICATED ACCOUNT FOR THE RESIDENT TUITION SUPPORT PROGRAM.—The District of Columbia government shall establish a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal years. The funds in this dedicated account may be used to help pay the cost of tuition and fees for eligible students to attend eligible institutions if the fiscal year appropriation for that year is insufficient to cover the cost of tuition and fees for that year.".

Amend the title so as to read: "An Act to amend the District of Columbia College Access Act of 1999 to permit individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school and individuals who attend private historically black colleges and universities nationwide to participate in the tuition assistance programs under such Act, and for other purposes.".

Mr. REID. There is a Lieberman amendment at the desk, and I ask it be agreed to, the committee substitute amendment, as amended, be agreed to, and the motion to reconsider be laid upon the table, that the bill, as amended, be read the third time, passed, and the motion to reconsider be laid on the table, with no intervening action or debate, that any statements related thereto be printed in the RECORD, and that the title amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2515) was agreed to, as follows:

(Purpose: To clarify the intended inclusion of certain individuals)

In subparagraph (A) of section 3(c)(2) of the District of Columbia College Access Act of 1999, as added by section 2—

(1) in clause (i), strike "or" after the semicolon;

(2) redesignate clause (ii) as clause (iii); and

(3) insert after clause (i) the following:

"(ii) for individuals who graduated from a secondary school or received the recognized equivalent of a secondary school diploma before January 1, 1998, and is currently enrolled at an eligible institution as of the date of enactment of the District of Columbia College Access Improvement Act of 2001, was domiciled in the District of Columbia for not less than the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education; or".

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 1499), as amended, was read the third time and passed.

The title amendment was agreed to.

ORDERS FOR THURSDAY, DECEMBER 13, 2001

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Thursday, December 13; that immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the farm bill; further, that the live quorum with respect to the cloture motion be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:51 p.m., adjourned until Thursday, December 13, 2001, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, December 12, 2001*

The House met at 10 a.m.

The Rabbi Peter J. Rubinstein, Central Synagogue, New York, New York, offered the following prayer:

Dear friends, we gather during this festival of Hanukkah when Jews celebrate the blessing of light and rededication and renewal. Long ago, those enemies who would have destroyed us profaned our sacred alters. They wished to rid the world of the fundamental teachings of our faith: that peace is founded upon justice, that all human beings are God's creation deserving of ultimate decency and goodness, and that the loveliness of light will always, in the end, obliterate the suffocating specter of darkness.

So, again, as we battle for the vision of light and peace, we ask You, O God, to bless us today in our gathering. Send healing to the sick, comfort to all who are in pain, and tender love to the sorrowing hearts among us. Deepen our love for our country and our desire to serve it. Let Your blessing rest upon us so that our Nation may forever be to the world an example of justice and compassion. As well, may all that we do be a blessing and in Your service, O God and let us say, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FORBES. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FORBES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. McNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. McNULTY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

WELCOME TO RABBI RUBINSTEIN

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I am proud to welcome to this Chamber Rabbi Peter J. Rubinstein, senior Rabbi at Manhattan's Central Synagogue.

Built in 1872, Central Synagogue is a national and city landmark that was nearly destroyed by fire in 1998. But thanks to Rabbi Rubinstein and others, the Central Synagogue rose from the ashes not only restored, but improved.

New York would do well to follow its example.

On September 9, along with thousands of New Yorkers, I was pleased to attend a glorious celebration when the synagogue reopened. But the joy was shortlived. Just days later, Central Synagogue was hosting memorial services for World Trade Center victims. In retrospect, the renovations were completed just in time.

The Central Synagogue and Rabbi Rubinstein have been there for New Yorkers in times of joy and sorrow alike, and the synagogue was ready for the most sorrowful day in our city's history.

It gives me great pleasure that a man who has meant so much to so many was able to lead us in prayer today.

THE JOURNAL

The SPEAKER. Pursuant to clause 8, rule XX, the pending business is the question of the Chair's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FORBES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 44, answered "present" 1, not voting 33, as follows:

[Roll No. 486]

YEAS—355

Abercrombie
Ackerman
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Moran (VA)
Morella
Murtha
Myrick

Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stump
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Wexler
Whitfield
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—44

Allen
Baird
Bonior
Borski
Brady (PA)
Brown (OH)
Capuano
Costello
Crane
DeFazio
English
Etheridge
Filner
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hilliard
Holt
Hooley
Kelly
Kennedy (MN)
Kucinich
Larsen (WA)
LoBiondo
McDermott
Moore
Moran (KS)
Oberstar
Peterson (MN)
Ramstad
Sanchez
Schaffer
Stenholm
Strickland
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (NM)
Visclosky
Waters
Weller
Wicker

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—33

Ballenger
Buyer
Cantor
Clay
Conyers
Coyne
Cubin
Culberson
Davis (IL)
Deal
Delahunt
Dingell
Dooley
Doyle
Fossella
Gephardt
Gonzalez
Granger
Hinchey
Hostettler
Leach
Luther
Meek (FL)
Miller, George
Mollohan
Obey
Sabo
Sessions
Slaughter
Stark
Weldon (FL)
Weldon (PA)
Young (AK)

□ 1026

So the Journal was approved.

The result of the vote was announced as above recorded.

ARMEY ANNOUNCES RETIREMENT FROM CONGRESS

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, at the end of this Congress, I will have served 18 years in the United States House of Representatives.

Mr. Speaker, I want to thank the good people of the 26th Congressional District of Texas who nine times elected me to represent them in this body. How very privileged I am to have been given that trust, that responsibility and the opportunity to serve the values I share with these good people: faith, freedom, safety, security and peace, in that order.

Mr. Speaker, I have come to love this place. This is the most marvelous democratic institution in the history of the world. It is true what we say about this wonderful House Chamber. Here the people govern; we, the House of Representatives. It is more than a place. It is we the people, working each in our own way to secure the blessings of liberty for ourselves and our posterity.

In my time here we have managed to secure many blessings of liberty. We have been the instruments of the American people during a special period when America led the world in a freedom revolution. As a lesson in how freedom works, we whipped stagflation and set a course of economic prosperity and growth unparalleled in the history of the world.

America halted the march of communism in our hemisphere. We inspired the demise of its tyranny in Eastern Europe. The Cold War ended on our terms. The Soviet Union collapsed. The Berlin Wall fell. We won the Gulf War, and as we speak, we are removing the scourge of terrorism from the globe.

□ 1030

Peace through strength and supply-side economics changed this world for the better. Because the American people champion liberty, more people in the world live free today than at any time in the world's history. Yet there is more to be done, and it is America who will lead the way.

Mr. Speaker, that marvelous creativity known as practical American genius led us through the agricultural revolution and the industrial revolution. It now leads us through the electronic revolution. Once again we see new marvels, deriving from the American creativity and hard work. Today, we see a renewal of faith in God that lifts the hearts of everyone in America. There is a renewal of patriotism that vindicates the faith of our fathers and the sacrifices of our heroes.

America is a good Nation, where blessings endure and difficulties pass. The American people deserve a government that knows their goodness and has the decency to respect it. It is up to us to be that government, and I have complete confidence that we will continue to be just that.

Because of this confidence, I am comfortable telling you today that the end of this 107th Congress is the time for me to stand down as majority leader and as a Member of Congress: to take my leave of this place and the people I love so much, and to return home to my beloved 26th district of Texas and, more importantly, to my beloved wife and family.

Mr. Speaker, I am sad to say what we all know is true. Too often our service to our Nation is a disservice to our family. To our spouses, our years of service seem to be an unbroken string of broken promises and disappointments. Our husbands and wives are too often excluded from what we do. They live a life of hardship that is rarely supposed and even less understood. It is as if they are single parents.

You all know what I mean. We all have our own heartbreaking chapter and verse. Bless our hearts, and, even more, bless our spouses' hearts.

But, Mr. Speaker, here is the good news. Throughout all the difficulties that only we who serve here can understand, I have kept the love of a good woman. And, Mr. Speaker, I have kept my love for her just as it was on the day we were wed. Just as she has always been, my darling wife Susan is here with me today from our home in Texas.

Honey, I want to thank you for all your years of sacrifice. And, honey, you get to keep this house. We are not moving again.

Mr. Speaker, let me just mention our children, Kathy and Brandon, David and Lori, Chip and Christine, Scott and Carisa, and Scott and Pam. They have given us our beautiful grandchildren, Avery, Christian, Christopher, and Jacob. I very much look forward to making up for lost time with them, just as with my wonderful mother-in-law, Alyne, our beautiful sister Betsy and her darling little Ryan.

Mr. Speaker, while this is a sad announcement for me, I am consoled by the fact that I have one more year, one more year in the leadership of this body. I am looking forward to that being the best year ever. We are just completing an outstanding legislative year, and we will do even more next year. I do not intend to miss a minute of it.

Mr. Speaker, my first lesson in politics was "good policy makes good politics." I believe that. And I believe this majority makes good policy. That is why, Mr. Speaker, the American people elected us to this majority and that is why I know they will do it again in the next Congress, and I do not have a doubt about it. I can complete my work next year knowing the House will remain in good hands.

And, Mr. Speaker, may I say in that regard to you personally, to you personally, Mr. Speaker, thank you for answering your Nation's call to duty. Mr. Speaker, you are, in my life's experience, more than anybody else I have ever known, the right man to step up to provide the right leadership at the right time for all the right reasons, and I thank you. May God bless you.

I might add, Mr. Speaker, that you have made it possible for me to know I have got the best job in this town, and I am going to do it with all my energy for another year.

The good people of Texas have made it possible for me to work with the finest people in the world, the Members of the United States House of Representatives on both sides of the aisle. To my friends on the other side of the aisle, we have many good contests. We are sometimes together, but we are more often in opposition. But we always represent what we believe. Thank you, my friends. You are constant, consistent and reliable.

You know, despite the often too-bitter contests we have, I cherish the fact that when our country needed us to come together, we stood on the steps of this Capitol and hand to hand we sang "God Bless America." It was that feeling of unity, not the heated exchanges, that I will remember most fondly when I leave here.

To my Republican colleagues, we should be proud of what we have done in our young majority. Twice now we have lowered the tax burden on America's working families and left them more in charge of their own hard-earned money. We reformed a failed welfare system in a way that has saved families. We honored the American people's prosperity by our spending restraint, and we turned government deficits into hard-won surpluses, and we must now hold them. We will hold those surpluses by restoring economic growth through supply-side tax cuts, and that is why we cannot leave here without an economic stimulus package.

My colleagues, my friends, my appreciation for you has only been made greater because in the past few years I have had the privilege of visiting nearly every congressional district in America. I am looking forward to returning to about 100 more next year. But for now, my friends, let us finish our work and go home.

Let me conclude by saying, I wish you all, all of you and all your hardworking staffs, and all the wonderful people that make this great organization work, and the security and the police, let me wish you all a happy holiday season. Whether it is the celebration of Chanukah or, for me, Christmas, the birthday of my Lord and Savior, Jesus Christ, I just hope this is a happy and joyous occasion. It will be for me and my family, it will be for America, and it should be in all our lives.

Thank you, God bless you, and God bless America.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following titles:

H.R. 2199. An act to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 2336. An act to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

The message also announced that the Senate has passed a bill and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 1519. an act to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

S. Con. Res. 55. Concurrent Resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996.

The message also announced that the Senate agreed to the amendment of the House to the bill (S. 494) "An Act to provide for a transition to democracy and to promote economic recovery in Zimbabwe.".

HOW THE GRINCH STOLE THE CONSTITUTION

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, a fourth grader in Pennsylvania has been told that he cannot hand out Christmas cards to his classmates if they contain religious messages.

Two middle school students in Minnesota have gotten in trouble for wearing red and green scarves during a Christmas skit and for ending the skit by saying "We hope you all have a merry Christmas."

Two ninth graders in Massachusetts have been told they cannot create Christmas cards that say Merry Christmas or depict a nativity scene.

A teacher in Illinois has been warned by her principal not to read a book about Christmas to her second grade class, even though it is from the school library.

A school district in Georgia has deleted the word Christmas from its school calendar to avoid a lawsuit from the ACLU.

Mr. Speaker, the Constitution has been hijacked. The founders never intended the first amendment to prevent schoolchildren from wishing each other a merry Christmas.

Left-wing lawyers are distorting the Constitution beyond all recognition. Pretty soon they will be able to make it say anything they want it to say, and then we will all be in trouble.

The Grinch may have already stolen Christmas. Let us keep him from stealing the Constitution too.

□ 1045

COMMITTEE FOR STIMULUS PACKAGE NEEDS TO MEET

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, the President and many national leaders are asking us to stimulate the economy by putting together a package and presenting it to the President for his signature. Some may remember it was this House that passed the so-called stimulus package, but what was in it? Hundreds of billions of dollars of corporate tax cuts, and little if no notice was given to the hundreds of thousands of people that are unemployed. That is the Republican stimulus package. Yet Members are ridiculing the Senate for not moving. What they fail to realize is that the leadership of the committee is not on the Senate side. The chairmanship of the committee comes from the House side from the chairman of the Committee on Ways and Means.

Mr. Speaker, it would seem to me that if we were serious about doing something, the committee would have a meeting. What most Americans and Members do not know, we have not met since last Wednesday. If there is an urgency, let us not blame the Senate. Let us find out where the blame is, and have Members of Congress not having press conferences or fund-raisers, but coming together trying to resolve this difference.

MUSIC INDUSTRY NOT HELPING PARENTS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, recently the Federal Trade Commission released a study on the marketing practices of different sectors of the entertainment industry. The report finds movie and video game companies have made "commendable" progress since last year, placing limits on ads for violent games and movies in popular teen media and disclosing those ratings in its ads.

Regrettably, however, the commission found that only the music industry continues to place no restrictions on what materials it can market to underaged children in magazines, on TV, radio and over the Internet.

While the music industry labels its products, one of the FTC commissioners stated it correctly: "I think it is hypocritical for the music industry to claim it is helping parents by placing a parental label on CDs, while at the same time undermining parents by aggressively marketing the same CD to children."

When industry fails to institute meaningful self-regulation and act responsibly, I, both as a parent and a member of the community, believe government has an obligation.

NOBEL PEACE PRIZE NOMINATIONS

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise today to encourage Members to join me in nominating two revered Vietnamese spiritual leaders for the Nobel Peace Prize.

Monday was International Human Rights Day. In accepting his Nobel Peace Prize on its 100th anniversary, U.N. Secretary General Kofi Annan urged all nations to focus more on human rights in a quest to end poverty, prevent conflicts, and to foster democracy.

It is for these reasons that I urge my colleagues to join me in asking the Nobel Peace Prize Selection Committee to nominate the Most Venerable Thich Quang Do and Father Van Ly of Vietnam for the Nobel Peace Prize.

The Most Venerable Thich Quang Do is the secretary-general of the banned Unified Buddhist Church of Vietnam. Since June 2001, he has been under house arrest for announcing his intention to escort the ailing 83-year-old Buddhist patriarch Thich Huyen Quang to Ho Chi Minh City for urgently needed medical attention.

Similarly, earlier this year, Father Ly was placed under house arrest and banned from running his church for providing testimony to the U.S. Commission on International Religious Freedom, which urged this Congress to do something about human rights and religious persecution in Vietnam.

Mr. Speaker, in recognition of their leadership and sacrifice, I urge my colleagues to join me in signing this letter to the U.N.

SUPPORT CALL TO SERVICE ACT

(Mr. OSBORNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OSBORNE. Mr. Speaker, since the events of September 11, our country has witnessed a surge of patriotism and a desire to serve. This morning the gentleman from Tennessee (Mr. FORD) and I introduced the Call to Service Act which attempts to harness some of this energy.

I would like to emphasize three parts of this act which are particularly noteworthy. Number one, the act provides service opportunities all across the country, particularly in rural and underserved areas. An example is incentives for teachers to stay in rural and underserved areas.

Secondly, the act creates a new short-term military service category: 18 months of active duty and 18 months of reserve duty. These troops will provide security at airports, bridges, nuclear facilities, and our Nation's borders. They would also provide technical assistance in case of a health emergency caused by bioterrorism.

Lastly, the Call to Service Act will create thousands of opportunities to provide mentoring and tutoring for children who are desperately in need of a caring adult role model. Senior citizens will be especially helpful in this endeavor.

Mr. Speaker, I urge Members to support the Call to Service Act.

STIMULUS PACKAGE NEEDED TO HELP UNEMPLOYED, NOT JUST THE WEALTHY

(Mr. HINOJOSA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINOJOSA. Mr. Speaker, yesterday the Federal Reserve cut short-term interest rates for the eleventh time in as many months. However, the U.S. economy continues to grow weaker. Last month the Nation's unemployment rate hit a 6-year high of 5.7 percent. Industry production appears to be at its weakest level in 20 years. Factories are operating at the lowest levels of capacity since 1983.

These statistics translate into Americans losing jobs, and with them the means to obtain health care, food and shelter. The Latino community for example is the fastest growing segment of the workforce, but is one of the most vulnerable, as many Latino workers are concentrated in low-wage industries with unsteady work.

Mr. Speaker, it is good, commonsense public policy to stimulate the economy by putting money in the hands of people who need it most and who will spend it immediately. This action increases the demand for goods and services, which is the only way to get our Nation's business, all of the businesses, investing, producing, and hiring again. Congress must pass a stimulus package that helps the unemployed, not only the wealthy.

ECONOMIC STIMULUS BILL NEEDED

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, more than a month ago this House passed a much-needed economic stimulus package; but, unfortunately, America waits. American families have been waiting for the Democratic leadership in the other body to act; waiting for the relief to spur on economic investment; waiting for additional Federal assistance so small businesses can obtain loans to keep their doors open and people employed; waiting for expanded health care and unemployment benefits for those in the tourism industry who have been laid off since September 11.

Mr. Speaker, like all Americans, Nevadans have waited too long for the Democratic leadership to start putting the welfare of this Nation and its economic prosperity ahead of their political priorities. It is time for an economic stimulus package to be passed by both Chambers of Congress and sent to the President and signed into law. America's economy, stability, and the individual prosperity of every American depends on it. Let us do it now.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PETRI). The Chair would remind Members that remarks in debate may not include characterizations of Senate action or inaction.

CHRISTMAS IS ABOUT BIRTH OF CHRIST

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the school prayer issue is out of control, literally. Students in Pennsylvania were prohibited from handing out Christmas cards. Reports say students in Minnesota were disciplined for having said merry Christmas. Now if that is not enough to find coal in your athletic supporter, check this out: A school board in Georgia removed the word "Christmas" from their school calendar because the ACLU threatened to sue. Beam me up. If this is religious freedom, I am a fashion model for GQ.

Mr. Speaker, I yield back the fact that Christmas is not about a jolly old fat man. Christmas is about the birth of Christ.

A JOB WELL DONE

(Mr. BARTON of Texas asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, in 1984 the gentleman from Texas (Mr. ARMEY) and myself were elected to Congress from adjoining districts. He started out sleeping in his congressional office, and I started out picketing then-majority leader Jim Wright, which the gentleman from Texas helped me do. He went on to become conference chairman of the Republican Conference and when the Republicans became the majority, majority leader.

The gentleman from Texas (Mr. ARMEY) is a man of big ideas. It was his bill that began to streamline our military base positions in this country. He is also a supporter of school vouchers and flat taxes. He came from can-do North Dakota, and he brags about that even though he now lives in Texas.

Mr. Speaker, the gentleman from Texas (Mr. ARMEY) did come, he did do. I say well done to the gentleman from Texas (Mr. ARMEY).

REJECT RECOMMENDATIONS OF SOCIAL SECURITY COMMISSION

(Mr. UDALL of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, there are three good reasons we should reject the recent recommendations of the Social Security commission, this commission that has said that we should move in the direction of privatizing Social Security.

The first is the commission was stacked with individuals who had a preconceived notion of the outcome. Second, the commission recommends private accounts but does not take into consideration the cost. Many observers believe converting Social Security to private accounts would cost $1 trillion. Where is that money to come from? Out of Social Security, of course.

And finally, private accounts invested in the market are risky investments. We only need to look at our recent downturn to see how risky these investments are. Are we going to throw people out on the streets in their golden years because they have lost their retirements in the market? I certainly hope not.

COMFORT THE KIDS

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise today to commend the efforts of two Arizona families, the Porter family and the Rogers family. Following the September 11 attacks, Steve and Liz Porter and Todd and Mikki Rogers wanted to help those affected by the tragedies.

Together, these two families created a project called Comfort the Kids. Their goal was lofty, to create 10,000 small red, white and blue quilts for the children who have suffered family losses by the end of the year. They were not alone in their efforts. Their Web site, www.ComforTheKids.org, is currently receiving an average of one hit per minute. School districts, Boy Scouts and countless other families and individuals are joining them in their efforts. These quilts will not only comfort the recipient, but will serve as a hand-made symbol of compassion. I thank the Porter family and the Rogers family for their diligence and hard work, and commend them for their efforts. They represent the best of America.

SAVE AMERICAN STEEL INDUSTRY

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, today steelworkers from across the United States have come to Washington to ask our House to recognize their plight and the plight of U.S. Steel. Today the United States steel industry is faltering and in danger of collapse. Tens of thousands of men and women who have helped to secure the defense of this country through their work in creating and making this product called steel are in danger of losing their jobs and having their whole way of life be destroyed.

Mr. Speaker, it is time for this country to ask itself whether or not it is in our national interest and in the interest of our national defense to maintain our steel industry; or shall we become dependent on foreign steel, the same way we are dependent on foreign oil.

This House will have an opportunity before we complete our business to address the issues, to give the steelworkers some relief, to make it possible for steel loan guarantees to be more widely applicable, to give an opportunity for net operating loss to put cash into steel companies so they can keep going. This Congress has an obligation to carry forth for the future of this country our ability to make steel.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PETRI). Members are again reminded not to characterize the actions of the Senate.

CALLING FOR LEGISLATION TO AID THE STEEL INDUSTRY

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, many of my colleagues have talked about before we go home, we must pass a stimulus package. I agree that we cannot go home without doing something for the people who have lost their jobs as a result of the recession and the attack on our country. And we must do something for the steelworkers so they do not become part of the people collecting unemployment insurance in our community. We have to protect the retirees for the health benefits that they are currently receiving.

We need to do this because the price of steel in this country is below cost, international cost, because our trade policies have allowed dumped, subsidized steel to come into the United States. Our own trade policy has reduced capacity so we have what is known as legacy cost, high cost for the steel industry for retirees.

This House, this body, must pass legislation helping the steel industry before we leave town. It is our responsibility to do it. We must create a level playing field. If we do, steel in the United States can compete with steel produced anywhere in the world on quality and cost. Yes, we must pass legislation before we go home.

STILL NO RESPONSE FROM THE SENATE ON ECONOMIC SECURITY

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, House Republicans have passed an economic security package to create new jobs and help unemployed workers. But the stalling economy continues to be in jeopardy because of the legislative process which continues to stall economic security legislation.

What are we waiting for? A stock market crash? Two-dollar-per-gallon gasoline? The failure to prepare and respond with sound initiatives to aid the economy indicates a disturbing disconnect between the elected officials and the state of the union.

The unemployment rate rose to its highest level in 6 years. Yet the leadership in Congress is constructing roadblocks and sitting on legislation to get the economy out of recession. More Americans lost their jobs last month, yet the legislative process refuses to respond with a plan of recovery.

Mr. Speaker, it is time to get the economic security act moving. It is time to get serious and match the House's work.

COMMEMORATING THE 25TH ANNIVERSARY OF FAMILY LIFE

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute.)

Mr. BOOZMAN. Mr. Speaker, I rise today to commemorate a wonderful organization named Family Life. Since the tragic events of September 11, there have been numerous stories of couples seeking assistance in reconciling their differences and continuing their commitment to each other. Many of these couples have sought out the assistance of Family Life.

For 25 years, Family Life, under the leadership of Dennis Rainey, has been helping struggling relationships become happy unions again. Formed as a means to provide Campus Crusade staff members premarriage seminars, community leaders and pastors soon learned of the group and encouraged them to provide their blueprint on how to build strong homes to the general public.

Since then, more than 1 million people have attended Family Life conferences and even more have used their materials. At the heart of Family Life is a lay volunteer network of more than 10,000 couples. Many are helping Family Life reach couples as city ministers or by leading study groups. With their help, Family Life has blossomed into a very effective support network for families, one home at a time.

In honor of their hard work and dedication, Governor Huckabee proclaimed this week will be Family Life Week in Arkansas. Mr. Speaker, I stand with my governor in recognizing the importance of the family unit and the service that Family Life has provided to preserve this cornerstone of society.

HONORING STUDENTS FROM MOLALLA ELEMENTARY SCHOOL

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute.)

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to honor a very special group of students from Molalla Elementary School. Like the rest of America, these girls and boys were shocked by the attacks on the Pentagon and the World Trade Center. After a great deal of brainstorming, they agreed to raise $1,000 to send to the Families of Freedom scholarship fund which has been set up by former President Bill Clinton and former Senator Bob Dole. This fund will provide education assistance for postsecondary education to financially needy relatives of those killed or permanently disabled as a result of the terrorist attacks.

I know that the students worked extremely hard to raise the $1,000. Some of them, I know, made great sacrifices to do this. I am so proud to represent the students of Molalla Elementary and thank them for their generous, heartwarming gift.

ECONOMIC SECURITY NOW

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, last week I wrote the leader of the other body a letter. Today I call on the majority leader in the other body to schedule a vote on the economic stimulus and security package immediately. There is no greater need in America today than to put people back to work in good jobs. People are hurting, unemployment is rising, and now we have proof that the economy is in recession. What more evidence does the leadership in the other body need? The American people deserve action on this now. It is time to put partisanship aside and work together to turn our economy around.

The Democratic leadership in the other body failed to push through a strictly partisan version of a stimulus plan on November 14. Despite including big subsidies for chicken manure and bison burgers, the other leadership did not even consider President Bush's plan to accelerate tax relief for at least 34 million American workers.

Mr. Speaker, the American people deserve action on this now. It is time for the other body to stop stalling and pass an economic security/stimulus plan.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Members are reminded by the Chair not to encourage or discourage action by the other body.

APPOINTMENT OF MEMBER TO BOARD OF VISITORS TO UNITED STATES MILITARY ACADEMY

The SPEAKER pro tempore. Without objection, and pursuant to 10 United States Code 4355(a), the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Military Academy.

Mr. HINCHEY of New York.

There was no objection.

CONFERENCE REPORT ON H.R. 2883, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 312 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 312

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 312 is a standard rule that allows the House to consider the conference report to accompany H.R. 2883, the Intelligence Authorization Act for Fiscal Year 2002. The rule waives all points of order against the consideration of the conference report. The rule is the normal rule we have for conference reports.

The intelligence authorization bill is a critical piece of legislation in any average year, but this year, given the recent September 11 tragedies and the war we are waging against terrorism as we speak, it is absolutely essential that we get this bill to the President's desk without any further delay. As Members are aware, the National Security Act requires that Congress authorize each dollar the U.S. spends on intelligence and intelligence-related activities. We are unique in that respect. The war on terrorism means that there has been a fundamental shift in intelligence and defense priorities, as the President has stated, and these authorities must be reflected in law.

While we will discuss the conference report in greater detail during the general debate, I would like to highlight a few of the ways that the legislation will tackle both critical counterterrorism challenges as well as the long-term problems facing America's intelligence community.

The conference report increases funding for foreign language capability. Obviously this is a critical requirement in the fight against terrorism because it is all over the world and we need the language capability. It certainly is also a basic, core competency for our intelligence community. The Permanent Select Committee on Intelligence has pushed this issue for several years and we are going to continue to push it in the future until we get better results.

Another core intelligence capability this conference report bolsters is human intelligence. In addition to providing the necessary resources for this, the conference report includes a version of the House language directing the Director of Central Intelligence to repeal the so-called Deutch 1995 guidelines on the recruitment of human sources. These guidelines may have been issued with the best of intentions, and no doubt were, but in practice, they have had a chilling effect on our ability to gain vital intelligence from sources with access to unsavory characters, particularly such as terrorists.

Finally, this conference report includes a House provision requiring an accounting from the Director of Central Intelligence concerning whether and to what extent the intelligence community has implemented the recommendations of the Bremer, the Hart-Rudman and the Gilmore commissions. All of those were reports on terrorism and the vulnerabilities and threats to our security and the security of Americans at home and abroad. As Members are aware, these independent commissions examined the United States' measures for prevention of and preparedness for terrorist attacks. All of the provisions are essentially components to the health of the intelligence community and our country.

I urge the House to adopt the rule and embrace the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank my good friend and colleague from Florida for yielding me the time. It is a pleasure for me to serve with Chairman Goss on both the Committee on Rules and the Permanent Select Committee on Intelligence.

Mr. Speaker, I rise in support of this rule, providing for the consideration of H.R. 2883, the Intelligence Authorization Act for Fiscal Year 2002. H. Res. 252 is a modified open rule requiring that amendments be preprinted in the CONGRESSIONAL RECORD. However, Mr. Speaker, the preprinting requirement has been the accepted practice for a number of years because of the sensitive nature of much of the bill and the need to protect its classified documents. The bill is not controversial and was reported from the Permanent Select Committee on Intelligence by a unanimous vote.

Members who wish to do so, and I urge Members to pay attention to this, can go to the Permanent Select Committee on Intelligence Office to examine the classified schedule of authorizations for the programs and activities of the intelligence and intelligence-related activities of the national intelligence program, which includes the Central Intelligence Agency as well as the foreign intelligence and counterintelligence programs within, among others, the Department of Defense, the National Security Agency, the Departments of State, Treasury and Energy and the FBI.

□ 1115

Also included in the classified documents are the authorizations for the Tactical Intelligence and Related Activities and Joint Military Intelligence Program of the Department of Defense. Members can go to the committee and review those matters.

Mr. Speaker, last week the House considered and passed the authorization for the Department of Defense for fiscal year 2002. The intelligence bill we consider today is another critical component in our national defense. Today, more than ever, we need to be vigilant about the myriad threats to our national security.

Mr. Speaker, while there will be debate on some worthy amendments, this is a noncontroversial bill providing authorizations for important national security programs. I urge my colleagues to support this rule and to support the underlying bill.

Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GOSS. Mr. Speaker, pursuant to House Resolution 312 just passed, I call up the conference report on the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to rule XXII, the conference report is considered having been read.

(For conference report and statement, see proceedings of the House of December 6, 2001, at page H9057).

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) and the gentlewoman from California (Ms. PELOSI) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support today of the conference report before us. Before I begin the main part of my statement, let me first acknowledge and thank the Members of the House Permanent Select Committee on Intelligence, each and every one of them, but especially our ranking member, the gentlewoman from California (Ms. PELOSI), for hard work, dedication, showing up and doing the business that needed to be done, and doing it intelligently and with a good deal of thoughtfulness.

I also want to specifically thank the committee staff on both sides of the aisle for their untiring efforts that have gotten us to this point. I very much appreciate the way they work in a nonpartisan way.

Obviously, I need to thank the Senate Permanent Select Committee on Intelligence Members and their staffs as well, especially under the steady hand of the chairman, my good friend, Senator GRAHAM, and the vice chairman, my good friend, Senator SHELBY. We appreciate the efforts they have put in.

Mr. Speaker, by definition a conference is a time when the two bodies come together to settle whatever differences there may be between the bills, often including resolution of differences of opinion and viewpoints on how money is needed, how it should be spent, what laws should be changed, what direction the administration should go, those kinds of things. But in this case, we are talking about protecting our Nation's security at a time when this is very much in the forefront of everybody's attention.

Ironically, Mr. Speaker, this conference found very, very few differences of opinion between the two bodies, and, frankly, between the points of view on either side of the aisle, on these and other areas. When it comes to national security, we seem to be pulling together very strongly in the area of intelligence.

Let me briefly review some of the areas of agreement. First, intelligence is our first line of defense; and it must be treated as such, especially on our war on terrorism, one of the new transnational threats we are, regrettably, beginning to understand a lot better. Although it may get lost in the continuous CNN optic of the coverage going on in Afghanistan and the Pentagon releases of bombs exploding and troops on the move, none of the activity that is actually happening would be possible without good intelligence.

Second, there are four key areas where the administration and Congress must immediately address themselves if we are to properly protect the country's rights and freedoms. They are revitalizing the National Security Agency and the signals intelligence system, upon which we have had such wonderful production and service over the years and now needs upgrading; correcting deficiencies in conducting and collecting human intelligence, a matter which we all understand very well, something we cannot do without; providing a more appropriate balance between intelligence collection and analysis to better achieve a global awareness capability, something we have been talking about for years; and rebuilding a robust research and development program across the intelligence communities.

We have been so lucky and so well helped by the innovation and creativity that our country produces and the applications we have been able to use in the intelligence community over the last 50 years, and we need to have more of that in the days ahead.

There are other areas of concern besides these four, but these are the most critical for the types of threats that we face now and that we are going to face, we think, over the next few years; and they are certainly the areas that we are in full agreement with the other body on.

Thirdly, the intelligence community has got to be better focused on strategic intelligence and better positioned to be able to get access to so-called plans and intentions, that is, what is going on in the minds of the evil-doers, the mischief makers, in order to prevent the crisis. We do not want to be just great at sweeping up after the tragedy; we want to stop the tragedy before it happens. In short, we must have an intelligence community culture that is less risk averse.

My last example is that the conferees believe that any effort to invest in and expand intelligence capabilities, and such efforts clearly must be made, will only be marginally successful if it does not also include provision for a more appropriate management structure for the intelligence community. We are talking here basic architecture and the appropriate management overlay to make the system work.

Today's intelligence structure is insufficient for today's and tomorrow's challenges. We know it, and we have to get about the job of dealing with that; and I am pleased that the administration is taking up that challenge. We look forward to working with the President and his administration on these issues. They simply cannot wait.

Mr. Speaker, this does not mean that there were not differences between the bodies during our conference. There were. I am happy to report that there were few and that they were worked out successfully and the result is a conference report that was approved by a vast bipartisan majority of the conferees. There are a couple of areas where I would have liked things to have turned out differently personally, but that did not happen; and in the spirit of compromise, I am happy to support what I think is a very good conference report which will serve this country well. Again, I commend my colleagues for working in that spirit.

Mr. Speaker, on Monday we paused to remember the 3-month anniversary of the horrible and tragic attacks on America by the terrorists, those the President has referred to as the "evildoers." Also on Monday we laid to rest the first combat casualty of our war on terrorism, Mike Spann.

The fact that the first casualty was a CIA officer speaks to the fact that intelligence is in fact in the lead in this war. There is no argument about that. But some have questioned how our Nation got into this position, how these attacks could have occurred in the first place; and frankly, there is no easy answer to that question, as there are many facets.

For one thing, terrorists took advantage of the basic rights and freedoms that we so openly and charitably give to our citizens and visitors alike in this country. They abused those privileges.

Another point is that communications between the entities and agencies assigned the responsibility for protecting our borders was simply not adequate. We know that.

But there is also certainly an intelligence story here. Put simply, we do not have an intelligence community that is properly structured to collect the types of intelligence that would have prevented such attacks had the information been available. In part, this is of our own doing as a country and a Congress.

After the Cold War, a decision was made to "build down" intelligence. Many thought that we were at peace, perhaps this would be part of the peace dividend. We did not have a single major threat that people really could identify, and we could afford to spend intelligence monies elsewhere. Congress acted. Money was shifted, indeed.

Beginning in the 104th Congress, the Intelligence Committees of Congress on both sides, both Houses and both sides of the aisle, recognized the risks of the looming threats of transnational issues and year after year attempted to put more investment into intelligence. However, the administration's efforts were more focused on domestic issues and had little interest in that kind of investment at that time. Consequently, we ended up with a much-reduced intelligence capability, less access around the world, and a risk-averse environment, and, frankly, a growing threat.

This is not to say that those brave men and women in the rank and file of the intelligence community were not doing their jobs. They were playing the hand they were dealt, and they were doing very well under the circumstances. This is also not to say that Congress was not aware of the risks. We certainly were, and we talked about them a lot.

Recently, I had occasion to review the intelligence bills and conference reports since the 104th Congress. In the 104th Congress, we noted that there was a growing threat and a growing vulnerability to terrorism. We sent that message. We talked about the need to share information better between intelligence and law enforcement. Remember, this is back in the 104th Congress. We talked about the need to invest more robustly in intelligence resources.

Then in the 105th Congress we noted that the intelligence community must "keep a watchful eye on the areas that are likely to be tomorrow's crises." I would point out that we mentioned the transnational threats.

We also mentioned that our national security was being affected by a broader set of issues that have not been identified with our global interests. We needed to rebuild our intelligence capabilities, and we expressed concern over the growing apathy toward national security and intelligence.

Again these issues were raised in the 106th Congress, where we stated that there was a growing possibility that a rogue nation or group would acquire the ability to attack U.S. interests with nuclear, biological, chemical, or some other weapon of mass destruction.

Mr. Speaker, I am not pointing these facts out to say "we told you so." Far from it. The point is that we must engage with this administration now, and we must put significant effort into quickly rebuilding our intelligence capabilities. We cannot wait. The events of September 11, sadly, stand as a reminder of what happens when we let our intelligence guard down.

Mr. Speaker, this conference report is a good start toward rebuilding what the Nation needs. But it is only a start. It is a snapshot in time. Many of us refer to it as the first year of a 5-year plan. We look forward to working with the administration to secure our national freedom. We look forward to working in a nonpartisan way to do this with the passage of this conference report. I am fully supportive of the report. I encourage its passage.

Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

Our chairman has very well explained how we got to the point we are at today. I want to commend him for the leadership he has provided to the committee, not only at the conference meeting but throughout what has turned out to be a very challenging year. I thank the chairman.

The House version of the intelligence authorization bill came to the floor a little over 3 weeks after the terrorist attacks on New York City, Washington, and Pennsylvania. Active and retired intelligence community personnel were killed in the World Trade Center and at the Pentagon.

In the weeks since, the United States has begun to strike back at those who were involved in the September attacks, and at those who support them. On Monday, the first combat fatality of the struggle against terrorism in Afghanistan was buried at Arlington National Cemetery. Mike Spann was a CIA officer. We eulogized him yesterday on this floor with the suspension vote in the presence of his family: his wife, Shannon; his parents, and his children.

Timely and reliable intelligence, as we know, is crucial to the successful conclusion of this campaign, and it is already clear that intelligence officers will be deeply involved, at home and in the field, in the difficult and dangerous job of ensuring that our policymakers and military commanders have the information on which they will increasingly depend.

The emergency supplemental appropriations bill passed in the wake of the

September attacks provided a large amount of additional resources for intelligence programs and activities. This conference report provides more; substantially more, than was provided last year, and significantly more than was requested by the President.

Our chairman has gone over some of the priorities in the bill, and I want to associate myself with those. That would be human intelligence capabilities that he talked about and TPED, the tasking, processing, exploitation and dissemination of intelligence. It is very important for us to put more resources there. Another priority for us in the bill was the investment in advanced research and development projects necessary to keep pace with changes in technology, and, of course, the technology necessary to improve the process of collecting and processing intelligence.

Some of these funds that are in this bill will continue improvements as the chairman emphasized, in our human intelligence capabilities, to ensure that case officers receive the kind of training they need, particularly in foreign languages, to enable them to do their jobs effectively.

□ 1130

Some of these funds will make investments in the kinds of systems required if agencies like the National Security Agency and the National Reconnaissance Office are to keep pace with rapid technological change. The modernization of NSA remains a top priority of the committee and measurable progress is expected in the coming year. As steadfast as the committee has been in advocating more spending on intelligence, it must now be equally engaged in conducting the kind of oversight necessary to make certain that these additional funds are spent efficiently on programs that will really make a difference, not only in the current effort against terrorism, but on the demands of an uncertain future as well.

Although I am satisfied with the disposition made by the conferees on most of the items which separated the two bodies, I was disappointed with the resolution of the provision in the House bill which would have established an independent commission to review the Nation's security posture immediately preceding September 11. Our colleagues in the other body insisted that the two intelligence committees could undertake an inquiry into the readiness of the intelligence community, and other committees of jurisdiction could examine the other elements of the executive branch.

The issue was never whether the committees had the resources to do this job, it was whether it made sense for them to do it. I am concerned that an independent review would have had credibility with the American people that a congressional review, no matter how professionally done, will not.

The House version of the bill, when it left our committee stated, Mr. Speaker, "The committee believes that the Commission will only be successful if it is seen to be truly independent of any preconceived notions about the effectiveness of the activities of the departments and agencies it will review. Appointing members with a reputation for challenging conventional wisdom, wide perspective, bold and innovative thought, and broad experience in dealing with complex problems will contribute directly to instilling the Commission with an independence of spirit which will enhance the credibility of its work."

It goes on further. I want to put these words on the record. This body chose to modify the Commission and change its nature, but when we got to the conference, the Commission was eliminated all together. I want to put on the record the spirit of independence that I hoped the review would have.

This is not about fingerpointing or assigning blame; it really is more about understanding whatever government shortcomings may have contributed to the events of September 11. An independent inquiry will one day be commissioned, I am certain, although perhaps without the congressional input that we tried to do in our committee.

We need to know if there were gaps and where they were, again, not to assess blame, but to be sure that they are addressed. Our constituents must have confidence that an assessment of future needs is based on solid judgments about past performance. This will be especially important if we are to consider changing the structure of the intelligence community, and that is the challenge our chairman and our committee will have in the next year. Some of these reforms may be called for by President Bush, as is his right.

On another important issue the conference report more faithfully reflects the position of the House, and that was a compromise that the gentleman from Nebraska (Mr. BEREUTER) took the lead in shaping and I was pleased to support. It was necessary because in 1995, in response to concerns that there was insufficient CIA headquarters involvement in decisions to recruit as assets individuals with poor records of respecting human rights or the law, guidelines were issued to ensure that senior officials were aware of and approved, certain recruitments. The intent of these guidelines was to protect relatively junior officers in the field from later charges that they acted unilaterally, and unwisely, in entering into relationships with certain individuals. Despite repeated assurances to the committee from high-level intelligence officials of two administrations that the guidelines had not prevented the recruitment of a single, identifiable, worthwhile asset, concerns were raised that the bureaucratic process through which the guidelines were administered was so time consuming that it provided a disincentive to case officers. This controversy has obscured the fact that encouraging a potential asset on a hard target, like a terrorist cell, to betray his or her country or cause is tremendously time consuming, difficult and dangerous. That we have had uneven success against these targets is more a reflection of those facts than it is the fault, in my view, of any guidelines.

Nevertheless, to make clear that Congress wants the recruitment process to be as aggressive as possible given the totality of the circumstances involved, the House approved a provision in the committee's bill which would have required a rescission of the existing guidelines and their replacement with new guidelines which achieve balance that "recognized concerns about egregious human rights behavior, but provides the much needed flexibility to seize upon opportunities as they present themselves." The House made clear that in striking this balance, "clearly there is a certain class of individuals who, because of their unreliability, instability, or nature of past misconduct, should be avoided." Again, the gentleman from Nebraska (Mr. BEREUTER) led the way on this compromise that was in the House bill.

Although the DCI chose to rescind and reissue the guidelines before the legislative process was complete, the heart of the language which I was pleased to work with the gentleman from Nebraska on was retained in conference. The conferees want the current, more streamlined guidelines reviewed again to make certain that they provide appropriate encouragement to case officers to do their jobs well. As the statement of managers makes clear, however, whatever the results of that review, any guidelines issued "must balance concerns about human rights behavior and law-breaking" with the efforts to provide flexibility to take advantage of opportunities to gather information. That balance is the proper interpretation of the phrase "more appropriately weigh and incentivize risk" which appears in clause (2) of section 403 of the conference report.

Mr. Speaker, our President, when he came to the House on September 14, three days after the tragedy, said that we will bring the perpetrators of that tragedy to justice, or we will bring justice to them, but justice will be done. We want to be sure that our intelligence capabilities help the President reach that goal, a goal that we all share. Hopefully, this bill will take us closer to that.

I believe the conference agreement will contribute significantly to meeting the intelligence needs of the Nation, and I urge its adoption. I again associate myself with many of the remarks made by my chairman, particularly those about sharing of information by the FBI. Once again, I want to extend the sympathies of my constituents and I know all of our colleagues, to the family of Mike Spann and the Special Forces soldiers, the Green Berets who lost their lives. If I may, I would like to put their names in the RECORD also: Master Sergeant Jefferson Davis; Staff Sergeant Brian Cody Prosser; and Sergeant First Class Daniel Petithory. God bless them. God bless America.

Mr. GOSS. Mr. Speaker, I am pleased to yield 6 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER), the vice chairman of the Permanent Select Committee on Intelligence and the chairman of the Subcommittee on Intelligence Policy and National Security.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this Member congratulates and commends the exemplary bipartisan effort of the chairman, the distinguished gentleman from Florida (Mr. GOSS), and his counterpart in the other body, the distinguished senior Senator from Florida, Senator GRAHAM. I also want to extend my congratulations and appreciation to the distinguished gentlewoman from California (Ms. PELOSI), for continuing to give us the leadership for a bipartisan conference report.

I rise, of course, in strong support of the conference report. Under the leadership of the people I have just mentioned, the legislative branch continues to move rapidly to address a number of long-standing deficiencies in our intelligence collection and analysis programs. The chairman's comments about the high quality work and dedication of the committee's first-rate staff are exactly on the mark, and I express my personal appreciation for their expertise, dedication, and hard work throughout the year.

Mr. Speaker, it is important to note that the Select Permanent Committee on Intelligence has not suddenly awakened to the very real funding deficiencies and program matter inadequacies of the intelligence agencies. For years, the intelligence committee has worked to reorient and enhance the effectiveness of the intelligence community and, of course, that has not received much public attention. But now, more than ever before, the American people understand through tragedy that our intelligence and counterterrorism programs are extremely important. As the distinguished chairman, the gentleman from Florida (Mr. GOSS) has frequently noted, "The message is not new; the audience for the message is now new."

I want to express my appreciation for the fact that he has gone back a few minutes ago to previous Congresses, back at least to the 104th Congress, to give some indication that the committee for some period of time has recognized and tried to address these transnational problems that are relatively new in the national focus.

Responsibly addressing the Nation's intelligence requirements now clearly has become a recognized national priority across the country in the aftermath of the September 11 terrorist attack. One result is a natural tendency to seek a simple solution, a quick fix. Certainly the conference report provides much-needed additional funds to improve our intelligence capabilities and to wage the war against terrorism, but at a more fundamental level, H.R. 2883 continues to aim even more aggressively to respond to serious underlying policy inadequacies and structural problems. I know all members of the committee would agree our work is not done, that we are looking forward to taking on this task during the next year.

In some cases, these are problems that have been years in the making and will take a number of years to reverse. For example, the conference report continues support for additional capacity in human intelligence collection. Human intelligence, or HUMINT, is the placement of highly-trained, language-capable officers in positions where they can acquire information vital to our national interests. Our HUMINT capacity was substantially downgraded in the years following the end of the Cold War. Also, our human intelligence collection efforts was understandably directed during the Cold War period at collection of the Soviet Union and its client states. Not in Africa, Latin America, the Middle East, South Asia, and especially not in the problems of transnational terrorism and narcotics trafficking. The conference report continues this body's efforts at addressing these deficiencies and the new priorities.

Addressing another reason for the HUMINT inadequacies, this Member is particularly gratified that the conferees agreed to reverse the 1995 limitations on asset recruitment, and I especially appreciate the cooperation and assistance of the gentlewoman from California (Ms. PELOSI) for the committee in working with me, and the chairman. These restrictions, called "the Deutsch guidelines," were promulgated as a means to limit our association with unsavory individuals, with human rights or other criminal problems. While the concerns underlying these guidelines were understandable, resulting from revelations about the problems of the 1970s and early 1980s, the reality is that the Deutsch guidelines have had a chilling effect on the recruitment of people who can actually and efficiently penetrate the inner circles of terrorist networks and narcotics rings. The recruitment of assets with unique knowledge or access to these terrorists and drug cartels is the key to successful HUMINT against these targets. The regrettable, real-world reality is that especially in the crucial battle against terrorism, we must allow our foreign officers to recruit assets that sometimes are rather unsavory characters. To win the war on terrorism, we have to end the cycle of risk aversion by our intelligence operatives and their superiors in headquarters. Recruiting Boy Scouts will not give us the penetration and intelligence we need.

In many cases, there will be difficult decisions to make, but the U.S. has professionals in the intelligence and law enforcement fields who can and must make those decisions. This conference report makes clear that our foreign intelligence personnel must recruit as agents those who possess the detailed and timely information which the United States needs to defend its people and its interests. Admittedly, there are risks with such recruited agents, but if the risks are realistically weighed against the benefits, the enhanced chances of operational success, this body must not rashly second-guess those decisions or fail to replace the Deutsch guidelines where they are detrimental to effective intelligence-gathering.

Mr. Speaker, this Member urges adoption of the conference report on the intelligence authorization for fiscal year 2002.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 2½ minutes to the distinguished gentleman from Georgia (Mr. BISHOP), who is the ranking member on the Subcommittee on Technical and Tactical Intelligence of the Permanent Select Committee on Intelligence.

Mr. BISHOP. Mr. Speaker, I thank the gentlewoman for yielding me this time.

As the ranking member of the Subcommittee on Technical and Tactical Intelligence, I rise in support of this conference report. It is a good work product. I want to thank and to congratulate the chairman and the ranking member, and especially our staff, who worked so hard and who did an extraordinary job to make sure that this package will serve to improve our country's ability to provide the best real-time information possible to our war-fighters and our policymakers, so as to protect Americans wherever they may be situated in the world.

The intelligence systems and activities that are funded by this conference report are a prominent and indispensable element of the war on terrorism. In the short time between September 11 and the time when the committee marked up the authorization bill, this committee worked extremely hard in a completely nonpartisan manner to develop proposals to correct shortfalls and to establish a basis for continued reform and innovation.

□ 1145

Most of these proposals are reflected in this conference report. The human element in this war on terrorism is fundamental, and it is an appropriate focus of our attention. But American technological prowess will greatly determine how effective our soldiers and intelligence officers will be, how many casualties our forces suffer, and how many innocent lives will be lost or protected.

The precision of our air campaign in Afghanistan is wondrous, and we must always remember that it depends as much on precise intelligence as on the guidance system of the missiles or the bombs. Developing these technical intelligence capabilities is expensive, and it is often difficult. Sometimes we make mistakes; but usually we, the government, and American industry get it right in the end. I am gratified to be part of this process.

Mr. Speaker, this bill is a good start on correcting the problems in the intelligence community, but there is clearly much more that must be done. I speak, I believe, for all of my colleagues on the committee in again commending the chairman and our ranking member for their dedication, and also the gentleman from Delaware (Mr. CASTLE), my own counterpart, in assuring that our intelligence organizations can protect Americans against the new menace.

Mr. Speaker, I urge adoption of this report.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 4 minutes to the gentlewoman from California (Ms. HARMAN), a distinguished member of our committee and the ranking member on the Subcommittee on Terrorism and Homeland Security.

Ms. HARMAN. Mr. Speaker, I thank my colleague for yielding time to me, and I join in saluting American heroes who have given their lives in the fight against terrorism in the aftermath of September 11.

Mr. Speaker, I commend the gentleman from Florida (Mr. GOSS) and the ranking member, the gentlewoman from California (Ms. PELOSI), for their leadership in bringing this conference report to the House.

I also commend the hard work of our committee colleagues and staff, whose bipartisan approach attempts to ensure that this Nation has the best intelligence capabilities.

I love serving on this committee and as ranking member of the Subcommittee on Terrorism and Homeland Security. It is a high honor, and it honors the constituents of California's 36th Congressional District, who design and build most of our Nation's intelligence satellites.

Yesterday, Mr. Speaker, President Bush spoke to 1,900 cadets at the Citadel and laid out three priorities for national defense: first, speeding the transformation of the military to face 21st century threats; second, protecting against proliferation of weapons of mass destruction; and third, strengthening our intelligence capability. All these goals are important, and I strongly support them.

This bill goes a long way toward accomplishing the third: this bill provides increased funding for human, technical, and tactical counterterrorist activities; it rescinds the CIA guidelines that may have restricted recruitment of some people with critical information on terrorist groups; and it requires the issuance of new guidelines to rebalance the recruitment process.

Also, it requires the administration to explain why it has not implemented the recommendations of three national commissions that studied terrorism and homeland security. I served on one of those commissions, the congressionally mandated Commission on Terrorism. All three produced good ideas that are still good today.

Our committee has served notice that it will do even more to push restructuring of the intelligence community next year; but meanwhile, this restructuring cannot happen in a vacuum. I believe the lesson learned from 9-11 is that good people had poor tools, and that our homeland security effort needs a leader with adequate power to conduct a unified threat assessment, develop a national plan, and compel agencies at all levels to share information and coordinate seamlessly to prevent or respond to acts of terrorism.

Governor Tom Ridge has this top job. Ridge is charged with coordinating all Federal efforts related to homeland security with those of State and local governments. The President's executive order also makes Ridge the chief communicator of homeland security policy.

Two months have passed since Tom Ridge started as director of the Office of Homeland Security; but in my view, he is losing power every day. He is a capable man with the skills and resume needed; but without the authority to influence Federal budgets, Ridge cannot enforce the changes that this committee has required and that this country needs. A bipartisan bill, H.R. 3026, would give him that authority.

Finally, Mr. Speaker, as I stated in a letter to the President on Monday, I continue to be concerned that the release of the new bin Laden videotape could prove damaging to American security. Those who do not believe bin Laden is guilty will not be persuaded by this tape. To me, the benefit of showing the tape is outweighed by the risks that secret messages, signals, or facial expressions of bin Laden or in the background are embedded in the tape. I would have preferred that its distribution be limited to those with a need to know, possibly including foreign leaders.

But Mr. Speaker, returning to this conference report, it gives the right tools to good people in our intelligence community. I thank them for working 24-7 before and after September 11 to protect this country from terrorist attacks.

Mr. Speaker, I urge strong bipartisan support for this bill.

Mr. GOSS. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Delaware (Mr. CASTLE), who is also the chairman of our Subcommittee on Technical and Tactical Intelligence.

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 2883, the Intelligence Authorization Act for Fiscal Year 2002. Before I get to my statement, I wish to acknowledge the superb leadership, and I mean this very sincerely, of our chairman, the gentleman from Florida (Mr. GOSS), and our ranking member, the gentlewoman from California (Ms. PELOSI), and the Senate Intelligence Committee's chairman, Senator GRAHAM, and the vice chairman, Senator SHELBY. Their support and guidance brought the Permanent Select Committee on Intelligence through a very difficult year, culminating in this fine piece of legislation. I think it is fitting to thank them for all of their efforts in support of our Nation.

Mr. Speaker, today we are voting on a bill that authorizes spending for the Nation's intelligence organizations, operations, and the brave men and women, such as our fallen CIA officer Mike Spann, who are stationed all around the globe collecting and analyzing information to provide our true first line of defense.

Tragically, the events of September 11 have made crystal clear what many of us in the Congress have been saying for sometime, that we need to significantly improve our intelligence-gathering, analysis, and dissemination capabilities.

I do not for one moment blame the attacks in New York, Washington, and Pennsylvania on an intelligence failure. Indeed, that blame can only be assigned to radical fanatics who would see America fall. But I do assign some blame on our collective lack of attention for maintaining a robust, properly resourced, and forward-leaning intelligence community that is not unduly restricted from collecting information on foreign threats to our country.

The authorization levels in this bill were determined by the conference committee as appropriate for beginning to rebuild our Nation's intelligence defenses. In the wake of 9–11, our intelligence organizations and their professionals have been asked to do more than ever before, to provide more detailed information on an elusive but omnipresent enemy that directly threatens our country and our citizens.

Indeed, President Bush, Secretary of Defense Rumsfeld, Attorney General Ashcroft, and Director of Homeland Security Governor Ridge have all made statements about the increased need for and reliance upon our intelligence service in the wake of terrorist attacks.

There is no question in my mind that intelligence is now, more than ever, a critical function of national security worthy of this body's full funding support. It is in that spirit, Mr. Speaker, that I urge my House colleagues to support this conference report. We elected Members of Congress have no greater duty to the people of the United States of America than to protect their safety, their freedoms, and their way of life.

To do that in a world populated with any number of terrorists who have no remorse for loss of American lives and property we must go on the offensive. We must discover and take action against the people who would do us harm.

That requires knowledge. Before the FBI can arrest a single al Qaeda member, the Bureau must know who and where that person is. Before a B–52 bomber can effectively drop a single bomb, its crew must be given the information on what target to attack. Before we can better defend against an intended terrorist attack, we need forewarning of the attack location and timing. All of these require intelligence, intelligence for national defense. There is no higher priority.

Mr. Speaker, I urge my colleagues to support this measure.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from California (Mr. CONDIT), the ranking member on the Subcommittee on Intelligence Policy and National Security.

Mr. CONDIT. Mr. Speaker, I rise in strong support of the conference committee today. This is a very powerful tool in arming our intelligence agency in a campaign against terrorism.

Though I am disappointed the conference report does not include an outside commission to assess our national security readiness since September 11, it is still a very good conference report. It does increase human intelligence, and it improves foreign language skills and translation capabilities.

We face an extraordinary challenge now to collect information and preserve our national security, and we must focus now on the security of our homeland. We cannot sit back and think about the future in the out years; we must address security needs now. This conference report does just that.

Yesterday, we passed a resolution honoring Johnny Spann, the first American to die in combat in Afghanistan. We pledged to continue to support our men and women, to ensure the safety to all of our citizens. This conference report makes good on that pledge.

Mr. Speaker, I would like to commend and congratulate the chairman of the committee, as well as the ranking member, the gentlewoman from California (Ms. PELOSI), for this product, because I think it is a product that helps build a better and safer Nation. I congratulate them and thank them for their leadership.

Mr. GOSS. Mr. Speaker, I am very pleased to yield 3 minutes to the distinguished gentleman from Nevada (Mr. GIBBONS), the chairman of our Subcommittee on Human Intelligence, Analysis, and Counterintelligence, our subcommittee on hacking. I will let him explain what that stands for.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding time to me. I thank the chairman of the full committee and the ranking member, the gentlewoman from California (Ms. Pelosi), for bringing before this House what I feel is probably one of the best intelligence authorization conference report bills we have had in a long time. As a result, I do stand here in strong support of the conference report.

Mr. Speaker, since September 11, all Americans have witnessed, I believe, our intelligence community working at its best. America, unfortunately, did witness its first loss, our first combat loss of an American hero in our war on terrorism, CIA agent Johnny Mike Spann. Now we must provide the resources needed to combat terrorism at the most basic level for intelligence.

This, Mr. Speaker, is a good bill. It provides significant resources to the intelligence community which, during the last decade, went underfunded, understaffed, and underappreciated.

The 1990s were a risk-averse period during which the bullies of the world began to get the idea that the United States had gone soft and no longer had the will to defend American lives and American interests. The intelligence community often was not performing aggressively enough, though this was by no means the fault of the dedicated men and women who constitute the intelligence agencies' rank and file. They are now doing a terrific job, a wonderful job of catch-up, and they deserve the best support that we can give them.

Regarding today's needs, we are providing logistical and technical resources for a worldwide campaign to root out terrorism. Our intelligence officers are working on the ground in Afghanistan, as the American public is now very much aware, sadly aware, with the news of our fallen CIA hero.

What the American public will probably never know is that American intelligence officers are working around the clock worldwide to neutralize terrorist cells and otherwise diminish the possibility of future attacks on innocent American citizens.

As for the needs and future needs, this bill provides resources for greater foreign language expertise, increased specialized training, increased analytical expertise, to include measures to restore the intelligence community's ability to provide worldwide analytical coverage.

This administration and this Congress are acutely aware of the need for a strong intelligence capability. We on the Permanent Select Committee on Intelligence have done our utmost to give the intelligence agencies what they need to do their job.

Mr. Speaker, I want to ask all my colleagues to support this bill, and I urge an "aye" vote.

□ 1200

Ms. PELOSI. Mr. Speaker, I am pleased to yield 3½ minutes to the very distinguished gentleman from Indiana (Mr. ROEMER), a member of the Permanent Select Committee on Intelligence.

Mr. ROEMER. Mr. Speaker, I join in the accolades and the compliments to our chairman and to our ranking member, who have brought the committee together in a bipartisan way. When we do have differences in the committee, they are settled in an inclusive way and in an intelligent manner that I think benefits the bipartisan nature of the final product. They both do this institution well by their working together.

I also want to thank the staff. The staff has been through an exceedingly difficult year, working in an environment in the United States Capitol that has often been target or a suspected target, has been evacuated a number of times. It is a very difficult environment; and they do an excellent job creating an excellent product, and we are grateful for their hard work.

The intelligence budget and the reforms that are needed are now confronted with three different challenges. Certainly, we have the September 11 challenge, the attack on our country. We have the challenge of changing the culture in the intelligence community over the last 10 years from one that is targeted in an old-fashioned way, guards, guns and gates, to now trying to go after transnational targets, tents, technology, terrorism; and that is a slow and sometimes difficult push into the future.

We also have the difficult challenge of latching up the intelligence with the military capability as we are doing now in Afghanistan. Our intelligence personnel, our intelligence equipment become more and more important in the future.

How do we address that in this bill? We could do it with a quick fix, we could do it with bold reform, or we could construct the platform for change into the future. We have mostly settled on the latter, platform for change, constructive change; and I think that has been a good, healthy approach. I do, however, wish that we would have taken steps for bold change in two or three areas, like, as our ranking member mentioned, an independent commission to look at what happened on September 11. We have the same people always looking at the same problems, and we do not have enough new eyes on old problems, giving us new solutions.

We need to work more on the information and collaboration in our intelligence community, and we need to look at the cultural changes. Moving to transnational targets, rather that than being comfortable going at just other countries' intelligence capability, we need to look at going after biological and chemical weapons and nuclear weapon capabilities of terrorist groups.

We have accomplished a lot, Mr. Speaker. We not only have more money for language and fluency capabilities; we have specifically said that there is congressional interest in this area and the intelligence communities cannot move this money away from language and fluency requirements.

We have improved human intelligence in this bill; and as I said before, we are improving the latching up of the military and the intelligence capabilities.

Finally, our hearts and our prayers go out to Johnny Mike Spann and to Shannon Spann for the sacrifices that they and their family have made and the three children who Shannon now raises with the help of that family.

Support this bipartisan conference report, and we look forward to bolder changes next year.

Mr. GOSS. Mr. Speaker, I am pleased to yield 4 minutes to the distinguished gentleman from Georgia (Mr. CHAMBLISS), who is the chairman of our effort on counter terrorist efforts.

Mr. CHAMBLISS. Mr. Speaker, I thank the gentleman from Florida (Mr. GOSS) for yielding me the time, and I particularly thank him for his strong leadership, along with the gentlewoman from California (Ms. PELOSI) for bringing this bill to the floor in such great fashion and to the gentlewoman from California (Ms. HARMAN), the ranking member of my committee, for all who have worked in a very bipartisan way to ensure that we are improving our intelligence community. And to the staff, they have been under such great pressure. The staff on both sides of the aisle have worked close together to ensure that we are going to win this battle against terrorism.

Mr. Speaker, I do rise in support of the conference report for H.R. 2883. Yesterday, America paused to remember the terrorist acts that shook our Nation and the many acts of heroism and courage that followed. In the intervening 3 months, America has been fighting back and we are winning.

As the President has said on numerous occasions, this is a war that will extend far beyond the conventional battlefield in Afghanistan; and it is a war that will take years, not days, weeks or months. It is a war that will be fought on American soil and on the soil of our friends and enemies alike. It will be fought in the electronic air waves and the bazaars of the Mideast and north Africa, on the streets of London, Paris, Rome and Bangkok, right across the globe.

Conventional weapons will not be enough to safeguard our public from the long-term threat from terrorism. Smart bombs and Special Forces can only be used against targets that have first been identified as posing a threat.

Intelligence is the weapon most capable of identifying terrorists, their plans and intentions, operating methods, whereabouts and targets of terrorist attack. When 9–11 happened, the world changed but the threat from the terrorists stayed the same. What changed most of all was the recognition that intelligence is critical to our Nation's defense against terror. In fact, a whole new constituency for intelligence has arisen from the ashes of 9–11, and this constituency was far too long in coming.

As chairman of the Subcommittee on Terrorism and Homeland Security, I am here to tell the American people that the Intelligence Authorization Act lays the groundwork for fixing many of the problems that have plagued our intelligence professionals. We have sought to address systemic problems within the intelligence community and to begin to correct some of the funding deficiencies of years past that have crippled our ability to achieve true global coverage in intelligence collection and analysis.

This conference report provides the resources and direction necessary to overhaul the intelligence community language training programs and to begin to build a workforce that can operate effectively in the languages and environments used by terrorists. In addition, the report addresses in a more decisive fashion than ever before the chronic shortfall in language exploitation capabilities across the community.

The 9–11 attacks also highlighted shortcomings in the way in which information is shared and analyzed. This conference report provides significant new funding to establish additional joint terrorism task forces across the country, and it enables accelerated construction of analytic capability in the law enforcement, military and intelligence spheres that will aid in untangling the complex of webs of terrorist financing, support, movement, training, and operations, both through enhanced resources and cooperation.

This analytic capability, as a result of the report under consideration, will be applied more rigorously and in a more focused manner to raw threat reporting on terrorism matters. Such analysis, coupled with direction that the intelligence community establish a reasonable threshold for disseminating raw threat reporting, should vastly improve our ability to make sense of the many scraps of intelligence, real and fabricated, that are collected on a daily basis on terrorist threat activities.

Mr. Speaker, I urge the adoption of this conference report and ask that it proceed.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

I believe that we have completed our roster of Members who wish to speak on the Democratic side, and I would like to just say in a few closing remarks how appreciative we are to our distinguished chairman for the bipartisan nature of our proceedings, to extend to my Republican colleagues, again, thanks for their cooperation.

I want to acknowledge the good work of the gentleman from Georgia (Mr. BISHOP), the gentlewoman from California (Ms. HARMAN), the gentleman from California (Mr. CONDIT), the gentleman from Indiana (Mr. ROEMER), the gentleman from Florida (Mr. HASTINGS), the gentleman from Texas (Mr. REYES), the gentleman from Iowa (Mr. BOSWELL), the gentleman from Minnesota (Mr. PETERSON), the Democratic members of the committee for their attention to the important work of the Permanent Select Committee on Intelligence.

It is like signing up when you join the committee. It is very demanding and Members on both sides have made a strong commitment of time, enthusiasm, and dedication to these important issues so that we can have the force protection that is one of the main goals of intelligence and that we can have mission success on whatever we set out to do.

We talked about human intelligence at the beginning. The chairman mentioned it as a priority in his remarks and I did in mine. We want to commend all of the people who work in the intelligence community, in the human intelligence side, and otherwise, for their courage and their dedication. I also want to note the commitment that our committee has to bringing diversity to our human intelligence.

There are people in our country who understand the language, the cultures, the opportunities in other countries and in other cultures that would serve us well in achieving our mission success and we must draw upon them. Our HUMINT has to look different as we go into the future.

So we recognize and express gratitude to all of them, particularly Mike Spann and the others who lost their lives. We also recognize those who risk their lives every day for freedom in America and to root out terrorism wherever it exists.

I want to commend especially, though, the staff of Permanent Select Committee on Intelligence led by Tim Sample on the Republican side. We do not really call it the Republican side. We really have a bipartisan approach to this. But he is the chief of staff for the Permanent Select Committee on Intelligence. I want to acknowledge the Democratic side staff: Mike Sheehy, Wyndee Parker, Beth Larson, Carolyn Bartholomew, Chris Healey for her good work on our issues, Kirk McConnell, Bob Emmett, and Ilene Romack, who work so hard for us.

I want to commend our chairman for his leadership. It was interesting to work with the Senate on this bill. So I commend the chairman, the new Democratic chairman, Senator GRAHAM, and Senator SHELBY for their cooperation as well. With that, Mr. Speaker, I urge our colleagues to support the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no further speakers and I just wanted to finish this with some thoughts about how grateful I am and how privileged I am, indeed honored, to serve with such wonderful members. That is a select committee. And I mean it. We have heard today from the chairman and the ranking members of the four subcommittee we now have because we have so much business on the committee. But the others who did not speak, the gentleman from New York (Mr. BOEHLERT), the gentleman from Illinois (Mr. LAHOOD), the gentleman from California (Mr. CUNNINGHAM), the gentleman from Michigan (Mr. HOEKSTRA), the gentleman from North Carolina (Mr. BURR), the gentleman from Minnesota (Mr. PETERSON), the gentleman from Texas (Mr. REYES), the gentleman from Iowa (Mr. BOSWELL), the gentleman from Florida (Mr. HASTINGS), have all contributed mightily to this.

It is obviously a wonderful select committee to have and be able to work with and we are backed up with the kind of staff that we have as the gentlewoman from California (Ms. PELOSI) has said, with Mike Sheehy and Tim Sample and Chris Barton, our top staff keeping us on the track. I think we are able to do our job well. And, of course, a big part of that is the gentlewoman from California (Ms. PELOSI), who has been outstanding with her time, her energy, her attention and her leadership when she has one or two other things to do, I understand, in her portfolio of responsibilities as well.

It is a very good situation for us. I think the people of the United States of America sometimes wonder what the job of Permanent Select Committee on Intelligence is and need to be reassured that today we are talking about advocacy for sure. That is part of our job. We need to make sure that our folks out there have the tools they need to do the job, to do national security.

But the other side of our job is oversight. We do it very diligently and dutifully. And that is to make sure that all of these awesome capabilities are used in a way that is entirely lawful and within keeping of character of the goals and wishes and the standards of the people of the United States of America.

We do not have a 1-800 number to flash across the bottom of the screen to say if you have a problem. But we are there as your oversight committee, and if there are problems, we are responsible for dealing with them. And I think we take that seriously, very seriously indeed.

Having said all of that, I think that we have with all of this wonderful good will, and responding to the tasks before us, come up with a good piece of legislation which is urgently needed. I see my friend, the gentleman from Washington (Mr. DICKS), sitting over there. A lot of us have taken credit and heaped praise back and forth on the work that has been done. A lot of the success we are enjoying today that you are seeing on CNN is coming from the hard work of the people who went before us on the oversight committees. And I take my hat off to those people because they too understood the need.

I am very sorry this year my friend Julian Dixon is not with us to be able to see some of the results of some of his hard work, and I know I am joined on that from my colleagues on the other side. Fortunately, there are always people to come along to fill shoes, and the gentlewoman from California (Ms. PELOSI) has done that so well. Having said that, I urge adoption of this particular conference report.

Mr. SIMMONS. Mr. Speaker, I rise in strong support of this conference report and commend the conferees and the professional staff for their hard work.

Specifically, I wanted to express my appreciation for the inclusion of the language I offered as an amendment that requires that the Central Intelligence Agency assume 100 percent of the cost of personal liability insurance for certain CIA employees involved in counterterrorism activities.

Mr. Speaker, for 10 years I served with the Central Intelligence Agency. I spent five years overseas engaged in intelligence collection, counter-intelligence and, in some cases, counter-terrorism.

The work was difficult and dangerous. This fact has been reaffirmed by the terrible death of CIA operations officer, Johnny Micheal Spann, who was the first American to die in combat in Afghanistan in the fight against terrorism last week. But at no time did I doubt that my government would protect me from any personal liability if I encountered a lawsuit as a consequence of my professional duties.

Today, I understand that CIA officers engaged in counter-terrorism activities are virtually required to have personal liability insurance; but the CIA pays only half of the premium. What incentive does a CIA Case Officer have to do the job if he or she is subject to liability lawsuits? Why would they take any risks if the government were unwilling to cover the cost of liability?

I understand that I served in a different time. But I did have the backing of my government—100 percent. It is time to give this assurance back to our Case Officers, many of whom are on the front lines of the war on terrorism.

This is not an original idea. In fact, it was a recommendation of the Report of the National Commission on Terrorism, titled "Countering the Changing Threat of International Terrorism" submitted to Congress in June of 2000.

The report states, "The risk of personal liability arising from actions taken in an official capacity discourages law enforcement and intelligence personnel from taking bold actions to combat terrorism."

Following the tragic events of September 11th, it is apparent that we must do better in our counter-terrorism effort. The least that we can do is guarantee that any CIA officer participating in the war on terrorism will have the full backing of the federal government. They deserve no less.

Passage of this conference report will provide this full backing. It also maintains the authority of the Director of Central Intelligence to designate those CIA employees who qualify for this benefit.

Again, I thank the Members and staff of the House and Senate Intelligence committees for their hard work on this legislation, and I urge my colleagues to support the conference report.

Mr. GOSS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

□ 1215

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2883, the conference report just passed.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3295, HELP AMERICA VOTE ACT OF 2001

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 311 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 311

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes. The bill shall be considered as read for amendment. The amendment recommended by the Committee on House Administration now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules; pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H.R. 311 is a closed rule providing for consideration of H.R. 3295, the Help America Vote Act of 2001, with 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration.

The rule waives all points of order against consideration of the bill. Additionally, the rule provides that the amendment recommended by the Committee on House Administration now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted.

And finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, last year's Presidential election was the most dramatic and most memorable in recent history. Election reform is not a new concept, but last fall was a stark reminder of the modifications that our voting system desperately needs. Voter fraud and faulty machines are only a few examples of the inadequacies of the system. That is why I am proud to stand before you today not only as a member of the Committee on Rules but also a member of the Committee on House Administration:

The gentleman from Ohio (Mr. NEY), chairman of the Committee on House Administration, and the ranking member of that committee, the gentleman from Maryland (Mr. HOYER), have approached this issue with open minds, and their cooperation has produced the bipartisan legislation before us today. I commend their efforts as well as the efforts of my other colleagues on the Committee on House Administration, both Republican and Democrat.

This legislation represents the true essence of bipartisanship. In fact, of the 170 total cosponsors, there are more Democratic cosponsors than there are Republican. Politics was put aside in order to strike an appropriate middle ground. Mr. Speaker, this is not a one-time fix miracle solution to election reform. However, this is a first step, a bipartisan step in the continuing effort to update and modernize the way Americans actively participate in our democratic process.

The Help America Vote Act of 2001 offers the best opportunity to pass real, comprehensive, and truly bipartisan election reform legislation before the end of session. While careful and thoughtful consideration was given to this issue throughout the year, America should not have to wait any longer. Before we know it, another election cycle will be upon us, and, so far, many States have had to rely on their own resources to modify the election systems. It is time for the Federal government to step up to the plate. Not only will this legislation infuse considerable funding into election reform initiatives, it will supply States with minimum election standards to reduce the frequency of inadequate, inaccurate, or duplicate voting.

The bill also addresses the issues of overseas voting. I am pleased that Chairman NEY was able to include some of the provisions in the manager's amendment that is now a part of this rule. Our men and women in uniform around the world should be afforded the same ease and efficiency of voting as all Americans. The most fundamental privilege of American citizenship is the right to vote.

Let us now embrace the spirit of bipartisanship that produced this legislation by supporting this bill and preserving the very integrity of democracy. At last night's Committee on Rules hearing on this bill, Chairman NEY said, "We want fair elections." I urge my colleagues to join me in taking that first step towards fair elections by supporting this rule and the underlying bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Last year's elections brought to light, Mr. Speaker, troubling deficiencies in our electoral system, leaving many Americans disillusioned about our democracy itself. We are all, of course, painfully aware of the tragedy in Florida, which culminated on this very day 1 year ago. But the problem was clearly larger than that, so the Democratic Caucus' Special Committee on Election Reform, under the able leadership of the gentlewoman from California (Ms. WATERS), spent much of the past year conducting field hearings in communities around the Nation. The committee confirmed what so many others have found; that America's electoral system is broken, and that Americans from coast to coast have been disenfranchised in every election.

In my own Congressional District in Fort Worth, Texas last year, I personally witnessed and fought against a systematic partisan campaign to harass, intimidate, and suppress African American voters, especially senior citizens. For all these reasons, real election reform is a priority for the American people, and it is a passion for Democrats.

But protecting every American's right to vote should not be a partisan issue. It is the cornerstone to rebuilding faith in our democracy, and it is the civil rights issue of the new millennium. That is why Democrats have worked so hard to find bipartisan solutions to the ills that plague America's electoral system. And this bill, H.R. 3295, the Help America Vote Act, provides a very good start.

Chairman NEY and Ranking Member HOYER deserve tremendous credit for crafting a bipartisan approach to get election reform started. This bill sets minimum national election standards and provides Federal assistance for the States to improve ballot counting, access to the polls, and voter registration. It authorizes $2.65 billion for this overhaul, including $400 million to help States replace their punch card voting systems.

It also establishes an Election Assistance Commission to oversee the program, creates a variety of programs to get students involved as poll workers, and includes provisions intended to facilitate absentee voting by military and other overseas voters.

Unfortunately, the bill does not go as far as many Democrats believe it should. Unfortunately, Mr. Speaker, it does not get us all the way there. So the gentleman from New Jersey (Mr. MENENDEZ), the vice chair of the Democratic Caucus, had an amendment to improve this bill to achieve comprehensive election reform. And certainly we should all be able to agree on helping Americans with disabilities vote, on ensuring States meet the standards of this bill, and on ensuring compliance with other standards like the Voting Rights Act and the National Voter Registration Act. So the decision of the Committee on Rules last night to issue a closed rule, and particularly to deny the gentleman from New Jersey his right to offer his amendment, is inexcusable.

Election reform need not be a partisan issue, Mr. Speaker, but Republican leaders insist on trying to make it one. For that reason, I urge that this rule be defeated, and that we force Republican leaders to take a bipartisan approach to election reform.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I rise today in support of this rule. This is great work done by the ranking member and the chairman. I want to point out one provision in this that I really am appreciative of, which is a self-executing provision in this rule that does address the disabled community, especially the blind and the visually impaired at the voting booth.

Everyone should have a right to cast a truly secret ballot. Unfortunately, with current voting methods, the visually impaired have to rely upon others to help them cast their votes. New voting technologies can enable the blind to complete their own ballots without assistance. The language included in this bill requires nonvisual access to be an essential component of any new voting machines designed for Federal elections. It also provides financial assistance to help local election officials pay for the cost of these machines.

I know the election officials in downstate Illinois have been doing a great job in ensuring that elections are run smoothly and that everyone who wants to vote is given the chance to do so. I am pleased that this amendment helps make voting easier for the visually impaired voters.

Mr. Speaker, I would like to thank my colleagues, the gentleman from Illinois (Mr. DAVIS), the gentleman from Maryland (Mr. EHRLICH), along with the Ranking Member HOYER and Chairman NEY for working on this issue and helping to get this provision included in this bill.

Mr. Speaker, I submit for the RECORD a letter from the National Federation of the Blind supporting this bill.

NATIONAL FEDERATION
OF THE BLIND,
Baltimore, MD, December 11, 2001.

Hon. ROBERT NEY,
Chairman, Committee on House Administration, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the support of the National Federation of the Blind for the Help America Vote Act of 2001 (H.R. 3295), including language we requested to address the needs of people who are blind. Thanks to your efforts and understanding, this legislation points the way for blind people to vote privately and independently.

While the 2000 election demonstrated significant problems with our electoral system, consensus regarding the solution has been much more difficult to find. Nonetheless, it is clear that installation of up-to-date technology will occur throughout the United States. This means that voting technology will change, and devices purchased now will set the pattern for decades to come. Therefore, requirements for nonvisual access must be an essential component of the new design.

With more than 50,000 members, representing every state, the District of Columbia, and Puerto Rico, the NFB is the largest organization of blind people in the United States. As such we know about blindness from our own experience. The right to vote and cast a truly secret ballot is one of our highest priorities, and modern technology can now support this goal. For that reason, we support any legislation that will accomplish this objective. Thank your for your assistance in addressing this concern as part of the Help America Vote Act of 2001.

Sincerely,

JAMES GASHEL,
Director of Governmental Affairs.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from Florida (Mr. HASTINGS), a member of the Committee on Rules.

Mr. HASTINGS of Florida. Mr. Speaker, I thank my good friend and colleague, the gentleman from Texas (Mr. FROST), for yielding me this time and for his distinguished leadership on this particular subject, and also my good friend, the gentleman from New York (Mr. REYNOLDS).

All the members of the Committee on Rules heard me last night speak very passionately, moved by the fact that now we have a year that has passed and we still have not undertaken what I believe to be what the American people want in the way of ensuring that we have free, fair, and transparent elections.

Before I get into the meat of my remarks, I want to share a vignette with everybody here. In 1974, in Florida, I ran for the Public Service Commission, and I lost that election by 2 percentage points. When I got home that night, my mother said to me, "Something is wrong." My comment to her was, "Mom, there can't be anything wrong with this election." I was kind of angry, upset, and hurt that I had lost. I said "There can't be anything wrong, because we have this new punch card system."

Well, now, 30-plus years have passed since that election, and the fact of the matter is that she has said to me, at times when we have spoken privately, that she thought something was wrong. And now I can say to you, "Mom, you were right, something was wrong all that time."

Mr. Speaker, I would like to think that when I speak on the floor, my words are eloquent and my thoughts are well expressed. But now is not the time for eloquence. Quite frankly, this rule just stinks. More than 13 months have passed since last year's debacle of an election. Now, when the House finally considers election reform legislation, the Republican leadership is eliminating the option of debate. The only word that I can use to describe this irresponsible act of poor leadership is shameful.

During last night's hearing in the Committee on Rules, more than 20 amendments were offered by Members on both sides of the aisle. I offered four amendments that would have fixed some of the problems that I believe currently exist in the bill.

□ 1230

My amendments would have required that every polling place in the country be fully accessible to people with disabilities, and somebody please tell me why we cannot accomplish that. They would have taken significant steps, my amendments, towards halting the illegal purging of voters' names, provided for the immediate restoration of former felons' rights to vote; and, finally, ensure that all Americans be given the right to cast a provisional ballot in the case their name does not appear on the list of eligible voters.

However, the American people will never hear debate on these amendments, nor the more than 16 others, because the rule that the Republican leadership has reported is closed. Not one amendment that was offered last night will be permitted to be debated today. Granted, I do not agree with all of the amendments that were offered last night. In fact, I am quite opposed to some of them. However, if the House is going to consider an issue as important as the integrity of the American election system, I think that it should be open for debate. I believe that, and I believe the American people do also.

Where has the leadership been on this issue? From the looks of this rule, we can tell where the leaders on the other side of the aisle have been. But what about the administration, the primary beneficiary of last year's sham of an election? The answer is we just do not know.

I asked the gentleman from Ohio (Mr. NEY) what is the position of the administration. To date, the administration has not even issued a statement on the Ney-Hoyer bill that is being considered.

Mr. Speaker, realize I applaud the work of the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland

(Mr. HOYER) on the work that they have done on this bill; and so should the rest of this body, and we should thank the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from California (Ms. WATERS) for helping to improve this measure.

Under the constraints that were placed on the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER), I do not think that we could have gotten a better bill. I am nonetheless astonished while we know what problems exist, and all of us know how to remedy them, I was astonished by the unwillingness of the Republican leadership to act on a bill that actually fixes all of the problems that exist in our country's broken election system, and it baffles me beyond comprehension that we are not doing it.

If the underlying bill is the best that we can do, then it is not good enough. If we are to define our democracy by the rights we guarantee to our citizens and the methods by which we choose our leaders, then we must never find ourselves denying these rights or questioning the results of our methods.

Mr. Speaker, few issues in this country ignite the tempers of the American citizenry as much as election reform. In the past year, many of us traveled across the country to hear voters speaking about the problems that they faced during last year's election. From these hearings and meetings, we have garnered a general understanding that the problems we saw in Florida last year are not unique to Florida. On the contrary, the travesty that the Florida's voters faced last November is merely a representative sample of the problems voters faced throughout the United States. Civil rights violations, lack of provisional ballots, increasing amounts of overvotes and undervotes, uneducated voters and poll workers, outdated voting machines, the purging of eligible voters, confusing ballots, lack of accessibility, and not enough funding for States to improve their voting technology, are not problems that are unique to Florida.

The Ney-Hoyer bill fixes many of these problems, but at the same time it fails to mandate that others be addressed. Today, Members are faced with a difficult question: Do we allow the perfect to be the enemy of the good, or do we approve a bill that does not fix all of the problems that we know exist in our election system to date? This rule is not, in my view, just irresponsible and shameful; but it is an insult to this body, the American people and the integrity of our democracy. I urge my colleagues to oppose this closed rule.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to support the rule at hand and the bill that follows; but I must place into the RECORD my concern that the entire process did not go far enough with respect to election reform, and that has to do with the rampant number of complaints that every Member has received about the failings of the motor voter law. This bill and the rule that implements it, actually specifically states that the motor voter law that we passed in 1993 will remain practically inviolate. Yet the horror stories we have heard demands our attention to motor voter.

In that regard, I fashioned a Motor Voter Reform Task Force in my district which made certain findings and recommendations. The findings to which we must pay attention are very serious. Number one, there were a large number, not just in my district but in other districts as well, of people who were not American citizens who, by virtue of motor voter flaws, were able to cast votes. That is unacceptable. That dilutes the votes of people who are American citizens who are registered to vote. We must do something about that. Our task force has recommendations as to that, and this bill does not cover that particular situation.

Insofar as the bill goes to determining and helping States determine eligibility of voters to allow culling of votes to bring them up to date every couple of years, the bill goes a long way.

I hope in some future time that Congress tackles revision of motor voter, updating motor voter in a time and a place where we can concentrate on the flaws that everyone has discovered.

Mr. Speaker, I include for the RECORD the report of my Motor Voter Reform Task Force.

MOTOR VOTER REFORM TASK FORCE REPORT

INTRODUCTION

The Motor Voter Task Force was created in May of 2001, by Congressman Gekas of the 17th Congressional District to investigate the effects of the National Voter Registration Act of 1993. In June, the Task Force visited the five County Election Offices and also spoke to Jury Commissioners in the five counties in the Congressman's district and met with Pennsylvania's Commissioner Dick Filling and Ted Koval, Pennsylvania's Director of Voter Registration, both of whom serve under the Bureau of Commissions, Elections and Legislation. On July 9th, the Task Force held a hearing involving the five County Registrars, a representative from Penn DOT, a representative from the Department of State, and two Representatives from the Pennsylvania State House. The Task Force has also researched data concerning elections at the local, State and National level.

Although the Motor Voter Law of 1993 did make voter registration easier, it failed in its stated goals, it has incurred great cost to the American taxpayer, it has made maintaining the voter registration rolls more difficult, and it has facilitated voter fraud.

We, the Motor Voter Reform Task Force, believe the Motor Voter Act must be reformed to stop the current strains on our electoral system.

PROBLEM SPECIFICS

The Motor Voter Law, officially known as the National Voter Registration Act of 1993, allowed a potential voter to register while applying for, or renewing, a driver's license.

Motor Voter Has Caused Bloated Registration Rolls

While this Act made it easier to register to vote, it simultaneously made it much more difficult for election officials to remove inactive voters from the rolls.

Under the Motor Voter Act, all registered voters who have not had any activity (have not voted, changed address, changed name) are sent a "Five-Year Notice." If the registered voter responds to the notice, they are coded "active" and remain on the rolls. If they do not respond, or if the Notice is undeliverable, they are coded as "inactive" and remain on the rolls until two more Federal elections have passed without any activity. Any registered voter who has been coded as inactive and remains on the rolls, may vote by asking for an "Affirmation of Elector". The Affirmation of Elector will activate their registration by verifying address information.

In addition, once every calendar year, counties are required by the Law to do either a mass mailing, or a cross-referencing with the U.S. Postal Service's National Change of Address Listing. This is a national list of residents by name and address in the country. Any address discrepancy between the county's address list and the National Change of Address list will trigger a notice to be mailed to the registered voter in question. Mass mailings are extremely expensive to counties costing tens of thousands of dollars. The National Change of Address Listing compiled by the U.S. Postal Service is less expensive, but also costs counties several thousand dollars to purchase. Some consideration should be given to making this list available to counties at either no cost or at a minimal cost.

All told, it may take up to nine years for an inactive voter to be removed from the registration rolls. This causes woefully inaccurate voter registries and the potential for fraud. The Task Force believes this is unacceptable.

The Motor Voter System Allows Fraudulent Registration

The Motor Voter Act requires only the "minimum amount of information necessary" to assess the eligibility of a registrant. Ironically, this minimum information is often insufficient in determining a registrant's eligibility. Because proof of identity and citizenship is not required when registering to vote, it is possible for resident aliens (i.e., non-citizens) to vote in our elections. There were several reported incidents in the 17th congressional district where non-citizens were registered to vote. This means that the fundamental right of legitimate Americans to vote is being undermined. It is alarming to think that American citizens may be letting fraudulent voters decide the outcome of their local, State and Federal elections.

Just as alarming is the fact that voter registration rolls are used across America as a source for selecting jurors. It is very possible that non-citizens have already been called for jury duty and have served. It was also discovered in conversation with Jury Commissioners is the 17th Congressional District that, indeed, jurors had been called who had registered to vote through Motor Voter, but were not citizens of the U.S.A. We must consider the possible serious consequences if a juror is discovered to be a non-citizen during a trial. If a non-citizen juror went undetected, the defendant's right to a jury of peers would be debased.

Evidence of Fraud

During the 2000 Presidential Election, the national media reported numerous cases of voter fraud. The shortcomings of Motor Voter are the reason behind several notable failings of our electoral system.

Examples of these weaknesses are vivid and well documented: A dog was registered to vote in St. Louis, Missouri, deceased individuals registered and voted, nonexistent individuals registered and voted, and false addresses were used to register. Eighteen municipalities in Allegheny County, Pennsylvania, reported a registry larger than the voting-age population. Clerical errors caused legitimate, eligible voters to be taken off registration rolls and/or listed in the wrong county.

Costs of the Motor Voter System

The Motor Voter Act has caused massive expense to the American public. Furthermore, the Act was an unfunded Federal mandate, so all expenses incurred were passed on to the States and counties. The extra costs have accrued in three basic areas: equipment, postage, and staff.

Equipment: The States have had to upgrade or install new technology at their respective Departments of Motor Vehicles to comply with the Motor Voter Law. Simultaneously, counties have had to upgrade or install new technology, provide additional polling places and purchase extra voting machines or booths and balloting materials, as State laws often requires the number of polls and equipment to be in a certain proportion to the number of registered votes. E.g., Pennsylvania state law requires one voting machine per 600 registered voters.

Postage: The Act required municipalities to send confirmation mailings to remove inactive voters from the registration rolls. Simultaneously, Motor Voter registrations are often left inaccurate or incomplete. Thus, election officials must frequently send mailings and make countless telephone calls in order to recollect information from people who registered through Motor Voter.

Staff: Additional election staff is now required at the State and county levels due to the increased numbers of mailings, polling machines, and polling locations.

Motor Voter Has Done Little to Increase Voter Turnout

While Motor Voter has increased the number of registered voters, it had done little to increase actual voter turnout.

Appendices A and B contain information taken from the Federal Elections Commission web site. Since voter turnout is traditionally better during a Presidential Election year, it is necessary to compare sets of years with the same number of Presidential Elections. Hence, both tables contain voter enumerations from three Federal elections, with each table containing one Presidential Election.

Appendix A comprises three years before Motor Voter was enacted and Appendix B spans three subsequent years after the Motor Voter Law was passed.

The difference between the two sets of elections is a mere 0.3% increase in voter turnout. The enormous costs of the Motor Voter system is hardly worth this questionable increase. Seven years after this Act became law, we have learned from experience and research that voter registration is not the impediment to low voter turnout. In fact, statistics published by the Federal Elections Commission shows that voter turnout has remained fairly constant since 1972.

The bloated registration rolls have made it very difficult to accurately report voting statistics. Percentages of voting seem lower because registration is so bloated. In reality, as stated above, voter turnout has remained about the same since 1972. The inaccurate interpretation of the statistics which are being reported may be adding to voter apathy and having an adverse effect on voter turnout.

For an example, in Congressman Gekas's district, we can look to Lancaster County's swelling registration rolls which have not produced increased voter turnout. If we compare the number of Motor Voter registrations in Lancaster County to the number who actually vote, a significant difference is observed. (Appendix C)

SUMMARY OF FAILINGS

The Motor Voter Law has four intended purposes, as per section b:

(1) To establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to implement this Act in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;

(3) to protect the integrity of the electoral process; and

(4) to ensure that accurate and current voter registration rolls are maintained.

Contrary to its stated purposes: ineligible citizens have registered to vote, the Federal government has not helped cover the expense of the new system, the integrity of the electoral process has been compromised, and the Law had made it more difficult to purge inactive voters from the rolls. As a result, rolls are neither accurate nor current.

In short, the Motor Voter Law has failed in all four of its intended purposes.

RECOMMENDATIONS

Because the States and counties have invested a great deal of money in the Motor Voter system, it would be irrational and wasteful to repeal the Law. Therefore, the Motor Voter Law must be amended if its various flaws are to be corrected. The Task Force has conceived of nine recommendations for amending the Motor Voter Law.

[Recommendation 1] Provide Monetary Compensation to States and Counties

Since the Motor Voter Law was enacted, there has been a great deal of expense incurred by the States and counties in meeting the Law's requirements. Most of the expenditures are due to additional equipment, postage, and staff. We believe Federal mandates should have Federal funding; it seems appropriate that the Federal government should compensate the states and counties for the overhead the Motor Voter Law created. Additionally, a special reduced postage rate for the official use of State and County Election Boards must be considered.

[Recommendation 2] Mandate Information Sharing between Bureaus to Keep Rolls Accurate

Unless election officials have access to information that disqualifies ineligible voters, these individuals will remain on the rolls. For that reason, we suggest the Immigration and Naturalization Service inform the counties about the citizenship status of registrants, if requested. We also suggest that the each Bureau of Vital Statistics share information with the counties regarding: deaths, marriages, felons, and changes of name, and that State cooperate with each other in order to prevent duplicate or multiple registrations by an individual in multiple States or municipalities in any one state. The U.S. Postal Service should also be a source for National Address Verification. The sharing of information between these Agencies and Bureaus and between States, in particular those states which maintain a central Voter Registry, and counties will allow election officials to maintain much more accurate registration rolls.

[Recommendation 3] Require Counties to Immediately Remove Ineligible Voters

Upon receipt of disqualifying information from a Bureau or Agency, county officials should be required to immediately remove an ineligible voter from the registry, regardless of their activity status.

[Recommendation 4] Rolls Should be Purged of Inactive Voters More Frequently

We recommend automatically removing any voter that should fail to vote in two consecutive Federal elections. Not only would this keep the rolls current and accurate, but it would completely eliminate the cost of sending confirmation mailings. Furthermore, this implementation would allow office holders and candidates running for office to target their constituents more effectively.

[Recommendation 5] Require Proof of Citizenship upon Registering to Vote

Proof of citizenship should be required of everyone upon registering or re-registering to vote. A signed attestation or a check box will not do, as many resident aliens may misunderstand the meaning of the word 'citizen.' There is also the very real possibility that many non-citizens may be taking advantage of the very lax system of voter registration which is now in place. Acceptable forms of proof would be: a passport, a birth certificate, or a naturalization document.

There must also be a system in place to make certain that everyone who registers to vote is indeed a real and living human being residing at an actual address in the county and state where they are registering.

[Recommendation 6] Voter Identification Number

A Voter Identification Card with an assigned Voter ID Number, a photo, and a digitized signature for every registered voter could be sent to County Election Boards to be kept in the voter registration roll books used by each county at each polling place. There must be a system in place to protect the confidential nature of these numbers. Otherwise, their purpose would be defeated. The Voter ID Numbers should be available only to Election Officials and the voter to whom the number is issued.

[Recommendation 7] Require Better Checks at the Polls

In addition to preventing registration fraud, better checks must be in order to prevent it at the polls as well. To keep anyone from voting under another person's name, there need to be better identity checks at the polls. A signature and presentation of a photo ID should be required of all voters. This should then be compared to the Voter ID Card in the county's roll book.

[Recommendation 8] Verification of Absentee Ballot Applications and Absentee Ballots

There must be a better system in place for verifying the authenticity of Absentee Ballot Applications and Absentee Ballots

[Recommendation 9] Personnel Training

All personnel mandated and responsible for registering voters as provided by the National Voter Registration Act of 1993, must receive comprehensive and intensive training in an attempt to prevent inaccurate, incomplete or fraudulent applications for voter registration.

RESPECTFULLY SUBMITTED

In conclusion, it is with sincere thanks to Congressman Gekas for his concern to insure a voting system with the utmost integrity, that we submit our findings and recommendations.

APPENDIX A.—THREE ELECTIONS BEFORE MOTOR VOTER

Year	VAP	No. registered	% Registered	No. voted	% Voted
1990	185,812,000	121,105,630	65.18	67,859,189	36.52
1988	182,778,000	126,379,628	69.14	91,594,693	50.11
1986	178,566,000	118,399,984	66.31	64,991,128	36.40
Total	547,156,000	365,885,242	66.87%	224,445,010	41.02%

APPENDIX B.—THREE ELECTIONS AFTER MOTOR VOTER

Year	VAP	No. registered	% Registered	No. voted	% Voted
1998	200,929,000	141,850,558	70.60	73,117,022	36.39
1996	196,511,000	146,211,960	74.40	96,456,345	49.08
1994	193,650,000	130,292,822	67.28	75,105,860	38.78
Total	591,090,000	418,355,340	70.78%	244,679,227	41.39%

APPENDIX C.—LANCASTER COUNTY MOTOR VOTER REGISTRATION STATISTICS

	Total MV registrations	Total MV to vote	Percentage
Fall 1995	36	3	8.33
Spring 1996	38	4	10.53
Fall 1996	39	16	41.03
Spring 1997	40	3	7.50
Fall 1997	42	5	11.90
Spring 1998	3,275	44	1.34
Fall 1998	5,568	1,167	20.96
Spring 1999	10,074	571	5.67
Fall 1999	12,324	928	7.53
Spring 2000	15,334	819	5.34
Fall 2000	18,922	10,581	55.92
Spring 2001	21,701	589	2.71

VAP: Voting-Age Population.
MV: Motor Voter.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, we arrive at a point where I think we will be considering the election reform bill, the Help America Vote Act. I believe this bill is one of the most important bills that we will vote on and pass this year. I am disappointed that the rule did not allow a substitute to be offered. I asked for that in the Committee on Rules. I urged that that be allowed.

Frankly, if the gentleman from Michigan (Mr. CONYERS), who is the sponsor of a very significant bill that is pending in the House Committee on the Judiciary, had wanted to offer his substitute, I would have been even more adamant.

Having said that, I want to see this bill move forward. I regret this rule did not allow a substitute, but I believe it is important that we pass this bill and pass it today. It provides, as I will say in the general debate later today, very substantial resources for States to get us to a point where votes will not only be cast, but will be accurately counted; where votes will be counted, having made sure that every American was able to cast their vote properly; that state-wide registration would make sure that we knew who was registered; that provisional ballots would make sure that, even if we made a mistake in the system, that people would be allowed to vote; where, if the technology allows in 2002, citizens will be told they made a mistake, and if they want to change it, voters have an opportunity to do so.

This bill brings some very significant reforms. It answers many of the questions raised by last year's extraordinarily difficult election. So although I am very deeply distressed, as expressed by the gentleman from Florida (Mr. HASTINGS), that we did not have the ability to offer a substitute, I know that the gentleman from New Jersey (Mr. MENENDEZ) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) will be offering a motion to recommit.

If we pass this rule, I will speak strongly on behalf of this bill and hope to see its passage. The reason that I say that I think it should pass today, I am hopeful that the earliest possible date to both appropriate funds for the funding of the reforms, doing away with the punch cards, upgrading technology, educating voters, educating and training election officials, all to enhance the election process for our citizens, I am hopeful that we can do this as quickly as possible so that 2002 and certainly 2004 will not be a repeat of 2000. That election in 2000 ended 37 days after it began. It ended on this day exactly 1 year ago. It is appropriate that we act today.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I could not agree more with the Committee on House Administration. We need to act today. This is bipartisan legislation. It has the best chance of passing Congress this year and becoming law before next November's elections. Time is of the essence. There are only a few days left in the session of this Congress, and we must act now. The train has sounded its whistle. Election reform must be aboard. The American people expect and deserve real election reform that ensures that every single vote is counted.

Mr. Speaker, there also must be some facts brought into the record as to the result of the Committee on Rules. With 435 Members of Congress, there are 435 ideas. That is important. It brings debate and consensus. But the Committee on Rules also has done the least partisan action today by taking a bipartisan product of 108 Democratic Members and 61 Republicans, which have come together with the bipartisan support of the gentleman from Maryland (Mr. HOYER), the ranking member, and the gentleman from Ohio (Mr. NEY), the chairman, and most of us on the Committee on House Administration. It was constructed in a bipartisan way, not only in the hearings and in the committee and in the result of the committee, but in the press conferences.

Quite frankly, maybe not allowing partisanship to come in now as each side of the aisle tries to figure out how they can angle their leverage up, to leverage up their best position on election reform.

A closed rule ensures that the bipartisan bill which actually has more Democratic Members than Republican on it, remains bipartisan. I remind my colleagues for the record in the Chambers and throughout the Capitol that no viable formal substitute came before the Committee on Rules until late in the process. As a matter of fact, in consultation with the other side of the aisle, they did not even know which Member was going to submit a formal amendment. There was no amendment on the summary list that all members, Republican and Democrat, that the Committee on Rules had before them because there was not a formal one presented yet. In the end, the ranking member of the Committee on Rules submitted the Menendez as a substitute.

The reality, as I opened my remarks, is maybe the best way to get a bipartisan result of what started with hearings months ago and came with bipartisan input, bipartisan sponsorship, bipartisan passage in the Committee on House Administration and now before the House under this rule if passed, is the best way to have bipartisanship is to move forward on a bipartisan bill without trying to leverage it up from either side of the aisle.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I rise in opposition to the rule because of my belief in one of our core principles, which is "one person, one vote." And it is that simple, but grand, principle we are here to protect. And to limit the debate on election reform which is the foundation of the democracy for which we risk the lives of our young men and women abroad with a closed rule is outrageous. That is why the debate here today goes to the very heart of this institution, the very heart of our democracy, the very heart of our Nation, because we have a solemn responsibility to ensure that every American is given a full and equal access to vote.

The bill before us takes a good step in that direction; but I believe it should go further, and that is why I introduced an amendment at the Committee on Rules with the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and others to clarify and expand the bill's provisions on full access for disabled voters, civil rights protections, multilingual ballots and materials, Federal enforcement of standards, guarantees for provisional voting and preservation of the Motor Voter Act.

Mr. Speaker, 14 million disabled voters cannot vote in secret. At the beginning of the 21st century, that is an outrage. The bill does not guarantee that that will change; my amendment would.

□ 1245

Hundreds, maybe thousands, of voters were improperly turned away at the polls in the last election, their votes effectively robbed through a careless bureaucracy at best, and malintent at worst. We may never know for sure, but we do know that we need provisional voting to prevent this travesty from ever occurring again. Our amendment would have guaranteed that. The bill we will be voting on today does not. The motor voter law has helped bring so many Americans into the democratic process. Our amendment would have preserved it.

These are vitally important issues that deserved a full and complete debate in the House on the fundamental issue of our democracy and the process by which we choose those who govern us. As it is, I will offer the amendment in the form of a motion to recommit. This bill is too important, too central to who we are, to close off debate as the rule does. I urge my colleagues to defeat it.

Mr. REYNOLDS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I want to begin by congratulating my friend, the gentleman from New York (Mr. REYNOLDS) for not only his handling of this rule, but also for his fine work on the Committee on House Administration and, of course, the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) who have, as has been pointed out in this debate, fashioned this bipartisan effort to deal with a very serious problem that exists out there.

We know that it was a year ago today, Mr. Speaker, that we saw a conclusion to the most historic election in our Nation's history for President. If we have learned anything in the past year, it is that democracy is a work in progress.

A year ago this month, I had the opportunity to join with a number of other Americans in representing this country at the inauguration of President Vicente Fox in Mexico. It was the first time in 71 years that the ruling Institutional Revolutionary Party had, in fact, been defeated in a presidential election. I was an observer of that election on July 2 of last year. We as Americans were there in behalf of the International Republican Institute, an arm of the National Endowment for Democracy which President Reagan established in 1985, to talk about how to hold elections and how to encourage democracy and to observe that process a year ago this past July. I will say that to then go into our election process here and see former Secretary of State James Baker, with whom I stood checking the validity of ballots in the hills, above Pueblo, Mexico, doing the same thing in Florida following our presidential election, was clear evidence that democracy is a work in progress.

We also, over the past year, have had at least a couple of other experiences showing us that. Ten years ago in Nicaragua, we were able to bring about a free election, and it saw the removal of the Communist dictator, Daniel Ortega. Many of us who during the 1980s spent a lot of time encouraging the process of democracy and free and fair elections there had a rather rude awakening this year when this summer we found that the prospect of making changes that could have undermined the opportunity for voters to participate in Nicaragua was a serious one. I am happy to say that the International Republican Institute and other organizations played a role in encouraging voter registration and moving towards democracy, clearly showing that even though we saw an election a decade ago, it had to be closely monitored.

Of course, the attention of the world is focused on Afghanistan. Again, a decade ago we saw the liberation of the people of Afghanistan from the Soviet Union. Many of us, after having spent a great deal of time focused on the problems in Afghanistan, chose to put our attention elsewhere.

And so I think that this legislation is a demonstration that we as Americans understand that democracy is a work in progress. That is why I congratulate my colleagues on the Committee on House Administration for coming up with what is, as I said, truly a very bipartisan bill.

Passage of this rule, Mr. Speaker, will ensure that there is language to deal with the issue that the gentleman from New Jersey just raised, and, that is, the access of the disabled to the polls. We have seen organizations like the National Council on the Blind come forward and indicate their willingness to be supportive of this measure. We also know that there are disenfranchised voters in this country, and we are strongly committed, again in a bipartisan way, to ensuring that, in fact, we will see an opportunity for everyone who wants to have the right to vote and access to the voting booth.

It is just a first step, though. That is why I keep referring to this work in progress. We know that there are going changes that will be further proposed in the future. I know that under the leadership of the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) on the Committee on House Administration, there will be further efforts to look at this. But as was pointed out by the gentleman from Maryland (Mr. HOYER) in his testimony before the Committee on Rules last night for the first time ever, the Federal Government is stepping up to the plate and providing $2.65 billion in assistance to the States for Federal elections. Never in the history of our Republic has that been done before. This legislation moves us toward doing that.

Yes, it is a closed rule. It is a closed rule because there is strong bipartisan consensus, as was pointed out by both Presidents Carter and Ford, to support this measure, and there are a lot of people out there who do, as the gentleman from New York (Mr. REYNOLDS) said so eloquently, want to game this thing and improve the opportunity for the Republican Party or improve the opportunity for the Democratic Party to maybe get an edge in this. I think that this package, moving forward from this committee under the structure that we have proposed here for consideration by our colleagues, will, in fact, maintain the bipartisan nature of it and move us in a very positive and bold way towards achieving our goal, and, that is, enhancing the opportunity for the American people to choose their leaders.

It is a good measure, it addresses the concerns of the disabled, the concerns of minorities, and I think if there are proposals that others might want to offer, we had guaranteed the motion to recommit, and so that is a package that can come forward from our colleagues who do want to offer some other proposal on this. The rule deserves strong support, and I believe that the legislation at the end of the day deserves strong support as well. I encourage my colleagues to join with us.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I thank the two gentlemen who have put in laborious time in crafting legislation which admittedly does advance, does progress the electoral system. We attempted last night through the gentleman from Florida (Mr. HASTINGS) to offer an amendment that was rejected because of the closed rule. I wanted to come to the floor and speak in a bipartisan way, those veterans who are Democrats and those who are Republicans and perhaps those who are libertarians but who form this bipartisan coalition of suffering posttraumatic stress and who end up after war, who have been there protecting this country, who end up homeless, who end up in prison. As we know, many States deny those individuals who have been convicted of felonies from ever having the right to participate in the electoral process.

We do not deny Members of Congress from coming to Congress because they are convicted felons, but we do deny people who have sacrificed their life and their well-being. Our amendment had the support of the Vietnam Veterans Coalition and many others. I would just encourage that we defeat the rule so that we can ascertain that democracy does indeed work.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time. I also want to commend Chairman NEY and Ranking Member HOYER for the development of this legislation, but I rise in strong opposition to this rule. I do not rise because it is a bipartisan bill, I do not rise because it has a large number of supporters, but I rise in opposition to this rule because it is a contradiction to democracy. It is a contradiction to the whole purpose of voting.

Voting is a way of expressing oneself, of expressing one's ideas, thoughts and opinions. This rule denies that opportunity. It is closed. I had offered an amendment that I wanted to offer last night in the Committee on Rules that would deal with the whole question of intimidation, of fraud, by making sure that States had some mechanism in place to deal with that. All of my life I have heard of intimidation and fraud in elections in communities where I have lived and worked. I have never seen anything really done about it. This would have been a great opportunity. It does not exist. For that reason, I urge that we vote down this rule and come back with an open rule that gives people the opportunity to really express what democracy and voting is all about.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, I thank my good colleague from Texas for yielding me this time.

H.R. 3295 does not provide the comprehensive reform that this Nation's election system needs. While this bill does attempt to establish minimum standards for voting machines, it does not go far enough. The Federal Government should have the ability to take action against States that fail to meet minimum standards and it is not possible under this bill. The bill has no mandatory access to machines for individuals with disabilities. Citizens who have language barriers or physical disabilities should not have added difficulties when they go to vote.

Current law requires some jurisdictions with language minority groups to provide bilingual assistance in each step of the voting process. However, this law has been poorly enforced and it certainly is not strengthened by this bill. In addition, this bill does not specifically require assistance for elderly voters or for voters with disabilities. Polling places should allow people to exercise their right to vote, regardless of their disability.

Lastly, election reform must also ensure that sample ballots are distributed that educate voters and that poll workers are properly trained to assist the voter. A better informed electorate will be able to make better decisions when voting for their elected officials. Although H.R. 3295 authorizes the use of funds for voter education, it does not require them to be spent for that.

There is one thing I know. Democracy is stronger when more Americans vote. H.R. 3295 is well-intentioned, but it is not the solution to our Nation's needs.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

This legislation authorizes $2.65 billion for Federal election reform, including $400 million to buy out unreliable punch card voting systems that was brought out in this rule debate earlier, and $2.25 billion in election fund payments to improve equipment, recruit and train poll workers, improve access for disabled voters, and educate voters about their rights.

The Help America Vote Act would require States to adopt minimum election standards, including a statewide voter registration system, in-precinct provisional voting, assurances that voters who make errors will be able to correct them, and a means for disabled voters to cast secret ballots on new voting equipment. The bill is real, meaningful reform that will significantly improve our election system and restore public confidence in it.

I just want to outline that this bill is a bipartisan bill. It is not a magic elixir for the problems that plagued us last November, but it prescribes the right medicine for our ailing election system and Federal assistance to the States and minimum election standards that they must adopt. This bipartisan bill is the outgrowth of a series of hearings by the Committee on House Administration earlier this year and input from a wide variety of advocates for civil rights, disabilities and election reform groups. Their views were solicited and given serious consideration and this bill reflects their views and their efforts. This bipartisan legislation has been endorsed by the National Association of Secretaries of State as well as the National Conference of State Legislatures, NCSL, and others, like the Carter-Ford Commission.

Mr. Speaker, this is a good bill. It is a bipartisan bill that has the opportunity to be considered by this House today to move forward on election reform.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I was sitting in my office and I thought I misunderstood what my colleague who is pushing this rule had to say, and then he said it again, that a bipartisan group of people have gotten together and gotten behind a bill; and, therefore, since you have a bipartisan bill, democracy should be suspended and other people who want to offer their amendments and have their voices be heard should not be given that opportunity.

I got alarmed by that, because quite often that is the way people perceive that democracy works. You get some people kind of at the center of the democracy and they say, well, we represent this perspective and this perspective, one marginally on the progressive side and one marginally on the conservative side, and we represent America, so the rest of America should not be heard.

That is what this rule reminds me of. A small group of people who have decided that this bill should be the vehicle for election reform have gotten together; and the Committee on Rules has said, well, if we break apart this fragile compromise and allow people either on the progressive side or on the conservative side to offer amendments, then somehow democracy will be undermined.

There is something wrong with that analysis. We all come here to represent our districts and to bring our voices to the table, and this process is not allowing that to happen. I hope we will vote down this rule and give us the opportunity to participate.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, the right to vote is the cornerstone of our democracy. It is the most basic and most essential expression of citizenship. When that right is put into doubt, when citizens cannot know that a ballot cast is a ballot counted and that their unique voice has been heard. It undermines confidence in our entire political system, as well as the government formed on a foundation of those ballots. People must have confidence that their votes counts.

Last year's Presidential election shook that confidence to the core. And while the Ney-Hoyer bill is a first step toward reforming that system, the substitute that my colleagues and I would have offered, had it been allowed, would have vastly improved on the underlying bill. It would have required that all voting systems and polling places be accessible to disabled and blind voters and that alternative language accessibility be provided for citizens with limited English proficiency.

To accurately record the voter's intent, the amendment would have required that all voting systems notify voters of over- and undervotes, verify the vote, and provide the opportunity to correct the ballot before it was cast. This is particularly important, because the poorest technology, the most error-ridden technology, is often found in the poorest communities.

Our amendment would have allowed voters to be purged from the voter rolls in a way that is consistent with the motor voter law. It required that provisional voting be available for voters whose names have been mistakenly removed from the voter rolls.

Finally, it ensured that these measures are fairly and strictly enforced, by requiring the Attorney General to verify State certification and to enforce the minimum standards. Right now in cities and towns across the country, it remains more difficult to go to the polls to cast your vote than it is to make a simple withdrawal from an ATM; and there is something very, very wrong with that.

The right to vote is the basic foundation of our rights as American citizens. We need to ensure that every American citizen has access to polling places, is able to cast a secret ballot, and is sure that his or her vote has been accurately counted. This issue is too important to merit anything less than a full and an open debate.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Missouri (Ms. MCCARTHY).

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise in strong support of H.R. 3295, the Help America Vote Act of 2001. I wholeheartedly endorse the efforts of my colleagues, the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER), and others in this great effort. It is a very important first step in correcting the mistakes made in our election system that were highlighted in the aftermath of the 2000 election.

While many minority groups such as the NAACP and the Council of LaRaza and senior groups have contacted me expressing concerns that the bill might not go far enough, I have seen firsthand the challenges inadequately equipped polling places and poorly trained poll workers pose to their constituencies.

This measure will go far in assuring everyone's right to access to a vote. I pledge to work with my colleagues in moving forward with this legislation and in future efforts to ensure that no voting population is disenfranchised in our democracy, and that every American, regardless of race, disability, age or creed, is afforded an equal opportunity to have their vote counted.

I am very pleased by the cooperative bipartisan effort behind this legislation. I urge support of it and the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, one of my Democratic colleagues as we voted on this in the Committee on House Administration summed it up so well, so I think the remarks of the gentleman from Ohio (Chairman NEY) that this is not a perfect bill, properly imply, and undoubtedly apply to every bill that has ever been considered in the Congress of the United States.

Having said that, I think this is a good bill. It is worthy of support, and it will move us forward. With 170 cosponsors on this legislation, 108 Democrats, 61 Republicans and one Independent, I believe as we move forward in passing this rule we will have a substantial vote in the affirmative on this legislation, which will move America forward with safe and solid elections.

The most fundamental privilege of American citizenship is the right to vote. Let us now embrace that spirit of bipartisanship that produced this legislation by supporting this bill and preserving the very integrity of democracy.

Mr. GEKAS. Mr. Speaker, I rise today to express my support for the rule and the bill on election reform, H.R. 3295, brought forward by the Chairman and Ranking Member of the House Administration Committee, Representatives NEY and HOYER.

Mr. Speaker, it is clear that local jurisdictions across America have voter registration rolls that are incomplete and grossly inaccurate. The Ney-Hoyer bill offers some real solutions. A $2.25 billion election assistance grant program will help States and localities invest in real solutions for their election system and voter registration problems. Further, the bill mandates statewide voter registration databases to enhance accountability and promote accuracy in voter registration. Pennsylvania has already taken this step and is implementing a statewide registration database that conforms with the requirements of Ney-Hoyer. Unfortunately, the Ney-Hoyer bill does not attack the problems associated with the Motor Voter Act (MVA) head on. The bill reaffirms that law and attempts to clarify some of its language regarding the purging of voter registration rolls. However, I believe Congress must reopen the MVA at some point, and I am committed to making that happen.

I am supporting this important legislation as it reflects many of the findings of a Pennsylvania 17th Congressional District Motor Voter Task Force I initiated in the spring of this year. After the last Presidential election, numerous concerns were raised by local election officials, elected representatives and citizens of central Pennsylvania. These concerns focused on the glaring failings of the Motor Voter Act. I believe that H.R. 3295 goes a long way toward addressing some of the most essential concerns raised in my District. While it is not the final answer, it is a good first step. I will vote for this legislation, but I will vigilantly monitor its implementation to ensure that it does indeed help improve the situation. Moreover, I will work to make sure Congress revisits the failings of the Motor Voter Act more specifically in the future.

In May of this year I appointed three local leaders to a bipartisan task force to study the impact of the MVA on our federal elections. Louisa Gaughen, chairperson, Sue Helm and Leon Czikowsky—together with Task Force Coordinator Jordan Olshefsky—engaged in formal hearings, interviews with election officials and fact finding sessions before drafting their report. The Task Force found that the law, "failed in its stated goals, that it incurred great cost to the American taxpayer, that it has made maintaining the voter registration rolls more difficult, and it has facilitated voter fraud." The MVA was touted as a mechanism for increasing voter registration and voter turnout. However, my task force found that, "[w]hile Motor Voter has increased the number of registered voters, it has done little to increase actual voter turnout." Disturbingly, the task force found that registration increases often are explainable by the fact that non-citizens have been registered to vote. Not only does this undermine the integrity of our election system, it also has adverse effects on our judicial system. For example, all across America jurisdictions use voter registration rolls as a primary source for selecting jurors. A corrupted voter registration list means a corrupted juror pool list.

In fact, the MVA has led to vastly inaccurate and bloated registration rolls. As my task force put it, "[w]hile this Act made it easier to register to vote, it simultaneously made it much more difficult for election officials to remove inactive voters from the rolls." Localities have interpreted the MVA in such a way as to prevent the expeditious removal of names from registration rolls even in cases of death of a registrant because of seemingly contradictory language in the MVA which seems to prevent the removal of a registrant's name upon failure to vote in consecutive federal elections. The Ney-Hoyer bill seeks to clarify this ambiguous language, but based on the recommendations of my task force, I feel Congress will soon have to take a stronger stand. Too many localities have vastly more registered voters than actual, legal voters residing in their jurisdictions. Regular purging of these rolls must happen in order to ensure the credibility of our election system. Ney-Hoyer helps, but we eventually may have to go farther.

Mr. Speaker, as I stated, I support the rule, and I will vote for H.R. 3295, The Help America Vote Act of 2001 because we need to begin the process of election reform in this country. After an unprecedented election year of butterfly ballots, chads, and court challenges, we need to assure the American public that real, practical steps are being taken to ensure that the events of Fall 2000 are never repeated. Ney-Hoyer is a good foundation upon which to build. I ask unanimous consent that the following recommendations of my task force be added to the RECORD.

MOTOR VOTER REFORM TASK FORCE COMMITTEE, COMMISSIONED BY CONGRESSMAN GEORGE W. GEKAS, REPORTED RECOMMENDATIONS, MONDAY, SEPTEMBER 17, 2001

Because the states and counties have invested a great deal of money in the Motor Voter system, it would be irrational and wasteful to repeal the Law. Therefore, the Motor Voter Law must be amended if its various flaws are to be corrected. The Task Force has conceived of nine recommendations for amending the Motor Voter Law.

Recommendation 1—Provide Monetary Compensation to States and Counties: Since the Motor Voter Law was enacted, there has been a great deal of expense incurred by the States and counties in meeting the Law's requirements. Most of the expenditures are due to additional equipment, postage, and staff. We believe Federal mandates should have Federal funding; it seems appropriate that the Federal government should compensate the states and counties for the overhead the Motor Voter Law created. Additionally, a special reduced postage rate for the official use of State and County Election Boards must be considered.

Recommendation 2—Mandate Information Sharing between Bureaus to Keep Rolls Accurate: Unless election officials have access to information that disqualifies ineligible voters, these individuals will remain on the rolls. For that reason, we suggest the Immigration and Naturalization Service inform the counties about the citizenship status of registrants, if requested. We also suggest that each Bureau of Vital Statistics share information with the counties regarding: deaths, marriages, felons, and changes of name, and that States cooperate with each other in order to prevent duplicate or multiple registrations by an individual in multiple States or municipalities in any one state. The U.S. Postal Service should also be a source for National Address Verification. The sharing of information between these Agencies and Bureaus and between States, in particular those states which maintain a central Voter Registry, and counties will allow election officials to maintain much more accurate registration rolls.

Recommendation 3—Requires Counties to Immediately Remove Ineligible Voters: Upon receipt of disqualifying information from a Bureau or Agency, county officials should be required to immediately remove an ineligible voter from the registry, regardless of their activity status.

Recommendation 4—Rolls Should be Purged of Inactive Voters More Frequently: We recommend automatically removing any voter that should fail to vote in two consecutive Federal elections. Not only would this keep the rolls current and accurate, but it would completely eliminate the cost of sending confirmation mailings. Furthermore, this implementation would allow office holders and candidates running for office to target their constituents more effectively.

Recommendation 5—Require Proof of Citizenship upon Registering to Vote: Proof of citizenship should be required of everyone upon registering or re-registering to vote. A signed attestation or a check box will not do, as many resident aliens may misunderstand the meaning of the word 'citizen'. There is also the very real possibility that many non-citizens may be taking advantage of the very lax system of voter registration which is now in place. Acceptable forms of proof would be: a passport, a birth certificate, or a naturalization document.

There must also be a system in place to make certain that everyone who registers to vote is indeed a real and living human being residing at an actual address in the county and state where they are registering.

Recommendation 6—Voter Identification Number: A Voter Identification Card with an assigned Voter ID Number, a photo and a digitized signature for every registered voter could be sent to County Elections Boards to be kept in the voter registration roll books used by each county at each polling place. There must be a system in place to protect the confidential nature of these numbers. Otherwise, their purpose would be defeated. The Voter ID Numbers should be available only to Election Officials and the voter to whom the number is issued.

Recommendation 7—Require Better Checks at the Polls: In addition to preventing registration fraud, better checks must be in order to prevent it at the polls as well. To keep anyone from voting under another person's name, there need to be better identity checks at the polls. A signature and presentation of a photo ID should be required of all voters. This should then be compared to the Voter ID Card in the county's roll book.

Recommendation 8—Verification of Absentee Ballot Applications and Absentee Ballots: There must be a better system in place for verifying the authenticity of Absentee Ballot Applications and Absentee Ballots.

Recommendation 9—Personnel Training: All personnel mandated and responsible for registering voters as provided by the National Voter Registration Act of 1993, must receive comprehensive and intensive training in an attempt to prevent inaccurate, incomplete or fraudulent applications for voter registration.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 193, not voting 17, as follows:

[Roll No. 487]

YEAS—223

Aderholt
Akin
Armey
Bachus
Baker
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (NY)
Manzullo
McCarthy (NY)
McCrery
McHugh
McInnis
McKeon
Meek (FL)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster

Simmons
Simpson
Skeen
Smith (NJ)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)

Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh

Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NAYS—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill

Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens

Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—17

Ballenger
Burr
Buyer
Cubin
Culberson
Delahunt
Dooley

Gephardt
Gonzalez
Granger
Hostettler
Jackson-Lee (TX)
Luther

Quinn
Smith (MI)
Smith (TX)
Young (AK)

☐ 1329

Mr. CONYERS, Ms. McCOLLUM, and Ms. McCARTHY of Missouri changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. JACKSON-LEE of Texas. Mr. Speaker, because of a hearing in the Committee on Financial Services on Enron, I missed the previous vote, the rule on election reform. If I had been here, I would have cast a vote for no on the rule.

Ms. MILLENDER-McDONALD. Mr. Speaker, this is to inform you that on rollcall No. 487, I inadvertently voted "yes" when my intention was to vote "no".

ANNOUNCEMENT REGARDING PROCEDURES AND DEADLINE FOR FILING AMENDMENTS TO H.R. 1542, INTERNET FREEDOM AND BROADBAND DEPLOYMENT ACT OF 2001

(Mr. DREIER Asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, this is an announcement that I think Members might be interested in.

Mr. Speaker, today a Dear Colleague letter is going to be sent to all Members informing them that the Committee on Rules is planning to meet this week to grant a rule which may limit the amendment process for H.R. 1542, the Internet Freedom and Broadband Deployment Act of 2001.

Any Member who wishes to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment by 2 p.m. on Thursday. That is 24½ hours from now. That is December 13. It should be sent up to the Committee on Rules, H-312 in the Capitol.

Mr. Speaker, the bill, as our colleagues know, was reported favorably by the Committee on Energy and Commerce on May 24, and ordered reported, adversely, by the Committee on the Judiciary on June 18. Amendments should be drafted to the text of the bill as reported by the Committee on Energy and Commerce, which will be available on the Web sites of both the Committee on Energy and Commerce and the Committee on Rules.

Mr. Speaker, Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted, and should check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

HELP AMERICA VOTE ACT OF 2001

Mr. NEY. Mr. Speaker, pursuant to House Resolution 311, I call up the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. FOSSELLA). Pursuant to House Resolution 311, the bill is considered read for amendment.

The text of H.R. 3295 is as follows:

H.R. 3295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Help America Vote Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PUNCH CARD VOTING MACHINES

Subtitle A—Replacement of Machines

Sec. 101. Establishment of program.
Sec. 102. Eligibility.
Sec. 103. Amount of payment.
Sec. 104. Audit and repayment of funds.
Sec. 105. Punch card voting system defined.

Subtitle B—Enhancing Performance of Existing Systems

Sec. 111. Establishment of program.
Sec. 112. Eligibility.
Sec. 113. Amount of payment.
Sec. 114. Audit and repayment of funds.

Subtitle C—General Provisions

Sec. 121. Authorization of appropriations.
Sec. 122. Punch card voting system defined.

TITLE II—COMMISSION

Subtitle A—Establishment and General Organization

PART 1—ELECTION ASSISTANCE COMMISSION

Sec. 201. Establishment.
Sec. 202. Duties.
Sec. 203. Membership and appointment.
Sec. 204. Staff.
Sec. 205. Powers.
Sec. 206. Limitation on rulemaking authority.
Sec. 207. Authorization of appropriations.

PART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

Sec. 211. Establishment.
Sec. 212. Duties.
Sec. 213. Membership of Standards Board.
Sec. 214. Membership of Board of Advisors.
Sec. 215. Powers of boards; no compensation for service.
Sec. 216. Status of boards and members for purposes of claims against board.

Subtitle B—Voluntary Election Standards

Sec. 221. Development of voluntary election standards.
Sec. 222. Technical standards development committee.
Sec. 223. Process for adoption of voluntary standards.
Sec. 224. Certification and testing of voting systems.
Sec. 225. Dissemination of information.

Subtitle C—Election Assistance

PART 1—ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS

Sec. 231. Election fund payments to States for voting system improvements.
Sec. 232. Allocation of funds.
Sec. 233. Conditions for receipt of funds.
Sec. 234. Authorization of appropriations.

PART 2—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

Sec. 241. Grants for research on voting technology improvements.
Sec. 242. Report.
Sec. 243. Authorization of appropriations.

PART 3—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY

Sec. 251. Pilot program.
Sec. 252. Report.
Sec. 253. Authorization of appropriations.

PART 4—MISCELLANEOUS

Sec. 261. Role of National Institute of Standards and Technology.
Sec. 262. Reports.
Sec. 263. Audit.

TITLE III—HELP AMERICA VOTE COLLEGE PROGRAM

Sec. 301. Establishment of Program.
Sec. 302. Activities under Program.
Sec. 303. Authorization of appropriations.

TITLE IV—HELP AMERICA VOTE FOUNDATION

Sec. 401. Help America Vote Foundation.

TITLE V—MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS

Sec. 501. Minimum standards for State election systems.
Sec. 502. Standards described.
Sec. 503. Enforcement.
Sec. 504. Effective date.

TITLE VI—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

Sec. 601. Voting assistance programs.
Sec. 602. Designation of single State office to provide information on registration and absentee ballots for all voters in State.
Sec. 603. Report on absentee ballots transmitted and received after general elections.
Sec. 604. Simplification of voter registration and absentee ballot application procedures for absent uniformed services and overseas voters.
Sec. 605. Additional duties of Presidential designee under Uniformed and Overseas Citizens Absentee Voting Act.

TITLE VII—REDUCED POSTAGE RATES FOR OFFICIAL ELECTION MAIL

Sec. 701. Reduced postage rates for official election mail.

TITLE VIII—TRANSITION PROVISIONS

Subtitle A—Transfer to Commission of Functions Under Certain Laws

Sec. 801. Federal Election Campaign Act of 1971.
Sec. 802. National Voter Registration Act of 1993.
Sec. 803. Transfer of property, records, and personnel.
Sec. 804. Effective date; transition.

Subtitle B—Coverage of Commission Under Certain Laws and Programs

Sec. 811. Treatment of Commission personnel under certain civil service laws.
Sec. 812. Coverage under Inspector General Act of 1978.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. State defined.
Sec. 902. Miscellaneous provisions to protect integrity of election process.
Sec. 903. No effect on other laws.

TITLE I—PUNCH CARD VOTING MACHINES

Subtitle A—Replacement of Machines

SEC. 101. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services (hereafter in this title referred to as the "Administrator") shall establish a program under which the Administrator shall make a one-time payment to each eligible State or unit of local government which used a punch card voting system to administer the regularly scheduled general election for Federal office held in November 2000.

(b) USE OF FUNDS.—A State or unit of local government shall use the funds provided under a payment under this subtitle (either directly or as reimbursement) to replace its punch card voting system with a voting system which does not use punch cards (by purchase, lease, or such other arrangement as may be appropriate).

(c) DEADLINE.—

(1) IN GENERAL.—A State or unit of local government receiving a payment under the program under this subtitle shall—

(A) obligate the funds provided for the uses described in subsection (b) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002; and

(B) ensure that all of the punch card voting systems under its jurisdiction have been replaced in time for the regularly scheduled general election for Federal office to be held in November 2004.

(2) WAIVER.—If a State or unit of local government provides the Election Assistance Commission (established under section 201) (not later than the date of the regularly scheduled general election for Federal office to be held in November 2002) with a notice that the State or unit will not meet the deadlines described in paragraph (1) and includes in the notice the reasons for the failure to meet such deadlines, and the Commission finds that there is good cause for the failure to meet such deadlines, paragraph (1) shall apply to the State or unit as if—

(A) the reference in paragraph (1)(A) to "November 2002" were a reference to "November 2004"; and

(B) the reference in paragraph (1)(B) to "November 2004" were a reference to "November 2006".

SEC. 102. ELIGIBILITY.

(a) STATES.—A State is eligible to receive a payment under the program under this subtitle if it submits to the Administrator an application not later than 120 days after the date of the enactment of this Act (in such form as the Administrator may require) which contains—

(1) assurances that the State will use the payment (either directly or as reimbursement) to replace punch card voting systems in jurisdictions within the State which used such systems to carry out the general Federal election held in November 2000;

(2) assurances that in replacing punch card voting systems the State will continue to meets its duties under the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and the Americans With Disabilities Act;

(3) assurances that in replacing punch card voting systems the State will provide for alternative language accessibility for individuals with limited English proficiency, consistent with the requirements of the Voting Rights Act of 1965 and any other applicable provisions of law; and

(4) such other information and assurances as the Administrator may require which are necessary for the administration of the program.

(b) UNIT OF LOCAL GOVERNMENT.—A unit of local government is eligible to receive a payment under the program under this subtitle if it submits to the Administrator—

(1) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002, a statement of its intent to participate in the program, including assurances that the State in which the unit is located—

(A) failed to submit an application under subsection (a) within the deadline specified under such subsection,

(B) is otherwise not eligible to receive a payment under the program, or

(C) will not use the payment to replace punch card voting systems in the unit; and

(2) an application (at such time and in such form as the Administrator may require) which contains similar assurances to those required to be provided by a State in its application under subsection (a).

SEC. 103. AMOUNT OF PAYMENT.

(a) IN GENERAL.—The amount of payment made to a State or unit of local government under the program under this subtitle shall be equal to the applicable per precinct matching rate of the cost to the State or unit (as the case may be) of replacing the punch card voting systems used in each precinct in the State or unit (as the case may be), except that in no case may the amount of the payment exceed the product of—

(1) the number of voting precincts administered by the State or unit which used a punch card voting system to carry out the general Federal election held in November 2000; and

(2) $6,000.

(b) APPLICABLE PER PRECINCT MATCHING RATE DEFINED.—In subsection (a), the "applicable per precinct matching rate" is—

(1) 90 percent; or

(2) 95 percent, in the case of a precinct whose average per capita income is within the lowest quartile of average per capita incomes for all precincts in the United States (as determined by the 2000 decennial census).

SEC. 104. AUDIT AND REPAYMENT OF FUNDS.

(a) AUDIT.—Funds provided under the program under this subtitle shall be subject to audit by the Administrator.

(b) REPAYMENT FOR FAILURE TO MEET DEADLINES.—If a State or unit of local government (as the case may be) receiving funds under the program under this subtitle fails to meet the deadlines applicable to the State or unit under section 101(c), the State or unit shall pay to the Administrator an amount equal to the amount of the funds provided to the State or unit under the program.

SEC. 105. PUNCH CARD VOTING SYSTEM DEFINED.

For purposes of this subtitle, a "punch card voting system" means any of the following voting systems:

(1) C.E.S.
(2) Datavote.
(3) PBC Counter.
(4) Pollstar.
(5) Punch Card.
(6) Vote Recorder.
(7) Votomatic.

Subtitle B—Enhancing Performance of Existing Systems

SEC. 111. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall establish a program under which the Administrator shall make a one-time payment to each eligible State or unit of local government which used a punch card voting system to administer the regularly scheduled general election for Federal office held in November 2000.

(b) USE OF FUNDS.—A State or unit of local government shall use the funds provided under a payment under this subtitle (either directly or as reimbursement) to make technical enhancements to the performance of its punch card voting system (by any arrangement as may be appropriate).

(c) DEADLINE.—

(1) IN GENERAL.—A State or unit of local government receiving a payment under the program under this subtitle shall—

(A) obligate the funds provided for the uses described in subsection (b) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002; and

(B) ensure that technical enhancements have been made to the performance of all of the punch card voting systems under its jurisdiction in time for the regularly scheduled general election for Federal office to be held in November 2004.

(2) WAIVER.—If a State or unit of local government provides the Election Assistance Commission (established under section 201) (not later than the date of the regularly scheduled general election for Federal office to be held in November 2002) with a notice that the State or unit will not meet the deadlines described in paragraph (1) and includes in the notice the reasons for the failure to meet such deadlines, and the Commission finds that there is good cause for the failure to meet such deadlines, paragraph (1) shall apply to the State or unit as if—

(A) the reference in paragraph (1)(A) to "November 2002" were a reference to "November 2004"; and

(B) the reference in paragraph (1)(B) to "November 2004" were a reference to "November 2006".

SEC. 112. ELIGIBILITY.

(a) STATES.—Subject to subsection (c), a State is eligible to receive a payment under the program under this subtitle if it submits to the Administrator an application not later than 120 days after the date of the enactment of this Act (in such form as the Administrator may require) which contains—

(1) assurances that the State will use the payment (either directly or as reimbursement) to make technical enhancements to the performance of punch card voting systems in jurisdictions within the State which used such systems to carry out the general Federal election held in November 2000;

(2) assurances that in enhancing the performance of such voting systems the State will continue to meets its duties under the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and the Americans With Disabilities Act; and

(3) such other information and assurances as the Administrator may require which are necessary for the administration of the program.

(b) UNITS OF LOCAL GOVERNMENT.—Subject to subsection (c), a unit of local government is eligible to receive a payment under the program under this subtitle if it submits to the Administrator—

(1) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002, a statement of its intent to participate in the program, including assurances that the State in which the unit is located—

(A) failed to submit an application under subsection (a) within the deadline specified under such subsection,

(B) is otherwise not eligible to receive a payment under the program, or

(C) will not use the payment to enhance the performance of punch card voting systems in the unit; and

(2) an application (at such time and in such form as the Administrator may require) which contains similar assurances to those required to be provided by a State in its application under subsection (a).

(c) PROHIBITING PARTICIPATION IN PUNCH CARD REPLACEMENT PROGRAM.—A State or unit of local government is not eligible to receive a payment under the program under this subtitle if the State or unit receives a payment under the program under subtitle A.

SEC. 113. AMOUNT OF PAYMENT.

(a) IN GENERAL.—The amount of payment made to a State or unit of local government under the program under this subtitle shall be equal to the applicable per precinct matching rate of the cost to the State or unit (as the case may be) of the activities to be funded with the payment under the program in each precinct in the State or unit (as the case may be), except that in no case may the amount of the payment exceed the product of—

(1) the number of voting precincts administered by the State or unit which used a punch card voting system to carry out the general Federal election held in November 2000; and

(2) $2,000.

(b) APPLICABLE PER PRECINCT MATCHING RATE DEFINED.—In subsection (a), the "applicable per precinct matching rate" is—

(1) 90 percent; or

(2) 95 percent, in the case of a precinct whose average per capita income is within the lowest quartile of average per capita incomes for all precincts in the United States (as determined by the 2000 decennial census).

SEC. 114. AUDIT AND REPAYMENT OF FUNDS.

(a) AUDIT.—Funds provided under the program under this subtitle shall be subject to audit by the Administrator.

(b) REPAYMENT FOR FAILURE TO MEET REQUIREMENTS.—If a State or unit of local government (as the case may be) receiving funds under the program under this subtitle fails to meet the deadlines applicable to the State or unit under section 111(c), the State or unit shall pay to the Administrator an amount equal to the amount of the funds provided to the State or unit under the program.

Subtitle C—General Provisions

SEC. 121. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for payments under this title $400,000,000, to remain available until expended (subject to subsection (b)).

(b) USE OF RETURNED FUNDS AND FUNDS REMAINING UNEXPENDED FOR ELECTION FUND PAYMENTS.—

(1) IN GENERAL.—The amounts referred to in paragraph (2) shall be transferred to the Election Assistance Commission (established under title II) and used by the Commission to make Election Fund payments under part 1 of subtitle C of title II.

(2) AMOUNTS DESCRIBED.—The amounts referred to in this paragraph are as follows:

(A) Any amounts appropriated pursuant to the authorization under this section which remain unobligated as of the date of the regularly scheduled general election for Federal office held in November 2002.

(B) Any amounts paid to the Administrator by a State or unit of local government under section 104(b).

(C) Any amounts paid to the Administrator by a State or unit of local government under section 114(b).

SEC. 122. PUNCH CARD VOTING SYSTEM DEFINED.

For purposes of this title, a "punch card voting system" means any of the following voting systems:

(1) C.E.S.

(2) Datavote.

(3) PBC Counter.

(4) Pollstar.

(5) Punch Card.

(6) Vote Recorder.

(7) Votomatic.

TITLE II—COMMISSION

Subtitle A—Establishment and General Organization

PART 1—ELECTION ASSISTANCE COMMISSION

SEC. 201. ESTABLISHMENT.

There is hereby established as an independent entity in the executive branch the Election Assistance Commission (hereafter in this title referred to as the "Commission"), consisting of—

(1) the members appointed under this part;

(2) the Election Assistance Commission Standards Board established under part 2 (including the Executive Board of such Board); and

(3) the Election Assistance Commission Board of Advisors established under part 2.

SEC. 202. DUTIES.

The Commission shall serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal elections by—

(1) carrying out the duties described in subtitle B (relating to voluntary election standards);

(2) carrying out the duties described in subtitle C (relating to election assistance); and

(3) developing and carrying out the Help America Vote College Program under title III.

SEC. 203. MEMBERSHIP AND APPOINTMENT.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall have 4 members appointed by the President, by and with the consent of the Senate, of whom—

(A) 1 shall be appointed from among a list of nominees submitted by the majority leader of the Senate;

(B) 1 shall be appointed from among a list of nominees submitted by the minority leader of the Senate;

(C) 1 shall be appointed from among a list of nominees submitted by the Speaker of the House of Representatives; and

(D) 1 shall be appointed from among a list of nominees submitted by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Each member of the Commission shall have experience with or expertise in election administration or the study of elections, except that no individual may serve as a member of the Commission if the individual is an officer or employee of the Federal Government at any time during the period of service on the Commission.

(3) DATE OF APPOINTMENT.—The appointments of the members of the Commission

shall be made not later than 30 days after the date of enactment of this Act.

(b) Term of Service.—

(1) In general.—Except as provided in paragraphs (2) and (3), members shall serve for a term of 4 years and may be reappointed for not more than one additional term.

(2) Terms of initial appointees.—As designated by the President at the time of appointment, of the members first appointed—

(A) 2 of the members (not more than 1 of whom may be affiliated with the same political party) shall be appointed for a term of 2 years; and

(B) 2 of the members (not more than 1 of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

(3) Vacancies.—

(A) In general.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) Expired terms.—A member of the Commission may serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

(C) Unexpired terms.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(c) Chair and Vice Chair.—The Commission shall select a chair and vice chair from among its members for a term of 1 year, except that the chair and vice chair may not be affiliated with the same political party.

(d) Compensation.—

(1) In general.—Members of the Commission shall each be paid at an annual rate equal to $30,000.

(2) Travel expenses.—Members of the Commission shall each receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) Outside employment permitted.—A member of the Commission may hold any other office or employment not inconsistent or in conflict with the member's duties, responsibilities, and powers as a member of the Commission.

SEC. 204. STAFF.

(a) Executive Director and Other Staff.—

(1) In general.—The Commission shall have an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(2) Term of service for executive director.—Except as provided in paragraph (3)(C), the Executive Director shall serve for a term of 4 years. An Executive Director may be reappointed for additional terms.

(3) Procedure for appointment.—

(A) In general.—When a vacancy exists in the position of the Executive Director, the Election Assistance Commission Standards Board and the Election Assistance Commission Board of Advisors (described in part 2) shall each appoint a search committee to recommend not fewer than 3 nominees for the position.

(B) Requiring consideration of nominees.—Except as provided in subparagraph (C), the Commission shall consider the nominees recommended by the Standards Board and the Board of Advisors in appointing the Executive Director.

(C) Special rules for first executive director.—

(i) Convening of search committees.—The Standards Board and the Board of Advisors shall each appoint a search committee and recommend nominees for the position of Executive Director in accordance with subparagraph (A) as soon as practicable after the appointment of their members.

(ii) Interim initial appointment.—Notwithstanding subparagraph (B), the Commission may appoint an individual to serve as the first Executive Director prior to the recommendation of nominees for the position by the Standards Board or the Board of Advisors, except that such individual's term of service may not exceed 6 months. Nothing in the previous sentence may be construed to prohibit the individual serving as the first Executive Director from serving any additional term.

(4) Other staff.—Subject to rules prescribed by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

(5) Applicability of certain civil service laws.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule.

(b) Experts and Consultants.—Subject to rules prescribed by the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, with the approval of a majority of the members of the Commission.

(c) Staff of Federal Agencies.—Upon request of the Chair, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(d) Arranging for Assistance for Board of Advisors and Standards Board.—At the request of the Election Assistance Commission Board of Advisors or the Election Assistance Commission Standards Board established under part 2, the Executive Director shall enter into such arrangements as the Executive Director considers appropriate to make personnel available to assist the Boards with carrying out their duties under this title (including contracts with private individuals for providing temporary personnel services or the temporary detailing of personnel of the Commission).

(e) Consultation With Board of Advisors and Standards Board on Certain Matters.—In preparing the program goals, long-term plans, mission statements, and related matters for the Commission, the Executive Director and staff of the Commission shall consult with the Election Assistance Commission Board of Advisors and the Election Assistance Commission Standards Board established under part 2.

SEC. 205. POWERS.

(a) Hearings and Sessions.—The Commission may hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Administrative Support Services.—Upon the request of the Chair of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this Act.

(e) Contracts.—The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

SEC. 206. LIMITATION ON RULEMAKING AUTHORITY.

The Commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under the National Voter Registration Act of 1993.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

In addition to the amounts authorized for payments and grants under subtitle C and the amounts authorized to be appropriated for the program under section 303, there are authorized to be appropriated for each of the fiscal years 2002 through 2004 such sums as may be necessary (but not to exceed $10,000,000 for each such year) for the Commission to carry out its duties under this title.

PART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

SEC. 211. ESTABLISHMENT.

There are hereby established the Election Assistance Commission Standards Board (hereafter in this title referred to as the "Standards Board") and the Election Assistance Commission Board of Advisors (hereafter in this title referred to as the "Board of Advisors").

SEC. 212. DUTIES.

The Standards Board and the Board of Advisors shall each, in accordance with the procedures described in section 223, review any of the voluntary engineering and procedural performance standards described in section 221(a)(1), any of the voluntary standards described in section 221(a)(4), and any of the voluntary election management practice standards described in section 221(a)(6) (and any modifications to such standards) which are recommended by the Commission under subtitle B.

SEC. 213. MEMBERSHIP OF STANDARDS BOARD.

(a) Composition.—

(1) In general.—Subject to certification by the chair of the Federal Election Commission under subsection (b), the Standards Board shall be composed of 110 members as follows:

(A) 55 shall be the chief State election officials of each State.

(B) 55 shall be local election officials selected in accordance with paragraph (2).

(2) List of local election officials.—Each State's local election officials shall select (under a process supervised by the chief election official of the State) a representative local election official from the State for purposes of paragraph (1)(B). In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official for purposes of such paragraph, except that under such a procedure the individual selected may not be a member of the same political party as the chief election official.

(3) Requiring mix of political parties represented.—The 2 members of the Standards Board who represent the same State may not be members of the same political party.

(b) Procedures for Notice and Certification of Appointment.—

(1) Notice to chair of Federal Election Commission.—Not later than 90 days after the date of the enactment of this Act, a State shall transmit a notice to chair of the Federal Election Commission containing—

(A) a statement that the chief election official of the State agrees to serve on the Standards Board under this title; and

(B) the name of the representative local election official from the State selected under subsection (a)(2) who will serve on the Standards Board under this title.

(2) Certification.—Upon receiving a notice from a State under paragraph (1), the chair of the Federal Election Commission shall publish a certification that the chief election official and the representative local election official are appointed as members of the Standards Board under this title.

(3) Effect of failure to provide notice.—If a State does not transmit a notice to the chair of the Federal Election Commission under paragraph (1) within the deadline described in such paragraph, no representative from the State may participate in the selection of the Executive Board under subsection (c).

(4) Role of commission.—Upon the appointment of the members of the Election Assistance Commission, the Election Assistance Commission shall carry out the duties of the Federal Election Commission under this subsection.

(c) Executive Board.—

(1) In general.—Not later than 60 days after the last day on which the appointment of any of its members may be certified under subsection (b), the Standards Board shall select 9 of its members to serve as the Executive Board of the Standards Board, of whom—

(A) not more than 5 may be chief State election officials;

(B) not more than 5 may be local election officials; and

(C) not more than 5 may be members of the same political party.

(2) Terms.—Except as provided in paragraph (3), members of the Executive Board of the Standards Board shall serve for a term of 2 years and may not serve for more than 3 consecutive terms.

(3) Staggering of initial terms.—Of the members first selected to serve on the Executive Board of the Standards Board—

(A) 3 shall serve for one term;

(B) 3 shall serve for 2 consecutive terms; and

(C) 3 shall serve for 3 consecutive terms,

as determined by lot at the time the members are first appointed.

(4) Duties.—In addition to any other duties assigned under this title, the Executive Board of the Standards Board may carry out such duties of the Standards Board as the Standards Board may delegate.

SEC. 214. MEMBERSHIP OF BOARD OF ADVISORS.

(a) In General.—The Board of Advisors shall be composed of 25 members appointed as follows:

(1) 2 members appointed by the United States Commission on Civil Rights.

(2) 2 members appointed by the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).

(3) 2 members appointed by the National Governors Association.

(4) 2 members appointed by the National Conference of State Legislatures.

(5) 2 members appointed by the National Association of Secretaries of State.

(6) 2 members appointed by the National Association of State Election Directors.

(7) 2 members appointed by the National Association of Counties.

(8) 2 members appointed by the National Association of County Recorders, Election Administrators, and Clerks.

(9) 2 members appointed by the United States Conference of Mayors.

(10) 2 members appointed by the Election Center.

(11) 2 members appointed by the International Association of County Recorders, Election Officials, and Treasurers.

(12) 2 members representing professionals in the field of science and technology, of whom 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the majority leader of the Senate (or, if the majority leader is a member of the same political party as the Speaker, by the minority leader of the Senate).

(13) The chief of the Office of Public Integrity of the Department of Justice, or the chief's designee.

(b) Diversity in Appointments.—Appointments shall be made to the Board of Advisors under subsection (a) in a manner which ensures that the Board of Advisors will be bipartisan in nature and will reflect the various geographic regions of the United States.

(c) Term of Service; Vacancy.—Members of the Board of Advisors shall serve for a term of 2 years, and may be reappointed. Any vacancy in the Board of Advisors shall be filled in the manner in which the original appointment was made.

(d) Chair.—The Board of Advisors shall elect a Chair from among its members.

SEC. 215. POWERS OF BOARDS; NO COMPENSATION FOR SERVICE.

(a) Hearings and Sessions.—

(1) In general.—To the extent that funds are made available by the Commission, the Standards Board (acting through the Executive Board) and the Board of Advisors may each hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as each such Board considers advisable to carry out this title, except that the Boards may not issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence.

(2) Meetings.—The Standards Board and the Board of Advisors shall each hold a meeting of its members—

(A) not less frequently than once every year for purposes of voting on the standards referred to it under section 223;

(B) in the case of the Standards Board, not less frequently than once every 2 years for purposes of selecting the Executive Board; and

(C) at such other times as it considers appropriate for purposes of conducting such other business as it considers appropriate consistent with this title.

(b) Information From Federal Agencies.—The Standards Board and the Board of Advisors may each secure directly from any Federal department or agency such information as the Board considers necessary to carry out this Act. Upon request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the head of such department or agency shall furnish such information to the Board.

(c) Postal Services.—The Standards Board and the Board of Advisors may use the United States mails in the same manner and under the same conditions as a department or agency of the Federal Government.

(d) Administrative Support Services.—Upon the request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the Administrator of the General Services Administration shall provide to the Board, on a reimbursable basis, the administrative support services that are necessary to enable the Board to carry out its duties under this title.

(e) No Compensation for Service.—Members of the Standards Board and members of the Board of Advisors shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

SEC. 216. STATUS OF BOARDS AND MEMBERS FOR PURPOSES OF CLAIMS AGAINST BOARD.

(a) In General.—The provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the Standards Board, the Board of Advisors, and their members for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the Board.

(b) Exception for Criminal Acts and Other Willful Conduct.—Subsection (a) may not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of a member of the Standards Board or the Board of Advisors.

Subtitle B—Voluntary Election Standards

SEC. 221. DEVELOPMENT OF VOLUNTARY ELECTION STANDARDS.

(a) In General.—The Commission shall:

(1) In accordance with section 223, develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years thereafter) voluntary engineering and procedural performance standards for voting systems used in Federal elections which shall meet the following requirements:

(A) The scope of the standards should include security (including a documentary audit for non-ballot systems), the procedures for certification and decertification of software and hardware, the assessment of usability, and operational guidelines for the proper use and maintenance of equipment.

(B) The standards should provide that voters have the opportunity to correct errors at the precinct or other polling place, either within the voting equipment itself or in the operational guidelines to administrators for using the equipment, under conditions which assure privacy to the voter.

(C) Each voting tally system certified for use should include as part of the certification a proposed statement of what constitutes a proper vote in the design and operation of the system.

(D) New voting equipment systems certified either by the Federal government or by any State should provide a practical and effective means for voters with physical disabilities to cast a secret ballot.

(2) Maintain a clearinghouse of information on the experiences of State and local governments in implementing the voluntary standards described in paragraph (1) and in operating voting systems in general.

(3) In accordance with section 224, provide for the voluntary testing, certification, decertification, and recertification of voting systems.

(4) Advise States and units of local government regarding compliance with the requirements of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and compliance with other Federal laws regarding accessibility of registration facilities and polling places. Additionally, in accordance with section 223, the Commission shall develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years thereafter) voluntary standards for maintaining and enhancing the accessibility and privacy of registration facilities, polling places, and voting methods with the goal of promoting for all individuals, including the elderly and individuals with disabilities, the accessibility of polling places and the effective use of voting systems and voting equipment which provide the opportunity for casting a secure and secret ballot, and shall include in such standards voluntary guidelines regarding accessibility and ease-of-use for States and units of local government to use when obtaining voting equipment and selecting polling places. In carrying out this paragraph, the Commission shall consult with the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) and other individuals and entities with expertise in the accessibility of facilities for individuals with disabilities.

(5) Make periodic studies available to the public regarding the election administration issues described in subsection (b), with the goal of promoting methods of voting and administering elections which—

(A) will be the most convenient, accessible, and easy to use for voters, including members of the uniformed services, blind and disabled voters, and voters with limited English proficiency;

(B) will yield the most accurate, secure, and expeditious system for voting and tabulating election results;

(C) will be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote; and

(D) will be efficient and cost-effective for use.

(6) In accordance with section 223, develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years) voluntary election management practice standards for State and local election officials to maintain and enhance the administration of Federal elections, including standards developed in consultation with the Secretary of Defense to govern the treatment of absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas voters (as defined in section 107(5) of such Act) which will include provisions to address each of the following:

(A) The rights of residence of uniformed services voters absent due to military orders.

(B) The rights of absent uniformed services voters and overseas voters to register to vote and cast absentee ballots.

(C) The rights of absent uniformed services voters and overseas voters to submit absentee ballot applications early during an election year.

(D) The appropriate pre-election deadline for mailing absentee ballots to absent uniformed services voters and overseas voters.

(E) The appropriate minimum period between the mailing of absentee ballots to absent uniformed services voters and overseas voters and the deadline for receipt of such ballots.

(F) The timely transmission of balloting materials to absent uniformed services voters and overseas voters.

(G) Security and privacy concerns in the transmission, receipt, and processing of ballots from absent uniformed services voters and overseas voters, including the need to protect against fraud.

(H) The use of a single application by absent uniformed services voters and overseas voters for absentee ballots for all Federal elections occurring during a year.

(I) The use of a single application for voter registration and absentee ballots by absent uniformed services voters and overseas voters.

(J) The use of facsimile machines and electronic means of transmission of absentee ballot applications and absentee ballots to absent uniformed services voters and overseas voters.

(K) Other issues related to the rights of absent uniformed services voters and overseas voters to participate in elections.

(7) Carry out the provisions of section 9 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–7) regarding mail voter registration.

(8) Make information on the Federal election system available to the public and the media.

(9) At the request of State officials, assist such officials in the review of election or vote counting procedures in Federal elections, through bipartisan panels of election professionals assembled by the Commission for such purpose.

(10) Compile and make available to the public the official certified results of general elections for Federal office and reports comparing the rates of voter registration, voter turnout, voting system functions, and ballot errors among jurisdictions in the United States.

(11) Gather information and serve as a clearinghouse concerning issues relating to Federal, State, and local elections.

(b) ELECTION ADMINISTRATION ISSUES DESCRIBED.—The election administration issues described in this subsection are as follows:

(1) Current and alternate methods and mechanisms of voting and counting votes in elections for Federal office.

(2) Current and alternate ballot designs for elections for Federal office.

(3) Current and alternate methods of voter registration, maintaining secure and accurate lists of registered voters (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies and all polling sites), and ensuring that all registered voters appear on the polling list at the appropriate polling site.

(4) Current and alternate methods of conducting provisional voting.

(5) Current and alternate methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including disabled voters and voters with limited English proficiency.

(6) Current and alternate methods of voter registration for members of the uniformed services and overseas voters, and methods of ensuring that such voters receive timely ballots that will be properly and expeditiously handled and counted.

(7) Current and alternate methods of recruiting and improving the performance of poll workers.

(8) Federal and State laws governing the eligibility of persons to vote.

(9) Current and alternate methods of educating voters about the process of registering to vote and voting, the operation of voting mechanisms, the location of polling places, and all other aspects of participating in elections.

(10) Matters particularly relevant to voting and administering elections in rural and urban areas.

(11) Conducting elections for Federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform poll closing time.

(12) The ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance.

(c) CONSULTATION WITH STANDARDS BOARD AND BOARD OF ADVISORS.—The Commission shall carry out its duties under this subtitle in consultation with the Standards Board and the Board of Advisors.

SEC. 222. TECHNICAL STANDARDS DEVELOPMENT COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Technical Standards Development Committee (hereafter in this subtitle referred to as the "Development Committee").

(b) DUTIES.—

(1) IN GENERAL.—The Development Committee shall assist the Executive Director of the Commission in the development of voluntary standards under this subtitle by recommending standards (and modifications to standards) to ensure the usability, accuracy, security, accessibility, and integrity of voting systems and voting equipment.

(2) DEADLINE FOR INITIAL SET OF RECOMMENDATIONS.—The Development Committee shall provide its first set of recommendations under this section to the Executive Director of the Commission not later than 9 months after all of its members have been appointed.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Development Committee shall be composed of the Director of the National Institute of Standards and Technology (who shall serve as its chair), together with a group of 14 other individuals appointed jointly by the Commission and the Director of the National Institute of Standards and Technology, consisting of the following:

(A) An equal number of each of the following:

(i) Members of the Standards Board.

(ii) Members of the Board of Advisors.

(iii) Members of the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).

(B) A representative of the American National Standards Institute.

(C) Other individuals with technical and scientific expertise relating to voting systems and voting equipment.

(2) Quorum.—A majority of the members of the Development Committee shall constitute a quorum, except that the Development Committee may not conduct any business prior to the appointment of all of its members.

(d) No Compensation for Service.—Members of the Development Committee shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Development Committee.

(e) Technical Support From National Institute of Standards and Technology.—At the request of the Development Committee, the Director of the National Institute of Standards and Technology shall provide the Development Committee with technical support necessary for the Development Committee to carry out its duties under this subtitle.

(f) Publication of Recommendations in Federal Register.—At the time the Commission adopts any standard pursuant to section 223, the Development Committee shall cause to have published in the Federal Register the recommendations it provided under this section to the Executive Director of the Commission concerning the standard adopted.

SEC. 223. PROCESS FOR ADOPTION OF VOLUNTARY STANDARDS.

(a) Consideration of Recommendations of Development Committee; Submission of Proposed Voluntary Standards to Board of Advisors and Standards Board.—

(1) Consideration of recommendations of development committee.—In developing standards and modifications for purposes of this section, the Executive Director of the Commission shall take into consideration the recommendations provided by the Technical Standards Development Committee under section 222.

(2) Board of advisors.—The Executive Director of the Commission shall submit each of the voluntary engineering and procedural performance standards (described in section 221(a)(1)), each of the voluntary standards described in section 221(a)(4), and each of the voluntary election management practice standards (described in section 221(a)(6)) developed by the Executive Director (or any modifications to such standards) to the Board of Advisors.

(3) Standards board.—The Executive Director of the Commission shall submit each of the voluntary engineering and procedural performance standards (described in section 221(a)(1)), each of the voluntary standards described in section 221(a)(4), and each of the voluntary election management practice standards (described in section 221(a)(6)) developed by the Executive Director (or any modifications to such standards) to the Executive Board of the Standards Board, who shall review the standard (or modification) and forward its recommendations to the Standards Board.

(b) Review.—Upon receipt of a voluntary standard described in subsection (a) (or modification of such a standard) from the Executive Director of the Commission, the Board of Advisors and the Standards Board shall each review and submit comments and recommendations regarding the standard (or modification) to the Commission.

(c) Final Approval.—

(1) In general.—A voluntary standard described in subsection (a) (or modification of such a standard) shall not be considered to be finally adopted by the Commission unless the majority of the members of the Commission vote to approve the final adoption of the standard (or modification), taking into consideration the comments and recommendations submitted by the Board of Advisors and the Standards Board under subsection (b).

(2) Minimum period for consideration of comments and recommendations.—The Commission may not vote on the final adoption of a voluntary standard described in subsection (a) (or modification of such a standard) until the expiration of the 90-day period which begins on the date the Executive Director of the Commission submits the standard (or modification) to the Board of Advisors and the Standards Board under subsection (a).

SEC. 224. CERTIFICATION AND TESTING OF VOTING SYSTEMS.

(a) Certification and Testing.—

(1) In general.—The Commission shall provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.

(2) Optional use by states.—At the option of a State, the State may provide for the testing, certification, decertification, or recertification of its voting system hardware and software by the laboratories accredited by the Commission under this section.

(b) Laboratory Accreditation.—

(1) Recommendations by national institute of standards and technology.—Not later than 6 months after the Commission first adopts voluntary engineering and procedural performance standards under this subtitle, the Director of the National Institute of Standards and Technology shall conduct an evaluation of independent, non-Federal laboratories and shall submit to the Commission a list of those laboratories the Director proposes to be accredited to carry out the testing, certification, decertification, and recertification provided for under this section.

(2) Approval by commission.—The Commission shall vote on the proposed accreditation of each laboratory on the list submitted under paragraph (1), and no laboratory may be accredited for purposes of this section unless its accreditation is approved by a majority vote of the members of the Commission.

(c) Continuing Review by National Institute of Standards and Technology.—

(1) In general.—In cooperation with the Commission and in consultation with the Standards Board and the Board of Advisors, the Director of the National Institute of Standards and Technology shall monitor and review, on an ongoing basis, the performance of the laboratories accredited by the Commission under this section, and shall make such recommendations to the Commission as it considers appropriate with respect to the continuing accreditation of such laboratories, including recommendations to revoke the accreditation of any such laboratory.

(2) Approval by commission required for revocation.—The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a majority vote of the members of the Commission.

SEC. 225. DISSEMINATION OF INFORMATION.

On an ongoing basis, the Commission shall disseminate to the public (through the Internet, published reports, and such other methods as the Commission considers appropriate) information on the activities carried out under this subtitle, including—

(1) the voluntary election standards adopted by the Commission, together with guidelines for applying the standards and other information to assist in their implementation;

(2) the list of laboratories accredited to carry out testing, certification, decertification, and recertification of voting system hardware and software under section 224; and

(3) a list of voting system hardware and software products which have been certified pursuant to section 224 as meeting the applicable voluntary standards adopted by the Commission under this subtitle.

Subtitle C—Election Assistance

PART 1—ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS

SEC. 231. ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS.

(a) In General.—The Commission shall make an Election Fund payment each year in an amount determined under section 232 to each State which meets the requirements described in section 233 for the year.

(b) Use of Funds.—A State receiving an Election Fund payment shall use the payment for any or all of the following activities:

(1) Establishing and maintaining accurate lists of eligible voters.

(2) Encouraging eligible voters to vote.

(3) Improving verification and identification of voters at the polling place.

(4) Improving equipment and methods for casting and counting votes.

(5) Recruiting and training election official and poll workers.

(6) Improving the quantity and quality of available polling places.

(7) Educating voters about their rights and responsibilities.

(8) Assuring access for voters with physical disabilities.

(9) Carrying out other activities to improve the administration of elections in the State.

(c) Adoption of Commission Standards Not Required to Receive Payment.—Nothing in this part may be construed to require a State to implement any of the voluntary standards adopted by the Commission with respect to any matter as a condition for receiving an Election Fund payment.

(d) Schedule of Payments.—As soon as practicable after all members of the Commission are appointed (but in no event later than 6 months thereafter), and not less frequently than once each calendar year thereafter, the Commission shall make Election Fund payments to States under this part.

SEC. 232. ALLOCATION OF FUNDS.

(a) In General.—Subject to subsection (c), the amount of an Election Fund payment made to a State for a year shall be equal to the product of—

(1) the total amount appropriated for Election Fund payments for the year under section 234; and

(2) the State allocation percentage for the State (as determined under subsection (b)).

(b) State Allocation Percentage Defined.—The "State allocation percentage" for a State is the amount (expressed as a percentage) equal to the quotient of—

(1) the voting age population of the State; and

(2) the total voting age population of all States.

(c) MINIMUM AMOUNT OF PAYMENT.—The amount of an Election Fund payment made to a State for a year may not be less than—

(1) in the case of any of the several States or the District of Columbia, ½ of 1 percent of the total amount appropriated for Election Fund payments for the year under section 234; or

(2) in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, or the United States Virgin Islands, 20 percent of the amount described in paragraph (1).

(d) CONTINUING AVAILABILITY OF FUNDS AFTER APPROPRIATION.—An Election Fund payment made to a State under this part shall be available to the State without fiscal year limitation.

SEC. 233. CONDITIONS FOR RECEIPT OF FUNDS.

(a) IN GENERAL.—In order to receive an Election Fund payment for a fiscal year, the chief State election official of the State shall provide the Commission with the following certifications:

(1) A certification that the State has authorized and appropriated funds for carrying out the activities for which the Election Fund payment is made in an amount equal to 25 percent of the total amount to be spent for such activities (taking into account the Election Fund payment and the amount spent by the State).

(2) A certification that the State has set a uniform Statewide benchmark for voting system performance in each local jurisdiction administering elections, expressed as a percentage of residual vote in the contest at the top of the ballot, and requires local jurisdictions to report data relevant to this benchmark after each general election for Federal office.

(3) A certification that the State is in compliance with the voluntary voting system standards and certification processes adopted by the Commission or that the State has enacted legislation establishing its own State voting system standards and processes which (at a minimum) ensure that new voting mechanisms have the audit capacity to produce a record for each ballot cast.

(4) A certification that—

(A) in each precinct or polling place in the State, there is at least one voting system available which is fully accessible to individuals with physical disabilities; and

(B) if the State uses any portion of its Election Fund payment to obtain new voting machines, at least one voting machine in each polling place in the State will be fully accessible to individuals with physical disabilities.

(5) A certification that the State has established a fund described in subsection (b) for purposes of administering its activities under this part.

(6) A certification that, in administering election systems, the State is in compliance with the existing applicable requirements of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.), and the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(7) A certification that the State provides for voter education and poll worker training programs to improve access to and participation in the electoral process, and provides relevant training in the requirements of the National Voter Registration Act of 1993 for personnel of State motor vehicle authority offices and other voter registration agencies designated by the State under such Act.

(8) A certification that the Election Fund payment has not and will not supplant funds provided under existing programs funded in the State for carrying out the activities for which the Election Fund payment is made.

(b) REQUIREMENTS FOR ELECTION FUND.—

(1) ELECTION FUND DESCRIBED.—For purposes of subsection (a)(5), a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:

(A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the Election Fund payment is made to the State under this part.

(B) The Election Fund payment made to the State under this part.

(C) Such other amounts as may be appropriated under law.

(D) Interest earned on deposits of the fund.

(2) USE OF FUND.—Amounts in the fund shall be used by the State exclusively to carry out the activities for which the Election Fund payment is made to the State under this part.

(c) METHODS OF COMPLIANCE LEFT TO DISCRETION OF STATE.—The specific choices on the methods of complying with the requirements described in subsection (a) shall be left to the discretion of the State.

(d) CHIEF STATE ELECTION OFFICIAL DEFINED.—In this subtitle, the "chief State election official" of a State is the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–8) to be responsible for coordination of the State's responsibilities under such Act.

SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for Election Fund payments under this part an aggregate amount of $2,250,000,000 for fiscal years 2002 through 2004.

PART 2—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

SEC. 241. GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS.

(a) IN GENERAL.—The Commission shall make grants to assist entities in carrying out research and development to improve the quality, reliability, accuracy, accessibility, affordability, and security of voting equipment, election systems, and voting technology.

(b) ELIGIBILITY.—An entity is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) assurances that the research and development funded with the grant will take into account the need to make voting equipment fully accessible for individuals with disabilities (including blind individuals), the need to ensure that such individuals can vote independently and with privacy, and the need to provide alternative language accessibility for individuals with limited proficiency in the English language (consistent with the requirements of the Voting Rights Act of 1965); and

(2) such other information and assurances as the Commission may require.

(c) APPLICABILITY OF REGULATIONS GOVERNING PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE.—Any invention made by the recipient of a grant under this part using funds provided under this part shall be subject to chapter 18 of title 35, United States Code (relating to patent rights in inventions made with Federal assistance).

SEC. 242. REPORT.

(a) IN GENERAL.—Each entity which receives a grant under this part shall submit to the Commission, Congress, and the President a report describing the activities carried out with the funds provided under the grant.

(b) DEADLINE.—An entity shall submit a report required under subsection (a) not later than 60 days after the end of the fiscal year for which the entity received the grant which is the subject of the report.

SEC. 243. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this part $20,000,000 for fiscal year 2002.

PART 3—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY

SEC. 251. PILOT PROGRAM.

(a) IN GENERAL.—The Commission shall make grants to carry out pilot programs under which new technologies in voting systems and equipment are implemented on a trial basis.

(b) ELIGIBILITY.—An entity is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) assurances that the pilot programs funded with the grant will take into account the need to make voting equipment fully accessible for individuals with disabilities (including blind individuals), the need to ensure that such individuals can vote independently and with privacy, and the need to provide alternative language accessibility for individuals with limited proficiency in the English language (consistent with the requirements of the Voting Rights Act of 1965); and

(2) such other information and assurances as the Commission may require.

SEC. 252. REPORT.

(a) IN GENERAL.—Each entity which receives a grant under this part shall submit to the Commission, Congress, and the President a report describing the activities carried out with the funds provided under the grant.

(b) DEADLINE.—An entity shall submit a report required under subsection (a) not later than 60 days after the end of the fiscal year for which the entity received the grant which is the subject of the report.

SEC. 253. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this part $10,000,000 for fiscal year 2002.

PART 4—MISCELLANEOUS

SEC. 261. ROLE OF NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) RECOMMENDATION OF TOPICS FOR RESEARCH UNDER VOTING RESEARCH GRANTS AND PILOT PROGRAMS.—The Director of the National Institute of Standards and Technology (hereafter in this section referred to as the "Director") shall submit to the Commission an annual list of the Director's suggestions for issues which may be the subject of research funded with grants awarded under part 2 and part 3 during the year.

(b) REVIEW OF GRANT APPLICATIONS RECEIVED BY COMMISSION.—The Commission shall submit each application it receives for a grant under part 2 or part 3 to the Director, who shall review the application and provide the Commission with such comments as the Director considers appropriate.

(c) MONITORING AND ADJUSTMENT OF GRANT ACTIVITIES.—After the Commission has awarded a grant under part 2 or part 3, the Director shall monitor the grant and (to the extent permitted under the terms of the grant as awarded) may recommend to the Commission that the recipient of the grant modify and adjust the activities carried out under the grant.

(d) Evaluation of Completed Grants.—

(1) In general.—After the recipient of a grant awarded by the Commission has completed the terms of the grant, the Director shall prepare and submit to the Commission an evaluation of the grant and the activities carried out under the grant.

(2) Inclusion in reports.—The Commission shall include the evaluations submitted under paragraph (1) for a year in the report submitted for the year under section 262.

(e) Intramural Research and Development.—The Director shall establish a program for intramural research and development in areas to support the development of voluntary technical standards for voting products and systems, including—

(1) the security of computers, computer networks, and computer data storage used in voting products and systems, including the Statewide voter registration networks required under the minimum standard described in section 502(1);

(2) methods to detect and prevent fraud;

(3) the protection of voter privacy;

(4) the role of human factors in the design and application of voting products and systems, including assistive technologies for individuals with disabilities and varying levels of literacy; and

(5) remote access voting, including voting through the Internet.

SEC. 262. REPORTS.

(a) Annual Reports on Activities.—Not later than 90 days after the end of each fiscal year, the Commission shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate on the activities carried out by the Commission under this subtitle during the previous fiscal year, and shall include in the report a description of all applications for Election Fund payments and grants received by the Commission during the year under this subtitle and the disposition of such applications.

(b) Report on Human Factor Research.—Not later than 1 year after the date of the enactment of this Act, the Commission, in consultation with the Director of the National Institute of Standards and Technology, shall submit a report to Congress which assesses the areas of human factor research, including usability engineering and human-computer and human-machine interaction, which feasibly could be applied to voting products and systems design to ensure the usability and accuracy of voting products and systems, including methods to improve access for individuals with disabilities and to reduce voter error and the number of spoiled ballots in elections.

SEC. 263. AUDIT.

(a) In General.—As a condition of receiving funds under this subtitle, a State or entity described in part 2 or part 3 shall agree that such funds shall be subject to audit if 2 or more members of the Commission vote to require an audit.

(b) Mandatory Audit.—In addition to audits conducted pursuant to subsection (a), all funds provided under this subtitle shall be subject to mandatory audit at least once during the lifetime of the programs under this subtitle.

TITLE III—HELP AMERICA VOTE COLLEGE PROGRAM

SEC. 301. ESTABLISHMENT OF PROGRAM.

(a) In General.—Not later than 1 year after the appointment of its members, the Election Assistance Commission shall develop a program to be known as the "Help America Vote College Program" (hereafter in this title referred to as the "Program").

(b) Purposes of Program.—The purpose of the Program shall be—

(1) to encourage students enrolled at institutions of higher education (including community colleges) to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants; and

(2) to encourage State and local governments to use the services of the students participating in the Program.

SEC. 302. ACTIVITIES UNDER PROGRAM.

(a) In General.—In carrying out the Program, the Commission (in consultation with the chief election official of each State) shall develop materials, sponsor seminars and workshops, engage in advertising targeted at students, make grants, and take such other actions as it considers appropriate to meet the purposes described in section 301(b).

(b) Requirements for Grant Recipients.—In making grants under the Program, the Commission shall ensure that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each recipient is governed in a balanced manner which does not reflect any partisan bias.

(c) Coordination With Institutions of Higher Education.—The Commission shall encourage institutions of higher education (including community colleges) to participate in the Program, and shall make all necessary materials and other assistance (including materials and assistance to enable the institution to hold workshops and poll worker training sessions) available without charge to any institution which desires to participate in the Program.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

In addition to any funds authorized to be appropriated to the Commission under section 207, there are authorized to be appropriated to carry out this title—

(1) $5,000,000 for fiscal year 2002; and

(2) such sums as may be necessary for each succeeding fiscal year.

TITLE IV—HELP AMERICA VOTE FOUNDATION

SEC. 401. HELP AMERICA VOTE FOUNDATION.

(a) In General.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 1525 the following:

"CHAPTER 1526—HELP AMERICA VOTE FOUNDATION

"Sec.
"152601. Organization.
"152602. Purposes.
"152603. Board of directors.
"152604. Officers and employees.
"152605. Powers.
"152606. Principal office.
"152607. Service of process.
"152608. Annual audit.
"152609. Civil action by Attorney General for equitable relief.
"152610. Immunity of United States Government.
"152611. Authorization of appropriations.
"152612. Annual report.

"§ 152601. Organization

"(a) Federal Charter.—The Help America Vote Foundation (in this chapter, the 'foundation') is a federally chartered corporation.

"(b) Nature of Foundation.—The foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States Government.

"(c) Perpetual Existence.—Except as otherwise provided, the foundation has perpetual existence.

"§ 152602. Purposes

"(a) In General.—The purposes of the foundation are to—

"(1) mobilize secondary school students (including students educated in the home) in the United States to participate in the election process in a nonpartisan manner as poll workers or assistants;

"(2) place secondary school students (including students educated in the home) as nonpartisan poll workers or assistants to local election officials in precinct polling places across the United States; and

"(3) establish cooperative efforts with State and local election officials, local educational agencies, superintendents and principals of public and private secondary schools, and other appropriate nonprofit charitable and educational organizations exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code to further the purposes of the foundation.

"(b) Requiring Activities to be Carried Out on Nonpartisan Basis.—The foundation shall carry out its purposes without partisan bias or without promoting any particular point of view regarding any issue, and shall ensure that each participant in its activities is governed in a balanced manner which does not reflect any partisan bias.

"(c) Consultation With State Election Officials.—The foundation shall carry out its purposes under this section in consultation with the chief election officials of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

"§ 152603. Board of directors

"(a) General.—The board of directors is the governing body of the foundation.

"(b) Members and Appointment.—(1) The board consists of 12 directors, who shall be appointed not later than 60 days after the date of the enactment of this chapter as follows:

"(A) 4 directors (of whom not more than 2 may be members of the same political party) shall be appointed by the President.

"(B) 2 directors shall be appointed by the Speaker of the House of Representatives.

"(C) 2 directors shall be appointed by the minority leader of the House of Representatives.

"(D) 2 directors shall be appointed by the majority leader of the Senate.

"(E) 2 directors shall be appointed by the minority leader of the Senate.

"(2) In addition to the directors described in paragraph (1), the chair and ranking minority member of the Committee on House Administration of the House of Representatives (or their designees) and the chair and ranking minority member of the Committee on Rules and Administration of the Senate (or their designees) shall each serve as an ex officio nonvoting member of the board.

"(3) A director is not an employee of the Federal government and appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States (except as may otherwise be provided in this chapter).

"(4) The terms of office of the directors are 4 years.

"(5) A vacancy on the board shall be filled in the manner in which the original appointment was made.

"(c) Chair.—The directors shall select one of the directors as the chair of the board. The individual selected may not be a current or former holder of any partisan elected office or a current or former officer of any national committee of a political party.

"(d) Quorum.—The number of directors constituting a quorum of the board shall be established under the bylaws of the foundation.

"(e) Meetings.—The board shall meet at the call of the chair of the board for regularly scheduled meetings, except that the board shall meet not less often than annually.

"(f) Reimbursement of Expenses.—Directors shall serve without compensation but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

"(g) Liability of Directors.—Directors are not personally liable, except for gross negligence.

"§ 152604. Officers and employees

"(a) Appointment of Officers and Employees.—The board of directors appoints, removes, and replaces officers and employees of the foundation.

"(b) Status and Compensation of Employees.—

"(1) In general.—Officers and employees of the foundation—

"(A) are not employees of the Federal government (except as may otherwise be provided in this chapter);

"(B) shall be appointed and removed without regard to the provisions of title 5 governing appointments in the competitive service; and

"(C) may be paid without regard to chapter 51 and subchapter III of chapter 53 of title 5.

"(2) Availability of federal employee rates for travel.—For purposes of any schedules of rates negotiated by the Administrator of General Services for the use of employees of the Federal government who travel on official business, officers and employees of the foundation who travel while engaged in the performance of their duties under this chapter shall be deemed to be employees of the Federal government.

"§ 152605. Powers

"(a) General.—The foundation may—

"(1) adopt a constitution and bylaws;

"(2) adopt a seal which shall be judicially noticed; and

"(3) do any other act necessary to carry out this chapter.

"(b) Powers as Trustee.—To carry out its purposes, the foundation has the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

"(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of property or any income from or other interest in property;

"(2) to acquire property or an interest in property by purchase or exchange;

"(3) unless otherwise required by an instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income from property;

"(4) to borrow money and issue instruments of indebtedness;

"(5) to make contracts and other arrangements with public agencies and private organizations and persons and to make payments necessary to carry out its functions;

"(6) to sue and be sued; and

"(7) to do any other act necessary and proper to carry out the purposes of the foundation.

"(c) Encumbered or Restricted Gifts.—A gift, devise, or bequest may be accepted by the foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest is for the benefit of the foundation.

"(d) Contracts.—The foundation may enter into such contracts with public and private entities as it considers appropriate to carry out its purposes.

"(e) Annual Conference in Washington Metropolitan Area.—During each year (beginning with 2003), the foundation may sponsor a conference in the Washington, D.C., metropolitan area to honor secondary school students and other individuals who have served (or plan to serve) as poll workers and assistants and who have otherwise participated in the programs and activities of the foundation.

"§ 152606. Principal office

"The principal office of the foundation shall be in the District of Columbia unless the board of directors determines otherwise. However, the foundation may conduct business throughout the States, territories, and possessions of the United States.

"§ 152607. Service of process

"The foundation shall have a designated agent to receive service of process for the foundation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the foundation.

"§ 152608. Annual audit

"The foundation shall enter into a contract with an independent auditor to conduct an annual audit of the foundation.

"§ 152609. Civil action by Attorney General for equitable relief

"The Attorney General may bring a civil action in the United States District Court for the District of Columbia for appropriate equitable relief if the foundation—

"(1) engages or threatens to engage in any act, practice, or policy that is inconsistent with the purposes in section 152602 of this title; or

"(2) refuses, fails, or neglects to carry out its obligations under this chapter or threatens to do so.

"§ 152610. Immunity of United States Government

"The United States Government is not liable for any debts, defaults, acts, or omissions of the foundation. The full faith and credit of the Government does not extend to any obligation of the foundation.

"§ 152611. Authorization of appropriations

"There are authorized to be appropriated to the foundation for carrying out the purposes of this chapter—

"(1) $5,000,000 for fiscal year 2002; and

"(2) such sums as may be necessary for each succeeding fiscal year.

"§ 152612. Annual report

"As soon as practicable after the end of each fiscal year, the foundation shall submit a report to the Commission, the President, and Congress on the activities of the foundation during the prior fiscal year, including a complete statement of its receipts, expenditures, and investments. Such report shall contain information gathered from participating secondary school students describing the nature of the work they performed in assisting local election officials and the value they derived from the experience of educating participants about the electoral process.".

(b) Clerical Amendment.—The table of chapters for part B of subtitle II of title 36, United States Code, is amended by inserting after the item relating to chapter 1523 the following new item:

"1526. Help America Vote Foundation .... 152601".

TITLE V—MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS

SEC. 501. MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS.

(a) In General.—The chief State election official of each State shall certify in writing to the Election Assistance Commission that—

(1) in administering election systems, the State is in compliance with the existing applicable requirements of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans With Disabilities Act of 1990; and

(2) the State has enacted legislation to enable the State to meet each of the minimum standards for State election systems described in section 502.

(b) Methods of Implementation Left to Discretion of State.—The specific choices on the methods of implementing the legislation enacted pursuant to subsection (a)(2) shall be left to the discretion of the State.

(c) Chief State Election Official Defined.—In this title, the "chief State election official" of a State is the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–8) to be responsible for coordination of the State's responsibilities under such Act.

SEC. 502. STANDARDS DESCRIBED.

The minimum standards for State election systems described in this section are as follows:

(1) The State will implement a Statewide voter registration system networked to every local jurisdiction in the State, with provisions for sharing data with other States, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) The State election system includes provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

(A) A system of file maintenance which removes registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993, registrants who have not voted in 2 or more consecutive general elections for Federal office and who have not responded to a notice shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.

(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

(3) The State permits, by the deadline required under section 504(b), in-precinct provisional voting by every voter who claims to be qualified to vote in the State, or has adopted an alternative which achieves the same objective, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on

and after the date of the enactment of this Act, all votes in the State in general elections for Federal office are cast by mail.

(4) The State has adopted uniform standards that define what will constitute a vote on each category of voting equipment certified for use in the State.

(5) The State has implemented safeguards to ensure that absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas voters (as defined in section 107(5) of such Act) in the jurisdiction have the opportunity to vote and to have their votes counted.

(6) The State requires new voting systems to provide a practical and effective means for voters with physical disabilities to cast a secret ballot.

(7) If the State uses voting systems which give voters the opportunity to correct errors, the State shall ensure that voters are able to check for and correct errors under conditions which assure privacy. States, and units of local government within the States, replacing all voting machines within their jurisdiction shall ensure that the new voting system gives voters the opportunity to correct errors before the vote is cast.

SEC. 503. ENFORCEMENT.

(a) Report by Commission to Attorney General.—If a State does not provide a certification under section 501 to the Election Assistance Commission, or if the Commission has credible evidence that a State's certification is false or that a State is carrying out activities in violation of the terms of the certification, the Commission shall notify the Attorney General.

(b) Action by Attorney General.—After receiving notice from the Commission under subsection (a), the Attorney General may bring a civil action against a State in an appropriate district court for such declaratory or injunctive relief as may be necessary to remedy a violation of this title.

SEC. 504. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the requirements of this title shall take effect upon the expiration of the 2-year period which begins on the date of the enactment of this Act, except that if the chief State election official of a State certifies that good cause exists to waive the requirements of this title with respect to the State until the date of the regularly scheduled general election for Federal office held in November 2004, the requirements shall apply with respect to the State beginning on the date of such election.

(b) Deadlines for Implementation of Provisional Voting.—The minimum standard described in section 502(3) (relating to permitting in-precinct provisional voting) shall apply with respect to the regularly scheduled general election for Federal office held in November 2002 and each succeeding election for Federal office, except that if the chief State election official of a State certifies that good cause exists to delay the implementation of such standard in the State, the standard shall apply in the State with respect to the regularly scheduled general election for Federal office held in November 2004 and each succeeding election for Federal office held in the State.

TITLE VI—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

SEC. 601. VOTING ASSISTANCE PROGRAMS.

(a) In General.—(1) Chapter 80 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1566. Voting assistance: compliance assessments; assistance

"(a) Regulations.—The Secretary of Defense shall prescribe regulations to require that the Army, Navy, Air Force, and Marine Corps ensure their compliance with any directives issued by the Secretary of Defense in implementing any voting assistance program.

"(b) Voting Assistance Programs Defined.—In this section, the term 'voting assistance programs' means—

"(1) the Federal Voting Assistance Program carried out under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.); and

"(2) any similar program.

"(c) Annual Effectiveness and Compliance Reviews.—(1) The Inspector General of each of the Army, Navy, Air Force, and Marine Corps shall conduct—

"(A) an annual review of the effectiveness of voting assistance programs; and

"(B) an annual review of the compliance with voting assistance programs of that armed force.

"(2) Upon the completion of each annual review under paragraph (1), each Inspector General specified in that paragraph shall submit to the Inspector General of the Department of Defense a report on the results of each such review. Such report shall be submitted in time each year to be reflected in the report of the Inspector General of the Department of Defense under paragraph (3).

"(3) Not later than March 31 each year, the Inspector General of the Department of Defense shall submit to Congress a report on—

"(A) the effectiveness during the preceding calendar year of voting assistance programs; and

"(B) the level of compliance during the preceding calendar year with voting assistance programs of each of the Army, Navy, Air Force, and Marine Corps.

"(d) Inspector General Assessments.—(1) The Inspector General of the Department of Defense shall periodically conduct at Department of Defense installations unannounced assessments of the compliance at those installations with—

"(A) the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);

"(B) Department of Defense regulations regarding that Act and the Federal Voting Assistance Program carried out under that Act; and

"(C) other requirements of law regarding voting by members of the armed forces.

"(2) The Inspector General shall conduct an assessment under paragraph (1) at not less than 10 Department of Defense installations each calendar year.

"(3) Each assessment under paragraph (1) shall include a review of such compliance—

"(A) within units to which are assigned, in the aggregate, not less than 20 percent of the personnel assigned to duty at that installation;

"(B) within a representative survey of members of the armed forces assigned to that installation and their dependents; and

"(C) within unit voting assistance officers to measure program effectiveness.

"(e) Regular Military Department Assessments.—The Secretary of each military department shall include in the set of issues and programs to be reviewed during any management effectiveness review or inspection at the installation level an assessment of compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) and with Department of Defense regulations regarding the Federal Voting Assistance Program.

"(f) Voting Assistance Officers.—(1) Voting assistance officers shall be appointed or assigned under Department of Defense regulations. Commanders at all levels are responsible for ensuring that unit voting officers are trained and equipped to provide information and assistance to members of the armed forces on voting matters. Performance evaluation reports pertaining to a member who has been assigned to serve as a voting assistance officer shall comment on the performance of the member as a voting assistance officer. The Secretary of each military department shall certify to Congress that (at a minimum) a voting assistance officer has been appointed or assigned for each military installation and major command under the jurisdiction of the department and that a replacement will be appointed if the original officer is no longer able to serve.

"(2) Under regulations and procedures prescribed by the Secretary, a member of the armed forces appointed or assigned to duty as a voting assistance officer shall, to the maximum extent practicable, be given the time and resources needed to perform the member's duties as a voting assistance officer during the period in advance of a general election when members and their dependents are preparing and submitting absentee ballots.

"(3) As part of each assessment prepared by the Secretary of a military department under subsection (e), the Secretary shall—

"(A) specify the number of members of the armed forces under the jurisdiction of the Secretary who are appointed or assigned to duty as voting assistance officers;

"(B) specify the ratio of voting assistance officers to active duty members of the armed forces under the jurisdiction of the Secretary;

"(C) indicate whether this number and ratio comply with the requirements of the Federal Voting Assistance Program; and

"(D) describe the training such members receive to perform their duties as voting assistance officers.

"(g) Registration and Voting Information for Members and Dependents.—(1) The Secretary of each military department, using a variety of means including both print and electronic media, shall, to the maximum extent practicable, ensure that members of the armed forces and their dependents who are qualified to vote have ready access to information regarding voter registration requirements and deadlines (including voter registration), absentee ballot application requirements and deadlines, and the availability of voting assistance officers to assist members and dependents to understand and comply with these requirements.

"(2) The Secretary of each military department shall make the national voter registration form prepared for purposes of the Uniformed and Overseas Citizens Absentee Voting Act by the Federal Election Commission available so that each person who enlists, reenlists, or voluntarily extends an enlistment or who completes a permanent change of station in an active or reserve component of the Army, Navy, Air Force, or Marine Corps shall receive such form at the time of the enlistment, reenlistment, extension, or completion of the permanent change of station, or as soon thereafter as practicable.

"(3) Where practicable, a special day or days shall be designated at each military installation for the purpose of informing members of the armed forces and their dependents of election timing, registration requirements, and voting procedures.

“(h) DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.—(1) During the four months preceding a general Federal election month, the Secretary of Defense shall periodically conduct surveys of all overseas locations and vessels at sea with military units responsible for collecting mail for return shipment to the United States and all port facilities in the United States and overseas where military-related mail is collected for shipment to overseas locations or to the United States. The purpose of each survey shall be to determine if voting materials are awaiting shipment at any such location and, if so, the length of time that such materials have been held at that location. During the fourth and third months before a general Federal election month, such surveys shall be conducted biweekly. During the second and first months before a general Federal election month, such surveys shall be conducted weekly.

“(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times. The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall submit to Congress a report describing the measures to be implemented to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures.

“(3) The Secretary of each military department, utilizing the voting assistance officer network established for each military installation, shall, to the maximum extent practicable, provide notice to members of the armed forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.

“(4) In this section, the term ‘general Federal election month’ means November in an even-numbered year.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1566. Voting assistance: compliance assessments; assistance.”.

(b) INITIAL REPORT.—The first report under section 1566(c)(3) of title 10, United States Code, as added by subsection (a), shall be submitted not later than March 31, 2003.

SEC. 602. DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOTS FOR ALL VOTERS IN STATE.

Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Each State”; and

(2) by adding at the end the following new subsection:

“(b) DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN STATE.—

“(1) IN GENERAL.—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

“(2) RECOMMENDATION REGARDING USE OF OFFICE TO ACCEPT AND PROCESS MATERIALS.—Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State's duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.”.

SEC. 603. REPORT ON ABSENTEE BALLOTS TRANSMITTED AND RECEIVED AFTER GENERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 602, is amended by adding at the end the following new subsection:

“(c) REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.—Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2001) on the number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.”.

(b) DEVELOPMENT OF STANDARDIZED FORMAT FOR REPORTS.—The Election Assistance Commission, working with the Election Assistance Commission Board of Advisors and the Election Assistance Commission' Standards Board, shall develop a standardized format for the reports submitted by States and units of local government under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (a)), and shall make the format available to the States and units of local government submitting such reports.

SEC. 604. SIMPLIFICATION OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION PROCEDURES FOR ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS.

(a) REQUIRING STATES TO ACCEPT OFFICIAL FORM FOR SIMULTANEOUS VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION; DEADLINE FOR PROCESSING APPLICATION.—

(1) IN GENERAL.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 602, is amended—

(A) by amending paragraph (2) to read as follows:

“(2) accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;”;

(B) by striking the period at the end of paragraph (3) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(4) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application.”.

(2) CONFORMING AMENDMENTS.—Section 101(b)(2) of such Act (42 U.S.C. 1973ff(b)(2) is amended by striking “as recommended in section 104” and inserting “as required under section 102(4)”.

(b) USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.—Section 104 of such Act (42 U.S.C. 1973ff–3) is amended to read as follows:

“SEC. 104. USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.

“(a) IN GENERAL.—If a State accepts and processes an official post card form (prescribed under section 101) submitted by an absent uniformed services voter or overseas voter for simultaneous voter registration and absentee ballot application (in accordance with section 102(a)(4)) and the voter requests that the application be considered an application for an absentee ballot for each subsequent election for Federal office held in the State during that year, the State shall provide an absentee ballot to the voter for each subsequent election for Federal office held in the State during that year.

“(b) EXCEPTION FOR VOTERS CHANGING REGISTRATION.—Subsection (a) shall not apply with respect to a voter registered to vote in a State for any election held after the voter notifies the State that the voter no longer wishes to be registered to vote in the State or after the State determines that the voter has registered to vote in another State.

“(c) REVISION OF OFFICIAL POST CARD FORM.—The Presidential designee shall revise the official post card form (prescribed under section 101) to enable a voter using the form to—

“(1) request an absentee ballot for each election for Federal office held in a State during a year; or

“(2) request an absentee ballot for only the next scheduled election for Federal office held in a State.

“(d) NO EFFECT ON VOTER REMOVAL PROGRAMS.—Nothing in this section may be construed to prevent a State from removing any voter from the rolls of registered voters in the State under any program or method permitted under section 8 of the National Voter Registration Act of 1993.”.

SEC. 605. ADDITIONAL DUTIES OF PRESIDENTIAL DESIGNEE UNDER UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.

(a) EDUCATING ELECTION OFFICIALS ON RESPONSIBILITIES UNDER ACT.—Section 101(b)(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(b)(1)) is amended by striking the semicolon at the end and inserting the following: “, and ensuring that such officials are aware of the requirements of this Act;”.

(b) DEVELOPMENT OF STANDARD OATH FOR USE WITH MATERIALS.—

(1) IN GENERAL.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(A) by striking “and” at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(7) prescribe a standard oath for use with any document under this title affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury.”.

(2) REQUIRING STATES TO USE STANDARD OATH.—Section 102(a) of such Act (42 U.S.C. 1973ff–1(b)), as amended by sections 603 and 605(a), is amended—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) if the State requires an oath or affirmation to accompany any document under this title, use the standard oath prescribed by the Presidential designee under section 101(b)(7).".

(c) PROVIDING BREAKDOWN BETWEEN OVERSEAS VOTERS AND ABSENT UNIFORMED SERVICES VOTERS IN STATISTICAL ANALYSIS OF VOTER PARTICIPATION.—Section 101(b)(6) of such Act (42 U.S.C. 1973ff(b)(6)) is amended by inserting after "participation" the following: "(listed separately for overseas voters and absent uniformed services voters)".

TITLE VII—REDUCED POSTAGE RATES FOR OFFICIAL ELECTION MAIL

SEC. 701. REDUCED POSTAGE RATES FOR OFFICIAL ELECTION MAIL.

(a) IN GENERAL.—Section 3629 of title 39, United States Code, is amended to read as follows:

"§ 3629. Reduced rates for official election mail

"(a) Notwithstanding any other provision of this title, the rate of postage for any first-class mail matter shall, in the case of official election mail, be equal to 50 percent of the regular first-class rate, subject to subsection (c).

"(b) For purposes of this section, the term 'official election mail' means any mailing by a State or local election official that—

"(1) is mailed in the course of official business;

"(2) consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner; and

"(3) bears such logo or other markings as the Postal Service may require.

Such term does not include any mailing that includes any mail matter intended to promote government action unrelated to the conduct of an election.

"(c) Nothing in this section shall, with respect to any official election mail, be considered to make unavailable—

"(1) any free mailing privilege under section 3406 or any other provision of law for which such mail otherwise qualifies; or

"(2) any reduced rate of postage under section 3626 or any other provision of law for which such mail otherwise qualifies, if lower than the rate that would otherwise apply under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 36 of title 39, United States Code, is amended by striking the item relating to section 3629 and inserting the following:

"3629. Reduced rates for official election mail.".

TITLE VIII—TRANSITION PROVISIONS

Subtitle A—Transfer to Commission of Functions Under Certain Laws

SEC. 801. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) TRANSFER OF FUNCTIONS OF OFFICE OF ELECTION ADMINISTRATION OF FEDERAL ELECTION COMMISSION.—There are transferred to the Election Assistance Commission established under section 201 all functions which the Office of the Election Administration, established within the Federal Election Commission, exercised before the date of enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) in paragraph (8), by inserting "and" at the end;

(2) in paragraph (9), by striking "; and" and inserting a period; and

(3) by striking paragraph (10) and the second and third sentences.

SEC. 802. NATIONAL VOTER REGISTRATION ACT OF 1993.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Election Assistance Commission established under section 201 all functions which the Federal Election Commission exercised under the National Voter Registration Act of 1993 before the date of enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7(a)) is amended by striking "Federal Election Commission" and inserting "Election Assistance Commission".

SEC. 803. TRANSFER OF PROPERTY, RECORDS, AND PERSONNEL.

(a) PROPERTY AND RECORDS.—The contracts, liabilities, records, property, and other assets and interests of, or made available in connection with, the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Assistance Commission for appropriate allocation.

(b) PERSONNEL.—

(1) IN GENERAL.—The personnel employed in connection with the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Assistance Commission.

(2) EFFECT.—Any full-time or part-time personnel employed in permanent positions shall not be separated or reduced in grade or compensation because of the transfer under this subsection during the 1-year period beginning on the date of the enactment of this Act.

SEC. 804. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect upon the appointment of all members of the Election Assistance Commission under section 203.

(b) TRANSITION.—With the consent of the entity involved, the Election Assistance Commission is authorized to utilize the services of such officers, employees, and other personnel of the entities from which functions have been transferred to the Election Assistance Commission under this title or the amendments made by this title for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

Subtitle B—Coverage of Commission Under Certain Laws and Programs

SEC. 811. TREATMENT OF COMMISSION PERSONNEL UNDER CERTAIN CIVIL SERVICE LAWS.

(a) COVERAGE UNDER HATCH ACT.—Section 7323(b)(2)(B)(i)(I) of title 5, United States Code, is amended by inserting "or the Election Assistance Commission" after "Commission".

(b) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(C) of title 5, United States Code, is amended by inserting "or the Election Assistance Commission" after "Commission".

SEC. 812. COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.

(a) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting ", the Election Assistance Commission," after "Federal Election Commission,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the appointment of all members of the Election Assistance Commission under section 203.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. STATE DEFINED.

In this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

SEC. 902. MISCELLANEOUS PROVISIONS TO PROTECT INTEGRITY OF ELECTION PROCESS.

(a) CLARIFICATION OF ABILITY OF ELECTION OFFICIALS TO REMOVE REGISTRANTS FROM OFFICIAL LIST OF VOTERS ON GROUNDS OF CHANGE OF RESIDENCE.—Section 8(b)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-6(b)(2)) is amended by striking the period at the end and inserting the following: ", except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual has not voted or appeared to vote in 2 or more consecutive general elections for Federal office and has not notified the applicable registrar (in person or in writing) or responded to a notice sent by the applicable registrar during the period in which such elections are held that the individual intends to remain registered in the registrar's jurisdiction.".

(b) PROHIBITING EFFORTS BY POLL WORKERS TO COERCE VOTERS TO CAST VOTES FOR EVERY OFFICE ON BALLOT.—Section 594 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) Whoever"; and

(2) by adding at the end the following new subsection:

"(b) For purposes of subsection (a), a poll worker who urges or encourages a voter who has not cast a vote for each office listed on the ballot to return to the voting booth to cast votes for every office, or who otherwise intimidates, harasses, or coerces the voter to vote for each such office (or who attempts to intimidate, harass, or coerce the voter to vote for each such office), shall be considered to have intimidated, threatened, or coerced (or to have attempted to intimidate, threaten, or coerce) the voter for the purpose of interfering with the voter's right to vote as the voter may choose. Nothing in this subsection shall prohibit a poll worker from providing information to a voter who requests assistance.".

SEC. 903. NO EFFECT ON OTHER LAWS.

(a) IN GENERAL.—Nothing in this Act and no action taken pursuant to this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Voting Accessibility for the Elderly and Handicapped Act, or the Americans with Disabilities Act of 1990.

(b) NO CONDUCT AUTHORIZED WHICH IS PROHIBITED UNDER OTHER LAWS.—Nothing in this Act authorizes or requires any conduct which is prohibited by the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Americans with Disabilities Act of 1990.

(c) APPLICATION TO STATES, LOCAL GOVERNMENTS, AND COMMISSION.—Except as specifically provided in the case of the National Voter Registration Act of 1993, nothing in this Act may be construed to affect the application of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Americans with Disabilities Act of 1990 to any State, unit of local government, or other person, or to grant to the Election

Assistance Commission the authority to carry out activities inconsistent with such Acts.

The SPEAKER pro tempore. The amendment printed in the bill, modified by the amendment printed in House Report 107–331, is adopted.

The text of H.R. 3295, as amended, as modified, is as follows:

H.R. 3295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Help America Vote Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PUNCH CARD VOTING MACHINES

Subtitle A—Replacement of Machines

Sec. 101. Establishment of program.
Sec. 102. Eligibility.
Sec. 103. Amount of payment.
Sec. 104. Audit and repayment of funds.
Sec. 105. Punch card voting system defined.

Subtitle B—Enhancing Performance of Existing Systems

Sec. 111. Establishment of program.
Sec. 112. Eligibility.
Sec. 113. Amount of payment.
Sec. 114. Audit and repayment of funds.

Subtitle C—General Provisions

Sec. 121. Authorization of appropriations.
Sec. 122. Punch card voting system defined.

TITLE II—COMMISSION

Subtitle A—Establishment and General Organization

PART 1—ELECTION ASSISTANCE COMMISSION

Sec. 201. Establishment.
Sec. 202. Duties.
Sec. 203. Membership and appointment.
Sec. 204. Staff.
Sec. 205. Powers.
Sec. 206. Limitation on rulemaking authority.
Sec. 207. Authorization of appropriations.

PART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

Sec. 211. Establishment.
Sec. 212. Duties.
Sec. 213. Membership of Standards Board.
Sec. 214. Membership of Board of Advisors.
Sec. 215. Powers of boards; no compensation for service.
Sec. 216. Status of boards and members for purposes of claims against board.

Subtitle B—Voluntary Election Standards

Sec. 221. Development of voluntary election standards.
Sec. 222. Technical standards development committee.
Sec. 223. Process for adoption of voluntary standards.
Sec. 224. Certification and testing of voting systems.
Sec. 225. Dissemination of information.

Subtitle C—Election Assistance

PART 1—ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS

Sec. 231. Election fund payments to States for voting system improvements.
Sec. 232. Allocation of funds.
Sec. 233. Conditions for receipt of funds.
Sec. 234. Authorization of appropriations.
Sec. 235. Reports

PART 2—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

Sec. 241. Grants for research on voting technology improvements.
Sec. 242. Report.
Sec. 243. Authorization of appropriations.

PART 3—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY

Sec. 251. Pilot program.
Sec. 252. Report.
Sec. 253. Authorization of appropriations.

PART 4—MISCELLANEOUS

Sec. 261. Role of National Institute of Standards and Technology.
Sec. 262. Reports.
Sec. 263. Audit.

TITLE III—HELP AMERICA VOTE COLLEGE PROGRAM

Sec. 301. Establishment of Program.
Sec. 302. Activities under Program.
Sec. 303. Authorization of appropriations.

TITLE IV—HELP AMERICA VOTE FOUNDATION

Sec. 401. Help America Vote Foundation.

TITLE V—MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS

Sec. 501. Minimum standards for State election systems.
Sec. 502. Standards described.
Sec. 503. Enforcement.
Sec. 504. Effective date.

TITLE VI—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

Sec. 601. Voting assistance programs.
Sec. 602. Designation of single State office to provide information on registration and absentee ballots for all voters in State.
Sec. 603. Report on absentee ballots transmitted and received after general elections.
Sec. 604. Simplification of voter registration and absentee ballot application procedures for absent uniformed services and overseas voters.
Sec. 605. Additional duties of Presidential designee under Uniformed and Overseas Citizens Absentee Voting Act.
Sec. 606. Use of buildings on military installations and reserve component facilities as polling places.

TITLE VII—TRANSITION PROVISIONS

Subtitle A—Transfer to Commission of Functions Under Certain Laws

Sec. 701. Federal Election Campaign Act of 1971.
Sec. 702. National Voter Registration Act of 1993.
Sec. 703. Transfer of property, records, and personnel.
Sec. 704. Effective date; transition.

Subtitle B—Coverage of Commission Under Certain Laws and Programs

Sec. 711. Treatment of Commission personnel under certain civil service laws.
Sec. 712. Coverage under Inspector General Act of 1978.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. State defined.
Sec. 802. Miscellaneous provisions to protect integrity of election process.
Sec. 803. No effect on other laws.

TITLE I—PUNCH CARD VOTING MACHINES

Subtitle A—Replacement of Machines

SEC. 101. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services (hereafter in this title referred to as the "Administrator") shall establish a program under which the Administrator shall make a one-time payment to each eligible State or unit of local government which used a punch card voting system to administer the regularly scheduled general election for Federal office held in November 2000.

(b) USE OF FUNDS.—A State or unit of local government shall use the funds provided under a payment under this subtitle (either directly or as reimbursement) to replace its punch card voting system with a voting system which does not use punch cards (by purchase, lease, or such other arrangement as may be appropriate).

(c) DEADLINE.—

(1) IN GENERAL.—A State or unit of local government receiving a payment under the program under this subtitle shall—

(A) obligate the funds provided for the uses described in subsection (b) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002; and

(B) ensure that all of the punch card voting systems under its jurisdiction have been replaced in time for the regularly scheduled general election for Federal office to be held in November 2004.

(2) WAIVER.—If a State or unit of local government provides the Election Assistance Commission (established under section 201) (not later than the date of the regularly scheduled general election for Federal office to be held in November 2002) with a notice that the State or unit will not meet the deadlines described in paragraph (1) and includes in the notice the reasons for the failure to meet such deadlines, and the Commission finds that there is good cause for the failure to meet such deadlines, paragraph (1) shall apply to the State or unit as if—

(A) the reference in paragraph (1)(A) to "November 2002" were a reference to "November 2004"; and

(B) the reference in paragraph (1)(B) to "November 2004" were a reference to "November 2006".

SEC. 102. ELIGIBILITY.

(a) STATES.—A State is eligible to receive a payment under the program under this subtitle if it submits to the Administrator an application not later than 120 days after the date of the enactment of this Act (in such form as the Administrator may require) which contains—

(1) assurances that the State will use the payment (either directly or as reimbursement) to replace punch card voting systems in jurisdictions within the State which used such systems to carry out the general Federal election held in November 2000;

(2) assurances that in replacing punch card voting systems the State will continue to meets its duties under the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and the Americans With Disabilities Act, and will consider the use of new technology by individuals with disabilities (including blindness)

(3) assurances that in replacing punch card voting systems the State will provide for alternative language accessibility for individuals with limited English proficiency, consistent with the requirements of the Voting Rights Act of 1965 and any other applicable provisions of law; and

(4) such other information and assurances as the Administrator may require which are necessary for the administration of the program.

(b) UNIT OF LOCAL GOVERNMENT.—A unit of local government is eligible to receive a payment under the program under this subtitle if it submits to the Administrator—

(1) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002, a statement of its intent to participate in the program, including assurances that the State in which the unit is located—

(A) failed to submit an application under subsection (a) within the deadline specified under such subsection,

(B) is otherwise not eligible to receive a payment under the program, or

(C) will not use the payment to replace punch card voting systems in the unit; and

(2) an application (at such time and in such form as the Administrator may require) which contains similar assurances to those required to be provided by a State in its application under subsection (a).

SEC. 103. AMOUNT OF PAYMENT.

(a) IN GENERAL.—The amount of payment made to a State or unit of local government under the program under this subtitle shall be equal to the applicable per precinct matching rate of the cost to the State or unit (as the case may be) of replacing the punch card voting systems used in each precinct in the State or unit (as the case may be), except that in no case may the amount of the payment exceed the product of—

(1) the number of voting precincts administered by the State or unit which used a punch card voting system to carry out the general Federal election held in November 2000; and

(2) $6,000.

(b) APPLICABLE PER PRECINCT MATCHING RATE DEFINED.—In subsection (a), the "applicable per precinct matching rate" is—

(1) 90 percent; or

(2) 95 percent, in the case of a precinct whose average per capita income is within the lowest quartile of average per capita incomes for all precincts in the United States (as determined by the 2000 decennial census).

SEC. 104. AUDIT AND REPAYMENT OF FUNDS.

(a) AUDIT.—Funds provided under the program under this subtitle shall be subject to audit by the Administrator.

(b) REPAYMENT FOR FAILURE TO MEET DEADLINES.—If a State or unit of local government (as the case may be) receiving funds under the program under this subtitle fails to meet the deadlines applicable to the State or unit under section 101(c), the State or unit shall pay to the Administrator an amount equal to the amount of the funds provided to the State or unit under the program.

SEC. 105. PUNCH CARD VOTING SYSTEM DEFINED.

For purposes of this subtitle, a "punch card voting system" means any of the following voting systems:

(1) C.E.S.
(2) Datavote.
(3) PBC Counter.
(4) Pollstar.
(5) Punch Card.
(6) Vote Recorder.
(7) Votomatic.

Subtitle B—Enhancing Performance of Existing Systems

SEC. 111. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall establish a program under which the Administrator shall make a one-time payment to each eligible State or unit of local government which used a punch card voting system to administer the regularly scheduled general election for Federal office held in November 2000.

(b) USE OF FUNDS.—A State or unit of local government shall use the funds provided under a payment under this subtitle (either directly or as reimbursement) to make technical enhancements to the performance of its punch card voting system (by any arrangement as may be appropriate).

(c) DEADLINE.—

(1) IN GENERAL.—A State or unit of local government receiving a payment under the program under this subtitle shall—

(A) obligate the funds provided for the uses described in subsection (b) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002; and

(B) ensure that technical enhancements have been made to the performance of all of the punch card voting systems under its jurisdiction in time for the regularly scheduled general election for Federal office to be held in November 2004.

(2) WAIVER.—If a State or unit of local government provides the Election Assistance Commission (established under section 201) (not later than the date of the regularly scheduled general election for Federal office to be held in November 2002) with a notice that the State or unit will not meet the deadlines described in paragraph (1) and includes in the notice the reasons for the failure to meet such deadlines, and the Commission finds that there is good cause for the failure to meet such deadlines, paragraph (1) shall apply to the State or unit as if—

(A) the reference in paragraph (1)(A) to "November 2002" were a reference to "November 2004"; and

(B) the reference in paragraph (1)(B) to "November 2004" were a reference to "November 2006".

SEC. 112. ELIGIBILITY.

(a) STATES.—Subject to subsection (c), a State is eligible to receive a payment under the program under this subtitle if it submits to the Administrator an application not later than 120 days after the date of the enactment of this Act (in such form as the Administrator may require) which contains—

(1) assurances that the State will use the payment (either directly or as reimbursement) to make technical enhancements to the performance of punch card voting systems in jurisdictions within the State which used such systems to carry out the general Federal election held in November 2000;

(2) assurances that in enhancing the performance of such voting systems the State will continue to meets its duties under the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and the Americans With Disabilities Act; and

(3) such other information and assurances as the Administrator may require which are necessary for the administration of the program.

(b) UNITS OF LOCAL GOVERNMENT.—Subject to subsection (c), a unit of local government is eligible to receive a payment under the program under this subtitle if it submits to the Administrator—

(1) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002, a statement of its intent to participate in the program, including assurances that the State in which the unit is located—

(A) failed to submit an application under subsection (a) within the deadline specified under such subsection,

(B) is otherwise not eligible to receive a payment under the program, or

(C) will not use the payment to enhance the performance of punch card voting systems in the unit; and

(2) an application (at such time and in such form as the Administrator may require) which contains similar assurances to those required to be provided by a State in its application under subsection (a).

(c) PROHIBITING PARTICIPATION IN PUNCH CARD REPLACEMENT PROGRAM.—A State or unit of local government is not eligible to receive a payment under the program under this subtitle if the State or unit receives a payment under the program under subtitle A.

SEC. 113. AMOUNT OF PAYMENT.

(a) IN GENERAL.—The amount of payment made to a State or unit of local government under the program under this subtitle shall be equal to the applicable per precinct matching rate of the cost to the State or unit (as the case may be) of the activities to be funded with the payment under the program in each precinct in the State or unit (as the case may be), except that in no case may the amount of the payment exceed the product of—

(1) the number of voting precincts administered by the State or unit which used a punch card voting system to carry out the general Federal election held in November 2000; and

(2) $2,000.

(b) APPLICABLE PER PRECINCT MATCHING RATE DEFINED.—In subsection (a), the "applicable per precinct matching rate" is—

(1) 90 percent; or

(2) 95 percent, in the case of a precinct whose average per capita income is within the lowest quartile of average per capita incomes for all precincts in the United States (as determined by the 2000 decennial census).

SEC. 114. AUDIT AND REPAYMENT OF FUNDS.

(a) AUDIT.—Funds provided under the program under this subtitle shall be subject to audit by the Administrator.

(b) REPAYMENT FOR FAILURE TO MEET REQUIREMENTS.—If a State or unit of local government (as the case may be) receiving funds under the program under this subtitle fails to meet the deadlines applicable to the State or unit under section 111(c), the State or unit shall pay to the Administrator an amount equal to the amount of the funds provided to the State or unit under the program.

Subtitle C—General Provisions

SEC. 121. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for payments under this title $400,000,000, to remain available until expended (subject to subsection (b)).

(b) USE OF RETURNED FUNDS AND FUNDS REMAINING UNEXPENDED FOR ELECTION FUND PAYMENTS.—

(1) IN GENERAL.—The amounts referred to in paragraph (2) shall be transferred to the Election Assistance Commission (established under title II) and used by the Commission to make Election Fund payments under part 1 of subtitle C of title II.

(2) AMOUNTS DESCRIBED.—The amounts referred to in this paragraph are as follows:

(A) Any amounts appropriated pursuant to the authorization under this section which remain unobligated as of the date of the regularly scheduled general election for Federal office held in November 2002.

(B) Any amounts paid to the Administrator by a State or unit of local government under section 104(b).

(C) Any amounts paid to the Administrator by a State or unit of local government under section 114(b).

SEC. 122. PUNCH CARD VOTING SYSTEM DEFINED.

For purposes of this title, a "punch card voting system" means any of the following voting systems:

(1) C.E.S.
(2) Datavote.
(3) PBC Counter.
(4) Pollstar.
(5) Punch Card.
(6) Vote Recorder.
(7) Votomatic.

TITLE II—COMMISSION

Subtitle A—Establishment and General Organization

PART 1—ELECTION ASSISTANCE COMMISSION

SEC. 201. ESTABLISHMENT.

There is hereby established as an independent entity in the executive branch the Election Assistance Commission (hereafter in this title referred to as the "Commission"), consisting of *the members appointed under this part. Additionally, there is established the Election Assistance Commission Standards Board (including the Executive Board of such Board) under part 2 and the Election Assistance Commission Board of Advisors under part 2.*

SEC. 202. DUTIES.

The Commission shall serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal elections by—

(1) carrying out the duties described in subtitle B (relating to voluntary election standards);

(2) carrying out the duties described in subtitle C (relating to election assistance) ", and providing information and training on the management of the grants provided under such subtitle;".

(3) developing and carrying out the Help America Vote College Program under title III.

SEC. 203. MEMBERSHIP AND APPOINTMENT.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall have 4 members appointed by the President, by and with the consent of the Senate, of whom—

(A) 1 shall be appointed from among a list of nominees submitted by the majority leader of the Senate;

(B) 1 shall be appointed from among a list of nominees submitted by the minority leader of the Senate;

(C) 1 shall be appointed from among a list of nominees submitted by the Speaker of the House of Representatives; and

(D) 1 shall be appointed from among a list of nominees submitted by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Each member of the Commission shall have experience with or expertise in election administration or the study of elections, except that no individual may serve as a member of the Commission if the individual is an officer or employee of the Federal Government at any time during the period of service on the Commission.

(3) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(b) TERM OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), members shall serve for a term of 4 years and may be reappointed for not more than one additional term.

(2) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

(A) 2 of the members (not more than 1 of whom may be affiliated with the same political party) shall be appointed for a term of 2 years; and

(B) 2 of the members (not more than 1 of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

(3) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) EXPIRED TERMS.—A member of the Commission may serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

(C) UNEXPIRED TERMS.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(c) CHAIR AND VICE CHAIR.—The Commission shall select a chair and vice chair from among its members for a term of 1 year, except that the chair and vice chair may not be affiliated with the same political party.

(d) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall each be paid at an annual rate equal to $30,000.

(2) TRAVEL EXPENSES.—Members of the Commission shall each receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) OUTSIDE EMPLOYMENT PERMITTED.—A member of the Commission may hold any other office or employment not inconsistent or in conflict with the member's duties, responsibilities, and powers as a member of the Commission.

SEC. 204. STAFF.

(a) EXECUTIVE DIRECTOR AND OTHER STAFF.—

(1) IN GENERAL.—The Commission shall have an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(2) TERM OF SERVICE FOR EXECUTIVE DIRECTOR.—Except as provided in paragraph (3)(C), the Executive Director shall serve for a term of 4 years. An Executive Director may be reappointed for additional terms.

(3) PROCEDURE FOR APPOINTMENT.—

(A) IN GENERAL.—When a vacancy exists in the position of the Executive Director, the Election Assistance Commission Standards Board and the Election Assistance Commission Board of Advisors (described in part 2) shall each appoint a search committee to recommend not fewer than 3 nominees for the position.

(B) REQUIRING CONSIDERATION OF NOMINEES.—Except as provided in subparagraph (C), the Commission shall consider the nominees recommended by the Standards Board and the Board of Advisors in appointing the Executive Director.

(C) SPECIAL RULES FOR FIRST EXECUTIVE DIRECTOR.—

(i) CONVENING OF SEARCH COMMITTEES.—The Standards Board and the Board of Advisors shall each appoint a search committee and recommend nominees for the position of Executive Director in accordance with subparagraph (A) as soon as practicable after the appointment of their members.

(ii) INTERIM INITIAL APPOINTMENT.—Notwithstanding subparagraph (B), the Commission may appoint an individual to serve as the first Executive Director prior to the recommendation of nominees for the position by the Standards Board or the Board of Advisors, except that such individual's term of service may not exceed 6 months. Nothing in the previous sentence may be construed to prohibit the individual serving as the first Executive Director from serving any additional term.

(4) OTHER STAFF.—Subject to rules prescribed by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

(5) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule.

(b) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, with the approval of a majority of the members of the Commission.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Chair, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(d) ARRANGING FOR ASSISTANCE FOR BOARD OF ADVISORS AND STANDARDS BOARD.—At the request of the Election Assistance Commission Board of Advisors or the Election Assistance Commission Standards Board established under part 2, the Executive Director shall enter into such arrangements as the Executive Director considers appropriate to make personnel available to assist the Boards with carrying out their duties under this title (including contracts with private individuals for providing temporary personnel services or the temporary detailing of personnel of the Commission).

(e) CONSULTATION WITH BOARD OF ADVISORS AND STANDARDS BOARD ON CERTAIN MATTERS.—In preparing the program goals, long-term plans, mission statements, and related matters for the Commission, the Executive Director and staff of the Commission shall consult with the Election Assistance Commission Board of Advisors and the Election Assistance Commission Standards Board established under part 2.

SEC. 205. POWERS.

(a) HEARINGS AND SESSIONS.—The Commission may hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chair of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this Act.

(e) CONTRACTS.—The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

SEC. 206. LIMITATION ON RULEMAKING AUTHORITY.

The Commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under the National Voter Registration Act of 1993.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

In addition to the amounts authorized for payments and grants under subtitle C and the amounts authorized to be appropriated for the program under section 303, there are authorized to be appropriated for each of the fiscal years 2002 through 2004 such sums as may be necessary (but not to exceed $10,000,000 for each such year) for the Commission to carry out its duties under this title.

PART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

SEC. 211. ESTABLISHMENT.

There are hereby established the Election Assistance Commission Standards Board (hereafter *in this title referred to as the "Standards Board") and the Election Assistance Commission Board of Advisors (hereafter in this title referred to as the "Board of Advisors").*

SEC. 212. DUTIES.

The Standards Board and the Board of Advisors shall each, in accordance with the procedures described in section 223, review any of the voluntary engineering and procedural performance standards described in section 221(a)(1), any of the voluntary standards described in section 221(a)(4), and any of the voluntary election management practice standards described in section 221(a)(6) (and any modifications to such standards) which are recommended by the Commission under subtitle B.

SEC. 213. MEMBERSHIP OF STANDARDS BOARD.

(a) Composition.—

(1) In General.—Subject to certification by the chair of the Federal Election Commission under subsection (b), the Standards Board shall be composed of 110 members as follows:

(A) 55 shall be State election officials selected by the chief State election officials of each State.

(B) 55 shall be local election officials selected in accordance with paragraph (2).

(2) List of Local Election Officials.—Each State's local election officials shall select (under a process supervised by the chief election official of the State) a representative local election official from the State for purposes of paragraph (1)(B). In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official for purposes of such paragraph, except that under such a procedure the individual selected may not be a member of the same political party as the chief election official.

(3) Requiring Mix of Political Parties Represented.—The 2 members of the Standards Board who represent the same State may not be members of the same political party.

(b) Procedures for Notice and Certification of Appointment.—

(1) Notice to Chair of Federal Election Commission.—Not later than 90 days after the date of the enactment of this Act, "the chief State election official of the State"; shall transmit a notice to chair of the Federal Election Commission containing—

(A) a statement that "the selected State election official" agrees to serve on the Standards Board under this title; and

(B) the name of the representative local election official from the State selected under subsection (a)(2) who will serve on the Standards Board under this title.

(2) Certification.—Upon receiving a notice from a State under paragraph (1), the chair of the Federal Election Commission shall publish a certification that the "selected State election official" and the representative local election official are appointed as members of the Standards Board under this title.

(3) Effect of Failure to Provide Notice.—If a State does not transmit a notice to the chair of the Federal Election Commission under paragraph (1) within the deadline described in such paragraph, no representative from the State may participate in the selection of the Executive Board under subsection (c).

(4) Role of Commission.—Upon the appointment of the members of the Election Assistance Commission, the Election Assistance Commission shall carry out the duties of the Federal Election Commission under this subsection.

(c) Executive Board.—

(1) In General.—Not later than 60 days after the last day on which the appointment of any of its members may be certified under subsection (b), the Standards Board shall select 9 of its members to serve as the Executive Board of the Standards Board, of whom—

(A) not more than 5 may be State election officials;

(B) not more than 5 may be local election officials; and

(C) not more than 5 may be members of the same political party.

(2) Terms.—Except as provided in paragraph (3), members of the Executive Board of the Standards Board shall serve for a term of 2 years and may not serve for more than 3 consecutive terms.

(3) Staggering of Initial Terms.—Of the members first selected to serve on the Executive Board of the Standards Board—

(A) 3 shall serve for one term;

(B) 3 shall serve for 2 consecutive terms; and

(C) 3 shall serve for 3 consecutive terms,

as determined by lot at the time the members are first appointed.

(4) Duties.—In addition to any other duties assigned under this title, the Executive Board of the Standards Board may carry out such duties of the Standards Board as the Standards Board may delegate.

SEC. 214. MEMBERSHIP OF BOARD OF ADVISORS.

(a) In General.—The Board of Advisors shall be composed of 25 members appointed as follows:

(1) 2 members appointed by the United States Commission on Civil Rights.

(2) 2 members appointed by the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).

(3) 2 members appointed by the National Governors Association.

(4) 2 members appointed by the National Conference of State Legislatures.

(5) 2 members appointed by the National Association of Secretaries of State.

(6) 2 members appointed by the National Association of State Election Directors.

(7) 2 members appointed by the National Association of Counties.

(8) 2 members appointed by the National Association of County Recorders, Election Administrators, and Clerks.

(9) 2 members appointed by the United States Conference of Mayors.

(10) 2 members appointed by the Election Center.

(11) 2 members appointed by the International Association of County Recorders, Election Officials, and Treasurers.

(12) 2 members representing professionals in the field of science and technology, of whom 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the majority leader of the Senate (or, if the majority leader is a member of the same political party as the Speaker, by the minority leader of the Senate).

(13) The chief of the Office of Public Integrity of the Department of Justice, or the chief's designee.

(b) Diversity in Appointments.—Appointments shall be made to the Board of Advisors under subsection (a) in a manner which ensures that the Board of Advisors will be bipartisan in nature and will reflect the various geographic regions of the United States.

(c) Term of Service; Vacancy.—Members of the Board of Advisors shall serve for a term of 2 years, and may be reappointed. Any vacancy in the Board of Advisors shall be filled in the manner in which the original appointment was made.

(d) Chair.—The Board of Advisors shall elect a Chair from among its members.

SEC. 215. POWERS OF BOARDS; NO COMPENSATION FOR SERVICE.

(a) Hearings and Sessions.—

(1) In General.—To the extent that funds are made available by the Commission, the Standards Board (acting through the Executive Board) and the Board of Advisors may each hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as each such Board considers advisable to carry out this title, except that the Boards may not issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence.

(2) Meetings.—The Standards Board and the Board of Advisors shall each hold a meeting of its members—

(A) not less frequently than once every year for purposes of voting on the standards referred to it under section 223;

(B) in the case of the Standards Board, not less frequently than once every 2 years for purposes of selecting the Executive Board; and

(C) at such other times as it considers appropriate for purposes of conducting such other business as it considers appropriate consistent with this title.

(b) Information From Federal Agencies.—The Standards Board and the Board of Advisors may each secure directly from any Federal department or agency such information as the Board considers necessary to carry out this Act. Upon request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the head of such department or agency shall furnish such information to the Board.

(c) Postal Services.—The Standards Board and the Board of Advisors may use the United States mails in the same manner and under the same conditions as a department or agency of the Federal Government.

(d) Administrative Support Services.—Upon the request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the Administrator of the General Services Administration shall provide to the Board, on a reimbursable basis, the administrative support services that are necessary to enable the Board to carry out its duties under this title.

(e) No Compensation for Service.—Members of the Standards Board and members of the Board of Advisors shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

SEC. 216. STATUS OF BOARDS AND MEMBERS FOR PURPOSES OF CLAIMS AGAINST BOARD.

(a) In General.—The provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the Standards Board; the Board of Advisors, and their members for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the Board.

(b) Exception for Criminal Acts and Other Willful Conduct.—Subsection (a) may not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of a member of the Standards Board or the Board of Advisors.

Subtitle B—Voluntary Election Standards

SEC. 221. DEVELOPMENT OF VOLUNTARY ELECTION STANDARDS.

(a) In General:—The Commission shall:

(1) In accordance with section 223, develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years thereafter) voluntary engineering and procedural performance standards for voting systems used in Federal elections which shall meet the following requirements:

(A) The scope of the standards should include security (including a documentary audit for non-ballot systems), the procedures for certification and decertification of software and hardware, the assessment of usability, and operational guidelines for the proper use and maintenance of equipment.

(B) The standards should provide that voters have the opportunity to correct errors at the precinct or other polling place, either within the voting equipment itself or in the operational guidelines to administrators for using the equipment, under conditions which assure privacy to the voter.

(C) Each voting tally system certified for use should include as part of the certification a proposed statement of what constitutes a proper vote in the design and operation of the system.

(D) New voting equipment systems certified either by the Federal government or by any State should provide a practical and effective means for voters with physical disabilities including blindness to cast a secret ballot.

(2) Maintain a clearinghouse of information on the experiences of State and local governments in implementing the voluntary standards described in paragraph (1) and in operating voting systems in general.

(3) In accordance with section 224, provide for the voluntary testing, certification, decertification, and recertification of voting systems.

(4) Advise States and units of local government regarding compliance with the requirements of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and compliance with other Federal laws regarding accessibility of registration facilities and polling places. Additionally, in accordance with section 223, the Commission shall develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years thereafter) voluntary standards for maintaining and enhancing the accessibility and privacy of registration facilities, polling places, and voting methods with the goal of promoting for all individuals, including the elderly and individuals with disabilities including blindness, the accessibility of polling places and the effective use of voting systems and voting equipment which provide the opportunity for casting a secure and secret ballot, and shall include in such standards voluntary guidelines regarding accessibility and ease-of-use for States and units of local government to use when obtaining voting equipment and selecting polling places. In carrying out this paragraph, the Commission shall consult with the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) and other individuals and entities with expertise in the accessibility of facilities for individuals with disabilities.

(5) Make periodic studies available to the public regarding the election administration issues described in subsection (b), with the goal of promoting methods of voting and administering elections which—

(A) will be the most convenient, accessible, and easy to use for voters, including members of the uniformed services, blind and disabled voters, and voters with limited English proficiency;

(B) will yield the most accurate, secure, and expeditious system for voting and tabulating election results;

(C) will be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote; and

(D) will be efficient and cost-effective for use.

(6) In accordance with section 223, develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years) voluntary election management practice standards for State and local election officials to maintain and enhance the administration of Federal elections, including standards developed in consultation with the Secretary of Defense to govern the treatment of absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas voters (as defined in section 107(5) of such Act) which will include provisions to address each of the following:

(A) The rights of residence of uniformed services voters absent due to military orders.

(B) The rights of absent uniformed services voters and overseas voters to register to vote and cast absentee ballots.

(C) The rights of absent uniformed services voters and overseas voters to submit absentee ballot applications early during an election year.

(D) The appropriate pre-election deadline for mailing absentee ballots to absent uniformed services voters and overseas voters.

(E) The appropriate minimum period between the mailing of absentee ballots to absent uniformed services voters and overseas voters and the deadline for receipt of such ballots.

(F) The timely transmission of balloting materials to absent uniformed services voters and overseas voters.

(G) Security and privacy concerns in the transmission, receipt, and processing of ballots from absent uniformed services voters and overseas voters, including the need to protect against fraud.

(H) The use of a single application by absent uniformed services voters and overseas voters for absentee ballots for all Federal elections occurring during a year.

(I) The use of a single application for voter registration and absentee ballots by absent uniformed services voters and overseas voters.

(J) The use of facsimile machines and electronic means of transmission of absentee ballot applications and absentee ballots to absent uniformed services voters and overseas voters.

(K) Other issues related to the rights of absent uniformed services voters and overseas voters to participate in elections.

(7) Carry out the provisions of section 9 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–7) regarding mail voter registration.

(8) Make information on the Federal election system available to the public and the media.

(9) At the request of State officials, assist such officials in the review of election or vote counting procedures in Federal elections, through bipartisan panels of election professionals assembled by the Commission for such purpose.

(10) Compile and make available to the public the official certified results of general elections for Federal office and reports comparing the rates of voter registration, voter turnout, voting system functions, and ballot errors among jurisdictions in the United States.

(11) Gather information and serve as a clearinghouse concerning issues relating to Federal, State, and local elections.

(b) ELECTION ADMINISTRATION ISSUES DESCRIBED.—The election administration issues described in this subsection are as follows:

(1) Current and alternate methods and mechanisms of voting and counting votes in elections for Federal office.

(2) Current and alternate ballot designs for elections for Federal office.

(3) Current and alternate methods of voter registration, maintaining secure and accurate lists of registered voters (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies and all polling sites), and ensuring that all registered voters appear on the polling list at the appropriate polling site.

(4) Current and alternate methods of conducting provisional voting.

(5) Current and alternate methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including disabled voters and voters with limited English proficiency.

(6) Current and alternate methods of voter registration for members of the uniformed services and overseas voters, and methods of ensuring that such voters receive timely ballots that will be properly and expeditiously handled and counted.

(7) Current and alternate methods of recruiting and improving the performance of poll workers.

(8) Federal and State laws governing the eligibility of persons to vote.

(9) Current and alternate methods of educating voters about the process of registering to vote and voting, the operation of voting mechanisms, the location of polling places, and all other aspects of participating in elections.

(10) Matters particularly relevant to voting and administering elections in rural and urban areas.

(11) Conducting elections for Federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform poll closing time.

(12) The ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance.

(c) CONSULTATION WITH STANDARDS BOARD AND BOARD OF ADVISORS.—The Commission shall carry out its duties under this subtitle in consultation with the Standards Board and the Board of Advisors.

SEC. 222. TECHNICAL STANDARDS DEVELOPMENT COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Technical Standards Development Committee (hereafter in this subtitle referred to as the "Development Committee").

(b) DUTIES.—

(1) IN GENERAL.—The Development Committee shall assist the Executive Director of the Commission in the development of voluntary standards under this subtitle by recommending standards (and modifications to standards) to ensure the usability, accuracy, security, accessibility, and integrity of voting systems and voting equipment.

(2) DEADLINE FOR INITIAL SET OF RECOMMENDATIONS.—The Development Committee shall provide its first set of recommendations under this section to the Executive Director of the Commission not later than 9 months after all of its members have been appointed.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Development Committee shall be composed of the Director of the National Institute of Standards and Technology (who shall serve as its chair), together with a group of 14 other individuals appointed jointly by the Commission and the Director of the National Institute of Standards and Technology, consisting of the following:

(A) An equal number of each of the following:

(i) Members of the Standards Board.

(ii) Members of the Board of Advisors.

(iii) Members of the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).

(B) A representative of the American National Standards Institute.

(C) Other individuals with technical and scientific expertise relating to voting systems and voting equipment.

(2) QUORUM.—A majority of the members of the Development Committee shall constitute a quorum, except that the Development Committee may not conduct any business prior to the appointment of all of its members.

(d) No Compensation for Service.—Members of the Development Committee shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Development Committee.

(e) Technical Support From National Institute of Standards and Technology.—At the request of the Development Committee, the Director of the National Institute of Standards and Technology shall provide the Development Committee with technical support necessary for the Development Committee to carry out its duties under this subtitle.

(f) Publication of Recommendations in Federal Register.—At the time the Commission adopts any standard pursuant to section 223, the Development Committee shall cause to have published in the Federal Register the recommendations it provided under this section to the Executive Director of the Commission concerning the standard adopted.

SEC. 223. PROCESS FOR ADOPTION OF VOLUNTARY STANDARDS.

(a) Consideration of Recommendations of Development Committee; Submission of Proposed Voluntary Standards to Board of Advisors and Standards Board.—

(1) Consideration of recommendations of development committee.—In developing standards and modifications for purposes of this section, the Executive Director of the Commission shall take into consideration the recommendations provided by the Technical Standards Development Committee under section 222.

(2) Board of advisors.—The Executive Director of the Commission shall submit each of the voluntary engineering and procedural performance standards (described in section 221(a)(1)), each of the voluntary standards described in section 221(a)(4), and each of the voluntary election management practice standards (described in section 221(a)(6)) developed by the Executive Director (or any modifications to such standards) to the Board of Advisors.

(3) Standards board.—The Executive Director of the Commission shall submit each of the voluntary engineering and procedural performance standards (described in section 221(a)(1)), each of the voluntary standards described in section 221(a)(4), and each of the voluntary election management practice standards (described in section 221(a)(6)) developed by the Executive Director (or any modifications to such standards) to the Executive Board of the Standards Board, who shall review the standard (or modification) and forward its recommendations to the Standards Board.

(b) Review.—Upon receipt of a voluntary standard described in subsection (a) (or modification of such a standard) from the Executive Director of the Commission, the Board of Advisors and the Standards Board shall each review and submit comments and recommendations regarding the standard (or modification) to the Commission.

(c) Final Approval.—

(1) In general.—A voluntary standard described in subsection (a) (or modification of such a standard) shall not be considered to be finally adopted by the Commission unless the majority of the members of the Commission vote to approve the final adoption of the standard (or modification), taking into consideration the comments and recommendations submitted by the Board of Advisors and the Standards Board under subsection (b).

(2) Minimum period for consideration of comments and recommendations.—The Commission may not vote on the final adoption of a voluntary standard described in subsection (a) (or modification of such a standard) until the expiration of the 90-day period which begins on the date the Executive Director of the Commission submits the standard (or modification) to the Board of Advisors and the Standards Board under subsection (a).

SEC. 224. CERTIFICATION AND TESTING OF VOTING SYSTEMS.

(a) Certification and Testing.—

(1) In general.—The Commission shall provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.

(2) Optional use by states.—At the option of a State, the State may provide for the testing, certification, decertification, or recertification of its voting system hardware and software by the laboratories accredited by the Commission under this section.

(b) Laboratory Accreditation.—

(1) Recommendations by national institute of standards and technology.—Not later than 6 months after the Commission first adopts voluntary engineering and procedural performance standards under this subtitle, the Director of the National Institute of Standards and Technology shall conduct an evaluation of independent, non-Federal laboratories and shall submit to the Commission a list of those laboratories the Director proposes to be accredited to carry out the testing, certification, decertification, and recertification provided for under this section.

(2) Approval by commission.—The Commission shall vote on the proposed accreditation of each laboratory on the list submitted under paragraph (1), and no laboratory may be accredited for purposes of this section unless its accreditation is approved by a majority vote of the members of the Commission.

(c) Continuing Review by National Institute of Standards and Technology.—

(1) In general.—In cooperation with the Commission and in consultation with the Standards Board and the Board of Advisors, the Director of the National Institute of Standards and Technology shall monitor and review, on an ongoing basis, the performance of the laboratories accredited by the Commission under this section, and shall make such recommendations to the Commission as it considers appropriate with respect to the continuing accreditation of such laboratories, including recommendations to revoke the accreditation of any such laboratory.

(2) Approval by commission required for revocation.—The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a majority vote of the members of the Commission.

SEC. 225. DISSEMINATION OF INFORMATION.

On an ongoing basis, the Commission shall disseminate to the public (through the Internet, published reports, and such other methods as the Commission considers appropriate) information on the activities carried out under this subtitle, including—

(1) the voluntary election standards adopted by the Commission, together with guidelines for applying the standards and other information to assist in their implementation;

(2) the list of laboratories accredited to carry out testing, certification, decertification, and recertification of voting system hardware and software under section 224; and

(3) a list of voting system hardware and software products which have been certified pursuant to section 224 as meeting the applicable voluntary standards adopted by the Commission under this subtitle.

Subtitle C—Election Assistance

PART 1—ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS

SEC. 231. ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS.

(a) In General.—The Commission shall make an Election Fund payment each year in an amount determined under section 232 to each State which meets the requirements described in section 233 for the year.

(b) Use of Funds.—A State receiving an Election Fund payment shall use the payment for any or all of the following activities:

(1) Establishing and maintaining accurate lists of eligible voters.

(2) Encouraging eligible voters to vote.

(3) Improving verification and identification of voters at the polling place.

(4) Improving equipment and methods for casting and counting votes.

(5) Recruiting and training election official and poll workers.

(6) Improving the quantity and quality of available polling places.

(7) Educating voters about their rights and responsibilities.

(8) Assuring access for voters with physical disabilities; including blindness.

(9) Carrying out other activities to improve the administration of elections in the State.

(c) Adoption of Commission Standards Not Required To Receive Payment.—Nothing in this part may be construed to require a State to implement any of the voluntary standards adopted by the Commission with respect to any matter as a condition for receiving an Election Fund payment.

(d) Schedule of Payments.—As soon as practicable after all members of the Commission are appointed (but in no event later than 6 months thereafter), and not less frequently than once each calendar year thereafter, the Commission shall make Election Fund payments to States under this part.

SEC. 232. ALLOCATION OF FUNDS.

(a) In General.—Subject to subsection (c), the amount of an Election Fund payment made to a State for a year shall be equal to the product of—

(1) the total amount appropriated for Election Fund payments for the year under section 234; and

(2) the State allocation percentage for the State (as determined under subsection (b)).

(b) State Allocation Percentage Defined.—The "State allocation percentage" for a State is the amount (expressed as a percentage) equal to the quotient of—

(1) the voting age population of the State; and

(2) the total voting age population of all States.

(c) Minimum Amount of Payment.—The amount of an Election Fund payment made to a State for a year may not be less than—

(1) in the case of any of the several States or the District of Columbia, ½ of 1 percent of the total amount appropriated for Election Fund payments for the year under section 234; or

(2) in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, or the United States Virgin Islands, 20 percent of the amount described in paragraph (1).

(d) Continuing Availability of Funds After Appropriation.—An Election Fund payment made to a State under this part shall be available to the State without fiscal year limitation.

SEC. 233. CONDITIONS FOR RECEIPT OF FUNDS.

(a) In General.—In order to receive an Election Fund payment for a fiscal year, the chief State election official of the State shall provide the Commission with the following certifications:

(1) A certification that the State has authorized and appropriated funds for carrying out the activities for which the Election Fund payment is made in an amount equal to 25 percent of the total amount to be spent for such activities (taking into account the Election Fund payment and the amount spent by the State).

(2) A certification that the State has set a uniform Statewide benchmark for voting system performance in each local jurisdiction administering elections, expressed as a percentage of residual vote in the contest at the top of the ballot, and requires local jurisdictions to report data relevant to this benchmark after each general election for Federal office.

(3) A certification that the State is in compliance with the voluntary voting system standards and certification processes adopted by the Commission or that the State has enacted legislation establishing its own State voting system standards and processes which (at a minimum) ensure that new voting mechanisms have the audit capacity to produce a record for each ballot cast.

(4) A certification that—

(A) in each precinct or polling place in the State, there is at least one voting system available which is fully accessible to individuals with physical disabilities including blindness; and

(B) if the State uses any portion of its Election Fund payment to obtain new voting machines, at least one voting machine in each polling place in the State will be fully accessible to individuals with physical disabilities, including blindness.

(5) A certification that the State has established a fund described in subsection (b) for purposes of administering its activities under this part.

(6) A certification that, in administering election systems, the State is in compliance with the existing applicable requirements of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.), and the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(7) A certification that the State provides for voter education and poll worker training programs to improve access to and participation in the electoral process, and provides relevant training in the requirements of the National Voter Registration Act of 1993 for personnel of State motor vehicle authority offices and other voter registration agencies designated by the State under such Act.

(8) A certification that the Election Fund payment has not and will not supplant funds provided under existing programs funded in the State for carrying out the activities for which the Election Fund payment is made.

(b) REQUIREMENTS FOR ELECTION FUND.—

(1) ELECTION FUND DESCRIBED.—For purposes of subsection (a)(5), a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:

(A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the Election Fund payment is made to the State under this part.

(B) The Election Fund payment made to the State under this part.

(C) Such other amounts as may be appropriated under law.

(D) Interest earned on deposits of the fund.

(2) USE OF FUND.—Amounts in the fund shall be used by the State exclusively to carry out the activities for which the Election Fund payment is made to the State under this part.

(c) METHODS OF COMPLIANCE LEFT TO DISCRETION OF STATE.—The specific choices on the methods of complying with the requirements described in subsection (a) shall be left to the discretion of the State.

(d) CHIEF STATE ELECTION OFFICIAL DEFINED.—In this subtitle, the "chief State election official" of a State is the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-8) to be responsible for coordination of the State's responsibilities under such Act.

SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for Election Fund payments under this part an aggregate amount of $2,250,000,000 for fiscal years 2002 through 2004.

SEC. 235. REPORTS

Not later than the 6 months after the end of each fiscal year for which a State received an Election Fund payment under this part, the State shall submit a report to the Commission on the activities conducted with the funds provided during the year, and shall include in the report—

(1) a list of expenditures made with respect to each category of activities described in section 231(b); and

(2) the number and types of articles of voting equipment obtained with the funds.

PART 2—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

SEC. 241. GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS.

(a) IN GENERAL.—The Commission shall make grants to assist entities in carrying out research and development to improve the quality, reliability, accuracy, accessibility, affordability, and security of voting equipment, election systems, and voting technology.

(b) ELIGIBILITY.—An entity is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) assurances that the research and development funded with the grant will take into account the need to make voting equipment fully accessible for individuals with disabilities (including blind individuals), the need to ensure that such individuals can vote independently and with privacy, and the need to provide alternative language accessibility for individuals with limited proficiency in the English language (consistent with the requirements of the Voting Rights Act of 1965); and

(2) such other information and assurances as the Commission may require.

(c) APPLICABILITY OF REGULATIONS GOVERNING PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE.—Any invention made by the recipient of a grant under this part using funds provided under this part shall be subject to chapter 18 of title 35, United States Code (relating to patent rights in inventions made with Federal assistance).

SEC. 242. REPORT.

(a) IN GENERAL.—Each entity which receives a grant under this part shall submit to the Commission, Congress, and the President a report describing the activities carried out with the funds provided under the grant.

(b) DEADLINE.—An entity shall submit a report required under subsection (a) not later than 60 days after the end of the fiscal year for which the entity received the grant which is the subject of the report.

SEC. 243. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this part $20,000,000 for fiscal year 2002.

PART 3—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY

SEC. 251. PILOT PROGRAM.

(a) IN GENERAL.—The Commission shall make grants to carry out pilot programs under which new technologies in voting systems and equipment are implemented on a trial basis.

(b) ELIGIBILITY.—An entity is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) assurances that the pilot programs funded with the grant will take into account the need to make voting equipment fully accessible for individuals with disabilities (including blind individuals), the need to ensure that such individuals can vote independently and with privacy, and the need to provide alternative language accessibility for individuals with limited proficiency in the English language (consistent with the requirements of the Voting Rights Act of 1965); and

(2) such other information and assurances as the Commission may require.

SEC. 252. REPORT.

(a) IN GENERAL.—Each entity which receives a grant under this part shall submit to the Commission, Congress, and the President a report describing the activities carried out with the funds provided under the grant.

(b) DEADLINE.—An entity shall submit a report required under subsection (a) not later than 60 days after the end of the fiscal year for which the entity received the grant which is the subject of the report.

SEC. 253. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this part $10,000,000 for fiscal year 2002.

PART 4—MISCELLANEOUS

SEC. 261. ROLE OF NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) RECOMMENDATION OF TOPICS FOR RESEARCH UNDER VOTING RESEARCH GRANTS AND PILOT PROGRAMS.—The Director of the National Institute of Standards and Technology (hereafter in this section referred to as the "Director") shall submit to the Commission an annual list of the Director's suggestions for issues which may be the subject of research funded with grants awarded under part 2 and part 3 during the year.

(b) REVIEW OF GRANT APPLICATIONS RECEIVED BY COMMISSION.—The Commission shall submit each application it receives for a grant under part 2 or part 3 to the Director, who shall review the application and provide the Commission with such comments as the Director considers appropriate.

(c) MONITORING AND ADJUSTMENT OF GRANT ACTIVITIES.—After the Commission has awarded a grant under part 2 or part 3, the Director shall monitor the grant and (to the extent permitted under the terms of the grant as awarded) may recommend to the Commission that the recipient of the grant modify and adjust the activities carried out under the grant.

(d) EVALUATION OF COMPLETED GRANTS.—

(1) IN GENERAL.—After the recipient of a grant awarded by the Commission has completed the terms of the grant, the Director shall prepare and submit to the Commission an evaluation of the grant and the activities carried out under the grant.

(2) INCLUSION IN REPORTS.—The Commission shall include the evaluations submitted under paragraph (1) for a year in the report submitted for the year under section 262.

(e) INTRAMURAL RESEARCH AND DEVELOPMENT.—The Director shall establish a program for intramural research and development in areas to support the development of voluntary technical standards for voting products and systems, including—

(1) the security of computers, computer networks, and computer data storage used in voting products and systems, including the Statewide voter registration networks required under

the minimum standard described in section 502(1);

(2) methods to detect and prevent fraud;

(3) the protection of voter privacy;

(4) the role of human factors in the design and application of voting products and systems, including assistive technologies for individuals with disabilities including blindness and varying levels of literacy; and

(5) remote access voting, including voting through the Internet.

SEC. 262. REPORTS.

(a) ANNUAL REPORTS ON ACTIVITIES.—Not later than 90 days after the end of each fiscal year, the Commission shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate on the activities carried out by the Commission under this subtitle during the previous fiscal year, and shall include in the report a description of all applications for Election Fund payments and grants received by the Commission during the year under this subtitle and the disposition of such applications.

(b) REPORT ON HUMAN FACTOR RESEARCH.—Not later than 1 year after the date of the enactment of this Act, the Commission, in consultation with the Director of the National Institute of Standards and Technology, shall submit a report to Congress which assesses the areas of human factor research, including usability engineering and human-computer and human-machine interaction, which feasibly could be applied to voting products and systems design to ensure the usability and accuracy of voting products and systems, including methods to improve access for individuals with disabilities including blindness and to reduce voter error and the number of spoiled ballots in elections.

SEC. 263. AUDIT.

(a) IN GENERAL.—As a condition of receiving funds under this subtitle, a State or entity described in part 2 or part 3 shall agree that such funds shall be subject to audit if 2 or more members of the Commission vote to require an audit.

(b) MANDATORY AUDIT.—In addition to audits conducted pursuant to subsection (a), all funds provided under this subtitle shall be subject to mandatory audit at least once during the lifetime of the programs under this subtitle.

TITLE III—HELP AMERICA VOTE COLLEGE PROGRAM

SEC. 301. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the appointment of its members, the Election Assistance Commission shall develop a program to be known as the "Help America Vote College Program" (hereafter in this title referred to as the "Program").

(b) PURPOSES OF PROGRAM.—The purpose of the Program shall be—

(1) to encourage students enrolled at institutions of higher education (including community colleges) to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants; and

(2) to encourage State and local governments to use the services of the students participating in the Program.

SEC. 302. ACTIVITIES UNDER PROGRAM.

(a) IN GENERAL.—In carrying out the Program, the Commission (in consultation with the chief election official of each State) shall develop materials, sponsor seminars and workshops, engage in advertising targeted at students, make grants, and take such other actions as it considers appropriate to meet the purposes described in section 301(b).

(b) REQUIREMENTS FOR GRANT RECIPIENTS.—In making grants under the Program, the Commission shall ensure that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each recipient is governed in a balanced manner which does not reflect any partisan bias.

(c) COORDINATION WITH INSTITUTIONS OF HIGHER EDUCATION.—The Commission shall encourage institutions of higher education (including community colleges) to participate in the Program, and shall make all necessary materials and other assistance (including materials and assistance to enable the institution to hold workshops and poll worker training sessions) available without charge to any institution which desires to participate in the Program.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

In addition to any funds authorized to be appropriated to the Commission under section 207, there are authorized to be appropriated to carry out this title—

(1) $5,000,000 for fiscal year 2002; and

(2) such sums as may be necessary for each succeeding fiscal year.

TITLE IV—HELP AMERICA VOTE FOUNDATION

SEC. 401. HELP AMERICA VOTE FOUNDATION.

(a) IN GENERAL.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 1525 the following:

"CHAPTER 1526—HELP AMERICA VOTE FOUNDATION

"Sec.
"152601. Organization.
"152602. Purposes.
"152603. Board of directors.
"152604. Officers and employees.
"152605. Powers.
"152606. Principal office.
"152607. Service of process.
"152608. Annual audit.
"152609. Civil action by Attorney General for equitable relief.
"152610. Immunity of United States Government.
"152611. Authorization of appropriations.
"152612. Annual report.

"§ 152601. Organization

"(a) FEDERAL CHARTER.—The Help America Vote Foundation (in this chapter, the 'foundation') is a federally chartered corporation.

"(b) NATURE OF FOUNDATION.—The foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States Government.

"(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the foundation has perpetual existence.

"§ 152602. Purposes

"(a) IN GENERAL.—The purposes of the foundation are to—

"(1) mobilize secondary school students (including students educated in the home) in the United States to participate in the election process in a nonpartisan manner as poll workers or assistants;

"(2) place secondary school students (including students educated in the home) as nonpartisan poll workers or assistants to local election officials in precinct polling places across the United States; and

"(3) establish cooperative efforts with State and local election officials, local educational agencies, superintendents and principals of public and private secondary schools, and other appropriate nonprofit charitable and educational organizations exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code to further the purposes of the foundation.

"(b) REQUIRING ACTIVITIES TO BE CARRIED OUT ON NONPARTISAN BASIS.—The foundation shall carry out its purposes without partisan bias or without promoting any particular point of view regarding any issue, and shall ensure that each participant in its activities is governed in a balanced manner which does not reflect any partisan bias.

"(c) CONSULTATION WITH STATE ELECTION OFFICIALS.—The foundation shall carry out its purposes under this section in consultation with the chief election officials of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

"§ 152603. Board of directors

"(a) GENERAL.—The board of directors is the governing body of the foundation.

"(b) MEMBERS AND APPOINTMENT.—(1) The board consists of 12 directors, who shall be appointed not later than 60 days after the date of the enactment of this chapter as follows:

"(A) 4 directors (of whom not more than 2 may be members of the same political party) shall be appointed by the President.

"(B) 2 directors shall be appointed by the Speaker of the House of Representatives.

"(C) 2 directors shall be appointed by the minority leader of the House of Representatives.

"(D) 2 directors shall be appointed by the majority leader of the Senate.

"(E) 2 directors shall be appointed by the minority leader of the Senate.

"(2) In addition to the directors described in paragraph (1), the chair and ranking minority member of the Committee on House Administration of the House of Representatives (or their designees) and the chair and ranking minority member of the Committee on Rules and Administration of the Senate (or their designees) shall each serve as an ex officio nonvoting member of the board.

"(3) A director is not an employee of the Federal government and appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States (except as may otherwise be provided in this chapter).

"(4) The terms of office of the directors are 4 years.

"(5) A vacancy on the board shall be filled in the manner in which the original appointment was made.

"(c) CHAIR.—The directors shall select one of the directors as the chair of the board. The individual selected may not be a current or former holder of any partisan elected office or a current or former officer of any national committee of a political party.

"(d) QUORUM.—The number of directors constituting a quorum of the board shall be established under the bylaws of the foundation.

"(e) MEETINGS.—The board shall meet at the call of the chair of the board for regularly scheduled meetings, except that the board shall meet not less often than annually.

"(f) REIMBURSEMENT OF EXPENSES.—Directors shall serve without compensation but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

"(g) LIABILITY OF DIRECTORS.—Directors are not personally liable, except for gross negligence.

"§ 152604. Officers and employees

"(a) APPOINTMENT OF OFFICERS AND EMPLOYEES.—The board of directors appoints, removes, and replaces officers and employees of the foundation.

"(b) STATUS AND COMPENSATION OF EMPLOYEES.—

"(1) IN GENERAL.—Officers and employees of the foundation—

"(A) are not employees of the Federal government (except as may otherwise be provided in this chapter);

"(B) shall be appointed and removed without regard to the provisions of title 5 governing appointments in the competitive service; and

"(C) may be paid without regard to chapter 51 and subchapter III of chapter 53 of title 5.

"(2) AVAILABILITY OF FEDERAL EMPLOYEE RATES FOR TRAVEL.—For purposes of any schedules of rates negotiated by the Administrator of General Services for the use of employees of the Federal government who travel on official business, officers and employees of the foundation who travel while engaged in the performance of their duties under this chapter shall be deemed to be employees of the Federal government.

"§ 152605. Powers

"(a) GENERAL.—The foundation may—

"(1) adopt a constitution and bylaws;

"(2) adopt a seal which shall be judicially noticed; and

"(3) do any other act necessary to carry out this chapter.

"(b) POWERS AS TRUSTEE.—To carry out its purposes, the foundation has the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

"(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of property or any income from or other interest in property;

"(2) to acquire property or an interest in property by purchase or exchange;

"(3) unless otherwise required by an instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income from property;

"(4) to borrow money and issue instruments of indebtedness;

"(5) to make contracts and other arrangements with public agencies and private organizations and persons and to make payments necessary to carry out its functions;

"(6) to sue and be sued; and

"(7) to do any other act necessary and proper to carry out the purposes of the foundation.

"(c) ENCUMBERED OR RESTRICTED GIFTS.—A gift, devise, or bequest may be accepted by the foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest is for the benefit of the foundation.

"(d) CONTRACTS.—The foundation may enter into such contracts with public and private entities as it considers appropriate to carry out its purposes.

"(e) ANNUAL CONFERENCE IN WASHINGTON METROPOLITAN AREA.—During each year (beginning with 2003), the foundation may sponsor a conference in the Washington, D.C., metropolitan area to honor secondary school students and other individuals who have served (or plan to serve) as poll workers and assistants and who have otherwise participated in the programs and activities of the foundation.

"§ 152606. Principal office

"The principal office of the foundation shall be in the District of Columbia unless the board of directors determines otherwise. However, the foundation may conduct business throughout the States, territories, and possessions of the United States.

"§ 152607. Service of process

"The foundation shall have a designated agent to receive service of process for the foundation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the foundation.

"§ 152608. Annual audit

"The foundation shall enter into a contract with an independent auditor to conduct an annual audit of the foundation.

"§ 152609. Civil action by Attorney General for equitable relief

"The Attorney General may bring a civil action in the United States District Court for the District of Columbia for appropriate equitable relief if the foundation—

"(1) engages or threatens to engage in any act, practice, or policy that is inconsistent with the purposes in section 152602 of this title; or

"(2) refuses, fails, or neglects to carry out its obligations under this chapter or threatens to do so.

"§ 152610. Immunity of United States Government

"The United States Government is not liable for any debts, defaults, acts, or omissions of the foundation. The full faith and credit of the Government does not extend to any obligation of the foundation.

"§ 152611. Authorization of appropriations

"There are authorized to be appropriated to the foundation for carrying out the purposes of this chapter—

"(1) $5,000,000 for fiscal year 2002; and

"(2) such sums as may be necessary for each succeeding fiscal year.

"§ 152612. Annual report

"As soon as practicable after the end of each fiscal year, the foundation shall submit a report to the Commission, the President, and Congress on the activities of the foundation during the prior fiscal year, including a complete statement of its receipts, expenditures, and investments. Such report shall contain information gathered from participating secondary school students describing the nature of the work they performed in assisting local election officials and the value they derived from the experience of educating participants about the electoral process.".

(b) CLERICAL AMENDMENT.—The table of chapters for part B of subtitle II of title 36, United States Code, is amended by inserting after the item relating to chapter 1525 the following new item:

"1526. Help America Vote ....
Foundation ....
152601". ....

TITLE V—MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS

SEC. 501. MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS.

(a) IN GENERAL.—The chief State election official of each State shall certify in writing to the Election Assistance Commission that—

(1) in administering election systems, the State is in compliance with the existing applicable requirements of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans With Disabilities Act of 1990; and

(2) the State has enacted legislation to enable the State to meet each of the minimum standards for State election systems described in section 502.

(b) METHODS OF IMPLEMENTATION LEFT TO DISCRETION OF STATE.—The specific choices on the methods of implementing the legislation enacted pursuant to subsection (a)(2) shall be left to the discretion of the State.

(c) CHIEF STATE ELECTION OFFICIAL DEFINED.—In this title, the "chief State election official" of a State is the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–8) to be responsible for coordination of the State's responsibilities under such Act.

SEC. 502. STANDARDS DESCRIBED.

The minimum standards for State election systems described in this section are as follows:

(1) The State will implement an official Statewide voter registration system networked to every local jurisdiction in the State, with provisions for sharing data with other States, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) The State election system includes provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

(A) A system of file maintenance which removes registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993, registrants who have not voted in 2 or more consecutive general elections for Federal office and who have not responded to a notice shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.

(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

(3) The State permits, by the deadline required under section 504(b), in-precinct provisional voting by every voter who claims to be qualified to vote in the State, or has adopted an alternative which achieves the same objective, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on and after the date of the enactment of this Act, all votes in the State in general elections for Federal office are cast by mail.

(4) The State has adopted uniform standards that define what will constitute a vote on each category of voting equipment certified for use in the State.

(5) The State has implemented safeguards to ensure that absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas voters (as defined in section 107(5) of such Act) in the jurisdiction have the opportunity to vote and to have their votes counted.

(6) The State requires new voting systems to provide a practical and effective means for voters with physical disabilities including blindness to cast a secret ballot.

(7) If the State uses voting systems which give voters the opportunity to correct errors, the State shall ensure that voters are able to check for and correct errors under conditions which assure privacy. States, and units of local government within the States, "procuring new voting machines within their jurisdiction, except for States and units replacing or supplementing existing equipment (within the same voting system), shall ensure that the new voting system gives voters the opportunity to correct errors before the vote is cast.

SEC. 503. ENFORCEMENT.

(a) REPORT BY COMMISSION TO ATTORNEY GENERAL.—If a State does not provide a certification under section 501 to the Election Assistance Commission, or if the Commission has credible evidence that a State's certification is false or that a State is carrying out activities in violation of the terms of the certification, the Commission shall notify the Attorney General.

(b) ACTION BY ATTORNEY GENERAL.—After receiving notice from the Commission under subsection (a), the Attorney General may bring a civil action against a State in an appropriate district court for such declaratory or injunctive relief as may be necessary to remedy a violation of this title.

SEC. 504. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the requirements of this title shall take effect upon the expiration of the 2-year period which begins on the date of the enactment of this Act, except that if the chief State election official of a State certifies that good cause exists to waive the requirements of this title with respect to the State until the date of the regularly *scheduled general election for Federal office held in November 2004, the requirements shall apply with respect to the State beginning on the date of such election.*

(b) DEADLINES FOR IMPLEMENTATION OF PROVISIONAL VOTING.—The minimum standard described in section 502(3) (relating to permitting in-precinct provisional voting) shall apply with respect to the regularly scheduled general election for Federal office held in November 2002 and each succeeding election for Federal office, except that if the chief State election official of a State certifies that good cause exists to delay the implementation of such standard in the State, the standard shall apply in the State with respect to the regularly scheduled general election for Federal office held in November 2004 and each succeeding election for Federal office held in the State.

TITLE VI—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

SEC. 601. VOTING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 80 of title 10, United States Code, is amended by adding at the end the following new section:

"§1566. Voting assistance: compliance assessments; assistance

"(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations to require that the Army, Navy, Air Force, and Marine Corps ensure their compliance with any directives issued by the Secretary of Defense in implementing any voting assistance program.

"(b) VOTING ASSISTANCE PROGRAMS DEFINED.—In this section, the term 'voting assistance programs' means—

"(1) the Federal Voting Assistance Program carried out under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.); and

"(2) any similar program.

"(c) ANNUAL EFFECTIVENESS AND COMPLIANCE REVIEWS.—(1) The Inspector General of each of the Army, Navy, Air Force, and Marine Corps shall conduct—

"(A) an annual review of the effectiveness of voting assistance programs; and

"(B) an annual review of the compliance with voting assistance programs of that armed force.

"(2) Upon the completion of each annual review under paragraph (1), each Inspector General specified in that paragraph shall submit to the Inspector General of the Department of Defense a report on the results of each such review. Such report shall be submitted in time each year to be reflected in the report of the Inspector General of the Department of Defense under paragraph (3).

"(3) Not later than March 31 each year, the Inspector General of the Department of Defense shall submit to Congress a report on—

"(A) the effectiveness during the preceding calendar year of voting assistance programs; and

"(B) the level of compliance during the preceding calendar year with voting assistance programs of each of the Army, Navy, Air Force, and Marine Corps.

"(d) INSPECTOR GENERAL ASSESSMENTS.—(1) The Inspector General of the Department of Defense shall periodically conduct at Department of Defense installations unannounced assessments of the compliance at those installations with—

"(A) the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);

"(B) Department of Defense regulations regarding that Act and the Federal Voting Assistance Program carried out under that Act; and

"(C) other requirements of law regarding voting by members of the armed forces.

"(2) The Inspector General shall conduct an assessment under paragraph (1) at not less than 10 Department of Defense installations each calendar year.

"(3) Each assessment under paragraph (1) shall include a review of such compliance—

"(A) within units to which are assigned, in the aggregate, not less than 20 percent of the personnel assigned to duty at that installation;

"(B) within a representative survey of members of the armed forces assigned to that installation and their dependents; and

"(C) within unit voting assistance officers to measure program effectiveness.

"(e) REGULAR MILITARY DEPARTMENT ASSESSMENTS.—The Secretary of each military department shall include in the set of issues and programs to be reviewed during any management effectiveness review or inspection at the installation level an assessment of compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) and with Department of Defense regulations regarding the Federal Voting Assistance Program.

"(f) VOTING ASSISTANCE OFFICERS.—(1) Voting assistance officers shall be appointed or assigned under Department of Defense regulations. Commanders at all levels are responsible for ensuring that unit voting officers are trained and equipped to provide information and assistance to members of the armed forces on voting matters. Performance evaluation reports pertaining to a member who has been assigned to serve as a voting assistance officer shall comment on the performance of the member as a voting assistance officer. The Secretary of each military department shall certify to Congress that (at a minimum) a voting assistance officer has been appointed or assigned for each military installation and major command under the jurisdiction of the department and that a replacement will be appointed if the original officer is no longer able to serve.

"(2) Under regulations and procedures prescribed by the Secretary, a member of the armed forces appointed or assigned to duty as a voting assistance officer shall, to the maximum extent practicable, be given the time and resources needed to perform the member's duties as a voting assistance officer during the period in advance of a general election when members and their dependents are preparing and submitting absentee ballots.

"(3) As part of each assessment prepared by the Secretary of a military department under subsection (e), the Secretary shall—

"(A) specify the number of members of the armed forces under the jurisdiction of the Secretary who are appointed or assigned to duty as voting assistance officers;

"(B) specify the ratio of voting assistance officers to active duty members of the armed forces under the jurisdiction of the Secretary;

"(C) indicate whether this number and ratio comply with the requirements of the Federal Voting Assistance Program; and

"(D) describe the training such members receive to perform their duties as voting assistance officers.

"(g) REGISTRATION AND VOTING INFORMATION FOR MEMBERS AND DEPENDENTS.—(1) The Secretary of each military department, using a variety of means including both print and electronic media, shall, to the maximum extent practicable, ensure that members of the armed forces and their dependents who are qualified to vote have ready access to information regarding voter registration requirements and deadlines (including voter registration), absentee ballot application requirements and deadlines, and the availability of voting assistance officers to assist members and dependents to understand and comply with these requirements.

"(2) The Secretary of each military department shall make the national voter registration form prepared for purposes of the Uniformed and Overseas Citizens Absentee Voting Act by the Federal Election Commission available so that each person who enlists, reenlists, or voluntarily extends an enlistment or who completes a permanent change of station in an active or reserve component of the Army, Navy, Air Force, or Marine Corps shall receive such form at the time of the enlistment, reenlistment, extension, or completion of the permanent change of station, or as soon thereafter as practicable.

"(3) Where practicable, a special day or days shall be designated at each military installation for the purpose of informing members of the armed forces and their dependents of election timing, registration requirements, and voting procedures.

"(h) DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.—(1) During the four months preceding a general Federal election month, the Secretary of Defense shall periodically conduct surveys of all overseas locations and vessels at sea with military units responsible for collecting mail for return shipment to the United States and all port facilities in the United States and overseas where military-related mail is collected for shipment to overseas locations or to the United States. The purpose of each survey shall be to determine if voting materials are awaiting shipment at any such location and, if so, the length of time that such materials have been held at that location. During the fourth and third months before a general Federal election month, such surveys shall be conducted biweekly. During the second and first months before a general Federal election month, such surveys shall be conducted weekly.

"(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times. The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall submit to Congress a report describing the measures to be implemented to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures.

"(3) The Secretary of each military department, utilizing the voting assistance officer network established for each military installation, shall, to the maximum extent practicable, provide notice to members of the armed forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.

"(4) In this section, the term 'general Federal election month' means November in an even-numbered year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1566. Voting assistance: compliance assessments; assistance.".

(b) INITIAL REPORT.—The first report under section 1566(c)(3) of title 10, United States Code, as added by subsection (a), shall be submitted not later than March 31, 2003.

SEC. 602. DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOTS FOR ALL VOTERS IN STATE.

Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Each State"; and

(2) by adding at the end the following new subsection:

"(b) Designation of Single State Office To Provide Information on Registration and Absentee Ballot Procedures for All Voters in State.—

"(1) In general.—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

"(2) Recommendation regarding use of office to accept and process materials.—Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State's duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.".

SEC. 603. REPORT ON ABSENTEE BALLOTS TRANSMITTED AND RECEIVED AFTER GENERAL ELECTIONS.

(a) In General.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 602, is amended by adding at the end the following new subsection:

"(c) Report on Number of Absentee Ballots Transmitted and Received.—Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2001) on the number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.".

(b) Development of Standardized Format for Reports.—The Election Assistance Commission, working with the Election Assistance Commission Board of Advisors and the Election Assistance Commission Standards Board, shall develop a standardized format for the reports submitted by States and units of local government under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (a)), and shall make the format available to the States and units of local government submitting such reports.

SEC. 604. SIMPLIFICATION OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION PROCEDURES FOR ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS.

(a) Requiring States To Accept Official Form for Simultaneous Voter Registration and Absentee Ballot Application; Deadline for Processing Application.—

(1) In general.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 602, is amended—

(A) by amending paragraph (2) to read as follows:

"(2) accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;";

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application.".

(2) Conforming amendments.—Section 101(b)(2) of such Act (42 U.S.C. 1973ff(b)(2)) is amended by striking "as recommended in section 104" and inserting "as required under section 102(4)".

(b) Use of Single Application for All Subsequent Elections.—Section 104 of such Act (42 U.S.C. 1973ff–3) is amended to read as follows:

"SEC. 104. USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.

"(a) In General.—If a State accepts and processes an official post card form (prescribed under section 101) submitted by an absent uniformed services voter or overseas voter for simultaneous voter registration and absentee ballot application (in accordance with section 102(a)(4)) and the voter requests that the application be considered "an application for an absentee ballot for each subsequent election for Federal office held in the State through the next 2 regularly scheduled general elections for Federal office (including any runoff elections which may occur as a result of the outcome of such general elections), the State shall provide an absentee ballot for each such election."

"(b) Exception for Voters Changing Registration.—Subsection (a) shall not apply with respect to a voter registered to vote in a State for any election held after the voter notifies the State that the voter no longer wishes to be registered to vote in the State or after the State determines that the voter has registered to vote in another State.

"(c) Revision of Official Post Card Form.—The Presidential designee shall revise the official post card form (prescribed under section 101) to enable a voter using the form to—

"(1) request an absentee ballot for each election for Federal office held in a State "for which the voter may be provided an absentee ballot under subsection (a)", or

"(2) request an absentee ballot for only the next scheduled election for Federal office held in a State.

"(d) No Effect on Voter Removal Programs.—Nothing in this section may be construed to prevent a State from removing any voter from the rolls of registered voters in the State under any program or method permitted under section 8 of the National Voter Registration Act of 1993.".

SEC. 605. ADDITIONAL DUTIES OF PRESIDENTIAL DESIGNEE UNDER UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.

(a) Educating Election Officials on Responsibilities Under Act.—Section 101(b)(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(b)(1)) is amended by striking the semicolon at the end and inserting the following: ", and ensuring that such officials are aware of the requirements of this Act;".

(b) Development of Standard Oath for Use With Materials.—

(1) In general.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) prescribe a standard oath for use with any document under this title affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury.".

(2) Requiring States to use standard oath.—Section 102(a) of such Act (42 U.S.C. 1973ff–1(b)), as amended by sections 603 and 605(a), is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) if the State requires an oath or affirmation to accompany any document under this title, use the standard oath prescribed by the Presidential designee under section 101(b)(7).".

(c) Providing Statistical Analysis of Voter Participation for Both Overseas Voters and Absent Uniformed Service Voters.—Section 101(b)(6) of such Act (42 U.S.C. 1973ff(b)(6)) is amended by strking "a general assessment" and inserting "a separate statistical analysis".

SEC. 606. USE OF BUILDINGS ON MILITARY INSTALLATIONS AND RESERVE COMPONENT FACILITIES AS POLLING PLACES.

(a) Limited Use of Military Installations Authorized.—Section 2670 of title 10, United States Code, is amended—

(1) by striking "Under" and inserting "(a) Use by Red Cross.—Under";

(2) by striking "this section" and inserting "this subsection"; and

(3) by adding at the end the following new subsection:

"(b) Use as Polling Places.—(1) Notwithstanding any other provision of law, the Secretary of a military department may make a building located on a military installation under the jurisdiction of the Secretary available for use as a polling place in any Federal, State, or local public election, but only if such use is limited to eligible voters who reside on that military installation.

"(2) If a building located on a military installation is made available under paragraph (1) as the site of a polling place, the Secretary shall continue to make the building available for subsequent elections unless the Secretary provides to the appropriate State or local election officials advance notice, in a reasonable and timely manner, of the reasons why the building will no longer be made available as a polling place.

"(3) In this section, the term 'military installation' has the meaning given the term in section 2687(e) of this title.".

(b) Use of Reserve Component Facilities.—(1) Section 18235 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Pursuant to a lease or other agreement under subsection (a)(2), the Secretary may make a facility covered by subsection (a) available for use as a polling place in any Federal, State, or local public election notwithstanding any other provision of law. If a facility is made available as the site of a polling place with respect to an election, the Secretary shall continue to make the facility available for subsequent elections unless the Secretary provides to the appropriate State or local election officials advance notice, in a reasonable and timely manner, of the reasons why the facility will no longer be made available as a polling place.".

(2) Section 18236 of such title is amended by adding at the end the following:

"(e) Pursuant to a lease or other agreement under subsection (c)(1), a State may make a facility covered by subsection (c) available for use as a polling place in any Federal, State, or local public election notwithstanding any other provision of law.".

(c) Conforming Amendments to Title 18.—(1) Section 592 of title 18, United States Code, is amended by adding at the end the following new sentence:

"This section shall not apply to the actions of members of the Armed Forces at any polling place on a military installation where a general or special election is held in accordance with section 2670(b), 18235, or 18236 of title 10.".

(2) Section 593 of such title is amended by adding at the end the following new sentence:

"This section shall not apply to the actions of members of the Armed Forces at any polling place on a military installation where a general or special election is held in accordance with section 2670(b), 18235, or 18236 of title 10.".

(d) CONFORMING AMENDMENT TO VOTING RIGHTS LAW.—Section 2003 of the Revised Statutes of the United States (42 U.S.C. 1972) is amended by adding at the end the following new sentence: "Making a military installation or reserve component facility available as a polling place in a Federal, State, or local public election in accordance with section 2670(b), 18235, or 18236 of title 10, United States Code, is deemed to be consistent with this section.".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 2670 of title 10, United States Code, is amended to read as follows:

"§2670. Buildings on military installations: use by American National Red Cross and as polling places in Federal, State, and local elections".

(2) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2670. Buildings on military installations: use
by American National Red Cross
and as polling places in Federal,
State, and local elections.".
"3629. Reduced rates for official election mail.".

TITLE VIII—TRANSITION PROVISIONS

Subtitle A—Transfer to Commission of Functions Under Certain Laws

SEC. 801. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) TRANSFER OF FUNCTIONS OF OFFICE OF ELECTION ADMINISTRATION OF FEDERAL ELECTION COMMISSION.—There are transferred to the Election Assistance Commission established under section 201 all functions which the Office of the Election Administration, established within the Federal Election Commission, exercised before the date of enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) in paragraph (8), by inserting "and" at the end;

(2) in paragraph (9), by striking "; and" and inserting a period; and

(3) by striking paragraph (10) and the second and third sentences.

SEC. 802. NATIONAL VOTER REGISTRATION ACT OF 1993.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Election Assistance Commission established under section 201 all functions which the Federal Election Commission exercised under the National Voter Registration Act of 1993 before the date of enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–7(a)) is amended by striking "Federal Election Commission" and inserting "Election Assistance Commission".

SEC. 803. TRANSFER OF PROPERTY, RECORDS, AND PERSONNEL.

(a) PROPERTY AND RECORDS.—The contracts, liabilities, records, property, and other assets and interests of, or made available in connection with, the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Assistance Commission for appropriate allocation.

(b) PERSONNEL.—

(1) IN GENERAL.—The personnel employed in connection with the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Assistance Commission.

(2) EFFECT.—Any full-time or part-time personnel employed in permanent positions shall not be separated or reduced in grade or compensation because of the transfer under this subsection during the 1-year period beginning on the date of the enactment of this Act.

SEC. 804. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect upon the appointment of all members of the Election Assistance Commission under section 203.

(b) TRANSITION.—With the consent of the entity involved, the Election Assistance Commission is authorized to utilize the services of such officers, employees, and other personnel of the entities from which functions have been transferred to the Election Assistance Commission under this title or the amendments made by this title for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

Subtitle B—Coverage of Commission Under Certain Laws and Programs

SEC. 811. TREATMENT OF COMMISSION PERSONNEL UNDER CERTAIN CIVIL SERVICE LAWS.

(a) COVERAGE UNDER HATCH ACT.—Section 7323(b)(2)(B)(i)(I) of title 5, United States Code, is amended by inserting "or the Election Assistance Commission" after "Commission".

(b) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(C) of title 5, United States Code, is amended by inserting "or the Election Assistance Commission" after "Commission".

SEC. 812. COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.

(a) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting "the Election Assistance Commission," after "Federal Election Commission,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the appointment of all members of the Election Assistance Commission under section 203.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. STATE DEFINED.

In this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

SEC. 902. MISCELLANEOUS PROVISIONS TO PROTECT INTEGRITY OF ELECTION PROCESS.

(a) CLARIFICATION OF ABILITY OF ELECTION OFFICIALS TO REMOVE REGISTRANTS FROM OFFICIAL LIST OF VOTERS ON GROUNDS OF CHANGE OF RESIDENCE.—Section 8(b)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(b)(2)) is amended by striking the period at the end and inserting the following: ", except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual has not voted or appeared to vote in 2 or more consecutive general elections for Federal office and has not either notified the applicable registrar (in person or in writing) or responded to a notice sent by the applicable registrar during the period in which such elections are held that the individual intends to remain registered in the registrar's jurisdiction.".

(b) PROHIBITING EFFORTS BY POLL WORKERS TO COERCE VOTERS TO CAST VOTES FOR EVERY OFFICE ON BALLOT.—Section 594 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) Whoever"; and

(2) by adding at the end the following new subsection:

"(b) For purposes of subsection (a), a poll worker who urges or encourages a voter who has not cast a vote for each office listed on the ballot to return to the voting booth to cast votes for every office, or who otherwise intimidates, harasses, or coerces the voter to vote for each such office (or who attempts to intimidate, harass, or coerce the voter to vote for each such office), shall be considered to have intimidated, threatened, or coerced (or to have attempted to intimidate, threaten, or coerce) the voter for the purpose of interfering with the voter's right to vote as the voter may choose. Nothing in this subsection shall prohibit a poll worker from providing information to a voter who requests assistance.".

SEC. 903. NO EFFECT ON OTHER LAWS.

(a) IN GENERAL.—Nothing in this Act and no action taken pursuant to this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Voting Accessibility for the Elderly and Handicapped Act, or the Americans with Disabilities Act of 1990.

(b) NO CONDUCT AUTHORIZED WHICH IS PROHIBITED UNDER OTHER LAWS.—Nothing in this Act authorizes or requires any conduct which is prohibited by the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Americans with Disabilities Act of 1990.

(c) APPLICATION TO STATES, LOCAL GOVERNMENTS, AND COMMISSION.—Except as specifically provided in the case of the National Voter Registration Act of 1993, nothing in this Act may be construed to affect the application of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Americans with Disabilities Act of 1990 to any State, unit of local government, or other person, or to grant to the Election Assistance Commission the authority to carry out activities inconsistent with such Acts.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3295, the Help America Vote Act of 2001. This legislation is a culmination of a long series of hearings, discussions, and negotiations.

In crafting this bipartisan election reform bill, we heard from and consulted with groups from across the United States that represent the interests of voters, election officials, State and local governments, and others who care about this issue.

From the outset of this process, my goal was to craft legislation that could be supported by Members from both sides of the aisle. That is critical in this process.

Mr. Speaker, I recognize the gentleman from Maryland (Mr. HOYER), our ranking member of the Committee on House Administration, and all of the Members on both sides of the aisle from that committee, because if it were not for the gentleman from Maryland (Mr. HOYER), his diligence, and the integrity, the will and desire to improve elections in one of the most important bills in the history of this country in the election process, besides the Voting Rights Act, we would not be standing here today.

The fact that we have 173 cosponsors on the bill, 63 Republicans and 110 Democrats, more cosponsors than any other election reform bill in the House, I think demonstrates that we achieved the goal that we wanted. That is the way it should be. Improving our country's election system should not and cannot be a partisan issue. Everybody in the United States has the right to vote and has to feel secure that their vote counts.

Republicans and Democrats nationwide and here in this Congress agree on the necessity of ensuring that all citizens who wish to vote can, and that their votes will be counted accurately. This bill would advance us towards that goal.

The first title of the bill is the punch card replacement program. The title authorizes $400 million to allow those jurisdictions that used punch card voting systems in the November 2000 election to get rid of them. It is obvious that we need to get rid of these antiquated technologies and replace them with machines voters have confidence in.

I hope, Mr. Speaker, that one day the way we will see punch card machines in the United States is to go to the Smithsonian in order to view them. Mr. Speaker, this bill authorizes funds to make that happen.

This bill creates a new Election Assistance Commission called the EAC. This new commission will assume the functions of the Office of Election Administration currently under the Federal Election Commission.

The new EAC will serve as a national clearinghouse for the compiling of information and review of procedures affecting the administration of Federal elections. The EAC will also be charged with developing new voluntary election management practice standards. It will distribute the election fund payments, research and development grants, and pilot programs authorized by this bill.

I will point out that the name we chose for this commission is not by accident. The purpose of this commission is to assist State and local governments with their election administration problems; its purpose is not to dictate solutions or hand down bureaucratic mandates.

In fact, one of the first premises that our ranking member, the gentleman from Maryland (Mr. HOYER) and I agreed on, and we received sympathy on this issue around the entire Congress, I believe, is that it will not be a rulemaking body. It will have teeth, it will have an advisory board that the gentleman from Maryland (Mr. HOYER) has suggested, and a standards board of local officials across the U.S. that we had suggested, but in fact, it will not be dictating through rules and regulations on a daily basis of how local elections will be carried out.

The commissioners serve part-time. Of the four commissioners, no more than two can be from the same party, so bipartisanship is assured. Additionally, it must consult with and consider recommendations of the advisory board and the standards board that I mentioned previously. These boards, again, will consist of election officials and other interested groups who have interest in or expertise in election issues. These boards will have a voice on this commission, and that voice will be heard.

In addition to the funds authorized for punch card replacement, this bill authorizes $2.25 billion for election fund payments to the States. The election fund payments will be used for a variety of things, from purchasing new equipment to updating registration systems, to assuring access for those with physical disabilities to the polls, to increasing poll worker education and training, sending sample ballots, and a wide variety of other uses that are, once again, good for the United States election system.

The fund is designed to allow a State to determine its greatest needs and to devote the resources to those needs. Along with these funds come funding conditions.

States that take fund payments must certify, for example, that they have provided $1 to match every $3 provided by the Federal Government, a 25 percent match. They also must demonstrate that they have established a statewide benchmark for voting system performance, and also that they have adopted the voluntary election standards developed by the new Election Assistance Commission, or they have developed their own standards that will do the job; and that they have in each precinct or polling place a voting system in place which is fully accessible to people who have a form of disability.

These funding conditions will ensure that the Federal dollars are spent appropriately, and that the EAC will monitor compliance with these conditions.

This bill also creates the Help America Vote program. This was an idea that the gentleman from Maryland (Mr. HOYER) brought forth that I think is tremendous. We have it at the high school level and at the college level. This program is designed to get the country's young people involved in the energetic give and take of public debate through our democratic process through volunteer service as nonpartisan poll workers and assistants.

One common view that we heard from election officials across the Nation in both parties was that there is a critical shortage of poll workers. This program will have the two-fold benefit of helping with this shortage, while also getting our young people involved in their democracy.

All of us in this institution constantly talk about getting young people involved in the process, getting them to be registered to vote. This component on this bill, this part, maybe has not been talked about daily in the media, Mr. Speaker, but it is, I think, one of the most valuable things also that we are doing in this bill.

Title V is the minimum standards section of the bill. During negotiations, some feared that having funding conditions was not adequate because voters who might live in States that did not take the funds would not be protected. Others opposed intrusive Federal mandates that could become burdensome and inefficient.

The minimum standards we included in this bill strike the appropriate middle ground. That is why I believe, Mr. Speaker, we see a wide variety of people from this House, Members from both parties, from all the political spectrums, who have cosponsored this, because we achieved that middle ground that we needed. The minimum standards guarantee certain protections for all voters in the United States without imposing an intrusive, federally-designed system.

There are seven minimum standards. Briefly, they are:

The State will implement a statewide registration system that is networked to every jurisdiction in the State;

The State has a system of file maintenance which ensures that the voting rolls are accurate and are updated regularly;

The State permits in-precinct provisional voting by any voter who claims to be qualified to vote;

The State has adopted uniform standards to define what constitutes a vote on the different types of voting equipment in use in the State;

The State has implemented safeguards to ensure that military service personnel and citizens living overseas have the opportunity to vote and have their vote counted;

The State requires that new voting systems provide a practical and effective means for voters with physical disabilities to cast a secret ballot;

And also, States that have technology that allows voters to check for errors must ensure that they are able to do so under conditions which assure privacy, and States replacing their voting systems must do so with machines that give voters the opportunity to correct errors before the ballot is cast.

The Commission will monitor compliance with these minimum standards, and can make a referral to the Justice Department in cases of noncompliance.

Mr. Speaker, this bill will also help assure the voting rights of our service personnel and overseas citizens. That was a huge issue, as we know, that has come to light, and we appreciate the work that many Members of the House did on this in giving input, people such as the gentlewoman from New York (Mrs. MALONEY) and the gentleman from New York (Mr. REYNOLDS); the gentleman from Indiana (Mr. BUYER), and many others.

It includes a number of provisions that will make it easier for our service personnel to obtain ballots and transmit them in a timely fashion.

Additionally, we will require the Department of Defense to make sure that there are an adequate number of voting assistance officers assigned, and to make sure that ballots are properly postmarked so they cannot be challenged.

Mr. Speaker, this bill, once again, is the culmination of a lot of hard work. It is carefully crafted and written in the spirit of bipartisan and compromise. I think it is a package that really deserves support.

I also want to thank the gentleman from Missouri (Mr. BLUNT), who is a former Secretary of State. He gave us, from the first day forward, some dynamic ideas and great support on this bill.

Again, I want to thank the gentleman from Maryland (Mr. HOYER). We could not be here if it was not for his spirit on this, and his resolve to make sure that we have good elections in this country.

Mr. Speaker, this bill evolved from a punch card issue into something way beyond that that has teeth, that makes changes, but does it in a responsible way. That is why we have the support of local governments. Speaker Marty Stevens of the National Council of State Legislators and all their staff are supporting this bill; also President Jimmy Carter and President Gerald Ford; Phillip Zellico, the executive director of the National Commission on Election Reform; Ron Thornberg, a Republican Secretary of State from Kansas and president of the National Association of Secretaries of State; Sharon Priest, a Democrat from Arkansas and past president of this association; and Ken Blackwell, a Republican from Ohio.

On a bipartisan basis, the Secretaries of State stepped up to the plate to once again help us to craft this bill; Ralph Taber of NACO, Doug Lewis, executive director of the Elections Center, and many, many others.

The staffs of the Committee on House Administration on both sides of the aisle all came together to make these ideas gel, but all with the same spirit.

As we look around at what has happened to this country, as we look around at those who have tried to attack our very foundation, we realize that the election of individuals from all levels is important, because we do have the greatest democracy in the world. We want the people to feel comfortable with our election process.

□ 1345

This bill does that. It helps America vote, and I urge its support.

Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I yield myself 5½ minutes.

Let me at the outset say that no one could have had a more positive partner in working on this legislation than I had in the gentleman from Ohio (Mr. NEY). The chairman of the Committee on House Administration is dedicated and committed to producing a positive product. He has done that. I have been pleased to work with him in this process, and I thank him for his leadership.

Mr. Speaker, 1 year ago tonight in Bush v. Gore, the United States Supreme Court effectively determined the outcome of our last Presidential election. But today this House has an historic opportunity to let this day be remembered not for one of the most controversial decisions in the court's history, but for congressional action to protect our most cherished democratic right: the right to vote and the right to have that vote counted.

One hundred million Americans went to the polls on November 7, 2000, but an estimated 6 million, according to the CalTech-MIT study, failed to have their votes counted.

Thus, today, on this 1-year anniversary of Bush v. Gore, I am pleased to join our colleague, the gentleman from Ohio (Mr. NEY), the chairman of our committee, and Members from both sides of the aisle in strongly supporting H.R. 3295, the Help America Vote Act of 2001.

This bipartisan election reform legislation, the most widely supported election reform bill in the House with 173 cosponsors, addresses virtually every major election system flaw that came to light after our last national election. The Help America Vote Act is an important mixture of Federal assistance to States and minimum election standards.

It will require, not ask, but require, all States to adopt a state-wide voter registration system linked to local jurisdiction; in-precinct provisional balloting; a system for maintaining the accuracy of voter registration records; uniform standards for defining what constitutes a vote on different types of voting equipment in different parts of the States; assurances that overseas military voters have their votes counted; assurances that voters have the right and opportunity to correct errors; and practical and effective means for disabled voters to cast secret ballots on new voting equipment.

These election standards are not discretionary, nor are they dependent on the States' receiving Federal assistance under the bill. States shall enact them, and they shall be enforced.

The Help America Vote Act also authorizes, as the chairman has said, $2.65 billion for Federal election reform, which includes $400 million for buyout of the infamous punch cards. The remaining $2.25 million will help States establish and maintain accurate lists of eligible voters, improve equipment, educate voters, recruit and train poll workers, and assure access for disabled voters.

This bipartisan legislation is the product of numerous hearings, at least four in the Committee on House Administration, the most of any congressional committee this year, in which we received invaluable input from State and local officials.

Furthermore, this legislation has been endorsed by, among others, the National Commission on Federal Election Reform, known as the Ford-Carter Commission; the National Association of Secretaries of State; the National Conference of State Legislatures; the National Association of Counties; the National Association of County Recorders, Election Officials and Clerks; the Election Center; the National Federation of the Blind; and the League of Women Voters of Los Angeles County.

Why is this important? Because it is those individuals who will have to run elections, and the fact that they are supportive of these requirements and these procedures is critically important to the next election.

In fact, in a recent op-ed column in the Washington Post, former Presidents Ford and Carter observed: "With the exception of the civil rights laws of the 1960s, this bill," that is on the floor today, "could provide the most important improvements in our democratic election system in our lifetimes."

This is an extraordinarily good bill. It is not a perfect bill, but it goes much further than anybody would have thought at the beginning of this session.

Finally, I want to specifically thank the gentleman from Michigan (Mr. CONYERS), the ranking Democrat of the Committee on the Judiciary, and the gentlewoman from California (Ms. WATERS), the chairman of the Democratic Caucus Special Committee on Election Reform. Their insight and tireless advocacy on this important issue has improved this bill. H.R. 3295, in fact, incorporates many of their recommendations.

This legislation is not a magic elixir. However, it will significantly improve the integrity of our election process, encourage voter participation and restore public confidence in our system. In short, it is a historic opportunity for this House to right the undemocratic wrongs in our election system.

Election reform is a down payment on the right that defines us as a people. That is an investment in democracy that I urge every one of my colleagues to make today. This is a good bill. Let us vote for it. Let us pass it to the Senate. Let us take action.

Mr. NEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Horn).

Mr. HORN. Mr. Speaker, today, the House has an opportunity to address the many problems that were uncovered in past years' Presidential elections. In Florida and many other States, the past election made clear that there are serious doubts about how we conduct some of our elections.

This bill sets minimum Federal standards that the States must meet, and it provides more than $2.6 billion in Federal funds to help them meet those standards.

The bill specifically provides $400 million to begin getting rid of all the other punch card voting machines that were such a problem in Florida and many other places. Former Presidents Carter and Ford headed a national commission to examine solutions for all of the problems in our electoral system. They endorse this bill, so does the Los Angeles Times and dozens of other newspapers. It is a sensible step to protect the rights of voters, and we should pass it without further delay.

The legislation before us is well balanced, generally bipartisan. I congratulate the gentleman from Ohio (Chairman NEY) and the gentleman from Maryland (Mr. HOYER) for this wonderful bill that we have before us. They have produced excellent work in doing this; and the bill before us, H.R. 3295, the Help America Vote Act, offers a comprehensive and sensible response that will help to eliminate those doubts and restore the integrity and credibility of our elections.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HORN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I want to thank the gentleman. The gentleman from California (Mr. HORN) has been involved since the very first day of this session and we introduced a bill that was not as comprehensive as this. The gentleman was a sponsor and has worked with us ever since. I thank him for his involvement.

Mr. HORN. Mr. Speaker, I thank the gentleman. The gentleman from Maryland (Mr. HOYER) and the gentleman from Ohio (Mr. NEY) have spent hours to do this. And when the 50 States say this is good, one can imagine that Members of this body think it is good.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Georgia (Mr. LEWIS). There is no one in this House, perhaps no one in this country, who has fought harder, risked more, shown more courage and commitment in assuring that every American has the right to vote.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) for bringing this bill to the floor. I want to thank my friend and colleague, the gentleman from Maryland (Mr. HOYER), for yielding me time. I know this has not been easy for the two of you, but you brought us to where we are today.

Mr. Speaker, I rise today in support of moving the process of election reform forward. It has been over a year since the 2000 election and other elections have already been held. What happened in Florida last year and so many other places in our Nation must never ever happen again. Voters were denied the right to vote by incorrect voting lists, confusing ballots, and out-of-date voting machines.

The right to vote is precious. It is almost sacred. People died for the right to vote, and we must do whatever we can to protect that right. This is not a perfect bill. This bill is not a cure-all, but it is a step forward in correcting the problems with our election system and opening up the political process.

Many, many years ago I fought to give people a voice in the outcome of elections, to get people included in the political process, to ensure their right to vote. And 40 years later I remain committed to that goal.

As I said before, this bill does not solve all of the problems, and it is not all that many of us wanted; but it does help to move this process forward this year, right here and now. It is past time that we address this important voting rights issue, and this bill is a necessary step in the right direction. I urge all of my colleagues to support this bill. It is the most important voting rights bill since the passing of the Voting Rights Act in 1965, 36 years ago. Vote for this bill.

Mr. NEY. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Michigan (Mr. EHLERS), who is also sort of the unofficial science advisor of the House Administration Committee and we appreciate his support.

Mr. EHLERS. Mr. Speaker, I am very pleased to rise in support of this bill. I rise on the premise that every registered citizen has the right to vote, can vote, and should vote. I also believe that every citizen who votes has the right to be assured that his or her vote is counted accurately and, furthermore, that that vote is protected against dilution by fraud of others who vote more than once or who vote illegally.

I have served in local, State and national office for over 25 years. During that time I have seen and participated in many elections. The problems we saw last year in Florida are not unique. These problems occur frequently, and I believe this bill will help to solve many of these election difficulties.

While we can debate the particulars of how to administer an election or which voting equipment to buy, we know that all voting equipment should be based on the strongest possible standards for usability, accuracy, security, accessibility, and integrity. In order to achieve all of that, I introduced a bill earlier this year, H.R. 2275, which would help to assist in establishing the technical standards for voting equipment, making use of the resources of the National Institute of Standards and Technology, which is uniquely qualified to do this. I am very pleased that those provisions of H.R. 2275 have been incorporated into the bill that is before us.

□ 1400

These provisions originally would have created a commission chaired by the Director of the National Institute of Standards and Technology and comprised of local election directors. This commission would have been responsible for developing voluntary technical standards to ensure the usability, accuracy, security, accessibility, and integrity of voting systems and voting equipment.

Those provisions have been carried over to this bill. It is a near perfect fit because it creates the process by which the Election Assistance Commission in this bill can develop and will develop technical standards, which currently are woefully inadequate under current guidelines. These provisions that have been inserted in this bill will help strengthen the bill, providing much-needed research into improving voting equipment.

This bill includes a grant program for developing better voting technology and making sure that our existing systems are secure. It also includes a research program inside the National Institute of Standards and Technology that will review, among other things, the role of human factors in the design and use of voting machines.

In summary, this legislation will ensure that the Election Administration Commission will have an effective, transparent, informed, and complete process for the development of voluntary technical standards for voting equipment and systems. I am very pleased to have participated in the creation of this bill, and I urge that we adopt it.

Mr. HOYER. Mr. Speaker, I am honored to yield 3 minutes to the gentleman from Philadelphia, Pennsylvania (Mr. FATTAH), my distinguished colleague on the Committee on House Administration who has worked very hard on this bill for the last 8 months.

Mr. FATTAH. Mr. Speaker, let me say first that I want to congratulate the principal sponsors of this, the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER). Their work, along with the others on the committee, have really done a tremendous service for the country by moving this issue forward.

I join my colleague, the gentleman from Georgia (Mr. LEWIS), when he says that this is a necessary step towards election reform. It was just a year ago today that the Supreme Court ruled and stopped the vote counting in Florida. It was an international disgrace the way that the process unfolded, and with so many people's votes were discarded by machinery that did not work, or processes that did not comply with what was necessary to have every single person being able to cast a vote and to have that vote counted.

This bill moves us towards real election reform. It is imperfect, but it is part of a process in which I think that this is a bill that is much better than any of us could have hoped for leaving the House. We would hope that the other body will act and that then we would have a conference committee and a final product so that the people who we represent can be assured that in the next election, that some of the items that have been identified in this legislation, in terms of proxy voting and in terms of access and standards at the State level, and doing away with outdated machinery, along with the $2.6 billion in Federal resources that assist States in this effort, will be part of the final product.

So, again, I want to thank Chairman NEY, who I think has exhibited extraordinary leadership in moving this forward, and Ranking Member Hoyer, bringing together a bipartisan group of people. I am happy to be one of the principal cosponsors of this legislation.

I know there are some who are disappointed in the rule. I am disappointed in the rule. I would have preferred that we would have been able to have a more open process here on the floor in terms of the House fashioning its will. But I am mindful that as we go forward, we all have a responsibility and we are burdened with it to try to make real reform happen. And as we go forward and through this process today, I know that when we pass this out of the House, as has been mentioned before, that since the 1965 Voting Rights Act, this will be the most important voting rights legislation that the House has sent forward in many, many years.

So I want to urge the House to support it. I know that when we come to the final resolution on election reform, this bill will be the linchpin for the action that the entire Congress, along with a Presidential signature, will give to the American people; and that is a much better electoral system.

Mr. NEY. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Speaker, I believe in the empowerment of local, county, and State governments. I believe that they, being closer to the people, can provide services better and cheaper. The Federal Government does ask that those local governments perform tasks on behalf of the Federal Government. Running elections is such a request. In fact, it is not a request, it is a mandate in the United States Constitution. Yet we do not partner and we do not help in the running of those Federal elections.

The consequences are outdated machines, poor election personnel training, poor coordination, bad voter lists, all making the system vulnerable to fraud. The Federal Government, with H.R. 3295, establishes that partnership, helping States and counties more efficiently run Federal elections.

This act enhances the credibility of the election system by providing some financial help to States and counties to upgrade from a punch card system to a newer technology less fraught with danger. It, importantly, also helps those States who moved forward to upgrade while Congress here debated, discussed and compromised.

This act helps to set minimum standards for elections, to avoid confusion in the future. It helps train election officials. It helps ensure, and this is an important aspect, it helps ensure that the votes of our overseas men and women, and those in the service, will count. It requests States clean up their voter lists, and it allows our youth more participation in the process.

These are all extremely positive movements in the right direction for the future of our democracy, and I encourage my colleagues to help secure future elections by voting "yes."

Mr. HOYER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Florida (Ms. BROWN), who has been as strong a voice on behalf of election reform as we have in this country.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to thank the chairman and the ranking member both for their leadership on this matter.

One year ago today, 10 p.m., I was standing in front of the Supreme Court. And I tell my colleagues that it was the coldest night I have ever experienced in my life. And I am not talking about the weather. I am talking about when the Supreme Court selected the President of the United States.

Nobody feels more about this bill than I do, because my constituents were disenfranchised. There is no one in Florida who looks like me that believes we had a fair election in Florida. There is no one who looks like me that does not feel that we had a coup d'etat here in the United States. Harsh words. But the television today, and others, talked about what happened at the Supreme Court. But they said, well, everything is okay. Well, the end does not justify the means. We have to make sure that what happened in Florida never happens again.

Now, this bill is not a perfect bill. I have been an elected official for 20 years. I have never seen a perfect bill. But this bill is a perfect beginning, and I support it and urge my colleagues to vote for it. It starts us on our way.

One provision that I want to talk about that is in this bill is the provisional balloting, wherein 17,000 people would have had an opportunity to have their vote counted if that had been enacted.

Mr. NEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I rise today in strong support of H.R. 3295, the Help America Vote Act of 2001. I want to thank my colleagues, the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) for creating this bill that will strengthen our Nation's voting system and enhance America's democracy.

The 2000 election highlighted obviously the inaccuracies and inconsistencies in our voting systems. As the country waited to hear the final outcome of the Presidential election, many began to take a closer look at our voting systems. What we saw were outdated technologies and a lack of uniformity.

In my home State of West Virginia, 12 counties of the 55 counties still use the punch ballot. It is easily manipulated and archaic, but these 12 counties lack the funds to replace these machines. With the $3.6 million that West Virginia will receive in this bill, all those machines will be replaced.

But I think it is interesting to note that there are four other operating voting systems in our small State of West Virginia; optic scans, paper ballots, lever machines, and a highly innovative votronic technology. The lack of uniformity and compatibility creates confusion. This plan will help eliminate that. All States will be able to benefit from the flexible funds, which can be used to enable access to voters with disabilities, strengthen voter turnout, and to consolidate our statewide registration systems.

Voting for an elected official is the hallmark of American democracy. When citizens cast their votes, they are exercising a fundamental right that our forefathers worked to achieve for all generations. With our country at war, we must also be concerned now, more than ever, about ensuring the accuracy of the votes of our men and women overseas. This bill, H.R. 3295, addresses this concern.

Voting is an important and fundamental American right and should never be casually regarded. But our citizens need to have the confidence in their voting systems so they will eagerly and willingly cast their votes and feel confident that they are participating in a strong and efficient democracy.

Mr. Speaker, I urge my colleagues to support the bipartisan Help America Vote Act.

Mr. HOYER. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL), the distinguished former Mayor of Patterson, who has been involved in elections for a long time and worked very hard on election reform.

Mr. PASCRELL. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER) for yielding me this time, and thanks to the Chairman, the gentleman from Ohio (Mr. NEY), for all his work.

The great poet Langston Hughes asked, "What happens to a dream deferred?" Well, in the case of the dream of fair and equal treatment at the polls, a dream deferred is a dream denied. Let us defer these dreams no longer. Let us take this critical step to ensure that all Americans have their votes counted.

Last year's presidential election was a civics lesson for all of us. Not only did we learn that every vote counts, we learned that every vote is not counted. Although we all saw what happened in Florida, we realized the problems existed in every State and in every municipality.

In Atlanta's Fulton County, which uses punch card voting machines, one in every 16 ballots for president was invalidated. In many Chicago precincts that have high African American populations, one of every six ballots was thrown out. If we do not address this blatant irregularity and inequality, then we are letting down the thousands of Americans who take the time to vote each year.

This bill is the right approach. Buying out our punch card systems, improving equipment, recruiting and training poll workers, improving access for people with disabilities, and educating voters about their rights are the things we must be doing. And we should require States to adopt minimum election standards, whether it comes to voter registration or provisional voting.

When one voice is stifled because of outdated election procedures, it stifles our collective system, Mr. Speaker, as a Nation. And none of us should tolerate it any more.

Mr. NEY. Mr. Speaker, I would like to inquire as to how much time is remaining.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Ohio (Mr. NEY) has 10 minutes remaining and the gentleman from Maryland (Mr. HOYER) has 16½ minutes remaining.

Mr. NEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GRUCCI).

Mr. GRUCCI. Mr. Speaker, I would like to thank the chairman for yielding me this time, and I rise today in support of H.R. 3295, the Help America Vote Act.

After experiencing the confusion and the uncertainty of the 2000 election, Congress must act to restore America's confidence in our voting system. H.R. 3295 does just that. This bill will strengthen our election system while ensuring lawful and impartial voting for every citizen.

□ 1415

Mr. Speaker, our government is based on participation by every citizen. The voice of the citizens in our government is heard through their vote. This legislation will ensure that every voice be heard. This bill not only allows citizens to vote with peace of mind, but also strengthens our democratic process.

The Help America Vote Act authorizes $400 million to buy out the problematic and outdated punch card voting machines, as well as establishing minimum standards for State election systems. Some of the requirements include that States have a voter registration system linked to local jurisdictions, systems to maintain the accuracy of voter registration records, and the adoption of uniform standards defining what constitutes a vote.

At a time when we honor the service of our brave men and women overseas, this bill includes a system to ensure that both uniformed military men and women and overseas voters have their votes counted.

As a member of the Committee on Science, I am proud to see that some of our provisions that our committee passed earlier this year are included in H.R. 3295. One of the key provisions of the bill is the creation of the Help America Vote College Program. This important program would encourage college students to assist State and local governments in the administration of local elections by working as nonpartisan poll workers. By energizing our college students, we encourage young people to speak out, using both their voice and vote, to become more active in their government.

Mr. Speaker, there is a great need to improve the way our election system operates in America. We need to ensure that all Americans have their voices heard at the polls and their votes recorded fairly. I encourage all of my colleagues to support H.R. 3295.

Mr. HOYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, first of all, let me commend the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) for the development of this legislation. I also thank the gentlemen for working with me and my colleagues, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Maryland (Mr. EHRLICH), to ensure that individuals who are visually impaired and blind are able to vote independently. We appreciate the inclusion of much of our amendment in the manager's amendment.

Mr. Speaker, the question I would like to ask the gentleman from Ohio is what does the gentleman envision by the term "fully accessible" as it relates to the bill?

Mr. NEY. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from Ohio.

Mr. NEY. Mr. Speaker, I thank the gentleman for this very important question. It is my hope and expectation that "fully accessible" would mean that blind persons would have the ability to vote in private and have the ability to independently verify the vote cast.

Mr. DAVIS of Illinois. Mr. Speaker, I certainly appreciate that clarification and share the gentleman's expectation. I feel there is nothing more important than the right to the franchise and for the ability for all people to exercise that right independently and secretly. Again, I thank the gentleman for his accommodation and thank the gentleman for the development of this legislation.

Mr. NEY. Mr. Speaker, if the gentleman would continue to yield, I thank the gentleman for his very important work on this issue, and also for the work of the gentleman from Illinois (Mr. SHIMKUS).

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, there is a broad consensus in this country that we need to make some commonsense changes to our election laws. I commend the gentleman from Ohio (Chairman NEY) and the gentleman from Maryland (Mr. HOYER), the ranking member, for reflecting those wishes from around the country and bringing them here to this House today to pass what is a truly bipartisan, truly commonsense approach to making our elections work better.

There is a lot to like about this bill. It provides States that still use punch-card voting systems with necessary funding to replace those outdated systems. This is something that came up in the last Presidential election, and something that needs to be addressed. It is not only a bipartisan issue, it is a nonpartisan issue that people care about at the local level.

It also takes steps to see that States will set up state-wide voter registration systems and make sure that voter rolls are properly maintained, which is very important to the integrity of elections.

It also encourages high school and college students to become nonpartisan poll workers to get involved in the system. But doing all that, it also respects the fact that State and local government must continue to be the overseers of the process of elections. There is a lot to like in this bill, including the way in which these two gentlemen put it together. I commend them and urge support from both sides of the aisle.

Mr. HOYER. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I want to say to the gentleman from Ohio (Mr. PORTMAN), I thank the gentleman for his words. There are, frankly, not very many better legislators in this Congress than the gentleman from Ohio (Mr. PORTMAN). He has done some extraordinary work through the years, and I appreciate his comments. I want him to know what a positive partner, as I said at the beginning of this process, the gentleman from Ohio (Mr. NEY) is.

Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), a former Secretary of State of Rhode Island.

Mr. LANGEVIN. Mr. Speaker, today I rise in support of H.R. 3295, the Help America Vote Act. Fixing the shortcomings in our election system is no easy task, and I commend the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) for their tireless efforts to craft strong, bipartisan legislation, and for allowing me to assist in its development.

As Rhode Island's Secretary of State, I replaced our ancient lever voting machines with state-of-the-art voting equipment and created a system guaranteeing that every vote is counted and every person with a disability has 100 percent voting access; and that is exactly what we must demand in every State.

H.R. 3295 will let States like Rhode Island build on their successes. By counting State expenditures for ongoing election improvement programs toward the 25 percent State match requirement, these model States may implement new and innovative accessible voting technologies and serve as even better models for other States to emulate.

The Help America Vote Act also sets minimum standards for election administration and voting accessibility. Because 84 percent of the Nation's polling places are inaccessible to the physically disabled, I strongly encourage State election officials to follow Rhode Island's cost-effective model and guarantee to all Americans the fundamental right to vote independently.

This bill offers many good improvements, but we must go further. We must ensure full voting access to all people with disabilities. I have advocated for the access board to develop national standards and deadlines for polling place accessibility, and I will continue to push for this mandate.

Today's legislation will lay the foundation of a great new era of public participation in the democratic process. While it is not a perfect bill, it is an important first step in addressing the inequities of our Nation's voting systems, and I encourage my colleagues to support it.

Mr. NEY. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I thank the gentleman from Rhode Island (Mr. LANGEVIN). He has brought his expertise as Secretary of State to the table here in the House and has been a tremendous resource working with us throughout the process.

Mr. Speaker, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I, too, rise in support of H.R. 3295; and I, too, congratulate the sponsors for the work that they have done.

My State happens to be very advanced. We have a fully electronic system; and while some States such as Delaware have such a modernized voting system, we will be able to use these funds for voter outreach and training poll workers and making polls more accessible to disabled voters. There are a lot of good things in this bill.

Mr. Speaker, these gentlemen deserve congratulations; but I would like to speak to a couple of things. One, since I have been involved in elected politics, and I have seen all kinds of problems in Wilmington, Delaware, and the State of Delaware, I have seen a lot of improvements. The sanctity of the vote to people is of extraordinary importance. Americans have the right across the United States of America to feel that their vote is going to be counted and their vote counts as much as the President of the United States. That is at the heart of democracy, and that is why it is so important that Congress speaks to this today.

The fairness of elections is important. We need to feel it is not the Supreme Court, but the people of the United States of America who are deciding who our elected officials are going to be. It is also very significant that we are addressing those problems as well; and the issues of disabilities are important. I hope all Members support the legislation.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I rise in support of the Help America Vote Act of 2001. I do this with some reservations. However, it is necessary that we pass this bill today. I thank the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) for their persistence in bringing this bill to the floor.

The election of 2000 disenfranchised millions of voters and illustrated the shambles in which we find our current voting system. The right to vote is sacred and guaranteed by the Constitution. This right was made a mockery during the election of 2000. Congress must act to guarantee that every single vote is counted, and that did not happen in 2000.

Many citizens have died trying to secure and protect the right to vote in this country. James Chaney, Michael Schwerner, and Andy Goodman died in Philadelphia, Mississippi, in 1964 because of their efforts to protect the right of others to vote. I will not let their deaths be in vain. I hope that other Members of this body share that sensitivity. The bill is not perfect, but it is a compromise and a work in progress. Let us keep the process alive and vote for this bill. Let us send it to the Senate and allow them to work their will on their side.

The SPEAKER pro tempore. Does the gentleman from Ohio, the manager of the bill, yield for a unanimous consent request?

Mr. NEY. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Speaker, I appreciate the efforts of the gentleman from Ohio (Mr. NEY) and all Members who have been involved in this legislation. Many of us have a concern, however, that although this addresses with some special funding States who have not been as diligent about updating their electoral machinery, although States which have been more apathetic are rewarded under this, there is no reward, no incentive, for States which have been diligent.

My State of Oklahoma is one such diligent State. Oklahoma spent $20 million to create optical scanning voting equipment in every precinct in every county in Oklahoma. I applaud the foresight of our former State election board secretaries, Lee Slater and Lance Ward, in doing so. The amendment, which was intended to be a part of a manager's amendment that ended up not being, is simply to say that States which have funded an optical scanner or electronic system on a state-wide basis would be reimbursed at the same per-precinct rate as States whose equipment we seek to replace under the bill.

REQUEST TO OFFER AMENDMENT

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent to offer the amendment at the desk.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Oklahoma?

Mr. PASCRELL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. CARDIN), the former Speaker of the House in Maryland.

Mr. CARDIN. Mr. Speaker, first, I congratulate the gentleman from Maryland (Mr. HOYER) and the gentleman from Ohio (Mr. NEY) for the manner in which they have brought forward this legislation. Along with the gentleman from Maryland (Mr. HOYER) and other Members of this body, I serve as a representative on the Commission on Security and Cooperation in Europe. That group monitors human rights and democratic issues in the European countries, the United States, and Canada. We have the responsibility at times to monitor elections in developing countries.

□ 1430

My point, Mr. Speaker, is that if our 2000 election was monitored by that body, it would not have passed international standards. I congratulate all that are responsible for bringing forward this legislation because it is an appropriate Federal response to start us down the road to guarantee to the American people that our State election process will, in fact, count every vote. It is the way that we should begin. It is good legislation. I urge my colleagues to support it, but let us not lose sight of the fact that we have a long way to go.

Mr. Speaker, I rise today in strong support of H.R. 3295, the Help America Vote Act. I want to commend the House Administration Committee for working in a bipartisan manner to bring this legislation to the floor. I am pleased to be an original co-sponsor of this very important legislation.

It has been a full year since the contested presidential election of 2000 which tested our democratic institutions. Last year the American people understood that our democratic process is more important than the victor, and the Americans accepted the outcome as final. That said, we must ensure that we as a nation never have to go through such an experience again. There must never be a question as to whether every vote was counted. We are the strongest democracy in the world and every American must be secure in knowing that his or her vote counts.

Mr. Speaker, this landmark legislation authorizes $2.25 billion for fiscal years 2002 through 2004 for payments to states for specified activities related to administering elections. In order to receive federal funding under this program, states must provide at least a 25% match of the federal funds. The bill authorizes the use of funds for states to replace punch card voting systems with more reliable voting systems, or to upgrade their existing voting equipment. Specifically, the bill authorizes $400 million for one-time payments to states or counties to replace current punch card voting machines with more reliable systems in time for the November 2002 elections.

The bill also establishes an Election Assistance Commission, with a $10 million annual budget, that would serve as a clearinghouse for information on federal elections, oversee the development of voluntary election standards, and provide funds to states to improve election administration. The bill also includes provisions intended to facilitate absentee voting by military and other overseas voters.

The bill requires states to adopt minimum election standards, and to make several important changes in their voting systems, including: a statewide voter registration system linked to local jurisdictions; in-precinct provisional voting when questions arise about a voter's eligibility; a system for maintaining the accuracy of voter registration records; uniform standards defining what constitutes a vote on different types of voting equipment; assurances that military and overseas voters will have their votes counted; assurances that voters have the opportunity to correct errors; and practical and effective means for voters with disabilities to cast secret ballots.

Mr. Speaker, I am also aware that for some civil rights organizations that this legislation does not go far enough to ensure every American's right to vote and to have every vote counted. I sympathize with this view, and would like to note that I am a co-sponsor of H.R. 1170, the Equal Protection of Voting Rights Act, introduced by the ranking member of the Judiciary Committee, Mr. CONYERS. H.R. 1170 seeks to strengthen federal Voting Rights Act protections for citizens pursuant to the guidelines set down by the United States Supreme Court in *Bush v. Gore.* In some respects H.R. 1170 goes farther to strengthen voting rights protections than H.R. 3295, and I would therefore urge the Judiciary Committee to mark up and report this legislation to the full House during the second session of the 107th Congress.

However, Mr. Speaker, we cannot allow the perfect to be the enemy of the good. The Help America Vote Act provides unprecedented federal resources to the states to modernize and upgrade their voting systems. The bill also requires states to adopt minimum election standards that will ensure that every vote is counted.

There are other very important provisions in H.R. 3295 that I would like to address.

For example, the bill strengthens existing civil rights protections. The bill is the first legislation to be reported by a house Committee that specifically requires state compliance "with the existing applicable requirements" of the ADA in the administration of elections. By expressly linking the ADA to elections, H.R. 3295 will give courts solid legislative foundation to apply ADA protections to the voting process. Moreover, one of the eligibility requirements for election assistance funding under H.R. 3295 is that there be at least one voting system available in each precinct or polling place that is fully accessible to voters with disabilities. Furthermore, it must be noted that the Help America Vote Act requires states to certify that they are in compliance with the ADA, the Voting Rights Act, the Voting Accessibility for the Elderly and Handicapped Act, and the National Voter Registration Act.

In addition, the legislation addresses the second-chance voting requirement. The bill clearly prescribes that states must adopt an election standards that assures that voters have the opportunity to correct errors. Furthermore, H.R. 3295 requires jurisdictions that currently have voting machines that can detect errors to use that error-detection capability, and that all new voting machines purchased must be capable of detecting errors so that voters may correct possible errors.

The legislation also provides for voter education. Part of the $2.25 billion provided for states authorizes that states to "educate voters about their rights and responsibilities."

In conclusion, Mr. Speaker, Congress and the states have a lot of work to do before the next Presidential election in 2004. Voting is our most basic right, and Congress must take a role to ensure that all states have modern voting equipment that will count every vote accurately and fairly. Anything less than that weakens our democracy. I urge my colleagues to support H.R. 3295 as a critical first step in strengthening our democratic process.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, first I would like to thank the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) and the committee for the terrific job they have done on a piece of legislation that we need to pass.

I rise today to engage in a colloquy with my colleague from Maryland.

Millions of Americans now enjoy the convenience and security of voting at home by absentee ballot or, in my State, through an all vote by mail system. Is there anything in this bill that would define the home as a polling place with the intention of stopping or curbing absentee and at-home voting or, as we know it, vote by mail?

Mr. HOYER. Mr. Speaker, will the gentlewoman yield?

Ms. HOOLEY of Oregon. I yield to the gentleman from Maryland.

Mr. HOYER. I appreciate the gentlewoman's request for clarification. I want to say emphatically, nothing in this bill defines anyone's home, nor do we interpret in any way a home as being included as a polling place with the intention of stopping or curbing absentee and at-home voting.

In recognition of Oregon's all-mail voting law, the bill exempted Oregon and other States with all-mail voting from the provisional voting requirements applicable to polling places. So nothing in this bill should be of concern to your State's all-mail voting process.

Ms. HOOLEY of Oregon. I thank the gentleman.

Mr. Speaker, I include the following letter for the RECORD:

STATE OF OREGON,
STATE CAPITOL,
Salem, OR, December 3, 2001.

Hon. DARLENE HOOLEY,
House of Representatives, Longworth Building,
Washington, DC.

DEAR REPRESENTATIVE HOOLEY: It has come to my attention that H.R. 3295, the Ney-Hoyer elections reform bill, may come to a vote in the House as early as this week. I support this legislation but I request your assistance in seeking clarification on one section of the bill prior to a vote of the House. Clarification of this section could be very important in protecting Oregon's vote-by-mail system, which as you know is supported by an overwhelming majority of Oregonians.

Subtitle B—Voluntary Elections Standards. Section 221 (a)(1)(B), states that "The Standards should provide that voters have the opportunity to correct errors at the precinct or other polling place, either within the voting equipment itself or in the operational guidelines to administrators for using the equipment, under conditions which assure privacy to the voter."

I believe we need a clarification or assurance from the sponsors that they *do not* define the home as a polling place in a vote-by-mail or absentee voting environment. If the standard above were interpreted as applying to a home, it would have the effect of banning Oregon's vote-by-mail system for federal elections and absentee voting for federal elections in all states that allow it. It is hard to believe that the drafters intended to do such a thing, but a clarification could clear up any potential questions.

Thank you for your assistance in this matter. If you have any questions, contact Deputy Secretary of State Paddy McGuire or me at 503-986-1523.

My Best,

BILL BRADBURY,
Secretary of State.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. PRICE), one of our most distinguished members, a professor of political science, the author of many books on politics, who probably understands the election system as well as any of us.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for his kind words, and I am proud to stand in support of this bill.

Mr. Speaker, last year's election revealed dangerous cracks in our voting system. This was most obvious in Florida where a month-long spectacle left Americans skeptical of the fairness and the legitimacy of our election system. But the problems were not limited to Florida. Studies have indicated that the votes of more than 6 million Americans went uncounted during last year's election cycle. The American people deserve better than that. They expect real election reform that ensures that every single vote counts and is counted.

H.R. 3295 takes a significant step toward improving the integrity of the election system and making certain that every vote will count. The bill grants $2.25 billion to help States educate voters about their rights; to improve equipment, ballots, and voter instruction; to recruit and train poll workers, and to improve access for disabled voters. The States would be required to implement basic standards for fair and accurate voting. This would include a statewide voter registration system linked to every jurisdiction, in-precinct provisional voting for voters whose credentials are challenged, and means for voters with disabilities to cast secret ballots.

H.R. 3295 also incorporates and builds on legislation I helped author, the Voting Improvement Act, H.R. 775. In particular, it would provide $400 million, up to $6,000 per precinct, to buy out unreliable and outdated punch card machines, the type of equipment that has the highest error rate.

Punch card machine use is widespread. Thirty-four percent of the American people cast their votes on this kind of machinery, including eight counties in my State of North Carolina. But a 12-year study done by CalTech and MIT found the spoilage rate for punch cards was unacceptably high, almost 3 percent nationwide. That means a million votes have been lost since 1988 due to punch card machine error and malfunction.

Mr. Speaker, now more than ever, we need to make certain that every American can participate fully and with confidence in our democratic form of government. We must ensure that every vote is counted. I urge my colleagues to take a significant step toward achieving this goal by joining me in support of H.R. 3295.

Mr. HOYER. Mr. Speaker, I yield 30 seconds to the distinguished gentlewoman from New York (Mrs. MALONEY) who has done as much for counting every American as anybody in America and who has done as much for overseas voters as anybody in America working with our colleague, the gentleman from New York (Mr. REYNOLDS).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for his kind words and his leadership and congratulate him and the gentleman from Ohio (Mr. NEY) for bringing this important bill to the floor which takes steps to correct the registration balloting and vote counting problems that disenfranchised so many Americans last year.

I also want to thank my good friend from the great State of New York (Mr. REYNOLDS) for being an important voice for the voting rights of Americans living abroad. We introduced a bill together, the Uniformed and Overseas Citizen Absentee Voting Reform Act and many of the elements of this bill are incorporated in the underlying important bill.

Though this legislation isn't perfect it's a positive step toward preventing another presidential election fiasco. The bill includes several improvements to the election process, including authorizing funds to help states and counties replace outdated punch card voting systems. In addition, the bill establishes a minimum standard for state election systems to ensure that votes cast on all types of equipment are counted.

I would like to take a moment to discuss my concerns about the difficulty of Americans living abroad and participating in our election process. Congressman REYNOLDS and I introduced H.R. 1997, the Uniformed and Overseas Citizen Absentee Voting Reform Act of 2001. Though not all of the provisions of that legislation are included in this bill, this legislation does include many helpful provisions.

One would allow an absentee ballot application to apply to two consecutive general federal elections. These applications can be particularly difficult to obtain for overseas residents whose Board of Election in the U.S. do not keep regular business hours.

Another provision requiring the collection and publication of statistics on overseas voting by the states will fill a serious gap in our overseas voting monitoring system. The legislation also contains provisions to promote participation in voting assistance programs. They include providing voting assistance officers on military installations, and designating an office in each state, whose sole responsibility is to provide information on voter registration procedures and an absentee ballot application to any overseas citizen.

Passing the Help American Vote Act of 2001 would be a victory for the Democratic process. I urge a "yes" vote.

Mr. NEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise today in support of the Help America Vote Act and would like to commend Chairman NEY and Ranking Member HOYER for their unyielding and bipartisan work on this important legislation.

I also want to commend my colleagues who have taken to the floor today to talk about an issue that many of us 12 months ago would have found much more contentious than we have heard today. Long before there were wars and long before threats of anthrax on this Hill, we found ourselves locked as a Nation in a battle over the very integrity of the electoral process in America. In a bipartisan way, Chairman NEY and Ranking Member HOYER and the members of the relevant committee have come together and said, here is how we can come together to improve the very integrity of the electoral system, leaving past controversies over elections in the past, where they belong.

The Help America Vote Act will allow us to strengthen voter list management, voting standards, overseas military votes and even encourage the Nation's youth to participate more in our elections. And without encroaching upon States' rights in elections, we will also provide much needed resources for new machines.

I urge all of my colleagues to support this important bipartisan measure and strengthen the American voting system.

Mr. HOYER. Mr. Speaker, it gives me a great deal of pleasure to yield 1¼ minutes to the distinguished gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), chair of the Congressional Black Caucus.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, let me quickly express my appreciation for the leadership of the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER). It has not been an easy job for them, and I understand that because I have been in touch this entire year. They have reached out and attempted to address what we consider a very fundamental right in any democracy, and most especially this one.

Winning and losing is all a part of a democracy. All of us can accept that, as long as we know that we can look upon this board and count the numbers correctly and get the results. The least we ask is for when people vote, that their votes be counted. We must make sure that their votes can be counted with the machinery that is needed.

I can appreciate the positive points in this bill of assisting those States who need assistance to implement this bill. I am hoping that as this bill moves along that it will be corrected and improved with more collaboration with the Senate side in conference. I do feel, however, that this is a step in the right direction.

Mr. HOYER. Mr. Speaker, I am pleased to yield 30 seconds to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER). After the Florida election debacle, we deserve a response. I would only say that this is a step in the right direction. The gentleman from Maryland knows that I would have voted against the rule and I am supporting the motion to recommit to address the disabilities issues and a lot of the civil rights issues, not specifically addressed in the Election Reform bill. I believe that this Congress must have a bill that can be signed by the President that includes the Conyers and Dodd legislative provision on Election Reform. But I do believe we have made the right decision to address the need for Election Reform by debating this legislation today.

Let me close by saying no matter what we do in election reform, we have to make sure we have a national holiday. I hope we will address H.R. 934 that provides us a national holiday that is different from Veterans Day to ensure that we all can vote, but we must move forward so that we can answer the questions raised by of the American people by confirming that every single vote must count.

Mr. Speaker, last week the House Judiciary Committee held a hearing on H.R. 3295, the "Help America Vote Act of 2001" and addressed one of the most important issues in America today: electoral reform.

I was pleased that the Judiciary Committee continued to address this serious issue, so that we can finally remedy the systemic disenfranchisement of voters evinced most dramatically and tragically by the 2000 presidential election.

The need for comprehensive electoral reform legislation is great. According to a report issued by Caltech and MIT, as many as 6 million Americans were denied their fundamental right to vote and to have their votes counted. More recently, in last month's Houston Mayoral runoff in Harris County, Texas, which I represent, a computer problem cut off access to the county's voter registration data base. As a result, voters were either turned away from the polls or were told by election officials that they could only vote if they had voter registration cards. Many could not vote at all.

The legislation before us today, H.R. 3295, is one of numerous efforts to reform a system which clearly needs fixing. As the Chair of the Congressional Election Reform Caucus, I applaud such efforts and would like to thank Congressman NEY and HOYER for their efforts. However, I am concerned with several problematic provisions in the bill which have the potential for the bill to fall short of the kind of comprehensive legislation that would ensure that every American's vote is cast and counted, particularly the aspect of the legislation that makes these standards voluntary and not mandatory.

I am particularly offended by the decision of the Rules Committee to preclude amendments to this legislation which would remedy several provisions that need correcting. For example, under Congressman MENENDEZ's proposed amendment, provisional voting which would help eliminate voting disparity, would have been included in the bill. Similarly, an amendment by Congressman DANNY K. DAVIS would have addressed the very serious problems of voter intimidation and fraud. Unfortunately, because of the closed rule, productive provisions like these will not appear in this bill.

Opponents of this bill in its current state make a compelling argument that it may actually reverse voting protections as provided under current law. First and foremost, the bill lacks standards requiring accessibility to voting for language minorities, disabled voters, and the elderly. Additionally, the bill lacks standards for voting rights education and for educating voters as to where and how to vote. Moreover, the minimum standards included in the bill are generally unenforceable because actions can only be taken against a state for failing to meet "standards" if the newly created federal agency receives credible information that the state has submitted false information. As such, the new agency would have no authority to gather information from the states.

Other problematic provisions are numerous. For example, the bill fails to ensure that Americans are allowed to cast important provisional ballots where their eligibility is questioned at the polls. The bill fails to ensure, regardless of race or ethnicity, that the voters have access to voting machines that perform accurately. The bill also deviates from current federal law by allowing for voter names to be "purged" from the voting rolls, and fails to provide protections ensured by computerized statewide voter registration lists. Finally, the bill fails to ensure that voters with disabilities are adequately assured of their voting rights, and fails to ensure that all voters have access to machines that are easily and universally operable.

Alternatively, I believe that we should strongly consider the recent bi-partisan efforts of Senators DODD and DASCHLE, and Representatives CONYERS and MORELLA in their recent introduction of S. 565/H.R. 1170, the "Equal Protection of Voting Rights Act". This bill would provide greatly needed grants to states and localities for federal election administration systems that are part of state plans developed by the Governors and approved by the U.S. Attorney General. The requirements in the above legislature, S. 565/H.R. 1170 are mandatory. I am an original co-sponsor of that legislation.

Under H.R. 1170, states would have to include uniform national standards for accessibility, nondiscriminatory standards addressing election technology, provisional voting and sample ballots, and would be mandated to provide funds for voter education and worker training programs. Additionally, a truly bipartisan Commission on Voting Rights and Procedures would be created, consisting of 12 members; 6 appointed by the President, 3 appointed by Senate Minority Leader, and 3 appointed by House Minority Leader. The Commission would examine issues, develop "best practices" and issue a report within one year.

The report would include consideration of the best ways for the federal government to permanently assist state and local governments. H.R. 1170 is an important effort on behalf of America's right to vote deserving of all of our support.

Additionally, I would like to raise several key issues not addressed in either bill which are deserving of our attention. First, beyond the egregious voting irregularities already noted, millions of Americans were denied their fundamental right to vote simply because they were unable to vote due to prior work commitments. This is the phenomenon of voting disparity present in most elections in America between those who can afford to take time off work to vote and those who cannot. In fact, this perpetual disparity threatens the very fabric of our representational democracy.

In August, 2001 the non-partisan National Commission on Federal Election Reform, also known as the "Ford-Carter Commission" attempted to remedy this problem when it issued its policy recommendations with respect to electoral reform. Its premature recommendation for an Election Day holiday was as follows: "in evenly numbered years the Veterans Day national holiday be held on the Tuesday next after the first Monday in November also serve as our Election Day."

I take exception with this recommendation because it is precisely because of the sacrifices made by our Nation's Veterans for our freedom, our flag, and the American people that we are today able to vote. Their sacrifice, particularly in light of the September 11 attacks and the ongoing war on terror, reminds us that we cannot take our freedoms and democracy for granted. As such, this important day should be preserved and honored at all costs. That's why, on March 7, 2001 I introduced H.R. 934 which ensures that the fundamental right to vote is guaranteed to every citizen of the United States without interference with Veterans Day. H.R. 934 establishes Presidential Election Day on the Tuesday next after the first Monday in November in 2004 and each fourth year thereafter, as a legal public holiday so that all Americans can vote irrespective of their economic status. Importantly, it also recognizes the sacrifices of Veterans and the sanctity of Veterans Day by ensuring that Election Day never falls on Veterans Day.

I feel strongly that these issues should be noted in any discussion related to electoral reform.

While I thank the sponsors of H.R. 3295 for their efforts to reform our badly corrupted election system, the bill is lacking in several key areas, where other bills do not. The many areas for improvement in this bill should be addressed.

Mr. HOYER. Mr. Speaker, it gives me a great deal of pleasure to yield 1 minute to one of my very good friends in this House, the gentlewoman from Florida (Mrs. MEEK), who represents so ably South Florida, a former member of the State Senate.

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER) and the gentleman from Ohio (Mr. NEY) for giving me this opportunity. It took me a very long time to get here. My father and my mother could not have stood here and expressed themselves as I am going to do today. I am thankful for that opportunity. It could be better, but we are at the point now to make it as good as we can.

Some good writer said a long time ago that perfect should not be the enemy of the good. I repeat it. Perfect should not be the enemy of the good. This bill is not a perfect bill, but it is a very perfect step. Many of the things that we have wished for and as I stood with my poor colleagues and poor constituents in Florida on Election Day, had you been there with me, you would have been happy today to come here and say "yes" on this bill, because you will have told this country you have helped America understand that even though how lowly or where they come from or what their nationality is, that this Congress would one day address this, even if by minimal standards only.

I want to thank again the gentleman from Maryland and the gentleman from Ohio for this bill.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DAVIS), one of the members of the Committee on House Administration who, as a freshman, was the Democratic leader with the Republican leader that worked together on election reform. He has been one of the most tenacious and effective advocates of meaningful election reform.

Mr. DAVIS of Florida. Mr. Speaker, at stake on Election Day was not just the selection of Al Gore or George W. Bush as President of the United States. What was at stake was the legitimacy of the process by which we made that choice. The bitter truth is that in Florida, my home State, the margin of error exceeded the margin of victory. Our fragile and somewhat faulty election system collapsed under the weight of the most closely contested presidential election in my lifetime.

The ultimate tragedy was that one year ago today when the Supreme Court effectively ended the recount, many Americans who voted on the losing side of that race had lost confidence in the legitimacy of the process. My State, Florida, as well as many other States, has been through as much soul searching on this problem and how to avoid repeating it than probably any State in the country. We came to some clear conclusions that were adopted in a State law that was enacted in Florida earlier this year. The crux of that solution, which is addressed in this bill today, is to replace the punch card machine with a technology that allows the voter the opportunity to verify that his or her vote is both complete and accurate.

This bill authorizes $400 million to Florida and States across the country to make that change. At a time in which the economy is dipping and State and local revenue is at a shortage, it is more important than ever that we adopt this bill and appropriate the entire $2.65 billion not just to replace the punch card machine but to educate voters, to train and recruit poll workers so that what happened in Florida will never happen again throughout the entire country. And when we have the next election for President or any election, regardless of how people vote, they will have confidence in the legitimacy of the process by which we as a democracy select our leaders.

Mr. HOYER. Mr. Speaker, I yield 30 seconds to the gentleman from Virginia (Mr. MORAN).

□ 1445

Mr. MORAN of Virginia. Mr. Speaker, the greatest democracy in the world deserves the best and most equitable electoral system. This bill will restore voter turnout and, most importantly, voter confidence. What happened a year ago was neither fair nor right. It was not fair to either of the candidates. This will ensure that we have fair, equitable elections; and I strongly urge unanimous support for this bill.

This legislation will ensure that all votes cast in elections count. It will assure that all states must meet minimum voting standards. It will also establish a new federal agency, the Elections Assistance Commission, to develop standards for voter registration, voter assistance programs for those citizens who serve in the military or live abroad, and vote counting.

The Ney-Hoyer bill also mandates that those jurisdictions that are receiving funds under the punch card replacement program, must consider the use of new technology by citizens with physical disabilities such as blindness.

Let us send a message to the American people, to our students and newly naturalized citizens eager to vote for the first time. Let that message be that we will build the best, most equitable electoral system possible.

This legislation is our best chance of increasing voter turnout and voter confidence in our electoral system.

I urge my colleagues today to vote for fair, democratic elections, by voting for the Help America Vote Act of 2001.

Mr. HOYER. Mr. Chairman, I yield myself 40 seconds to enter into a colloquy with the gentleman from Ohio (Mr. NEY).

Mr. Speaker, I have heard from some individuals who are concerned, as I am, that the section in this bill that clarifies the National Voter Registration Act, section 902(a), does not make reference to subsection (e) of 1973gg-6 of that act.

Is it the gentleman's understanding that this subsection (e) will remain in full force and effect with the passage of this bill?

Mr. NEY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Ohio.

Mr. NEY. To answer the question, Mr. Speaker, and to my distinguished colleague, yes. As the bill says in section 903, nothing in this bill shall supercede, restrict or limit the application of NVRA. Of course, subsection (e) remains in the law in full force and effect exactly as it is now, and this bill would not change that.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman. I would say to my colleagues that I am very concerned about provisional voting. It needs to be real. That is why I took such care to make sure that the National Voter Registration Act, known as motor voter, was not adversely affected in any way. I appreciate the chairman's assertion.

Mr. Speaker, I am pleased to yield 30 seconds to my friend, the gentleman from New York (Mr. BOEHLERT), I might say at the request of my distinguished chairman. I am pleased to accede to his request.

Mr. BOEHLERT. Mr. Speaker, the gentleman is getting much too conservative in his advanced years.

Mr. Speaker, I am especially pleased that the bill includes provisions of H.R. 2275, our Committee on Science's bill to reform voting technology standards. Standards are technical and arcane and obscure and sometimes even boring, but they can make the difference between having voting equipment that correctly tallies the public's votes and sowing confusion and chaos.

Our bill gives the lead role in developing standards to the National Institute of Standards and Technology, which is a premier Federal lab with unparalleled expertise in standards. We ensure that the best technical minds in the country will work with Federal, State and local officials on developing standards and on certifying the labs that will determine whether the standards are met.

The SPEAKER pro tempore (Mr. LAHOOD). Both sides have 2¼ minutes remaining. The gentleman from Ohio (Mr. NEY) has the right to close.

Mr. HOYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. JACKSON).

Mr. JACKSON of Illinois. Mr. Speaker, I rise in strong opposition to H.R. 3295. As it is currently drafted, the Help America Vote Act of 2001 plainly fails to address the grave problems so many Americans faced in the 2000 elections and continued to fact this year.

In our democracy, we must apply a gold standard when it comes to creating a fair, effective, and efficient electoral system. Americans citizens have fought, bled and died to protect all citizens from discrimination in their ability to vote. Therefore, the bloodied nose of the Rev. C.T. Vivian, and the use of fire hoses and the jailing of children to prevent some Americans from voting, must not be forgotten. The deaths of Schwerner, Goodman and Cheney must not be in vain. The struggle and advances in the 1965 Voting Rights Act and its extension and expansions in 1970, 1975, and 1982 must not be undercut. The Motor Voter Act must not be made less effective.

Congress needs to ensure that when it passes election reform legislation it truly solves the problems that voters throughout our nation encounter as they cast their ballots. Comprehensive electoral reform must move us forward with minimum mandatory standards that ensure uniformity and nondiscrimination. Under these standards all voters must have effective machinery that allows them to cast the vote they intend and to correct their ballot if they make a mistake. Comprehensive electoral reform must guarantee that legally registered voters are not erroneously purged from registration rolls, that voters are notified of and given the opportunity to cast provisional ballots, and finally, it must require that voters are informed of their rights under state and federal law. The one bill that goes the distance and addresses these problems head on is the Equal Protection of Voting Rights Act of 2001, introduced by Senator CHRISTOPHER DODD and Congressman JOHN CONYERS.

A simple examination of the details of the Help America Vote Act makes clear that there are serious problems that prevent it from bringing about true election reform and which actually take steps backward.

H.R. 3295 has inadequate minimum standards for machinery. It does not ensure that voting systems, even those newly purchased with federal monies, will be accessible, give the voter notice of overvotes and undervotes and the opportunity to correct their ballot before it is cast, and will meet a national error rate standard. Comprehensive electoral reform must provide these minimum requirements for all voting machines if it is to correct the problems that voters all over our nation faced on election day 2000 and 2001.

H.R. 3295 creates a loophole that allows states to opt out of provisional balloting. Provisional balloting is critical to ensure that registered voters have the ability to cast provisional ballots when there is confusion over issues of registration, identification or voting rights at the polling place. H.R. 3295 allows states to adopt "an alternative" to provisional balloting which in practice will undermine the access to and uniformity of provisional ballots. Furthermore, H.R. 3295 does nothing to guarantee that voters are aware of their right to cast a provisional ballot. More often than not, election officials do not provide adequate notification to voters that they can cast a provisional ballot. Therefore, for a provisional ballot measure to be meaningful and be a true safeguard, as it is intended to be, it must require that election officials notify voters that they can receive a provisional ballot and also notify the voter of the final result. Problems with registration cannot be remedied unless voters know whether their ballot is counted.

H.R. 3295 rolls back existing federal law that protects people from being purged if they have not voted. Two provisions in H.R. 3295 take a significant step backward to undermine the protections provided to voters against purging for erroneous information. These provisions turn the National Voter Registration Act of 1993 (the "NVRA") on its head by allowing state officials to remove individuals from registration lists because they have not voted in two successive federal elections and then don't respond to a notice. Current federal law does not allow voters to be purged from the rolls for not voting. However, the language of H.R. 3295 appears to allow such a practice and specifically amends a section of the National Voter Registration Act to change language which prevents voters from being purged for not voting. (See H.R. 3295, Section 502(2)(a) and Section 902(a)). Under these provisions, voters will be disenfranchised because the result of the purge is that they are not properly registered and, thus, cannot then have the safeguard of a provisional ballot to vote.

Additionally, H.R. 3295, as it is currently drafted, also eliminates the "fail safe" provision of the NVRA which allows voters to correct erroneous information that caused the purge and then confirm their address in writing so that they can cast their ballot at the polling place. (42 U.S.C. § 1973gg–6(g)). Without this provision voters can be removed from the polls with no opportunity to correct inaccurate information and will also not be able to cast an effective provisional ballot because the erroneous registration information drops them from the registration list so election officials will be unable to count the provisional ballot.

Finally, H.R. 3295 does not require full compliance with federal voting rights laws and offers no check on states to make sure they are in compliance. It is essential to election reform that as states contemplate how they will spend federal money there is a means to ensure that they are currently in compliance with existing federal voting rights laws. H.R. 3295 offers no such provision. This bill by simply allowing states to self certify their compliance, and only in area of "administering election systems" (which narrows where states need to be in compliance), offers no real protection for taxpayers as states spend millions of federal dollars without having to be in compliance with federal law. True election reform must have in place a mechanism that requires the Attorney General to check for compliance prior to releasing funds for electoral reform.

These provisions make clear, and other elements of the legislation confirm, that H.R. 3295, cannot meet the concerns and problems that voters continue to face at polling places around the country. Going part of the way, as H.R. 3295 would have us do, and turning back the clock on important current voting rights laws, is not an acceptable legislative compromise, but a compromise of principle of the right to vote. True election reform must safeguard existing law and then move to solve the problems

I urge members to vote "no."

Mr. HOYER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have come to a time after 11½ months of work on a bill which, although there is still controversy attached to it, has created, I think, great consensus. That consensus has been articulated on this floor, and that consensus is a conviction that every American ought to be assured the right to vote, full access to the polls and education so they know what they are voting for or against, and assistance in making sure that their vote is accurately cast.

In addition, we dedicate resources to ensure that the technology, once that citizen has voted, to make sure that that citizen's vote is correctly counted. As has been said on both sides of the aisle, it is central to democracy that that happen.

The former Governor of Delaware, one of our most respected colleagues, the gentleman from Delaware (Mr. CASTLE), said it best, that when on election day we vote and Americans go to the polls, both Presidents and paupers go to the polling place, and each will have his or her vote counted, and it will count equally.

That is the majesty of America; that is the general use of our democracy. That is central to our philosophy, and it must be our continuing commitment. For when one American's vote is not counted, when one American is prohibited by whatever means from coming to the polls, from casting their ballot, from participating in democracy, we lessen that democracy, and we lessen the promise of our Founding Fathers.

The gentlewoman from Florida (Ms. BROWN) said it best I think on this floor: "This bill perhaps is not perfect, but it is," as she said, "a perfect beginning."

Mr. Speaker, I urge all of my colleagues to vote for the Help America Vote Act.

Mr. NEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I would like to thank the gentleman from Ohio (Chairman NEY), the gentleman from California (Chairman THOMAS), the gentleman from Maryland (Mr. HOYER), the gentleman from Rhode Island (Mr. LANGEVIN), and the gentleman from New York (Mr. REYNOLDS) for their support for my language which will allow polling places near military families.

This language clarifies an arcane statute that outlaws "military presence at voting facilities." It allowed the Department of Defense to vastly overreach their legislative authority in 1999 to ban polling on military bases. Nothing damages the military franchise more than this action.

The U.S. Code that our language amends was enacted in 1865 in response to irregularities during the 1863 elections. At that time it was an appropriate response. However, the 1999 DOD interpretation made voting for our men and women in uniform very difficult. When the DOD issued the directive to base commanders banning voting, it forced existing polling places to be closed; and according to CRS in an April 2000 survey, at least 20 States had to close polling places that were vulnerable. Some of these places had been voting for over 15 years.

It is time to return control of voting to local officials. I applaud the gentleman for putting this in and assuring that our military franchise is upheld.

Mr. NEY. Mr. Speaker, I yield 25 seconds to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, both sides had problems with the election. I think the number one thing that upset me was the dispatchment of hundreds of lawyers trying to disenfranchise our military from voting based on technicalities. I am also glad that this bill allows our military to vote on bases, because many of those young men and women cannot get off base for transportation. I want to thank both Members for this.

I would also like to thank the gentleman from Ohio (Mr. NEY) for during the anthrax scare on the Committee on House Administration, for his team working diligently with the gentleman from Maryland (Mr. HOYER) in correcting that.

Mr. NEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in conclusion, let me just say that our patriots who founded this country and the veterans have over the years sacrificed for the greatest democracy, which we are humble to be a part of.

Langston Hughes, the great American poet, said, "Dream your dreams; be willing to pay the sacrifice to make them come true."

Many people have sacrificed to have our democracy so we can have our debate. What we are doing today is coming together to keep that dream alive, to keep it moving, and to help America vote.

I urge support of the bill.

Mr. HOYER. Mr. Speaker, I submit for the RECORD a clarification concerning Section 502(7) on line 16 of H.R. 3295, Union Calendar 201, regarding the term "error." In using the term "error", the Committee on House Administration referred to the findings of the National Commission on Federal Election Reform, also known as the "Ford-Carter Commission."

The Commission's definition of "error" is set forth in the accompanying letter from Philip Zelikow, executive director of the National Commission on Federal Election Reform, to me and dated November 16, 2001. It responds to a letter sent by me dated November 14, 2001. In complying with the Minimum Standard, the Committee on House Administration expects states and jurisdictions to buy voting machines that detect errors of the kind described in the letter, commonly referred to as "overvotes," "undervotes," and "residual votes."

The two letters follow:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC, November 14, 2001.

Mr. PHILIP D. ZELIKOW,
Executive Director, The National Commission on Election Reform, Charlottesville, VA.

DEAR DIRECTOR ZELIKOW: In an effort to craft Federal policy addressing electoral reform recommendations contained in the Commission's report, the Commission's use of the word "error" has sparked much attention and debate. I would very much appreciate a response containing a definition of what the Commission contemplated in using the word "error" in the context of the Ford—Carter Commission report. I will use your letter to establish the legislative record regarding electoral reform legislation.

With kindest regards, I am
Sincerely yours,
STENY H. HOYER.

THE NATIONAL COMMISSION
ON FEDERAL ELECTION REFORM
November 16, 2001.

Congressman STENY HOYER,
House of Representatives, Longworth Office Building, Washington, DC.

DEAR CONGRESSMAN HOYER: Thank you for your letter of November 14. You asked how the Commission defined voter error in the context of the Commission's report.

In its discussions the Commission viewed voter error as occurring when a voter casts a ballot for a candidate whom the voter had not meant to choose, or when a voter unknowingly invalidates a ballot, or when a voter inadvertently fails to register a choice while having wanted to make one. Voters being human, not all voter errors can reliably be detected or avoided. Voter error also presents itself in many ways, depending on the voting systems and administrative practices in different jurisdictions. But the Commission did find that there are ways to reduce the likelihood of error. These include voter education, better equipment, improved software and ballot design, and more uniform and objective definitions of that actions will and will not be counted as a vote for each category of machine. All of these subjects are addressed in your current bill, H.R. 3295.

Please contact me if I can be of any further assistance.

Sincerely,
PHILIP ZELIKOW,
Eecutive Director.

Mr. HOEFFEL. Mr. Speaker, I rise in support of H.R. 3295, the Help America Vote Act of 2001.

The 2000 presidential election demonstrated the need for reform of the nation's electoral system.

There is no doubt that tens of thousands of voters were disenfranchised in the election. It is quite probable that similar numbers have been disenfranchised in other elections, but the closeness of the 2000 presidential election highlighted the problem like no other.

A nation that can launch a craft to a space station hundreds of miles above the earth, should be able to count every ballot accurately.

I believe the federal government must take a leading role in this effort by establishing minimum voting standards and providing funding to modernize voting systems. When you introduce technology into an election, it leaves room for error. My Congressional district is a clear example of this.

Prior to my election to Congress in 1998, I served for seven years as a County Commissioner in Montgomery County, Pennsylvania, a County of over 700,000 people. During my tenure, I supervised the replacement of the old, mechanical voting machines in Montgomery County with those using the more modern advanced touch screen technology that are widely recognized as the most reliable voting machines in terms of accuracy of vote tabulation.

A Congressional study of the rates of uncounted votes in 40 congressional districts nationwide found that voters in Montgomery County were less likely to have their votes discarded than voters in most of the other districts surveyed. These results are directly attributable to the modern voting machines used in Montgomery County.

This bipartisan legislation before us today is not perfect; no bill is. However, H.R. 3295 is a good starting point to ensure that every vote is counted.

This legislation authorizes a total of $2.65 billion for federal election reform.

The Help America Vote Act provides states that use punch card voting systems with funding to replace these outdated and unreliable machines. Punch card machines produced the controversial "hanging chads" which illustrate how flawed our system of electing Presidents can be.

H.R. 3295 also requires states to adopt minimum election standards, including a statewide voter registration system, in-precinct provisional voting, assurances that voters who make errors will be able to correct them, and means for disabled voters to cast secret ballots on new voting equipment.

Mr. Speaker, I urge passage of the important legislation.

Ms. SCHAKOWSKY. Mr. Speaker, one year ago today the Supreme Court, by a vote of 5–4, determined the outcome of the 2000 Presidential election. Today, the U.S. House of Representatives, by considering the Help America Vote Act, is taking a measured step forward to ensure that future elections will be decided in the polling place instead of the courthouse.

During the 2000 election, six million votes were not counted and voters were turned away at the polls, harassed, or intimidated. The American people expected that, by now, Congress would have taken action on election reform so that history would not repeat itself. But until today, we have not.

I traveled the country with my colleagues, including Representative MAXINE WATERS, Chairperson of the Democratic Caucus Special Committee on election Reform, and met with disenfranchised voters, who demanded that the federal government repair the deficiencies of the last election. And we should have delivered on that demand months ago by passing the Equal Protection of Voting Rights Act of 2001, a comprehensive reform bill introduced by Representative JOHN CONYERS. That legislation, which is endorsed by civil rights, labor, disability and voter rights organizations, is the benchmark for true reform. It thoughtfully addresses concerns raised during last year's election, including voter records, accessibility, and equal opportunity at the voting place.

Now, with less than a year before the next general election, Congress is running out of time. The Equal Protection of Voting Rights Act is not scheduled for consideration by the House, and what is before us is the Help America Vote Act of 2001. By passing this bill, we are moving the legislative train out of the station. While the Help America Vote Act contains provisions I strongly support, including funds to help states improve some aspects of their election systems and to involve younger voters in the process, I believe this bill contains flaws that must be addressed.

I am concerned that the Help America Vote Act is broad and ambiguous and does not give clear direction to states, particularly in regards to provisional voting. I will work to strengthen that section of the bill. In addition, I strongly believe that Congress must set federal minimum standards to ensure that no eligible voter is denied the right to vote. However, the standards in the Help America Vote Act do not go far enough to ensure that all voters with disabilities have access to the polls and to guarantee that all machines notify voters of undervotes and overvotes. Furthermore, the legislation does not require states to provide adequate voting machinery to poor and minority districts.

This legislation is not the final answer to our election woes. As a matter of fact, far from it. However, this bill puts Congress squarely on record as supporting a measure of election reform. I commend the Democratic author of the bill, Representative STENY HOYER, for his dedication, and I pledge to work with him and my colleagues, including civil rights and election reform leaders MAXINE WATERS and JOHN CONYERS, to ensure that the final product truly addresses the serious flaws that resulted in last year's election fiasco. Every American is entitled the right to vote and the right to have his or her vote counted.

Mr. FORBES. Mr. Speaker, as a cosponsor of the Help America Vote Act, I rise in strong support of this landmark bipartisan legislation.

My home state of Virginia was one of the few states to hold an election this year. Thankfully, there appear to have been no major problems revealed in the administration of that election. But, the memories of the 2000 election are still fresh in the American mind and it is clear that we as a society must address the flaws that were revealed in that election cycle.

The Help America Vote Act is a fair and reasonable compromise on an issue that is still being hotly debated and considered in states across the nation. It provides $400 million in federal funds for a buy-out of the infamous punch card ballot machines. Great and honest minds can disagree about whether these machines have a substantially higher rate of error than other systems. But, one thing is absolutely clear: The American people have no faith in punch card ballots. There are strong alternatives available, and this federal funding will enable communities large and small to afford those alternatives.

The bill also provides a mechanism for getting more people involved in the civics of elections. We all agree that voting is an important civic duty. But, our responsibility as citizens does not end there. Voting only works when good people step forward and participate as electoral officers at polling places. These are the non-partisan assistants who give up a full day of work or personal time to make the process work. Unfortunately, the number of people who are participating in this way is waning. The Help America Vote Program and Help America Vote Foundation established by this legislation will go far to bring more people into this process.

I am also very pleased, Mr. Speaker, that this bill includes provisions of the voting standards legislation produced be the House Science Committee, of which I am a member, earlier this year. Debates about standards are arcane and technical, but they are vitally important to ensuring that the procedures we put in place work.

I am proud to be a cosponsor of this legislation, and I urge my colleagues to support it toady on the floor.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3295, the Help America Vote Act of 2001, which will effectively implement long-needed minimum election standards throughout our Nation. The flaws within our current system became widely evident during the 2000 Presidential election season. I had the opportunity in November of 2000 to serve along with some of my congressional colleagues as an observer during the Florida recounts. During that process, I observed first hand the problems of utilizing the antiquated punch card ballot.

Accordingly, following that election I joined my colleagues in calling for a broad and practical revision of the system. I commend my colleagues, the gentleman from Ohio Mr. NEY and the gentleman from Maryland Mr. HOYER in crafting a bi-partisan bill that addresses those concerns.

H.R. 3295 will provide individual States with the means to replace antiquated voting machines with newer, and more modern voting technology. Moreover, this legislation establishes a nonpartisan election assistant commission which will oversee the Nation's federal election process and ensure that minimum standards are being followed in federal elections. The commission will also implement a reporting procedure to ensure that individual States satisfactorily provide information to members of the armed services concerning absentee registration and voting in the state.

Also notable in H.R. 3295 is the "Help America Vote College Program" which encourages university students to take a more active role in our Nation's democratic election process by serving as nonpartisan poll workers or assistants. In promoting active and participatory public service by our Nation's young adults, our Nation's democratic tradition will be strengthened.

I thank my colleagues Mr. NEY and Mr. HOYER for introducing this timely and important legislation. It is high time we implement real reform in our Nation's election system. I am pleased to be an original co-sponsor of this bill and I urge my colleagues to support this measure.

Ms. HARMAN. Mr. Speaker, I rise in strong support of HR 3295, the "Help America Vote Act," introduced by my colleagues, BOB NEY and STENY HOYER. The bill before us is an important step in reforming our electoral process and rebuilding public confidence.

We are well aware that our administration of elections was tested by last year's presidential election contest. The American political system proved resilient, but not before putting many aspects of the election process under a microscope. That microscope revealed many problems, beginning with ballot design, voting machines, and the rules by which registration lists are respected and ballots counted. Most importantly, those problems were not isolated in one or just a few states.

The election fiasco did have the benefit of returning to the legislative agenda the issue of election reform. Beginning with the National Commission on Federal Election Reform and culminating in this bill, the cause of reform has taken significant strides since last November. We must continue that momentum.

Like the main sponsors of the bill, I believe we need to enact a bill that improves the balloting process before the 2002 elections. If we stake out the perfect positions—however principled—we could well face the same kind of delays and difficulties that prevented for months enactment of a much-needed aviation security bill. Election reform is needed and we must use the sense of urgency to achieve results, and achieve them quickly.

Importantly, the bill before us starts with the premise echoed in the Article I, Section 4 of the Constitution that "the times, places and manner of holding elections . . . shall be prescribed in each State."

This admonition is balanced against language in the same Section of the Constitution simultaneously giving Congress the discretion to alter such regulations. And, in fact, the exercise of that Congressional authority has been critical to protecting our citizens' right to vote and ensuring the basic fairness and integrity of the election process. H.R. 3295 is part of that historic legacy.

For my own State of California and County of Los Angeles, passage of the bill is critically important. Several months ago, California Secretary of State Bill Jones decertified every one of Los Angeles County's punch card machines. This means that Los Angeles County, the largest election jurisdiction in the United States with over 4 million registered voters, must purchase and install tens of thousands of new machines under an incredible time constraint. Conny McCormack, the Country Registrar-Recorder, estimates that replacing the machines will cost more than $100 million—an impossible financial burden without federal assistance.

H.R. 3295 provides that assistance—more than $2.6 billion to improve election systems through poll worker training, access for disabled, and removal of punch card ballot machines. In doing so, the bill strikes the right balance in setting out the federal government's role in this partnership by requiring every state to be in compliance with minimum standards.

These minimum standards will ensure that voter registration rolls be accurate and complete, making them less vulnerable to fraud and incorrect removal of eligible voters. The minimum standards will also allow for inprecinct provisional ballots, so that a voter who believes he or she has been wrongfully removed from the voter rolls will have the opportunity to immediately cast a ballot and have their eligibility determined later. The standards required by the Act will assist both military and overseas voters as well as voters with disabilities. Furthermore, the Act leaves every one of the existing, landmark voting rights laws intact and strengthens compliance.

Mr. Speaker, as a mother, I am well aware that perfection is not an option. The bill is endorsed by an impressive list of individuals, including California's Secretary of State, Bill Jones, who said the "measure makes a critical investment in the foundation of our Republic." It is also supported by the co-chairs of the National Commission on Election Reform—Presidents Carter and Ford, Bob Michel and Lloyd Carter—who said in a recent Washington Post op-ed, that the commission's "most important recommendations are fully adopted in (H.R. 3295)."

I urge prompt passage of H.R. 3295.

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 3295. The 2000 Presidential election was a source of great controversy and diminishing confidence in our electoral system. Voters have a broad range of concerns resulting from the 2000 election, including outdated voting machines and procedures, potentially confusing ballots, allegations of ballot tampering and biased reporting, disenfranchisement, and the use of unethical practices to garner votes. Above all, the 2000 election made clear to all Americans that the election process in many parts of this country must be reformed.

I believe this legislation is a good start at correcting the flaws in our electoral system. This legislation authorizes $400 million to buyout the punch card voting machines that caused so many problems during the 2000 Presidential election. In addition, H.R. 3295 authorizes another $2.25 billion over the next 3 years to aid states in acquiring new voting equipment and improving their electoral systems with help and monitoring from a new, bipartisan Federal Election Assistance Commission.

Furthermore, I support this bill because it establishes minimum standards for state election systems, enforced by the Department of Justice and the Federal Election Assistance Commission, that would require states to have a voter registration system linked to local jurisdictions in the state, adopt uniform standards defining what constitutes a vote on the different types of voting equipment, ensure that absent uniformed and overseas voters have their votes counted, and give voters the opportunities to correct errors before they leave the polling place.

Finally, H.R. 3295 creates a small grant program which trains college and high school students to work at the polls on election day, thereby filling a crucial shortage of election personnel and encouraging participation among young people in the electoral process.

Mr. Speaker, I acknowledge this legislation could do more to help minorities and disabled Americans, many of whom were disenfranchised during the 2000 election. I expect changes to be made to this legislation during consideration in the Senate, and will support stronger provisions as a final version is crafted. However, this legislation moves the process forward and that is critical at this time. For these reasons, I support this legislation and encourage my colleagues to do the same.

Mr. REYES. Mr. Speaker, I urge my colleagues today to vote against H.R. 3295, the Help America Vote Act. While this bill makes efforts to improve our electoral system, I oppose it because it fails to provide key safeguards that ensure every voter will be able to cast a ballot and have that ballot counted.

As the Chair of the Congressional Hispanic Caucus, I proudly support the election reform principles our Caucus adopted earlier this year. Thanks largely to the hard work of Congressman CHARLIE GONZALEZ, who chairs the Hispanic Caucus' Civil Rights Task Force, we developed a set of principles which state that election reform should include minimum standards, guarantee accessibility for language minorities and the disabled, provide for provisional ballots, and establish a voter bill of rights.

Unfortunately, H.R. 3295 fails to adequately address these principles, which are tremendously important to Hispanic voters and those who expect fairness at the polling place. This bill was brought to the floor on the back of an unfair rule that did not allow any debate on critical amendments that would have made the difference between complete election reform that takes into consideration the principles I just mentioned, and incomplete reform, which, unfortunately, ignores the necessity of improving the electoral system for all voters with full consideration of their rights as participants in a democratic process. I therefore urge Members to vote against the rule and vote in favor of the motion to recommit.

Election reform legislation should establish and enforce minimum standards for election technologies, voter education, and election worker training. We cannot let local jurisdictions opt out of ensuring that our elections are fair and accurate. States and localities must comply with all federal voter rights safeguards, including those established by new election reform legislation and those guaranteed by the Voting Rights Act and the National Voter Registration Act.

Election reform legislation must reinforce the existing minority language provisions of the Voting Rights Act, which ensure that voters in areas with a significantly large language minority population can receive a ballot and election information in a language other than English. While this bill does contain language that would ensure accessibility for voters with limited English proficiency for optional activities, there is no reinforcement of existing language access requirements. These laws have been poorly enforced, as the 2000 election demonstrated, and many jurisdictions fail to comply with them.

To combat voter disenfranchisement, election reform must include poll worker training and a voter bill of rights that empowers voters through pro-active steps, including the use of sample ballots, that educate them about their rights and voting process. Voters have a right to know that if they are standing in line to vote before polls close, they can't be turned away; that they cannot be asked for more than one form of identification; and that they have the right to a provisional ballot.

Currently, H.R. 3295 does not significantly address these important issues. While it provides funds for new voting equipment, poll worker training and voter education, H.R. 3295 would allow jurisdictions to continue disenfranchising voters by using abysmally inaccurate voting machines and by poorly administering elections.

Based on these reasons, I hope my colleague will join me in voting against final passage of H.R. 3295.

Ms. KILPATRICK. Mr. Speaker, during the 2000 Presidential election, nearly 100 million Americans went to the polls to vote. Of those who went, nearly 6 million votes were discarded and thrown out due to faulty machines. In addition to these 6 million wasted votes, there were countless Americans who were not allowed to vote due to erroneous records and over zealous vote purging efforts. Many of these people, unfortunately, were from poor and minority communities.

The election reform legislation we are considering today does not establish adequate voting rights protections to prevent many of the problems that we experienced in the 2000 presidential elections. According to Civil Rights Organizations like the ACLU, there are three goals that legislation must accomplish to achieve maximum election results. Voters should be able to count on uniformity of voting equipment and laws, adequate accessibility to the polls and accuracy in the accounting of votes.

A critical issue in any election reform measure is the enforcement of some minimum uniform standards for elections. After all, the Supreme Court rejected the Florida Presidential election recount because of the lack of uniformity in the standards used to recount the votes. I personally find it ironic that the Court chose to limit uniform standards to uniform state laws as opposed to uniform Federal laws, which would require all states to meet minimum uniform election standards.

The Ney-Hoyer bill does not adequately address the issue of uniform standards and in many ways continues wide and varied election practices from state to state. The Ney-Hoyer bill includes an opt-out provision that would allow any state to easily avoid complying with suggested federal standards.

The bill makes token suggestions to states to take greater efforts to address the serious problems facing non-English speaking minorities and the disabled in casting their ballots. Disabled and non-English speaking voters face hurdles to proper access due to physical and language barriers at the polling place. They, perhaps most of all, need a bill that provides voter education so that citizens know how to vote and are aware of the constitutional right to vote.

The bill simply encourages states to take steps to provide for provisional voting as opposed to mandating compliance with federal standards. This again allows states to choose whether or not to take steps that would make our voting system more uniform across the country. For example, provisional voting, which would allow voters to challenge erroneous records, is a highly recommended reform to our current voting system. Under this measure states are given the option to implement this recommendation.

The most disturbing provisions in the bill are provisions, I believe, that would push voters from the rolls. Under the legislation, voters would be disqualified from casting their ballots if they fail to vote in two elections and fail to respond to a mailed notice. This contradicts current law and subjects voters to continued vigilance to ensure that their names are not inadvertently removed from the voting rolls.

I am also disappointed that the rule only allows for an hour of debate on a bill that claims to be election reform. The rule only allows for one hour of general debate with no opportunity to amend the bill. How can we consider a bill affecting the most fundamental attribute of democracy—voting—and not have the opportunity to fully debate and amend the provisions of the bill? Furthermore the bill was not fully vetted by the appropriate committees in the House. Voting legislation is generally within the jurisdiction of the Judiciary Committee, which deals with issues of a constitutional or judicial nature. The Judiciary Committee never considered this bill.

I did not cosign this election reform bill. I cosponsored a bill offered by Mr. CONYERS, H.R. 1170, the Equal Protection of Voting Rights Act. I would add that Mr. CONYERS is the ranking member of the Judiciary Committee. That bill takes substantive steps to apply uniform voting standards across the country and provides enforcement mechanisms that ensure compliance with these standards. It was my hope that the Rules Committee would at least allow this bill to be considered as a substitute amendment to the bill. Once again, the leadership in the House has chosen politics over the people. Once again, the rights of the people, through their elected representatives, to consider all the relevant alternatives is being abridged. Once again, we are being forced to consider a limited measure that does not adequately address the concerns of the majority of the American people.

We are on the heels of the 2002 elections and we are just now considering an election reform measure. If the upcoming elections are anything like the 2000 presidential election, it is my fear that we are in for more of the same. Mr. Speaker, I urge my colleagues to vote against the rule and final passage of this token election reform legislation.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to H.R. 3295, the "Help America Vote Act of 2001."

I am particularly concerned about a problem my home state of Wisconsin will face under section five of the bill and its mandatory requirement that each state implement a statewide voter registration system. The state of Wisconsin does not require statewide voter registration in communities with populations of less than 5,000. This bill will require Wisconsin to comply by requiring registration at the expense of the local governments in communities where registration is not required by law. This legislative provision will place a substantial administrative and financial burden on the state and, perhaps result in an unfunded federal mandate.

Mr. Speaker, I also have a significant concern that my constituents in my home state of Wisconsin will be double taxed under Section One of H.R. 3295. That is the section which furnishes states with funds to buyout their punchcard voting machinery. However, Wisconsin has already phased out the use of punchcard voting systems on their own, at the expense of the local counties and municipalities, to the tune of over $650,000. How can it be justified that my constituents will be double taxed to pay for replacing punch card machines? The first tax paid by Wisconsin residents was in the form of local tax revenues and the second tax will be in the form of federal tax dollars.

And, let me be very clear here, the local tax revenues spent on punchcard machines could easily have been spent on other important local needs, especially if they knew federal money was on the way. The elimination of these punchcard systems may be a laudable goal, however, it clearly unfair to double tax the residents of Wisconsin in order to pay for upgrades in another state when that state did not determine it was important enough to them to use their own resources to pay for the elimination of punchcard ballots.

The basic principle of "one person, one vote" is one that crosses party lines, for voting is not a partisan issue, it is an American issue. All Americans want to know that the vote they cast, for the candidate of their choice, will be counted fairly and accurately.

Unfortunately, it is also the concern of a great many Americans that widespread voter fraud is diluting or cancelling out the value of their legally cast vote. For example, in Madison, Wisconsin, students from the University of Wisconsin bragged about voting two and three times in last year's presidential election. Coincidently these students recanted their statements when pressed. Perhaps it was when they realized that voting two and three times violated state and federal election laws. However, this is just one minor example of what has been allowed to occur in jurisdictions all around this country without any tangible consequences. Another example of rampant voter fraud can be found when examining the events surrounding the 2000 election in St. Louis, Missouri. There were hundreds of felons, non-citizens, duplicate and dead voters who cast ballots for candidates illegally. And in the city of Philadelphia, there were over 5,000 voters registered at vacant city-owned lots.

I strongly believe we must seriously examine allegations of voter fraud and press for the prosecution of those who are found to have violated existing laws. We should also examine existing federal statutes and the Department of Justice prosecution guidelines to determine if stiffer federal penalties and fines and greater enforcement is necessary. It should become routine that when evidence of voter fraud is found, perpetrators can expect to be prosecuted to the fullest extent of the law. For vote fraud is not a victimless crime. It is crime which erodes the integrity of the very system our forefathers put into place to insure the continuance of the freedoms we hold dear. It is time we get serious about insuring the integrity of the election process, and protecting the public trust in the election system of the United States.

This legislation does not go far enough to address the issue of voter fraud and it will continue to flourish without significant legislative changes. I fear that once this legislation is passed, this Congress will not come back to examine measures aimed at eliminating voter fraud, proposals such as requiring photo identification at the polls, requiring proof of citizenship and requiring removal of dead voters from current voting rolls are just a few provisions which need to be considered.

The individual states across the country have been hard at work in 2001 reviewing their election laws with a fine-tooth comb, identifying the weak spots and potential causes for concern, and, most importantly . . . developing solutions. Reforming election laws is a complex job but it is one that is *best* left to the states. This hard work will certainly continue into 2002 but look at what has happened so far at the state level: more than 1,770 bills have been introduced, 249 have been passed and 487 bills are still pending.

One of the most profound examples of state reform is in Florida where they have passed the most sweeping election reforms of any state so far. These reforms include, among other things, the banning of punch card ballots by providing $24 million to counties to purchase optical scan or electronic systems, $6 million for voter education and poll worker recruitment and training, and $2 million to create a statewide voter registration database. Their bill also provides for uniform ballot design, no-excuse absentee voting and provisional balloting. However, Florida made these changes after consideration of their unique needs and goals without federal mandates from Congress, such as those required under H.R. 3295. And, many other states legislatures have followed suit by passing their own election reform bills without the direction from Congress. As was the case in Wisconsin a few years back, individual states are proving that they are the best able to determine what solutions will work effectively for their unique needs and the focus of election reform should be left to them.

Ensuring fair and honest elections by eliminating voter fraud, improving voting techniques, eliminating disenfranchisement, and respecting the constitutional role of the states and localities should not be partisan issues. Our fundamental system of elections is sound, and just as with all things, there is always room for improvement. However, we need to make certain that legislation does in fact provide improvement and not just rhetoric and that Congress is not simply throwing $2.65 billion at this issue so we can claim we've solved all alleged problems.

Mr. STARK. Mr. Speaker, I rise today in support of H.R. 3295, the Help America Vote Act. The deeply troubled election of 2000 taught us many lessons. Chief among them was the need to improve our election system. When hanging chads and butterfly ballots kept the presidency in the balance, America's credibility as the oldest democracy in the world was compromised. The American people have overwhelmingly called on Congress to act, and this bill is at least a step in the right direction.

The Help America Vote Act does several things to improve our election system. First, it establishes minimum election standards that all states should meet. The bill requires each state to maintain a complete and accurate voter registration system and to maintain uniform standards on what constitutes a vote for different voting machines. It requires states to have safeguards ensuring that military and other overseas voters have their votes counted and ensures that voters who make errors in their ballots have the opportunity to correct them. The bill provides $400 million to replace unreliable punch-card voting systems, whose problems were so dramatically displayed on our television screen a year ago. It also authorizes another $2.25 billion to help states establish and maintain accurate lists of voters, improve equipment, recruit and train poll workers and educate voters about their rights.

Despite these good provisions, I have several serious concerns about the bill. First, the bill allows states to purge voters from the registration rolls if they don't vote in one election without giving them enough notice that their names are being purged. This weakens the very successful Motor Voter Law, which provides voters with these protections. In addition, the bill allows states to create alternatives to the provisional ballot, something that has allowed citizens who are not registered to vote to still have their voices heard. This bill provides no standard to ensure that all wishing to vote will be able to do so on election day. Finally, the bill is woefully inadequate in providing protection for people with disabilities and those with limited English ability. The bill should ensure that all Americans, regardless of color, creed, or handicap, have the ability to cast a vote and have it counted.

Nevertheless, I support H.R. 3295 because it moves the process of election reform forward and I think is an improvement from the status quo. It is unfortunate, however, that the House Leadership refused to allow amendments to the bill that would have corrected its flawed provisions. I will work with my friends in the Civil Rights, disability and labor communities to make this bill better. I am hopeful that the Senate will also pass an election reform bill and that we can improve upon this bill in conference. The election of 2000 revealed gaping holes in our election system. To maintain our nation's standing around the world and, more importantly, to maintained government's credibility with our own citizens, the Congress must make reform a top priority.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 311, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MENENDEZ

Mr. MENENDEZ. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MENENDEZ. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Menendez moves to recommit the bill H.R. 3295 to the Committee on House Administration with instructions to report the same back to the House forthwith with the following amendments:

Amend section 502(2)(A) to read as follows:

(A) A system of file maintenance which removes registrants who are ineligible to vote from the official list of eligible voters consistent with the National Voter Registration Act of 1993.

Amend section 502(3) to read as follows:

(3) The State permits, by the deadline required under section 505(b), in-precinct provisional voting by every voter who claims to be qualified to vote in the State, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on and after the date of the enactment of this Act, all votes in the State in general elections for Federal office are cast by mail. Under the in-precinct provisional voting described in the previous sentence, if the name of an individual who claims to be a registrant eligible to vote at a polling place in an election for Federal office does not appear on the official list of registrants eligible to vote at the polling place, or it is otherwise asserted by an election official that the individual is not eligible to vote at the polling place—

(A) an election official at the polling place shall notify the individual that the individual may cast a provisional ballot in the election;

(B) the individual shall be permitted to cast a vote at that polling place upon written affirmation by the individual before an election official at that polling place that the individual is so eligible;

(C) an election official at the polling place shall transfer the ballot cast by the individual to an appropriate State or local election official for prompt verification of the claim made by the individual in the affirmation required under subparagraph (B);

(D) if the appropriate State or local election official verifies the claim made by the individual in the affirmation, the individual's vote shall be tabulated; and

(E) the appropriate State or local election official shall notify the individual in writing of the disposition of the individual's claim and the treatment of the individual's vote.

Strike paragraphs (6) and (7) of section 502 and insert the following:

(6) Effective January 1, 2006, the State requires all voting systems—

(A) to be accessible for individuals with disabilities and other individuals with special needs, including providing nonvisual accessibility for the blind and visually impaired which provides the same opportunity for access and participation (including privacy and independence) as for other voters; and

(B) to provide alternative language accessibility for individuals with limited proficiency in the English language with respect to each political subdivision in the State for which, as determined by the Director of the Bureau of the Census—

(i) the number of voting-age citizens who have limited proficiency in the English language and who have a single language other than English as their first language is at least 5 percent of the total number of voting-age citizens,

(ii) in the case of a political subdivision which contains all or any part of an Indian reservation, the number of voting-age American Indian or Alaskan Native citizens within the reservation who have limited proficiency in the English language is at least 5 percent of the total number of voting-age citizens on the reservation, or

(iii) there are at least 10,000 voting-age citizens who have limited proficiency in the English language and who have a single language other than English as their first language.

(7) Effective January 1, 2006, the State requires all voting systems—

(A) to permit the voter to verify the votes selected by the voter on a ballot before the ballot is cast and tabulated;

(B) to notify the voter before the ballot is cast and tabulated of the effect of casting multiple votes for a single office or fewer votes than the number of candidates for which votes may be cast; and

(C) to provide the voter with the opportunity to correct the ballot before the ballot is cast and tabulated.

(8) Effective January 1, 2006, the State requires that the error rate in counting and tabulating ballots by all voting systems may not exceed the error rate provided under the voting system error rate standards developed pursuant to section 504(a)(2).

(9) Effective January 1, 2004, the States requires all polling places to be accessible to individuals with disabilities and other individuals with special needs.

Amend section 503 to read as follows:

SEC. 503. ENFORCEMENT.

(a) In General.—The Attorney General shall be responsible for verifying that State certifications under section 501 are accurate and for enforcing the requirements of section 502 with respect to State election systems, in accordance with such regulations as the Attorney General may issue.

(b) Relief.—

(1) In general.—The Attorney General may bring a civil action in an appropriate district court for such relief (including declaratory or injunctive relief) as may be necessary to carry out this title.

(2) Relation to other laws.—The remedies established by this subsection are in addition to all other rights and remedies provided by law.

(c) Action Through Assistant Attorney General for Civil Rights.—The Attorney General shall issue regulations pursuant to this section, and shall otherwise carry out the Attorney General's responsibilities under this title, through the Assistant Attorney General for the Civil Rights Division.

Insert after section 503 the following new section (and redesignate the succeeding provision and conform the table of contents accordingly):

SEC. 504. TECHNICAL SPECIFICATIONS AND GUIDELINES.

(a) In General.—

(1) Accessibility requirements.—In consultation with the Election Assistance Commission and the Office of Civil Rights of the Department of Justice, the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) (hereafter in this section referred to as the "Compliance Board") shall develop technical specifications with respect to each of the following:

(A) The voting system accessibility requirements (relating to individuals with disabilities and other individuals with special needs) described in section 502(6)(A).

(B) The polling place accessibility requirements described in section 502(9).

(2) Other requirements.—In consultation with the Election Assistance Commission and the Compliance Board, the Office of Civil Rights shall develop technical specifications and guidelines with respect to each of the following:

(A) The provisional voting requirements described in section 502(3).

(B) The alternative language accessibility requirements described in section 502(6)(B).

(C) The requirements relating to the correction of errors in voting systems described in section 502(7).

(D) The voting system error rate standards described in section 502(8).

(b) DEADLINE FOR INITIAL SPECIFICATIONS AND GUIDELINES.—The Compliance Board and the Office of Civil Rights shall each develop the initial set of technical specifications and guidelines under subsection (a) not later than 1 year after the date of the enactment of this Act.

(c) PROVISION OF CONTINUING INFORMATION.—After preparing the initial set of technical specifications and guidelines under subsection (a), the Compliance Board and the Office of Civil Rights shall continue to provide information to assist the Attorney General in carrying out this title, including preparing revised technical specifications and guidelines at such times as the Attorney General considers appropriate.

In section 505 (as redesignated above)—

(1) in subsection (a), strike "subsection (b)" and insert "subsections (b) and (c)"; and

(2) add at the end the following new subsection:

(c) OTHER DEADLINES.—(1) The minimum standards described in paragraphs (6), (7), and (8) of section 502 shall apply not later than January 1, 2006.

(2) The minimum standard described in section 502(9) shall apply not later than January 1, 2004.

Amend section 902 to read as follows:

SEC. 902. PROHIBITING EFFORTS BY POLL WORKERS TO COERCE VOTERS TO CAST VOTES FOR EVERY OFFICE ON BALLOT.

Section 594 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) Whoever"; and

(2) by adding at the end the following new subsection:

"(b) For purposes of subsection (a), a poll worker who urges or encourages a voter who has not cast a vote for each office listed on the ballot to return to the voting booth to cast votes for every office, or who otherwise intimidates, harasses, or coerces the voter to vote for each such office (or who attempts to intimidate, harass, or coerce the voter to vote for each such office), shall be considered to have intimidated, threatened, or coerced (or to have attempted to intimidate, threaten, or coerce) the voter for the purpose of interfering with the voter's right to vote as the voter may choose. Nothing in this subsection shall prohibit a poll worker from providing information to a voter who requests assistance.".

Mr. MENENDEZ (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey is recognized for 5 minutes in support of his motion to recommit.

Mr. MENENDEZ. Mr. Speaker, there is one principle alone that should be guiding our debate on this election reform, and that is every American has a full and equal opportunity to vote. It is a simple but extraordinarily important proposition, because it forms the justification of and expression for our democracy.

Any undermining of that principle, even the perception of undermining, can do great damage to us.

One person, one vote. We all know the questions about our system that the last Federal election left with our citizens. We must never allow a repeat of that. The Ney-Hoyer bill is a good step in that direction. Most importantly, their bill commits the resources we need to replace outdated voting systems. However, the bill turns a standard we passed in the Motor Voter Act on its head.

The Motor Voter Act says that before someone is removed from the voting rolls, they must be given written notice, and then have two elections to correct the removal at the ballot place before the removal is finalized. The Motor Voter Act stands for the principle that before you take away someone's right to vote, you give them a chance to prove they are still legally voting in the correct place.

The bill as written, however, says if you fail to vote in two elections, you can be purged from the rolls. In other words, if you do not vote, you can lose the right to vote. Our motion simply states that the rules of the Motor Voter Law should continue to govern.

Given the number of false purges we saw in the last election, it is critical that the right to provisional voting is guaranteed. There should be no need for alternatives. If an improperly purged voter is turned away on election day, that error is irreversible.

For disabled voters, the bill requires that States provide a "practical and effective" means to vote. Keeping in mind the guiding principle of equal and full access, we believe "separate but equal" is not good enough for disabled voters. With our technology and ingenuity, there is no reason why we cannot create uniform systems that can accommodate almost all of our disabled and non-disabled voters, and our amendment allows 4 years to make the necessary changes.

The bottom line is that currently 14 million disabled voters cannot cast a secret ballot, and there is no excuse for this. The bill does not guarantee that this will change. Our motion does.

For voters with different native languages, the Ney-Hoyer bill relies on current law. We simply give that standard to any other group of Americans so situated.

These are Federal elections, and we have a responsibility to ensure that a voting procedure in Florida is subject to the same minimum standards as a voting procedure in New Jersey. That is why our amendment gives the Attorney General the direct responsibility for certifying that States are in compliance with the minimum standards in this bill, without an intermediary. It is that important.

How many of us would be satisfied with the counsel of patience and delay if it were our right to vote that was being compromised? Very few of us, I think. When it comes to the right to vote, there is no margin for error. Every vote must be ensured, counted and protected equally. But in all of these ways, our motion eliminates the margin for error and makes it better. So I certainly urge my colleagues to support the motion.

Mr. Speaker, I yield to the distinguished gentlewoman from Texas (Ms. Eddie Bernice Johnson), the Chair of the Congressional Black Caucus.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, several universities and news organizations have conducted studies, and every study has found that votes cast are not being counted. The House Committee on Government Reform minority staff conducted a study in 40 congressional districts and found that the highest percentage of undervotes were in places which had poor and minority populations.

Mr. Speaker, there are volumes of evidence which clearly and convincingly prove that the election system in this country is broken and must be fixed.

□ 1500

We deeply believe in a need to safeguard the rights and liberties of the American people. I join the gentleman from New Jersey (Mr. Menendez), the gentlewoman from Connecticut (Ms. DeLauro) and the gentleman from Connecticut (Mr. Shays) in offering this motion to recommit. I joined them in requesting that the Committee on Rules, once again, allow the amendment, which would only allow purged voters from the voting rolls through means consistent with national voter registration and for the handicap to have the ability to vote, and provisional voting.

Mr. Speaker, I will submit the rest of my statement. This is so basic and fundamental to our democracy. I just cannot imagine anyone not being in support of these recommendations that we made to make this democracy real.

Mr. MENENDEZ. Mr. Speaker, I yield the balance of the time to the gentlewoman from Connecticut (Ms. DeLauro).

Ms. DELAURO. Mr. Speaker, our entire system of government is based on the premise of one person, one vote. For our democracy to work, people must have confidence that their vote counts. We have a responsibility to do all that we can to make sure that every citizen is able to fully exercise their fundamental right to vote.

This motion to recommit ensures that polling places are accessible, voting equipment is updated, voters are not mistakenly taken off the rolls, and that these standards are endorsed.

In cities and towns across this country it remains more difficult to go to the polls and cast a vote than it is to make a simple withdrawal from an ATM machine. There is something wrong with that, I say to my colleagues.

The world looks to America as a shining example of democracy in action. We need to act today to ensure that every American has the right to participate in that democracy by casting a vote that will be counted. I urge my colleagues to vote "yes" on the motion to recommit.

Mr. NEY. Mr. Speaker, I rise to stand in opposition to the motion to recommit, and I claim the time in opposition.

Mr. Speaker, I yield 40 seconds to the gentleman from Maryland (Mr. Hoyer).

Mr. HOYER. Mr. Speaker, I rise simply to say that the objectives of this motion to recommit I think are worthwhile and good, but I want to make the record clear. The gentleman from Ohio (Mr. Ney) and I have had a colloquy on section 3 of the National Voter Registration Act. It is the committee's view that nothing in this bill changes or diminishes in any way any provision, including provisional voting, of the National Voter Registration Act. In fact, I made it a condition to my participation in the bipartisan bill that that be the case.

In addition to that understanding with the gentleman from Ohio (Mr. Ney) and all of us on the committee and the staff, we have contacted the Attorney General's Office and I would include at this point in time in the RECORD a letter that was received by the gentleman from Ohio (Mr. Ney) and myself on December 10, 2001 from the Assistant Attorney General.

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, December 10, 2001.

Hon. STENY HOYER,
Ranking Minority Member, Committee on House Administration, House of Representatives, Washington, DC.

DEAR CONGRESSMAN HOYER: This letter responds to your letter of November 29, 2001 regarding the effect of H.R. 3295, the "Help America Vote Act," upon the National Voter Registration Act of 1993 ("NVRA").

Although several provisions in the bill affect the list maintenance provisions in section 8 of the NVRA, it is evident that the bill is not designed to modify the NVRA and, in fact, it does not alter or undermine the NVRA's requirements. Section 903 of the bill itself specifically provides that nothing in H.R. 3295 "shall supercede, restrict or limit the application of . . . NVRA," that nothing in the bill "authorizes or requires any conduct which is prohibited by the NVRA," and that nothing in the bill "may be construed to affect the application of the . . . NVRA . . . to any State" (except as specifically provided in the bill). These provisions would guide the Department's enforcement efforts if the bill becomes law.

Various parts of the bill reference the NVRA and appear designed to clarify and strengthen enforcement of the NVRA's list maintenance provisions. Section 502(2) would require all 50 States and the District of Columbia, Puerto Rico, Guam, American Samoa, and the United States Virgin Islands to adopt a system of list maintenance ensuring that voter registration lists are accurate and updated regularly, and that removes registrants who are ineligible to vote. Under this system, "consistent with the [NVRA]," registrants who have not voted in 2 or more consecutive Federal general elections and who have not responded to a notice would be required to be removed from the list of eligible voters, except that no registrant could be removed solely by reason of failure to vote. This system also would have to have safeguards to ensure that eligible voters were not removed in error. Section 501(a)-(b) would require all States to enact legislation to adopt such a list maintenance system, but properly would leave States discretion as to the specific methods of implementing such a system.

Section 902(a) entitled "Clarification of ability of election officials to remove registrants . . . on grounds of change of residence," would amend the NVRA's existing requirement (at 42 U.S.C. 1973gg-6(b)(2)) that any general program not result in removal of voters' names due to their "failure to vote." However, the amendment in section 902(a) merely would clarify that nothing in section 19733gg-6(b)(2) was intended to prohibit a State from using the procedures already in sections 1973gg-6(c)-(d) to remove the names of voters who have not voted or have not appeared to vote in two or more consecutive Federal general elections and who have not notified the registrar, or responded to a notice sent by the registrar, that they intend to remain registered in the jurisdiction. As an amendment to the NVRA, this provision would apply only in the 45 jurisdictions covered by the NVRA (44 States and the District of Columbia).

In view of the bill's several affirmations that removal of names from voter rolls should be carried out in a manner consistent with the NVRA and in view of the general affirmations in section 903 that the bill will not restrict or limit the NVRA, the bill's list maintenance provisions can and should be read consistently with the NVRA's existing list maintenance procedures, which basically are: section 1973gg-6(c) suggests the Postal Service National Change of Address program as one example of a means of identifying voters who have become ineligible because they have moved outside the jurisdiction. Section 1973gg-6(d) them provides a confirmation process that States must follow before removing voters identified as potentially ineligible due to having moved. As above, voters may be removed if: (1) they do not respond to the registrar's notice and do not vote or appear to vote in two Federal general elections; or (2) they confirm in writing that they have moved outside the jurisdiction.

Many States, following guidance from the Federal Election Commission, legislatively adopted or legislatively revised list maintenance provisions after passage of the NVRA. *See, e.g.*, Ak. Stat. 15.07.130; Fl. Stat. 98.065, 98.075, 98.093; Ga. Stat. 21-2-231 to 21-2-235; Va. Stat. 24.2-427 to 24.2-428.2. To the extent that the 45 jurisdictions covered by the NVRA have adopted list maintenance programs consistent with 42 U.S.C., 1973gg-6, we conclude that the new clarifying provisions of section 902(a) of the bill would not require those States to amend their programs. Likewise, State legislation consistent with the NVRA probably would meet the new, less specific, minimum standards for list maintenance required in section 502(2) of H.R. 3295. If this interpretation differs with that of the drafters of the bill, some clarification may be warranted.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

DANIEL J. BRYANT,
Assistant Attorney General.

Identical letter sent to the Honorable Bob Ney, Chairman.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

I wanted to point out just a couple of items about this motion to recommit, and I do respect the gentleman from New Jersey and his intentions. But this does eliminate provisions to improve list maintenance, and this is something that we all have fought very hard for. Democrats and Republicans from across the country want to make sure that they have the best voter lists possible and that they are in the best condition possible. That was a bipartisan request. This would eliminate the provisions to improve list maintenance.

Also, unless I have read this wrong, this also would deal with the issue of accessibility at the polling places. We are talking about 200,000 polling places, and this theory that was brought forward in committee on the basis of what this motion to recommit is about was discussed in the committee. No one could even give us an estimate of the billions and billions of dollars. Also, I would raise this issue: are we going to use taxpayers' dollars, then, to fund something the private sector should do, if one votes at a mall or a church? There are a lot of significant issues to that provision itself.

As far as the issue of persons with disabilities, let me just quote from the bill, and this is an important issue that I care about and a lot of people in this country obviously do care about, and it has been stated many times through this process that this bill makes one of the first significant steps in trying to help persons who have some form of a disability to vote.

The Ney-Hoyer bill is an important breakthrough for the voting rights of persons with disabilities. All new voting systems must provide a practical and effective means for voters with physical disabilities to cast a secret ballot. That is language from the Ford-Carter Commission. All States receiving Federal funds under this bill must certify that in each precinct or polling place, there is at least one voting system available which is fully accessible to individuals with physical disabilities. It also states that it uses Federal funds to purchase new machines, and must ensure that at least one voting machine in each polling place in the State will be fully accessible to individuals with physical disabilities.

This bill has also been endorsed by the National Federation of the Blind.

Mr. Speaker, I just want to urge my colleagues to hold to the bill, the Ney-Hoyer bill, and defeat the motion to recommit. Also, Mr. Speaker, at this time I include for the RECORD the following letters of endorsement.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, November 21, 2001.

Hon. BOB NEY,
Chairman, Committee on House Administration, Longworth House Office Building, Washington, DC.

Hon. STENY HOYER,
Ranking Member, Committee on House Administration, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVES NEY AND HOYER: We want to commend you for your hard work and perseverance in introducing a bipartisan election reform bill. The legislation is a compromise and not everyone is going to agree with all of its provisions which includes some of our county officials.

The National Association of Counties (NACo) would like to go on record as supporting H.R. 3295 as it was reported by the House Administration Committee. We would have to review this position if extensive changes are made on the House floor or in the Senate.

NACo still has concerns about Congress providing adequate funding for carrying out the mandates in the bill. We believe the authorizations would be adequate but we also would like to see a commitment from the leadership on providing sufficient appropriations in FY2002 and FY2003. We will be urging President Bush to request the full authorization amounts in his budget for FY2003.

We will be sending letters to all Members urging them to vote for H.R. 3295. We also will be urging county officials to contact their state delegations to support the bill.

If you have any questions, please call me or Ralph Tabor on our staff (202-942-4254).

Sincerely,

LARRY E. NAAKE,
Executive Director.

ELECTION CENTER,
Houston, Texas, November 26, 2001.

Hon. ROBERT NEY,
Hon. STENY HOYER,
House Administration Committee, Longworth House Office Building, Washington, DC.

CONGRESSMANS NEY and HOYER: On behalf of the elections community of America. I want to congratulate the two of you for accomplishing what grizzled veterans said could not be done: you have produced true bi-partisan legislation that will help America cure the worst of the problems discovered in Election 2000.

As you are aware, the rules and laws under which The Election Center was formed prevent us from lobbying for or against any legislation—our members nationwide will do that on their own—but we can speak to what we believe the impact of the legislation will do for American elections.

The two of you have shown what men of goodwill can do when a difficult issue arises. Obviously there were partisan considerations involved in this legislation and each of you was a noble champion for your party's particular view—but you also showed that you could find a way to reach consensus and still effect meaningful legislation.

I know this bill will not please all voter groups—even the elections community find items they dislike in this legislation. I know there are already claims that it does not go far enough for some—or too far for others. you and the House Administration Committee have fashioned legislation which does, however, address the serious problems discovered in Election 2000. You have found methods which reach and solve the real problems without doing it in heavy handed Federal edicts.

Finding the right balance of voter protections and yet not upsetting the rights of states and local governments to maintain responsibility for this process has not been an easy task but you have managed to reach consensus that protects the rights of minorities and even extends new services to the blind and disabled, to military and overseas voters, and provides new poll workers for elections. The months of delay waiting on bipartisan legislation have been well spent in developing a true compromise bill.

Congratulations on a job well done. This is responsible legislation.

Sincerely,

R. DOUG LEWIS,
Executive Director.

A NATIONAL ASSOCIATION OF COUNTY RECORDERS, ELECTION OFFICIALS AND CLERKS,
Durham, NC, November 26, 2001.

HONORABLE ROBERT W. NEY: The National Association of County Recorders, Election Officials and Clerks (NACRC) would like to go on record in support of H.R. 3295 sponsored by Bob Ney, Chairman of the House Administration Committee, and Steny Hoyer, Ranking Member of the House Administration Committee.

We support the bill in its current form. If there are extensive changes, we would have to review our support at that time.

Although we have studied all of the provisions and are not happy with each and every one, we do feel we can support the majority of the bill. We are particularly pleased that it is a bipartisan effort.

As election officials we truly strive to conduct all elections as fairly and accurately as possible and we feel this cannot be done when partisanship is present.

Please feel free to contact me if you have any questions at 253.798.3189.

Sincerely,

CATHY PEARSALL-STIPEK, CPO,
NACRC President, Pierce County Auditor—Supervisor of Elections.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
November 26, 2001.

Hon. BOB NEY,
Chair, Committee on House Administration, House of Representatives, Longworth House Office Building, Washington, DC.

Hon. STENY H. HOYER,
Ranking Member, Committee on House Administration, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVES NEY AND HOYER: We are writing to express the support of the National Conference of State Legislatures for H.R. 3295, the "Help America Vote Act of 2001." We commend you on your leadership in undertaking to draft sound election reform legislation and appreciate your steadfast willingness to work with states to craft a balanced bill for states and the American people. H.R. 3295 provides an effective means for states to update and change their election processes without an unduly burdensome federal presence, and with much-needed federal financial support.

State legislators are committed to a fair election process. The bipartisan NCSL Elections Reform Task Force adopted ten core principles that embody the fundamental views of elections in the states. The first principle is that "the right to vote is perhaps the most basic and fundamental of all the rights guaranteed by the U.S. democratic form of government. Implicit in that right is the right to have one's vote count and the right to have as nearly perfect an election proceeding as can be provided." NCSL believes that the core principles enumerated in H.R. 3295 are consistent with the findings of our own Election Reform Task Force and identify an appropriate role for the federal government in meeting the states shared commitments to modernizing the voting process and ensuring the integrity of the ballot.

Although H.R. 3295 contains minimum standards that will require states to certify that they have enacted legislation to provide for such things as a statewide voter registration database and provisional voting, these standards do not mandate how states should fulfill these requirements, thus allowing for necessary state flexibility in the implementation of the standards. It is only through a flexible approach to election reform that states can meaningfully improve elections processes for all voters. NCSL is satisfied that H.R. 3295 provides sufficient state flexibility.

We also wish to underscore the importance of receiving an appropriate amount of federal monies to assist states with the implementation of those standards that may otherwise be too costly. In these uncertain times and tight state budgets, federal financial assistance is critical to states' compliance with these new federal standards. We understand there is a commitment from Speaker Hastert and the Administration that sufficient federal funds will be appropriated to meet the needs of the states under this bill. We urge you to continue to strive for federal funding.

We again thank you for your excellent leadership on this issue and look forward to working with you for passage of this bill. Please have your staff contact Susan Parnas Frederick at (202) 624-3566 of Alysoun McLaughlin at (202) 624-8691 or by e-mail at *susan.frederick@ncsl.org, alysoun.mclaughlin@ncsl.org*. Thank you.

Sincerely,

Speaker MARTIN R. STEPHENS,
Utah House of Representatives.

Representative DANIEL T. BLUC,
North Carolina House of Representatives.

INTERNATIONAL ASSOCIATION OF CLERKS, RECORDERS, ELECTION OFFICIALS AND TREASURERS,
Chicago, IL, November 29, 2001.

Hon. ROBERT NEY,
Hon. STENY HOYER,
House Administration Committee, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMEN NEY AND HOYER: As President of the International Association of Clerks, Recorders, Election Officials, and Treasurers (IACREOT), and Executive Director of the Chicago Board of Election Commissioners, one of the Nation's largest election jurisdictions, I have been asked for my opinion concerning H.R. 3295, known as the Ney-Hoyer Bill on election reform.

Obviously, you have undertaken a very difficult challenge in fashioning an election reform proposal to meet the needs of thousands of election jurisdictions throughout the nation. I want to congratulate you and your committee on a very thoughtful and thorough legislative package that will help ensure that every vote in this great nation is counted, and counted accurately. Although I have some specific reservations and suggestions on some of the bill's provisions, I think overall it is the best proposal among the many we have seen since the November 2000 Presidential Election.

At a later date, I would be honored to appear before your committee to present my specific recommendations to make this legislation even more palatable. I know you and your committee have worked very hard on this bill. Again, please accept my congratulations.

Sincerely,

Lance Gough,
President.

National Federation
of the Blind,
Baltimore, MD, December 11, 2001.

Hon. Robert Ney,
Chairman, Committee on House Administration, House of Representatives, Washington, DC.

Dear Mr. Chairman: I am writing to express the support of the National Federation of the Blind for the Help America Vote Act of 2001 (H.R. 3295), including language we requested to address the needs of people who are blind. Thanks to your efforts and understanding, this legislation points the way for blind people to vote privately and independently.

While the 2000 election demonstrated significant problems with our electoral system, consensus regarding the solution has been much more difficult to find. Nonetheless, it is clear that installation of up-to-date technology will occur throughout the United States. This means that voting technology will change, and devices purchased now will set the pattern for decades to come. Therefore, requirements for nonvisual access must be an essential component of the new design.

With more than 50,000 members, representing every state, the District of Columbia, and Puerto Rico, the NFB is the largest organization of blind people in the United States. As such we know about blindness from our own experience. The right to vote and cast a truly secret ballot is one of our highest priorities, and modern technology can now support this goal. For that reason, we support any legislation that will accomplish this objective. Thank you for your assistance in addressing this concern as part of the Help America Vote Act of 2001.

Sincerely,

James Gashel,
Director of Governmental Affairs.

Ohio Secretary of State,
Columbus, OH, November 20, 2001.

Hon. Bob Ney,
Chairman, Committee on House Administration, Longworth House Office Building, Washington, DC.

Dear Bob: For the last year, professional election officials across the nation have wrestled with the challenges brought to light as a result of the 2000 Presidential Election. At the heart of the issue is the suitability for ongoing use of punch card voting systems and the need for statewide uniform standards of election administration within each state.

It has been my pleasure to work with you and the House Administrative Committee as you have worked so hard to reach a bi-partisan compromise for election reform. I am very pleased to see that you have built a consensus for reform and offer you my whole-hearted endorsement of HR 3295, the Help America Vote Act of 2001.

This important legislation reflects the best balance of federal involvement and local control of elections that I have seen to date. You have reached a fine balance that reflects the serious need for election reform without federalizing the election process and minimizing local election administration, as some proposals do. By funding the buy-out of punch card ballot systems, your bill will help guarantee that we never again see the debacle that occurred in Florida because of punch card balloting inconsistencies. By requiring the adoption of reasonable ballot-counting standards, you also make sure that states are prepared to deal with ballot-counting questions before an election is contested and not after the fact. This will be a tremendous benefit to all Americans.

I realize there are some that wish the federal government to mandate a uniform voting system and standards for every jurisdiction. I believe this would be a terrible mistake. Election officials everywhere recognize the solutions for one precinct may not work the same in the next—particularly when separated by thousands of miles. Almost every election reform report I have seen confirms this important fact. While states can and should be held accountable for adopting uniform standards for their voting machines, each state should be left the option of choosing solutions that work the best. The cookie cutter approach will not work for elections and I encourage you to continue your efforts to fight this movement.

To assist you in the passage of this critical legislation, I will be sending a copy of this letter to every Secretary of State in the nation, every election official in Ohio and every county commissioner in Ohio. I will also be discussing your legislation in an upcoming article in our Spirit of Ohio publication, so even more Ohioans can learn of your good work and will know how to contact you to lend their support. If there is any further assistance I can provide you, please do not hesitate to let me know.

Again, thank you very much for all you are doing. I look forward to seeing Congress pass balanced and meaningful election reform legislation—HR 3295.

Sincerely,

J. Kenneth Blackwell,
Ohio Secretary of State.

State of Wisconsin
Elections Board,
Madison, WI, December 10, 2001.

To: Members, Wisconsin Congressional Delegation.

From: Kevin J. Kennedy, Executive Director, Wisconsin State elections Board.

Subj: Ney/Hoyer Election Legislation (H.R. 3295).

H.R. 3295 sponsored by Congressmen Ney and Hoyer is scheduled for a vote in the House of Representatives this Wednesday, December 12, 2001. The Ney/Hoyer proposal is one of several election reform proposals initiated at the federal level. In my opinion it contains the most comprehensive set of solutions to problems identified in the 2000 election. It most closely reflects the items of consensus identified in the numerous commissions that submitted reports this summer.

The State Elections Board has not taken a position on any recommended federal legislation. However, as Wisconsin's chief election officer for the past 19 years I would like to urge your serious consideration of H.R. 3295.

I had the privilege of serving on the Election Center Task Force that consisted entirely of state and local election administrators. Many of our recommendations are reflected in H.R. 3295. The bipartisan proposal strikes a very reasonable balance among the competing interests at stake. Most importantly, the legislation recognizes the role of state and local government in election administration.

Several stakeholders, including State Election Directors, would like to see more far reaching initiatives. However, given the highly partisan atmosphere in which election reform is discussed, I believe that this legislation provides the most realistic solution. The legislation provides a mechanism for developing realistic standards in conjunction with state and local election administrators and a reasonable funding mechanism.

None of the minimum standards described in the legislation adversely impact Wisconsin. With the exception of a statewide voter registration database, Wisconsin already meets or exceeds the minimum standards articulated in the legislation. Quite frankly the state legislature recognizes that a statewide voter registration database is inevitable. If funding accompanies the bill, it can be used to assist Wisconsin in getting the system in place.

H.R. 3295 provides an excellent opportunity to address the lack of confidence in the electoral process that has been fanned by the media. I encourage you to support the bill when it comes up for a vote this week. I would be happy to discuss the impact of this legislation on Wisconsin with you or a member of your staff. Our website, elections.state.wi.us, contains links to the major reports on election reform.

Please contact me with any questions. I can be reached at 608-266-8087.

House of Representatives,
Committee on Science,
Washington, DC, November 20, 2001.

Hon. Bob Ney,
Chairman, Committee on House Administration, House of Representatives, Washington, DC.

Dear Bob: On November 14, 2001, you introduced H.R. 3295, the "Help America Vote Act of 2001." The bill was referred to the Committee on House Administration, and in addition to the Committee on Science (among others). The bill contains provisions that fall within the jurisdiction of the Committee on Science.

In deference to your desire to bring this legislation before the House in an expeditious manner, I will not exercise this Committee's right to mark-up H.R. 3295. Despite waiving its consideration of H.R. 3295, the Science Committee does not waive its jurisdiction over H.R. 3295. Additionally, the Science Committee expressly reserves its authority to seek conferees on any provision that are within its jurisdiction during any House-Senate conference that may be convened on this legislation or like provisions in H.R. 3295 or similar legislation which falls within the Science Committee's jurisdiction. I ask for your commitment to support any request by the Science Committee for conferees on H.R. 3295 as well as any similar or related legislation.

I would also like to take this opportunity to thank you for including provision of H.R. 2275 within H.R. 3295. As a result of the negotiation between our Committees, the provisions of the Science Committee's bill to improve voting technology (H.R. 2275) have been incorporated into the Ney-Hoyer (H.R. 3295) bill. The thrust of the Science Committee bill was to set up a process to ensure that proper technical standards would be developed to improve voting technology and that a reliable system would be set up to test equipment against those standards. Virtually every provision of the Science Committee bill has been included in the House

Administration Committee legislation. Because of the hard work and cooperation between our Committees, the new standards will ensure that voting machines tally voters' ballots accurately. They will help reduce voter error by ensuring that new voting equipment is user-friendly. Additionally, these standards will ensure that voting machines are accessible to the disabled.

I request that you include this exchange of letters as part of your report on H.R. 3295. I look forward to continuing to work with you on matters of mutual concern.

Thank you for your consideration and attention regarding these matters.

Sincerely,

SHERWOOD L. BOEHLERT,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 7, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: In recognition of the desire to expedite floor consideration of H.R. 3295, the Help America Vote Act of 2001, the Committee on Armed Services agrees to waive its right to consider this legislation. H.R. 3295, as introduced on November 14, 2001, contains subject matter that falls within the legislative jurisdiction of the Committee on Armed Services pursuant to rule X of the Rules of the House of Representatives.

The Committee on Armed Services takes this action with the understanding that the Committee's jurisdiction over the provisions in question is in no way diminished or altered, and that the Committee's right to the appointment of conferees during any conference on the bill remains intact.

Sincerely,

BOB STUMP,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, December 11, 2001.

Hon. ROBERT W. NEY,
Chairman, Committee on House Administration,
Washington, DC.

DEAR MR. CHAIRMAN: As you know, under Rule X of the Rules of the House of Representatives, Establishment and Jurisdiction of Standing Committees, the Committee on Government Reform has exclusive jurisdiction over matters relating to transportation of the mail, and all matters involving the United States Postal Service. H.R. 3295, the "Help America Vote Act of 2001," includes language that falls within the jurisdiction of the Committee (Title VII—Reduced Postage Rates for Official Election Mail). In its present form Title VII would create an open-ended subsidy that would be difficult to administer, and would be financed by a "tax" on postal customers.

I appreciate both you and your staff consulting with my Committee on your legislation. In accordance with our discussions you have agreed to remove Section VII of the bill. The Government Reform Committee will no longer have any jurisdictional claim over the legislation, since no other provisions of the bill are under the purview of the Committee.

Under the National Voting Rights Act of 1993, Congress contemplated that election officials would have the ability to access the same reduced mailing rates available to nonprofit organizations. As you mentioned there have been a number of problems associated with the implementation of this part of the law. I am strongly committed to working closely with State and local election officials, the United States Postal Service and you to solve this problem. If this effort proves to be problematic I stand ready to examine alternatives—including a possible legislative solution.

Thank you again for your consultation and I would ask that a copy of this letter be included in the Congressional Record during Floor consideration. I look forward to continuing cooperation on matters within the jurisdiction of both committees.

Sincerely,

DAN BURTON,
Chairman.

Mr. NEY. Mr. Speaker, I urge the motion to recommit be defeated, and I urge support of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MENENDEZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by a 5-minute vote, if ordered, on the question of passage.

Pursuant to clause 8 of rule XX, proceedings will then resume on the three motions to suspend the rules and the one corrections bill postponed from yesterday, on which the yeas and nays are ordered, each of which will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 197, nays 226, not voting 10, as follows:

[Roll No. 488]

YEAS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Shows
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—226

Aderholt
Akin
Armey
Bachus
Baird
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering

Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NOT VOTING—10

Buyer
Cubin
Delahunt
Dooley
Evans
Gonzalez
Granger
Hostettler
Luther
Young (AK)

☐ 1529

Messrs. GALLEGLY, MCHUGH, SHERWOOD, BARTLETT of Maryland, SOUDER, FLETCHER, BONILLA, TERRY, WATTS of Oklahoma, PICKERING, and FOLEY changed their vote from "yea" to "nay."

Mr. BLUMENAUER, Ms. WATERS, and Ms. CARSON of Indiana changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

☐ 1530

The SPEAKER pro tempore (Mr. LAHOOD). The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 63, not voting 9, as follows:

[Roll No. 489]

YEAS—362

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barrett
Bartlett
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kirk
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—63

Baldwin
Barr
Barton
Becerra
Blagojevich
Bonilla
Bonior
Brown (OH)
Capuano
Clayton
Coble
Conyers
Culberson
Davis (IL)
Doggett
Flake
Frank
Goode
Gutierrez
Hefley
Hilliard
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Jones (NC)
Jones (OH)
Kilpatrick
Kingston
Kleczka
Kucinich
McDermott
McGovern
McKinney
Meehan
Mollohan
Murtha
Napolitano
Olver
Pastor
Paul
Payne
Pelosi
Petri
Pombo
Putnam
Rahall
Reyes
Rodriguez
Rohrabacher
Roybal-Allard
Rush
Sanchez
Schaffer
Scott
Sensenbrenner
Sessions
Shadegg
Shows
Smith (MI)
Solis
Toomey
Waters
Watt (NC)

NOT VOTING—9

Buyer
Cubin
Delahunt
Dooley
Gonzalez
Granger
Hostettler
Luther
Young (AK)

☐ 1539

Mr. SCHAFFER and Mr. RUSH changed their votes from "yea" to "nay."

Mr. NEAL of Massachusetts changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on the motions to suspend the rules and on H.R. 1022 considered on the Corrections Calendar on which further proceedings were postponed on Tuesday, December 11, 2001.

Votes will be taken in the following order:

H. Con. Res. 282, by the yeas and nays;

H.R. 3209, by the yeas and nays;

H.R. 1022, by the yeas and nays;

H.R. 3448, by the yeas and nays.

The Chair will continue to reduce to 5 minutes the time for which each electronic vote in this series will be taken.

KEEPING THE SOCIAL SECURITY PROMISE INITIATIVE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 282.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and agree to concurrent resolution, H. Con. Res 282, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 5, not voting 13, as follows:

[Roll No. 490]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—5

Flake
Kolbe
Radanovich
Smith (MI)
Stenholm

NOT VOTING—13

Bass
Boehner
Buyer
Calvert
Cubin
Delahunt
Dooley
Fattah
Gonzalez
Granger
Hostettler
Luther
Young (AK)

□ 1548

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of H.R. 3295.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANTI-HOAX TERRORISM ACT OF 2001

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3209, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3209, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 491]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur

Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—10

Boehner
Buyer
Cubin
Delahunt
Dooley
Gonzalez
Granger
Hostettler
Luther
Young (AK)

☐ 1557

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNITY RECOGNITION ACT OF 2001

The SPEAKER pro tempore. The unfinished business is the question of passage of the bill, H.R. 1022, on which further proceedings were postponed.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill, on which the yeas and nays are ordered.

This is a 5-minute vote on H.R. 1022.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 13, as follows:

[Roll No. 492]

YEAS—420

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—13

Boehner
Buyer
Cubin
Delahunt
Dooley
Gonzalez
Granger
Hilleary
Hostettler
Luther
Miller, George
Sanders
Young (AK)

☐ 1605

So (three-fifths having voted in favor thereof) the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT OF 2001

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and passing the bill, H.R. 3448.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 3448, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 2, not voting 13, as follows:

[Roll No. 493]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—2

Paul
Pombo

NOT VOTING—13

Bishop
Boehner
Buyer
Cubin
Cummings
Delahunt
Dooley
Gonzalez
Granger
Hostettler
Luther
Miller, George
Young (AK)

□ 1614

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to go to conference on the bill, H.R. 3338, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 3338, be instructed to insist on the maximum levels within the scope of conference for defense, homeland security, and local recovery efforts from the terrorist attacks of September 11, 2001; in particular, to insist on:

(1) the House position for higher levels for defense, including fully funding the $7.3 billion requested by President Bush as emergency spending for defense;

(2) the Senate position for higher levels to counter potential biological and chemical terrorist threats (including additional funds to improve State and local capacity to track and to respond to bioterrorism, to purchase smallpox vaccine, and to sanitize mail and protect postal employees and customers from exposure to biohazardous material),

(3) the Senate position for higher levels to increase staff to combat terrorism along the Nation's borders and ports of entry, to improve food safety, to assist state, local and federal antiterrorism law enforcement, to accelerate nuclear non-proliferation activities, and to enhance security for nuclear labs and plants, and other federal facilities;

(4) the higher of either the House or Senate provisions for transportation security, including the higher Senate level for cockpit security, the Senate higher funding for the Coast Guard, the Senate provision to compensate airports for the costs of implementing stronger security requirements and the higher House level for hiring sky marshals;

(5) the Senate position for higher levels for FEMA disaster relief payments for recovery activities in New York, Virginia and Pennsylvania, Community Development Block grant assistance, Payments to hospitals that responded to the attacks of September 11, 2001, assistance in meeting workmen's compensation needs related to the terrorist attacks, funding for improved security in the Amtrak tunnels in New York, assistance to the ferry system between New York and New

Jersey, and to reimburse claims for first response emergency service personnel who were injured, disabled or died in the terrorist attacks.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) will be recognized for 30 minutes and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the House has a decision to make today which in the real world would have a real effect on virtually every American. We have to face this question:

Are we going to provide money now to tighten security on our borders, in our ports, on our airplanes, or are we going to wait?

Are we going to provide the public health services and local governments with money now to defend against bioterrorism, or are we going to wait?

Are we going to accelerate our efforts to protect nuclear, biological and chemical weapons from falling into the wrong hands in the former Soviet Union now, or are we going to wait?

Are we going to clean up our mail, or are we going to wait?

Are we going to give the Nation's Federal, State and local law enforcement officials the additional resources they need to find al Qaeda cells operating in this country, or are we going to wait?

There are people downtown who would like us to wait. They want to take the time to study these problems. They want to participate in these decisions. Perhaps they want credit for being part of the solution. That is all fine. We need their thoughts. We need their input. We need them both. Now. We are glad to give them credit, but we cannot wait. We are in a race against time. All you have to do to understand, that is, to look at the headlines every day in the newspaper, look at the pictures on your television, and listen to what our enemies say. We may have an enemy that is wounded, but they are not destroyed. They are as dangerous now as they have ever been. And while we need to do all that we can do to defeat them overseas, we have to be equally aggressive at blocking their efforts here at home.

This motion is very simple. It would instruct the conferees to maintain the House position on defense which is $5.3 billion higher than the Senate's figure; it would insist that the conferees support the Senate position on homeland security which is $2.7 billion above the House bill; and it would instruct the conferees to support the Senate position for funds to help recover from the attacks of September 11, an additional $2.6 billion above the amount in the House bill. There is only one way that that can happen. Everyone here needs to understand that this instruction will put the conference at least $5.3 billion above the House-passed bill.

Members may try to pretend that they cannot add, but numbers are stubborn things. If you want to tell the conferees to stay within the $20 billion limit that the House Republican leadership has mandated, then you had better vote against this instruction, because this instruction breaks that limit by at least $5.3 billion, and I make absolutely no apology for that in any way whatsoever. We cannot have it both ways. You cannot spend the same money twice.

In fact, Members need to understand that this bill, in fact, will be a little bit above $5.3 billion above the House bill because we take the Senate number on sky marshals which is higher than the House number is.

I would urge Members to vote for this motion to instruct because it is the right thing to do, it puts the security of the country's home front first, it recognizes that we have additional costs in running the war as well, and it forthrightly admits that this is now the time to pay for them rather than putting it off to another more convenient day. I do not think our adversaries will wait for whatever actions they contemplate. We have an obligation not to wait, either.

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, I rise in support of the motion to instruct.

While we have made improvements to transportation security since September 11th, we must do more. This motion directs the House conferees to seek the higher funding levels for transportation security programs.

The tragedies of September 11th happened because terrorists were able to enter the cockpits of four airplanes. Unfortunately, the House bill contains only $50 million for cockpit door improvements. The Senate bill contains $251 million for cockpit door improvements, much closer to the Administration's request of $300 million. This motion instructs the House conferees to accept the Senate funding level.

Today, the airlines have made some improvements so that cockpit doors cannot be as easily broken into, such as the strengthening of bolts. The President proposed $300 million so that modifications can be made to secure the cockpit door in such a way as to permanently prevent an intruder from entering the cockpit door.

The funding included in the Senate bill would be provided to airlines to ensure that all aircraft cockpit doors are modified as quickly as possible. This funding should be included in the conference bill.

The House bill provides additional funding for more federal air marshals, where the Senate bill contains no such funding. The Administration has made good progress in increasing the number of federal air marshals, and the House bill would provide for a further increase. It is important to public safety and confidence that we bolster their numbers to the greatest extent possible. This motion would instruct the House conferees to insist on the House funding for more air marshals.

The Senate bill also provides additional funding to our nation's airports to meet additional security needs.

Since September 11th, the Federal Aviation Administration has imposed additional security requirements on our nation's airports, and rightly so.

Increased patrols of ticket counters, baggage claim areas, and screening checkpoints have been mandated, as has increased inspections of controlled access points and the areas outside the airport. Airports have also been required to re-issue all airport identification and verify such identification at all access gates.

To meet these additional requirements, the airports have incurred additional costs, primarily for additional law enforcement officers and overtime.

The American Association of Airport Executives estimates the cost of these additional requirements to be about $500 million this year. These increased costs come at a time when airports are losing money. The airports estimate the total revenue decrease to be $2 billion in 2002, or 20 percent of estimated revenue.

The Senate bill includes $200 million to assist airports in meeting the costs of the increased security requirements mandated by the FAA. This motion instructs the House conferees to accept this funding level.

The Senate bill also includes a total of $285 million for the Coast Guard, compared to the House level of $145 million. The higher funding level in the Senate bill is needed so that the Coast Guard may continue its current, increased level of operations, and further expand its port security activities.

Since September 11, Coast Guard port security operations have increased substantially. The Coast Guard is now patrolling ports and checking crew lists of those entering our ports. Much more needs to be done to enhance port security, but what the Coast Guard has done is a good start.

These current Coast Guard operations should not be reduced; and the funding provided in the Senate bill will ensure that they are not. This motion would instruct the House conferees to accept the Senate's higher funding for the Coast Guard and port security.

In closing, let me say that this motion to instruct is the right one. It addresses the security needs of this country and the traveling public. We should do no less.

Mr. OBEY. Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

I want to say at the outset that I congratulate the gentleman from Wisconsin for the work that he has done on this issue. We have had this discussion between the two of us. We have had this discussion with the President of the United States. We have had this discussion at the Committee on Appropriations. And we had this discussion on the floor of the House when we passed the bill.

I would like to say, Mr. Speaker, I do not disagree with the needs that the gentleman from Wisconsin has pointed out here. If you recall, on September 14, the House, with the gentleman from Wisconsin and I working closely together, passed an emergency supplemental of $40 billion right after the attacks on the World Trade Center and the Pentagon. The same day, the Senate passed the bill and we actually conferenced that bill and passed a conference report, all on the same day. So we moved quickly. We have proved that we can move quickly when it comes to the defense of our Nation and the protection of our citizens.

I want to make the case that of the $40 billion emergency supplemental, most of the money has not been allocated yet. In that $40 billion, the first $20 billion that the President had control over plus what the House did in our supplemental, there is $21 billion for the Defense Department to prosecute the war. Will it take more than that? Very likely.

We do not require that money today, but we are going to provide whatever is necessary to complete that war in Afghanistan and anyplace else that we might have to go to seek out and destroy the terrorist cells that pose a threat to the United States of America and to our people and our interests, wherever they might be. We are going to provide whatever it takes to make that happen. We are not going to allow Americans to live in fear, and we are not going to allow our places and our properties to be attacked. That is pure and simple.

On the issue of biological and chemical terrorist threats, we need to be concerned about that, and we are concerned. This Congress several years ago began providing the preparation and the research necessary to combat any biological and chemical threat, but more needs to be done. In the House bill together with the President's $20 billion package, there is already $2.2 billion. One of the most important things that we need to do is guarantee that our ports of entry, that our borders, are protected. We provide about $700 million immediately to begin to hire and train the people who would provide that security.

As for transportation, The United States of America, without transportation is in deep trouble. Economically and every other way, from the national defense standpoint, our transportation systems must be safe. We provide funding for the hiring of sky marshals and to train them and to implement stronger security requirements at our airports and our other transportation stations.

□ 1630

We have $1.2 billion already here to begin that process.

We need to assist our State officials, local officials and Federal officials who deal with the antiterrorism law enforcement. We have $400 million to begin that process already in the bill.

Nuclear nonproliferation activities are very important. We have money in our regular bills for this purpose. We add another $100 million in the package that we present today.

To the City of New York, we have all made commitments to the City of New York. We are going to keep them. The President agreed to a $20 billion package for New York, and we immediately agreed to that; and it was put into our $40 billion emergency supplemental. Already in the package that we present, $10 billion is made for the City of New York. We are doing all of these things at the present time.

Now, we could take the package of the gentleman from Wisconsin (Mr. OBEY), and, frankly, I would have liked to have supported it all the way through the process with the President, the leadership, the committee, and lastly, on the floor. But we agreed to a $20 billion limit on the supplemental, and that is the only difference that I have with the gentleman from Wisconsin (Mr. OBEY) on this motion to instruct today.

We are going to do the items that the gentleman from Wisconsin (Mr. OBEY) identifies, because he and I have gone over these items already, and I agree with what he is suggesting. The only difference we have is timing.

The President of the United States has said that he will request an emergency supplemental at the moment that it is needed, when we do not have enough money already in the pipeline to provide the things that we are talking about here to secure our Nation. Our leadership has promised that when that request is made available to us it will be presented immediately.

As chairman of the Committee on Appropriations, I have made the commitment over and over again that I will move that supplemental appropriations bill just as soon as I possibly can after we receive the information and the request from the President of the United States, who is leading the battle to secure America, who is leading the battle to seek out the perpetrators of terrorism, and to do away with their ability to threaten us at any time in the future.

The President is the leader. Congress is important, we are in a support role in this issue; but we cannot all run that war. That is why we have a Commander in Chief as proposed by the Constitution of the United States.

So, Mr. Speaker, today I am going to accept the gentleman's motion to instruct, with that reservation that we are going to try to do as much as we possibly can on that motion within the $20 billion limit, and that we will address the additional amounts at whatever moment they are identified as being required.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, what we just heard from my good friend from Florida is that he is going to accept this amendment, which requires the conference committee to report back with a bill which is $5.3 billion higher than the $20 billion ceiling to which he has just referred, and yet he has suggested that somehow he is going to reserve the right to come back still under that $20 billion cap. One cannot do both at the same time.

Now, I sympathize with the gentleman, because I know he is personally in favor of what we are trying to do. So are many other Members on the Republican side of the aisle. They have told me that. His problem is he has been ordered by his leadership, no matter what, to stay under the $20 billion ceiling.

He knows he cannot win a vote against this motion, and so he is accepting it to try to leach all meaning from the vote. Yet you cannot hide from the fact that this motion to instruct says we should ignore the $20 billion artificial limit and meet the legitimate security needs of this country, both in the defense budget and in homefront defense. That is what this motion says.

If people want to try to play it both ways, I understand the gentleman's dilemma, but that does not make his position any more real.

Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I think in fairness to the gentleman from Florida, my friend misheard him. I do not always speak with perfect diction. I understand when people mishear people.

You said you think he said he would accept it, A-C-C-E-P-T; he said he would except it, E-X-C-E-P-T. That means he is going to vote for it, except for the money for the Defense Department; he is going to vote for it, except for the money for New York; and he is going to vote for it, except for the money for domestic homeland security.

So, if the gentleman had said he was going to accept it and simultaneously disregard it, you would be perplexed; but if you had understood him correctly as saying he is going to except it and do everything except what it says it is supposed to do, the perplexity would be gone.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I think what the gentleman is pointing out is there is a word game going on here, and the fact is this is too serious for games. The gentleman from Florida is right in his heart. He knows we need this money. He knows we need it now.

He knows that we need new border guards now, not in 3 months. He knows we need greater security at the FBI, the NSA and a number of other national security agencies. He knows we need it now, not later. He knows that we need a far greater protection for public health than we have right now. He knows that right now we are not prepared for chemical or biological attacks in most of the municipalities in this country.

He knows all of that, but he is being required by his leadership to pretend that this motion to instruct does not in fact vitiate his leadership's instructions, because his leadership knows and he knows they cannot win a vote on the merits, because there are too many responsible Republicans who recognize that this money is needed and it is needed now.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in support of the motion to instruct. I opposed the House version of this bill precisely because it failed to live up to the House's commitment and in fact repealed the requirement in the original supplemental bill that we had earlier passed to provide at least $20 billion in relief and recovery costs to the victims of the September 11 attack and to the people of New York, Virginia, and Pennsylvania.

Thankfully, we still have a chance to improve the bill and increase funding for areas of critical need, and that is why we should support this motion to instruct.

Now is not the time to artificially cap the costs of this crisis. If it costs more than $40 billion, we ought to provide more. We should not be bound to an artificial limit that was agreed to 3 days after the attack.

Today we know that in fact we do need more funds to help New Yorkers, to aid small businesses, to protect against chemical and biological attacks and to substantially increase our national security.

Some say we in New York do not need more funds than provided in this bill now; but we do, now. Yes, sufficient funds are flowing for the cleanup and the physical reconstruction, but not for the 100,000 people who lost their jobs as a direct result of the attack; not for the 10,000 small businesses at risk in Lower Manhattan.

The Small Business Administration is proud it has given out over 17,000 loan applications, but it has made only 360 loans. Our small businesses need help, cash grants, now. Next spring will be too late. They may not exist by next spring.

Let us pass this motion to instruct. Let us live up to our commitments and let us be proud to support a bill that meets the desperate needs of our constituents and the desperate needs of our country. I urge support for the motion to instruct.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I listened with great interest to my friend from Massachusetts, to the points he made. I am sure he believes he made a real powerful point, but I have not been able to figure out what it was yet.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, my point was that it would be confusing if the gentleman had accepted the motion and simultaneously disregarded it. So it seemed to me what he was saying was he intended to make exceptions to it, and that "acceptance" and "exception" got confused, because the gentleman said he was going to vote for a motion which required additional spending which he then said he planned to oppose.

Since that would not have made any sense, I tried to follow the principle that you try to listen to what people say and you try to make some sense out of it.

Mr. YOUNG of Florida. Okay. Mr. Speaker, I appreciate the gentleman reexplaining that.

Mr. Speaker, we have to be real. The other body had this issue of appropriating money over the $20 billion. Because it went over the $20 billion, it was subject to a point of order and it required a 60-vote margin to overcome the point of order. The vote was 50–50, and that 50–50, I would suggest, is going to stay in the Senate regardless of what we might do here today and what we might do in conference. So I am just trying to be helpful and friendly here. The gentleman from Wisconsin (Mr. OBEY) is very well aware of the fact that I want to be helpful. We are going to do the very best we can in this conference.

The gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) have developed an outstanding defense bill for the $317 billion basic defense bill. Most of our differences in conference will be over this $20 billion emergency supplemental package that is attached to the defense bill as an amendment.

We are going to do the best we can, but I will guarantee you we are not going to leave something undone that needs to be done today, because there is more flexibility in monies that have already been appropriated.

So I say that we will support this today, and we are going to do the best we can in conference to accomplish what the gentleman from Wisconsin (Mr. OBEY) wants to accomplish; but before it is over, we will have provided whatever is needed to secure the United States of America and to allow the President to run this war and make sure that he has the money when it is needed to do that.

None of us are going to be satisfied if something is undone, if something is not done, if some security measure is not taken care of because of a lack of money. We are going to provide whatever is necessary to fight terrorism, to guarantee that the terrorists do not have an opportunity to attack America again or our friends or our allies or our interests, wherever they might be.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I simply want to note that if anyone votes for this motion today, they are accepting the obligation of the conferees to report back a bill which is $5.3 billion higher than the bill as it left the House.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. MURTHA), the distinguished ranking member of the Committee on Appropriations Subcommittee on Defense.

Mr. MURTHA. Mr. Speaker, the dilemma we are caught in here, and the gentleman from Florida, the gentleman from Wisconsin, the gentleman from California, all of us know this, is we have an agreement with an artificial cap, and we have to try to meet the needs of the war while this is going on.

We know that in the amendment that we have offered we can speed up the renovation of the Pentagon. We know we can speed up some of the weapons systems; and some people would say that with the phenomenal increase already, we do not need any more. But some of the problems we are trying to solve have gone on for years.

For instance, we are trying to figure out a way to replace tankers. We run into the artificial ceiling. The tankers are worn out. We are using them every day. Some of those flights today have to be refueled four or five times by the time they get to Afghanistan and back. Yet we cannot buy the tankers, so we are probably going to have to lease them, if we finally agree; and we have been resisting this on the House side. But if we agree, it will cost us $7 billion or $8 billion more in order to lease them rather than buy them. So we have put ourselves in a dilemma.

I realize the Speaker and the President have made an agreement, and I would hope at some point we can convince them. I worry that last year, the supplemental, we kept thinking it was going to be up here, we kept urging him to bring it up. We all called for him to send the supplemental up, and they waited forever. I would hope they would get a supplemental to us as soon as possible, because we only have like 12 legislative days from January to the end of March. So we really are in a box in the sense that while the war is going on, unless they send a supplemental up that we can act on, we will have them doing the same thing they did last year, reaching into other processes in order to get the money.

So we have some real problems here that we have to solve. I know the reason that the gentleman from California (Chairman LEWIS) decided that he could not support extra money is because when the President said he is going to veto the bill, he would veto the bill. I know that is a problem. We have this artificial ceiling we have to deal with, but I hope at some point we can convince the President and the Speaker that we really do have a problem here.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

□ 1645

Mr. LEWIS of California. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I have been concerned about our crossing that line of the agreement, because it conceivably could lead to a veto, but I think the gentleman's motion today is very helpful in connection with that, because it, indeed, is very possible that the other body will come in with a lot less in that package than we have, and if there is a statement here that suggests that we really know what we would prefer to have move, that may very well cause the administration to bring us back for a supplemental much earlier. So I feel very comfortable with this discussion and I hope we go forward positively.

Mr. MURTHA. Mr. Speaker, reclaiming my time, I just hope that when Members vote on this, they will understand that we need more money in homeland security. We need to speed up the process of getting teams to combat biological and chemical warfare out; we need money for the borders; but we also need money for operational money and the war. I know we will take care of the immediate needs, but I worry about the supplemental, and I hope we are putting the executive branch on notice that they need to send us a supplemental as soon as possible, that they do not wait around and let those experts at OMB decide when the supplemental is sent up.

So I would just urge the Members to vote for this motion and, hopefully, in the subcommittee, we will be able to work the best we can under the artificial limitations we have, and then they will understand that we need more money and get the supplemental up as quickly as possible.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute.

I rise to agree with the gentleman from Pennsylvania (Mr. MURTHA). He is one of the best national defense experts that I know anywhere in the House or the Senate, or at the Pentagon, as a matter of fact. He is right. He mentioned the tankers. There is no doubt that our tankers have been worn out. Our AWACS, we actually have foreign AWACS flying around the United States protecting our major cities. There is no doubt we have a lot of needs.

But I also agree with the gentleman that we should have a supplemental as early as we possibly can. He mentioned how slow the administration was last spring getting us a supplemental and, again, he was right. But that was prewar. When that supplemental came down, it was before September 11. After September 11, we took up the emergency supplemental, passed it in the House, the Senate, and conferenced it all on the same day. So we can move quickly when the security of our Nation is at risk.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, nuclear terrorism is a serious threat to our Nation and our families, but this Congress is not acting like it. Inexplicably, in the waning hours of this session of Congress, we will have spent less on nuclear nonproliferation this year than we did last year.

Considering the consequences of September 11, considering all that we have learned in recent weeks since then about even al Qaeda trying to get its hands on nuclear materials which could, in effect, kill millions of American citizens in one nuclear incident, I just cannot understand how we can go back home to our constituents and say we should be spending less to protect them from the potential holocaust of nuclear terrorists.

President Bush recently said that preventing nuclear terrorism should be a top national priority. I agree. The President is right. I think today it is time we start following through on that belief.

We have had enough rhetoric about dealing with nuclear terrorists. Tonight, in this Obey motion, we need to actually take concrete action to prevent it. We must decide whether we just want to talk about stopping nuclear terrorists or really want to prevent them. I believe we have an obligation to our constituents and families and, yes, even our children and grandchildren to do everything possible now, not next year, not the year after, to do something now to stop a nuclear holocaust in our country.

How serious is this threat? Well, this year, former Senator Sam Nunn and Howard Baker, a Democrat and a Republican together, after a year-and-a-half study concluded, and I quote, that "Nuclear terrorism is the most urgent unmet national security threat to the United States."

In my opinion, as of this moment, this Congress has failed in our serious responsibility to the American people to take responsible, effective, proven steps to keep nuclear materials away from terrorists.

Nobody in this House or this country would intend to help nuclear terrorists, but I would suggest that we have to do more than just talk against them; we have to fund the programs that help protect nuclear materials from these kinds of people.

The Obey motion that we will vote on in just a few moments will add over $220 million to proven, effective programs that our Department of Energy has carried out in Russia to protect Americans from nuclear holocaust.

The question of timing has been raised. Well, let us just wait until next year. The President will have a proposal, let us fund it then. If that is what happens, I hope and pray that that will be soon enough. But taking action next year will not do Americans and future generations any good if grapefruit size of nuclear material needed to kill 2 million Americans is stolen next month or in the next several months. We must support this Obey motion.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WALSH), a subcommittee chairman on the Committee on Appropriations.

Mr. WALSH. Mr. Speaker, I thank the gentleman for yielding me time.

This discussion is a bit difficult to follow. The gentleman from Wisconsin (Mr. OBEY), the leader of the minority on this issue, offers a motion to instruct. Our chairman, the leader of the majority on this issue, accepts. But what does this really mean? Well, I would submit that it means nothing, because we are not instructing the Senate; the Senate is instructed by the Senators. We are instructing the House conferees. Since there is no controversy over the defense bill, the only thing we are instructing the conferees on is the supplemental.

Now, who are the conferees? Well, they just happen to be all here today at the same time in the same room: the gentleman from Wisconsin (Mr. OBEY), the gentleman from California (Mr. LEWIS), and the gentleman from Florida (Mr. YOUNG.) They know how they are going to vote, clearly. So who are we really instructing? What is this exercise all about? Polemics? Politics? I am not sure.

The fact is, the President has made the point over and over again. The supplemental will not go over $20 billion. It took me a while to figure that out. I offered an amendment in the Committee on Appropriations to add money to this. We lost the amendment. The House decided not to go over $20 billion, and we did not. The Senate, reacting to what the House did and what the President said that he would do, also did not go over the $20 million. I submit to my colleagues, Mr. Speaker, that the conference will not go over $20 billion either.

Now, there are a couple of problems with what has not happened. We have not helped workers with unemployment insurance benefits or their health benefits. If the Senate majority leader, Mr. DASCHLE, would stop obstructing the stimulus package and let that bill go forward, we could deal with the really vital issues that need to be dealt with in this bill.

So, Mr. Speaker, I would submit that we need to move forward on this bill and we need to have this conference and we need to get these expenditures resolved quickly.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The Chair will remind all Members not to urge Senate action or inaction on any matter.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman asked what this is about. It is very simple. What this is about is the fact that thousands of Americans died 3 months ago because the country was hit by terrorists in an unexpected way. What this is about is trying to see to it that that does not happen again. That is what this is about.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I want to rise in very strong support of this motion. As I understand it, we would go to the higher levels and, in that case for defense, it would be additional; we would go back to the $7 billion that was in the House bill.

In my judgment, we desperately need that money for defense and national security. One of the things that came out at our hearings this year, led by the gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA), is that each of the services told us that they were somewhere between $10 billion and $12 billion short on money for procurement of new weapons systems to recapitalize our force. This is something that I am very concerned about, because in each of these wars that we have had, Desert Storm, Desert Shield and Kosovo, now Afghanistan, we have heavily used this equipment. It is getting older. It is going to have to be replaced.

Unfortunately, one area where the Clinton administration did not do enough and, in fact, the Bush administration is a little below them this year in the 2002 budget on procurement, is in the area of buying new weapon systems. The CNO of the Navy testified that in order to maintain a 300-ship Navy, he has to buy 10 ships a year. The budget only allows him 5. In order to maintain and reduce the age of the aircraft, the attackers coming off those carriers that we see operating and flying into Afghanistan, he has to acquire 180 to 210 planes a year. He is only able to buy 81.

So if we continue to reduce the money in this supplemental for defense, we are going to have problems equipping the force and doing the things that are essential.

I just hope that this Congress can work with this President and, during this war, add the additional money that is necessary to recapitalize our forces. I think it is the number one defense priority. We are doing a good job on readiness. We are helping our troops with adequate pay increases and health care, but what we really are failing to do is to get the new equipment that they will be using. I worry, as we saw one of the B-1s lost today, and we are pleased to hear that the pilots were able to bail out and I think are safe, hopefully. But it is that kind of problem that will occur if we do not do a better job of modernizing and, therefore, I hope we can save this $5 billion, and I support the Obey motion.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the Subcommittee on Defense of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker, I have stated in the well before that the two committees which are the best to serve on is the Subcommittee on Defense of the Committee on Appropriations, and when I served on the Authorization Committee with the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) and those guys, but also the Permanent Select Committee on Intelligence. The gentleman from Wisconsin (Mr. OBEY) and the gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from Washington (Mr. DICKS) know that yes, we need funds. We need them desperately, not just for our forces, but we need them for homeland defense also.

My point is, why are we here in this position? Why are we here today asking for more and more money? Eight years of the Clinton administration and 124 deployments has nearly devastated our military. The cruise missiles, we do not have JDAM kits for precision-guided weapons today. We have 37 ships tied up that we cannot repair with deferred maintenance.

Mr. Speaker, 124 deployments. Look at Haiti. Most people have seen Blackhawk Down. We got our rear-ends kicked out of there and we lost 19 rangers in the process. We got our rear-ends kicked out of Somalia, 5 times in Iraq, bombing an aspirin factory in the Sudan. All of these different deployments put us over $200 billion in debt for defense. And guess what? At the same time we deployed in defense, our national security forces, our CIA, our FBI, they also have not been able to modernize. Those accounts are deficits. Those accounts are low.

Now, we find ourselves not only in a war in Afghanistan, but here in the home front. We cannot make up $200 billion plus like this. Now we are asking to go $5 billion above the $20 billion, and then another $20 billion. That is no small change. And to do that, yes, we have a bill coming up before long that is called Medicare. We have a bill coming up called Social Security and the Social Security Trust Fund.

□ 1700

We are going to want money there. But we cannot keep deficit spending on all of these; and yes, there are priorities. The condition we are in right now of having to build ourselves out of this hole is going to take a while. We cannot spend all this money; we cannot spend $20 billion, in 3 months. We will spend it as we need it, and with the supplemental coming down the line.

If we try to do it now, we have all this money; and a lot of it is going to go where the gentleman and I do not want it to go.

Mr. DICKS. Mr. Speaker, if the gentleman will yield further, the gentleman would not argue that we are not short of the procurement dollars that are needed to modernize the forces, would he? Would the gentleman not agree with that?

Mr. CUNNINGHAM. Mr. Speaker, I think that is exactly what I said. But the reason we got here is because 124 deployments in the last years of the Clinton administration have nearly destroyed our military, and we cannot bail ourselves out of it.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, there are several oddities being announced today. One is that when we know we are going to need more money, we should not, in the basic budget bill, vote all that we are going to need, but we should hold some back for a supplemental.

I had thought the purpose was, when we were pretty sure we were going to need money, to vote that at the outset so there could be intelligent planning on the part of those receiving it, and reserve a supplemental for something unexpected. We are told here, yes, you are right, we need this money; but let us not do it in the overall budget bill. Let us wait for a supplemental. Why? Because the President does not want it.

That is really quite striking. That is the second interesting constitutional point. The gentleman from Florida (Mr. YOUNG) said the President leads and we support. In terms of the deployment of troops and the command in the field, of course that is the case. But in terms of allocation of resources, this is a very odd constitutional theory, that it is somehow inappropriate for Congress to say to the President, we think you need more money. It is a good thing Harry Truman did not believe that during World War II when he did such a good job of oversight.

Apparently, there is this new theory that once the President says something, that is it, that our job is simply to do what he wants. Pretty soon, under that theory, the only place we are going to find checks and balances around here is in the Members' bank accounts, because we have this view that says that whatever the President wants we have to accept.

By the way, there is reason to question the President's judgment. I know that is considered now to be, by John Ashcroft, somewhat treasonous, but the fact is, the President's judgment seems to be flawed.

All last year, I heard Candidate Bush and Candidate Cheney talk about how weak and pitiful the American military had been. We heard again from the gentleman from California that the American military had been reduced to a state of pitiful decrepitude.

So I have a question: Where did that wonderful military come from that just did such a magnificent job in Afghanistan, while it was simultaneously maintaining forces in Korea, in the former Yugoslavia, and continuing to bomb Iraq? In fact, the denigration of the military, which was the theme song of the Republican ticket last year, has just been very effectively refuted by the wonderful performance of that military in Afghanistan.

Now having performed that way, there is a need to replenish. Apparently, what we are told is yes, we do need to replenish them, we know that, it is foreseeable; but let us not do it in the basic budget bill because the President does not want us to, because Mitch Daniels will yell at him; and, therefore, let us do a supplemental.

It is not a sensible way to budget; it is not a sensible way to conduct legislative affairs; and it is not a sensible way, in my judgment, to try and spend money efficiently. If we think the military is going to need more money, let them have it at the outset. Let us do homeland security at the outset.

The supplemental is meant to be a way of taking care of unanticipated needs; it is not supposed to be a way to show congressional submission to an all-powerful executive which feels it would be inconvenient to spend now what it knows it is going to have to spend.

I hope that the resolution is adopted, and that it is in fact conscientiously carried out by those who vote for it.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I do not think we are as far apart on this as it seems. We all understand what the requirements are. Mainly, we are talking about timing.

What I suggest is we get about this conference report and bring it back to the floor so that the House can complete it on next week. The gentleman from California (Mr. LEWIS), as chairman of the subcommittee, and the gentleman from Pennsylvania (Mr. MURTHA), as the ranking member, have done an outstanding job in preparing an excellent bill.

Are there other requirements? Absolutely. I can tell the Members, we talked about the tankers, wearing out that fleet; we talked about the AWACs. An awful lot of our combat aircraft are in the hangars being used as a source of spare parts. Because of all the deployments that the gentleman from California (Mr. CUNNINGHAM) mentioned, we are in fact wearing out much of the equipment of our military.

On the other hand, the bill that we are debating today is $317 billion. That is a lot of money. We have said that when additional money is needed over and above that, we are going to make it available. Who better knows than the Commander in Chief of the Armed Forces what they need to conduct the war in Afghanistan, or wherever that war might take us, to eliminate the threat of terrorism, to disrupt the ability of terrorist organizations to threaten the United States of America?

Mr. Speaker, I would just suggest to my friend, the gentleman from Wisconsin (Mr. OBEY), and I complimented the gentleman from California (Chairman LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA), and I would not only compliment but thank the gentleman from Wisconsin for how we have worked together on all of our bills. We have worked together extremely well. We have worked together very well on this bill.

The gentleman from Wisconsin and I made a strong presentation to the President. The President made a final decision, as Commander in Chief; and that is the decision that we are working with today.

So now we are at the point where the gentleman from Wisconsin (Mr. OBEY) has made a motion to instruct the conferees. I have already said that we are going to accept that motion, so I just ask the gentleman from Wisconsin (Mr. OBEY) to take "yes" for an answer.

Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the question before us is very simple: What is more important, to adhere to an artificially imposed $20 billion spending ceiling on national security-related items, or to do what we think is necessary today to deal with our vulnerabilities?

We are told by the majority Members, wait until next year. In my view, that is a slogan more befitting a Chicago Cubs fan than it is a Member of Congress.

If we take a look at what my good friend, the gentleman from California (Mr. CUNNINGHAM), has said, he said that we have urgent military needs; yet we are being told that those needs have to be sacrificed to that $20 billion ceiling that we supposedly agreed to.

There is no such ceiling. That ceiling is a fiction. When we agreed to supplemental funding requests after the events of September 11, we all agreed, and the President, the gentleman from Florida (Mr. YOUNG), and I are all on record publicly as admitting that that was simply a downpayment. It was not a final ceiling; it was a downpayment on meeting future needs. The needs are obvious. Members on both sides of the aisle know it.

We are told we are supposed to wait. We are told that this money cannot be used now. Not true. We can hire more border guards now. We have had over 600 of them already cleared by the agency. They are just waiting to get the authority and the money to hire them.

We can give the FBI a modern computer system now. Right now they have computers that cannot even do pictures. If they want to send a picture of a suspected criminal from one station to another across the country, at least one-third of their computers do not have the capacity to do that. And we are asked to wait? Give me a break.

We can improve the percentage of imported food that is inspected at our borders now. Only 1 percent is inspected right now. Yet we are told that somehow, rather than doing these things, we have to adhere to this $20 billion agreement. The fact is very simple: to wait is to play Russian roulette with the safety of every American.

Make no mistake about it, a great effort has been made here today to imply that Members can vote for this motion and still vote to keep the $20 billion ceiling. Members cannot. This motion specifically instructs the conferees to accept the higher dollar amount contained in the House bill for defense funding in the supplemental. It instructs the conferees to accept the higher dollar amount for assistance to New York, which is only half of that which was originally committed by the President, and it requires the conferees to accept the higher Senate amount for homeland security.

That means that if the conferees do that, they will be required to bring back to this floor a bill which contains more than $5.3 billion in additional security spending above the level that would be imposed by that $20 billion artificial ceiling. Mr. Speaker, they cannot vote for this motion and then claim to be consistent with it if they bring back a bill which falls short of that $5.3 billion add-on.

The American public wants these expenditures, the vast majority of Members want these expenditures, and the only reason the gentleman from Florida (Mr. YOUNG) has accepted it while at the same time trying to pretend that he can still stay within that $20 billion ceiling is because he knows that his leadership could not win a vote against this motion if they took it on. That is because most Members of Congress recognize this funding is necessary, and so do most members of the American body politic.

Mr. Speaker, this Congress did not say, Wait until next year, before it decided to give $24 billion in 15-year retroactive tax breaks to some of the biggest companies in this country. It did not say, Wait until next year, to the people who were given multi-billion dollar tax breaks on the estate tax. But when it comes to providing more help for the FBI, more help for the Customs people, more help for our other security agencies, we are now told, Wait until next year.

Let us do it now. Vote for this motion to instruct and mean it.

Mrs. LOWEY. Mr. Speaker, I rise in strong support of this motion to instruct.

In the three months since terrorists attacked America, Congress and the American people have been called upon to make extraordinary commitments.

Our men and women in uniform are risking their lives, helping to liberate Afghanistan from the grip of al-Qaida and and root out terrorists. Ordinary citizens are making sacrifices, volunteering their time and money to help victims of terrorism. And, in the days immediately following the September 11th attacks, Congress took unprecedented action to do its part—providing $40 bilion in emergency funding to help the rescue and recovery effort, enhance our military might, and ensure the safety and security of all Americans.

Despite our best intentions, what we provided was not enough. And we know we can do better. We must do right by our military, we must do right by the American people, and we must do right by the people of New York.

In the wake of September 11th, the President made a promise to provide whatever it took to rebuild New York. And Congress made that promise law, setting aside $20 of the $40 billion in emergency funding for relief and reconstruction. But neither the Senate nor the House bill fulfills this promise.

The devastation in New York is not just at Ground Zero, where teams are working around the clock to recover bodies and clear away the rubble. Widows need health insurance. Laid off workers—who were just getting by—need extended unemployment benefits. Residents need checks to cover security deposits in temporary homes, and to repair their apartments. Small businesses need grants to stay solvent.

And it is not just New York that is hurting. The American people have become victims of the fear and uncertainty that terrorism breeds. And, while investments in homeland security will not allay all the fears—they will go a long way to keep our communities safe. Safe from threats to our postal system and our food and water supply. Safe from threats to our ports, borders, and our schools. It is our responsibility to invest in safety both at home and abroad—providing adequate funds to ensure the superiority of our military and the security of our citizens.

It is simply wrong to force the American people to choose between homeland security and a strong national defense. And it is wrong to force us to choose between either of these and cleaning up New York.

$40 billion will not be enough to meet all of our commitments, but we have been blocked from increasing this amount before the end of the year. I urge our conferees to maximize our investment in all of these priorities, and I hope Congress will return in January ready to do our job—to commit whatever it takes to rebuild New York, win the war against terrorism, and keep America safe.

The SPEAKER pro tempore (Mr. THORNBERRY). All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This 15-minute vote will be followed by a 5-minute vote on the motion to close the conference.

The vote was taken by electronic device, and there were—yeas 370, nays 44, not voting 19, as follows:

[Roll No. 494]

YEAS—370

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burton
Callahan
Calvert
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doyle
Dreier
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—44

Akin
Armey
Barton
Burr
Cannon
Chabot
Coble
Collins
Culberson

Deal
DeMint
Doolittle
Duncan
Ehlers
Flake
Goode
Goodlatte
Graves
Johnson, Sam
Jones (NC)
Kerns
Moran (KS)
Myrick
Nussle
Otter
Paul
Peterson (MN)
Petri
Pombo
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Sensenbrenner
Sessions
Shadegg
Simpson
Smith (MI)
Stearns
Tancredo
Terry
Toomey
Upton

NOT VOTING—19

Bishop
Buyer
Camp
Cubin
Delahunt
Dooley
Gephardt
Gonzalez
Hoeffel
Hostettler
King (NY)
Lowey
Luther
Meek (FL)
Miller, George
Pence
Schakowsky
Wexler
Young (AK)

□ 1737

Messrs. MORAN of Kansas, SMITH of Michigan, GRAVES, DUNCAN, EHLERS, PETRI, and UPTON changed their vote from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. THORNBERRY). Without objection, the Chair appoints the following conferees:

For consideration of Division A of the House bill and Division A of the Senate amendment, and modifications committed in conference: Messrs. LEWIS of California, YOUNG of Florida, SKEEN, HOBSON, BONILLA, NETHERCUTT, CUNNINGHAM, FRELINGHUYSEN, TIAHRT, MURTHA, DICKS, SABO, VISCLOSKY, MORAN of Virginia, and OBEY.

For consideration of all other matters of the House bill and all other matters of the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Florida, LEWIS of California, and OBEY.

There was no objection.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002, WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. LEWIS of California. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. LEWIS of California moves, pursuant to clause 12 of rule 22, that conference committee meetings on the bill H.R. 3338 be closed to the public at such time as classified national security information is under consideration, provided, however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. LEWIS).

Pursuant to clause 12 of rule XXII, this vote must be taken by the yeas and nays. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 26, as follows:

[Roll No. 495]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—26

Bishop
Buyer
Camp
Cubin
Davis (FL)
Delahunt
Dooley
Evans
Ferguson
Gephardt
Gonzalez
Hoeffel
Hostettler
Hyde
Israel
Kaptur
Lowey
Luther
Meek (FL)
Miller, George
Murtha
Pence
Schakowsky
Weiner
Wexler
Young (AK)

□ 1748

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3323. An act to ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1729. An act to provide assistance with respect to the mental health needs of individuals affected by the terrorist attacks of September 11, 2001.

S. 1789. An act to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

DIFFERENCES WITH THE OTHER BODY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. KINGSTON. Mr. Speaker, the House this year has had a very, very productive year. We have passed a good education bill, we have passed a faith-based initiative bill, we have passed an energy package; and, of course, we have passed an economic stimulus bill.

A funny thing has happened, though, on the way to the President's desk. It is called the United States other body, whose leader said, and I quote, or this is what has been said by that leader: "The economic stimulus issue is not a front-burner issue. Other legislation, particularly government spending, is more important."

That is a defining difference between the Republican House and the Democrat Senate. We believe people who are out of work, businesses that are cutting back, the economy that is going sluggish should be a front-burner issue. Unfortunately, the United States other body thinks it is no big deal, and that passing spending bills is more important.

But how are they doing on passing other spending? Here is what we have done on the House side. We have passed the energy bill, the economic stimulus, faith-based, the farm bill, trade promotion, antiterrorism and human cloning.

Where is the Senate? Nowhere. Maybe Mr. JEFFORDS needs to reexamine.

APPROPRIATIONS BILLS, 107TH CONGRESS, 1ST SESSION

Bill	House passed	Senate passed	CNF passed	Time elapsed between H/S
Supplemental, FY 01	6/20/01	7/10/01	7/20/01	21 days.
Supplemental, FY 02	9/14/01	9/14/01	9/14/01	
Agriculture	7/11/01	10/25/01	11/13/01	90 days.
Commerce/Justice/State	7/18/01	9/13/01	11/14/01	86 days.
Defense	11/28/01	12/7/01		9 days.
DC	9/25/01	11/7/01	12/6/01	73 days.
Energy/Water	6/28/01	7/19/01	11/1/01	22 days.
Foreign Operations	7/24/01	10/24/01		90 days.
Interior	6/21/01	7/12/01	10/17/01	22 days.
Labor/HHS/Education	10/11/01	11/6/01		25 days.
Legislative	7/31/01	7/31/01	11/1/01	
Military Construction	9/21/01	9/26/01	10/17/01	5 days.
Transportation	6/26/01	8/1/01	11/30/01	[1] 85 days.
Treasury/Postal	7/25/01	9/19/01	10/31/01	54 days.
VA/HUD	7/30/01	8/2/01	11/8/01	3 days.

[1] (Sent to conf 10/31.)

ANNOUNCING INTRODUCTION OF WORKER OPPORTUNITY AND RELIEF COMPENSATION ACT

(Mr. MOORE asked and was given permission to address the House for 1 minute and include extraneous material.)

Mr. MOORE. Mr. Speaker, on September 11, the people in the Congress came together with the President and all the American people as a result of the tragedy on September 11 in New York and Washington. I think we need to show that same spirit again when we come together for displaced workers in this country.

The people in this country who lost their jobs as a result of the faltering economy or the horrible event on September 11 do not need a handout. They do not need a tax cut. They need a helping hand just to get through this personal crisis they have suffered as a result of their loss of jobs until they can find a new job. These people are taxpayers and they will work again when they have the opportunity. But until that time, they need health insurance and they need extended unemployment benefits.

I am concerned that the latest press accounts reflect there may be some problem with the stimulus package. If that is the case, we need at the very least to pass a stand-alone provision for these displaced workers. The President has committed to support such a stand-alone provision.

I have introduced today the Worker Opportunity and Relief Compensation Act. I ask for your support for that legislation.

Mr. Speaker, I include a December 7 letter from the President as follows:

THE WHITE HOUSE,
Washington, December 7, 2001.

Hon. DENNIS MOORE,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MOORE: In October, I called on Congress to pass meaningful legislation to help Americans who have been affected by the economic consequences of the terrorist attacks. I called for immediate assistance for workers who have lost their jobs, and for tax provisions that would immediately and significantly stimulate the economy to create more jobs.

I made clear that I was open to good ideas for achieving these goals. And I laid out some general principles that are essential components of a meaningful stimulus package:

Tax rebates for lower-income Americans; Acceleration of marginal tax rate reductions; Enhanced expensing of capital expenditures; and Elimination of the corporate alternative minimum tax.

In the two months since I called on Congress to act, many promising ideas to assist workers have been put forward by both Democrats and Republicans. In November, Chairman Baucus proposed temporary expansions of health care and unemployment benefits for displaced workers. A bipartisan group of moderate Senators also developed a specific proposal for temporary assistance to workers, including a health insurance tax credit. This week, Chairman Thomas and the Republican leadership of the House announced their support for a specific set of temporary expansions of health care and unemployment benefits for displaced workers. Their proposal includes tax credits and mandatory spending, including block grants for health insurance, and extensions and increases in unemployment benefits that could all be implemented quickly.

I believe that the recent proposal from the House Republicans, coupled with the essential components of an economic stimulus bill that I have outlined above, can form the basis of a legislative package that provides the assistance and new jobs that American workers need now. I urge the Congressional Leadership to bring this legislation expanding unemployment and health benefits to my desk by the end of the year. Additionally, I urge Congress to send me legislation regardless of the success or failure of any other elements of the economic stimulus measures now pending. I continue to strongly believe that the best course is to combine assistance for dislocated workers with meaningful tax cuts that will create jobs for American workers.

My Administration stands ready to work with Democrats and Republicans to turn good ideas into law. We have an extraordinary opportunity to rise to the challenge of extraordinary economic times. I hope that Congress can now act quickly.

Sincerely,

GEORGE W. BUSH.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. THORNBERRY). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NATIONAL CALL TO SERVICE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, today the gentleman from Tennessee (Mr. FORD) and I introduced a bill called the National Call to Service Act. All of us are very aware of what happened on September 11; and as terrible as that day was and those events were, we have also seen some very positive things that have happened since.

We have seen the resurgence in patriotism. We have seen people who are more cordial and certainly have a greater desire to serve the country. In an attempt to harness this energy, the Call to Service Act would enlist 250,000 people, young people and old people alike, to serve our country. There are three aspects I would like to touch on very briefly here today.

First of all, rural and underserved areas often do not get much mention in a bill of this type. However, the National Call to Service Act does make sure that all areas of the country, particularly rural areas, are recognized. One example of this would be the teacher corps which would provide educational awards to attract and keep teachers in rural areas where it is very difficult to attract and keep teachers in such underserved areas. Another example would be public health programs where again rural areas are often neglected and underserved.

The second area of the National Call to Service Act I would like to call attention to is homeland defense. We have many young people who would like to serve the country, but yet do not want to go into full-time military service. This bill would provide young people with an opportunity to serve 18 months of active duty and then 18 months in a reserve status. In return, they get an educational award at the end of their service.

These young people would be used to guard vulnerable areas such as buildings, bridges, nuclear plants, airports and our borders. Also in the event of a national catastrophe involving bioterrorism, we need a great many people who could provide technical assistance in case of a health emergency.

Thirdly, one of our greatest resources in this country at the present time that I believe is greatly underutilized is our senior citizens. We currently have a great number of children who lack a caring adult in their life. They have no role model. We have 18 million fatherless children in the United States today. Roughly one-half of our young people growing up in this country are growing up without both biological parents. Seniors can certainly fill this gap. They can serve as tutors and mentors for these young people. It has been very well established that a good mentoring program can reduce absenteeism from school by 50 percent, can reduce drug abuse by 50 percent, can reduce teenage pregnancy, violence and dropout rates significantly.

We think that by utilizing our seniors more effectively, we can serve the country well, and particularly the youth of our Nation.

Mr. Speaker, at this time I yield to the gentleman from Tennessee (Mr. FORD), and he will discuss other aspects of the Call to Service Act.

Mr. FORD. Mr. Speaker, I thank the gentleman from Nebraska (Mr. OSBORNE) for yielding; and I come from a State with a good football team, but I am delighted that the greatest mind, at least in my era of following college sports, would see fit to allow a young Member like me to partner with him to do something that in the long run will benefit young people for many, many years to come.

It is difficult to expand on what the gentleman from Nebraska has already said, but this bill gives my generation an opportunity to do something that we have not been able to do. For so long we have been reduced in a lot of ways, and some of us have chosen, to be spectators to conflict involving challenges to our values and freedoms. We are hopeful with our friends on the other side of the aisle and this bill's companion, S. 1792, which was introduced yesterday by Senators MCCAIN and BAYH, we are hopeful that this legislation will attract the support of Democrats and Republicans alike in both Chambers.

Mr. Speaker, the district of the gentleman from Nebraska (Mr. OSBORNE) and my district could not be any more different than they are. He is from a rural area in Nebraska; I am from an urban area in Memphis, Tennessee. We are hopeful that regardless of who Americans are, where they live, or how they may identify themselves politically, this bill will attract the support of all of our colleagues, largely because it invites involvement.

The gentleman from Nebraska (Mr. OSBORNE) spoke about the need for this and how critical it is; but just to give more specifics, the purpose of the bill is to basically expand the AmeriCorps program. We propose a fivefold expansion of the traditional program, including new opportunities, as has already been mentioned, for senior service, work study and homeland defense. Specifically, over half of the program's expansion would be used to augment homeland defense in the areas of law enforcement and public health. Additionally, the legislation would provide new options for military enlistment, including expansion of the Montgomery GI bill and the establishment of a new 18-18-18 short-term enlistment option.

These provisions acknowledge that the GI bill has not kept pace with inflation, and a growing shortage exists for entry-level service needs. The short-term option would qualify E1 level recruits for an $18,000 education bonus after service of 18 months of active duty and 18 months of reserve duty.

Finally, in an ongoing effort to enhance national service, the bill also sets accountability standards and provides for a new demonstration choice voucher plan, not the voucher plan that my colleagues often think about, but a voucher plan providing grants for young people to apply in areas of public service.

We believe the Call to Service Act presents an immeasurable opportunity to seize on those attributes that define us as Americans and make us proud to serve in this country.

Mr. Speaker, I thank my colleague for yielding me this time and both Senators for their support; and I hope that all of our colleagues will see fit to support this important legislation.

COMMENDING MAJORITY LEADER DICK ARMEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DELAY) is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, I want to take a few minutes to talk about a real stalwart in this House, and to thank the gentleman from Texas (Mr. ARMEY) for his hard work and to remind our Members about what his leadership and effectiveness have meant to the success of our majority.

When DICK ARMEY first got to Washington, they said his ideas were out of step; but now America has caught up to Dick Armey. He stood firm against communism, and the Iron Curtain failed. He insisted that the welfare system was broken, and millions of Americans are now earning paychecks and have greater self-worth because they have entered the workplace. He took on a tough job of realigning our military base structure and our Armed Forces are more effective today because their bases better support their new mission.

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DICK ARMEY said repeatedly that punishing success was not part of the American dream. And he helped Presidents Reagan and Bush pass pro-growth tax cuts that raised our economic security. Many Americans now understand that a rising economic tide lifts all boats because DICK ARMEY explained it to them.

He reminded us that God is a part of all of our lives and millions of people now question why God has been driven out of our national lives. He fought laws that would have weakened our Constitution, and America remains the freest and most secure country in the world. He said that red tape and unneeded regulations were stifling growth and shortchanging job creation and now, despite the blow from September 11, our American economy is the healthiest, most vibrant and most productive in the world.

He knew that if Republicans clearly explained our goals as the majority party, we would earn broad support from the American people, and the Contract With America helped build the first Republican majority in four decades.

He arrives and departs Washington as fundamentally the same man that stood next to me to take his oath of office in 1985, but the Washington he will leave behind in 2003 is a very, very different place. He is just an ordinary man with extraordinary ideas that helped change America.

Since Republicans earned our House majority, the Federal Government has grown leaner, more efficient and more responsive to individual citizens. These changes happened because people like DICK ARMEY knew we could expect more from our government and they insisted that we do better. Our Republican majority has accomplished great things together, and our Nation is stronger, freer, and enjoys the highest living standards in the world.

Several broad principles guided our efforts: We believed that freedom is not free. We worked to ensure that our Armed Forces and the agencies protecting America had all the tools necessary to defend our country. We believed that government answers to the people. We worked to make the Federal Government more responsive, more efficient and more effective in performing its work. We believed that families are entitled to keep more of what they earn. We worked to be careful stewards of their tax dollars and insisted that every dollar was spent as wisely and effectively as it could be.

So, Mr. Speaker, let me say to DICK ARMEY, thank you, DICK, very much, for everything you have done to keep America strong and free. You can be truly proud of what the House has achieved under your leadership. There is no doubt that we will continue improving our Nation over the course of your final year. We must treasure and build upon our gift from previous generations. They left us a great country with a big heart, broad shoulders and the courage to chase hundreds of millions of dreams.

Today, the beacon of freedom is burning brightly. We need to stoke the flame, lift the lantern higher and lead freedom-loving people onward to a better and more fulfilling life.

I want to extend DICK ARMEY my deep thanks for everything he has done to make that happen. Finally, Mr. Speaker, let me offer a special thank you to Susan Armey for allowing America to borrow her husband all these years. Our country is a better place because of the sacrifices she and her family have made.

INTERNATIONAL CONTRIBUTIONS TO THE WAR ON TERRORISM

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Missouri (Mr. SKELTON) is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, in the aftermath of the devastating attacks on New York and Washington on September 11, the United States has taken a range of swift and decisive actions to bring the terrorists responsible to justice and to ensure that sponsors of terrorism are uprooted. Our military has helped drive the Taliban from power in most of Afghanistan and has tightened the noose on Osama bin Laden and his compatriots. We have seized terrorist assets around the world, putting those who would help terrorists on notice that we will dry up those sources of support.

In our military, diplomatic and financial efforts, the United States has received unprecedented support from the international community. Many countries around the world have converted their sympathy into real acts of solidarity. Our battle against terrorism is a global fight. Success requires sustaining a broad coalition of diplomatic and military partners over the long term.

Recently, the State and Defense Departments provided me with a list of 29 countries plus the European Union who have contributed to our current counterterrorist efforts. While each country is helping in specific ways, they all are making a difference in our ability to thwart the global threat posed by terrorist groups like al Qaeda.

Our allies in Europe are among our most committed partners. NATO took the unprecedented step of invoking article 5 of its charter, considering the attacks on the United States as attacks on the alliance as a whole. The European Union has offered broad diplomatic support and nations throughout Europe, from France and Germany to Poland, have offered military and domestic counterterrorism units. Unique among these loyal European partners is Great Britain who has stood with us diplomatically and fought alongside us in Afghanistan. The depth of this special friendship is one for which we should be profoundly grateful.

Beyond our European partners, our allies in Asia— Korea, Japan, Australia and New Zealand—have all provided combat or support forces for this fight. Our relationships with Russia and with India have improved greatly because of our common struggle against terrorism and their continued efforts to support us.

Finally, I would like to note the remarkable actions of Muslim countries in this global struggle. So many are our friends and recognize that the war against terrorism is not a war against Islam. Pakistan has been crucial to our efforts in Afghanistan and has demonstrated great courage in helping lead the struggle against radical terrorism. Our NATO partner, Turkey, has provided special operations troops and has helped bridge the gap between the West and other Muslim nations. States in the Gulf and throughout Central Asia have also chosen to stand with the global community, seizing terrorist assets, providing public support for our military efforts and granting critical overflight and basing rights.

As President Bush has said many times, this war will be a long and multifaceted one. To succeed, we will need the continued strength and commitment of the American people, but we will also need the ongoing support of our friends around the world. It is in the global interest to end terrorist activity and it will take global efforts to achieve this goal.

EXPRESSING THANKS TO JOAN BATES KORICH ON THE ANNOUNCEMENT OF HER RETIREMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROYCE) is recognized for 5 minutes.

Mr. ROYCE. Mr. Speaker, as Members of Congress, we all receive numerous honors every year. But having someone named after you is truly a special honor. There is a young boy named Eric Royce Bates out in California. What makes it so special is that his grandmother is my chief of staff, Joan Bates Korich, who has announced her retirement. Joni has worked for me for 19 years, starting in the California State Senate in 1982. I came to Sacramento as a young State Senator at the age of 31. I knew what I believed and I knew what my goals were. What I did not know was how to go about accomplishing those goals.

That is where Joni came in. She helped me learn how to turn ideas into accomplishments. She taught me that friendships can transcend politics and that just because you may disagree with someone, that that does not make them your enemy. She is the ultimate professional who takes her work seriously but never loses her sense of humor.

Thanks to Joni's leadership, our office is known for civility and professionalism. Our constituents in California have benefited tremendously from the unique care and interest she has demonstrated over the years. She has also proven time and time again how much she cares about every member of our staff. To this day, interns and young staff members who worked with us in Sacramento many years ago still call Joni to ask for advice, or just to tell her how their family is doing.

I still do not know how I managed to convince her and her husband Kim to leave her children and grandchildren and come with me to Washington when I was elected to Congress in 1992, but whatever I said, it was one of the best speeches I ever made.

In just over a month, Joni will return to her home in Sacramento and to her three children and eight grandchildren, including Eric Royce Bates. For Joni, there is nothing more important than family. I just consider myself fortunate to have been part of her extended family for the past 19 years. I will miss her very much as will every member of my staff.

Thank you, Joni, for all you did for me. You will be 3,000 miles away, but you will never be forgotten by me or by anyone who has had the good fortune to work with you.

MAJORITY LEADER ARMEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. TIAHRT) is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, today Majority Leader DICK ARMEY announced that he would not run for reelection. I received this news with mixed emotions.

First, I am very happy for DICK ARMEY because he is moving to the next phase of his life where he will continue to pursue his dreams. This morning he fondly spoke of his wife Susan and how he was looking forward to spending more time at home with her. The gentleman from Texas spoke of her admiringly and spoke of the sacrifice that she has made, being a spouse of a Member of Congress. We all stood and applauded when Susan Armey was recognized. We stood because each of us knew what our spouses have endured—the long hours, the brutal campaigns, the time away from our families. We know what Susan has endured.

DICK and Susan ARMEY will get to spend more time together, and I am very happy for them. But also, Mr. Speaker, I am saddened by the gentleman from Texas' announcement. I am saddened because I consider him a friend and I respect what he has accomplished, but I will miss him and I wonder who will fill the void. DICK ARMEY has fought for so many things that have made this a better place to live: Welfare reform that has improved the lives of more than 6 million Americans who are working today and pursuing their dreams. It was DICK ARMEY who fought so hard for Congress to balance the budget, and finally we see a surplus for the first time in a generation. It was DICK ARMEY who fought for a flatter, fairer tax system for Americans.

Yes, Mr. Speaker, I am going to miss DICK ARMEY when he leaves. I am going to miss my friend. Thank you, DICK, for carrying on the banner, for accomplishing so much, making life in America better for me and for my children.

God bless you and God bless America.

TEACHER CERTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight because occasionally I still read articles or hear news reports about a teacher shortage in this Nation. This is a government-induced, contrived or special interest produced shortage, because this is a problem that could be solved very simply and very quickly if we would do a few simple things.

Many, many years ago, I taught American government and journalism at T.C. Williams High School in Alexandria, Virginia, the school that the famous movie "Remember the Titans" was made about. I have had many, many teachers in my family. My grandmother taught for 40 years. My older sister taught for 30 years. Nobody admires teachers, I suppose, more than I do. But I think some of the certification requirements are warped, are out of whack. It makes no sense, for instance, that people who have Ph.D.s or master's degrees and long experience and great success in a particular field cannot teach in most of the public schools of this Nation.

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What spurred me to speak here tonight was an article that was in yesterday's Washington Post entitled "Down to Basics on Teacher Certification." This article says:

"University of Virginia Professor Frederick M. Hess says states should dump their current teacher certification requirements and instead ask prospective educators three simple questions:

1. Do you have a college degree?

2. Can you pass a test in your subject area?

3. Can you pass a criminal background check?

If the answers are yes, yes and yes, you could apply for any teaching job in the state.

To those who are picturing a crime-free yet clueless misfit at the front of their child's class, Hess says: Give school principals some credit. Allowing someone to apply for a job is not the same as guaranteeing them employment, he wrote in a recent paper for the Progressive Policy Institute.

Currently, each state sets its own complex guidelines for certification. They require a degree from an education program. The problem is that nobody agrees on what these programs should be teaching, Hess writes, in "'Tear Down This Wall,' the case for a radical overhaul for teacher certification."

That is what we need, Mr. Speaker, a radical overhaul of teacher certification. It makes no sense, if, say, a Ph.D. chemist who works at Oak Ridge in East Tennessee and who has spent, say, 30 years in that field and decides he would like to teach for a few years, he cannot be hired over some 22-year-old recent college graduate who has a bachelor's degree in chemistry, because that young person took a few education courses, and this Ph.D.-experienced chemist did not.

It makes no sense, Mr. Speaker, that a person who has a Ph.D. in political science cannot go teach American government in most of the high schools, public high schools, in this country. Or you could name any other field.

Let us say that we know that many private small colleges are struggling financially. Some of them close. Some of them cannot pay as well as the public school systems in this country. So let us say a person who has a Ph.D. in English and has taught 25 years at some small college wants to go teach in a public school. They should be able to.

The school systems of this Nation, the school boards, should be allowed to say a degree in education is a plus and a factor in favor of someone being hired; but they should have the flexibility to hire somebody who has great experience in a field and has maybe even advanced degrees in a particular field, and they should not be disregarded or excluded from even being considered for teaching positions in this country just because they did not take an education course when they were in college.

So I appeal to the Committee on Education and the Workforce members here and at the various State levels across this Nation to give our school boards and school systems more freedom and flexibility in who they can hire. I believe that we will get much more qualified teachers and wipe out this contrived, government-induced, pressure group-produced teacher shortage in this Nation.

NATIONAL AVIATION CAPACITY EXPANSION ACT

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, I rise tonight to introduce the National Aviation Capacity Expansion Act. This measure will codify into Federal law a historical agreement reached between Illinois Governor George Ryan and Chicago's Mayor Richard Daley that would benefit not only the Chicago area, but the entire Nation.

This agreement and legislation will modernize O'Hare International Airport by constructing new runways and reconfiguring old intersecting runways. It will also address automobile traffic congestion near O'Hare that will include western airport access, and it will maintain the quality of life for residents near O'Hare by committing $450 million in funds for soundproofing. In addition, this agreement will construct a new south suburban airport near Peotone and continue the operations of Meigs Field on Chicago's lakefront.

Because O'Hare is the epicenter of the Nation's aviation community, this agreement is great news for airline passengers across the Nation. O'Hare is one of the world's largest airports and is the only dual-hub airport in the Nation, as both United and American Airlines base a significant amount of their employees, equipment and activities at O'Hare.

O'Hare serves more than 190,000 travelers per day, with 2,700 daily flights. Communities big and small are served by O'Hare. Forty-eight States in this union have direct access to O'Hare International Airport.

O'Hare is badly in need of an upgrade to meet the demands of the 21st century because the airport design was developed in the 1950s. By replacing old runways with a safe and more modern design, weather delays and cancellations will be greatly reduced, eliminating delays that often make the rest of the Nation shudder.

In addition, my bill ensures that O'Hare modernization will be paid for primarily through airline and airport generated-funds, such as the passenger facility charge, landing fees, concessions and bonds. Contrary to what the few opponents of this measure say, this bill does not put the Federal Government on the hook for the cost of this project.

This bill also moves ahead with a south suburban airport near Peotone, Illinois. While some of those few opponents argue that expanding and reconfiguring O'Hare will put a stop to the State of Illinois' plans to build an airport at Peotone, nothing could be further from the truth. As the Chicago Sun Times wrote yesterday in their lead editorial: "The road to an airport in Peotone runs through a revitalized O'Hare. The two are linked. Demand for air travel is a key ingredient of the economic vitality of Chicago, our region and the country. A crowded, overwhelmed O'Hare, delays air traffic nationwide, and costs uncalculated billions every year. Another 2 decades of a decaying O'Hare, and a lot of people won't want to fly into Peotone or anywhere else."

I applaud Governor Ryan and Mayor Daley for their courage, tenacity and resolve that made sure that this agreement was done. But for this agreement to become reality in the long run, we must codify it so that no future Governor may rescind the agreement, and that is what my legislation will do.

I urge all of my colleagues to cosponsor this legislation that will do more than any other measure in Congress to meet the aviation demands of the 21st century.

HONORING THE UNIVERSITY OF WISCONSIN-STOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

Mr. KIND. Mr. Speaker, last week President Bush and Commerce Secretary Don Evans announced the recipients of the Malcolm Baldrige Award, our Nation's highest honor in quality and performance excellence, named after the 26th Secretary of Commerce. It is my pleasure to join them in congratulating the University of Wisconsin-Stout for becoming the first university ever to receive the award. I would also like to commend my good friend Chuck Sorenson, the chancellor at Stout, and the entire faculty and staff there for their hard work and dedication in helping make UW-Stout the extraordinary institution it is today.

In 1987, Congress established the Malcolm Baldrige National Quality Award to enhance the competitiveness of U.S. businesses. The award promotes quality awareness, recognizes the quality and performance achievements of U.S. organizations, and publicizes successful performance strategies.

It is given to U.S. organizations that have exemplary achievements in seven areas: leadership, strategic planning, customer and market focus, information and analysis, human resource focus, process management, and business results. All applicants for the Baldrige Award undergo a rigorous examination process that requires nearly 1,000 hours of outside review. Teams of examiners visit the finalists to clarify questions and verify information; and finally, an independent board of examiners reviews all applications and produces a report citing strengths and opportunities for improvement.

I am pleased that UW-Stout has received such a prestigious award. Many of us in western Wisconsin have long known the outstanding work done by the students, the faculty and the staff at UW-Stout that have made it an exceptional institution of higher education. UW-Stout is an outstanding role model for the 21st century education organizations, and it will now gain the national recognition their efforts deserve.

UW-Stout Stout is one of 13 publicly supported universities in the University of Wisconsin system. It has approximately 1,200 faculty and staff and about 7,700 students. UW-Stout offers 27 undergraduate and 16 graduate degrees. In addition to undergraduate and graduate degree programs, there are a variety of outreach programs and services to business, industry and society, and provides a full rage of support services to students.

In addition, UW-Stout's "mission driven-market smart" focus is characterized by an array of programs leading to professional careers, primarily in industry and education. It has maintained graduation replacement rates at or above 98 percent since 1996, and employers have consistently rated 99 to 100 percent of its graduates as prepared to work.

Although the Malcolm Baldrige Award is a tremendous achievement for UW-Stout, it is not the first award that the University has received. UW-Stout has received multiple awards for innovative programs and partnerships. In April 2001, UW-Stout received the national recognition from Newsweek as one of 34 schools cited as a "hidden treasure."

Some of the other awards include the 1995 Governor's Glass Ceiling Award; the 1999 Outstanding Award for Technology Transfer from the National Association of Management and Technical Assistance Centers; and the 1998 American Association of University Women Equity Initiative Award Winner.

Furthermore, UW-Stout has excelled in applying technology to instruction. Technology, when used effectively, can stimulate learning, enrich lives and create greater opportunity for the future of UW-Stout's students.

Beginning in the fall of 2002, toting laptops to class will soon be as common as carrying books. UW-Stout is the first university in Wisconsin to launch an initiative that will place a laptop in the hands of every incoming freshman.

To make the notebook computers even more portable, the program opted to use cutting-edge wireless technology. Each laptop is equipped to communicate with one of several Lucent base stations located on campus, allowing students to work on their laptops while in the classroom, the hallways, or even outdoors.

That is, however, only one of UW-Stout's innovative achievements. It is truly an exceptional university, and I am proud that this university is in my congressional district back in western Wisconsin.

Again, I am pleased UW-Stout has achieved the Malcolm Baldrige National Quality Award. They are truly a leader in the field of higher education, and I commend them for their hard work.

FEDERAL ECONOMIC STIMULUS PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. RODRIGUEZ) is recognized for 5 minutes.

Mr. RODRIGUEZ. Mr. Speaker, the Federal Government recently announced what we already knew, that the economy has been in recession since last March. According to the Labor Department, from September to October, the unemployment rate jumped from 4.9 percent to 5.4 percent, the largest 1-month jump since February of 1986. There are now 7.7 million unemployed Americans across this country, an increase of over 1,650,000 since March. The terrorist attack of September 11 only hastened the economic downturn and highlighted the need for a Federal response to stimulate the national economy.

Congress, as we all know, is locked in the debate about how best to quickly revive the U.S. and global economy. We need a response that is tailored to meet the problem, one that puts money in the hands of consumers, one that stimulates job creation, one that helps those most immediately hurt by job losses.

Following the terrorist attack on September 11, the House and Senate budget committees issued a set of principles for the economic stimulus package. These principles stated that any stimulus measure should, first, be limited in duration; secondly, that it not cause the Federal Government to have an on-budget deficit; thirdly, that it not result in high, long-term interest rates; fourthly, that it be approximately $100 billion in size; and, finally, that the cost should be fully offset in the future to ensure maximum repayment of our $5.8 trillion Federal debt. I repeat that, that the cost be fully offset in the future to ensure maximum repayment of that debt. And that is an important point, that we have to make sure that we pay for what we expend.

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Sadly, the House of Representatives' leadership passed a tax bill disguised as an emergency stimulus package which ignored each of those principles. The misnamed Economic Security and Recovery Act, which basically only stimulated the corporations, provides little true economic stimulation to lessen our Nation's recession and will delete the U.S. Treasury of $274 billion over the next 10 years. Some 58 percent, or $161 billion, of this total would come from our Social Security and Medicare trust funds. It is coming at the backs of our senior citizens and their pensions.

In the long run, the bill is likely to increase the long-term interest rates, which would raise home mortgage rates and, thereby, threaten the long-term growth of the economy. The fiscal discipline of the last 8 years that produced the largest budget surpluses in decades would be wiped out by this legislation, especially when combined with a $2 trillion tax reduction bill passed earlier by this Congress.

The bill includes long-term tax benefits for the wealthiest 2 percent of our taxpayers, $24 billion in retroactive tax relief for the largest corporations in America, accelerating the reduction in the top individual tax brackets affecting those persons making more than $297,000 per year, and provided $21 billion in tax benefits to U.S. corporate profits made outside the U.S. as long as the money is kept outside this country.

A scant 11 percent of the overall benefits of the bill would benefit those that are unemployed due to the downturn of the economy. That is 11 cents out of every dollar would only go for those that are in need.

The irresponsible failure to offset the cost of those tax cuts will leave us with future budget deficits and upward pressure on long-term interest rates. I would repeat that this bill would come and create additional deficits for our country.

Finally, the passage of this bill, and as we look at a bill, we have to make sure that it helps those that are in need and that it looks at stimulating the economy. It should follow the balanced alternatives that would quickly put money in the hands of people who have been hurt by the economic downturn and most likely to spend it and stimulate the economy. September 11 not only hurt New York, but it hurt everyone. It hurt those people on the borders that are having to wait. I ask that we really take into consideration and that we seriously look at what we are doing and that we vote for an appropriate piece of legislation.

BREATHING LIFE INTO HUMANITARIAN LEGISLATION FOR AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, today the President of the United States signed legislation to assist the starving Afghan women and children. Not only was this legislation to address these terrible physical needs, but also to address the need to include Afghan women in the political and governmental structure of a new Afghan.

I would simply say that the signing of the legislation and the work that was done by the women of this House and the Senate, many women in the Democratic Caucus who began many, many months ago speaking about the plight of the women in Afghanistan, is something that we all can be proud of. I salute the signing of this legislation.

Right now, there are 1 million people from the Afghanistan nation on the border of Afghanistan and Pakistan. These individuals are suffering because of the inclement weather and the very cold season. In refugee camps, 175 people have already died, and most of those are children.

It is important as we sign legislation, Mr. Speaker, that we utilize part of the $40 billion to act on the legislation. The people in Afghanistan need food, they need clothing, they need the ability to be resettled, they need housing that will be warm. In order to make this legislation a living, breathing document, I call upon the President of the United States to expend some of those dollars to utilize them immediately to help the starving children and the plight of those families on the border between Afghanistan and Pakistan. It is enormously important that as we fight to rid ourselves and the world of terrorism, that America emphasizes and reemphasizes its humanitarian approach and its view that there is a need to protect families, women, and children.

Mr. Speaker, just a few weeks ago I passed a resolution, H. Con. Res. 228, and that resolution was to emphasize that those children who lost parents or a guardian on September 11 should receive Federal benefits or any benefits with the highest priority. We know of the horrific tragedy of September 11, the divide that it caused in families and the loss of loved ones here in the United States, and I believe it is extremely important to emphasize the need to provide resources for those children. But equally so, as we have made a commitment to helping restructure the nation of Afghanistan, meaning to provide the opportunity for that government to build itself in a peaceful manner, we have also committed to making sure that women will be included in the rebuilding of that nation and in the governmental structure. We realize that the imprisonment of the burqas was the imprisonment of the spirit and of people's freedoms.

Now women are able to take off those uniforms. Now we need them to be fully involved in the structuring of government so that women's interests and children's interests can be emphasized.

Next week I intend to hold a briefing on the plight of children in Afghanistan and the hunger that they face, the devastation that they face, the fact that children have to go to work at 7 and 8 years old to provide for their families making bricks. We must find a way to involve ourselves in the aspects of giving Afghanistan and the people of Afghanistan a future and a sense of hope. Particularly, we must find a way to involve ourselves in the lives of those children so that they will become freedom-lovers, lovers of stability and government, and appreciating their own faith and recognizing that their faith, the Muslim faith, the Islamic faith, is one of love and peace.

We must do that now, Mr. Speaker. We must ensure that the resources are there. We must breath life into legislation that was signed today. We must address the question of 1 million refugees. We must find a way to stop children from dying in refugee camps. We must find a way as well to help rebuild this nation in a way that it stands alongside of the rest of the world family as a freedom-loving place, a place of peace, and a place where all can raise their children in harmony and with opportunity.

SERVICE WITH DISTINCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. SESSIONS) is recognized for 5 minutes.

Mr. SESSIONS. Mr. Speaker, today was a day that our majority leader, the gentleman from Texas (Mr. ARMEY), announced that he would not be seeking reelection in the 26th district of Texas, his hometown of Denton, Texas and the county of Denton.

Mr. Speaker, Majority Leader ARMY, upon making this announcement, gathered his family together and spoke with his family about his hopes and dreams of a new life that he wishes to have outside of the Congress. He spent 16 years in this body. This body respects DICK ARMEY. This body loves DICK ARMEY. This body also understands that DICK ARMEY is a man who brought high energy, ideals, high ideals and ideas that have moved this country, that have been a part of the political debate of this country.

I, as one Member, was asked to run for Congress by DICK ARMEY, and he described it to me as a place that would be not only an honorable place and a place where ideas would be talked about and discussed, but also a body upon which was an institution, the institution of the Congress of the United States. DICK ARMEY is one of the few people who have been to the very top who, upon their own choosing, has decided to leave. He served this body with honor and distinction, and he looks forward to those times that he will spend with his family.

But today was a special time, for he had his beautiful wife, Susan, and his family gather with him in this body as he described not only his hopes and dreams of this country that he has served, but also the hopes and dreams of this country when he goes into retirement. It is DICK ARMEY who worked to make this a better place. It is DICK ARMEY who chose to bring ideas not only related to solving one of the more difficult problems of this country related to how we handle military base closings, but it is also DICK ARMEY who talked about and brought from his years as an economics professor, a doctor of economics, the understanding that what this Congress does when it taxes people, when it takes money from people, what those profound effects are upon not only families and businesses, but also on the psychology of the Nation that no longer could handle deficit spending.

Mr. Speaker, it is DICK ARMEY who understood as a result of traveling all across this country the hopes and dreams that people have about America's greatest days lie in our future, and that is why DICK ARMEY became the father or the author of the Contract With America. Yes, he did work with Newt Gingrich on that, but it is DICK ARMEY and his staff who took it as a challenge, an opportunity, a sharing of ideas, where he stated unequivocally that if the Congress of the United States, the 104th Congress, would focus on those 10 important aspects that were embodied within the Contract With America that were, simply put, giving power back to people who are back home and taking power away from this body, that we could become not only more respectful of the taxpayer, but we could focus on the things that would make this country better.

It is DICK ARMEY who led the battle. It is DICK ARMEY who had the ideas, who shaped not only the things that made a difference in the Contract With America, but it is DICK ARMEY who made sure that they passed on the floor of this House of Representatives.

Mr. Speaker, DICK ARMEY has served with honor and distinction, not only the people of the 26th district of Texas, but also the people of this country. He was also our elected representative, the majority leader of the Republican Party. He will be sorely missed. Dick has been a good friend of mine, a mentor, and provided me not only with wise counsel, but also talked about how this institution must survive because it is in the best interests of this country.

So on this happy day, there is sadness in my heart, yet I know that DICK ARMEY feels like that he goes out in a way that he chose best, a way where he had a chance to leave this body, where he had a chance to give his very best, and yet he knows that his greatest days will be those times that he will have back in his own backyard with his grandchildren enjoying himself with his beautiful wife, Susan, and praying for this country. For we, too, will continue without him, but we too recognize that the opportunity to take those ideas that DICK matured for every one of us, in fact, will make our country better.

Mr. Speaker, I will miss DICK ARMEY. We will have one more year to work with him. But I want the people of this country to know that the time that is spent in Washington, D.C. can be done by honorable and great people and DICK ARMEY is simply one of those gentleman.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF HOUSE JOINT RESOLUTION 78, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2002

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 78) making further continuing appropriations for the fiscal year 2002 and for other purposes; the joint resolution shall be considered as read for amendment; the joint resolution shall be debatable for one hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

☐ 1845

BASE CLOSURES HARM AMERICA

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, in all probability, tomorrow the defense authorization bill for the year 2002 will come to the House floor.

Three or 4 years from now, it probably will not be remembered for what it has done for military procurement, because it does not do much. It buys only six ships for the fleet, which is actually one ship less than the Clinton administration asked for. It does almost nothing to address the aging of the military air fleet. It does not do a whole lot as far as replacing aging weapons systems.

But what it will be remembered for, if it passes, is the defense authorization bill that comes to the floor tomorrow includes base closure. Having been a Member of the House for three rounds of base closure, I am going to oppose that and offer a motion to recommit, because I truly believe in my heart and in my mind that base closure is bad for America.

First, I think it hurts our Nation's ability to defend itself. I think it is bad for those people who have served our country, I think it is bad for those people who are serving our country, and I think it is bad for those people who will serve our country.

On behalf of those who have served, a little-known fact is that about half of our Nation's military retirees have chosen to retire near a military installation. They do so so that in their golden years they can use those base hospitals and they can use the base commissary.

We, in effect, when we took them away from their families and sent them all around the world to defend us, we took one family away from them but gave them another. The new family is called the Air Force, the Coast Guard, the Marine Corps, or the Army. When we close the base, we have taken the family away from them.

They have purchased a house that is automatically reduced in value by the closure of that base. They are up in age, they do not want to up and move again, so in effect we have taken away their family doctor, the family grocery store, and once again, added to the list of things where they say we have broken promises to them.

I think it is bad for the present. Right now, all across America there are people working today, tonight, early into the morning, working overtime to take care to do those things that need to be done so our troops in the field in Afghanistan and all around the world are taken care of.

With the passage of this bill, they will immediately begin to wonder whether or not on November 7 of 2005 if that base will be open and if they are going to have a job. So instead of being rewarded for doing a good job for our Nation, they will immediately begin to worry about their future, and in all probability start looking for another job.

I think it is bad because when I asked my Senate colleagues, the other body, if they could name one single weapons system that has been purchased with savings from the previous three rounds of base closure, they cannot name one, because there is no savings. See, the myth of base closure is that we somehow save money because we close the base, we save a little bit on salaries. However, we are going to turn around and sell the property.

The part that was never explained to this Congress, but I will explain, is that the Nation has to live by the same laws as any other individual. Therefore, those laws that require properties to be cleaned up before they can be sold or given away apply to this Nation. Today, our Nation has spent over $13 billion cleaning up bases that were in turn given to local governing authorities because they could not find anything to do with them. They had suffered devastating effects to their local economy.

I think it is bad for the future, because once again we are breaking bonds between local communities and military installations. As we see a shrinking force, we also see a shrinking number of bases and a shrinking number of citizens who appreciate on a day-to-day basis what those bases do for us.

The young soldiers, young airmen, young Marines, young Coast Guardsmen, the young folks who participate in the Special Olympics, in the Toys for Tots, who get involved in the Boys and Girls Clubs, they are gone. They are no longer part of the community. They are shipped off, and once again the military becomes somebody else's constituent, somebody else's neighbor.

It is bad, because when we lose that property, we never get it back, particularly our bases that are in waterside communities, once that property is disposed of, should there be another national crisis. And let me tell the Members, there will be another national crisis.

I have been in Congress for 12 years. I no sooner got here than the Berlin Wall came down and 3 months later American forces were in Panama. Less than a year later they were in Saudi Arabia and Kuwait. Since then they have gone to Bosnia, Kosovo. Right now, they are in Afghanistan. Who knows, given the open-ended use of force resolution that this Congress has passed, what happens next.

I think it is a horrible message that we are going to tell those people who defend us that their military housing is at risk because we could very well close down the base that houses them.

Mr. Speaker, I want to thank my colleague, the gentleman from North Carolina (Mr. JONES), for helping me to introduce this resolution. I would hope my colleagues would give serious thought to this. Not one Member of the House has voted to close bases. The other body only passed it by three votes.

I think it would be insane of the House of Representatives to allow this bad policy to become law tomorrow.

AMERICA CANNOT AFFORD TO IGNORE THE PLIGHT OF AFRICAN AMERICAN FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, as I have often spoken to this body about the plight of black farmers, again I rise today to speak about the same subject. Their problems and their possibilities transcend region and reach beyond where each of us lives and encompass a wide array of economic opportunities, and include not just black Americans but Hispanic Americans, Asian Americans, Indian Americans, and women.

This issue also affects the disabled. A wheelchair-bound white male in Michigan has felt the sting of unfair, discriminatory practices at the hands of those charged with serving, through the Agriculture Department, all citizens who make farming a way of life.

The plight of black farmers also affects those who reside in urban America as certainly as it affects those in rural America. What if the cost of milk was prohibitive for the average person? It is in many parts of the world. What if eggs and bread was not readily available, even for those who could afford them? That is the situation for some on other continents. What if fresh fruit, vegetables, or poultry could not be found on our supermarket shelves? There are supermarket shelves devoid of these products.

Just a short time ago, many Americans were touched by the kind of discomfort that citizens around the world experience on a daily basis when the meat crisis ground some hamburger sales to a screeching halt. The fate of farmers and the fate of urban dwellers are inextricably tied together. Discriminatory practices in extending loans, technical assistance, and resources of whatever kind will cost those in New York as surely as they will cost those in my district in Halifax County, North Carolina. Fading numbers of small farmers, black farmers, necessarily impact the quality of life and the cost of food and fiber.

Mr. Speaker, the motivation for me to seek an assignment with the Committee on Agriculture was that it provided me an excellent opportunity for me to improve the quality of life for the residents of my area, the First Congressional District of North Carolina, a primarily rural and economically disadvantaged area with large and small farmers, both commercial and noncommercial.

Farms have been important to this Nation's past; and farmers are vital to this Nation's future, especially small family farmers and ranchers. American producers, who represent less than 3 percent of the population, provide more than enough to meet the needs of our Nation, as well as many nations of the world.

There has been a great decline, however, in our Nation's farms since the late fifties. In 1959, there were over 2.4 million small farms in the United States. Over 170,000 farms were in North Carolina, representing some 6.9 percent. But by 1978, the national number of small farms had declined to a little over 1.3 million, a loss of 1.1 million small farms. In the same period, North Carolina lost 106,262 small farms, bringing our total to 69,091 small farms, but still holding at 5 percent of the national total.

It is also important to understand that by 1990, almost a quarter of all farm households had incomes below the poverty line, more than twice the national average. Life has become very tough for our American farmers.

By 1992, there were only 1.1 million small farms left in the United States, a 45 percent decline from 1959. North Carolina had only a little over 59,000 farms left in 1992, a 23 percent decline; better than the national percentage, however, but certainly nothing to brag about.

Several factors have accelerated the demise of small producers: Globalization of commerce, economies of scale, limited access to capital, technological advances. The existence of worldwide markets for all commodities, not just agriculture, has created unique market forces.

Indeed, black farmers have suffered more. More than anything else, Mr. Speaker, the American people have ignored the fact that only 1 percent of the total farmers that now exist are African American; that is 18,816. This Nation cannot afford to ignore the plight of American farmers who happen to be African American.

TAX RELIEF FOR FAMILIES OF SURVIVORS OF SEPTEMBER 11 ATTACKS, ECONOMIC SECURITY, AND HEALTH INSURANCE COVERAGE FOR DISPLACED WORKERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I would like to discuss a number of topics tonight; and I know I am going to be joined by at least one of my colleagues, the gentlewoman from Florida (Mrs. THURMAN).

But I wanted to say that in the last couple of weeks before the holiday break, which I guess most of the Members of Congress are hoping that there will be some sort of holiday break, what I find, both here in Washington, in this Chamber, as well as back at home, is that while people continue to be concerned about the war on terrorism and also security here at home, they are also increasingly concerned about the economy and the recession that we now face, and the fact that so many workers have lost their jobs, the unemployment rate continues to rise, and that those displaced workers oftentimes have a problem, obviously, finding a new job, but also with their health care, their inability to keep their health insurance, as well as the fact that many Americans now face a problem that even if they have health insurance, they find that it costs them more, either because the premium goes up or because they have more copayments.

There is a tremendous amount of concern also, I think, by Americans, by the average American, about retirement security and whether Social Security, for example, or their pension, is going to be there when they retire.

So on the one hand, we continue the war on terrorism, which the President has very successfully continued in Afghanistan against the Taliban and al Qaeda; but at the same time, there is increasing concern about the economy at home and the recession that faces us.

I wanted to start this evening very briefly by talking about an issue that kind of goes together and concerns what happened September 11, and also is an economic security issue.

About one week ago, last Wednesday, in fact, there were about a dozen women who lost their husbands during the September 11 terrorist attack who boarded a train in my home State of New Jersey, leaving their children behind, and came down to Washington. They did not want to be here. They were visiting with not only members of the New Jersey delegation, as well as our two U.S. Senators, but they also met with the Speaker and they met with the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader in the House.

When I say that these women did not want to come to Washington, that was obvious. They said many times that they were concerned about their children at home and about even being here. In fact, I would say that they were really angry over the fact that they had to personally come to the Nation's capital and ask in this case the House Republican leadership to bring up a bill that provides tax relief for their families.

The reason I bring it up tonight, and I have to say, I am going to bring it up every night until we adjourn for the holidays, is because when the women met with the Speaker, according to them, the Speaker promised them that the House would consider a tax relief bill for the victims' families from September 11 and that that bill would be brought up the following Tuesday, which was yesterday.

Well, it is pretty obvious, Mr. Speaker, that Tuesday has come and gone and nothing has happened in this regard, and they are still waiting.

□ 1900

My question really is how much longer are they going to have to worry about receiving relief from the Federal Government?

I do not want this to be partisan, but I understand, and I think they totally understand, that it is the Republican leadership that has to bring up this bill because they control the House. And I would say tonight, and I will say every night between now and when we leave, that it is time for the Speaker and the Republican leadership to step up and provide this tax relief by accepting the language that was passed last month by the U.S. Senate. The Senate passed a bill that accomplishes the goal of giving these women, in this case, widows, not only relief from their income tax for the 2-year period, but also relief from the payroll tax, from estate taxes. And it has other provisions that would help them out in this time of need.

Mr. Speaker, and now I am talking about "the Speaker," these families have not forgotten the promise that was made to them last week, and I would urge that this bill be brought up quickly, tomorrow, the next day, or as soon as possible. And as I said, I will continue to come to the House floor every day until the Republican leadership brings this legislation to the floor, because I think it is the only right thing to do.

I would like to, before I get into the economic stimulus issue, because I really believe very strongly that we need to pass an economic stimulus package also before we go home for the holidays, but before getting into that I would like to yield to the gentlewoman from Florida who, I understand, is here because she wants to comment on this report that was recently put out by the President's Commission on Social Security.

I have to say, again going back to what I said initially, I know in New Jersey and throughout the country that people continue to be concerned about terrorism but, at the same time, I also know that I am getting a lot of concern on behalf of my constituents about the economic issues, whether it be the recession, Social Security, or Medicare, and we were hopeful that this commission was going to make some recommendations with regard to Social Security that would deal with the solvency problem.

We know in a few years that Social Security is going to start to diminish. The money will not be there, at least at the levels that are promised. And I know that the gentlewoman and I were very disappointed that their recommendations really do not deal with the solvency problem, and make recommendations with regard to privatization and other matters that I think are not really going to help.

So I yield to the gentlewoman.

Mrs. THURMAN. I thank the gentleman from New Jersey for yielding to me.

I first would say to the women who came from New Jersey here to speak to the body, we heard so eloquently today somebody talk about "we the people," and this being "the people's place of business," and so we do need to be paying attention to what is being said for those people who are having to suffer as a result of these September 11 attacks. They are the survivors, the families, their children. We need to be very cognizant of the issues and the needs that are facing them, and particularly not only at the tough time, but the holiday time, when they are already suffering from their losses, but then to be economically strapped because of the consequences.

Mr. PALLONE. If I could just reclaim my time. I did not go into the issue in a lot of detail, in part because, I have to be honest, it concerns me so much that it is difficult to talk about. But what has happened to them, and I think a lot of people do not realize this, is that the nonprofits, I guess primarily the Red Cross, basically provided assistance for the victims' families for a 3-month period. That ended essentially December 1.

So a lot of people think that the families of these victims are continuing to be helped by nonprofits, and in fact, that is not true. Some of them are in a position where they have a little money, but a lot of them do not.

I yield back to the gentlewoman.

Mrs. THURMAN. And I would say to the gentleman that that kind of walks into the issue of Social Security. So often we think of Social Security as just being something for those that have reached the age of 62 or 65. But the fact of the matter is we also recognize that Social Security provides essential income also for survivor benefits, and those survivor benefits in this case would be those children who are under the age of 16. They would have these benefits available to them.

Even as of last night, this House debated a resolution that pointed out why keeping Social Security was so important. And in the resolution it said, in the findings, "This Congress finds that: one, Social Security provides essential income security through retirement, disability, and survivor benefits for over 45 million Americans of all ages, without which nearly 50 percent of seniors would live in poverty. Social Security is of particular importance for low earners, especially widows and women caring for children," similar to what the gentleman is talking about, "without which nearly 53 percent of elderly women would live in poverty. And each payday American workers send their hard-earned payroll taxes to Social Security and, in return, are promised income protections for themselves and their families upon retirement, disability or death."

In this resolution it says, "and that commitment must be kept." Well, as we go through this resolution there is also a part that says "the sense of Congress," and it says, "The President's commission to strengthen Social Security, recognizing the immense financial commitment of every American worker into the Social Security System, should present in its recommendations innovative ways to protect that commitment without lowering benefits or increasing taxes, and that the President and the Congress should join to develop legislation to strengthen Social Security as soon as possible."

And it goes on to talk about what such legislation would have: "Recognizes obstacles that women face in securing the financial stability at retirement, or in cases of disability or death, and the essential role that the Social Security program plays in providing income security for women."

It also says, "Recognize the unique needs of minorities and the critical role the Social Security program plays in preventing poverty and providing financial security for them and their families when income is reduced or lost due to retirement, disability, or death;" and "It should guarantee current law promised benefits, including their cost-of-living adjustments that fully index for inflation for current and future retirees without increasing taxes.'"

Like the gentleman from New Jersey, I had great hopes. I thought the commission was a bipartisan commission that was going to come back with some recommendations, or a recommendation, not only on how we keep Social Security solvent but also how we extend it into the future, and we have heard the magic number of 75 years. I was rather concerned when the commission came back and released this long-awaited report on the privatization of Social Security.

Rather than releasing a consensus document with a single recommendation on how to lengthen the life of the trust fund, it released a list of three options, with little in the way of details. We just met with the commission and we said, are you going to give us details; how are we going to pay for this; what are we going to do? But what happened in this is that all three of the plans that were presented have what is called a "claw back."

Now, these plans then are set up so that the retiree does not get the full amount of what they earn on their private accounts. So they get the difference between what their account earned over time and an arbitrary number that the commission has set. That is what is called the "claw back."

All three of these options also carve private accounts out of Social Security. Here are the options: Option one diverts 2 percent of the payroll taxes into private accounts. This comes at a cost of $1 trillion over the next 10 years. How does this option extend the life of the trust fund? And, by the way, we do not think it does.

The commission also recommended reducing Social Security checks to seniors. But the cuts would not be enough to offset the $1 trillion in cost to the trust fund, so the commission failed to meet their goal of extending the life of the trust fund.

Option two diverts 4 percent of payroll taxes up to a maximum amount of $1,000. How does this get paid for, we asked? It reduces Social Security checks by changing the way payments are calculated for each new generation of retirees.

In making this seemingly small change, benefits for new retirees will gradually fall over time. Over time this adds up to a dramatic cut in benefits. It would mean a benefit cut of 24 percent for someone retiring in the year 2040. By 2070, the cut would be over 40 percent.

Option three combines a 2.5 percent payroll tax diversion with a 1 percent investment of your total paycheck. This option, we found, was so expensive that numerous cuts in benefits would have to be made.

The Wall Street Journal put it best when it wrote in its editorial page, "Benefits for all retirees would be changed in so many ways that grandma's head would spin."

The option that the President's commission has put out leaves several questions that we need answers to. What are the costs to the transition to private accounts from the current system? If tax increases are off the table, as the majority of this Congress voted for today, what Federal spending would have to be cut to provide additional revenue? What, if any, protections are in place for those who retire during a market slump? How will disability and survivor benefits be affected?

The President's commission was vague about how their three options would be financed. They mentioned that the revenue would be raised, but neglected to explain from where. The money has to come from somewhere. How can the President or Congress weigh the pros and cons of making these large changes to the Social Security System without this information? It is a question.

I believe, and I think many of us believe, there should be some investment component to Social Security. However, I would say that these are not the way. All three options that the President's commission put forth include a reduction in benefits, including a reduction in disability benefits. One option has so many cuts in benefits, as I said earlier, the Wall Street Journal said, again, "Grandma's head would spin."

The commission's report leaves too many unanswered questions. No one knows exactly how much these options would cost or where the money would come from to pay for these options. What we do know is this: We know that future seniors would face a reduction in their Social Security checks each month; diverting as little as 2 percent of payroll taxes to private accounts would cost $1 trillion in just the first 10 years; and we also know that none of these options will keep Social Security solvent over the long haul.

The gentleman from New Jersey and I have been here for a couple of years, we have been involved in this debate, and we care about this debate. The fact that this commission has come back and has left us with three options, has given us no knowledge as to how to pay for them, and leaves us probably with more questions than answers means that this debate will fall upon Congress once again.

I believe that if we were taking these dollars and, instead of diverting them, that we could actually, as we know from past reports, continue to make the Social Security System solvent by putting these dollars in the system that we have today versus trying to come up with another way of funding this or coming up with these privatizations.

We had some very good conversations last year to take some of what we used to have, the surplus, divert it to Social Security, to even actually take some of those dollars and use them in some accounts to extend the life of Social Security, that would be benefits for everybody, and now we are in a situation where we are left with a lot of questions, and talk of diverting funds, and no way to pay and no surplus.

I would say to the gentleman from New Jersey, and I know one of the reasons he is here tonight is to talk about the shape of the economy and the stimulus package, but the fact of the matter is we have left some false hopes for those seniors on the table today, and to those with disabilities, and to those that he spoke of so eloquently earlier, those that are survivors.

Mr. PALLONE. Well, I want to thank the gentlewoman. I know that on the Committee on Ways and Means, that this is one of the major issues that she has struggled with.

It all goes back to what we were saying in the beginning, which is that September 11 came, and we know what a dramatic impact it has had on the lives of the average American and on what we do here. But the bottom line is that before September 11, we had these outstanding issues; how were we going to deal with Social Security and the potential insolvency? How were we going to deal with the need for prescription drug benefit?

Mrs. THURMAN. If the gentleman will yield, I have to tell him that tomorrow in my district, and I cannot be there, obviously, because I am here, but I would recommend my seniors in Spring Hill and in New Port Richey, Pasco County, attend a rally they are holding.

□ 1915

They are holding a rally. They have not forgotten the promises that were made during election time. They are talking and having a rally. They are expecting somewhere around 250 people to talk about the procedure issue. The article that I read today on it said we are going to send a videotape to the gentlewoman from Florida (Mrs. THURMAN) with the stories and the plight of these families and the cost of procedures in this country.

I would invite once I get this videotape for any Member of this Congress to come and sit with me and watch and see what so many of these people are struggling with on everyday life-threatening situations, and that is the inability for them to pay for their medicines.

Mr. Speaker, I know that the gentleman has done a fabulous job on this issue. I enjoy working with the gentleman on the Democratic Health Task Force. I think we have done some very good things. But again, prior to September 11 when everything was done with the tax cuts, nothing is paid for, there is nothing left. Every month we are spending a billion dollars out of dollars that we do not have today that we had before.

Mr. PALLONE. Mr. Speaker, reclaiming my time, the fact of the matter is, and I do not want to make it so partisan and go back to the Clinton administration, but the fact is during the Clinton years we had finally gotten to a situation where we had a surplus. That had a major positive impact on the economy because it meant that the Federal Government was not borrowing so much. Money was freed up for companies to borrow and build factories and create new jobs. It was an important part of why the economy did so well.

I cannot believe when President Bush came in he started preaching essentially that we had to have huge tax cuts that went to corporations and the very wealthy. As a consequence of that, we now have a deficit once again. I know that September 11 has aggravated that, but nonetheless we were there even before September 11.

When we talk about the Social Security system, I was amazed when I was looking at the analysis of this commission, they are suggesting using unspecified general revenues to restore solvency. President Clinton was saying exactly that, use the surplus to shore up Social Security. Some actuaries have said if we continued to do that over a number of years, that might have solved the problem itself, and we might not have had to do anything else. Now they are mentioning that in the report, knowing full well that the surplus is not there any more because of the Bush tax cut. There is some hypocrisy.

Mrs. THURMAN. Mr. Speaker, one of the things that is missed in this debate is that we watched the Social Security solvency, as well as Medicare, increase by year. Every year we were moving ahead, not backwards. So at first when we heard about Social Security, it was going to be 2029. All of a sudden we were able to increase the solvency until 2037. The reason for that was because of a strong economy, people were working and unemployment was low. People were paying into Social Security and Medicare. We watched Medicare go from something like 2011 when we did the 1993 bill. We took some of those dollars and we transferred them into Medicare from the Social Security part of it to make sure that we could keep Medicare solvent. We pushed the number out into the future.

So not only is the economy affecting us with the whole issue of whether or not we have any surplus left, but it is also reducing, because unemployment is going up, those dollars that would be going into the system that would be extending these programs. So we are really kind of getting a double whammy here. It is not like we can forget without the growth in the economy, it also dwindles the dollars that goes into these programs.

So not only are we talking about what the options are, we have to try to figure out how to extend the solvency from where we are; and the best way to do that is to make the economy grow. There are ways to do that; and if we could sit down in a bipartisan fashion, do a bill that is fair across the board, is paid for, we could be going home with a gift to our constituents that helped all Americans and not just a few.

Mr. PALLONE. Mr. Speaker, I agree. I know that the gentlewoman can be very hard hitting, and in some ways she is almost being nice about the Social Security commission. It is not only the hypocrisy in talking about using general revenues that do not exist any more, but also they did not make it clear that any kind of privatization is ultimately going to aggravate the solvency problem.

I know that there are different suggestions here, but there is no way to create these private accounts and take any percentage of the money away from the Social Security trust and invest it and not impact the solvency. They are disguising what they are doing with the three options; but ultimately by privatizing, they are making the solvency situation worse, not better.

Maybe we need to be a little harsher about it than we have been, frankly.

Mr. Speaker, I yield to the gentlewoman.

Mrs. THURMAN. Mr. Speaker, we just got the report. It is 150 pages long. We are going to continue to dissect it and try to figure out if there are some things that we might catch onto. But there is an issue in the report that does concern me, and it is the one that I spoke about earlier called the "claw back." This claw-back issue is enormous because people think they are going to get their Social Security plus this investment. It does not work that way.

That is a really big concern because I think we are giving some false hope that we are going to take this 2 percent and invest it for you and, oh, by the way, you are going to get this, but you are also going to get all of this money that you supposedly made, and it does not work that way.

Mr. PALLONE. Mr. Speaker, I agree. I am going to sound very partisan, but both President Clinton and Vice President Gore were suggesting that there be a private pension system over and above Social Security. That is the only way we could actually accomplish this. Americans would still get their Social Security benefits, but then Americans put money aside into their own pension system which is matched with Federal dollars and then there is something beyond. But the only way to create that is if we bring new money into the system either because the individual is contributing it during their working years or the government matches. We cannot take it out of the existing trust fund without impacting the trust fund. That is why they have to claw back, obviously.

Mrs. THURMAN. The issue there was to encourage savings.

Mr. PALLONE. Exactly.

Mrs. THURMAN. It was to also recognize that Social Security was never supposed to be what people would have to live off of. So if we could find these U.S.A. accounts or whatever magic name we wanted to call them, the fact of the matter was that they would be there for the purposes of folks who do not make but a small amount of money, and they would invest into this on their own to be matched. It gave them incentives.

Mr. Speaker, guess what we have found. When people save, it is good for everybody in America. It is part of the economy. Savings is a part of what we rely on. So there was a plan with an outcome that was good for everyone and with no false hopes.

Mr. PALLONE. Mr. Speaker, I yield to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, it is good to be with the gentleman tonight. He has always brought the critical issues to the floor and has really given the public the information that is true and real. A lot of times they hear the pontificating on this floor, and it is absolutely just loaded with all types of hypocrisy and misinformation and misgivings. But when the gentleman from New Jersey (Mr. PALLONE) comes to this floor, the public knows that he is coming in to speak the truth.

Mr. Speaker, as I look at my lapel and see the burqa cloth, I am reminded today that we pretty much stood with the Afghanistan women to say free at last, free at last, thank God almighty, we are free at last.

As I look at the burqa, I am reminded of the issue of Social Security and women, and how they are not saying free at last because of this report that has just come out from the President's commission. There were some of us who went and talked with the commission to let them know some of the adverse provisions of Social Security and how it impacts women, the elderly and the disabled; and yet this report comes out, and indeed it has those very things that we thought it would have, and how it impacts in an adverse way women and the disabled and the elderly.

I would like to just speak a little bit about what we have seen in our research and the fact that this report is very disappointing to me as the recommendations contained in the draft final report of the President's commission to strengthen Social Security is in fact going to weaken it. The fact that the commission could not agree on a single plan and released three separate options is a matter of deep concern, as Social Security is an issue of critical importance to my constituents and the people around and across this great country.

The three proposals all require profound and fundamental changes to the Nation's retirement plan. I am concerned in particular with the impact any changes to the Social Security system will have on women, retirees and disabled workers.

The three approaches taken by the commissioners share several problematic features. The plans call for benefit cuts for retirees and disabled workers, and also for individual workers to open voluntary private investment accounts to provide them with an income in their old age, and we do know that once you rob out of the trust fund, it does not retain solvency at all. It weakens it.

So to even call this report strengthening Social Security is a farce. It is absolutely a discredit to those who are looking for something different than what this report is saying. Each of the plans diverts Social Security resources elsewhere, and none of the plans balance Social Security without the use of massive transfusions of general revenue.

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That surplus that they thought we had, and I suppose they must still think that, is not there anymore. So that is another misconception, a misnomer, a misdirection. Hypocrisy. No independent actuarial analysis was released, making it difficult to assess the commission's claims. What is clear is that each plan would "carve out" private accounts from Social Security, thus they would divert a portion of the trust fund revenues into private accounts.

Let me give you just a couple of things. We will not go into this plan. I am urging all of the Members to read this plan, to synthesize it, to dissect it, because it has several plans and all talk about this "claw-back" that my dear friend the gentlewoman from Florida just mentioned. I would like to just give information as to why women really need a good Social Security plan. We recognize that women, on the average, earn less than men, meaning that they count on Social Security's weighted benefit structure to ensure that they have an adequate income in retirement. Women are less likely to be covered by an employer-sponsored pension fund, which means that Social Security comprises a larger portion of their total retirement income. Women lose an average of 14 years in earnings because they take time off from the workforce to raise their children or to care for an ailing parent or spouse. When women are in the workforce, they often work in part-time jobs. This means that they have less opportunity to save for retirement. So to even suggest that one would take voluntarily or otherwise from already a very weak type of income that they have, an income that is not conducive to caring for their family adequately, let alone talking about a private savings account.

Since women live 6 to 8 years longer than men do, they must make their retirement savings stretch over longer periods of time. Consequently, women depend considerably upon Social Security's progressive, lifelong, inflation-indexed benefits. Privatizing Social Security would undermine many of the features that benefit American women, retirees and the disabled the most. Privatization would encourage individuals to invest their proceeds in private accounts, especially through the investment marketplace and the stock market. Private pension plans require sophisticated knowledge of the stock market. Many women, and even men, lack the skills involved in making investment decisions, decisions that would be vital to their long-term financial security. In addition, because women earn less, live longer and spend less time in the workforce, they will have less to invest in their private pension plan. The result would be that women would have to live on smaller benefits from smaller accounts.

Finally, besides the risks evident in investing in the stock market, there is nothing to prevent individual private pension plans from being eroded by inflation, for heaven's sake. This is particularly devastating for women who have less money to retire on and the need to make their money last longer. Social Security resolves this problem by increasing benefits each year through a cost-of-living adjustment, which is COLAs. This safety net, it appears, will no longer exist, though, under this President's Social Security plan.

I say to you that the women across this country will now have an opportunity to look closely at this new strengthening Social Security proposal that the President's commission has come out with, and they too will be rallying in the streets, thinking that what they thought they were going to get, they will not get unless some of us rescue the Social Security plan and put back into the trust fund those types of benefits that one should put back in and should have in terms of strengthening the solvency of Social Security.

Another issue that my friend spoke about is the fact that unemployment and people who are laid off work cannot invest in Social Security. Therefore, the solvency will be eroded, eradicated, we will not have that. And so to mention and to even suggest that one can invest voluntarily into a privatized pension or an account is really suggesting that you will have more people on the street, poor people on the street, homeless people on the street, women who have no sense of security because if they invest, not knowing and not having the skills as most of us do not have, they will come out losers. This is a losing proposition, not strengthening but weakening Social Security. I thank the gentleman for allowing me to just make some statements tonight as I continue to work with women across this Nation to look at this plan that does nothing for us but to weaken the position that we are already weakened in.

Mr. PALLONE. I want to thank the gentlewoman. She is right when she says that we need to have a lot more analysis of this because it just came out. But in pinpointing the difficulties in particular that women or low wage earners would face, I think that anybody who looks at this should be very concerned about the impact. The gentlewoman from Florida talked about the fact that Social Security is not just for people over 65, but also for people who are disabled and for survivors. Particularly with those groups, there is a lot here that they should be concerned about.

If I could just mention three things with regard to people who take an early retirement, the plan includes a provision that really further reduces early retirement benefits. Again, you have people that because of the economy now and the recession, there are a lot of these early retirement packages being offered in lieu of losing your job, so to speak. People who are taking those packages under this are going to have a problem, because they are going to be living a long time, particularly if they are women who tend to live a little longer, and they are going to be suffering because the amount of benefits they are going to be getting are going to be significantly reduced.

Ms. MILLENDER-McDONALD. If the gentleman will yield, indeed they will. As we speak about the disabled, there is still not anything that is focused in a positive way in this report. So the disabled is out of luck in trying to find any redeeming qualities in this proposal. Then in addition to that, you are right. When people are now opting out and retiring early, they expect something in their Social Security benefits that will not be there if this is passed and institutionalized. I hope and pray that it is not, because the women of this country will be in an uproar, and men, too, those who opt to take an early retirement, thinking that what they are going to get is indeed what they will not get under this President's commission's plan. Again, to strengthen is the operative word. It does not strengthen. It weakens.

Mr. PALLONE. Just this last thing I wanted to mention is that apparently there is some effort on the part of the commission that suggests that the benefits would be improved for widows and low earners. But from what I can see, it is just not true. It is just overstated. The Social Security benefits widows would receive under the commission's proposal for an improvement in survivor benefits would actually be less than they would receive under current law. The reason is, from what I understand, because the commission imposes sharp reductions in the basic benefits on which the survivor's benefit is calculated, so basically undermining the apparent increase in the survivor's benefit. So it is really very confusing and not what it pretends to be. It also says here that the benefit improvements for low earners may also be smaller than suggested in the commission's documents because few low wage workers have 30 years of steady earnings at the minimum wage. So few would receive the full antipoverty protection that the commission proposes. They are suggesting somehow that survivors and low wage earners are going to do better, but when you look at how they achieve those improved benefits, very few people would qualify.

Ms. MILLENDER-McDONALD. This is very true. This is another reason why when we talked with them about that and they were trying to give us the formula, that formula was not adding up. Now that it is in print, it does not add up. The one thing that they should do is give us a stimulus package that really gives unemployment benefits to workers and to bring workers back to work. You bring workers back to work, then you can continue to buy into the Social Security trust fund, and then you might be able to do some of the things that they are talking about. But without the actuarial analysis, we cannot dissect this thing, we cannot really see all of the potentialities that they are talking about, but what we can see is that it is not strengthening Social Security. For that reason, we will have to denounce this. We will have to simply get our own plan going so that the American people, especially those women, the disabled and the elderly, will find comfort in a Social Security plan. This is no comfort at all.

Again, I thank the gentleman so much. We look forward to working with the gentleman as we bring about a plan that is a real plan for those Americans who are looking to Social Security for their benefits.

Mr. PALLONE. I want to thank the gentlewoman. I am glad that we brought up the issue of the Social Security commission tonight, because I know that the report has come out but it has not received the attention that I think it needs to receive.

Ms. MILLENDER-McDONALD. The report and some of the analysis that we have done through the Democratic staff will be sent to all Members, so you will get that. We will continue to be on the floor to talk about it.

Mr. PALLONE. Mr. Speaker, before I conclude tonight, I did want to spend a little time on the issue of an economic stimulus. I wanted to stress again how important I think this is. As we all know, we probably have only another week, maybe 2 weeks but probably not even, just days before the holiday.

I know that there is talk now that we may not even do an economic stimulus package because either this House and the other body cannot get together or Democrats and Republicans are trying to come together and have not been able to so far. I do believe very strongly, though, that we must have an economic stimulus package.

As I said in the beginning of this special order, more and more of my constituents are telling me about the problems that they face because of the recession, either higher unemployment or the fact that many displaced workers do not have access to health insurance, do not have access to a lot of the benefits that they would normally have if they have a job. That is why the Democrats have stressed that this economic stimulus package has to primarily focus on displaced workers, unemployment compensation, health insurance coverage for people who no longer have a job. And also provide some help to low-income workers. In other words, we have talked about a rebate for those who did not get a rebate as a result of President Bush's tax cuts that took place about 6 months ago.

The emphasis on the part of the Democrats is to do things that will make people spend money. In other words, give money back to low-income workers, provide unemployment compensation, provide certain expenditures on infrastructure to protect the country from terrorism which also would create jobs. The problem on the Republican side, particularly with the bill that passed the House with the support of the Republican leadership, is that all the emphasis in that bill and on the Republican side in this Chamber was towards accelerating those same tax cuts that passed as part of the President's initiative about 6 months ago.

The fear that I have and that many of the Democrats have is that by accelerating those tax cuts, which primarily were to corporations and wealthy people, that that will not spur the economy, that will not bring money back into the economy because it is not necessarily the case that those tax cuts would be used and spent on things that would stimulate the economy.

I just wanted to mention briefly, if I could, some of the differences between the Democratic and the Republican plan, not because I insist that the Democratic plan be passed. I understand that there have to be some compromises if we are going to reach a majority in both Houses, but I do think that the emphasis has to be on what stimulates the economy. If you look at the Democratic bill, I will just mention four or five points.

With regard to unemployment compensation, individuals who exhaust their 26-week eligibility for State unemployment would be eligible for an additional 52 weeks of cash payments funded entirely by the Federal Government. Individuals who do not meet their States' requirements for unemployment insurance, in other words, part-time workers, would receive 26 weeks of federally financed unemployment insurance. This is in the bill. This is the substance of the Democratic proposal.

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With regard to health care benefits, the Federal Government would fully reimburse eligible individuals for their COBRA premiums. Individuals who do not qualify for COBRA and are otherwise uninsured would be eligible for Medicaid, with the Federal Government covering 100 percent of the premiums. These benefits, these health care benefits, would last for a maximum of 18 months.

Then I mentioned the rebate checks. Under the Democratic proposal, low- and moderate-income workers who did not qualify for the rebate checks issued earlier this year under President Bush's tax cut would receive a one-time payment of up to $300 for a single person and $600 for married couples.

Finally, with regard to these homeland or domestic security upgrades, the Democratic package includes up to $9 billion in spending programs to improve our Nation's infrastructure to protect against terrorism. Included would be funding for bioterrorism prevention and food safety, local police and fire departments, border security, airport security, and highway, bridge and tunnel improvements.

The idea of these upgrades is to basically hire more workers, and, therefore, lower the unemployment rate and put more money into the economy.

If you contrast that, Mr. Speaker, with the Republican tax cut bill which passed the House, just to give you some of the provisions, of the $99.5 billion in tax cuts in 2002, $70.8 billion benefits corporations, $14.8 billion benefits affluent individuals, and only $13.7 billion goes to workers with lower incomes.

Then you have the sweetheart things for the corporations, the repeal of corporate Alternative Minimum Tax. The bill not only repeals the corporate AMT, but it allows companies to receive refunds based on past AMT payments back to 1996. Capital gains tax cut, multinational financing tax cut, the list goes on.

Mr. Speaker, again, I am about to conclude; but I just wanted to stress again, I understand that if we are going to have an economic stimulus package, that we have to have the parties come together and the two Houses come together. But I also think it is crucial that whatever is done actually accomplishes the goal of stimulating the economy. I am very fearful that the Republican proposals that we saw in that House bill, that Republican bill that passed the House, would not accomplish that.

If I could just, in conclusion, Mr. Speaker, read part of this editorial that was in the New York Times on November 26. I know it is almost a month ago now, but I still think it says everything that needs to be said about what we should be doing with regard to economic stimulus. The sections I want to quote are as follows:

"Congress has only a few weeks left before adjourning for the year. Yet there is still no legislative agreement on measures to boost economy. President Bush needs to help break the impasse on both issues.

"Ideally, Congress should quickly pass a balanced fiscal stimulus bill aiding those who need help most without widening deficits in the years ahead. An appropriate homeland security measure would spend more than the $8 billion the administration wants.

"Right now there are two competing stimulus bills, and the one supported by most Senators is by far the better. It would channel tax breaks and spending to those most hurt by the economic downturn, whereas the bill passed by the House Republicans would cut taxes disproportionately for the rich and for big corporations.

"Congress could reach a financially responsible compromise if Republicans dropped their worst ideas, a speed-up of the tax cuts enacted earlier this year for the wealthiest Americans and a separate measure to make it easier for big corporations to pay no taxes at all. The final bill could then focus on tax breaks, tax refunds and health benefits for the poor and the working poor, while helping small and medium-sized businesses with adjustments and write-offs for depreciation and expenses."

Mr. Speaker, there is no reason why we cannot come to a compromise along those lines. I would urge our leaders here over the next few days to try to reach a compromise because I think it is very important for the future of the economy.

CONFERENCE REPORT ON S. 1438, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Mr. STUMP (during the Special Order of Mr. PALLONE) submitted the following conference report and statement on the Senate bill (S. 1438) to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for the defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes:

CONFERENCE REPORT (H. REPT. 107-333)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1438), to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act forFiscal Year 2002".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Defense Inspector General.
Sec. 106. Chemical Agents and Munitions Destruction, Defense.
Sec. 107. Defense Health Program.

Subtitle B—Army Programs

Sec. 111. Repeal of limitations on bunker defeat munitions program.
Sec. 112. Extension of pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.
Sec. 113. Limitations on acquisition of interim armored vehicles and deployment of interim brigade combat teams.

Subtitle C—Navy Programs

Sec. 121. Virginia class submarine program.
Sec. 122. Multiyear procurement authority for F/A-18E/F aircraft engines.
Sec. 123. V–22 Osprey aircraft program.

Sec. 124. Report on status of V–22 Osprey aircraft before resumption of flight testing.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C–17 aircraft.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic and applied research.
Sec. 203. Supplemental authorization of appropriations for fiscal year 2001 for research, development, test, and evaluation, Defense-wide.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Naval surface fire support assessment.
Sec. 212. Collaborative program for development of advanced radar systems.
Sec. 213. Repeal of limitations on total cost of engineering and manufacturing development for F–22 aircraft program.
Sec. 214. Joint biological defense program.
Sec. 215. Cooperative Department of Defense-Department of Veterans Affairs medical research program.
Sec. 216. C–5 aircraft reliability enhancement and reengining program.

Subtitle C—Ballistic Missile Defense

Sec. 231. Transfer of responsibility for procurement for missile defense programs from Ballistic Missile Defense Organization to military departments.
Sec. 232. Program elements for Ballistic Missile Defense Organization.
Sec. 233. Support of ballistic missile defense activities of the Department of Defense by the national defense laboratories of the Department of Energy.
Sec. 234. Missile defense testing initiative.
Sec. 235. Construction of test bed facilities for missile defense system.

Subtitle D—Air Force Science and Technology for the 21st Century

Sec. 251. Short title.
Sec. 252. Science and technology investment and development planning.
Sec. 253. Study and report on effectiveness of Air Force science and technology program changes.

Subtitle E—Other Matters

Sec. 261. Establishment of unmanned aerial vehicle joint operational test bed system.
Sec. 262. Demonstration project to increase small business and university participation in Office of Naval Research efforts to extend benefits of science and technology research to fleet.
Sec. 263. Communication of safety concerns from operational test and evaluation officials to program managers.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Transfer from National Defense Stockpile Transaction Fund.
Sec. 305. Funds for renovation of Department of Veterans Affairs facilities adjacent to Naval Training Center, Great Lakes, Illinois.
Sec. 306. Defense Language Institute Foreign Language Center expanded Arabic language program.

Subtitle B—Environmental Provisions

Sec. 311. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges).
Sec. 312. Establishment of new program element for remediation of unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 313. Assessment of environmental remediation of unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 314. Conformity of surety authority under environmental restoration program with surety authority under CERCLA.
Sec. 315. Elimination of annual report on contractor reimbursement for costs of environmental response actions.
Sec. 316. Pilot program for sale of air pollution emission reduction incentives.
Sec. 317. Department of Defense energy efficiency program.
Sec. 318. Procurement of alternative fueled and hybrid light duty trucks.
Sec. 319. Reimbursement of Environmental Protection Agency for certain response costs in connection with Hooper Sands Site, South Berwick, Maine.
Sec. 320. River mitigation studies.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 331. Commissary benefits for new members of the Ready Reserve.
Sec. 332. Reimbursement for use of commissary facilities by military departments for purposes other than commissary sales.
Sec. 333. Public releases of commercially valuable information of commissary stores.
Sec. 334. Rebate agreements with producers of foods provided under special supplemental food program.
Sec. 335. Civil recovery for nonappropriated fund instrumentality costs related to shoplifting.

Subtitle D—Workforce and Depot Issues

Sec. 341. Revision of authority to waive limitation on performance of depot-level maintenance.
Sec. 342. Exclusion of certain expenditures from limitation on private sector performance of depot-level maintenance.
Sec. 343. Protections for purchasers of articles and services manufactured or performed by working-capital funded industrial facilities of the Department of Defense.
Sec. 344. Revision of deadline for annual report on commercial and industrial activities.
Sec. 345. Pilot manpower reporting system in Department of the Army.
Sec. 346. Development of Army workload and performance system and Wholesale Logistics Modernization Program.

Subtitle E—Defense Dependents Education

Sec. 351. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 352. Impact aid for children with severe disabilities.
Sec. 353. Availability of auxiliary services of defense dependents' education system for dependents who are home school students.
Sec. 354. Comptroller General study of adequacy of compensation provided for teachers in the Department of Defense overseas dependents' schools.

Subtitle F—Other Matters

Sec. 361. Availability of excess defense personal property to support Department of Veterans Affairs initiative to assist homeless veterans.
Sec. 362. Incremental implementation of Navy-Marine Corps Intranet contract.
Sec. 363. Comptroller General study and report of National Guard Distributive Training Technology Project.
Sec. 364. Reauthorization of warranty claims recovery pilot program.
Sec. 365. Evaluation of current demonstration programs to improve quality of personal property shipments of members.
Sec. 366. Sense of Congress regarding security to be provided at 2002 Winter Olympic Games.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent end strength minimum levels.
Sec. 403. Increase in senior enlisted active duty grade limit for Navy, Marine Corps, and Air Force.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2002 limitation on non-dual status technicians.
Sec. 415. Limitations on numbers of reserve personnel serving on active duty or full-time National Guard duty in certain grades for administration of reserve components.

Subtitle C—Other Matters Relating to Personnel Strengths

Sec. 421. Administration of end strengths.
Sec. 422. Active duty end strength exemption for National Guard and reserve personnel performing funeral honors functions.

Subtitle D—Authorization of Appropriations

Sec. 431. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Enhanced flexibility for management of senior general and flag officer positions.
Sec. 502. Certifications of satisfactory performance for retirement of officers in grades above major general and rear admiral.
Sec. 503. Review of actions of selection boards.
Sec. 504. Temporary reduction of time-in-grade requirement for eligibility for promotion for certain active-duty list officers in grades of first lieutenant and lieutenant (junior grade).
Sec. 505. Authority for promotion without selection board consideration for all fully qualified officers in grade of first lieutenant or lieutenant (junior grade) in the Navy.

Sec. 506. Authority to adjust date of rank of certain promotions delayed by reason of unusual circumstances.
Sec. 507. Authority for limited extension of medical deferment of mandatory retirement or separation.
Sec. 508. Authority for limited extension on active duty of members subject to mandatory retirement or separation.
Sec. 509. Exemption from certain administrative limitations for retired officers ordered to active duty as defense or service attachés.
Sec. 510. Officer in charge of United States Navy Band.

Subtitle B—Reserve Component Personnel Policy

Sec. 511. Placement on active-duty list of certain Reserve officers on active duty for a period of three years or less.
Sec. 512. Exception to baccalaureate degree requirement for appointment of Reserve officers to grades above first lieutenant.
Sec. 513. Improved disability benefits for certain reserve component members.
Sec. 514. Time-in-grade requirement for reserve component officers retired with a nonservice-connected disability.
Sec. 515. Equal treatment of Reserves and full-time active duty members for purposes of managing personnel deployments.
Sec. 516. Modification of physical examination requirements for members of the Individual Ready Reserve.
Sec. 517. Retirement of Reserve members without requirement for formal application or request.
Sec. 518. Space-required travel by Reserves on military aircraft.
Sec. 519. Payment of Federal Employee Health Benefit Program premiums for certain Reservists called to active duty in support of contingency operations.

Subtitle C—Joint Specialty Officers and Joint Professional Military Education

Sec. 521. Nominations and promotions for joint specialty officers.
Sec. 522. Joint duty credit.
Sec. 523. Retroactive joint service credit for duty in certain joint task forces.
Sec. 524. Revision to annual report on joint officer management.
Sec. 525. Requirement for selection for joint specialty before promotion to general or flag officer grade.
Sec. 526. Independent study of joint officer management and joint professional military education reforms.
Sec. 527. Professional development education.
Sec. 528. Authority for National Defense University to enroll certain private sector civilians.
Sec. 529. Continuation of reserve component professional military education test.

Subtitle D—Military Education and Training

Sec. 531. Defense Language Institute Foreign Language Center.
Sec. 532. Authority for the Marine Corps University to award degree of master of strategic studies.
Sec. 533. Foreign students attending the service academies.
Sec. 534. Increase in maximum age for appointment as a cadet or midshipman in Senior Reserve Officers' Training Corps scholarship programs.
Sec. 535. Participation of regular enlisted members of the Armed Forces in Senior Reserve Officers' Training Corps program.
Sec. 536. Authority to modify the service obligation of certain ROTC cadets in military junior colleges receiving financial assistance.
Sec. 537. Repeal of limitation on number of Junior Reserve Officers' Training Corps units.
Sec. 538. Modification of nurse officer candidate accession program restriction on students attending educational institutions with senior reserve officers' training programs.
Sec. 539. Reserve health professionals stipend program expansion.
Sec. 540. Housing allowance for the chaplain for the Corps of Cadets at the United States Military Academy.

Subtitle E—Recruiting and Accession Programs

Sec. 541. 18-month enlistment pilot program.
Sec. 542. Improved benefits under the Army College First program.
Sec. 543. Correction and extension of certain Army recruiting pilot program authorities.
Sec. 544. Military recruiter access to secondary school students.
Sec. 545. Permanent authority for use of military recruiting funds for certain expenses at Department of Defense recruiting functions.
Sec. 546. Report on health and disability benefits for pre-accession training and education programs.

Subtitle F—Decorations, Awards, and Posthumous Commissions

Sec. 551. Authority for award of the Medal of Honor to Humbert R. Versace, Jon E. Swanson, and Ben L. Salomon for valor.
Sec. 552. Review regarding award of Medal of Honor to certain Jewish American and Hispanic American war veterans.
Sec. 553. Authority to issue duplicate Medals of Honor and to replace stolen military decorations.
Sec. 554. Retroactive Medal of Honor special pension.
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Sec. 3173. Definitions.
Sec. 3174. Future ownership and management.
Sec. 3175. Transfer of management responsibilities and jurisdiction over Rocky Flats.
Sec. 3176. Administration of retained property; continuation of cleanup and closure.

Sec. 3177. Rocky Flats National Wildlife Refuge.
Sec. 3178. Comprehensive planning process.
Sec. 3179. Property rights.
Sec. 3180. Liabilities and other obligations.
Sec. 3181. Rocky Flats Museum.
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TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Definitions.
Sec. 3302. Authorized uses of stockpile funds.
Sec. 3303. Authority to dispose of certain materials in National Defense Stockpile.
Sec. 3304. Revision of limitations on required disposals of certain materials in National Defense Stockpile.
Sec. 3305. Acceleration of required disposal of cobalt in National Defense Stockpile.
Sec. 3306. Restriction on disposal of manganese ferro.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2002.
Sec. 3502. Define "war risks" to vessels to include confiscation, expropriation, nationalization, and deprivation of the vessels.
Sec. 3503. Holding obligor's cash as collateral under title XI of Merchant Marine Act, 1936.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Defense Inspector General.
Sec. 106. Chemical Agents and Munitions Destruction, Defense.
Sec. 107. Defense Health Program.

Subtitle B—Army Programs

Sec. 111. Repeal of limitations on bunker defeat munitions program.
Sec. 112. Extension of pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.
Sec. 113. Limitations on acquisition of interim armored vehicles and deployment of interim brigade combat teams.

Subtitle C—Navy Programs

Sec. 121. Virginia class submarine program.
Sec. 122. Multiyear procurement authority for F/A–18E/F aircraft engines.
Sec. 123. V–22 Osprey aircraft program.
Sec. 124. Report on status of V–22 Osprey aircraft before resumption of flight testing.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C–17 aircraft.

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Army as follows:

(1) For aircraft, $2,075,372,000.

(2) For missiles, $1,086,954,000.

(3) For weapons and tracked combat vehicles, $2,348,145,000.

(4) For ammunition, $1,187,233,000.

(5) For other procurement, $4,044,080,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Navy as follows:

(1) For aircraft, $8,323,147,000.

(2) For weapons, including missiles and torpedoes, $1,484,321,000.

(3) For shipbuilding and conversion, $9,370,972,000.

(4) For other procurement, $4,282,471,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Marine Corps in the amount of $1,014,637,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement of ammunition for the Navy and the Marine Corps in the amount of $466,907,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Air Force as follows:

(1) For aircraft, $10,789,167,000.

(2) For missiles, $3,222,636,000.

(3) For ammunition, $881,844,000.

(4) For other procurement, $8,196,021,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2002 for Defense-wide procurement in the amount of $2,279,482,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Inspector General of the Department of Defense in the amount of $2,800,000.

SEC. 106. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.

There is hereby authorized to be appropriated for fiscal year 2002 for the Department of Defense for Chemical Agenis and Munitions Destruction, Defense, the amount of $1,153,557,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 107. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $267,915,000.

Subtitle B—Army Programs

SEC. 111. REPEAL OF LIMITATIONS ON BUNKER DEFEAT MUNITIONS PROGRAM.

Section 116 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2682) is repealed.

SEC. 112. EXTENSION OF PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES.

Section 141(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 4543 note) is amended—

(1) by striking "through 2001" and inserting "through 2002"; and

(2) by inserting before the period at the end the following: ", except that during fiscal year 2002 the Secretary may only use articles manufactured at, and services provided by, not more than one Army industrial facility".

SEC. 113. LIMITATIONS ON ACQUISITION OF INTERIM ARMORED VEHICLES AND DEPLOYMENT OF INTERIM BRIGADE COMBAT TEAMS.

Section 113 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–23) is amended—

(1) by redesignating subsection (f) as subsection (j); and

(2) by inserting after subsection (e) the following new subsections:

"(f) WAIVER OF COMPARISON REQUIREMENT.—The Secretary of Defense may waive subsections (c) and (e)(1) and submit to the congressional defense committees a certification under subsection (e)(2) without regard to the requirement in that subsection for the completion of a comparison of costs and operational effectiveness if the Secretary includes in the submittal a certification of each of the following:

"(1) That the results of executed tests and existing analyses are sufficient for making a meaningful comparison of the costs and operational effectiveness of the interim armored vehicles referred to in subparagraph (A) of subsection (c)(1) and the medium armored vehicles referred to in subparagraph (B) of such subsection.

"(2) That the conduct of a comparative evaluation of those vehicles in a realistic field environment would provide no significant additional data relevant to that comparison.

"(3) That the Secretary has evaluated the existing data on cost and operational effectiveness of those vehicles and, taking that data into consideration, approves the obligation of funds for the acquisition of additional interim armored vehicles.

"(4) That sufficient resources will be requested in the future-years defense program to fully fund the Army's requirements for interim brigade combat teams.

"(5) That the force structure resulting from the establishment of the interim brigade combat teams and the subsequent achievement of operational capability by those teams will not diminish the combat power of the Army.

"(g) EXPERIMENTATION PROGRAM.—The Secretary of the Army shall develop and provide resources for an experimentation program that will—

"(1) provide information as to the design of the objective force; and

"(2) include a formal linkage of the interim brigade combat teams to that experimentation.

"(h) OPERATIONAL EVALUATION.—(1) The Secretary of the Army shall conduct an operational evaluation of the initial interim brigade combat team. The evaluation shall include deployment of the team to the evaluation site and team execution of combat missions across the full spectrum of potential threats and operational scenarios.

"(2) The operational evaluation under paragraph (1) may not be conducted until the plan for such evaluation is approved by the Director of Operational Test and Evaluation of the Department of Defense.

"(i) LIMITATION ON PROCUREMENT OF INTERIM ARMORED VEHICLES AND DEPLOYMENT OF IBCTS.—(1) The actions described in paragraph (2) may not be taken until the date that is 30 days after the date on which the Secretary of Defense—

"(A) submits to Congress a report on the operational evaluation carried out under subsection (h); and

"(B) certifies to Congress that the results of that operational evaluation indicate that the design for the interim brigade combat team is operationally effective and operationally suitable.

"(2) The limitation in paragraph (1) applies to the following actions:

"(A) Procurement of interim armored vehicles in addition to those necessary for equipping the first three interim brigade combat teams.

"(B) Deployment of any interim brigade combat team outside the United States.

"(3) The Secretary of Defense may waive the applicability of paragraph (1) to a deployment described in paragraph (2)(B) if the Secretary—

"(A) determines that the deployment is in the national security interests of the United States; and

"(B) submits to Congress, in writing, a notification of the waiver together with a discussion of the reasons for the waiver.".

Subtitle C—Navy Programs

SEC. 121. VIRGINIA CLASS SUBMARINE PROGRAM.

Section 123(b)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–25) is amended—

(1) by striking "five Virginia class submarines" and inserting "seven Virginia class submarines"; and

(2) by striking "2006" and inserting "2007".

SEC. 122. MULTIYEAR PROCUREMENT AUTHORITY FOR F/A–18E/F AIRCRAFT ENGINES.

(a) MULTIYEAR AUTHORITY.—Beginning with the 2002 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the procurement of engines for F/A–18E/F aircraft.

(b) REQUIRED CERTIFICATIONS.—In the case of a contract authorized by subsection (a) of this section, a certification under subsection (i)(1)(A) of section 2306b of title 10, United States Code, with respect to that contract may only be submitted if the certification includes an additional certification that each of the conditions specified in subsection (a) of that section has been satisfied with respect to that contract.

(c) CONGRESSIONAL NOTICE-AND-WAIT PERIOD.—Upon transmission to Congress of a certification referred to in subsection (b) with respect to a contract authorized by subsection (a), the contract may then be entered into only after a period of 30 days has elapsed after the date of the transmission of such certification.

SEC. 123. V–22 OSPREY AIRCRAFT PROGRAM.

The production rate for V–22 Osprey aircraft may not be increased above the minimum sustaining production rate for which funds are authorized to be appropriated by this Act until the Secretary of Defense certifies to Congress that successful operational testing of the aircraft demonstrates that—

(1) the solutions to the problems regarding the reliability of hydraulic system components and flight control software that were identified by the panel appointed by the Secretary of Defense on January 5, 2001, to review the V–22 aircraft program are adequate to achieve low risk for crews and passengers aboard V–22 aircraft that are operating under operational conditions;

(2) the V–22 aircraft can achieve reliability and maintainability levels that are sufficient for the aircraft to achieve operational availability at the level required for fleet aircraft;

(3) the V–22 aircraft will be operationally effective—

(A) when employed in operations with other V–22 aircraft; and

(B) when employed in operations with other types of aircraft; and

(4) the V–22 aircraft can be operated effectively, taking into consideration the downwash effects inherent in the operation of the aircraft, when the aircraft—

(A) is operated in remote areas with unimproved terrain and facilities;

(B) is deploying and recovering personnel—

(i) while hovering within the zone of ground effect; and

(ii) while hovering outside the zone of ground effect; and

(C) is operated with external loads.

SEC. 124. REPORT ON STATUS OF V–22 OSPREY AIRCRAFT BEFORE RESUMPTION OF FLIGHT TESTING.

Not later than 30 days before the resumption of flight testing of the V–22 Osprey aircraft, the Secretary of Defense shall submit to Congress a report containing the following:

(1) A comprehensive description of the status of the hydraulics system and flight control software of the V–22 Osprey aircraft, including—

(A) a description and analysis of any deficiencies in the hydraulics system and flight control software of the V–22 Osprey aircraft; and

(B) a description and assessment of the actions taken to redress each such deficiency.

(2) A description of the current actions, and any proposed actions, of the Department of Defense to implement the recommendations of the panel appointed by the Secretary of Defense on January 5, 2001, to review the V–22 aircraft program.

(3) An assessment of the recommendations of the National Aeronautics and Space Administration on tiltrotor aeromechanics provided in a briefing to the Undersecretary of Defense for Acquisition, Logistics, and Technology on August 14, 2001.

(4) Notice of the waiver, if any, of any item capability or any other requirement specified in the Joint Operational Requirements Document for the V–22 Osprey aircraft, including a justification of each such waiver.

Subtitle D—Air Force Programs

SEC. 131. MULTIYEAR PROCUREMENT AUTHORITY FOR C–17 AIRCRAFT.

(a) MULTIYEAR AUTHORITY.—Beginning with the 2002 program year, the Secretary of the Air Force may enter into a multiyear contract for the procurement of up to 60 C–17 aircraft. Such a contract shall be entered into in accordance with section 2306b of title 10, United States Code, except that, notwithstanding subsection (k) of such section, such a contract may be for a period of six program years.

(b) REQUIRED CERTIFICATIONS.—In the case of a contract authorized by subsection (a) of this section, a certification under subsection (i)(1)(A) of section 2306b of title 10, United States Code, with respect to that contract may only be submitted if the certification includes an additional certification that each of the conditions specified in subsection (a) of that section has been satisfied with respect to that contract.

(c) CONGRESSIONAL NOTICE-AND-WAIT PERIOD.—Upon transmission to Congress of a certification referred to in subsection (b) with respect to a contract authorized by subsection (a), the contract may then be entered into only after a period of 30 days has elapsed after the date of the transmission of such certification.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic and applied research.
Sec. 203. Supplemental authorization of appropriations for fiscal year 2001 for research, development, test, and evaluation, Defense-wide.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Naval surface fire support assessment.
Sec. 212. Collaborative program for development of advanced radar systems.
Sec. 213. Repeal of limitations on total cost of engineering and manufacturing development for F–22 aircraft program.
Sec. 214. Joint biological defense program.
Sec. 215. Cooperative Department of Defense-Department of Veterans Affairs medical research program.
Sec. 216. C–5 aircraft reliability enhancement and reengining program.

Subtitle C—Ballistic Missile Defense

Sec. 231. Transfer of responsibility for procurement for missile defense programs from Ballistic Missile Defense Organization to military departments.
Sec. 232. Program elements for Ballistic Missile Defense Organization.
Sec. 233. Support of ballistic missile defense activities of the Department of Defense by the national defense laboratories of the Department of Energy.
Sec. 234. Missile defense testing initiative.
Sec. 235. Construction of test bed facilities for missile defense system.

Subtitle D—Air Force Science and Technology for the 21st Century

Sec. 251. Short title.
Sec. 252. Science and technology investment and development planning.
Sec. 253. Study and report on effectiveness of Air Force science and technology program changes.

Subtitle E—Other Matters

Sec. 261. Establishment of unmanned aerial vehicle joint operational test bed system.
Sec. 262. Demonstration project to increase small business and university participation in Office of Naval Research efforts to extend benefits of science and technology research to fleet.
Sec. 263. Communication of safety concerns from operational test and evaluation officials to program managers.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $6,675,325,000.

(2) For the Navy, $10,784,264,000.

(3) For the Air Force, $14,407,187,000.

(4) For Defense-wide activities, $14,593,995,000, of which $221,355,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.

(a) FISCAL YEAR 2002.—Of the amounts authorized to be appropriated by section 201, $5,070,605,000 shall be available for basic research and applied research projects.

(b) BASIC RESEARCH AND APPLIED RESEARCH DEFINED.—For purposes of this section, the term "basic research and applied research" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2001 FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.

In addition to the funds authorized to be appropriated under section 201(4) of Floyd D. Spence National Defense Authorization Act for

Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–32), there is hereby authorized to be appropriated $1,000,000 for fiscal year 2001 for the use of the Department of Defense for research, development, test, and evaluation, for Defense-wide activities.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. NAVAL SURFACE FIRE SUPPORT ASSESSMENT.

(a) ASSESSMENT REQUIRED.—The Secretary of Defense shall carry out an assessment of the requirements for naval surface fire support of ground forces operating in the littoral environment, including the role of an advanced fire support missile system for Navy combatant vessels. The matters assessed shall include the Secretary of the Navy's program plan, schedule, and funding for meeting such requirements.

(b) REPORT.—Not later than March 31, 2002, the Secretary of Defense shall submit to the congressional defense committees a report containing the results of the assessment required by subsection (a).

SEC. 212. COLLABORATIVE PROGRAM FOR DEVELOPMENT OF ADVANCED RADAR SYSTEMS.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to develop and demonstrate advanced technologies and concepts leading to advanced radar systems for naval and other applications.

(b) DESCRIPTION OF PROGRAM.—The program under subsection (a) shall be carried out collaboratively by the Director of Defense Research and Engineering, the Secretary of the Navy, the Director of the Defense Advanced Research Projects Agency, and other appropriate elements of the Department of Defense. The program shall include the following activities:

(1) Activities needed for development and maturation of the technologies for advanced electronics materials to extend the range and sensitivity of radars.

(2) Identification of acquisition systems for use of the new technology.

(c) REPORT.—Not later than March 31, 2002, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report on the implementation of the program under subsection (a). The report shall include the following:

(1) A description of the management plan for the program and any agreements relating to that plan.

(2) A schedule for the program.

(3) Identification of the funding required for fiscal year 2003 and for the future-years defense program to carry out the program.

(4) A list of program capability goals and objectives.

SEC. 213. REPEAL OF LIMITATIONS ON TOTAL COST OF ENGINEERING AND MANUFACTURING DEVELOPMENT FOR F–22 AIRCRAFT PROGRAM.

(a) REPEAL.—The following provisions of law are repealed:

(1) Section 217(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1660).

(2) Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 702).

(3) Section 219(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–38).

(b) CONFORMING AMENDMENTS.—(1) Section 217 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1660), as amended by subsection (a)(1), is further amended—

(A) in subsection (c)—

(i) by striking “limitations set forth in subsections (a) and (b)” and inserting “limitation set forth in subsection (b)”; and

(ii) by striking paragraph (3); and

(B) in subsection (d)(2), by striking subparagraphs (D) and (E).

(2) Section 131 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 536) is amended—

(A) in subsection (a)(2), by striking “That the” and all that follows through “respectively,” and inserting “That the production phase for that program can be executed within the limitation on total cost applicable to that program under subsection (b)”; and

(B) in subsection (b)(3), by striking “for the remainder of the engineering and manufacturing development phase and”.

SEC. 214. JOINT BIOLOGICAL DEFENSE PROGRAM.

Section 217(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–36) is amended by striking “funds authorized to be appropriated by this Act may not” and inserting “no funds authorized to be appropriated to the Department of Defense for fiscal year 2002 may”.

SEC. 215. COOPERATIVE DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS MEDICAL RESEARCH PROGRAM.

Of the funds authorized to be appropriated by section 201(4), $2,500,000 shall be available for the cooperative Department of Defense/Department of Veterans Affairs medical research program. The Secretary of Defense shall transfer such amount to the Secretary of Veterans Affairs for such purpose not later than 30 days after the date of the enactment of this Act.

SEC. 216. C–5 AIRCRAFT RELIABILITY ENHANCEMENT AND REENGINING PROGRAM.

(a) KIT DEVELOPMENT.—The Secretary of the Air Force shall ensure that engineering manufacturing and development under the C–5 aircraft reliability enhancement and reengining program includes kit development for at least one C–5A aircraft.

(b) AIRCRAFT TO BE USED FOR KIT DEVELOPMENT.—The C–5A aircraft to be used for purposes of the kit development under subsection (a) shall be an aircraft from among the 74 C–5A aircraft of the Air Force.

Subtitle C—Ballistic Missile Defense

SEC. 231. TRANSFER OF RESPONSIBILITY FOR PROCUREMENT FOR MISSILE DEFENSE PROGRAMS FROM BALLISTIC MISSILE DEFENSE ORGANIZATION TO MILITARY DEPARTMENTS.

(a) BUDGETING OF MISSILE DEFENSE PROCUREMENT AUTHORITY.—Section 224 of title 10, United States Code is amended—

(1) in subsection (a), by striking “procurement” both places it appears and inserting “research, development, test, and evaluation”; and

(2) by striking subsections (b) and (c) and inserting the following:

“(b) TRANSFER CRITERIA.—(1) The Secretary of Defense shall establish criteria for the transfer of responsibility for a ballistic missile defense program from the Director of the Ballistic Missile Defense Organization to the Secretary of a military department. The criteria established for such a transfer shall, at a minimum, address the following:

“(A) The technical maturity of the program.

“(B) The availability of facilities for production.

“(C) The commitment of the Secretary of the military department concerned to procurement funding for that program, as shown by funding through the future-years defense program and other defense planning documents.

“(2) The Secretary shall submit the criteria established, and any modifications to those criteria, to the congressional defense committees.

“(c) NOTIFICATION OF TRANSFER.—Before responsibility for a ballistic missile defense program is transferred from the Director of the Ballistic Missile Defense Organization to the Secretary of a military department, the Secretary of Defense shall submit to the congressional defense committees notice in writing of the Secretary's intent to make that transfer. The Secretary shall include with such notice a certification that the program has met the criteria established under subsection (b) for such a transfer. The transfer may then be carried out after the end of the 60-day period beginning on the date of such notice.

“(d) CONFORMING BUDGET AND PLANNING TRANSFERS.—When a ballistic missile defense program is transferred from the Ballistic Missile Defense Organization to the Secretary of a military department in accordance with this section, the Secretary of Defense shall ensure that all appropriate conforming changes are made to proposed or projected funding allocations in the future-years defense program under section 221 of this title and other Department of Defense program, budget, and planning documents.

“(e) FOLLOW-ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The Secretary of Defense shall ensure that, before a ballistic missile defense program is transferred from the Director of the Ballistic Missile Defense Organization to the Secretary of a military department, roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly defined.

“(f) CONGRESSIONAL DEFENSE COMMITTEES.—In this section, the term ‘congressional defense committees’ means the following:

“(1) The Committee on Armed Services and the Committee on Appropriations of the Senate.

“(2) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”.

(b) CLERICAL AMENDMENTS.—(1) The heading of that section is amended to read as follows:

“§ 224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation”.

(2) The item relating to that section in the table of sections at the beginning of chapter 9 of such title is amended to read as follows:

“224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation.”.

SEC. 232. PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION.

(a) REVISION IN PROGRAM ELEMENTS.—Subsection (a) of section 223 of title 10, United States Code, is amended—

(1) by striking “in accordance with the following program elements:” and inserting “in accordance with program elements governing functional areas as follows:”; and

(2) by striking paragraphs (1) through (12) and inserting the following:

“(1) Technology.

“(2) Ballistic Missile Defense System.

“(3) Terminal Defense Segment.

“(4) Midcourse Defense Segment.

“(5) Boost Defense Segment.

“(6) Sensors Segment.”.

(b) ADDITIONAL REQUIREMENTS.—Subsection (b) of such section is amended to read as follows:

“(b) SEPARATE PROGRAM ELEMENTS FOR PROGRAMS ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT.—(1) The Secretary of Defense shall ensure that each ballistic missile defense program that enters engineering and manufacturing development is assigned a separate, dedicated program element.

“(2) In this subsection, the term ‘engineering and manufacturing development’ means the development phase whose primary objectives are to—

“(A) translate the most promising design approach into a stable, interoperable, producible, supportable, and cost-effective design;

"(B) validate the manufacturing or production process; and

"(C) demonstrate system capabilities through testing.".

(c) REQUIREMENT FOR ANNUAL PROGRAM GOALS.—(1) The Secretary of Defense shall each year establish cost, schedule, testing, and performance goals for the ballistic missile defense programs of the Department of Defense for the period covered by the future-years defense program that is submitted to Congress that year under section 221 of title 10, United States Code. Not later than February 1 each year, the Secretary shall submit to the congressional defense committees a statement of the goals so established.

(2) The statement of goals submitted under paragraph (1) for any year after 2002 shall be an update of the statement submitted under that paragraph for the preceding year.

(3) Each statement of goals submitted under paragraph (1) shall set forth cost, schedule, testing, and performance goals that pertain to each functional area program element identified in subsection (a), and each program element identified in subsection (b), of section 223 of title 10, United States Code.

(d) ANNUAL PROGRAM PLAN.—(1) With the submission of the statement of goals under subsection (c) for any year, the Secretary of Defense shall submit to the congressional defense committees a program of activities planned to be carried out for each missile defense program that enters engineering and manufacturing development (as defined in section 223(b)(2) of title 10, United States Code, as added by subsection (b)).

(2) Each program plan under paragraph (1) shall include the following:

(A) A funding profile that includes an estimate of—

(i) the total expenditures to be made in the fiscal year in which the plan is submitted and the following fiscal year, together with the estimated total life-cycle costs of the program; and

(ii) a display of such expenditures (shown for significant procurement, construction, and research and development) for the fiscal year in which the plan is submitted and the following fiscal year.

(B) A program schedule for the fiscal year in which the plan is submitted and the following fiscal year for each of the following:

(i) Significant procurement.

(ii) Construction.

(iii) Research and development.

(iv) Flight tests.

(v) Other significant testing activities.

(3) Information specified in paragraph (2) need not be included in the plan for any year under paragraph (1) to the extent such information has already been provided, or will be provided in the current fiscal year, in annual budget justification documents of the Department of Defense submitted to Congress or in other required reports to Congress.

(e) INTERNAL DOD REVIEWS.—(1) The officials and elements of the Department of Defense specified in paragraph (2) shall on an ongoing basis—

(A) review the development of goals under subsection (c) and the annual program plan under subsection (d); and

(B) provide to the Secretary of Defense and the Director of the Ballistic Missile Defense Organization any comments on such matters as considered appropriate.

(2) Paragraph (1) applies with respect to the following:

(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(B) The Director of Operational Test and Evaluation.

(C) The Director of Program Analysis and Evaluation.

(D) The Joint Requirements Oversight Council.

(E) The Cost Analysis and Improvement Group.

(f) DEMONSTRATION OF CRITICAL TECHNOLOGIES.—(1) The Director of the Ballistic Missile Defense Organization shall develop a plan for ensuring that each critical technology for a missile defense program is successfully demonstrated in an appropriate environment before that technology enters into operational service as part of a missile defense program.

(2) The Director of Operational Test and Evaluation of the Department of Defense shall monitor the development of the plan under paragraph (1) and shall submit to the Director of the Ballistic Missile Defense Organization any comments regarding that plan that the Director of Operational Test and Evaluation considers appropriate.

(g) COMPTROLLER GENERAL ASSESSMENT.—(1) At the conclusion of each of fiscal years 2002 and 2003, the Comptroller General of the United States shall assess the extent to which the Ballistic Missile Defense Organization achieved the goals established under subsection (c) for such fiscal year.

(2) Not later than February 15, 2003, and February 15, 2004, the Comptroller General shall submit to the congressional defense committees a report on the Comptroller General's assessment under paragraph (1) with respect to the preceding fiscal year.

(h) ANNUAL OT&E ASSESSMENT OF TEST PROGRAM.—(1) The Director of Operational Test and Evaluation shall each year assess the adequacy and sufficiency of the Ballistic Missile Defense Organization test program during the preceding fiscal year.

(2) Not later than February 15 each year the Director shall submit to the congressional defense committees a report on the assessment under paragraph (1) with respect to the preceding fiscal year.

SEC. 233. SUPPORT OF BALLISTIC MISSILE DEFENSE ACTIVITIES OF THE DEPARTMENT OF DEFENSE BY THE NATIONAL DEFENSE LABORATORIES OF THE DEPARTMENT OF ENERGY.

(a) FUNDS TO CARRY OUT CERTAIN BALLISTIC MISSILE DEFENSE ACTIVITIES.—Of the amounts authorized to be appropriated to the Department of Defense pursuant to section 201(4), $25,000,000 shall be available, subject to subsection (b) and at the discretion of the Director of the Ballistic Missile Defense Organization, for research, development, and demonstration activities at the national laboratories of the Department of Energy in support of the missions of the Ballistic Missile Defense Organization, including the following activities:

(1) Technology development, concept demonstration, and integrated testing to enhance performance, reduce risk, and improve reliability in hit-to-kill interceptors for ballistic missile defense.

(2) Support for science and engineering teams to assess critical technical problems and prudent alternative approaches as agreed upon by the Director of the Ballistic Missile Defense Organization and the Administrator for Nuclear Security.

(b) REQUIREMENT FOR MATCHING FUNDS FROM NNSA.—Funds shall be available as provided in subsection (a) only if the Administrator for Nuclear Security makes available matching funds for the activities referred to in subsection (a).

(c) MEMORANDUM OF UNDERSTANDING.—The activities referred to in subsection (a) shall be carried out under the memorandum of understanding entered into by the Secretary of Energy and the Secretary of Defense for the use of national laboratories for ballistic missile defense programs, as required by section 3131 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034) and modified pursuant to section 3132 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A-455) to provide for jointly funded projects.

SEC. 234. MISSILE DEFENSE TESTING INITIATIVE.

(a) TESTING INFRASTRUCTURE.—(1) The Secretary of Defense shall ensure that each annual budget request of the Department of Defense—

(A) is designed to provide for comprehensive testing of ballistic missile defense programs during early stages of development; and

(B) includes necessary funding to support and improve test infrastructure and provide adequate test assets for the testing of such programs.

(2) The Secretary shall ensure that ballistic missile defense programs incorporate, to the greatest possible extent, operationally realistic test configurations (referred to as "test bed" configurations) to demonstrate system performance across a broad range of capability and, during final stages of operational testing, to demonstrate reliable performance.

(3) The Secretary shall ensure that the test infrastructure for ballistic missile defense programs is capable of supporting continued testing of ballistic missile defense systems after deployment.

(b) REQUIREMENTS FOR EARLY STAGES OF SYSTEM DEVELOPMENT.—In order to demonstrate acceptable risk and developmental stability, the Secretary of Defense shall ensure that any ballistic missile defense program incorporates, to the maximum extent practicable, the following elements during the early stages of system development:

(1) Pursuit of parallel conceptual approaches and technological paths for all critical problematic components until effective and reliable solutions can be demonstrated.

(2) Comprehensive ground testing in conjunction with flight-testing for key elements of the proposed system that are considered to present high risk, with such ground testing to make use of existing facilities and combinations of facilities that support testing at the highest possible levels of integration.

(3) Where appropriate, expenditures to enhance the capabilities of existing test facilities, or to construct new test facilities, to support alternative complementary test methodologies.

(4) Sufficient funding of test instrumentation to ensure accurate measurement of all critical test events.

(5) Incorporation into the program of sufficient schedule flexibility and expendable test assets, including missile interceptors and targets, to ensure that failed or aborted tests can be repeated in a prudent, but expeditious manner.

(6) Incorporation into flight-test planning for the program, where possible, of—

(A) methods that make the most cost-effective use of test opportunities;

(B) events to demonstrate engagement of multiple targets, "shoot-look-shoot", and other planned operational concepts; and

(C) exploitation of opportunities to facilitate early development and demonstration of "family of systems" concepts.

(c) SPECIFIC REQUIREMENTS FOR GROUND-BASED MID-COURSE INTERCEPTOR SYSTEMS.—For ground-based mid-course interceptor systems, the Secretary of Defense shall initiate steps during fiscal year 2002 to establish a flight-test capability of launching not less than three missile defense interceptors and not less than two ballistic missile targets to provide a realistic test infrastructure.

SEC. 235. CONSTRUCTION OF TEST BED FACILITIES FOR MISSILE DEFENSE SYSTEM.

(a) AUTHORITY TO ACQUIRE OR CONSTRUCT FACILITIES.—(1) The Secretary of Defense, using

funds appropriated to the Department of Defense for research, development, test, and evaluation for fiscal years after fiscal year 2001 that are available for programs of the Ballistic Missile Defense Organization, may carry out all construction projects, or portions of construction projects, including projects for the acquisition, improvement, or construction of facilities, necessary to establish and operate the Missile Defense System Test Bed.

(2) The authority provided in subsection (a) may be used to acquire, improve, or construct facilities at a total cost not to exceed $500,000,000.

(b) AUTHORITY TO PROVIDE ASSISTANCE TO LOCAL COMMUNITIES.—(1) Subject to paragraph (2), the Secretary of Defense, using funds appropriated to the Department of Defense for research, development, test, and evaluation for fiscal year 2002 that are available for programs of the Ballistic Missile Defense Organization, may provide assistance to local communities to meet the need for increased municipal or community services or facilities resulting from the construction, installation, or operation of the Missile Defense System Test Bed Facilities. Such assistance may be provided by grant or otherwise.

(2) Assistance may be provided to a community under paragraph (1) only if the Secretary of Defense determines that there is an immediate and substantial increase in the need for municipal or community services or facilities as a direct result of the construction, installation, or operation of the Missile Defense System Test Bed Facilities.

Subtitle D—Air Force Science and Technology for the 21st Century

SEC. 251. SHORT TITLE.

This subtitle may be cited as the "Air Force Science and Technology for the 21st Century Act".

SEC. 252. SCIENCE AND TECHNOLOGY INVESTMENT AND DEVELOPMENT PLANNING.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Air Force should carry out each of the following:

(1) Continue and improve efforts to ensure that—

(A) the Air Force science and technology community is represented, and the recommendations of that community are considered, at all levels of program planning and budgetary decisionmaking within the Air Force;

(B) advocacy for science and technology development is institutionalized across all levels of Air Force management in a manner that is not dependent on individuals; and

(C) the value of Air Force science and technology development is made increasingly apparent to the warfighters, by linking the needs of those warfighters with decisions on science and technology development.

(2) Complete and adopt a policy directive that provides for changes in how the Air Force makes budgetary and nonbudgetary decisions with respect to its science and technology development programs and how it carries out those programs.

(3) At least once every five years, conduct a review of the long-term challenges and short-term objectives of the Air Force science and technology programs that is consistent with the review specified in section 252 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–46).

(4) Ensure that development and science and technology planning and investment activities are carried out for future space warfighting systems and for future nonspace warfighting systems in an integrated manner.

(5) Elevate the position within the Office of the Secretary of the Air Force that has primary responsibility for budget and policy decisions for science and technology programs.

(b) REINSTATEMENT OF DEVELOPMENT PLANNING.—(1) The Secretary of the Air Force shall reinstate and implement a revised development planning process that provides for each of the following:

(A) Coordinating the needs of Air Force warfighters with decisions on science and technology development.

(B) Giving input into the establishment of priorities among science and technology programs.

(C) Analyzing Air Force capability options for the allocation of Air Force resources.

(D) Developing concepts for technology, warfighting systems, and operations with which the Air Force can achieve its critical future goals.

(E) Evaluating concepts for systems and operations that leverage technology across Air Force organizational boundaries.

(F) Ensuring that a "system-of-systems" approach is used in carrying out the various Air Force capability planning exercises.

(G) Utilizing existing analysis capabilities within the Air Force product centers in a collaborative and integrated manner.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a report on the implementation of the planning process required by paragraph (1). The report shall include the annual amount that the Secretary considers necessary to carry out paragraph (1).

SEC. 253. STUDY AND REPORT ON EFFECTIVENESS OF AIR FORCE SCIENCE AND TECHNOLOGY PROGRAM CHANGES.

(a) REQUIREMENT.—The Secretary of the Air Force, in cooperation with the National Research Council of the National Academy of Sciences, shall carry out a study to determine how the changes to the Air Force science and technology program implemented during the past two years affect the future capabilities of the Air Force.

(b) MATTERS STUDIED.—(1) The study shall review and assess whether such changes as a whole are sufficient to ensure the following:

(A) That the concerns about the management of the science and technology program that have been raised by Congress, the Defense Science Board, the Air Force Science Advisory Board, and the Air Force Association have been adequately addressed.

(B) That appropriate and sufficient technology is available to ensure the military superiority of the United States and counter future high-risk threats.

(C) That the science and technology investments are balanced to meet the near-, mid-, and long-term needs of the Air Force.

(D) That technologies are made available that can be used to respond flexibly and quickly to a wide range of future threats.

(E) That the Air Force organizational structure provides for a sufficiently senior level advocate of science and technology to ensure an ongoing, effective presence of the science and technology community during the budget and planning process.

(2) In addition, the study shall assess the specific changes to the Air Force science and technology program as follows:

(A) Whether the biannual science and technology summits provide sufficient visibility into, and understanding and appreciation of, the value of the science and technology program to the senior level of Air Force budget and policy decisionmakers.

(B) Whether the applied technology councils are effective in contributing the input of all levels beneath the senior leadership into the coordination, focus, and content of the science and technology program.

(C) Whether the designation of the commander of the Air Force Materiel Command as the science and technology budget advocate is effective to ensure that an adequate Air Force science and technology budget is requested.

(D) Whether the revised development planning process is effective to aid in the coordination of the needs of the Air Force warfighters with decisions on science and technology investments and the establishment of priorities among different science and technology programs.

(E) Whether the implementation of section 252 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–46) is effective to identify the basis for the appropriate science and technology program funding level and investment portfolio.

(c) REPORT.—Not later than May 1, 2003, the Secretary of the Air Force shall submit to Congress the results of the study.

Subtitle E—Other Matters

SEC. 261. ESTABLISHMENT OF UNMANNED AERIAL VEHICLE JOINT OPERATIONAL TEST BED SYSTEM.

(a) ESTABLISHMENT OF TEST BED SYSTEM.—The commander of the United States Joint Forces Command shall establish a government flight activity capability (referred to as a "test bed") within the facilities and resources of that command to evaluate and ensure joint interoperability of unmanned aerial vehicle systems. That capability shall be independent of the military departments and shall be managed directly by the Joint Forces Command.

(b) PRIORITY FOR USE OF PREDATOR ASSETS.—The Secretary of the Navy shall ensure that the commander of the United States Joint Forces Command controls the priority for use of the two Predator unmanned aerial vehicles currently undergoing operational testing by the Navy, together with associated payloads and antennas and the associated tactical control system (TCS) ground station.

(c) USE BY JOINT FORCES COMMAND.—The items specified to in subsection (b) may be used by the commander of the United States Joint Forces Command only through the independent joint operational test bed system established pursuant to subsection (a) for testing of those items, including further development of the associated tactical control system (TCS) ground station, other aspects of unmanned aerial vehicle interoperability, and participation in such experiments and exercises as the commander considers appropriate to the mission of that command.

SEC. 262. DEMONSTRATION PROJECT TO INCREASE SMALL BUSINESS AND UNIVERSITY PARTICIPATION IN OFFICE OF NAVAL RESEARCH EFFORTS TO EXTEND BENEFITS OF SCIENCE AND TECHNOLOGY RESEARCH TO FLEET.

(a) PROJECT REQUIRED.—The Secretary of the Navy, acting through the Chief of Naval Research, shall carry out a demonstration project to increase access to Navy facilities of small businesses and universities that are engaged in science and technology research beneficial to the fleet.

(b) PROJECT ELEMENTS.—In carrying out the demonstration project, the Secretary shall—

(1) establish and operate a Navy Technology Extension Center at a location to be selected by the Secretary;

(2) permit participants in the Small Business Innovation Research Program (SBIR) and Small Business Technology Transfer Program (STTR) that are awarded contracts by the Office of Naval Research to access and use Navy Major Range Test Facilities Base (MRTFB) facilities selected by the Secretary for purposes of carrying out such contracts, and charge such participants for such access and use at the same established rates that Department of Defense customers are charged; and

(3) permit universities, institutions of higher learning, and federally funded research and development centers collaborating with participants referred to in paragraph (2) to access and use such facilities for such purposes, and charge such entities for such access and use at such rates.

(c) PERIOD OF PROJECT.—The demonstration project shall be carried out during the three-year period beginning on the date of the enactment of this Act.

(d) REPORT.—Not later than February 1, 2004, the Secretary shall submit to Congress a report on the demonstration project. The report shall include a description of the activities carried out under the demonstration project and any recommendations for the improvement or expansion of the demonstration project that the Secretary considers appropriate.

SEC. 263. COMMUNICATION OF SAFETY CONCERNS FROM OPERATIONAL TEST AND EVALUATION OFFICIALS TO PROGRAM MANAGERS.

Section 139 of title 10, United States Code, is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) The Director shall ensure that safety concerns developed during the operational test and evaluation of a weapon system under a major defense acquisition program are communicated in a timely manner to the program manager for that program for consideration in the acquisition decisionmaking process.".

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Transfer from National Defense Stockpile Transaction Fund.
Sec. 305. Funds for renovation of Department of Veterans Affairs facilities adjacent to Naval Training Center, Great Lakes, Illinois.
Sec. 306. Defense Language Institute Foreign Language Center expanded Arabic language program.

Subtitle B—Environmental Provisions

Sec. 311. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges).
Sec. 312. Establishment of new program element for remediation of unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 313. Assessment of environmental remediation of unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 314. Conformity of surety authority under environmental restoration program with surety authority under CERCLA.
Sec. 315. Elimination of annual report on contractor reimbursement for costs of environmental response actions.
Sec. 316. Pilot program for sale of air pollution emission reduction incentives.
Sec. 317. Department of Defense energy efficiency program.
Sec. 318. Procurement of alternative fueled and hybrid light duty trucks.
Sec. 319. Reimbursement of Environmental Protection Agency for certain response costs in connection with Hooper Sands Site, South Berwick, Maine.
Sec. 320. River mitigation studies.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 331. Commissary benefits for new members of the Ready Reserve.
Sec. 332. Reimbursement for use of commissary facilities by military departments for purposes other than commissary sales.
Sec. 333. Public releases of commercially valuable information of commissary stores.
Sec. 334. Rebate agreements with producers of foods provided under special supplemental food program.
Sec. 335. Civil recovery for nonappropriated fund instrumentality costs related to shoplifting.

Subtitle D—Workforce and Depot Issues

Sec. 341. Revision of authority to waive limitation on performance of depot-level maintenance.
Sec. 342. Exclusion of certain expenditures from limitation on private sector performance of depot-level maintenance.
Sec. 343. Protections for purchasers of articles and services manufactured or performed by working-capital funded industrial facilities of the Department of Defense.
Sec. 344. Revision of deadline for annual report on commercial and industrial activities.
Sec. 345. Pilot manpower reporting system in Department of the Army.
Sec. 346. Development of Army workload and performance system and Wholesale Logistics Modernization Program.

Subtitle E—Defense Dependents Education

Sec. 351. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 352. Impact aid for children with severe disabilities.
Sec. 353. Availability of auxiliary services of defense dependents' education system for dependents who are home school students.
Sec. 354. Comptroller General study of adequacy of compensation provided for teachers in the Department of Defense overseas dependents' schools.

Subtitle F—Other Matters

Sec. 361. Availability of excess defense personal property to support Department of Veterans Affairs initiative to assist homeless veterans.
Sec. 362. Incremental implementation of Navy-Marine Corps Intranet contract.
Sec. 363. Comptroller General study and report of National Guard Distributive Training Technology Project.
Sec. 364. Reauthorization of warranty claims recovery pilot program.
Sec. 365. Evaluation of current demonstration programs to improve quality of personal property shipments of members.
Sec. 366. Sense of Congress regarding security to be provided at 2002 Winter Olympic Games.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $20,653,241,000.

(2) For the Navy, $26,461,299,000.

(3) For the Marine Corps, $2,872,524,000.

(4) For the Air Force, $25,598,767,000.

(5) For Defense-wide activities, $11,949,586,000.

(6) For the Army Reserve, $1,824,146,000.

(7) For the Naval Reserve, $1,000,050,000.

(8) For the Marine Corps Reserve, $142,853,000.

(9) For the Air Force Reserve, $2,029,866,000.

(10) For the Army National Guard, $3,696,559,000.

(11) For the Air National Guard, $3,967,361,000.

(12) For the Defense Inspector General, $149,221,000.

(13) For the United States Court of Appeals for the Armed Forces, $9,096,000.

(14) For Environmental Restoration, Army, $389,800,000.

(15) For Environmental Restoration, Navy, $257,517,000.

(16) For Environmental Restoration, Air Force, $385,437,000.

(17) For Environmental Restoration, Defense-wide, $23,492,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, $230,255,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $49,700,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $820,381,000.

(21) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $40,000,000.

(22) For Defense Health Program, $17,570,750,000.

(23) For Cooperative Threat Reduction programs, $403,000,000.

(24) For Overseas Contingency Operations Transfer Fund, $2,844,226,000.

(25) For Support for International Sporting Competitions, Defense, $15,800,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $125,000,000, which represents savings resulting from reduced energy costs.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,557,686,000.

(2) For the National Defense Sealift Fund, $407,708,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

(a) AMOUNT FOR FISCAL YEAR 2002.—There is hereby authorized to be appropriated for fiscal year 2002 from the Armed Forces Retirement Home Trust Fund the sum of $71,440,000 for the operation of the Armed Forces Retirement Home.

(b) AVAILABILITY OF AMOUNTS PREVIOUSLY APPROPRIATED.—Of amounts appropriated from the Armed Forces Retirement Home Trust Fund for fiscal year 2002 (and previous fiscal years to the extent such amounts remain unobligated), $22,400,000 shall be available, subject to the review and approval of the Secretary of Defense, for the development and construction of a blended use, multicare facility at the Naval Home and for the acquisition of a parcel of real property adjacent to the Naval Home consisting of approximately 15 acres.

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than

$150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 2002 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(b) Treatment of Transfers.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) Relationship to Other Transfer Authority.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 305. FUNDS FOR RENOVATION OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES ADJACENT TO NAVAL TRAINING CENTER, GREAT LAKES, ILLINOIS.

(a) Availability of Funds for Renovation.—Subject to subsection (b), of the amount authorized to be appropriated by section 301(a)(2) for operation and maintenance for the Navy, the Secretary of the Navy may make available to the Secretary of Veterans Affairs up to $2,000,000 for relocation of Department of Veterans Affairs activities and associated renovation of existing facilities at the North Chicago Department of Veterans Affairs Medical Center, Illinois.

(b) Limitation.—The Secretary of the Navy may make funds available under subsection (a) only after the Secretary of the Navy and the Secretary of Veterans Affairs enter into an appropriate agreement for the use by the Secretary of the Navy of approximately 48 acres of real property at the North Chicago Department of Veterans Affairs property referred to in subsection (a) for expansion of the Naval Training Center, Great Lakes, Illinois.

SEC. 306. DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER EXPANDED ARABIC LANGUAGE PROGRAM.

Of the amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army, $650,000 may be available for the Defense Language Institute Foreign Language Center for an expanded Arabic language program.

Subtitle B—Environmental Provisions

SEC. 311. INVENTORY OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS AT DEFENSE SITES (OTHER THAN OPERATIONAL RANGES).

(a) Inventory Required.—(1) Chapter 160 of title 10, United States Code, is amended by adding at the end the following new section:

"§2710. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges)

"(a) Inventory Required.—(1) The Secretary of Defense shall develop and maintain an inventory of defense sites that are known or suspected to contain unexploded ordnance, discarded military munitions, or munitions constituents.

"(2) The information in the inventory for each defense site shall include, at a minimum, the following:

"(A) A unique identifier for the defense site.

"(B) An appropriate record showing the location, boundaries, and extent of the defense site, including identification of the State and political subdivisions of the State in which the defense site is located and any Tribal lands encompassed by the defense site.

"(C) Known persons and entities, other than a military department, with any current ownership interest or control of lands encompassed by the defense site.

"(D) Any restrictions or other land use controls currently in place at the defense site that might affect the potential for public and environmental exposure to the unexploded ordnance, discarded military munitions, or munitions constituents.

"(b) Site Prioritization.—(1) The Secretary shall develop, in consultation with representatives of the States and Indian Tribes, a proposed protocol for assigning to each defense site a relative priority for response activities related to unexploded ordnance, discarded military munitions, and munitions constituents based on the overall conditions at the defense site. After public notice and comment on the proposed protocol, the Secretary shall issue a final protocol and shall apply the protocol to defense sites listed on the inventory. The level of response priority assigned the site shall be included with the information required by subsection (a)(2).

"(2) In assigning the response priority for a defense site on the inventory, the Secretary shall primarily consider factors relating to safety and environmental hazard potential, such as the following:

"(A) Whether there are known, versus suspected, unexploded ordnance, discarded military munitions, or munitions constituents on all or any portion of the defense site and the types of unexploded ordnance, discarded military munitions, or munitions constituents present or suspected to be present.

"(B) Whether public access to the defense site is controlled, and the effectiveness of these controls.

"(C) The potential for direct human contact with unexploded ordnance, discarded military munitions, or munitions constituents at the defense site and evidence of people entering the site.

"(D) Whether a response action has been or is being undertaken at the defense site under the Formerly Used Defense Sites program or other program.

"(E) The planned or mandated dates for transfer of the defense site from military control.

"(F) The extent of any documented incidents involving unexploded ordnance, discarded military munitions, or munitions constituents at or from the defense site, including incidents involving explosions, discoveries, injuries, reports, and investigations.

"(G) The potential for drinking water contamination or the release of munitions constituents into the air.

"(H) The potential for destruction of sensitive ecosystems and damage to natural resources.

"(3) The priority assigned to a defense site included on the inventory shall not impair, alter, or diminish any applicable Federal or State authority to establish requirements for the investigation of, and response to, environmental problems at the defense site.

"(c) Updates and Availability.—(1) The Secretary shall annually update the inventory and site prioritization list to reflect new information that becomes available. The inventory shall be available in published and electronic form.

"(2) The Secretary shall work with communities adjacent to a defense site to provide information concerning conditions at the site and response activities. At a minimum, the Secretary shall provide the site inventory information and site prioritization list to appropriate Federal, State, tribal, and local officials, and, to the extent the Secretary considers appropriate, to civil defense or emergency management agencies and the public.

"(d) Exceptions.—This section does not apply to the following:

"(1) Any locations outside the United States.

"(2) The presence of military munitions resulting from combat operations.

"(3) Operating storage and manufacturing facilities.

"(4) Operational ranges.

"(e) Definitions.—In this section:

"(1) The term 'defense site' applies to locations that are or were owned by, leased to, or otherwise possessed or used by the Department of Defense. The term does not include any operational range, operating storage or manufacturing facility, or facility that is used for or was permitted for the treatment or disposal of military munitions.

"(2) The term 'discarded military munitions' means military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of, consistent with applicable environmental laws and regulations.

"(3)(A) The term 'military munitions' means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard. The term includes confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof.

"(B) The term does not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components, except that the term does include nonnuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed.

"(4) The term 'munitions constituents' means any materials originating from unexploded ordnance, discarded military munitions, or other military munitions, including explosive and nonexplosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions.

"(5) The term 'operational range' means a military range that is used for range activities, or a military range that is not currently being used, but that is still considered by the Secretary to be a range area, is under the jurisdiction, custody, or control of the Department of Defense, and has not been put to a new use that is incompatible with range activities.

"(6) The term 'possessions' includes Johnston Atoll, Kingman Reef, Midway Island, Nassau Island, Palmyra Island, and Wake Island.

"(7) The term 'Secretary' means the Secretary of Defense.

"(8) The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions.

"(9) The term 'unexploded ordnance' means military munitions that—

"(A) have been primed, fused, armed, or otherwise prepared for action;

"(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and

"(C) remain unexploded either by malfunction, design, or any other cause.

"(10) The term 'United States', in a geographic sense, means the States, territories, and possessions and associated navigable waters, contiguous zones, and ocean waters of which the natural resources are under the exclusive management authority of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2710. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges).".

(b) INITIAL INVENTORY.—The requirements of section 2710 of title 10, United States Code, as added by subsection (a), shall be implemented as follows:

(1) The initial inventory required by subsection (a) of such section shall be completed not later than May 31, 2003.

(2) The proposed prioritization protocol required by subsection (b) of such section shall be available for public comment not later than November 30, 2002.

SEC. 312. ESTABLISHMENT OF NEW PROGRAM ELEMENT FOR REMEDIATION OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS.

Section 2703 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) PROGRAM ELEMENTS FOR ORDNANCE REMEDIATION.—The Secretary of Defense shall establish a program element for remediation of unexploded ordnance, discarded military munitions, and munitions constituents within each environmental restoration account established under subsection (a). The terms 'unexploded ordnance', 'discarded military munitions', and 'munitions constituents' have the meanings given such terms in section 2710 of this title.".

SEC. 313. ASSESSMENT OF ENVIRONMENTAL REMEDIATION OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS.

(a) INCLUSION IN 2003 REPORT ON ENVIRONMENTAL RESTORATION ACTIVITIES.—The Secretary of Defense shall include in the report submitted to Congress under section 2706(a) of title 10, United States Code, in 2003 a comprehensive assessment of unexploded ordnance, discarded military munitions, and munitions constituents located at current and former facilities of the Department of Defense. The assessment shall include, at a minimum, the following:

(1) Separate estimates of the aggregate projected costs of the remediation of unexploded ordnance, discarded military munitions, and munitions constituents at—

(A) all operational ranges; and

(B) all other defense sites.

(2) A comprehensive plan for addressing the remediation of unexploded ordinance, discarded military munitions, and munitions constituents at defense sites, including an assessment of the funding required and the period of time over which such funding will be required.

(3) An assessment of the technology currently available for the remediation of unexploded ordnance, discarded military munitions, and munitions constituents.

(4) An assessment of the impact of improved technology on the cost of such remediation and a plan for the development and use of such improved technology.

(b) REQUIREMENTS FOR COST ESTIMATES.—(1) The estimates of aggregate projected costs required by subsection (a)(1) shall—

(A) be stated as a range of aggregate projected costs, including a low estimate and a high estimate;

(B) set forth the differing assumptions underlying each such low estimate and high estimate, including—

(i) any public uses for the operational ranges and other defense sites concerned that will be available after the remediation is completed;

(ii) the extent of the remediation required to make the operational ranges and other defense sites concerned available for such uses; and

(iii) the technologies to be applied to achieve such level of remediation; and

(C) include, and identify separately, an estimate of the aggregate projected costs of the remediation of any ground water contamination that may be caused by unexploded ordnance, discarded military munitions, or munitions constituents at the operational ranges and other defense sites concerned.

(2) The high estimate of the aggregate projected costs shall be based on the assumption that all unexploded ordnance, discarded military munitions, and munitions constituents at each operational range and other defense site will be addressed, regardless of whether there are any current plans to close the range or site or discontinue training at the range or site.

(3) The estimate of the aggregate projected costs of remediation of ground water contamination under paragraph (1)(C) shall be based on a comprehensive assessment of the risk of such contamination and of the actions required to protect the ground water supplies concerned.

(4) The standards for the report of liabilities of the Department of Defense shall not apply to the cost estimates required by subsection (a)(1).

(c) INTERIM ASSESSMENT.—The report submitted to Congress under section 2706(a) of title 10, United States Code, in 2002 shall include the assessment required by subsection (a) to the extent that the information required to be provided as part of the assessment is available. The Secretary shall include an explanation of any limitations on the information available or qualifications on the information provided.

(d) DEFINITIONS.—In this section, the terms "unexploded ordnance", "discarded military munitions", "munitions constituents", "operational range", and "defense site" have the meanings given such terms in section 2710 of title 10, United States Code, as added by section 311.

SEC. 314. CONFORMITY OF SURETY AUTHORITY UNDER ENVIRONMENTAL RESTORATION PROGRAM WITH SURETY AUTHORITY UNDER CERCLA.

Section 2701(j)(1) of title 10, United States Code, is amended by striking ", or after December 31, 1999".

SEC. 315. ELIMINATION OF ANNUAL REPORT ON CONTRACTOR REIMBURSEMENT FOR COSTS OF ENVIRONMENTAL RESPONSE ACTIONS.

(a) REPORT ELIMINATION.—Section 2706 of title 10, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) CONFORMING AMENDMENTS.—Subsection (d) of such section, as redesignated by subsection (a) of this section, is amended—

(1) by striking paragraphs (1) and (3); and

(2) by redesignating paragraphs (2), (4), and (5) as paragraphs (1), (2), and (3), respectively.

SEC. 316. PILOT PROGRAM FOR SALE OF AIR POLLUTION EMISSION REDUCTION INCENTIVES.

(a) EXTENSION.—Section 351(a)(2) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2701 note) is amended by striking "September 30, 2001" and inserting "September 30, 2003".

(b) REPORT REQUIRED.—(1) The Secretary of Defense shall prepare a report concerning the operation of the pilot program for the sale of economic incentives for the reduction of emission of air pollutants attributable to military facilities, as authorized by section 351 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2701 note). The report shall—

(A) detail all transactions that have been completed under the pilot program, the dollar amount of each transaction, and the number and type of air pollutants involved in each transaction;

(B) evaluate the extent to which retention of the proceeds of sales under the pilot program, as required by subsection (c) of such section, has provided incentives for such sales;

(C) evaluate the extent of any loss to the United States Treasury associated with the pilot program; and

(D) evaluate the environmental impact of the pilot program.

(2) Not later than March 1, 2003, the Secretary shall submit the report required by paragraph (1) to the Committee on Energy and Commerce and the Committee on Armed Services of the House of Representatives and the Committee on Environment and Public Works and the Committee on Armed Services of the Senate.

SEC. 317. DEPARTMENT OF DEFENSE ENERGY EFFICIENCY PROGRAM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should work to implement fuel efficiency reforms that allow for investment decisions based on the true cost of delivered fuel, strengthen the linkage between warfighting capability and fuel logistics requirements, provide high-level leadership encouraging fuel efficiency, target fuel efficiency improvements through science and technology investment, and include fuel efficiency in requirements and acquisition processes.

(b) ENERGY EFFICIENCY PROGRAM.—The Secretary shall carry out a program to significantly improve the energy efficiency of facilities of the Department of Defense through 2010. The Secretary shall designate a senior official of the Department of Defense to be responsible for managing the program for the Department and a senior official of each military department to be responsible for managing the program for such department.

(c) ENERGY EFFICIENCY GOALS.—The goal of the energy efficiency program shall be to achieve reductions in energy consumption by facilities of the Department of Defense as follows:

(1) In the case of industrial and laboratory facilities, reductions in the average energy consumption per square foot of such facilities, per unit of production or other applicable unit, relative to energy consumption in 1990—

(A) by 20 percent by 2005; and

(B) by 25 percent by 2010.

(2) In the case of other facilities, reductions in average energy consumption per gross square foot of such facilities, relative to energy consumption per gross square foot in 1985—

(A) by 30 percent by 2005; and

(B) by 35 percent by 2010.

(d) STRATEGIES FOR IMPROVING ENERGY EFFICIENCY.—In order to achieve the goals set forth in subsection (c), the Secretary shall, to the maximum extent practicable—

(1) purchase energy-efficient products, as so designated by the Environmental Protection Agency and the Department of Energy, and other products that are energy-efficient;

(2) utilize energy savings performance contracts, utility energy-efficiency service contracts, and other contracts designed to achieve energy conservation;

(3) use life-cycle cost analysis, including assessment of life-cycle energy costs, in making decisions about investments in products, services, construction, and other projects;

(4) conduct energy efficiency audits for approximately 10 percent of all Department of Defense facilities each year;

(5) explore opportunities for energy efficiency in industrial facilities for steam systems, boiler operation, air compressor systems, industrial processes, and fuel switching; and

(6) retire inefficient equipment on an accelerated basis where replacement results in lower life-cycle costs.

(e) REPORTING REQUIREMENTS.—Not later than January 1, 2002, and each January 1 thereafter through 2010, the Secretary shall submit to the congressional defense committees the report required to be prepared by the Secretary pursuant to section 303 of Executive Order 13123 (64 Fed. Reg. 30851; 42 U.S.C. 8251 note) regarding the progress made toward achieving the energy efficiency goals of the Department of Defense.

SEC. 318. PROCUREMENT OF ALTERNATIVE FUELED AND HYBRID LIGHT DUTY TRUCKS.

(a) DEFENSE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—(1) The Secretary of Defense shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by the Administrator for the Department of Defense fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) The Secretary, in consultation with the Administrator, may waive the policy regarding the procurement of hybrid vehicles in paragraph (1) to the extent that the Secretary determines necessary—

(A) in the case of trucks that are exempt from the requirements of section 303 of the Energy Policy Act of 1992 for national security reasons under subsection (b)(3)(E) of such section, to meet specific requirements of the Department of Defense for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government; or

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles.

(3) This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

(b) REQUIREMENT TO EXCEED REQUIREMENT IN ENERGY POLICY ACT OF 1992.—(1) The Secretary of Defense shall coordinate with the Administrator of General Services to ensure that, of the light duty trucks procured in fiscal years after fiscal year 2004 for the fleets of light duty vehicles of the Department of Defense to which section 303 of the Energy Policy Act of 1992 applies—

(A) five percent of the total number of such trucks that are procured in each of fiscal years 2005 and 2006 are alternative fueled vehicles or hybrid vehicles; and

(B) ten percent of the total number of such trucks that are procured in each fiscal year after fiscal year 2006 are alternative fueled vehicles or hybrid vehicles.

(2) Light duty trucks acquired for the Department of Defense that are counted to comply with section 303 of the Energy Policy Act of 1992 for a fiscal year shall be counted to determine the total number of light duty trucks procured for the Department of Defense for that fiscal year for the purposes of paragraph (1), but shall not be counted to satisfy the requirement in that paragraph.

(c) REPORT ON PLANS FOR IMPLEMENTATION.—At the same time that the President submits the budget for fiscal year 2003 to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to Congress a report summarizing the plans for carrying out subsections (a) and (b).

(d) DEFINITIONS.—In this section:

(1) The term "hybrid vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

(A) an internal combustion or heat engine using combustible fuel; and

(B) a rechargeable energy storage system.

(2) The term "alternative fueled vehicle" has the meaning given that term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

SEC. 319. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN RESPONSE COSTS IN CONNECTION WITH HOOPER SANDS SITE, SOUTH BERWICK, MAINE.

(a) AUTHORITY TO REIMBURSE.—Using amounts specified in subsection (c), the Secretary of the Navy may pay $1,005,478 to the Hooper Sands Special Account within the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986 to reimburse the Environmental Protection Agency for the response costs incurred by the Environmental Protection Agency for actions taken between May 12, 1992, and July 31, 2000, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) at the Hooper Sands site in South Berwick, Maine, in accordance with the interagency agreement entered into by the Department of the Navy and the Environmental Protection Agency in January 2001.

(b) TREATMENT OF REIMBURSEMENT.—Payment of the amount authorized by subsection (a) shall be in full satisfaction of amounts due from the Department of the Navy to the Environmental Protection Agency for the response costs described in that subsection.

(c) SOURCE OF FUNDS.—Payment under subsection (a) shall be made using amounts authorized to be appropriated by section 301(a)(15) to the Environmental Restoration Account, Navy, established by section 2703(a)(3) of title 10, United States Code.

SEC. 320. RIVER MITIGATION STUDIES.

(a) PORT OF ORANGE, SABINE RIVER.—The Secretary of Defense may conduct a study regarding protruding structures and submerged objects remaining from the World War II Navy ship building industry located at the former Navy installation in Orange, Texas, which create navigational hazards along the Sabine River and surrounding the Port of Orange.

(b) PHILADELPHIA NAVAL SHIPYARD, DELAWARE RIVER.—The Secretary of Defense may conduct a study regarding floating and partially submerged debris possibly relating to the Philadelphia Naval Shipyard in that portion of the Delaware River from Philadelphia, Pennsylvania, to the mouth of the river which create navigational hazards along the river.

(c) USE OF EXISTING INFORMATION.—In conducting a study authorized by this section, the Secretary of Defense shall take into account any information available from other studies conducted in connection with the same navigation channels.

(d) CONSULTATION.—The Secretary of Defense shall conduct the studies authorized by this section in consultation with appropriate State and local government entities and Federal agencies.

(e) REPORT ON STUDY RESULTS.—Not later than April 30, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report that—

(1) summarizes the results of each study conducted under this section; and

(2) contains an evaluation by the Secretary of the extent to which the navigational hazards identified in each study are the result of Department of Defense activities.

(f) COST SHARING.—Nothing in this section is intended to require non-Federal cost sharing of the costs incurred by the Secretary of Defense to conduct a study authorized by this section.

(g) RELATION TO OTHER LAWS AND AGREEMENTS.—This section is not intended to modify any authorities provided to the Secretary of the Army by the Water Resources Development Act of 1986 (33 U.S.C. 2201 et seq.), nor is it intended to modify any non-Federal cost-sharing responsibilities outlined in any local cooperation agreements.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 331. COMMISSARY BENEFITS FOR NEW MEMBERS OF THE READY RESERVE.

(a) ELIGIBILITY.—Section 1063 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ELIGIBILITY OF NEW MEMBERS.—(1) The Secretary concerned shall authorize a new member of the Ready Reserve to use commissary stores of the Department of Defense for a number of days accruing at the rate of two days for each month in which the member participates satisfactorily in training required under section 10147(a)(1) of this title or section 502(a) of title 32, as the case may be.

"(2) For the purposes of paragraph (1), a person shall be considered a new member of the Ready Reserve upon becoming a member and continuing without a break in the membership until the earlier of—

"(A) the date on which the member becomes eligible to use commissary stores under subsection (a); or

"(B) December 31 of the first calendar year in which the membership has been continuous for the entire year.

"(3) A new member may not be authorized under this subsection to use commissary stores for more than 24 days for any calendar year.".

(b) REQUIRED DOCUMENTATION.—Subsection (d) of such section, as redesignated by subsection (a)(1), is amended by adding at the end the following new sentence: "The regulations shall specify the required documentation of satisfactory participation in training for the purposes of subsection (b).".

(c) CONFORMING AMENDMENT.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by striking "Subsection (a)" and inserting "Subsections (a) and (b)".

(d) CLERICAL AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§1063. Use of commissary stores: members of Ready Reserve".

(2) Subsection (a) of such section is amended by striking "OF READY RESERVE" and inserting "WITH 50 OR MORE CREDITABLE POINTS".

(3) The item relating to such section in the table of sections at the beginning of chapter 54 of title 10, United States Code, is amended to read as follows:

"1063. Use of commissary stores: members of Ready Reserve.".

SEC. 332. REIMBURSEMENT FOR USE OF COMMISSARY FACILITIES BY MILITARY DEPARTMENTS FOR PURPOSES OTHER THAN COMMISSARY SALES.

(a) REQUIREMENT.—Chapter 147 of title 10, United States Code, is amended by inserting after section 2482a the following new section:

"§2483. Commissary stores: reimbursement for use of commissary facilities by military departments

"(a) PAYMENT REQUIRED.—The Secretary of a military department shall pay the Defense Commissary Agency the amount determined under

subsection (b) for any use of a commissary facility by the military department for a purpose other than commissary sales or operations in support of commissary sales.

"(b) AMOUNT.—The amount payable under subsection (a) for use of a commissary facility by a military department shall be equal to the share of depreciation of the facility that is attributable to that use, as determined under regulations prescribed by the Secretary of Defense.

"(c) COVERED FACILITIES.—This section applies with respect to a commissary facility that is acquired, constructed, converted, expanded, installed, or otherwise improved (in whole or in part) with the proceeds of an adjustment or surcharge applied under section 2486(c) of this title.

"(d) CREDITING OF PAYMENTS.—The Director of the Defense Commissary Agency shall credit amounts paid under this section for use of a facility to an appropriate account to which proceeds of an adjustment or surcharge referred to in subsection (c) are credited.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2482a the following new item:

"2483. Commissary stores: reimbursement for use of commissary facilities by military departments.".

SEC. 333. PUBLIC RELEASES OF COMMERCIALLY VALUABLE INFORMATION OF COMMISSARY STORES.

(a) LIMITATIONS AND AUTHORITY.—Section 2487 of title 10, United States Code, is amended to read as follows:

"§2487. Commissary stores: release of certain commercially valuable information to the public

"(a) AUTHORITY TO LIMIT RELEASE.—(1) The Secretary of Defense may limit the release to the public of any information described in paragraph (2) if the Secretary determines that it is in the best interest of the Department of Defense to limit the release of such information. If the Secretary determines to limit the release of any such information, the Secretary may provide for limited release of such information in accordance with subsection (b).

"(2) Paragraph (1) applies to the following:

"(A) Information contained in the computerized business systems of commissary stores or the Defense Commissary Agency that is collected through or in connection with the use of electronic scanners in commissary stores, including the following information:

"(i) Data relating to sales of goods or services.

"(ii) Demographic information on customers.

"(iii) Any other information pertaining to commissary transactions and operations.

"(B) Business programs, systems, and applications (including software) relating to commissary operations that were developed with funding derived from commissary surcharges.

"(b) RELEASE AUTHORITY.—(1) The Secretary of Defense may, using competitive procedures, enter into a contract to sell information described in subsection (a)(2).

"(2) The Secretary of Defense may release, without charge, information on an item sold in commissary stores to the manufacturer or producer of that item or an agent of the manufacturer or producer.

"(3) The Secretary of Defense may, by contract entered into with a business, grant to the business a license to use business programs referred to in subsection (a)(2)(B), including software used in or comprising any such program. The fee charged for the license shall be based on the costs of similar programs developed and marketed by businesses in the private sector, determined by means of surveys.

"(4) Each contract entered into under this subsection shall specify the amount to be paid for information released or a license granted under the contract, as the case may be.

"(c) FORM OF RELEASE.—Information described in subsection (a)(2) may not be released, under subsection (b) or otherwise, in a form that identifies any customer or that provides information making it possible to identify any customer.

"(d) RECEIPTS.—Amounts received by the Secretary under this section shall be credited to funds derived from commissary surcharges, shall be merged with those funds, and shall be available for the same purposes as the funds with which merged.

"(e) DEFINITION.—In this section, the term 'commissary surcharge' means any adjustment or surcharge applied under section 2486(c) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 147 of title 10, United States Code, is amended by striking the item relating to section 2487 and inserting the following new item:

"2487. Commissary stores: release of certain commercially valuable information to the public.".

SEC. 334. REBATE AGREEMENTS WITH PRODUCERS OF FOODS PROVIDED UNDER SPECIAL SUPPLEMENTAL FOOD PROGRAM.

Section 1060a of title 10, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) REBATE AGREEMENTS WITH FOOD PRODUCERS.—(1) In the administration of the program under this section, the Secretary of Defense may enter into a contract with a producer of a particular brand of food that provides for—

"(A) the Secretary of Defense to procure that particular brand of food, exclusive of other brands of the same or similar food, for the purpose of providing the food in commissary stores of the Department of Defense as a supplemental food under the program; and

"(B) the producer to rebate to the Secretary amounts equal to agreed portions of the amounts paid by the Secretary for the procurement of that particular brand of food for the program.

"(2) The Secretary of Defense shall use competitive procedures under chapter 137 of this title to enter into contracts under this subsection.

"(3) The period covered by a contract entered into under this subsection may not exceed one year. No such contract may be extended by a modification of the contract, by exercise of an option, or by any other means. Nothing in this paragraph prohibits a contractor under a contract entered into under this subsection for any year from submitting an offer for, and being awarded, a contract that is to be entered into under this subsection for a successive year.

"(4) Amounts rebated under a contract entered into under paragraph (1) shall be credited to the appropriation available for carrying out the program under this section in the fiscal year in which rebated, shall be merged with the other sums in that appropriation, and shall be available for the program for the same period as the other sums in the appropriation.".

SEC. 335. CIVIL RECOVERY FOR NONAPPROPRIATED FUND INSTRUMENTALITY COSTS RELATED TO SHOPLIFTING.

Section 3701(b)(1)(B) of title 31, United States Code, is amended by inserting before the comma at the end the following: ", including actual and administrative costs related to shoplifting, theft detection, and theft prevention".

Subtitle D—Workforce and Depot Issues

SEC. 341. REVISION OF AUTHORITY TO WAIVE LIMITATION ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.

Section 2466 of title 10, United States Code, is amended—

(1) by striking subsection (c); and

(2) by inserting after subsection (a) the following new subsections:

"(b) WAIVER OF LIMITATION.—The Secretary of Defense may waive the limitation in subsection (a) for a fiscal year if—

"(1) the Secretary determines that the waiver is necessary for reasons of national security; and

"(2) the Secretary submits to Congress a notification of the waiver together with the reasons for the waiver.

"(c) PROHIBITION ON DELEGATION OF WAIVER AUTHORITY.—The authority to grant a waiver under subsection (b) may not be delegated.".

SEC. 342. EXCLUSION OF CERTAIN EXPENDITURES FROM LIMITATION ON PRIVATE SECTOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.

Section 2474 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) EXCLUSION OF CERTAIN EXPENDITURES FROM PERCENTAGE LIMITATION.—(1) Amounts expended out of funds described in paragraph (2) for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence shall not be counted for purposes of applying the percentage limitation in section 2466(a) of this title if the personnel are provided by private industry or other entities outside the Department of Defense pursuant to a public-private partnership.

"(2) The funds referred to in paragraph (1) are funds available to the military departments and Defense Agencies for depot-level maintenance and repair workloads for fiscal years 2002 through 2005.

"(3) All funds covered by paragraph (1) shall be included as a separate item in the reports required under paragraphs (1), (2), and (3) of section 2466(e) of this title.".

SEC. 343. PROTECTIONS FOR PURCHASERS OF ARTICLES AND SERVICES MANUFACTURED OR PERFORMED BY WORKING-CAPITAL FUNDED INDUSTRIAL FACILITIES OF THE DEPARTMENT OF DEFENSE.

(a) GENERAL RULE.—Section 2563(c) of title 10, United States Code, is amended—

(1) in paragraph (1)(B), by striking "in any case of willful misconduct or gross negligence" and inserting "as provided in paragraph (3)"; and

(2) by adding at the end the following new paragraph:

"(3) Paragraph (1)(B) does not apply in any case of willful misconduct or gross negligence or in the case of a claim by a purchaser of articles or services under this section that damages or injury arose from the failure of the Government to comply with quality, schedule, or cost performance requirements in the contract to provide the articles or services.".

(b) CONFORMING AMENDMENT.—Section 2474(e)(2)(B)(i) of such title is amended by striking "in a case of willful conduct or gross negligence" and inserting "under the circumstances described in section 2563(c)(3) of this title".

SEC. 344. REVISION OF DEADLINE FOR ANNUAL REPORT ON COMMERCIAL AND INDUSTRIAL ACTIVITIES.

Section 2461(g) of title 10, United States Code, is amended by striking "February 1" and inserting "June 30".

SEC. 345. PILOT MANPOWER REPORTING SYSTEM IN DEPARTMENT OF THE ARMY.

(a) ANNUAL REPORTING REQUIREMENT.—Not later than March 1 of each of the fiscal years 2002 through 2004, the Secretary of the Army shall submit to Congress a report describing the use during the previous fiscal year of non-Federal entities to provide services to the Department of the Army.

(b) CONTENT OF REPORT.—Using information available from existing data collection and reporting systems available to the Department of the Army and the non-Federal entities referred to in subsection (a), the report shall—

(1) specify the number of work year equivalents performed by individuals employed by non-Federal entities in providing services to the Department;

(2) categorize the information by Federal supply class or service code; and

(3) indicate the appropriation from which the services were funded and the major organizational element of the Department procuring the services.

(c) LIMITATION ON REQUIREMENT FOR NON-FEDERAL ENTITIES TO PROVIDE INFORMATION.—For the purposes of meeting the requirements set forth in subsection (b), the Secretary of the Army may not require the provision of information beyond the information that is currently provided to the Department of the Army by the non-Federal entities referred to in subsection (a), except for the number of work year equivalents associated with Department of the Army contracts, identified by contract number, to the extent this information is available to the contractor from existing data collection systems.

(d) REPEAL OF OBSOLETE REPORTING REQUIREMENT.—Section 343 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 569) is repealed.

SEC. 346. DEVELOPMENT OF ARMY WORKLOAD AND PERFORMANCE SYSTEM AND WHOLESALE LOGISTICS MODERNIZATION PROGRAM.

(a) RELATIONSHIP BETWEEN SYSTEMS.—(1) The Army Workload and Performance System, including all applications in the master plan submitted to Congress on June 8, 2001, and any revisions to the master plan, shall be developed in such a manner that its functionality and identity are in compliance with all statutory requirements. The Army Workload and Performance System shall continue as a standard Army-wide manpower system under the supervision and management of the Secretary of the Army.

(2) The requirement in paragraph (1) is intended to encourage the sharing of data between the Army Workload and Performance System and the Wholesale Logistics Modernization Program and the development of the processes necessary to permit or enhance such data sharing.

(b) ANNUAL PROGRESS REPORTS.—(1) Not later than February 1 of each year, the Secretary of the Army shall submit to Congress a progress report on the implementation of the master plan for the Army Workload and Performance System during the preceding year. The report shall specifically address any changes made to the master plan since the previous report.

(2) The reporting requirement shall terminate when the Secretary certifies to Congress that the Army Workload and Performance System is fully implemented.

(c) GAO EVALUATION.—Not later than 60 days after the Secretary of the Army submits to Congress a progress report under subsection (b), the Comptroller General shall submit to Congress an evaluation of the report.

(d) ARMY WORKLOAD AND PERFORMANCE SYSTEM DEFINED.—The term "Army Workload and Performance System" includes all applications in the master plan for the System submitted to Congress on June 8, 2001, and any revision of such master plan.

Subtitle E—Defense Dependents Education

SEC. 351. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2002.—Of the amount authorized to be appropriated pursuant to section 301(a)(5) for operation and maintenance for Defense-wide activities—

(1) $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies; and

(2) $1,000,000 shall be available only for the purpose of making payments to local educational agencies to assist such agencies in adjusting to reductions in the number of military dependent students as a result of the closure or realignment of military installations, as provided in section 386(d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(b) NOTIFICATION.—Not later than June 30, 2002, the Secretary of Defense shall notify each local educational agency that is eligible for assistance or a payment under subsection (a) for fiscal year 2002 of—

(1) that agency's eligibility for the assistance or payment; and

(2) the amount of the assistance or payment for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 352. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(a)(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

SEC. 353. AVAILABILITY OF AUXILIARY SERVICES OF DEFENSE DEPENDENTS' EDUCATION SYSTEM FOR DEPENDENTS WHO ARE HOME SCHOOL STUDENTS.

Section 1407 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) AUXILIARY SERVICES AVAILABLE TO HOME SCHOOL STUDENTS.—(1) A dependent who is educated in a home school setting, but who is eligible to enroll in a school of the defense dependents' education system, shall be permitted to use or receive auxiliary services of that school without being required to either enroll in that school or register for a minimum number of courses offered by that school. The dependent may be required to satisfy other eligibility requirements and comply with standards of conduct applicable to students actually enrolled in that school who use or receive the same auxiliary services.

"(2) For purposes of paragraph (1), the term 'auxiliary services' includes use of academic resources, access to the library of the school, after hours use of school facilities, and participation in music, sports, and other extracurricular and interscholastic activities.".

SEC. 354. COMPTROLLER GENERAL STUDY OF ADEQUACY OF COMPENSATION PROVIDED FOR TEACHERS IN THE DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS.

(a) GAO STUDY REQUIRED.—The Comptroller General shall carry out a study of the adequacy of the pay and other elements of the compensation provided for teachers in the defense dependents' education system established under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(b) SPECIFIC CONSIDERATIONS.—In carrying out the study, the Comptroller General shall consider the following issues:

(1) Whether the compensation is adequate for recruiting and retaining high quality teachers.

(2) Whether any revision of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901 et seq.) or the regulations under that Act is advisable to address any problems identified with respect to the recruitment and retention of high quality teachers or for other purposes.

(c) REPORT.—Not later than May 1, 2002, the Comptroller General shall submit to Congress a report containing the results of the study, including—

(1) the Comptroller General's conclusions on the issues considered; and

(2) any recommendations for actions that the Comptroller General considers appropriate.

Subtitle F—Other Matters

SEC. 361. AVAILABILITY OF EXCESS DEFENSE PERSONAL PROPERTY TO SUPPORT DEPARTMENT OF VETERANS AFFAIRS INITIATIVE TO ASSIST HOMELESS VETERANS.

(a) TRANSFER AUTHORITY.—Subsection (a) of section 2557 of title 10, United States Code, is amended—

(1) by striking "The Secretary" and inserting "(1) The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary of Defense may make excess clothing, shoes, sleeping bags, and related nonlethal excess supplies available to the Secretary of Veterans Affairs for distribution to homeless veterans and programs assisting homeless veterans. The transfer of nonlethal excess supplies to the Secretary of Veterans Affairs under this paragraph shall be without reimbursement.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2557. Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief".

(2) The table of sections at the beginning of chapter 152 of such title is amended by striking the item relating to section 2557 and inserting the following new item:

"2557. Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief.".

SEC. 362. INCREMENTAL IMPLEMENTATION OF NAVY-MARINE CORPS INTRANET CONTRACT.

(a) ADDITIONAL PHASE-IN AUTHORITY.—Section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–215) is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (f), (g), (h), and (i), respectively; and

(2) by inserting after subsection (b) the following new subsections:

"(c) ADDITIONAL PHASE-IN AUTHORITY PENDING SECOND JOINT CERTIFICATION.—(1)(A) Notwithstanding subsection (b)(3), the Secretary of

the Navy may order additional work stations under the Navy-Marine Corps Intranet contract in excess of the number provided in the first increment of the contract under subsection (b)(2), but not to exceed an additional 100,000 work stations. The authority of Secretary of the Navy to order additional work stations under this paragraph is subject to approval by both the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense may not grant approval to the Secretary of the Navy to order additional work stations under subparagraph (A) until a three-phase customer test and evaluation, observed by the Department of Defense, is completed for a statistically significant representative sample of the work stations operating on the Navy-Marine Corps Intranet. The test and evaluation shall include end user testing of day-to-day operations (including e-mail capability and performance), scenario-driven events, and scenario-based interoperability testing.

"(2)(A) Notwithstanding subsection (b)(3), the Secretary of the Navy may order additional work stations under the Navy-Marine Corps Intranet contract in excess of the number provided in the first increment of the contract under subsection (b)(2) and the number ordered under the authority of paragraph (1), but not to exceed an additional 150,000 work stations. The authority of Secretary of the Navy to order additional work stations under this paragraph is also subject to approval by both the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense may not grant approval to the Secretary of the Navy to order additional work stations under subparagraph (A) until each of the following occurs:

"(i) There has been a full transition of not less than 20,000 work stations to the Navy-Marine Corps Intranet.

"(ii) The work stations referred to in clause (i) have met applicable service-level agreements specified in the Navy-Marine Corps Intranet contract, as determined by contractor performance measurement under oversight by the Department of the Navy.

"(iii) The Chief Information Officer of the Navy certifies to the Secretary of the Navy and the Chief Information Officer of the Department of Defense that the results of the performance evaluation referred to in clause (ii) are acceptable.

"(3) Of the work stations ordered under the authority provided by paragraph (2), not more than 50 percent may reach the major milestone known as 'assumption of responsibility' until each of the following occurs:

"(A) All work stations for the headquarters of the Naval Air Command have met applicable service-level agreements specified in the Navy-Marine Corps Intranet contract, as determined by contractor performance measurement under oversight by the Department of the Navy.

"(B) The Chief Information Officer of the Navy certifies to the Secretary of the Navy and the Chief Information Officer of the Department of Defense that the results of the performance evaluation referred to in subparagraph (B) are acceptable.

"(4) For the purposes of this section, when the information infrastructure and systems of a user of a work station are transferred into Navy-Marine Corps Intranet infrastructure and systems under the Navy-Marine Corps Intranet contract consistent with the applicable service-level agreements specified in the Navy-Marine Corps Intranet contract, the work station shall be considered as having been provided for the Navy-Marine Corps Intranet.

"(d) REPORTING AND REVIEW REQUIREMENTS.—(1) If work stations are ordered using the authority provided by paragraph (1) or (2) of subsection (c), the Secretary of the Navy shall submit to Congress a report, current as of the date the determination is made to order the work stations, on the following:

"(A) The number of work stations operating on the Navy-Marine Corps Intranet, including the number of work stations regarding which assumption of responsibility has occurred.

"(B) The status of testing and implementation of the Navy-Marine Corps Intranet program.

"(C) The number of work stations to be ordered under paragraph (1) or (2) of subsection (c), whichever applies.

"(2) A report containing the information required by paragraph (1) shall also be submitted to Congress when the requirements of paragraph (3) of subsection (c) are satisfied and additional work stations under the Navy-Marine Corps Intranet contract are authorized to reach assumption of responsibility.

"(3) The Comptroller General shall conduct a review of the impact that participation in the Navy-Marine Corps Intranet program has on information technology costs of working capital funded industrial facilities of the Department of the Navy and submit the results of the review to Congress.".

(b) NAVY-MARINE CORPS INTRANET MANAGER.—Such section is further amended by inserting after subsection (d), as added by subsection (a)(2) of this section, the following new subsection:

"(e) ASSIGNMENT OF NAVY-MARINE CORPS INTRANET MANAGER.—The Secretary of the Navy shall assign an employee of the Department of the Navy to the Navy-Marine Corps Intranet program whose sole responsibility will be to oversee and direct the program. The employee so assigned may not also be the program executive officer.".

(c) DEFINITIONS.—Subsection (i) of such section, as redesignated by subsection (a)(1) of this section, is amended—

(1) by striking "NAVY-MARINE CORPS INTRANET CONTRACT DEFINED.—" and inserting "DEFINITIONS.—(1)"; and

(2) by adding at the end the following new paragraph:

"(2) In this section, the term 'assumption of responsibility', with respect to a work station, means the point at which the contractor team under the Navy-Marine Corps Intranet contract assumes operational control of, and responsibility for, the existing information infrastructure and systems of a work station, in order to prepare for ultimate transition of the work station to the Navy-Marine Corps Intranet.".

SEC. 363. COMPTROLLER GENERAL STUDY AND REPORT OF NATIONAL GUARD DISTRIBUTIVE TRAINING TECHNOLOGY PROJECT.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the Distributive Training Technology Project of the National Guard. The study shall examine—

(1) current requirements of the National Guard for interconnection of networks of the Distributive Training Technology Project with other networks, including networks of the Federal Emergency Management Agency and other Federal, State, and local emergency preparedness and response agencies; and

(2) future requirements of the National Guard for interconnection of networks of the Project with other networks, including those Federal and State agencies having disaster response functions.

(b) ELEMENTS OF STUDY.—For both the current requirements identified under subsection (a)(1) and future requirements identified under subsection (a)(2), the study shall examine the following:

(1) Appropriate connections between the Project and other networks.

(2) Means of protecting the Project from outside intrusion.

(3) Impediments to interconnectivity, including the extent to which national security concerns affect interconnectivity and the technological capability of the Department of Defense to impede interconnectivity, as well as other concerns or limitations that affect interconnectivity.

(4) Means of improving interconnectivity.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study conducted under subsection (a). The report shall describe the results of the study and shall include any recommendations that the Comptroller General considers appropriate in light of the study.

SEC. 364. REAUTHORIZATION OF WARRANTY CLAIMS RECOVERY PILOT PROGRAM.

(a) EXTENSION OF AUTHORITY.—Subsection (f) of section 391 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2304 note) is amended by striking "September 30, 2000" and inserting "September 30, 2003".

(b) REPORTING REQUIREMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking "January 1, 2001" and inserting "January 1, 2003"; and

(2) in paragraph (2), by striking "March 1, 2001" and inserting "March 1, 2003".

SEC. 365. EVALUATION OF CURRENT DEMONSTRATION PROGRAMS TO IMPROVE QUALITY OF PERSONAL PROPERTY SHIPMENTS OF MEMBERS.

(a) COMPLETION OF EVALUATION; REPORT.—Not later than March 31, 2002, the Secretary of Defense shall complete the ongoing evaluation of all test programs regarding the transportation of household goods for members of the Armed Forces and submit to Congress a report containing the results of such evaluation.

(b) CONTENTS OF REPORT.—The report shall include—

(1) the results of each test program evaluated, including whether the test program satisfied the goals for the movement of such household goods (as contained in the General Accounting Report NSIAD 97–49) and whether current business processes and information technology capabilities require upgrading or other changes to improve the transportation of such household goods; and

(2) recommendations for policy improvements for military household moves worldwide, including an estimate of the cost to implement each recommendation.

SEC. 366. SENSE OF CONGRESS REGARDING SECURITY TO BE PROVIDED AT 2002 WINTER OLYMPIC GAMES.

It is the sense of Congress that the Secretary of Defense, upon receipt of the certification of the Attorney General required by section 2564(a) of title 10, United States Code, should authorize the provision of assistance in support of essential security and safety at the 2002 Winter Olympic Games to be held in Salt Lake City, Utah, and other locations in the State of Utah.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.

Sec. 402. Revision in permanent end strength minimum levels.
Sec. 403. Increase in senior enlisted active duty grade limit for Navy, Marine Corps, and Air Force.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2002 limitation on non-dual status technicians.
Sec. 415. Limitations on numbers of reserve personnel serving on active duty or full-time National Guard duty in certain grades for administration of reserve components.

Subtitle C—Other Matters Relating to Personnel Strengths

Sec. 421. Administration of end strengths.
Sec. 422. Active duty end strength exemption for National Guard and reserve personnel performing funeral honors functions.

Subtitle D—Authorization of Appropriations

Sec. 431. Authorization of appropriations for military personnel.

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2002, as follows:

(1) The Army, 480,000.

(2) The Navy, 376,000.

(3) The Marine Corps, 172,600.

(4) The Air Force, 358,800.

SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking "372,000" and inserting "376,000"; and

(2) in paragraph (4), by striking "357,000" and inserting "358,800".

SEC. 403. INCREASE IN SENIOR ENLISTED ACTIVE DUTY GRADE LIMIT FOR NAVY, MARINE CORPS, AND AIR FORCE.

Section 517(a) of title 10, United States Code, is amended by striking "2 percent (or, in the case of the Army, 2.5 percent)" and inserting "2.5 percent".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2002, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 39,558.

(5) The Air National Guard of the United States, 108,400.

(6) The Air Force Reserve, 74,700.

(7) The Coast Guard Reserve, 8,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2002, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 23,698.

(2) The Army Reserve, 13,406.

(3) The Naval Reserve, 14,811.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 11,591.

(6) The Air Force Reserve, 1,437.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2002 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 6,249.

(2) For the Army National Guard of the United States, 23,615.

(3) For the Air Force Reserve, 9,818.

(4) For the Air National Guard of the United States, 22,422.

SEC. 414. FISCAL YEAR 2002 LIMITATION ON NON-DUAL STATUS TECHNICIANS.

(a) LIMITATION.—The number of non-dual status technicians employed by the reserve components of the Army and the Air Force as of September 30, 2002, may not exceed the following:

(1) For the Army Reserve, 1,095.

(2) For the Army National Guard of the United States, 1,600.

(3) For the Air Force Reserve, 90.

(4) For the Air National Guard of the United States, 350.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

SEC. 415. LIMITATIONS ON NUMBERS OF RESERVE PERSONNEL SERVING ON ACTIVE DUTY OR FULL-TIME NATIONAL GUARD DUTY IN CERTAIN GRADES FOR ADMINISTRATION OF RESERVE COMPONENTS.

(a) OFFICERS.—The text of section 12011 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATIONS.—(1) Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members who may be serving in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

"Total number of members of a reserve component serving on full-time reserve component duty:	Number of officers of that reserve component who may be serving in the grade of:		
	Major	Lieutenant Colonel	Colonel
Army Reserve:			
10,000	1,390	740	230
11,000	1,529	803	242
12,000	1,668	864	252
13,000	1,804	924	262
14,000	1,940	984	272
15,000	2,075	1,044	282
16,000	2,210	1,104	291
17,000	2,345	1,164	300
18,000	2,479	1,223	309
19,000	2,613	1,282	318
20,000	2,747	1,341	327
21,000	2,877	1,400	336
Army National Guard:			
20,000	1,500	850	325
22,000	1,650	930	350
24,000	1,790	1,010	370
26,000	1,930	1,085	385
28,000	2,070	1,160	400
30,000	2,200	1,235	405
32,000	2,330	1,305	408
34,000	2,450	1,375	411
36,000	2,570	1,445	411
38,000	2,670	1,515	411
40,000	2,770	1,580	411
42,000	2,837	1,644	411

"*Total number of members of a reserve component serving on full-time reserve component duty:*	*Number of officers of that reserve component who may be serving in the grade of:*		
	Major	*Lieutenant Colonel*	*Colonel*
Marine Corps Reserve:			
1,100	*106*	*56*	*20*
1,200	*110*	*60*	*21*
1,300	*114*	*63*	*22*
1,400	*118*	*66*	*23*
1,500	*121*	*69*	*24*
1,600	*124*	*72*	*25*
1,700	*127*	*75*	*26*
1,800	*130*	*78*	*27*
1,900	*133*	*81*	*28*
2,000	*136*	*84*	*29*
2,100	*139*	*87*	*30*
2,200	*141*	*90*	*31*
2,300	*143*	*92*	*32*
2,400	*145*	*94*	*33*
2,500	*147*	*96*	*34*
2,600	*149*	*98*	*35*
Air Force Reserve:			
500	*83*	*85*	*50*
1,000	*155*	*165*	*95*
1,500	*220*	*240*	*135*
2,000	*285*	*310*	*170*
2,500	*350*	*369*	*203*
3,000	*413*	*420*	*220*
3,500	*473*	*464*	*230*
4,000	*530*	*500*	*240*
4,500	*585*	*529*	*247*
5,000	*638*	*550*	*254*
5,500	*688*	*565*	*261*
6,000	*735*	*575*	*268*
7,000	*770*	*595*	*280*
8,000	*805*	*615*	*290*
10,000	*835*	*635*	*300*
Air National Guard:			
5,000	*333*	*335*	*251*
6,000	*403*	*394*	*260*
7,000	*472*	*453*	*269*
8,000	*539*	*512*	*278*
9,000	*606*	*571*	*287*
10,000	*673*	*630*	*296*
11,000	*740*	*688*	*305*
12,000	*807*	*742*	*314*
13,000	*873*	*795*	*323*
14,000	*939*	*848*	*332*
15,000	*1,005*	*898*	*341*
16,000	*1,067*	*948*	*350*
17,000	*1,126*	*998*	*359*
18,000	*1,185*	*1,048*	*368*
19,000	*1,235*	*1,098*	*377*
20,000	*1,283*	*1,148*	*380.*

"(2) Of the total number of members of the Naval Reserve who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members who may be serving in each of the grades of lieutenant commander, commander, and captain may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

"*Total number of members of Naval Reserve serving on full-time reserve component duty*	*Number of officers who may be serving in the grade of:*		
	Lieutenant commander	*Commander*	*Captain*
10,000	*807*	*447*	*141*
11,000	*867*	*467*	*153*
12,000	*924*	*485*	*163*
13,000	*980*	*503*	*173*
14,000	*1,035*	*521*	*183*
15,000	*1,088*	*538*	*193*
16,000	*1,142*	*555*	*203*
17,000	*1,195*	*565*	*213*
18,000	*1,246*	*575*	*223*
19,000	*1,291*	*585*	*233*
20,000	*1,334*	*595*	*242*
21,000	*1,364*	*603*	*250*
22,000	*1,384*	*610*	*258*
23,000	*1,400*	*615*	*265*
24,000	*1,410*	*620*	*270.*

"(b) DETERMINATIONS BY INTERPOLATION.—If the total number of members of a reserve component serving on full-time reserve component duty is between any two consecutive numbers in the first column of the appropriate table in paragraph (1) or (2) of subsection (a), the corresponding authorized strengths for each of the grades shown in that table for that component are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of members of a reserve component serving on full-time reserve component duty is more or less than the highest or lowest number, respectively, set forth in the first column of the appropriate table in paragraph (1) or (2) of subsection (a), the Secretary concerned shall fix the corresponding strengths for the grades shown in that table at the same proportion as is reflected in the nearest limit shown in the table.

"(c) REALLOCATIONS TO LOWER GRADES.—Whenever the number of officers serving in any grade for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

"(d) SECRETARIAL WAIVER.—(1) Upon determining that it is in the national interest to do so, the Secretary of Defense may increase for a particular fiscal year the number of reserve officers that may be on full-time reserve component duty for a reserve component in a grade referred to in a table in subsection (a) by a number that does not exceed the number equal to 5 percent of the maximum number specified for the grade in that table.

"(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.

"(e) FULL-TIME RESERVE COMPONENT DUTY DEFINED.—In this section, the term 'full-time reserve component duty' means the following duty:

"(1) Active duty described in sections 10211, 10302, 10303, 10304, 10305, 12310, or 12402 of this title.

"(2) Full-time National Guard duty (other than for training) under section 502(f) of title 32.

"(3) Active duty described in section 708 of title 32.".

(b) SENIOR ENLISTED MEMBERS.—The text of section 12012 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATIONS.—Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members in each of pay grades of E–8 and E–9 who may be serving on active duty under section 10211 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

"Total number of members of a reserve component serving on full-time reserve component duty:	*Number of members of that reserve component who may be serving in the grade of:*	
	E–8	*E–9*
Army Reserve:		
10,000	*1,052*	*154*
11,000	*1,126*	*168*
12,000	*1,195*	*180*
13,000	*1,261*	*.191*
14,000	*1,327*	*202*
15,000	*1,391*	*213*
16,000	*1,455*	*224*
17,000	*1,519*	*235*
18,000	*1,583*	*246*
19,000	*1,647*	*257*
20,000	*1,711*	*268*
21,000	*1,775*	*278*
Army National Guard:		
20,000	*1,650*	*550*
22,000	*1,775*	*615*
24,000	*1,900*	*645*
26,000	*1,945*	*675*
28,000	*1,945*	*705*
30,000	*1,945*	*725*
32,000	*1,945*	*730*
34,000	*1,945*	*735*
36,000	*1,945*	*738*
38,000	*1,945*	*741*
40,000	*1,945*	*743*
42,000	*1,945*	*743*
Naval Reserve:		
10,000	*340*	*143*
11,000	*364*	*156*
12,000	*386*	*169*
13,000	*407*	*182*
14,000	*423*	*195*
15,000	*435*	*208*
16,000	*447*	*221*
17,000	*459*	*234*
18,000	*471*	*247*
19,000	*483*	*260*
20,000	*495*	*273*
21,000	*507*	*286*
22,000	*519*	*299*
23,000	*531*	*312*
24,000	*540*	*325*
Marine Corps Reserve:		
1,100	*50*	*11*
1,200	*55*	*12*
1,300	*60*	*13*
1,400	*65*	*14*
1,500	*70*	*15*
1,600	*75*	*16*
1,700	*80*	*17*
1,800	*85*	*18*
1,900	*89*	*19*
2,000	*93*	*20*
2,100	*96*	*21*
2,200	*99*	*22*
2,300	*101*	*23*
2,400	*103*	*24*
2,500	*105*	*25*
2,600	*107*	*26*
Air Force Reserve:		
500	*75*	*40*
1,000	*145*	*75*
1,500	*208*	*105*
2,000	*270*	*130*
2,500	*325*	*150*
3,000	*375*	*170*
3,500	*420*	*190*
4,000	*460*	*210*
4,500	*495*	*230*
5,000	*530*	*250*
5,500	*565*	*270*
6,000	*600*	*290*
7,000	*670*	*330*
8,000	*740*	*370*
10,000	*800*	*400*
Air National Guard		
5,000	*1,020*	*405*
6,000	*1,070*	*435*
7,000	*1,120*	*465*
8,000	*1,170*	*490*
9,000	*1,220*	*510*
10,000	*1,270*	*530*
11,000	*1,320*	*550*
12,000	*1,370*	*570*
13,000	*1,420*	*589*
14,000	*1,470*	*608*
15,000	*1,520*	*626*
16,000	*1,570*	*644*
17,000	*1,620*	*661*
48,000	*1,670*	*678*
19,000	*1,720*	*695*
20,000	*1.770*	*712.*

"(b) DETERMINATIONS BY INTERPOLATION.—If the total number of members of a reserve component serving on full-time reserve component duty is between any two consecutive numbers in the first column of the table in subsection (a), the corresponding authorized strengths for each of the grades shown in that table for that component are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of members of a reserve component serving on full-time reserve component duty is more or less than the highest or lowest number, respectively, set forth in the first column of the table in subsection (a), the Secretary concerned shall fix the corresponding strengths for the grades shown in the table at the same proportion as is reflected in the nearest limit shown in the table.

"(c) REALLOCATIONS TO LOWER GRADE.—Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for pay grade E–8.

"(d) SECRETARIAL WAIVER.—(1) Upon determining that it is in the national interest to do so, the Secretary of Defense may increase for a particular fiscal year the number of reserve enlisted members that may be on active duty or full-time National Guard duty as described in subsection (a) for a reserve component in a pay grade referred to in a table in subsection (a) by a number that does not exceed the number equal to 5 percent of the maximum number specified for that grade and reserve component in the table.

"(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.

"(e) FULL-TIME RESERVE COMPONENT DUTY DEFINED.—In this section, the term 'full-time reserve component duty' has the meaning given the term in section 12011(e) of this title.".

Subtitle C—Other Matters Relating to Personnel Strengths

SEC. 421. ADMINISTRATION OF END STRENGTHS.

(a) INCREASE IN PERCENTAGE BY WHICH ACTIVE COMPONENT END STRENGTHS MAY BE INCREASED.—Section 115(c)(1) of title 10, United States Code, is amended by striking "1 percent" and inserting "2 percent".

(b) WAIVER OF END STRENGTHS DURING NATIONAL EMERGENCY.—The text of section 123a of such title is amended to read as follows:

"(a) DURING WAR OR NATIONAL EMERGENCY.—If at the end of any fiscal year there is in effect a war or national emergency, the President may waive any statutory end strength with respect to that fiscal year. Any such waiver may be issued only for a statutory end strength that is prescribed by law before the waiver is issued.

"(b) UPON TERMINATION OF WAR OR NATIONAL EMERGENCY.—Upon the termination of a war or national emergency with respect to which the President has exercised the authority provided by subsection (a), the President may defer the effectiveness of any statutory end strength with respect to the fiscal year during which the termination occurs. Any such deferral may not extend beyond the last day of the sixth month beginning after the date of such termination.

"(c) STATUTORY END STRENGTH.—In this section, the term 'statutory end strength' means any end-strength limitation with respect to a fiscal year that is prescribed by law for any military or civilian component of the armed forces or of the Department of Defense.".

SEC. 422. ACTIVE DUTY END STRENGTH EXEMPTION FOR NATIONAL GUARD AND RESERVE PERSONNEL PERFORMING FUNERAL HONORS FUNCTIONS.

Section 115(d) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(10) Members of reserve components on active duty to prepare for and to perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.

"(11) Members on full-time National Guard duty to prepare for and perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.".

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2002 a total of $82,307,281,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2002.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Enhanced flexibility for management of senior general and flag officer positions.
Sec. 502. Certifications of satisfactory performance for retirement of officers in grades above major general and rear admiral.
Sec. 503. Review of actions of selection boards.
Sec. 504. Temporary reduction of time-in-grade requirement for eligibility for promotion for certain active-duty list officers in grades of first lieutenant and lieutenant (junior grade).
Sec. 505. Authority for promotion without selection board consideration for all fully qualified officers in grade of first lieutenant or lieutenant (junior grade) in the Navy.
Sec. 506. Authority to adjust date of rank of certain promotions delayed by reason of unusual circumstances.
Sec. 507. Authority for limited extension of medical deferment of mandatory retirement or separation.
Sec. 508. Authority for limited extension on active duty of members subject to mandatory retirement or separation.
Sec. 509. Exemption from certain administrative limitations for retired officers ordered to active duty as defense or service attachés.
Sec. 510. Officer in charge of United States Navy Band.

Subtitle B—Reserve Component Personnel Policy

Sec. 511. Placement on active-duty list of certain Reserve officers on active duty for a period of three years or less.
Sec. 512. Exception to baccalaureate degree requirement for appointment of Reserve officers to grades above first lieutenant.
Sec. 513. Improved disability benefits for certain reserve component members.
Sec. 514. Time-in-grade requirement for reserve component officers retired with a nonservice-connected disability.
Sec. 515. Equal treatment of Reserves and full-time active duty members for purposes of managing personnel deployments.
Sec. 516. Modification of physical examination requirements for members of the Individual Ready Reserve.
Sec. 517. Retirement of Reserve members without requirement for formal application or request.
Sec. 518. Space-required travel by Reserves on military aircraft.
Sec. 519. Payment of Federal Employee Health Benefit Program premiums for certain Reservists called to active duty in support of contingency operations.

Subtitle C—Joint Specialty Officers and Joint Professional Military Education

Sec. 521. Nominations and promotions for joint specialty officers.
Sec. 522. Joint duty credit.
Sec. 523. Retroactive joint service credit for duty in certain joint task forces.
Sec. 524. Revision to annual report on joint officer management.
Sec. 525. Requirement for selection for joint specialty before promotion to general or flag officer grade.
Sec. 526. Independent study of joint officer management and joint professional military education reforms.
Sec. 527. Professional development education.
Sec. 528. Authority for National Defense University to enroll certain private sector civilians.
Sec. 529. Continuation of reserve component professional military education test.

Subtitle D—Military Education and Training

Sec. 531. Defense Language Institute Foreign Language Center.
Sec. 532. Authority for the Marine Corps University to award degree of master of strategic studies.
Sec. 533. Foreign students attending the service academies.
Sec. 534. Increase in maximum age for appointment as a cadet or midshipman in Senior Reserve Officers' Training Corps scholarship programs.
Sec. 535. Participation of regular enlisted members of the Armed Forces in Senior Reserve Officers' Training Corps program.
Sec. 536. Authority to modify the service obligation of certain ROTC cadets in military junior colleges receiving financial assistance.
Sec. 537. Repeal of limitation on number of Junior Reserve Officers' Training Corps units.
Sec. 538. Modification of nurse officer candidate accession program restriction on students attending educational institutions with senior reserve officers' training programs.
Sec. 539. Reserve health professionals stipend program expansion.
Sec. 540. Housing allowance for the chaplain for the Corps of Cadets at the United States Military Academy.

Subtitle E—Recruiting and Accession Programs

Sec. 541. 18-month enlistment pilot program.
Sec. 542. Improved benefits under the Army College First program.
Sec. 543. Correction and extension of certain Army recruiting pilot program authorities.
Sec. 544. Military recruiter access to secondary school students.
Sec. 545. Permanent authority for use of military recruiting funds for certain expenses at Department of Defense recruiting functions.
Sec. 546. Report on health and disability benefits for pre-accession training and education programs.

Subtitle F—Decorations, Awards, and Posthumous Commissions

Sec. 551. Authority for award of the Medal of Honor to Humbert R. Versace, Jon E. Swanson, and Ben L. Salomon for valor.
Sec. 552. Review regarding award of Medal of Honor to certain Jewish American and Hispanic American war veterans.
Sec. 553. Authority to issue duplicate Medals of Honor and to replace stolen military decorations.
Sec. 554. Retroactive Medal of Honor special pension.
Sec. 555. Waiver of time limitations for award of certain decorations to certain persons.
Sec. 556. Sense of Congress on issuance of certain medals.
Sec. 557. Sense of Congress on development of a more comprehensive, uniform policy for the award of decorations to military and civilian personnel of the Department of Defense.
Sec. 558. Posthumous Army commission in the grade of captain in the Chaplains Corps to Ella E. Gibson for service as chaplain of the First Wisconsin Heavy Artillery Regiment during the Civil War.

Subtitle G—Funeral Honors Duty

Sec. 561. Participation of military retirees in funeral honors details.
Sec. 562. Funeral honors duty performed by Reserve and Guard members to be treated as inactive-duty training for certain purposes.
Sec. 563. Use of military leave for funeral honors duty by Reserve members and National Guardsmen.
Sec. 564. Authority to provide appropriate articles of clothing as a civilian uniform for civilians participating in funeral honor details.

Subtitle H—Military Spouses and Family Members

Sec. 571. Improved financial and other assistance to military spouses for job training and education.
Sec. 572. Persons authorized to be included in surveys of military families regarding Federal programs.
Sec. 573. Clarification of treatment of classified information concerning persons in a missing status.
Sec. 574. Transportation to annual meeting of next-of-kin of persons unaccounted for from conflicts after World War II.
Sec. 575. Amendments to charter of Defense Task Force on Domestic Violence.

Subtitle I—Military Justice and Legal Assistance Matters

Sec. 581. Blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel.
Sec. 582. Requirement that courts-martial consist of not less than 12 members in capital cases.
Sec. 583. Acceptance of voluntary legal assistance for the civil affairs of members and former members of the uniformed services and their dependents.

Subtitle J—Other Matters

Sec. 591. Congressional review period for change in ground combat exclusion policy.
Sec. 592. Per diem allowance for lengthy or numerous deployments.
Sec. 593. Clarification of disability severance pay computation.
Sec. 594. Transportation or storage of privately owned vehicles on change of permanent station.
Sec. 595. Repeal of requirement for final Comptroller General report relating to Army end strength allocations.
Sec. 596. Continued Department of Defense administration of National Guard Challenge program and Department of Defense Starbase program.
Sec. 597. Report on Defense Science Board recommendation on original appointments in regular grades for Academy graduates and certain other new officers.
Sec. 598. Sense of Congress regarding the selection of officers for recommendation for appointment as Commander, United States Transportation Command.

Subtitle A—Officer Personnel Policy

SEC. 501. ENHANCED FLEXIBILITY FOR MANAGEMENT OF SENIOR GENERAL AND FLAG OFFICER POSITIONS.

(a) Repeal of Limit on Number of Officers on Active Duty in Grades of General and Admiral.—Section 528 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 32 of such title is amended by striking the item relating to section 528.

SEC. 502. CERTIFICATIONS OF SATISFACTORY PERFORMANCE FOR RETIREMENT OF OFFICERS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.

Section 1370(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary of Defense may delegate authority to make a certification with respect to an officer under paragraph (1) only to the Under Secretary of Defense for Personnel and Readiness or the Deputy Under Secretary of Defense for Personnel and Readiness.

"(B) If authority is delegated under subparagraph (A) and, in the course of consideration of an officer for a certification under paragraph (1), the Under Secretary or (if such authority is delegated to both the Under and Deputy Under Secretary) the Deputy Under Secretary makes a determination described in subparagraph (C) with respect to that officer, the Under Secretary or Deputy Under Secretary, as the case may be, may not exercise the delegated authority in that case, but shall refer the matter to the Secretary of Defense, who shall personally determine whether to issue a certification under paragraph (1) with respect to that officer.

"(C) A determination referred to in subparagraph (B) is a determination that there is potentially adverse information concerning an officer and that such information has not previously been submitted to the Senate in connection with the consideration by the Senate of a nomination of that officer for an appointment for which the advice and consent of the Senate is required.".

SEC. 503. REVIEW OF ACTIONS OF SELECTION BOARDS.

(a) In General.—(1) Chapter 79 of title 10, United States Code, is amended by adding at the end the following new section:

"§1558. Review of actions of selection boards: correction of military records by special boards; judicial review

"(a) Correction of Military Records.—The Secretary of a military department may correct a person's military records in accordance with a recommendation made by a special board. Any such correction may be made effective as of the effective date of the action taken on a report of a previous selection board that resulted in the action corrected in the person's military records.

"(b) Definitions.—In this section:

"(1) Special Board.—(A) The term 'special board' means a board that the Secretary of a military department convenes under any authority to consider whether to recommend a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person.

"(B) Such term includes a board for the correction of military records convened under section 1552 of this title, if designated as a special board by the Secretary concerned.

"(C) Such term does not include a promotion special selection board convened under section 628 or 14502 of this title.

"(2) Selection Board.—(A) The term 'selection board' means a selection board convened under section 573(c), 580, 580a, 581, 611(b), 637, 638, 638a, 14101(b), 14701, 14704, or 14705 of this title, and any other board convened by the Secretary of a military department under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces or for separation, retirement, or transfer to inactive status in a reserve component for the purpose of reducing the number of persons serving in the armed forces.

"(B) Such term does not include any of the following:

"(i) A promotion board convened under section 573(a), 611(a), or 14101(a) of this title.

"(ii) A special board.

"(iii) A special selection board convened under section 628 of this title.

"(iv) A board for the correction of military records convened under section 1552 of this title.

"(3) Involuntarily Board-Separated.—The term 'involuntarily board-separated' means separated or retired from an armed force, or transferred to the Retired Reserve or to inactive status in a reserve component, as a result of a recommendation of a selection board.

"(c) Relief Associated With Correction of Certain Actions.—(1) The Secretary of the military department concerned shall ensure that an involuntarily board-separated person receives relief under paragraph (2) or under paragraph (3) if the person, as a result of a correction of the person's military records under subsection (a), becomes entitled to retention on or restoration to active duty or to active status in a reserve component.

"(2)(A) A person referred to in paragraph (1) shall, with that person's consent, be restored to the same status, rights, and entitlements (less appropriate offsets against back pay and allowances) in that person's armed force as the person would have had if the person had not been selected to be involuntarily board-separated as a result of an action the record of which is corrected under subsection (a). An action under this subparagraph is subject to subparagraph (B).

"(B) Nothing in subparagraph (A) may be construed to permit a person to be on active duty or in an active status in a reserve component after the date on which the person would have been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component if the person had not been selected to be involuntarily board-separated in an action of a selection board the record of which is corrected under subsection (a).

"(3) If an involuntarily board-separated person referred to in paragraph (1) does not consent to a restoration of status, rights, and entitlements under paragraph (2), the Secretary concerned shall pay that person back pay and allowances (less appropriate offsets), and shall provide that person service credit, for the period—

"(A) beginning on the date of the person's separation, retirement, or transfer to the Retired Reserve or to inactive status in a reserve component, as the case may be; and

"(B) ending on the earlier of—

"(i) the date on which the person would have been so restored under paragraph (2), as determined by the Secretary concerned; or

"(ii) the date on which the person would otherwise have been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component, as the case may be.

"(d) Finality of Unfavorable Action.—If a special board makes a recommendation not to correct the military records of a person regarding action taken in the case of that person on the basis of a previous report of a selection board, the action previously taken on that report shall be considered as final as of the date of the action taken on that report.

"(e) Regulations.—(1) The Secretary of each military department shall prescribe regulations to carry out this section. Regulations under this subsection may not apply to subsection (f), other than to paragraph (4)(C) of that subsection.

"(2) The Secretary may prescribe in the regulations under paragraph (1) the circumstances under which consideration by a special board may be provided for under this section, including the following:

"(A) The circumstances under which consideration of a person's case by a special board is contingent upon application by or for that person.

"(B) Any time limits applicable to the filing of an application for such consideration.

"(3) Regulations prescribed by the Secretary of a military department under this subsection may not take effect until approved by the Secretary of Defense.

"(f) Judicial Review.—(1) A person seeking to challenge an action or recommendation of a selection board, or an action taken by the Secretary of the military department concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the action or recommendation has first been considered by a special board under this section or the Secretary concerned has denied the convening of such a board for such consideration.

"(2)(A) A court of the United States may review a determination by the Secretary of a military department not to convene a special board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

"(i) arbitrary or capricious;

"(ii) not based on substantial evidence;

"(iii) a result of material error of fact or material administrative error; or

"(iv) otherwise contrary to law.

"(B) If a court sets aside a determination by the Secretary of a military department not to convene a special board, it shall remand the case to the Secretary concerned, who shall provide for consideration by a special board.

"(3) A court of the United States may review a recommendation of a special board or an action of the Secretary of the military department concerned on the report of a special board. In any such case, a court may set aside the action only if the court finds that the recommendation or action was—

"(A) arbitrary or capricious;

"(B) not based on substantial evidence;

"(C) a result of material error of fact or material administrative error; or

"(D) otherwise contrary to law.

"(4)(A) If; six months after receiving a complete application for consideration by a special board in any case, the Secretary concerned has not convened a special board and has not denied consideration by a special board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied consideration of the case by a special board.

"(B) If, six months after the convening of a special board in any case, the Secretary concerned has not taken final action on the report of the special board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

"(C) Under regulations prescribed under subsection (e), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

"(g) Existing Jurisdiction.—Nothing in this section limits—

"(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

"(2) the authority of the Secretary of a military department to correct a military record under section 1552 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1558. Review of actions of selection boards: correction of military records by special boards; judicial review.".

(b) SPECIAL SELECTION BOARDS.—Section 628 of such title is amended—

(1) by redesignating subsection (g) as subsection (k); and

(2) by inserting after subsection (f) the following new subsections:

"(g) JUDICIAL REVIEW.—(1)(A) A court of the United States may review a determination by the Secretary of a military department under subsection (a)(1) or (b)(1) not to convene a special selection board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

"(i) arbitrary or capricious;

"(ii) not based on substantial evidence;

"(iii) a result of material error of fact or material administrative error; or

"(iv) otherwise contrary to law.

"(B) If a court sets aside a determination by the Secretary of a military department not to convene a special selection board under this section, it shall remand the case to the Secretary concerned, who shall provide for consideration by such a board.

"(2) A court of the United States may review the action of a special selection board convened under this section or an action of the Secretary of the military department concerned on the report of such a board. In any such case, a court may set aside the action only if the court finds that the action was—

"(A) arbitrary or capricious;

"(B) not based on substantial evidence;

"(C) a result of material error of fact or material administrative error; or

"(D) otherwise contrary to law.

"(3)(A) If, six months after receiving a complete application for consideration by a special selection board under this section in any case, the Secretary concerned has not convened such a board and has not denied consideration by such a board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied the consideration of the case by such a board.

"(B) If, six months after the convening of a special selection board under this section in any case, the Secretary concerned has not taken final action on the report of the board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

"(C) Under regulations prescribed under subsection (j), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

"(h) LIMITATIONS OF OTHER JURISDICTION.—No official or court of the United States may, with respect to a claim based to any extent on the failure of a person to be selected for promotion by a promotion board—

"(1) consider the claim unless the person has first been referred by the Secretary concerned to a special selection board convened under this section and acted upon by that board and the report of the board has been approved by the President; or

"(2) except as provided in subsection (g), grant any relief on the claim unless the person has been selected for promotion by a special selection board convened under this section to consider the person for recommendation for promotion and the report of the board has been approved by the President.

"(i) EXISTING JURISDICTION.—Nothing in this section limits—

"(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

"(2) the authority of the Secretary of a military department to correct a military record under section 1552 of this title.

"(j) REGULATIONS.—(1) The Secretary of each military department shall prescribe regulations to carry out this section. Regulations under this subsection may not apply to subsection (g), other than to paragraph (3)(C) of that subsection.

"(2) The Secretary may prescribe in the regulations under paragraph (1) the circumstances under which consideration by a special selection board may be provided for under this section, including the following:

"(A) The circumstances under which consideration of a person's case by a special selection board is contingent upon application by or for that person.

"(B) Any time limits applicable to the filing of an application for such consideration.

"(3) Regulations prescribed by the Secretary of a military department under this subsection may not take effect until approved by the Secretary of Defense.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to any proceeding pending on or after the date of the enactment of this Act without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in the proceeding was initiated before, on, or after that date.

(2) The amendments made by this section shall not apply with respect to any action commenced in a court of the United States before the date of the enactment of this Act.

SEC. 504. TEMPORARY REDUCTION OF TIME-IN-GRADE REQUIREMENT FOR ELIGIBILITY FOR PROMOTION FOR CERTAIN ACTIVE-DUTY LIST OFFICERS IN GRADES OF FIRST LIEUTENANT AND LIEUTENANT (JUNIOR GRADE).

(a) AUTHORITY.—Subsection (a)(1)(B) of section 619 of title 10, United States Code, is amended by inserting before the period at the end the following: ", except that the minimum period of service in effect under this subparagraph before October 1, 2005, shall be eighteen months".

(b) STYLISTIC AMENDMENTS.—Such section is further amended as follows:

(1) Subsection (a) is amended by striking "(a)(1)" and inserting "(a) TIME-IN-GRADE REQUIREMENTS.—(1)".

(2) Subsection (b) is amended by striking "(b)(1)" and inserting "(b) CONTINUED ELIGIBILITY FOR CONSIDERATION FOR PROMOTION OF OFFICERS WHO HAVE PREVIOUSLY FAILED OF SELECTION.—(1)".

(3) Subsection (c) is amended by striking "(c)(1)" and inserting "(c) OFFICERS TO BE CONSIDERED BY PROMOTION BOARDS.—(1)".

(4) Subsection (d) is amended by inserting "CERTAIN OFFICERS NOT TO BE CONSIDERED.—" after "(d)".

(c) TECHNICAL AMENDMENT.—Subsection (a)(4) of such section is amended by striking "clause (A)" and inserting "subparagraph (A)".

SEC. 505. AUTHORITY FOR PROMOTION WITHOUT SELECTION BOARD CONSIDERATION FOR ALL FULLY QUALIFIED OFFICERS IN GRADE OF FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) IN THE NAVY.

(a) ACTIVE-DUTY LIST PROMOTIONS.—(1) Section 624(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subsection (d), officers on the active-duty list in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned.

"(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter.

"(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

"(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the active-duty list in a grade who the Secretary of the military department concerned determines—

"(i) are fully qualified for promotion to the next higher grade; and

"(ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title upon the convening of such a board.".

(2) Section 631 of such title is amended by adding at the end the following new subsection:

"(d) For the purposes of this chapter, an officer of the Army, Air Force, or Marine Corps who holds the grade of first lieutenant, and an officer of the Navy who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 624(a)(3) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.".

(3) Section 611 of such title is amended—

(A) in subsection (a)—

(i) by striking "Under" and all that follows through "require," and inserting "Whenever the needs of the service require, the Secretary of the military department concerned"; and

(ii) by adding at the end the following new sentence: "The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.";

(B) in subsection (b), by striking "Under" and all that follows through "require," and inserting "Whenever the needs of the service require, the Secretary of the military department concerned"; and

(C) by adding at the end the following new subsection:

"(c) The convening of selection boards under subsections (a) and (b) shall be under regulations prescribed by the Secretary of Defense.".

(b) RESERVE ACTIVE-STATUS LIST PROMOTIONS.—(1) Section 14308(b) of title 10, United

States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned. Such promotions shall be in the manner specified in section 12203 of this title.

"(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter and chapter 1403 of this title.

"(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

"(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the reserve active-status list in a grade who the Secretary of the military department concerned determines—

"(i) are fully qualified for promotion to the next higher grade; and

"(ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title upon the convening of such a board.".

(2) Section 14504 of such title is amended by adding at the end the following new subsection:

"(c) OFFICERS IN GRADE OF FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) FOUND NOT FULLY QUALIFIED FOR PROMOTION.—For the purposes of this chapter, an officer of the Army, Air Force, or Marine Corps on a reserve active-status list who holds the grade of first lieutenant, and an officer of the Navy on a reserve active-status list who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 14308(b)(4) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.".

(3) Section 14101(a) of such title is amended by adding at the end the following new paragraph:

"(3) Paragraph (1) does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 14308(b)(4) of this title all such officers whom the Secretary finds to be fully qualified for promotion.".

(c) CONFORMING AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1)(A) Section 619(d) is amended by adding at the end the following new paragraph:

"(4) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 624(a)(3) of this title.".

(B) Section 14301(c) is amended by adding at the end the following new paragraph:

"(5) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 14308(b)(4) of this title.".

(2)(A) Section 624(d) is amended—

(i) in the second sentence of paragraph (1), by inserting after "on the promotion list" the following: "(including an approved all-fully-qualified-officers list, if applicable)"; and

(ii) in the second sentence of paragraph (2), by inserting after "to such grade, the officer" the following: "shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable) and".

(B) Section 14311 is amended—

(i) in subsection (a)(2), by inserting after "on the promotion list" the following: "(including an approved all-fully-qualified-officers list, if applicable)"; and

(ii) in subsection (b), by inserting in the second sentence after "on the promotion list" the following: "(including an approved all-fully-qualified-officers list, if applicable)".

(3)(A) Section 628(a)(1) is amended by inserting after "not so considered," the following: "or the name of a person that should have been placed on an all-fully-qualified-officers list under section 624(a)(3) of this title was not so placed,".

(B) Section 14502(a)(1) is amended by inserting after "because of administrative error," the following: "or whose name was not placed on an all-fully-qualified-officers list under section 14308(b)(4) of this title because of administrative error,".

(4) Section 1211(e) is amended by inserting after "a promotion list," the following: "an approved all-fully-qualified-officers list,".

(d) TECHNICAL AMENDMENTS TO STRIKE CERTAIN DOPMA REFERENCES TO REGULAR OFFICERS.—Chapter 36 of such title is amended as follows:

(1) Section 624(c) is amended—

(A) by inserting ", in the case of officers of the Army, Air Force, or Marine Corps," after "captain"; and

(B) by inserting ", in the case of officers of the Navy," after "or lieutenant" the second place it appears.

(2) Section 630 is amended by striking "regular" both places it appears.

(3) Sections 631(a) and 632(a) are each amended—

(A) by striking "Regular Army, Regular Air Force, or Regular Marine Corps" and inserting "Army, Air Force, or Marine Corps on the active-duty list";

(B) by striking "Regular Navy" and inserting "Navy on the active-duty list"; and

(C) by striking "regular" each place it appears.

(4)(A) The heading of section 630 and the item relating to that section in the table of sections at the beginning of subchapter III are each amended by striking the third word.

(B) The heading of section 631 and the item relating to that section in the table of sections at the beginning of subchapter III are each amended by striking the eighth word.

(C) The heading of section 632 and the item relating to that section in the table of sections at the beginning of subchapter III are each amended by striking the eighth and twenty-first words.

SEC. 506. AUTHORITY TO ADJUST DATE OF RANK OF CERTAIN PROMOTIONS DELAYED BY REASON OF UNUSUAL CIRCUMSTANCES.

(a) ACTIVE DUTY OFFICERS.—Subsection 741(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary concerned may adjust the date of rank of an officer appointed under section 624(a) of this title to a higher grade that is not a general officer or flag officer grade if the appointment of that officer to that grade is delayed from the date on which (as determined by the Secretary) it would otherwise have been made by reason of unusual circumstances (as determined by the Secretary) that cause an unintended delay in—

"(i) the processing or approval of the report of the selection board recommending the appointment of that officer to that grade; or

"(ii) the processing or approval of the promotion list established on the basis of that report.

"(B) The adjusted date of rank applicable to the grade of an officer under subparagraph (A) shall be consistent—

"(i) with the officer's position on the promotion list for that grade and competitive category when additional officers in that grade and competitive category were needed; and

"(ii) with compliance with the applicable authorized strengths for officers in that grade and competitive category.

"(C) The adjusted date of rank applicable to the grade of an officer under subparagraph (A) shall be the effective date for—

"(i) the officer's pay and allowances for that grade; and

"(ii) the officer's position on the active-duty list.

"(D) When under subparagraph (A) the Secretary concerned adjusts the date of rank of an officer in a grade to which the officer was appointed by and with the advice and consent of the Senate and the adjustment is to a date before the date of the advice and consent of the Senate to that appointment, the Secretary shall promptly transmit to the Committee on Armed Services of the Senate a notification of that adjustment. Any such notification shall include the name of the officer and a discussion of the reasons for the adjustment of date of rank.

"(E) Any adjustment in date of rank under this paragraph shall be made under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.".

(b) RESERVE OFFICERS.—(1) Section 14308(c) of such title is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) The date of rank of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made under section 741(d)(4) of this title in the date of rank of an officer appointed to a higher grade under section 624(a) of this title. In any use of the authority under the preceding sentence, subparagraph (C)(ii) of such section shall be applied by substituting 'reserve active-status list' for 'active-duty list'.".

(2) Paragraph (3) of such section, as redesignated by paragraph (1)(A), is amended by inserting "provided in paragraph (2) or as otherwise" after "Except as".

(c) EFFECTIVE DATE.—(1) Paragraph (4) of section 741(d) of title 10, United States Code, as added by subsection (a), and paragraph (2) of section 14308(c) of such title, as added by subsection (b), shall apply with respect to any report of a selection board recommending officers for promotion to the next higher grade that is submitted to the Secretary of the military department concerned on or after the date of the enactment of this Act.

(2) The Secretary of the military department concerned may apply the applicable paragraph referred to in paragraph (1) in the case of an appointment of an officer to a higher grade resulting from a report of a selection board submitted to the Secretary before the date of the enactment of this Act if the Secretary determines that such appointment would have been made on an earlier date that is on or after October 1, 2001, and was delayed under the circumstances specified in paragraph (4) of section 741(d) of title 10, United States Code, as added by subsection (a).

SEC. 507. AUTHORITY FOR LIMITED EXTENSION OF MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARATION.

The text of section 640 of title 10, United States Code, is amended to read as follows:

"(a) If the Secretary of the military department concerned determines that the evaluation of the physical condition of an officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization or medical observation and that such hospitalization or medical observation cannot be completed with confidence in a manner consistent with the member's well being before the date on which the officer would otherwise be required to retire or be separated under this title, the Secretary may defer the retirement or separation of the officer under this title.

"(b) A deferral of retirement or separation under subsection (a) may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.".

SEC. 508. AUTHORITY FOR LIMITED EXTENSION ON ACTIVE DUTY OF MEMBERS SUBJECT TO MANDATORY RETIREMENT OR SEPARATION.

(a) SECTION 12305 STOP-LOSS AUTHORITY.—Section 12305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.".

(b) SECTION 123 STOP-LOSS AUTHORITY.—Section 123 of such title is amended by adding at the end the following new subsection:

"(d) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.".

SEC. 509. EXEMPTION FROM CERTAIN ADMINISTRATIVE LIMITATIONS FOR RETIRED OFFICERS ORDERED TO ACTIVE DUTY AS DEFENSE OR SERVICE ATTACHÉS.

(a) LIMITATION OF PERIOD OF RECALLED SERVICE.—Section 688(e)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.".

(b) LIMITATION ON NUMBER OF RECALLED OFFICERS ON ACTIVE DUTY.—Section 690(b)(2) of such title is amended by adding at the end the following new subparagraph:

"(E) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply with respect to officers serving on active duty as a defense attaché or service attaché on or after the date of the enactment of this Act.

SEC. 510. OFFICER IN CHARGE OF UNITED STATES NAVY BAND.

(a) DETAIL AND GRADE.—Section 6221 of title 10, United States Code, is amended to read as follows:

§6221. United States Navy Band; officer in charge

"(a) There is a Navy band known as the United States Navy Band.

"(b)(1) An officer of the Navy designated for limited duty under section 5589 or 5596 of this title who is serving in a grade above lieutenant may be detailed by the Secretary of the Navy as Officer in Charge of the United States Navy Band.

"(2) While serving as Officer in Charge of the United States Navy Band, an officer shall hold the grade of captain if appointed to that grade by the President, by and with the advice and consent of the Senate. Such an appointment may be made notwithstanding section 5596(d) of this title.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 565 of such title is amended to read as follows:

"6221. United States Navy Band; officer in charge.".

Subtitle B—Reserve Component Personnel Policy

SEC. 511. PLACEMENT ON ACTIVE-DUTY LIST OF CERTAIN RESERVE OFFICERS ON ACTIVE DUTY FOR A PERIOD OF THREE YEARS OR LESS.

(a) CLARIFICATION OF EXEMPTION.—Section 641(1)(D) of title 10, United States Code, is amended to read as follows:

"(D) on active duty under section 12301(d) of this title, other than as provided under subparagraph (C), if the call or order to active duty, under regulations prescribed by the Secretary concerned, specifies a period of three years or less and continued placement on the reserve active-status list;".

(b) RETROACTIVE APPLICATION.—(1) The Secretary of the military department concerned may provide that an officer who was excluded from the active-duty list under section 641(1)(D) of title 10, United States Code, as amended by section 521 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A-108), shall be considered to have been on the active-duty list during the period beginning on the date on which the officer was so excluded and ending on the date of the enactment of this Act.

(2) The Secretary of the military department concerned may provide that a Reserve officer who was placed on the active-duty list on or after October 30, 1997, shall be placed on the reserve active-status list if the officer otherwise meets the conditions specified in section 641(1)(D) of title 10, United States Code, as amended by subsection (a).

SEC. 512. EXCEPTION TO BACCALAUREATE DEGREE REQUIREMENT FOR APPOINTMENT OF RESERVE OFFICERS TO GRADES ABOVE FIRST LIEUTENANT.

(a) REAUTHORIZATION OF WAIVER AUTHORITY FOR ARMY OCS GRADUATES AND INCLUSION OF CERTAIN MARINE OFFICERS.—Section 12205 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) WAIVER AUTHORITY FOR ARMY OCS GRADUATES AND CERTAIN MARINE CORPS OFFICERS.—(1) The Secretary of the Army may waive the applicability of subsection (a) to any officer whose original appointment in the Army as a Reserve officer is through the Army Officer Candidate School program.

"(2) The Secretary of the Navy may waive the applicability of subsection (a) to any officer whose original appointment in the Marine Corps as a Reserve officer is through the Marine Corps meritorious commissioning program.

"(3) Any such waiver shall be made on a case-by-case basis, considering the individual circumstances of the officer involved, and may continue in effect for no more than two years after the waiver is granted. The Secretary concerned may provide for such a waiver to be effective before the date of the waiver, as appropriate in an individual case.".

(b) EFFECTIVE DATE.—Subsection (d) of section 12205 of title 10, United States Code, as added by subsection (a), shall apply with respect to officers appointed before, on, or after the date of the enactment of this Act.

SEC. 513. IMPROVED DISABILITY BENEFITS FOR CERTAIN RESERVE COMPONENT MEMBERS.

(a) MEDICAL AND DENTAL CARE.—Sections 1074a(a)(3) and 1076(a)(2)(C) of title 10, United States Code, are each amended by striking ", if the" and all that follows through "member's residence".

(b) ELIGIBILITY FOR DISABILITY RETIREMENT OR SEPARATION.—Sections 1204(2)(B)(iii) and 1206(2)(B)(iii) of title 10, United States Code, are each amended by striking ", if the" and all that follows through "member's residence".

(c) RECOVERY, CARE, AND DISPOSITION OF REMAINS.—Section 1481(a)(2)(D) of title 10, United States Code, is amended by striking ", if the site is outside reasonable commuting distance from the member's residence".

(d) ENTITLEMENT TO BASIC PAY.—Subsections (g)(1)(D) and (h)(1)(D) of section 204 of title 37, United States Code, are amended by striking ", if the site is outside reasonable commuting distance from the member's residence".

(e) COMPENSATION FOR INACTIVE-DUTY TRAINING.—Section 206(a)(3)(C) of title 37, United States Code, is amended by striking ", if the site is outside reasonable commuting distance from the member's residence".

SEC. 514. TIME-IN-GRADE REQUIREMENT FOR RESERVE COMPONENT OFFICERS RETIRED WITH A NONSERVICE CONNECTED DISABILITY.

Section 1370(d)(3)(B) of title 10, United States Code, is amended to read as follows:

"(B) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in grade may be credited with satisfactory service in the grade in which serving at the time of transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade, if that person is transferred from an active status or discharged as a reserve commissioned officer—

"(i) solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or yeats of service; or

"(ii) because the person no longer meets the qualifications for membership in the Ready Reserve solely because of a physical disability, as determined, at a minimum, by a medical evaluation board and at the time of such transfer or discharge such person (pursuant to section 12731b of this title or otherwise) meets the service requirements established by section 12731(a) of this title for eligibility for retired pay under chapter 1223 of this title, unless the disability is described in section 12731b of this title.".

SEC. 515. EQUAL TREATMENT OF RESERVES AND FULL-TIME ACTIVE DUTY MEMBERS FOR PURPOSES OF MANAGING PERSONNEL DEPLOYMENTS.

(a) RESIDENCE OF RESERVES AT HOME STATION.—Paragraph (2) of section 991(b) of title 10, United States Code, is amended to read as follows:

"(2) In the case of a member of a reserve component who is performing active service pursuant to orders that do not establish a permanent change of station, the housing referred to in paragraph (1) is any housing (which may include the member's residence) that the member usually occupies for use during off-duty time when on garrison duty at the member's permanent duty station or homeport, as the case may be.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to duty performed on or after October 1, 2001.

SEC. 516. MODIFICATION OF PHYSICAL EXAMINATION REQUIREMENTS FOR MEMBERS OF THE INDIVIDUAL READY RESERVE.

(a) IRR REQUIREMENT.—Section 10206 of title 10, United States Code, is amended—

(1) in the matter in subsection (a) preceding paragraph (1), by striking "Ready Reserve" and inserting "Selected Reserve";

(2) by designating the second sentence of subsection (a) as subsection (c);

(3) by redesignating subsection (b) as subsection (d); and

(4) by inserting after subsection (a) the following new subsection (b):

"(b) A member of the Individual Ready Reserve or inactive National Guard shall be examined for physical fitness as necessary to determine the member's physical fitness for—

"(1) military duty or promotion;

"(2) attendance at a school of the armed forces; or

"(3) other action related to career progression.".

(b) TECHNICAL AMENDMENT.—Subsection (a)(1) of such section is amended by striking "his" and inserting "the member's".

SEC. 517. RETIREMENT OF RESERVE MEMBERS WITHOUT REQUIREMENT FOR FORMAL APPLICATION OR REQUEST.

(a) RETIRED RESERVE.—Section 10154(2) of title 10, United States Code, is amended by striking "upon their request".

(b) RETIREMENT FOR FAILURE OF SELECTION OF PROMOTION.—(1) Paragraph (2) of section 14513 of such title is amended by striking ", if the officer is qualified and applies for such transfer" and inserting "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve".

(2)(A) The heading for such section is amended to read as follows:

"§ 14513. Failure of selection for promotion: transfer, retirement, or discharge".

(B) The item relating to such section in the table of sections at the beginning of chapter 1407 of such title is amended to read as follows:

"14513. Failure of selection for promotion: transfer, retirement, or discharge.".

(c) RETIREMENT FOR YEARS OF SERVICE OR AFTER SELECTION FOR EARLY REMOVAL.—Section 14514 of such title is amended—

(1) in paragraph (1), by striking ", if the officer is qualified and applies for such transfer" and inserting "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve"; and

(2) by striking paragraph (2) and inserting the following:

"(2) be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.".

(d) RETIREMENT FOR AGE.—Section 14515 of such title is amended—

(1) in paragraph (1), by striking ", if the officer is qualified and applies for such transfer" and inserting "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve"; and

(2) by striking paragraph (2) and inserting the following:

"(2) be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.".

(e) DISCHARGE OR RETIREMENT OF WARRANT OFFICERS FOR YEARS OF SERVICE OR AGE.—(1) Chapter 1207 of such title is amended by adding at the end the following new section:

"§ 12244. Warrant officers: discharge or retirement for years of service or for age

"Each reserve warrant officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

"(1) be transferred to the Retired Reserve if the warrant officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

"(2) be discharged if the warrant officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"12244. Warrant officers: discharge or retirement for years of service or for age.".

(f) DISCHARGE OR RETIREMENT OF ENLISTED MEMBERS FOR YEARS OF SERVICE OR AGE.—(1) Chapter 1203 of such title is amended by adding at the end the following new section:

"§ 12108. Enlisted members: discharge or retirement for years of service or for age

"Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

"(1) be transferred to the Retired Reserve if the member is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

"(2) be discharged if the member is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"12108. Enlisted members: discharge or retirement for years of service or for age.".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act.

SEC. 518. SPACE-REQUIRED TRAVEL BY RESERVES ON MILITARY AIRCRAFT.

(a) CORRECTION OF IMPAIRMENT TO AUTHORIZED TRAVEL WITH ALLOWANCES.—Subsection (a) of section 18505 of title 10, United States Code, is amended by striking "annual training duty or" each place it appears.

(b) CONFORMING AMENDMENTS.—The heading for such section, and the item relating to such section in the table of sections at the beginning of chapter 1805 of such title, are each amended by striking the fourth, fifth, sixth, and seventh words.

SEC. 519. PAYMENT OF FEDERAL EMPLOYEE HEALTH BENEFIT PROGRAM PREMIUMS FOR CERTAIN RESERVISTS CALLED TO ACTIVE DUTY IN SUPPORT OF CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Subsection (e) of section 8906 of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) An employing agency may pay both the employee and Government contributions, and any additional administrative expenses otherwise chargeable to the employee, with respect to health care coverage for an employee described in subparagraph (B) and the family of such employee.

"(B) An employee referred to in subparagraph (A) is an employee who—

"(i) is enrolled in a health benefits plan under this chapter;

"(ii) is a member of a reserve component of the armed forces;

"(iii) is called or ordered to active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10);

"(iv) is placed on leave without pay or separated from service to perform active duty; and

"(v) serves on active duty for a period of more than 30 consecutive days.

"(C) Notwithstanding the one-year limitation on coverage described in paragraph (1)(A), payment may be made under this paragraph for a period not to exceed 18 months.".

(b) CONFORMING AMENDMENT.—The matter preceding paragraph (1) in subsection (f) of such section is amended to read as follows:

"(f) The Government contribution, and any additional payments under subsection (e)(3)(A), for health benefits for an employee shall be paid—".

(c) APPLICABILITY.—The amendments made by this section apply with respect to employees called to active duty on or after December 8, 1995, and an agency may make retroactive payments to such employees for premiums paid on or after such date.

Subtitle C—Joint Specialty Officers and Joint Professional Military Education

SEC. 521. NOMINATIONS AND PROMOTIONS FOR JOINT SPECIALTY OFFICERS.

(a) SELECTION OF OFFICERS FOR THE JOINT SPECIALITY.—Paragraph (2) of section 661(b) of title 10, United States Code, is amended by striking "The Secretaries" and all that follows through "officers—" and inserting "Each officer on the active-duty list on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 who has not before that date been nominated for the joint specialty by the Secretary of a military department, and each officer who is placed on the active-duty list after such date, who meets the requirements of subsection (c) shall automatically be considered to have been nominated for the joint specialty. From among those officers considered to be nominated for the joint specialty, the Secretary may select for the joint specialty only officers—".

(b) PROMOTION RATE FOR OFFICERS WITH THE JOINT SPECIALTY.—Paragraph (2) of section 662(a) of such title is amended by striking "promoted at a rate" and inserting "promoted—

"(A) during the three-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, at a rate not less than the rate for officers of the same armed force in the same grade and competitive category; and

"(B) after the end of the period specified in subparagraph (A), at a rate".

SEC. 522. JOINT DUTY CREDIT.

Paragraph (4) of section 664(i) of title 10, United States Code, is amended—

(1) in subparagraph (E), by striking "The" and inserting "Except as provided in subparagraph (F), the"; and

(2) by adding at the end the following new subparagraph:

"(F) Service in a temporary joint task force assignment not involved in combat or combat-related operations may not be credited for the purposes of joint duty, unless, and only if—

"(i) the service of the officer and the nature of the joint task force not only meet all criteria of this section, except subparagraph (E), but also any additional criteria the Secretary may establish;

"(ii) the Secretary has specifically approved the operation conducted by the joint task force as one that qualifies for joint service credit, and notifies Congress upon each approval, providing the criteria that led to that approval; and

"(iii) the operation is conducted by the joint task force in an environment where an extremely fragile state of peace and high potential for hostilities coexist.".

SEC. 523. RETROACTIVE JOINT SERVICE CREDIT FOR DUTY IN CERTAIN JOINT TASK FORCES.

(a) AUTHORITY.—In accordance with section 664(i) of title 10, United States Code, as amended by section 522, the Secretary of Defense may award joint service credit to any officer who served on the staff of a United States joint task force headquarters in an operation and during the period set forth in subsection (b) and who meets the criteria specified in such section. To determine which officers qualify for such retroactive credit, the Secretary shall undertake a case-by-case review of the records of officers.

(b) ELIGIBLE OPERATIONS.—Service in the following operations, during the specified periods, may be counted for credit under subsection (a):

(1) Operation Northern Watch, during the period beginning on August 1, 1992, and ending on a date to be determined.

(2) Operation Southern Watch, during the period beginning on August 27, 1992, and ending on a date to be determined.

(3) Operation Able Sentry, during the period beginning on June 26, 1993, and ending on February 28, 1999.

(4) Operation Joint Endeavor, during the period beginning on December 25, 1995, and ending on December 19, 1996.

(5) Operation Joint Guard, during the period beginning on December 20, 1996, and ending on June 20, 1998.

(6) Operation Desert Thunder, beginning on January 24, 1998, and ending on December 15, 1998.

(7) Operation Joint Forge, beginning on June 20, 1998, and ending on June 10, 1999.

(8) Operation Noble Anvil, beginning on March 24, 1999, and ending on July 20, 1999.

(9) Operation Joint Guardian, beginning on June 11, 1999, and ending on a date to be determined.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report of the numbers, by service, grade, and operation, of the officers given joint service credit in accordance with this section.

SEC. 524. REVISION TO ANNUAL REPORT ON JOINT OFFICER MANAGEMENT.

Section 667 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following new subparagraph:

"(B) The number of officers who meet the criteria for selection for the joint specialty but were not selected, together with the reasons why.";

(2) by amending paragraph (2) to read as follows:

"(2) The number of officers with the joint specialty, shown by grade and branch or specialty and by education.";

(3) in paragraph (3)—

(A) in subparagraph (A) and (B), by striking "nominated" and inserting "selected";

(B) by inserting "and" at the end of subparagraph (D);

(C) by striking subparagraph (E); and

(D) by redesignating subparagraph (F) as subparagraph (E);

(4) in paragraph (4)(A), by striking "nominated" and inserting "selected";

(5) in paragraph (14)—

(A) by inserting "(A)" after "(14)"; and

(B) by adding at the end the following new subparagraph:

"(B) An assessment of the extent to which the Secretary of each military department is assigning personnel to joint duty assignments in accordance with this chapter and the policies, procedures, and practices established by the Secretary of Defense under section 661(a) of this title."; and

(6) in paragraph (16), by striking "section 664(i)" in the matter preceding subparagraph (A) and in subparagraph (B) and inserting "subparagraphs (E) and (F) of section 664(i)(4)".

SEC. 525. REQUIREMENT FOR SELECTION FOR JOINT SPECIALTY BEFORE PROMOTION TO GENERAL OR FLAG OFFICER GRADE.

(a) REQUIREMENT.—Subsection (a) of section 619a of title 10, United States Code, is amended by striking "unless" and all that follows and inserting "unless—

"(1) the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title); and

"(2) for appointments after September 30, 2007, the officer has been selected for the joint specialty in accordance with section 661 of this title.".

(b) WAIVER AUTHORITY.—Subsection (b) of that section is amended by striking "may waive subsection (a) in the following circumstances:" and inserting "may waive paragraph (1) or paragraph (2) of subsection (a), or both paragraphs (1) and (2) of subsection (a), in the following circumstances:".

(c) PROPOSED LEGISLATIVE CHANGES.—Not later than December 1, 2002, the Secretary of Defense shall submit to Congress a draft proposal for such legislative changes as the Secretary considers needed to implement the amendment made by subsections (a) and (b).

SEC, 526. INDEPENDENT STUDY OF JOINT OFFICER MANAGEMENT AND JOINT PROFESSIONAL MILITARY EDUCATION REFORMS.

(a) STUDY.—The Secretary of Defense shall provide for an independent study of the joint officer management system and the joint professional military education system. The Secretary shall ensure that the entity conducting the study is provided such information and support as required. The Secretary shall include in the contract for the study a requirement that the entity conducting the study submit a report to Congress on the study not later than one year after the date of the enactment of this Act.

(b) MATTERS TO BE INCLUDED WITH RESPECT TO JOINT OFFICER MANAGEMENT.—With respect to the joint officer management system, the entity conducting the independent study shall provide for the following:

(1) Assessment of implications for joint officer education, development, and management that would result from proposed joint organizational operational concepts (such as standing joint task forces) and from emerging officer management and personnel reforms (such as longer careers and more stabilization), that are under consideration by the Secretary of Defense.

(2) Assessment of the effectiveness of the current joint officer management system to develop and use joint specialty qualified officers in meeting both current and future requirements for joint specialty officers.

(3) Recommendations, based on empirical and other data, to improve the effectiveness of the joint officer management system, especially with regard to the following:

(A) The proper mix and sequencing of education assignments and experience assignments (to include, with respect to both types of assignments, consideration of the type and quality, and the length, of such assignments) to qualify an officer as a joint specialty officer, as well as the implications of adopting a variable joint duty tour length and the advisability and implications of a system of qualifying officers as joint specialty officers that uses multiple shorter qualification tracks to selection as a joint specialty officer than are now codified.

(B) The system of using joint specialty officers, including the continued utility of such measures as—

(i) the required fill of positions on the joint duty assignment list, as specified in paragraphs (1) and (4) of section 661(d) of title 10, United States Code;

(ii) the fill by such officers of a required number of critical billets, as prescribed by section 661(d)(2) of such title;

(iii) the mandated fill by general and flag officers of a minimum number of critical billets, as prescribed by section 661(d)(3) of such title; and

(iv) current promotion policy objectives for officers with the joint specialty, officers serving on the Joint Staff, and officers serving in joint duty assignment list positions, as prescribed by section 662 of such title.

(C) Changes in policy and law required to provide officers the required joint specialty qualification before promotion to general or flag officer grade.

(D) A determination of the number of reserve component officers who would be qualified for designation as a joint specialty officer by reason of experience or education if the standards of existing law, including waiver authorities, were applied to them, and recommendations for a process for qualifying and employing future reserve component officers as joint specialty officers.

(c) MATTERS TO BE INCLUDED WITH RESPECT TO JOINT PROFESSIONAL MILITARY EDUCATION.—With respect to the joint professional military education system, the entity conducting the independent study shall provide for the following:

(1) The number of officers who under the current system (A) qualified as joint specialty officers by attending joint professional military education programs before their first joint duty assignment, (B) qualified as joint specialty officers after arriving at their first joint duty assignment but before completing that assignment, and (C) qualified as joint specialty officers without any joint professional military education.

(2) Recommended initiatives (include changes in officer personnel management law, if necessary) to provide incentives and otherwise facilitate attendance at joint professional military education programs before an officer's first joint duty assignment.

(3) Recommended goals for attendance at the Joint Forces Staff College en route to a first joint duty assignment.

(4) An assessment of the continuing utility of statutory requirements for use of officers following joint professional military education, as prescribed by section 662(d) of title 10, United States Code.

(5) Determination of whether joint professional military education programs should remain principally an in-resident, multi-service

experience and what role non-resident or distributive learning can or should play in future joint professional military education programs.

(6) Examination of options for the length of and increased capacity at Joint Forces Staff College, and whether other in-resident joint professional military education sources should be opened, and if opened, how they might be properly accredited and overseen to provide instruction at the level of the program designated as "joint professional military education".

(d) CHAIRMAN OF JOINT CHIEFS OF STAFF.—With respect to the roles of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, the entity conducting the independent study shall—

(1) provide for an evaluation of the current roles of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and joint staff in law, policy, and implementation with regard to establishing and maintaining oversight of joint officer management, career guidelines, and joint professional military education; and

(2) make recommendations to improve and strengthen those roles.

(e) REQUIREMENTS FOR STUDY ENTITY.—In providing for the independent study required by subsection (a), the Secretary of Defense shall ensure that the entity conducting the study—

(1) is not a Department of Defense organization; and

(2) shall, at a minimum, involve in the study, in an integral way, the following persons:

(A) The Chairman of the Joint Chiefs of Staff and available former Chairmen of the Joint Chiefs of Staff.

(B) Members and former members of the Joint Staff, the Armed Forces, the Congress, and congressional staff who are or who have been significantly involved in the development, implementation, or modification of joint officer management and joint professional military education.

(C) Experts in joint officer management and education from civilian academic and research centers.

SEC. 527. PROFESSIONAL DEVELOPMENT EDUCATION.

(a) EXECUTIVE AGENT FOR FUNDING.—(1) Effective beginning with fiscal year 2003, the Secretary of Defense shall be the executive agent for funding professional development education operations of all components of the National Defense University, including the Joint Forces Staff College. The Secretary may not delegate the Secretary's functions and responsibilities under the preceding sentence to the Secretary of a military department.

(2) Nothing in this subsection affects policies in effect on the date of the enactment of this Act with respect to—

(A) the reporting of the President of the National Defense University to the Chairman of the Joint Chiefs of Staff; or

(B) provision of logistical and base operations support for components of the National Defense University by the military departments.

(b) PREPARATION OF BUDGET REQUESTS.—Section 2162(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) As executive agent for funding professional development education at the National Defense University, including the Joint Forces Staff College, the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall prepare the annual budget for professional development education operations at the National Defense University and set forth that request as a separate budget request in the materials submitted to Congress in support of the budget request for the Department of Defense. Nothing in the preceding sentence affects policies in effect on the date of the enactment of this paragraph with respect to budgeting for the funding of logistical and base operations support for components of the National Defense University through the military departments.".

(c) FUNDING SOURCE.—(1) Section 2165 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) SOURCE OF FUNDS FOR PROFESSIONAL DEVELOPMENT EDUCATION OPERATIONS.—Funding for the professional development education operations of the National Defense University shall be provided from funds made available to the Secretary of Defense from the annual appropriation 'Operation and Maintenance, Defense-wide'.".

(2) Subsection (d) of section 2165 of title 10, United States Code, as added by paragraph (1), shall become effective beginning with fiscal year 2003.

SEC. 528. AUTHORITY FOR NATIONAL DEFENSE UNIVERSITY TO ENROLL CERTAIN PRIVATE SECTOR CIVILIANS.

(a) IN GENERAL.—(1) Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§2167. National Defense University: admission of private sector civilians to professional military education program

"(a) AUTHORITY FOR ADMISSION.—The Secretary of Defense may permit eligible private sector employees who work in organizations relevant to national security to receive instruction at the National Defense University in accordance with this section. No more than the equivalent of 10 full-time student positions may be filled at any one time by private sector employees enrolled under this section. Upon successful completion of the course of instruction in which enrolled, any such private sector employee may be awarded an appropriate diploma or degree under section 2165 of this title.

"(b) ELIGIBLE PRIVATE SECTOR EMPLOYEES.—For purposes of this section, an eligible private sector employee is an individual employed by a private firm that is engaged in providing to the Department of Defense or other Government departments or agencies significant and substantial defense-related systems, products, or services or whose work product is relevant to national security policy or strategy. A private sector employee admitted for instruction at the National Defense University remains eligible for such instruction only so long as that person remains employed by the same firm.

"(c) ANNUAL CERTIFICATION BY SECRETARY OF DEFENSE.—Private sector employees may receive instruction at the National Defense University during any academic year only if, before the start of that academic year, the Secretary of Defense determines, and certifies to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, that providing instruction to private sector employees under this section during that year will further national security interests of the United States.

"(d) PROGRAM REQUIREMENTS.—The Secretary of Defense shall ensure that—

"(1) the curriculum for the professional military education program in which private sector employees may be enrolled under this section is not readily available through other schools and concentrates on national security relevant issues; and

"(2) the course offerings at the National Defense University continue to be determined solely by the needs of the Department of Defense.

"(e) TUITION.—The President of the National Defense University shall charge students enrolled under this section a rate—

"(1) that is at least the rate charged for employees of the United States outside the Department of Defense, less infrastructure costs, and

"(2) that considers the value to the school and course of the private sector student.

"(f) STANDARDS OF CONDUCT.—While receiving instruction at the National Defense University, students enrolled under this section, to the extent practicable, are subject to the same regulations governing academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the university.

"(g) USE OF FUNDS.—Amounts received by the National Defense University for instruction of students enrolled under this section shall be retained by the university to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the university.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2167. National Defense University: admission of private sector civilians to professional military education program.".

(b) EFFECTIVE DATE.—Section 2167 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 2002.

SEC. 529. CONTINUATION OF RESERVE COMPONENT PROFESSIONAL MILITARY EDUCATION TEST.

(a) CONTINUATION OF CONCEPT VALIDATION TEST.—During fiscal year 2002, the Secretary of Defense shall continue the concept validation test of Reserve component joint professional military education that was begun in fiscal year 2001 at the National Defense University.

(b) PILOT PROGRAM.—If the Secretary of Defense determines that the results of the concept validation test referred to in subsection (a) warrant conducting a pilot program of the concept that was the subject of the test, the Secretary shall conduct such a pilot program during fiscal year 2003.

(c) FUNDING.—The Secretary shall provide funds for the concept validation test under subsection (a) and for any pilot program under subsection (b) from funds appropriated to the Secretary of Defense in addition those appropriated for operations of the National Defense University.

Subtitle D—Military Education and Training

SEC. 531. DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER.

(a) AUTHORITY TO CONFER ASSOCIATE OF ARTS DEGREE.—Chapter 108 of title 10, United States Code, is amended by adding after section 2167, as added by section 528(a)(1), the following new section:

"§2168. Defense Language Institute Foreign Language Center: degree of Associate of Arts in foreign language

"(a) Subject to subsection (b), the Commandant of the Defense Language Institute may confer an Associate of Arts degree in a foreign language upon any graduate of the Foreign Language Center of the Institute who fulfills the requirements for that degree.

"(b) A degree may be conferred upon a student under this section only if the Provost of the Center certifies to the Commandant that the student has satisfied all the requirements prescribed for the degree.

"(c) The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2167, as added by section 528(a)(2), the following new item:

"2168. Defense Language Institute Foreign Language Center: degree of Associate of Arts in foreign language.".

SEC. 532. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD DEGREE OF MASTER OF STRATEGIC STUDIES.

(a) Marine Corps War College Degree.—Section 7102 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) Marine Corps War College.—Upon the recommendation of the Director and faculty of the Marine Corps War College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of strategic studies upon graduates of the Marine Corps War College who fulfill the requirements for that degree.".

(b) Conforming Amendments.—(1) Subsection (a) of such section is amended by striking "upon graduates" and all that follows and inserting "upon graduates of the Command and Staff College who fulfill the requirements for that degree.".

(2) Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by striking "subsection (a)" and inserting "subsections (a) and (b)".

(3)(A) The heading of such section is amended to read as follows:

"§ 7102. Marine Corps University: masters degrees; board of advisors".

(B) The item relating to such section in the table of sections at the beginning of chapter 609 of such title is amended to read as follows:

"7102. Marine Corps University: masters degrees; board of advisors.".

(c) Codification of Requirement for Board of Advisors.—(1) Section 7102 of title 10, United States Code, as amended by subsections (a) and (b), is further amended by adding at the end the following new subsection:

"(d) Board of Advisors.—The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.".

(2) Section 912 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 7102 note) is repealed.

(d) Effective Date.—The authority to confer the degree of master of strategic studies under section 7102(b) of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Marine Corps War College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts. Upon receipt of such a certification, the President of the University shall promptly transmit a copy of the certification to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives.

SEC. 533. FOREIGN STUDENTS ATTENDING THE SERVICE ACADEMIES.

(a) United States Military Academy.—(1) Subsection (a)(1) of section 4344 of title 10, United States Code, is amended by striking "not more than 40 persons" and inserting "not more than 60 persons".

(2) Subsection (b) of such section is amended—

(A) in paragraph (2), by striking "unless a written waiver of reimbursement is granted by the Secretary of Defense" in the first sentence; and

(B) by striking paragraph (3) and inserting the following:

"(3) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a cadet under paragraph (2). In the case of a partial waiver, the Secretary shall establish the amount waived.".

(3) The amendments made by paragraph (2) shall not apply with respect to any person who entered the United States Military Academy to receive instruction under section 4344 of title 10, United States Code, before the date of the enactment of this Act.

(b) United States Naval Academy.—(1) Subsection (a)(1) of section 6957 of such title is amended by striking "not more than 40 persons" and inserting "not more than 60 persons".

(2) Subsection (b) of such section is amended—

(A) in paragraph (2), by striking "unless a written waiver of reimbursement is granted by the Secretary of Defense" in the first sentence; and

(B) by striking paragraph (3) and inserting the following:

"(3) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a midshipman under paragraph (2). In the case of a partial waiver, the Secretary shall establish the amount waived.".

(3) The amendments made by paragraph (2) shall not apply with respect to any person who entered the United States Naval Academy to receive instruction under section 6957 of title 10, United States Code, before the date of the enactment of this Act.

(c) United States Air Force Academy.—(1) Subsection (a)(1) of section 9344 of such title is amended by striking "not more than 40 persons" and inserting "not more than 60 persons".

(2) Subsection (b) of such section is amended—

(A) in paragraph (2), by striking "unless a written waiver of reimbursement is granted by the Secretary of Defense" in the first sentence; and

(B) by striking paragraph (3) and inserting the following:

"(3) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a cadet under paragraph (2). In the case of a partial waiver, the Secretary shall establish the amount waived.".

(3) The amendments made by paragraph (2) shall not apply with respect to any person who entered the United States Air Force Academy to receive instruction under section 9344 of title 10, United States Code, before the date of the enactment of this Act.

(d) Effective Date.—The amendments made by this section shall not apply with respect to any academic year that began before the date of the enactment of this Act.

SEC. 534. INCREASE IN MAXIMUM AGE FOR APPOINTMENT AS A CADET OR MIDSHIPMAN IN SENIOR RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIP PROGRAMS.

(a) General ROTC Scholarship Program.—Section 2107(a) of title 10, United States Code, is amended—

(1) by striking "27 years of age on June 30" and inserting "31 years of age on December 31"; and

(2) by striking ", except that" and all that follows through "on such date" the second place it appears.

(b) Army Reserve and Army National Guard ROTC Scholarship Program.—Section 2107a(a)(1) of such title is amended—

(1) by striking "27 years of age on June 30" and inserting "31 years of age on December 31"; and

(2) by striking ", except that" and all that follows through "on such date" the second place it appears.

SEC. 535. PARTICIPATION OF REGULAR ENLISTED MEMBERS OF THE ARMED FORCES IN SENIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM.

(a) Eligibility.—Section 2104(b)(3) of title 10, United States Code, is amended by striking "a reserve component of".

(b) Pay Rate While on Field Training or Practice Cruise.—Section 209(c) of title 37, United States Code, is amended by inserting before the period at the end the following: ", except that the rate for a cadet or midshipmen who is a member of the regular component of an armed force shall be the rate of basic pay applicable to the member under section 203 of this title".

SEC. 536. AUTHORITY TO MODIFY THE SERVICE OBLIGATION OF CERTAIN ROTC CADETS IN MILITARY JUNIOR COLLEGES RECEIVING FINANCIAL ASSISTANCE.

(a) Authority To Modify Agreements.—Subsection (b) of section 2107a of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as subparagraphs (A), (B), (C), (D), (E), and (F), respectively;

(3) by designating the sentence following subparagraph (F), as so redesignated, as paragraph (2); and

(4) by adding at the end the following new paragraph:

"(3) In the case of a cadet under this section at a military junior college, the Secretary may, at any time and with the consent of the cadet concerned, modify an agreement described in paragraph (1)(F) submitted by the cadet to reduce or eliminate the troop program unit service obligation specified in the agreement and to establish, in lieu of that obligation, an active duty service obligation. Such a modification may be made only if the Secretary determines that it is in the best interests of the United States to do so.".

(b) Retroactive Application.—The authority of the Secretary of Defense under paragraph (3) of section 2107a(b) of title 10, United States Code, as added by subsection (a), may be exercised with regard to any agreement described in paragraph (1)(F) of such section (including agreements related to participation in the Advanced Course of the Army Reserve Officers' Training Corps at a military college or civilian institution) that was entered into during the period beginning on January 1, 1991, and ending on July 12, 2000 (in addition to any agreement described in that paragraph that is entered into on or after the date of the enactment of this Act).

(c) Technical Amendment.—Subsection (h) of such section is amended by striking "military college" in the second sentence and inserting "military junior college".

SEC. 537. REPEAL OF LIMITATION ON NUMBER OF JUNIOR RESERVE OFFICERS' TRAINING CORPS UNITS.

Section 2031(a)(1) of title 10, United States Code, is amended by striking the second sentence.

SEC. 538. MODIFICATION OF NURSE OFFICER CANDIDATE ACCESSION PROGRAM RESTRICTION ON STUDENTS ATTENDING EDUCATIONAL INSTITUTIONS WITH SENIOR RESERVE OFFICERS' TRAINING PROGRAMS.

Section 2130a of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking "that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title"; and

(2) in subsection (b)(1), by inserting before the semicolon at the end "or that has a Senior Reserve Officers' Training Program for which the student is ineligible".

SEC. 539. RESERVE HEALTH PROFESSIONALS STIPEND PROGRAM EXPANSION.

(a) PURPOSE OF PROGRAM.—Subsection (a) of section 16201 of title 10, United States Code, is amended—

(1) by striking "specialties critically needed in wartime";

(2) by striking "training in such specialties" and inserting "training that leads to a degree in medicine or dentistry or training in a health professions specialty that is critically needed in wartime"; and

(3) by striking "training in certain health care specialties" and inserting "health care education and training".

(b) MEDICAL AND DENTAL STUDENT STIPEND.—Such section is further amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) MEDICAL AND DENTAL SCHOOL STUDENTS.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) is eligible to be appointed as an officer in a reserve component;

"(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in medicine or dentistry;

"(C) signs an agreement that, unless sooner separated, the person will—

"(i) complete the educational phase of the program;

"(ii) accept a reappointment or redesignation within the person's reserve component, if tendered, based upon the person's health profession, following satisfactory completion of the educational and intern programs; and

"(iii) participate in a residency program; and

"(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

"(2) Under the agreement—

"(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (f), for the period or the remainder of the period that the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

"(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve in the Selected Reserve, upon successful completion of the program, for the period of service applicable under paragraph (3).

"(3)(A) Subject to subparagraph (B), the period for which a participant is required to serve in the Selected Reserve under the agreement pursuant to paragraph (2)(D) shall be one year for each period of six months, or part thereof, for which the participant is provided a stipend pursuant to the agreement.

"(B) In the case of a participant who enters into a subsequent agreement under subsection (c) and successfully completes residency training in a specialty designated by the Secretary of Defense as a specialty critically needed by the military department in wartime, the requirement to serve in the Selected Reserve may be reduced to one year for each year, or part thereof, for which the stipend was provided while enrolled in medical or dental school.".

(c) WARTIME CRITICAL SKILLS.—Subsection (c) of such section (as redesignated by subsection (b)(1)) is amended—

(1) by inserting "WARTIME" after "CRITICAL" in the heading; and

(2) by inserting "or has been appointed as a medical or dental officer in the Reserve of the armed force concerned" in paragraph (1)(B) before the semicolon at the end.

(d) SERVICE OBLIGATION REQUIREMENT.—Paragraph (2)(D) of subsection (c) of such section (as redesignated by subsection (b)(1)) and paragraph (2)(D) of subsection (d) of such section (as so redesignated) are amended by striking "two years in the Ready Reserve for each year," and inserting "one year in the Ready Reserve for each six months,".

(e) CROSS-REFERENCE.—Paragraph (2)(A) of subsection (c) of such section (as redesignated by subsection (b)(1)) and paragraph (2)(A) of subsection (d) of such section (as so redesignated) are amended by striking "subsection (e)" and inserting "subsection (f)".

SEC. 540. HOUSING ALLOWANCE FOR THE CHAPLAIN FOR THE CORPS OF CADETS AT THE UNITED STATES MILITARY ACADEMY.

(a) AUTHORITY.—The second sentence of section 4337 of title 10, United States Code, is amended by striking "the same allowances" and all that follows through "captain" and inserting "a monthly housing allowance in the same amount as the basic allowance for housing allowed to a lieutenant colonel".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

Subtitle E—Recruiting and Accession Programs

SEC. 541. 18-MONTH ENLISTMENT PILOT PROGRAM.

(a) IN GENERAL.—(1) Chapter 333 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3264. 18-month enlistment pilot program

"(a) During the pilot program period, the Secretary of the Army shall carry out a pilot program with the objective of increasing participation of prior service persons in the Selected Reserve and providing assistance in building the pool of participants in the Individual Ready Reserve.

"(b) Under the program, the Secretary may, notwithstanding section 505(c) of this title, accept persons for original enlistment in the Army for a term of enlistment consisting of 18 months service on active duty, to be followed by three years of service in the Selected Reserve and then service in the Individual Ready Reserve to complete the military service obligation.

"(c) Under regulations and conditions established by the Secretary of the Army, a member enlisting under this section may, at the end of the 18-month period of service on active duty under that enlistment, be permitted to reenlist for continued service on active duty in lieu of the service in the Selected Reserve and the Individual Ready Reserve otherwise required under the terms of the member's enlistment.

"(d) No more than 10,000 persons may be accepted for enlistment in the Army through the program under this section.

"(e) A person enlisting in the Army through the program under this section is eligible for an enlistment bonus under section 309 of title 37, notwithstanding the enlistment time period specified in subsection (a) of that section.

"(f) For purposes of this section, the pilot program period is the period beginning on the date selected by the Secretary of the Army for the commencement of the pilot program, which date shall be not later than October 1, 2003, and ending on December 31, 2007.

"(g) Not later than December 31, 2007, and December 31, 2012, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the program under this section. In each such report, the Secretary shall set forth the views of the Secretary on the success of the program in meeting the objectives stated in subsection (a) and whether the program should be continued and, if so, whether it should be modified or expanded.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3264. 18-month enlistment pilot program.".

(b) IMPLEMENTATION REPORT.—The Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the Secretary's plan for implementation of section 3264 of title 10, United States Code, as added by subsection (a). Such report shall be submitted not later than March 1, 2002.

SEC. 542. IMPROVED BENEFITS UNDER THE ARMY COLLEGE FIRST PROGRAM.

(a) INCREASED MAXIMUM PERIOD OF DELAYED ENTRY.—Section 573 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 623; 10 U.S.C. 513 note) is amended—

(1) in subsection (b)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(b) DELAYED ENTRY WITH ALLOWANCE FOR HIGHER EDUCATION.—Under the pilot program, the Secretary may—

"(1) exercise the authority under section 513 of title 10, United States Code—";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and realigning those subparagraphs four ems from the left margin;

(C) at the end of subparagraph (A), as so redesignated, by inserting "and" after the semicolon; and

(D) in subparagraph (B), as so redesignated, by striking "two years after the date of such enlistment as a Reserve under paragraph (1)" and inserting "the maximum period of delay determined for that person under subsection (c)"; and

(2) in subsection (c)—

(A) by striking "paragraph (2)" and inserting "paragraph (1)(B)";

(B) by striking "two-year period" and inserting "30-month period"; and

(C) by striking "paragraph (1)" and inserting "paragraph (1)(A)".

(b) ALLOWANCE ELIGIBILITY AND AMOUNT.—(1) Such section is further amended—

(A) in subsection (b), by striking paragraph (3) and inserting the following:

"(2) subject to paragraph (2) of subsection (d) and except as provided in paragraph (3) of that subsection, pay an allowance to a person accepted for enlistment under paragraph (1)(A) for each month of the period during which that person is enrolled in and pursuing a program described in paragraph (1)(B)"; and

(B) in subsection (d)—

(i) by redesignating paragraph (2) as paragraph (4);

(ii) by striking paragraph (1) and inserting the following new paragraphs:

"(1) The monthly allowance paid under subsection (b)(2) shall be equal to the amount of the subsistence allowance provided for certain members of the Senior Reserve Officers' Training Corps with the corresponding number of years of participation under section 209(a) of title 37, United States Code.

"(2) An allowance may not be paid to a person under this section for more than 24 months.

"(3) A member of the Selected Reserve of a reserve component may be paid an allowance under this section only for months during which the member performs satisfactorily as a member of a unit of the reserve component that trains as prescribed in section 10147(a)(1) of title 10, United States Code, or section 502(a) of title 32, United States Code. Satisfactory performance shall be determined under regulations prescribed by the Secretary.".

(2) The heading for such subsection is amended by striking "AMOUNT OF".

(c) INELIGIBILITY FOR LOAN REPAYMENTS; RECOUPMENT.—Such section is further amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively; and

(2) by inserting after subsection (d) the following new subsections:

"(e) INELIGIBILITY FOR LOAN REPAYMENTS.—A person who has received an allowance under this section is not eligible for any benefits under chapter 109 of title 10, United States Code.

"(f) RECOUPMENT OF ALLOWANCE.—(1) A person who, after receiving an allowance under this section, fails to complete the total period of service required of that person in connection with delayed entry authorized for the person under section 513 of title 10, United States Code, shall repay the United States the amount which bears the same ratio to the total amount of that allowance paid to the person as the unserved part of the total required period of service bears to the total period.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge of a person in bankruptcy under title 11, United States Code, that is entered less than five years after the date on which the person was, or was to be, enlisted in the regular Army pursuant to the delayed entry authority under section 513 of title 10, United States Code, does not discharge that person from a debt arising under paragraph (1).

"(4) The Secretary of the Army may waive, in whole or in part, a debt arising under paragraph (1) in any case for which the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to persons who, on or after the date of the enactment of this Act, are enlisted as described in subsection (a) of section 513 of title 10, United States Code, with delayed entry authorized under that section.

SEC. 543. CORRECTION AND EXTENSION OF CERTAIN ARMY RECRUITING PILOT PROGRAM AUTHORITIES.

(a) CONTRACT RECRUITING INITIATIVES.—Subsection (d)(2) of section 561 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–130) is amended—

(1) in subparagraphs (A) and (D), by inserting "and Army Reserve" after "Regular Army"; and

(2) in subparagraph (B), by striking "and chain of command".

(b) EXTENSION OF AUTHORITY.—Subsection (e) of such section is amended by striking "December 31, 2005" and inserting "September 30, 2007".

(c) EXTENSION OF TIME FOR REPORTS.—Subsection (g) of such section is amended by striking "February 1, 2006" and inserting "February 1, 2008".

SEC. 544. MILITARY RECRUITER ACCESS TO SECONDARY SCHOOL STUDENTS.

(a) ACCESS TO SECONDARY SCHOOLS.—Paragraph (1) of section 503(c) of title 10, United States Code, is amended to read as follows:

"(c) ACCESS TO SECONDARY SCHOOLS.—(1)(A) Each local educational agency receiving assistance under the Elementary and Secondary Education Act of 1965—

"(i) shall provide to military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of those students; and

"(ii) shall, upon a request made by military recruiters for military recruiting purposes, provide access to secondary school student names, addresses, and telephone listings, notwithstanding section 444(a)(5)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(5)(B)).

"(B) A local educational agency may not release a student's name, address, and telephone listing under subparagraph (A)(ii) without the prior written consent of a parent of the student if the student, or a parent of the student, has submitted a request to the local educational agency that the student's information not be released for a purpose covered by that subparagraph without prior written parental consent. Each local education agency shall notify parents of the rights provided under the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by subsections (a) shall take effect on July 1, 2002, immediately after the amendment to section 503(c) of title 10, United States Code, made, effective that date, by section 563(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–131).

(c) NOTIFICATION.—The Secretary of Education shall provide to local educational agencies notice of the provisions of subsection (c) of section 503 of title 10, United States Code, as in effect upon the amendments made by subsection (a). Such notice shall be provided not later than 120 days after the date of the enactment of this Act and shall be provided in consultation with the Secretary of Defense.

SEC. 545. PERMANENT AUTHORITY FOR USE OF MILITARY RECRUITING FUNDS FOR CERTAIN EXPENSES AT DEPARTMENT OF DEFENSE RECRUITING FUNCTIONS.

(a) REPEAL OF TERMINATION PROVISION.—Section 520c of title 10, United States Code, is amended by striking subsection (c).

(b) TECHNICAL AMENDMENTS.—Subsection (a) of such section is amended—

(1) in paragraph (4), by striking "recruiting events" and inserting "recruiting functions"; and

(2) in paragraph (5), by striking "recruiting efforts" the first place it appears and inserting "recruiting functions".

SEC. 546. REPORT ON HEALTH AND DISABILITY BENEFITS FOR PRE-ACCESSION TRAINING AND EDUCATION PROGRAMS.

(a) STUDY.—The Secretary of Defense shall conduct a review of the health and disability benefit programs available to recruits and officer candidates engaged in training, education, or other types of programs while not yet on active duty and to cadets and midshipmen attending the service academies. The review shall be conducted with the participation of the Secretaries of the military departments.

(b) REPORT.—Not later than March 1, 2002, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the findings of the review. The report shall include the following with respect to persons described in subsection (a):

(1) A statement of the process and detailed procedures followed by each of the Armed Forces under the jurisdiction of the Secretary of a military department to provide health care and disability benefits to all such persons injured in training, education, or other types of programs conducted by the Secretary of a military department.

(2) Information on the total number of cases of such persons requiring health care and disability benefits and the total number of cases and average value of health care and disability benefits provided under the authority for each source of benefits available to those persons.

(3) A discussion of the issues regarding health and disability benefits for such persons that are encountered by the Secretary during the review, to include discussions with individuals who have received those benefits.

(4) A statement of the processes and detailed procedures followed by each of the Armed Forces under the jurisdiction of the Secretary of a military department to provide recruits and officer candidates with succinct information on the eligibility requirements (including information on when they become eligible) for health care benefits under the Defense health care program, and the nature and availability of the benefits under the program.

(5) A discussion of the necessity for legislative changes and specific legislative proposals needed to improve the benefits provided those persons.

(6) An analysis of health and disability benefits under laws administered by the Department of Veterans Affairs and the Department of Labor for which those persons become eligible upon being injured in training or education and a discussion of how those benefits compare to the benefits those persons would received if retired for physical disability by the Department of Defense.

Subtitle F—Decorations, Awards, and Posthumous Commissions

SEC. 551. AUTHORITY FOR AWARD OF THE MEDAL OF HONOR TO HUMBERT R. VERSACE, JON E. SWANSON, AND BEN L. SALOMON FOR VALOR.

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the military service, the President may award the Medal of Honor under section 3741 of that title to any of the persons named in subsections (b), (c), and (d) for the acts of valor referred to in those respective subsections.

(b) HUMBERT R. VERSACE.—Subsection (a) applies with respect to Humbert R. Versace, for conspicuous acts of gallantry and intrepidity at the risk of his life and beyond the call of duty between October 29, 1963, and September 26, 1965, while interned as a prisoner of war by the Vietnamese Communist National Liberation Front (Viet Cong) in the Republic of Vietnam.

(c) JON E. SWANSON.—Subsection (a) applies with respect to Jon E. Swanson, for conspicuous acts of gallantry and intrepidity at the risk of his life and beyond the call of duty on February 26, 1971, while piloting a Scout helicopter on a close-support reconnaissance mission in support of the Army of the Republic of Vietnam Task Force 333 in the Kingdom of Cambodia.

(d) BEN L. SALOMON.—Subsection (a) applies with respect to Ben L. Salomon, for conspicuous acts of gallantry and intrepidity at the risk of his life and beyond the call of duty on July 7, 1944, while defending the soldiers under his care as the Surgeon, 2d Battalion, 105th Infantry Regiment, 27th Infantry Division against an overwhelming enemy force at Saipan, Marianas Islands.

SEC. 552. REVIEW REGARDING AWARD OF MEDAL OF HONOR TO CERTAIN JEWISH AMERICAN AND HISPANIC AMERICAN WAR VETERANS.

(a) Review Required.—The Secretary of each military department shall review the service records of each Jewish American war veteran or Hispanic American war veteran described in subsection (b) to determine whether that veteran should be awarded the Medal of Honor.

(b) Covered Jewish American War Veterans and Hispanic American War Veterans.—The Jewish American war veterans and Hispanic American war veterans whose service records are to be reviewed under subsection (a) are the following:

(1) Any Jewish American war veteran or Hispanic American war veteran who was awarded the Distinguished Service Cross, the Navy Cross, or the Air Force Cross before the date of the enactment of this Act.

(2) Any other Jewish American war veteran or Hispanic American war veteran whose name is submitted to the Secretary concerned for such purpose before the end of the one-year period beginning on the date of the enactment of this Act.

(c) Consultations.—In carrying out the review under subsection (a), the Secretary of each military department shall consult with the Jewish War Veterans of the United States of America and with such other veterans service organizations as the Secretary considers appropriate.

(d) Recommendation Based on Review.—If the Secretary concerned determines, based upon the review under subsection (a) of the service records of any Jewish American war veteran or Hispanic American war veteran, that the award of the Medal of Honor to that veteran is warranted, the Secretary shall submit to the President a recommendation that the President award the Medal of Honor to that veteran.

(e) Authority To Award Medal of Honor.—A Medal of Honor may be awarded to a Jewish American war veteran or Hispanic American war veteran in accordance with a recommendation of the Secretary concerned under subsection (d).

(f) Waiver of Time Limitations.—An award of the Medal of Honor may be made under subsection (e) without regard to—

(1) section 3744, 6248, or 8744 of title 10, United States Code, as applicable; and

(2) any regulation or other administrative restriction on—

(A) the time for awarding the Medal of Honor; or

(B) the awarding of the Medal of Honor for service for which a Distinguished Service Cross, Navy Cross, or Air Force Cross has been awarded.

(g) Definition.—For purposes of this section, the term "Jewish American war veteran" means any person who served in the Armed Forces during World War II or a later period of war and who identified himself or herself as Jewish on his or her military personnel records.

SEC. 553. AUTHORITY TO ISSUE DUPLICATE MEDALS OF HONOR AND TO REPLACE STOLEN MILITARY DECORATIONS.

(a) Army.—(1)(A) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

"§3754. Medal of honor: duplicate medal

"A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Army may determine, as a duplicate or for display purposes only.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3754. Medal of honor: duplicate medal.".

(2) Section 3747 of such title is amended by striking "lost" and inserting "stolen, lost,".

(b) Navy and Marine Corps.—(1)(A) Chapter 567 of title 10, United States Code, is amended by adding at the end the following new section:

"§6256. Medal of honor: duplicate medal

"A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Navy may determine, as a duplicate or for display purposes only.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6256. Medal of honor: duplicate medal.".

(2) Section 6253 of such title is amended by striking "lost" and inserting "stolen, lost,".

(c) Air Force.—(1)(A) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

"§8754. Medal of honor: duplicate medal

"A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Air Force may determine, as a duplicate or for display purposes only.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8754. Medal of honor: duplicate medal.".

(2) Section 8747 of such title is amended by striking "lost" and inserting "stolen, lost,".

(d) Coast Guard.—(1)(A) Chapter 13 of title 14, United States Code, is amended by inserting after section 503 the following new section:

"§504. Medal of honor: duplicate medal

"A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary may determine, as a duplicate or for display purposes only.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 503 the following new item:

"504. Medal of honor: duplicate medal.".

(2) Section 501 of such title is amended by inserting "stolen," before "lost,".

(e) Definition of Medal of Honor for Purposes of Federal Unauthorized-Use Crime.—Section 704(b)(2)(B) of title 18, United States Code, is amended to read as follows:

"(B) As used in this subsection, 'Congressional Medal of Honor' means—

"(i) a medal of honor awarded under section 3741, 6241, or 8741 of title 10 or section 491 of title 14;

"(ii) a duplicate medal of honor issued under section 3754, 6256, or 8754 of title 10 or section 504 of title 14; or

"(iii) a replacement of a medal of honor provided under section 3747, 6253, or 8747 of title 10 or section 501 of title 14.".

SEC. 554. RETROACTIVE MEDAL OF HONOR SPECIAL PENSION.

(a) Entitlement.—Notwithstanding any other provision of law, Robert R. Ingram of Jacksonville, Florida, who was awarded the Medal of Honor pursuant to Public Law 105–103 (111 Stat. 2218), shall be entitled to the special pension provided for under section 1562 of title 38, United States Code (and antecedent provisions of law), for months that begin after March 1966.

(b) Amount.—The amount of special pension payable under subsection (a) for a month beginning before the date of the enactment of this Act shall be the amount of special pension provided for by law for that month for persons entered and recorded in the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll (or antecedent Medal of Honor Roll required by law).

SEC. 555. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO CERTAIN PERSONS.

(a) Waiver.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in this section, the award of each such decoration having been determined by the Secretary concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) Silver Star.—Subsection (a) applies to the award of the Silver Star to Wayne T. Alderson, of Glassport, Pennsylvania, for gallantry in action from March 15 to March 18, 1945, while serving as a member of the Army.

(c) Distinguished Flying Cross.—Subsection (a) applies to the award of the Distinguished Flying Cross for service during World War II (including multiple awards to the same individual) in the case of each individual concerning whom the Secretary of the Navy (or an officer of the Navy acting on behalf of the Secretary) submitted to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, during the period beginning on October 30, 2000, and ending on the day before the date of the enactment of this Act, a notice as provided in section 1130(b) of title 10, United States Code, that the award of the Distinguished Flying Cross to that individual is warranted and that a waiver of time restrictions prescribed by law for recommendation for such award is recommended.

SEC. 556. SENSE OF CONGRESS ON ISSUANCE OF CERTAIN MEDALS.

It is the sense of Congress that the Secretary of Defense should consider authorizing—

(1) the issuance of a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Armed Forces served in the Republic of Korea, or the waters adjacent thereto, during the period beginning on July 28, 1954, and ending on such date thereafter as the Secretary considers appropriate;

(2) the issuance of a campaign medal, to be known as the Cold War Service Medal, to each person who while a member of the Armed Forces served satisfactorily on active duty during the Cold War; and

(3) the award of the Vietnam Service Medal to any member or former member of the Armed Forces who was awarded the Armed Forces Expeditionary Medal for participation in military operations designated as Operation Frequent Wind arising from the evacuation of Vietnam on April 29 and 30, 1975.

SEC. 557. SENSE OF CONGRESS ON DEVELOPMENT OF A MORE COMPREHENSIVE, UNIFORM POLICY FOR THE AWARD OF DECORATIONS TO MILITARY AND CIVILIAN PERSONNEL OF THE DEPARTMENT OF DEFENSE.

(a) Findings.—Congress makes the following findings:

(1) The role and importance of civilian nationals of the United States as Federal employees and contractors in support of operations of the Armed Forces worldwide has continued to expand.

(2) The expanded role performed by those civilians, both in the United States and overseas, has greatly increased the risk to those civilians of injury and death from hostile actions taken

against United States Armed Forces, as demonstrated by the terrorist attack on the Pentagon on September 11, 2001, in which scores of Department of Defense civilian and contractor personnel were killed or wounded.

(3) On September 20, 2001, the Deputy Secretary of Defense approved the creation of a new award, a medal for the defense of freedom, to be awarded to civilians employed by the Department of Defense who are killed or wounded as a result of hostile action and at the same time directed that a comprehensive review be conducted to develop a more uniform approach to the award of decorations to military and civilian personnel of the Department of Defense.

(b) Commendation of Creation of New Award.—Congress commends the decision announced by the Deputy Secretary of Defense on September 20, 2001, to approve the creation of a new award, a medal for the defense of freedom, to be awarded to civilians employed by the Department of Defense who are killed or wounded as a result of hostile action.

(c) Sense of Congress.—It is the sense of Congress that the Secretary of Defense should act expeditiously to develop a more comprehensive, uniform policy for the award of decorations to military and civilian personnel of the Department of Defense.

SEC. 558. POSTHUMOUS ARMY COMMISSION IN THE GRADE OF CAPTAIN IN THE CHAPLAINS CORPS TO ELLA E. GIBSON FOR SERVICE AS CHAPLAIN OF THE FIRST WISCONSIN HEAVY ARTILLERY REGIMENT DURING THE CIVIL WAR.

The President is authorized and requested to posthumously appoint Ella E. Gibson to the grade of captain in the Chaplains Corps of the Army, the commission to issue as of the date of her appointment as chaplain to the First Wisconsin Heavy Artillery regiment during the Civil War and to be considered to have been in effect during the time during which she faithfully performed the services of a chaplain to that regiment and for which Congress by law (Private Resolution 31 of the 40th Congress, approved March 3, 1869) previously provided for her to be paid the full pay and emoluments of a chaplain in the United States Army as if she had been regularly commissioned and mustered into service.

Subtitle G—Funeral Honors Duty

SEC. 561. PARTICIPATION OF MILITARY RETIREES IN FUNERAL HONORS DETAILS.

(a) Authority.—Subsection (b)(2) of section 1491 of title 10, United States Code, is amended—

(1) in the first sentence, by inserting "(other than members in a retired status)" after "members of the armed forces"; and

(2) in the second sentence, by inserting "(including members in a retired status)," after "members of the armed forces".

(b) Funeral Honors Duty Allowance.—Section 435(a) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(a) Allowance Authorized.—"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary concerned may also authorize payment of that allowance to a member of the armed forces in a retired status for any day on which the member serves in a funeral honors detail under section 1491 of title 10, if the time required for service in such detail (including time for preparation) is not less than two hours. The amount of an allowance paid to a member under this paragraph shall be in addition to any other compensation to which the member may be entitled under this title or title 10 or 38.".

SEC. 562. FUNERAL HONORS DUTY PERFORMED BY RESERVE AND GUARD MEMBERS TO BE TREATED AS INACTIVE-DUTY TRAINING FOR CERTAIN PURPOSES.

(a) Reserve Members.—Section 12503(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "Performance of funeral honors duty by a Reserve not on active duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.".

(b) National Guard Members.—Section 115(a) of title 32, United States Code, is amended by adding at the end the following new sentence: "Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.".

(c) Effective Date.—The amendments made by this section shall apply to funeral honors duty performed on or after October 30, 2000.

SEC. 563. USE OF MILITARY LEAVE FOR FUNERAL HONORS DUTY BY RESERVE MEMBERS AND NATIONAL GUARDSMEN.

Section 6323(a)(1) of title 5, United States Code, is amended by inserting "funeral honors duty (as described in section 12503 of title 10 and section 115 of title 32)," after "(as defined in section 101 of title 37),".

SEC. 564. AUTHORITY TO PROVIDE APPROPRIATE ARTICLES OF CLOTHING AS A CIVILIAN UNIFORM FOR CIVILIANS PARTICIPATING IN FUNERAL HONOR DETAILS.

Section 1491(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Articles of clothing for members of a veterans organization or other organization referred to in subsection (b)(2) that, as determined by the Secretary concerned, are appropriate as a civilian uniform for persons participating in a funeral honors detail.".

Subtitle H—Military Spouses and Family Members

SEC. 571. IMPROVED FINANCIAL AND OTHER ASSISTANCE TO MILITARY SPOUSES FOR JOB TRAINING AND EDUCATION.

(a) Examination of Existing Employment Assistance Programs.—(1) The Secretary of Defense shall examine existing Department of Defense and other Federal, State, and nongovernmental programs with the objective of improving retention of military personnel by increasing the employability of military spouses and assisting those spouses in gaining access to financial and other assistance for job training and education.

(2) In conducting the examination, the Secretary shall give priority to facilitating and increasing access of military spouses to existing Department of Defense, Federal, State, and nongovernmental sources for the types of financial assistance set forth in paragraph (3), but shall also specifically assess whether the Department of Defense should begin a program for direct financial assistance to military spouses for some or all of those types of assistance and whether such a program of direct financial assistance would enhance retention.

(3) In conducting the examination pursuant to paragraph (1), the Secretary should focus on financial assistance for military spouses for one or more of the following purposes:

(A) Career-related education.

(B) Certification and license fees for employment-related purposes.

(C) Apprenticeships and internships.

(D) Technical training.

(E) Training to improve job skills.

(F) Career counseling.

(G) Skills assessment.

(H) Job-search skills.

(I) Job-related transportation.

(J) Child care.

(K) Any additional employment-related purpose specified by the Secretary for the purposes of the examination under paragraph (1).

(4) Not later than March 30, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the results of the examination under paragraph (1).

(b) Review of Department of Defense Policies.—(1) The Secretary of Defense shall review Department of Defense policies that affect employment and education opportunities for military spouses in the Department of Defense in order to further expand those opportunities. The review shall include the consideration of providing, to the extent authorized by law, separate spouse preferences for employment by appropriated and nonappropriated fund operations.

(2) Not later than March 30, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the results of the review under paragraph (1).

(c) Spouse Employment Assistance.—Section 1784 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(d) Space-Available Use of Facilities for Spouse Training Purposes.—Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may make available to a non-Department of Defense entity space in non-excess facilities controlled by that Secretary for the purpose of the non-Department of Defense entity providing employment-related training for military spouses.

"(e) Employment by Other Federal Agencies.—The Secretary of Defense shall work with the Director of the Office of Personnel Management and the heads of other Federal departments and agencies to expand and facilitate the use of existing Federal programs and resources in support of military spouse employment.

"(f) Private-Sector Employment.—The Secretary of Defense—

"(1) shall seek to develop partnerships with firms in the private sector to enhance employment opportunities for spouses of members of the armed forces and to provide for improved job portability for such spouses, especially in the case of the spouse of a member of the armed forces accompanying the member to a new geographical area because of a change of permanent duty station of the member; and

"(2) shall work with the United States Chamber of Commerce and other appropriate private-sector entities to facilitate the formation of such partnerships.

"(g) Employment With DOD Contractors.—The Secretary of Defense shall examine and seek ways for incorporating hiring preferences for qualified spouses of members of the armed forces into contracts between the Department of Defense and private-sector entities.".

SEC. 572. PERSONS AUTHORIZED TO BE INCLUDED IN SURVEYS OF MILITARY FAMILIES REGARDING FEDERAL PROGRAMS.

(a) Extension of Survey Authority.—Subsection (a) of section 1782 of title 10, United States Code, is amended to read as follows:

"(a) Authority.—The Secretary of Defense, in order to determine the effectiveness of Federal programs relating to military families and the need for new programs, may conduct surveys of—

"(1) members of the armed forces who are on active duty, in an active status, or retired;

"(2) family members of such members; and

"(3) survivors of deceased retired members and of members who died while on active duty.".

(b) FEDERAL RECORDKEEPING REQUIREMENTS.—Subsection (c) of such section is amended to read as follows:

"(c) FEDERAL RECORDKEEPING REQUIREMENTS.—With respect to a survey authorized under subsection (a) that includes a person referred to in that subsection who is not an employee of the United States or is not otherwise considered an employee of the United States for the purposes of section 3502(3)(A)(i) of title 44, the person shall be considered as being an employee of the United States for the purposes of that section.".

SEC. 573. CLARIFICATION OF TREATMENT OF CLASSIFIED INFORMATION CONCERNING PERSONS IN A MISSING STATUS.

Section 1506(b)(2) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking the period at the end and inserting "of all missing persons from the conflict or period of war to which the classified information pertains."; and

(3) by adding at the end the following new subparagraph:

"(B) For purposes of subparagraph (A), information shall be considered to be made reasonably accessible if placed in a separate and distinct file that is available for review by persons specified in subparagraph (A) upon the request of any such person either to review the separate file or to review the personnel file of the missing person concerned.".

SEC. 574. TRANSPORTATION TO ANNUAL MEETING OF NEXT-OF-KIN OF PERSONS UNACCOUNTED FOR FROM CONFLICTS AFTER WORLD WAR II.

(a) AUTHORITY FOR DEPARTMENT OF DEFENSE TO PROVIDE TRANSPORTATION.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

"§2647. Next-of-kin of persons unaccounted for from conflicts after World War II: transportation to annual meetings

"The Secretary of Defense may provide transportation for the next-of-kin of persons who are unaccounted for from the Korean conflict, the Cold War, Vietnam War era, or the Persian Gulf War to and from an annual meeting in the United States. Such transportation shall be provided under such regulations as the Secretary of Defense may prescribe.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2647. Next-of-kin of persons unaccounted for from conflicts after World War II: transportation to annual meetings.".

SEC. 575. AMENDMENTS TO CHARTER OF DEFENSE TASK FORCE ON DOMESTIC VIOLENCE.

(a) MEMBERS APPOINTED FROM PRIVATE SECTOR.—Subsection (h)(1) of section 591 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 639; 10 U.S.C. 1562 note) is amended—

(1) by inserting "who is a member of the Armed Forces or civilian officer or employee of the United States" after "Each member of the task force";

(2) by striking ", but shall" and all that follows and inserting a period; and

(3) by adding at the end the following new sentence: "Other members of the task force shall be appointed in accordance with, and subject to, section 3161 of title 5, United States Code.".

(b) EXTENSION OF TERMINATION DATE.—Subsection (j) of such section is amended by striking "three years after the date of the enactment of this Act" and inserting "on April 24, 2003".

Subtitle I—Military Justice and Legal Assistance Matters

SEC. 581. BLOOD ALCOHOL CONTENT LIMIT FOR THE OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE OF DRUNKEN OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.

Section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before " Any person";

(2) by striking "0.10 grams" the first place it appears and all that follows through "chemical analysis" and inserting "in excess of the applicable limit under subsection (b)"; and

(3) by adding at the end the following:

"(b)(1) For purposes of subsection (a), the applicable limit on the alcohol concentration in a person's blood or breath is as follows:

"(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2) for conduct on a military installation that is in more than one State and subject to the maximum blood alcohol content limit specified in paragraph (3).

"(B) In the case of the operation or control of a vehicle, aircraft, or vessel outside the United States, the applicable blood alcohol content limit is the maximum blood alcohol content limit specified in paragraph (3) or such lower limit as the Secretary of Defense may by regulation prescribe.

"(2) In the case of a military installation that is in more than one State, if those States have different blood alcohol content limits under their respective State laws, the Secretary may select one such blood alcohol content limit to apply uniformly on that installation.

"(3) For purposes of paragraph (1), the maximum blood alcohol content limit with respect to alcohol concentration in a person's blood is 0.10 grams of alcohol per 100 milliliters of blood and with respect to alcohol concentration in a person's breath is 0.10 grams of alcohol per 210 liters of breath, as shown by chemical analysis.

"(4) In this subsection:

"(A) The term 'blood alcohol content limit' means the maximum permissible alcohol concentration in a person's blood or breath for purposes of operation or control of a vehicle, aircraft, or vessel.

"(B) The term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and the term 'State' includes each of those jurisdictions.".

SEC. 582. REQUIREMENT THAT COURTS-MARTIAL CONSIST OF NOT LESS THAN 12 MEMBERS IN CAPITAL CASES.

(a) CLASSIFICATION OF GENERAL COURT-MARTIAL IN CAPITAL CASES.—Section 816(1)(A) of title 10, United States Code (article 16(1)(A) of the Uniform Code of Military Justice) is amended by inserting after "five members" the following: "or, in a case in which the accused may be sentenced to a penalty of death, the number of members determined under section 825a of this title (article 25a)".

(b) NUMBER OF MEMBERS REQUIRED.—(1) Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 825 (article 25) the following new section:

"§825a. Art. 25a. Number of members in capital cases

"In a case in which the accused may be sentenced to a penalty of death, the number of members shall be not less than 12, unless 12 members are not reasonably available because of physical conditions or military exigencies, in which case the convening authority shall specify a lesser number of members not less than five, and the court may be assembled and the trial held with not less than the number of members so specified. In such a case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.".

(2) The table of sections at the beginning of subchapter V of such chapter is amended by inserting after the item relating to section 825 (article 25) the following new item:

"825a. 25a. Number of members in capital cases.".

(c) ABSENT AND ADDITIONAL MEMBERS.—Section 829(b) of such title (article 29 of the Uniform Code of Military Justice) is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking "five members" both places it appears and inserting "the applicable minimum number of members"; and

(3) by adding at the end the following new paragraph:

"(2) In this section, the term 'applicable minimum number of members' means five members or, in a case in which the death penalty may be adjudged, the number of members determined under section 825a of this title (article 25a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses committed after December 31, 2002.

SEC. 583. ACCEPTANCE OF VOLUNTARY LEGAL ASSISTANCE FOR THE CIVIL AFFAIRS OF MEMBERS AND FORMER MEMBERS OF THE UNIFORMED SERVICES AND THEIR DEPENDENTS.

(a) AUTHORITY.—Subsection (a) of section 1588 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Legal services voluntarily provided as legal assistance under section 1044 of this title.".

(b) DEFENSE OF LEGAL MALPRACTICE.—Subsection (d)(1) of that section is amended by adding at the end the following new subparagraph:

"(E) Section 1054 of this title (relating to legal malpractice), for a person voluntarily providing legal services accepted under subsection (a)(5), as if the person were providing the services as an attorney of a legal staff within the Department of Defense.".

Subtitle J—Other Matters

SEC. 591. CONGRESSIONAL REVIEW PERIOD FOR CHANGE IN GROUND COMBAT EXCLUSION POLICY.

Section 542(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 113 note) is amended—

(1) in paragraph (1)—

(A) by striking "not less than 90 days"; and

(B) by adding at the end the following new sentence: "Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received."; and

(2) by adding at the end the following new paragraph:

"(5) For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.".

SEC. 592. PER DIEM ALLOWANCE FOR LENGTHY OR NUMEROUS DEPLOYMENTS.

(a) FUNDING SOURCE FOR ALLOWANCE.—Section 436(a) of title 37, United States Code, is amended by adding at the end the following new sentence: "The Secretary shall pay the allowance from appropriations available for operation and maintenance for the armed force in which the member serves.".

(b) EXPANDED REPORT REGARDING MANAGEMENT OF INDIVIDUAL MEMBER DEPLOYMENTS.—Section 574(d) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001

(as enacted into law by Public Law 106–398; 114 Stat. 1654A–138) is amended in the second sentence by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) a discussion of the experience in tracking and recording the deployments of members of the Armed Forces and the payment of the per diem allowance for lengthy or numerous deployments in accordance with section 436 of title 37, United States Code;

"(2) specific comments regarding the effect of section 991 of title 10, United States Code, and section 436 of title 37, United States Code, on the readiness of the Navy and Marine Corps given the deployment intensive mission of these services; and

"(3) any recommendations for revision of section 991 of title 10, United States Code, or section 436 of title 37, United States Code, that the Secretary considers appropriate.".

SEC. 593. CLARIFICATION OF DISABILITY SEVERANCE PAY COMPUTATION.

(a) Clarification.—Section 1212(a)(2) of title 10, United States Code, is amended by striking "for promotion" in subparagraph (C) and the first place it appears in subparagraph (D).

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to members separated under section 1203 or 1206 of title 10, United States Code, on or after date of the enactment of this Act.

SEC. 594. TRANSPORTATION OR STORAGE OF PRIVATELY OWNED VEHICLES ON CHANGE OF PERMANENT STATION.

(a) Advance Payment of Storage Costs.—Subsection (b) of section 2634 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Storage costs payable under this subsection may be paid in advance.".

(b) Shipment on Permanent Change of Station Within CONUS.—Subsection (h)(1) of such section is amended by striking "includes" in the second sentence and all that follows and inserting "includes the following:

"(A) An authorized change in home port of a vessel.

"(B) A transfer or assignment between two permanent stations in the continental United States when—

"(i) the member cannot, because of injury or the conditions of the order, drive the motor vehicle between the permanent duty stations; or

"(ii) the Secretary concerned determines that it is advantageous and cost-effective to the United States for one motor vehicle of the member to be transported between the permanent duty stations.".

(c) Effective Date.—The amendments made by this section apply to orders to make a change of permanent station that are issued on or after the date of the enactment of this Act.

SEC. 595. REPEAL OF REQUIREMENT FOR FINAL COMPTROLLER GENERAL REPORT RELATING TO ARMY END STRENGTH ALLOCATIONS.

Section 552 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 319; 10 U.S.C. 115 note) is repealed.

SEC. 596. CONTINUED DEPARTMENT OF DEFENSE ADMINISTRATION OF NATIONAL GUARD CHALLENGE PROGRAM AND DEPARTMENT OF DEFENSE STARBASE PROGRAM.

(a) National Guard Challenge Program.—Section 509(b) of title 32, United States Code, is amended—

(1) in paragraph (2)(A), by striking "in a fiscal year" and inserting "in fiscal year 2001 or 2002"; and

(2) by adding at the end the following new paragraph:

"(4) The Secretary of Defense shall remain the executive agent to carry out the National Guard Challenge Program regardless of the source of funds for the program or any transfer of jurisdiction over the program within the executive branch. As provided in subsection (a), the Secretary may use the National Guard to conduct the program.".

(b) STARBASE Program.—Section 2193b(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary of Defense shall remain the executive agent to carry out the program regardless of the source of funds for the program or any transfer of jurisdiction over the program within the executive branch.".

(c) Repeal of Contingent Funding for JROTC.—(1) Section 2033 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 102 of such title is amended by striking the item relating to section 2033.

(3) The amendments made by this subsection shall take effect on October 1, 2002.

SEC. 597. REPORT ON DEFENSE SCIENCE BOARD RECOMMENDATION ON ORIGINAL APPOINTMENTS IN REGULAR GRADES FOR ACADEMY GRADUATES AND CERTAIN OTHER NEW OFFICERS.

The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the legislative and policy changes required to implement the recommendation of the Defense Science Board (made in its report entitled "Final Report on Human Resources Strategy" and dated February 28, 2000) that all officers be given initial regular commissions. The Secretary shall include in that report a description of the measures necessary to transition the current active-duty officer corps to an all-regular status, if the Board's recommendation were adopted, and shall provide the Secretary's position with regard to implementing that recommendation. The report shall be submitted not later than six months after the date of the enactment of this Act.

SEC. 598. SENSE OF CONGRESS REGARDING THE SELECTION OF OFFICERS FOR RECOMMENDATION FOR APPOINTMENT AS COMMANDER, UNITED STATES TRANSPORTATION COMMAND.

(a) Findings.—Congress makes the following findings:

(1) The Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) envisioned that officers would be selected for recommendation to the President for appointment as the commander of a combatant command under chapter 6 of title 10, United States Code (as added by that Act), on the basis of being the best qualified officer for that position, rather than the best qualified officer of the armed force that had historically supplied officers to serve in that position.

(2) In order to provide for greater competition among the Armed Forces for selection of officers for assignment as the commanders of the combatant commands and assignment to certain other joint positions in the grade of general or admiral, Congress provided temporary relief from the limitation on the number of officers serving on active duty in the grade of general or admiral in section 405 of the National Defense Authorization Act for Fiscal Year 1995 and thereafter extended that relief until September 30, 2003, but has also required that the Secretary of Defense be furnished the name of at least one officer from each of the Armed Forces for consideration for appointment to each such position.

(3) Most of the positions of commanders of the combatant commands have been filled successively by officers of more than one of the Armed Forces since the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

(4) However, general officers of the Air Force with only limited experience in the transportation services have usually filled the position of commander of the United States Transportation Command.

(5) The United States Transportation Command could benefit from the appointment of future commanders selected from the Army, Navy and Marine Corps, in addition to the Air Force.

(b) Sense of Congress.—It is the sense of Congress that the Secretary of Defense, when considering officers for recommendation to the President for appointment as commander of the United States Transportation Command, should not rely upon officers of one service which has traditionally provided officers to fill that position but should select for such recommendation the best qualified officer of the Army, Navy, Air Force, or Marine Corps.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2002.
Sec. 602. Basic pay rate for certain reserve commissioned officers with prior service as an enlisted member or warrant officer.
Sec. 603. Reserve component compensation for distributed learning activities performed as inactive-duty training.
Sec. 604. Subsistence allowances.
Sec. 605. Eligibility for temporary housing allowance while in travel or leave status between permanent duty stations.
Sec. 606. Uniform allowance for officers.
Sec. 607. Family separation allowance for members electing unaccompanied tour by reason of health limitations of dependents.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.
Sec. 612. One-year extension of certain bonus and special pay authorities for nurse officer candidates, registered nurses, and nurse anesthetists.
Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.
Sec. 614. One-year extension of other bonus and special pay authorities.
Sec. 615. Hazardous duty pay for members of maritime visit, board, search, and seizure teams.
Sec. 616. Eligibility for certain career continuation bonuses for early commitment to remain on active duty.
Sec. 617. Sec.retarial discretion in prescribing submarine duty incentive pay rates.
Sec. 618. Conforming accession bonus for dental officers authority with authorities for other special pay and bonuses.
Sec. 619. Modification of eligibility requirements for Individual Ready Reserve bonus for reenlistment, enlistment, or extension of enlistment.
Sec. 620. Installment payment authority for 15-year career status bonus.
Sec. 621. Accession bonus for new officers in critical skills.
Sec. 622. Education savings plan to encourage reenlistments and extensions of service in critical specialties.

Sec. 623. Continuation of payment of special and incentive pay at unreduced rates during stop loss periods.

Sec. 624. Retroactive authorization for imminent danger pay for service in connection with Operation Enduring Freedom.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Minimum per diem rate for travel and transportation allowance for travel performed upon a change of permanent station and certain other travel.

Sec. 632. Eligibility for payment of subsistence expenses associated with occupancy of temporary lodging incident to reporting to first permanent duty station.

Sec. 633. Reimbursement of members for mandatory pet quarantine fees for household pets.

Sec. 634. Increased weight allowance for transportation of baggage and household effects for junior enlisted members.

Sec. 635. Eligibility of additional members for dislocation allowance.

Sec. 636. Partial dislocation allowance authorized for housing moves ordered for Government convenience.

Sec. 637. Allowances for travel performed in connection with members taking authorized leave between consecutive overseas tours.

Sec. 638. Travel and transportation allowances for family members to attend burial of a deceased member of the uniformed services.

Sec. 639. Funded student travel for foreign study under an education program approved by a United States school.

Subtitle D—Retirement and Survivor Benefit Matters

Sec. 641. Contingent authority for concurrent receipt of military retired pay and veterans' disability compensation and enhancement of special compensation authority.

Sec. 642. Survivor Benefit Plan annuities for surviving spouses of members who die while on active duty and not eligible for retirement.

Subtitle E—Other Matters

Sec. 651. Payment for unused leave in excess of 60 days accrued by members of reserve components on active duty for one year or less.

Sec. 652. Additional authority to provide assistance for families of members of the Armed Forces.

Sec. 653. Authorization of transitional compensation and commissary and exchange benefits for dependents of commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration who are separated for dependent abuse.

Sec. 654. Transfer of entitlement to educational assistance under Montgomery GI Bill by members of the Armed Forces with critical military skills.

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2002.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2002 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2002, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

COMMISSIONED OFFICERS[1]

Pay Grade	YEARS OF SERVICE COMPUTED UNDER SECTION 205 OF TITLE 37, UNITED STATES CODE														
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	11,601.90	11,659.20	11,901.30	12,324.00
O–9	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10,147.50	10,293.60	10,504.80	10,873.80
O–8	7,180.20	7,415.40	7,571.10	7,614.90	7,809.30	8,135.10	8,210.70	8,519.70	8,608.50	8,874.30	9,259.50	9,614.70	9,852.00	9,852.00	9,852.00
O–7	5,966.40	6,371.70	6,371.70	6,418.20	6,657.90	6,840.30	7,051.20	7,261.80	7,472.70	8,135.10	8,694.90	8,694.90	8,694.90	8,694.90	8,738.70
O–6	4,422.00	4,857.90	5,176.80	5,176.80	5,196.60	5,418.90	5,448.60	5,448.60	5,628.60	6,305.70	6,627.00	6,948.30	7,131.00	7,316.10	7,675.20
O–5	3,537.00	4,152.60	4,440.30	4,494.30	4,673.10	4,673.10	4,813.50	5,073.30	5,413.50	5,755.80	5,919.00	6,079.80	6,262.80	6,262.80	6,262.80
O–4	3,023.70	3,681.90	3,927.60	3,982.50	4,210.50	4,395.90	4,696.20	4,930.20	5,092.50	5,255.70	5,310.60	5,310.60	5,310.60	5,310.60	5,310.60
O–3[3]	2,796.60	3,170.40	3,421.80	3,698.70	3,875.70	4,070.10	4,232.40	4,441.20	4,549.50	4,549.50	4,549.50	4,549.50	4,549.50	4,549.50	4,549.50
O–2[3]	2,416.20	2,751.90	3,169.50	3,276.30	3,344.10	3,344.10	3,344.10	3,344.10	3,344.10	3,344.10	3,344.10	3,344.10	3,344.10	3,344.10	3,344.10
O–1[3]	2,097.60	2,183.10	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50	2,638.50

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades 0–7 through O–10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, the rate of basic pay for this grade is $13,598.10, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Pay Grade	YEARS OF SERVICE COMPUTED UNDER SECTION 205 OF TITLE 37, UNITED STATES CODE														
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
O–3E	$0.00	$0.00	$0.00	3,698.70	3,875.70	4,070.10	4,232.40	4,441.20	4,617.00	4,717.50	4,855.20	4,855.20	4,855.20	4,855.20	4,855.20
O–2E	0.00	0.00	0.00	3,276.30	3,344.10	3,450.30	3,630.00	3,768.90	3,872.40	3,872.40	3,872.40	3,872.40	3,872.40	3,872.40	3,872.40
O–1E	0.00	0.00	0.00	2,638.50	2,818.20	2,922.30	3,028.50	3,133.20	3,276.30	3,276.30	3,276.30	3,276.30	3,276.30	3,276.30	3,276.30

WARRANT OFFICERS[1]

Pay Grade	YEARS OF SERVICE COMPUTED UNDER SECTION 205 OF TITLE 37, UNITED STATES CODE														
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	4,965.60	5,136.00	5,307.00	5,478.60
W–4	2,889.60	3,108.60	3,198.00	3,285.90	3,437.10	3,586.50	3,737.70	3,885.30	4,038.00	4,184.40	4,334.40	4,480.80	4,632.60	4,782.00	4,935.30
W–3	2,638.80	2,862.00	2,862.00	2,898.90	3,017.40	3,152.40	3,330.90	3,439.50	3,558.30	3,693.90	3,828.60	3,963.60	4,098.30	4,233.30	4,368.90
W–2	2,321.40	2,454.00	2,569.80	2,654.10	2,726.40	2,875.20	2,984.40	3,093.90	3,200.40	3,318.00	3,438.90	3,559.80	3,680.10	3,801.30	3,801.30
W–1	2,049.90	2,217.60	2,330.10	2,402.70	2,511.90	2,624.70	2,737.80	2,850.00	2,963.70	3,077.10	3,189.90	3,275.10	3,275.10	3,275.10	3,275.10

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.

ENLISTED MEMBERS[1]

Pay Grade	YEARS OF SERVICE COMPUTED UNDER SECTION 205 OF TITLE 37, UNITED STATES CODE														
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
E–9[2]	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	3,423.90	3,501.30	3,599.40	3,714.60	3,830.40	3,944.10	4,098.30	4,251.30	4,467.00
E–8	0.00	0.00	0.00	0.00	0.00	2,858.10	2,940.60	3,017.70	3,110.10	3,210.30	3,314.70	3,420.30	3,573.00	3,724.80	3,937.80
E–7	1,986.90	2,169.00	2,251.50	2,332.50	2,417.40	2,562.90	2,645.10	2,726.40	2,808.00	2,892.60	2,975.10	3,057.30	3,200.40	3,292.80	3,526.80
E–6	1,701.00	1,870.80	1,953.60	2,033.70	2,117.40	2,254.50	2,337.30	2,417.40	2,499.30	2,558.10	2,602.80	2,602.80	2,602.80	2,602.80	2,602.80
E–5	1,561.50	1,665.30	1,745.70	1,828.50	1,912.80	2,030.10	2,110.20	2,193.30	2,193.30	2,193.30	2,193.30	2,193.30	2,193.30	2,193.30	2,193.30
E–4	1,443.60	1,517.70	1,599.60	1,680.30	1,752.30	1,752.30	1,752.30	1,752.30	1,752.30	1,752.30	1,752.30	1,752.30	1,752.30	1,752.30	1,752.30
E–3	1,303.50	1,385.40	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50	1,468.50
E–2	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30	1,239.30
E–1	[3] 1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50	1,105.50

[1] *Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.*

[2] *Subject to the preceding footnote, while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, basic pay for this grade is $5,382.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.*

[3] *In the case of members in pay grade E–1 who have served less than 4 months on active duty, the rate of basic pay is $1,022.70.*

SEC. 602. BASIC PAY RATE FOR CERTAIN RESERVE COMMISSIONED OFFICERS WITH PRIOR SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER.

(a) SERVICE CREDIT.—Section 203(d) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking "active service as a warrant officer or as a warrant officer and an enlisted member" and inserting "service described in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) Service to be taken into account for purposes of computing basic pay under paragraph (1) is as follows:

"(A) Active service as a warrant officer or as a warrant officer and an enlisted member, in the case of—

"(i) a commissioned officer on active duty who is paid from funds appropriated for active-duty personnel; or

"(ii) a commissioned officer on active Guard and Reserve duty.

"(B) In the case of a commissioned officer (not referred to in subparagraph (A)(ii)) who is paid from funds appropriated for reserve personnel, service as a warrant officer, or as a warrant officer and enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply with respect to months beginning on or after the date of the enactment of this Act.

SEC. 603. RESERVE COMPONENT COMPENSATION FOR DISTRIBUTED LEARNING ACTIVITIES PERFORMED AS INACTIVE-DUTY TRAINING.

(a) COMPENSATION AUTHORIZED.—Section 206(d) of title 37, United States Code, is amended—

(1) by striking "This section" and inserting "(1) Except as provided in paragraph (2), this section";

(2) by striking "an armed force" and inserting "a uniformed service"; and

(3) by adding at the end the following new paragraph:

"(2) A member of the Selected Reserve of the Ready Reserve may be paid compensation under this section at a rate and under terms determined by the Secretary of Defense, but not to exceed the rate otherwise applicable to the member under subsection (a), upon the member's successful completion of a course of instruction undertaken by the member using electronic-based distributed learning methodologies to accomplish training requirements related to unit readiness or mobilization, as directed for the member by the Secretary concerned. The compensation may be paid regardless of whether the course of instruction was under the direct control of the Secretary concerned or included the presence of an instructor.".

(b) DEFINITION OF INACTIVE-DUTY TRAINING.—Section 101(22) of such title is amended by inserting after "but" the following: "(except as provided in section 206(d)(2) of this title)".

SEC. 604. SUBSISTENCE ALLOWANCES.

(a) BASELINE AMOUNT FOR CALCULATING ALLOWANCE FOR ENLISTED MEMBERS.—Section 402(b) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(4) For purposes of implementing paragraph (2), the monthly rate of basic allowance for subsistence that was in effect for an enlisted member for calendar year 2001 is deemed to be $233.".

(b) RATE FOR ENLISTED MEMBERS WHEN MESSING FACILITIES NOT AVAILABLE.—(1) Notwithstanding section 402 of title 37, United States Code, the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may prescribe a rate of basic allowance for subsistence to apply to enlisted members of the uniformed services when messing facilities of the United States are not available. The rate may be higher than the rate of basic allowance for subsistence that would otherwise be applicable to the members under that section, but may not be higher than the highest rate that was in effect for enlisted members of the uniformed services under those circumstances before the date of the enactment of this Act.

(2) Paragraph (1) shall cease to be effective on the first day of the first month for which the basic allowance for subsistence calculated for enlisted members of the uniformed services under section 402 of title 37, United States Code, exceeds the rate of the basic allowance for subsistence prescribed under paragraph (1).

(c) CONTINUATION OF BAS TRANSITIONAL AUTHORITY.—Notwithstanding the repeal of subsections (c) through (f) of section 602 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 37 U.S.C. 402 note) by section 603(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–145), the basic allowance for subsistence shall be paid in accordance with such subsections for October, November, and December of 2001.

(d) ELIGIBILITY FOR SUPPLEMENTAL SUBSISTENCE ALLOWANCE.—Section 402a(b)(1) of title 37, United States Code, is amended by inserting "with dependents" after "a member of the armed forces".

SEC. 605. ELIGIBILITY FOR TEMPORARY HOUSING ALLOWANCE WHILE IN TRAVEL OR LEAVE STATUS BETWEEN PERMANENT DUTY STATIONS.

(a) REPEAL OF PAY GRADE LIMITATION.—Section 403(i) of title 37, United States Code, is amended by striking "who is in a pay grade E-4 (4 or more years of service) or above".

(b) EFFECTIVE DATE; APPLICATION.—The amendment made by this section shall take effect on January 1, 2003, and apply to members of the uniformed services in a travel or leave status between permanent duty stations on or after that date.

SEC. 606. UNIFORM ALLOWANCE FOR OFFICERS.

(a) RELATION TO INITIAL UNIFORM ALLOWANCE.—Section 416(b)(1) of title 37, United States Code, is amended by striking "$200" and inserting "$400".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as of October 1, 2000.

SEC. 607. FAMILY SEPARATION ALLOWANCE FOR MEMBERS ELECTING UNACCOMPANIED TOUR BY REASON OF HEALTH LIMITATIONS OF DEPENDENTS.

(a) ENTITLEMENT TO ALLOWANCE.—Section 427(c) of title 37, United States Code, is amended—

(1) by striking "A member" in the first sentence and inserting "(1) Except as provided in paragraph (2) or (3), a member";

(2) in the second sentence, by striking "The Secretary concerned may waive the preceding sentence" and inserting the following:

"(3) The Secretary concerned may waive paragraph (1)"; and

(3) by inserting after the first sentence the following new paragraph:

"(2) The prohibition in the first sentence of paragraph (1) does not apply to a member who elects to serve an unaccompanied tour of duty because a dependent cannot accompany the member to or at that permanent station for certified medical reasons.".

(b) APPLICATION OF AMENDMENT.—Paragraph (2) of section 427(c) of title 37, United States Code, as added by subsection (a)(3), shall apply with respect to pay periods beginning on or after January 1, 2002, for a member of the uniformed services covered by such paragraph regardless of the date on which the member first made the election to serve an unaccompanied tour of duty.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking "January 1, 2002" and inserting "January 1, 2003".

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is *amended by striking "December 31, 2001" and inserting "December 31, 2002".*

(b) Reenlistment Bonus for Active Members.—Section 308(g) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(c) Enlistment Bonus for Active Members.—Section 309(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(d) Retention Bonus for Members With Critical Military Skills.—Section 323(i) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

SEC. 615. HAZARDOUS DUTY PAY FOR MEMBERS OF MARITIME VISIT, BOARD, SEARCH, AND SEIZURE TEAMS.

(a) Additional Type of Duty Eligible for Pay.—Section 301(a) of title 37, United States Code, is amended—

(1) in paragraph (10), by striking "or" at the end;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) involving regular participation as a member of a team conducting visit, board, search, and seizure operations aboard vessels in support of maritime interdiction operations; or".

(b) Monthly Amount.—Subsection (c) of such section is amended—

(1) in paragraph (1), by striking "(10)" and inserting "(11)"; and

(2) in paragraph (2)(A), by striking "(11)" and inserting "(12)".

(c) Application of Amendment.—Paragraph (11) of section 301(a) of title 37, United States Code, as added by subsection (a)(3), shall apply to duty described in such paragraph that is performed on or after January 1, 2002.

SEC. 616. ELIGIBILITY FOR CERTAIN CAREER CONTINUATION BONUSES FOR EARLY COMMITMENT TO REMAIN ON ACTIVE DUTY.

(a) Aviation Officers.—Section 301b(b)(4) of title 37, United States Code, is amended by inserting before the period at the end the following: "or is within one year of completing such commitment".

(b) Surface Warfare Officers.—Section 319(a)(3) of such title is amended by inserting before the period at the end the following: "or is within one year of completing such commitment".

SEC. 617. SECRETARIAL DISCRETION IN PRESCRIBING SUBMARINE DUTY INCENTIVE PAY RATES.

(a) Authority of Secretary of the Navy; Maximum Rate.—Subsection (b) of section 301c of title 37, United States Code, is amended to read as follows:

"(b) Monthly Rates.—The Secretary of the Navy shall prescribe the monthly rates of submarine duty incentive pay, except that the maximum monthly rate may not exceed $1,000.".

(b) Conforming and Clerical Amendments.—Such section is further amended—

(1) in subsection (a)—

(A) by inserting "Eligibility Requirements.—" after "(a)"; and

(B) by striking "set forth in" each place it appears and inserting "prescribed pursuant to";

(2) in subsection (c), by inserting "Exceptions.—" after "(c)"; and

(3) in subsection (d)—

(A) by inserting "Applicability to Certain Naval Reserve Duty.—" after "(d)"; and

(B) by striking "authorized by" and inserting "prescribed pursuant to".

(c) Transition.—The tables set forth in subsection (b) of section 301c of title 37, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply until the later of the following:

(1) January 1, 2002.

(2) The date on which the Secretary of the Navy prescribes new submarine duty incentive pay rates as authorized by the amendment made by subsection (a).

SEC. 618. CONFORMING ACCESSION BONUS FOR DENTAL OFFICERS AUTHORITY WITH AUTHORITIES FOR OTHER SPECIAL PAY AND BONUSES.

Section 302h(a)(1) of title 37, United States Code, is amended by striking "the date of the enactment of this section, and ending on September 30, 2002" and inserting "September 23, 1996, and ending on December 31, 2002".

SEC. 619. MODIFICATION OF ELIGIBILITY REQUIREMENTS FOR INDIVIDUAL READY RESERVE BONUS FOR REENLISTMENT, ENLISTMENT, OR EXTENSION OF ENLISTMENT.

(a) Eligibility Based on Qualifications in Critically Short Wartime Skills or Specialties.—Subsection (a) of section 308h of title 37, United States Code, is amended to read as follows:

"(a) Authority and Eligibility Requirements.—(1) The Secretary concerned may pay a bonus as provided in subsection (b) to an eligible person who reenlists, enlists, or voluntarily extends an enlistment in a reserve component of an armed force for assignment to an element (other than the Selected Reserve) of the Ready Reserve of that armed force if the reenlistment, enlistment, or extension is for a period of three years, or for a period of six years, beyond any other period the person is obligated to serve.

"(2) A person is eligible for a bonus under this section if the person—

"(A) is or has been a member of an armed force;

"(B) is qualified in a skill or specialty designated by the Secretary concerned as a critically short wartime skill or critically short wartime specialty; and

"(C) has not failed to complete satisfactorily any original term of enlistment in the armed forces.

"(3) For the purposes of this section, the Secretary concerned may designate a skill or specialty as a critically short wartime skill or critically short wartime specialty for an armed force under the jurisdiction of the Secretary if the Secretary determines that—

"(A) the skill or specialty is critical to meet wartime requirements of the armed force; and

"(B) there is a critical shortage of personnel in that armed force who are qualified in that skill or specialty.".

(b) Clerical Amendments.—Such section is further amended—

(1) in subsection (b), by inserting "Bonus Amounts; Payment.—" after "(b)";

(2) in subsection (c), by inserting "Repayment of Bonus.—" after "(c)";

(3) in subsection (d), by inserting "Treatment of Reimbursement Obligation.—" after "(d)";

(4) in subsection (e), by inserting "Effect of Bankruptcy.—" after "(e)";

(5) in subsection (f), by inserting "Regulations.—" after "(f)"; and

(6) in subsection (g), by inserting "Termination of Authority.—" after "(g)".

(c) Regulations.—Not later than 180 days after the date of the enactment of this Act, the Secretaries of the military departments shall prescribe such regulations as may be necessary for administering subsection (a) of section 308h of title 37, United States Code, as amended by this section.

(d) Application of Amendment.—Subsection (a) of section 308h of title 37, United States Code, as amended by this section, shall apply with respect to reserve component reenlistments, enlistments, and extensions of enlistments that are executed on or after the first day of the first month that begins more than 180 days after the date of the enactment of this Act. Subsection (a) of such section 308h, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to reserve component reenlistments, enlistments, and extensions of enlistments that are executed before the first day of that first month.

SEC. 620. INSTALLMENT PAYMENT AUTHORITY FOR 15-YEAR CAREER STATUS BONUS.

(a) Member Election.—Section 322(d) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "paid in a single lump sum of" and inserting "equal to";

(2) by redesignating paragraph (2) as paragraph (4), and in such paragraph, by striking "The bonus" and inserting "The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments,"; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) A member electing to receive the bonus under this section shall elect one of the following payment options:

"(A) A single lump sum of $30,000.

"(B) Two installments of $15,000 each.

"(C) Three installments of $10,000 each.

"(D) Four installments of $7,500 each.

"(E) Five installments of $6,000 each.

"(3) If a member elects installment payments under paragraph (2), the second installment (and subsequent installments, as applicable) shall be paid on the earlier of the following dates:

"(A) The annual anniversary date of the payment of the first installment.

"(B) January 15 of each succeeding calendar year.".

(b) Application to Existing Agreements.—The Secretary concerned (as defined in section 101(5) of title 37, United States Code) shall extend to each member of the uniformed services who has executed the written agreement required by subsection (a)(2) of section 322 of such title before the date of the enactment of this Act, but who has not received the lump sum payment by that date, an opportunity to make the election authorized by subsection (d) of such section, as amended by this section.

SEC. 621. ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.

(a) Bonus Authorized.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 324. Special pay: accession bonus for new officers in critical skills

"(a) Accession Bonus Authorized.—Under regulations prescribed by the Secretary concerned, a person who executes a written agreement to accept a commission as an officer of the armed forces and serve on active duty in a designated critical officer skill for the period specified in the agreement may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(b) Designation of Critical Officer Skills.—(1) The Secretary concerned shall designate the critical officer skills for the purposes of this section. A skill may be designated as a critical officer skill for an armed force under this subsection if—

"(1) in order to meet requirements of the armed force, it is critical for the armed force to have a sufficient number of officers who are qualified in that skill; and

"(2) in order to mitigate a current or projected significant shortage of personnel in the armed force who are qualified in that skill, it is critical to access into that armed force in sufficient numbers persons who are qualified in that skill or are to be trained in that skill.

"(c) LIMITATION ON AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $60,000.

"(d) PAYMENT METHOD.—Upon acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount of the accession bonus payable under the agreement becomes fixed. The agreement shall specify whether the accession bonus will be paid by the Secretary in a lump sum or installments.

"(e) RELATION TO OTHER ACCESSION BONUS AUTHORITY.—An individual may not receive an accession bonus under this section and section 302d, 302h, 302j, or 312b of this title for the same period of service.

"(f) REPAYMENT FOR FAILURE TO COMMENCE OR COMPLETE OBLIGATED SERVICE.—(1) An individual who, after having received all or part of the accession bonus under an agreement referred to in subsection (a), fails to accept a commission as an officer or to commence or complete the total period of active duty service specified in the agreement shall repay to the United States the amount that bears the same ratio to the total amount of the bonus authorized for such person as the unserved part of the period of agreed active duty service bears to the total period of the agreed active duty service. However, the amount required to be repaid by the individual may not exceed the amount of the accession bonus that was paid to the individual.

"(2) Subject to paragraph (3), an obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(3) The Secretary concerned may waive, in whole or in part, the repayment requirement under paragraph (1) on a case-by-case basis if the Secretary concerned determines that repayment would be against equity and good conscience or would be contrary to the best interests of the United States.

"(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2002.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"324. Special pay: accession bonus for new officers in critical skills.".

SEC. 622. EDUCATION SAVINGS PLAN TO ENCOURAGE REENLISTMENTS AND EXTENSIONS OF SERVICE IN CRITICAL SPECIALTIES.

(a) ESTABLISHMENT OF SAVINGS PLAN.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 324, as added by section 621, the following new section:

"§ 325. Incentive bonus: savings plan for education expenses and other contingencies

"(a) BENEFIT AND ELIGIBILITY.—The Secretary concerned may purchase United States savings bonds under this section for a member of the armed forces who is eligible as follows:

"(1) A member who, before completing three years of service on active duty, enters into a commitment to perform qualifying service.

"(2) A member who, after completing three years of service on active duty, but not more than nine years of service on active duty, enters into a commitment to perform qualifying service.

"(3) A member who, after completing nine years of service on active duty, enters into a commitment to perform qualifying service.

"(b) QUALIFYING SERVICE.—For the purposes of this section, qualifying service is service on active duty in a specialty designated by the Secretary concerned as critical to meet requirements (whether or not such specialty is designated as critical to meet wartime or peacetime requirements) for a period that—

"(1) is not less than six years; and

"(2) does not include any part of a period for which the member is obligated to serve on active duty under an enlistment or other agreement for which a benefit has previously been paid under this section.

"(c) FORMS OF COMMITMENT TO ADDITIONAL SERVICE.—For the purposes of this section, a commitment means—

"(1) in the case of an enlisted member, a reenlistment; and

"(2) in the case of a commissioned officer, an agreement entered into with the Secretary concerned.

"(d) AMOUNTS OF BONDS.—The total of the face amounts of the United States savings bonds authorized to be purchased for a member under this section for a commitment shall be as follows:

"(1) In the case of a purchase for a member under paragraph (1) of subsection (a), $5,000.

"(2) In the case of a purchase for a member under paragraph (2) of subsection (a), the amount equal to the excess of $15,000 over the total of the face amounts of any United States savings bonds previously purchased for the member under this section.

"(3) In the case of a purchase for a member under paragraph (3) of subsection (a), the amount equal to the excess of $30,000 over the total of the face amounts of any United States savings bonds previously purchased for the member under this section.

"(e) TOTAL AMOUNT OF BENEFIT.—The total amount of the benefit authorized for a member when United States savings bonds are purchased for the member under this section by reason of a commitment by that member shall be the sum of—

"(1) the purchase price of the United States savings bonds; and

"(2) the amounts that would be deducted and withheld for the payment of individual income taxes if the total amount computed under this subsection for that commitment were paid to the member as a bonus.

"(f) AMOUNT WITHHELD FOR TAXES.—The total amount payable for a member under subsection (e)(2) for a commitment by that member shall be withheld, credited, and otherwise treated in the same manner as amounts deducted and withheld from the basic pay of the member.

"(g) REPAYMENT FOR FAILURE TO COMPLETE OBLIGATED SERVICE.—(1) If a person fails to complete the qualifying service for which the person is obligated under a commitment for which a benefit has been paid under this section, the person shall refund to the United States the amount that bears the same ratio to the total amount paid for the person (as computed under subsection (e)) for that particular commitment as the uncompleted part of the period of qualifying service bears to the total period of the qualifying service for which obligated.

"(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment or other agreement under this section does not discharge the person signing such enlistment or other agreement from a debt arising under the enlistment or agreement, respectively, or this subsection.

"(h) RELATIONSHIP TO OTHER SPECIAL PAYS.—The benefit authorized under this section is in addition to any other bonus or incentive or special pay that is paid or payable to a member under any other provision of this chapter for any portion of the same qualifying service.

"(i) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 324, as added by section 621(b), the following new item:

"325. Incentive bonus: savings plan for education expenses and other contingencies.".

(b) APPLICATION OF AMENDMENT.—Section 325 of title 37, United States Code, as added by subsection (a), shall apply with respect to reenlistments and other agreements for qualifying service, as described in that section, that are entered into on or after October 1, 2001.

(c) FUNDING FOR FISCAL YEAR 2002.—Of the amount authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2002 by section 421, $20,000,000 may be available in that fiscal year for the purchase of United States savings bonds under section 325 of title 37, United States Code, as added by subsection (a).

SEC. 623. CONTINUATION OF PAYMENT OF SPECIAL AND INCENTIVE PAY AT UNREDUCED RATES DURING STOP LOSS PERIODS.

(a) AUTHORITY TO CONTINUE.—(1) Chapter 17 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 909. Special and incentive pay: payment at unreduced rates during suspension of personnel laws

"(a) AUTHORITY TO CONTINUE PAYMENT AT UNREDUCED RATES.—To ensure fairness and recognize the contributions of members of the armed forces to military essential missions, the Secretary of the military department concerned may authorize members who are involuntarily retained on active duty under section 123 or 12305 of title 10 or any other provision of law and who, immediately before retention on active duty, were entitled or eligible for special pay or incentive pay under chapter 5 of this title, to receive that special pay or incentive pay for qualifying service performed during the retention period, without a reduction in the payment rate below the rate the members received immediately before retention on active duty, notwithstanding any requirement otherwise applicable to that special pay or incentive pay that would reduce the payment rate by reason of the years of service of the members.

"(b) SUSPENSION DURING TIME OF WAR.—Subsection (a) does not apply with respect to a special pay or incentive pay under chapter 5 of this title, whenever the authority to provide that special pay or incentive pay is suspended by the President or the Secretary of Defense during a time of war.

"(c) QUALIFYING SERVICE DEFINED.—In this section, the term 'qualifying service' means service for which a particular special pay or incentive pay is payable under the authority of a provision of chapter 5 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"909. Special and incentive pay: payment at unreduced rates during suspension of personnel laws.".

(b) APPLICATION OF AMENDMENTS.—Section 909 of title 37, United States Code, as added by *subsection (a)(1), shall apply with respect to pay periods beginning after September 11, 2001.*

SEC. 624. RETROACTIVE AUTHORIZATION FOR IMMINENT DANGER PAY FOR SERVICE IN CONNECTION WITH OPERATION ENDURING FREEDOM.

(a) RETROACTIVE AUTHORIZATION.—The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the areas specified in subsection (b) in connection with the contingency operation known as Operation Enduring Freedom with respect to periods of duty served in those areas during the period beginning on September 19, 2001, and ending October 31, 2001.

(b) SPECIFIED AREAS.—The areas referred to in subsection (a) are the following:

(1) The land areas of Kyrgyzstan, Oman, the United Arab Emirates, and Uzbekistan.

(2) The Red Sea, the Gulf of Aden, the Gulf of Oman, and the Arabian Sea (that portion north of 10° north latitude and west of 68° east longitude).

Subtitle C—Travel and Transportation Allowances

SEC. 631. MINIMUM PER DIEM RATE FOR TRAVEL AND TRANSPORTATION ALLOWANCE FOR TRAVEL PERFORMED UPON A CHANGE OF PERMANENT STATION AND CERTAIN OTHER TRAVEL.

Section 404(d) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(5) Effective January 1, 2003, the per diem rates established under paragraph (2)(A) for travel performed in connection with a change of permanent station or for travel described in paragraph (2) or (3) of subsection (a) shall be equal to the standard per diem rates established in the Federal travel regulation for travel within the continental United States of civilian employees and their dependents, unless the Secretaries concerned determine that a higher rate for members is more appropriate.".

SEC. 632. ELIGIBILITY FOR PAYMENT OF SUBSISTENCE EXPENSES ASSOCIATED WITH OCCUPANCY OF TEMPORARY LODGING INCIDENT TO REPORTING TO FIRST PERMANENT DUTY STATION.

(a) INCLUSION OF OFFICERS.—Subsection (a)(2)(C) of section 404a of title 37, United States Code, is amended by striking "an enlisted member" and inserting "a member".

(b) INCREASE IN MAXIMUM DAILY AUTHORIZED RATE.—Subsection (e) of such section is amended by striking "$110" and inserting "$180".

(c) EFFECTIVE DATE; APPLICATION.—The amendments made by this section shall take effect on January 1, 2002, and apply with respect to an order issued on or after that date to a member of the uniformed services to report to the member's first permanent duty station.

SEC. 633. REIMBURSEMENT OF MEMBERS FOR MANDATORY PET QUARANTINE FEES FOR HOUSEHOLD PETS.

(a) INCREASE IN MAXIMUM REIMBURSEMENT AMOUNT.—Section 406(a)(1) of title 37, United States Code, is amended in the last sentence by striking "$275" and inserting "$550".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply with respect to the reimbursement of members of the uniformed services for mandatory pet quarantine fees incurred in connection with the mandatory quarantine of a household pet underway on the date of the enactment of this Act or beginning on or after that date.

SEC. 634. INCREASED WEIGHT ALLOWANCE FOR TRANSPORTATION OF BAGGAGE AND HOUSEHOLD EFFECTS FOR JUNIOR ENLISTED MEMBERS.

(a) INCREASED WEIGHT ALLOWANCES.—The table in section 406(b)(1)(C) of title 37, United States Code, is amended—

(1) by striking the two footnotes; and

(2) by striking the items relating to pay grade E–1 through E–4 and inserting the following new items:

"E–4	7,000	8,000
"E–3	5,000	8,000
"E–2	5,000	8,000
"E–1	5,000	8,000".

(b) EFFECTIVE DATE; APPLICATION.—The amendments made by this section shall take effect on January 1, 2003, and apply with respect to an order in connection with a change of temporary or permanent station issued on or after that date.

SEC. 635. ELIGIBILITY OF ADDITIONAL MEMBERS FOR DISLOCATION ALLOWANCE.

(a) ELIGIBILITY FOR PRIMARY DISLOCATION ALLOWANCE.—Subsection (a) of section 407 of title 37, United States Code, is amended—

(1) in paragraph (2), by adding at the end the following new subparagraphs:

"(F) A member whose dependents actually move from the member's place of residence in connection with the performance of orders for the member to report to the member's first permanent duty station if the move—

"(i) is to the permanent duty station or a designated location; and

"(ii) is an authorized move.

"(G) Each of two members married to each other who—

"(i) is without dependents;

"(ii) actually moves with the member's spouse to a new permanent duty station; and

"(iii) is assigned to family quarters of the United States at or in the vicinity of the new duty station."; and

(2) by adding at the end the following new paragraph:

"(4) If a primary dislocation allowance is payable to two members described in paragraph (2)(G) who are married to each other, the amount of the allowance payable to such members shall be the amount otherwise payable under this subsection to the member in the higher pay grade, or to either member if both members are in the same pay grade. The allowance shall be paid jointly to both members.".

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by inserting "(except as provided in subsection (a)(2)(F))" after "first duty station".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to an order issued on or after January 1, 2002, in connection with a change of permanent station or for a member of the uniformed services to report to the member's first permanent duty station.

SEC. 636. PARTIAL DISLOCATION ALLOWANCE AUTHORIZED FOR HOUSING MOVES ORDERED FOR GOVERNMENT CONVENIENCE.

(a) AUTHORIZATION OF PARTIAL DISLOCATION ALLOWANCE.—Section 407 of title 37, United States Code is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) PARTIAL DISLOCATION ALLOWANCE.—(1) Under regulations prescribed by the Secretary concerned, a member ordered to occupy or vacate family housing provided by the United States to permit the privatization or renovation of housing or for any other reason (other than pursuant to a permanent change of station) may be paid a partial dislocation allowance of $500.

"(2) Effective on the same date that the monthly rates of basic pay for all members are increased under section 1009 of this title or another provision of law, the Secretary of Defense shall adjust the rate of the partial dislocation allowance authorized by this subsection by the percentage equal to the average percentage increase in the rates of basic pay.

"(3) Subsections (c) and (d) do not apply to the partial dislocation allowance authorized by this subsection.".

(b) APPLICATION OF AMENDMENT.—Subsection (f) of title 37, United States Code, as added by subsection (a)(2), shall apply with respect to an order to move for a member of a uniformed service that is issued on or after the date of the enactment of this Act.

SEC. 637. ALLOWANCES FOR TRAVEL PERFORMED IN CONNECTION WITH MEMBERS TAKING AUTHORIZED LEAVE BETWEEN CONSECUTIVE OVERSEAS TOURS.

Section 411b(a)(1) of title 37, United States Code, is amended by striking ", or his designee, or to a place no farther distant than his home of record".

SEC. 638. TRAVEL AND TRANSPORTATION ALLOWANCES FOR FAMILY MEMBERS TO ATTEND BURIAL OF A DECEASED MEMBER OF THE UNIFORMED SERVICES.

(a) CONSOLIDATION OF AUTHORITIES.—Section 411f of title 37, United States Code, is amended to read as follows:

"§ 411f. Travel and transportation allowances: transportation for survivors of deceased member to attend the member's burial ceremonies

"(a) ALLOWANCES AUTHORIZED.—(1) The Secretary concerned may provide round trip travel and transportation allowances to eligible relatives of a member of the uniformed services who dies while on active duty or inactive duty in order that the eligible relatives may attend the burial ceremony of the deceased member.

"(2) The Secretary concerned may also provide round trip travel and transportation allowances to an attendant who accompanies an eligible relative provided travel and transportation allowances under paragraph (1) for travel to the burial ceremony if the Secretary concerned determines that—

"(A) the accompanied eligible relative is unable to travel unattended because of age, physical condition, or other justifiable reason; and

"(B) there is no other eligible relative of the deceased member traveling to the burial ceremony who is eligible for travel and transportation allowances under paragraph (1) and is qualified to serve as the attendant.

"(b) LIMITATIONS.—(1) Except as provided in paragraphs (2) and (3), allowances under subsection (a) are limited to travel and transportation to a location in the United States, Puerto Rico, and the possessions of the United States and may not exceed the rates for two days and the time necessary for such travel.

"(2) If a deceased member was ordered or called to active duty from a place outside the United States, Puerto Rico, or the possessions of the United States, the allowances authorized under subsection (a) may be provided to and from such place and may not exceed the rates for two days and the time necessary for such travel.

"(3) If a deceased member is interred in a cemetery maintained by the American Battle Monuments Commission, the travel and transportation allowances authorized under subsection (a) may be provided to and from such cemetery and may not exceed the rates for two days and the time necessary for such travel.

"(c) ELIGIBLE RELATIVES.—(1) The following members of the family of a deceased member of the uniformed services are eligible for the travel and transportation allowances under subsection (a)(1):

"(A) The surviving spouse (including a remarried surviving spouse) of the deceased member.

"(B) The unmarried child or children of the deceased member referred to in section 401(a)(2) of this title.

"(C) If no person described in subparagraph (A) or (B) is provided travel and transportation allowances under subsection (a)(1), the parent or parents of the deceased member (as defined in section 401(b)(2) of this title).

"(2) If no person described in paragraph (1) is provided travel and transportation allowances under subsection (a)(1), the travel and transportation allowances may be provided to—

"(A) the person who directs the disposition of the remains of the deceased member under section 1482(c) of title 10, or, in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under such section to direct the disposition of the remains if individual identification had been made; and

"(B) up to two additional persons closely related to the deceased member who are selected by the person referred to in subparagraph (A).

"(d) Expanded Allowances Related to Recovery of Remains From Vietnam Conflict.—(1) The Secretary of Defense may provide round trip travel and transportation allowances for the family of a deceased member of the armed forces who died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains are returned to the United States in order that the family members may attend the burial ceremony of the deceased member.

"(2) The allowances under paragraph (1) shall include round trip transportation from the places of residence of such family members to the burial ceremony and such living expenses and other allowances as the Secretary of Defense considers appropriate.

"(3) For purposes of paragraph (1), eligible family members of the deceased member of the armed forces include the following:

"(A) The surviving spouse (including a remarried surviving spouse) of the deceased member.

"(B) The child or children, including children described in section 401(b)(1) of this title, of the deceased member.

"(C) The parent or parents of the deceased member (as defined in section 401(b)(2) of this title).

"(D) If no person described in subparagraph (A), (B), or (C) is provided travel and transportation allowances under paragraph (1), any brothers, sisters, halfbrothers, halfsisters, stepbrothers, and stepsisters of the deceased member.

"(e) Burial Ceremony Defined.—In this section, the term 'burial ceremony' includes the following:

"(1) An interment of casketed or cremated remains.

"(2) A placement of cremated remains in a columbarium.

"(3) A memorial service for which reimbursement is authorized under section 1482(d)(2) of title 10.

"(4) A burial of commingled remains that cannot be individually identified in a common grave in a national cemetery.

"(f) Regulations.—The Secretaries concerned shall prescribe uniform regulations to carry out this section.".

(b) Repeal of Superseded Laws; Conforming Amendment.—(1) Section 1482 of title 10, United States Code, is amended by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 1481(a)(9) of such title is amended by striking "section 1482(g)" and inserting "section 1482(f)".

(3) The Funeral Transportation and Living Expense Benefits Act of 1974 (Public Law 93-257; 37 U.S.C. 406 note) is repealed.

(c) Application of Amendment.—Section 411f of title 37, United States Code, as amended by subsection (a), shall apply with respect to burial ceremonies of deceased members of the uniformed services that occur on or after the date of the enactment of this Act.

SEC. 639. FUNDED STUDENT TRAVEL FOR FOREIGN STUDY UNDER AN EDUCATION PROGRAM APPROVED BY A UNITED STATES SCHOOL.

(a) Availability of Allowance.—Subsection (a) of section 430 of title 37, United States Code, is amended to read as follows:

"(a) Availability of Allowance.—(1) Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid the allowance set forth in subsection (b) if the member—

"(A) is assigned to a permanent duty station outside the continental United States;

"(B) is accompanied by the member's dependents at or near that duty station (unless the member's only dependents are in the category of dependent described in paragraph (2)); and

"(C) has an eligible dependent child described in paragraph (2).

"(2) A eligible dependent child of a member referred to in paragraph (1)(C) is a child who—

"(A) is under 23 years of age and unmarried;

"(B) is enrolled in a school in the continental United States for the purpose of obtaining a formal education; and

"(C) is attending that school or is participating in a foreign study program approved by that school and, pursuant to that foreign study program, is attending a school outside the United States for a period of not more than one year.".

(b) Type of Allowance Authorized.—Subsection (b) of such section is amended—

(1) by inserting "Allowance Authorized.—" after "(b)";

(2) in the first sentence of paragraph (1), by striking "each unmarried dependent child," and all that follows through "the school being attended" and inserting "each eligible dependent child of the member of one annual trip between the school being attended by that child"; and

(3) by adding at the end the following new paragraph:

"(3) The transportation allowance paid under paragraph (1) for an annual trip of an eligible dependent child who is attending a school outside the United States may not exceed the transportation allowance that would be paid under this section for the annual trip of that child between the child's school in the continental United States and the member's duty station outside the continental United States and return.".

(c) Clerical and Conforming Amendments.—Such section is further amended—

(1) in subsection (c), by inserting "Use of Airlift and Sealift Command.—" after "(c)";

(2) in subsection (d)—

(A) by inserting "Attendance at School in Alaska or Hawaii.—" after "(d)"; and

(B) by striking "subsection (a)(3)" and inserting "subsection (a)(2)";

(3) in subsection (e), by inserting "Exception.—" after "(e)"; and

(4) in subsection (f), by inserting "Definitions.—" after "(f)".

(d) Application of Amendments.—The amendments made by this section shall apply with respect to travel described in subsection (b) of section 430 of title 37, United States Code, as amended by this section, that commences on or after the date of the enactment of this Act.

Subtitle D—Retirement and Survivor Benefit Matters

SEC. 641. CONTINGENT AUTHORITY FOR CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS' DISABILITY COMPENSATION AND ENHANCEMENT OF SPECIAL COMPENSATION AUTHORITY.

(a) Restoration of Retired Pay Benefits.—Chapter 71 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation; contingent authority

"(a) Payment of Both Retired Pay and Compensation.—Subject to subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38, subject to the enactment of qualifying offsetting legislation as specified in subsection (f).

"(b) Special Rule for Chapter 61 Career Retirees.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

"(c) Exception.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

"(d) Definitions.—In this section:

"(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

"(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(12) of title 38.

"(e) Effective Date.—If qualifying offsetting legislation (as defined in subsection (f)) is enacted, the provisions of subsection (a) shall take effect on—

"(1) the first day of the first month beginning after the date of the enactment of such qualifying offsetting legislation; or

"(2) the first day of the fiscal year that begins in the calendar year in which such legislation is enacted, if that date is later than the date specified in paragraph (1).

"(f) Effectiveness Contingent on Enactment of Offsetting Legislation.—(1) The provisions of subsection (a) shall be effective only if—

"(A) the President, in the budget for any fiscal year, proposes the enactment of legislation that, if enacted, would be qualifying offsetting legislation; and

"(B) after that budget is submitted to Congress, there is enacted qualifying offsetting legislation.

"(2) In this subsection:

"(A) The term 'qualifying offsetting legislation' means legislation (other than an appropriations Act) that includes provisions that—

"(i) offset fully the increased outlays to be made by reason of the provisions of subsection (a) for each of the first 10 fiscal years beginning after the date of the enactment of such legislation;

"(ii) expressly state that they are enacted for the purpose of the offset described in clause (i); and

"(iii) are included in full on the PayGo scorecard.

"(B) The term 'PayGo scorecard' means the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)) with respect to the ten fiscal years following the date of the enactment of the legislation that is qualifying offsetting legislation for purposes of this section.".

(b) Conforming Termination of Special Compensation Program.—Section 1413(a) of such title is amended by adding at the end the following new sentence: "If the provisions of subsection (a) of section 1414 of this title become effective in accordance with subsection (f) of that section, payments under this section shall be terminated effective as of the month beginning on the effective date specified in subsection (e) of that section.".

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation; contingent authority.".

(d) Prohibition of Retroactive Benefits.—If the provisions of subsection (a) of section 1414 of title 10, United States Code, becomes effective in accordance with subsection (f) of that section, no benefit may be paid to any person by reason of those provisions for any period before the effective date specified in subsection (e) of that section.

(e) Enhancement of Special Compensation Authority.—(1) Subsection (b) of section 1413 of title 10, United States Code, is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) For payments for months beginning with February 2002 and ending with December 2002, the following:

"(A) For any month for which the retiree has a qualifying service-connected disability rated as total, $300.

"(B) For any month for which the retiree has a qualifying service-connected disability rated as 90 percent, $200.

"(C) For any month for which the retiree has a qualifying service-connected disability rated as 80 percent or 70 percent, $100.

"(D) For any month for which the retiree has a qualifying service-connected disability rated as 60 percent, $50.

"(2) For payments for months beginning with January 2003 and ending with September 2004, the following:

"(A) For any month for which the retiree has a qualifying service-connected disability rated as total, $325.

"(B) For any month for which the retiree has a qualifying service-connected disability rated as 90 percent, $225.

"(C) For any month for which the retiree has a qualifying service-connected disability rated as 80 percent, $125.

"(D) For any month for which the retiree has a qualifying service-connected disability rated as 70 percent, $100.

"(E) For any month for which the retiree has a qualifying service-connected disability rated as 60 percent, $50.

"(3) For payments for months after September 2004, the following:

"(A) For any month for which the retiree has a qualifying service-connected disability rated as total, $350.

"(B) For any month for which the retiree has a qualifying service-connected disability rated as 90 percent, $250.

"(C) For any month for which the retiree has a qualifying service-connected disability rated as 80 percent, $150.

"(D) For any month for which the retiree has a qualifying service-connected disability rated as 70 percent, $125.

"(E) For any month for which the retiree has a qualifying service-connected disability rated as 60 percent, $50.".

(2) Subsection (d)(2) of such section is amended by striking "70 percent" and inserting "60 percent".

(3) The amendments made by this subsection shall take effect on February 1, 2002.

SEC. 642. SURVIVOR BENEFIT PLAN ANNUITIES FOR SURVIVING SPOUSES OF MEMBERS WHO DIE WHILE ON ACTIVE DUTY AND NOT ELIGIBLE FOR RETIREMENT.

(a) Surviving Spouse Annuity.—Paragraph (1) of section 1448(d) of title 10, United States Code, is amended to read as follows:

"(1) Surviving Spouse Annuity.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of—

"(A) a member who dies while on active duty after—

"(i) becoming eligible to receive retired pay;

"(ii) qualifying for retired pay except that the member has not applied for or been granted that pay; or

"(iii) completing 20 years of active service but before the member is eligible to retire as a commissioned officer because the member has not completed 10 years of active commissioned service; or

"(B) a member not described in subparagraph (A) who dies in line of duty while on active duty.".

(b) Computation of Annuity.—Section 1451(c)(1) of such title is amended—

(1) in subparagraph (A)—

(A) by striking "based upon his years of active service when he died." and inserting "when he died determined as follows:

"(i) In the case of an annuity provided under section 1448(d) of this title (other than in a case covered by clause (ii)), such retired pay shall be computed as if the member had been retired under section 1201 of this title on the date of the member's death with a disability rated as total.

"(ii) In the case of an annuity provided under section 1448(d)(1)(A) of this title by reason of the death of a member not in line of duty, such retired pay shall be computed based upon the member's years of active service when he died.

"(iii) In the case of an annuity provided under section 1448(f) of this title, such retired pay shall be computed based upon the member or former member's years of active service when he died computed under section 12733 of this title."; and

(2) in subparagraph (B)(i), by striking "if the member or former member" and all that follows and inserting "as determined under subparagraph (A).".

(c) Conforming Amendments.—(1) The heading for subsection (d) of section 1448 of such title is amended by striking "RETIREMENT-ELIGIBLE".

(2) Subsection (c)(3) of section 1451 of such title is amended by striking "1448(d)(1)(B) or 1448(d)(1)(C)" and inserting "clause (ii) or (iii) of section 1448(d)(1)(A)".

(d) Effective Date.—The amendments made by this section shall take effect as of September 10, 2001, and shall apply with respect to deaths of members of the Armed Forces occurring on or after that date.

Subtitle E—Other Matters

SEC. 651. PAYMENT FOR UNUSED LEAVE IN EXCESS OF 60 DAYS ACCRUED BY MEMBERS OF RESERVE COMPONENTS ON ACTIVE DUTY FOR ONE YEAR OR LESS.

(a) Eligibility.—Section 501(b)(5) of title 37, United States Code, is amended by—

(1) striking "or" at the end of subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) adding at the end the following new subparagraph:

"(D) by a member of a reserve component while serving on active duty, full-time National Guard duty, or active duty for training for a period of more than 30 days but not in excess of 365 days.".

(b) Application of Amendment.—Subparagraph (D) of section 501(b)(5) of title 37, United States Code, as added by subsection (a)(3), shall apply with respect to periods of active duty beginning on or after October 1, 2001.

SEC. 652. ADDITIONAL AUTHORITY TO PROVIDE ASSISTANCE FOR FAMILIES OF MEMBERS OF THE ARMED FORCES.

(a) Authority.—During fiscal year 2002, the Secretary of Defense may provide assistance for families of members of the Armed Forces serving on active duty in order to ensure that the children of such members obtain needed child care, education, and other youth services.

(b) Primary Purpose of Assistance.—The assistance authorized by this section should be directed primarily toward providing needed family support, including child care, education, and other youth services, for children of members of the Armed Forces who are deployed, assigned to duty, or ordered to active duty in connection with the contingency operation known as Operation Enduring Freedom.

SEC. 653. AUTHORIZATION OF TRANSITIONAL COMPENSATION AND COMMISSARY AND EXCHANGE BENEFITS FOR DEPENDENTS OF COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE AND THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION WHO ARE SEPARATED FOR DEPENDENT ABUSE.

(a) Commissioned Officers of the Public Health Service.—Section 221(a) of the Public Health Service Act (42 U.S.C. 213a(a)) is amended by adding at the end the following new paragraph:

"(17) Section 1059, Transitional compensation and commissary and exchange benefits for dependents of members separated for dependent abuse.".

(b) Commissioned Officers of the National Oceanic and Atmospheric Administration.—Section 3(a) of the Act entitled "An Act to revise, codify, and enact into law, title 10 of the United States Code, entitled 'Armed Forces', and title 32 of the United States Code, entitled 'National Guard'", approved August 10, 1956 (33 U.S.C. 857a(a)), is amended by adding at the end the following new paragraph:

"(17) Section 1059, Transitional compensation and commissary and exchange benefits for dependents of members separated for dependent abuse.".

SEC. 654. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL BY MEMBERS OF THE ARMED FORCES WITH CRITICAL MILITARY SKILLS.

(a) Authority To Transfer to Family Members.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

"§3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills

"(a) In General.—Subject to the provisions of this section, each Secretary concerned may, for the purpose of enhancing recruitment and retention of members of the Armed Forces with critical military skills and at such Secretary's sole discretion, permit an individual described in subsection (b) who is entitled to basic educational assistance under this subchapter to

elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

"(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the Armed Forces who, at the time of the approval by the Secretary concerned of the member's request to transfer entitlement to basic educational assistance under this section—

"(1) has completed six years of service in the Armed Forces;

"(2) either—

"(A) has a critical military skill designated by the Secretary concerned for purposes of this section; or

"(B) is in a military specialty designated by the Secretary concerned for purposes of this section as requiring critical military skills; and

"(3) enters into an agreement to serve at least four more years as a member of the Armed Forces.

"(c)- ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to basic educational assistance under this section may transfer the individual's entitlement as follows:

"(1) To the individual's spouse.

"(2) To one or more of the individual's children.

"(3) To a combination of the individuals referred to in paragraphs (1) and (2).

"(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by an individual under this section may not exceed 18 months.

"(e) DESIGNATION OF TRANSFEREE.—An individual transferring an entitlement to basic educational assistance under this section shall—

"(1) designate the dependent or dependents to whom such entitlement is being transferred;

"(2) designate the number of months of such entitlement to be transferred to each such dependent; and

"(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

"(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 3031 of this title, an individual approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement at any time after the approval of the individual's request to transfer such entitlement without regard to whether the individual is a member of the Armed Forces when the transfer is executed.

"(2)(A) An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

"(B) The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

"(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

"(1) in the case of entitlement transferred to a spouse, the completion by the individual making the transfer of six years of service in the Armed Forces; or

"(2) in the case of entitlement transferred to a child, both—

"(A) the completion by the individual making the transfer of 10 years of service in the Armed Forces; and

"(B) either—

"(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

"(ii) the attainment by the child of 18 years of age.

"(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

"(2) Except as provided under subsection (e)(2) and subject to paragraphs (4) and (5), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this subchapter in the same manner and at the same rate as the individual from whom the entitlement was transferred.

"(3) The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

"(4) Notwithstanding section 3031 of this title, a child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

"(5) The administrative provisions of this chapter (including the provisions set forth in section 3034(a)(1) of this title) shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible veteran for purposes of such provisions.

"(6) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

"(i) OVERPAYMENT.—(1) In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

"(2) Except as provided in paragraph (3), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(3) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of basic educational assistance under paragraph (1).

"(3) Paragraph (2) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

"(A) by reason of the death of the individual; or

"(B) for a reason referred to in section 3011(a)(1)(A)(ii)(I) of this title.

"(j) APPROVALS OF TRANSFER SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The Secretary concerned may approve transfers of entitlement to basic educational assistance under this section in a fiscal year only to the extent that appropriations for military personnel are available in that fiscal year for purposes of making deposits in the Department of Defense Education Benefits Fund under section 2006 of title 10 in that fiscal year to cover the present value of future benefits payable from the Fund for the Department of Defense portion of payments of basic educational assistance attributable to increased usage of benefits as a result of such transfers of entitlement in that fiscal year.

"(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2) and shall specify the manner of the applicability of the administrative provisions referred to in subsection (h)(5) to a dependent to whom entitlement is transferred under this section.

"(l) ANNUAL REPORT.—(1) Not later than January 31 each year (beginning in 2003), the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the transfers of entitlement to basic educational assistance under this section that were approved by each Secretary concerned during the preceding fiscal year.

"(2) Each report shall set forth—

"(A) the number of transfers of entitlement under this section that were approved by such Secretary during the preceding fiscal year; or

"(B) if no transfers of entitlement under this section were approved by such Secretary during that fiscal year, a justification for such Secretary's decision not to approve any such transfers of entitlement during that fiscal year.

"(m) SECRETARY CONCERNED DEFINED.—Notwithstanding section 101(25) of this title, in this section, the term 'Secretary concerned' means—

"(1) the Secretary of the Army with respect to matters concerning the Army;

"(2) the Secretary of the Navy with respect to matters concerning the Navy or the Marine Corps;

"(3) the Secretary of the Air Force with respect to matters concerning the Air Force; and

"(4) the Secretary of the Defense with respect to matters concerning the Coast Guard, or the Secretary of Transportation when it is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

"3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills.".

(b) TREATMENT UNDER DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.—Section 2006(b)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) The present value of future benefits payable from the Fund for the Department of Defense portion of payments of educational assistance under subchapter II of chapter 30 of title 38 attributable to increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of that title during such period.".

(c) PLAN FOR IMPLEMENTATION.—Not later than June 30, 2002, the Secretary of Defense shall submit to Congress a report describing the manner in which the Secretaries of the military departments and the Secretary of Transportation propose to exercise the authority granted by section 3020 of title 38, United States Code, as added by subsection (a). The report shall include the regulations prescribed under subsection (k) of that section for purposes of the exercise of the authority.

(d) FUNDING FOR FISCAL YEAR 2002.—Of the amount authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2002 by section 421, $30,000,000 may be available in fiscal year 2002 for deposit into the Department of Defense Education Benefits Fund under section 2006 of title 10, United States Code, for purposes of covering payments of amounts under subparagraph (D) of section 2006(b)(2) of such title (as added by subsection (b)), as a result of transfers of entitlement to basic educational assistance under section 3020 of title 38, United States Code (as added by subsection (a)).

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—TRICARE Program Improvements

Sec. 701. Sub-acute and long-term care program reform.

Sec. 702. Prosthetics and hearing aids.
Sec. 703. Durable medical equipment.
Sec. 704. Rehabilitative therapy.
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Sec. 707. TRICARE program limitations on payment rates for institutional health care providers and on balance billing by institutional and noninstitutional health care providers.
Sec. 708. Improvements in administration of the TRICARE program.

Subtitle B—Senior Health Care

Sec. 711. Clarifications and improvements regarding the Department of Defense Medicare-Eligible Retiree Health Care Fund.

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Subtitle D—Other Matters

Sec. 731. Prohibition against requiring military retirees to receive health care solely through the Department of Defense.
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Sec. 736. Transitional health care for members separated from active duty.
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Sec. 738. Joint DoD-VA pilot program for providing graduate medical education and training for physicians.

Subtitle A—TRICARE Program Improvements

SEC. 701. SUB-ACUTE AND LONG-TERM CARE PROGRAM REFORM.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074i the following new section:

"§1074j. Sub-acute care program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish an effective, efficient, and integrated sub-acute care benefits program under this chapter (hereinafter referred to in this section as the 'program'). Except as otherwise provided in this section, the types of health care authorized under the program shall be the same as those provided under section 1079 of this title. The Secretary, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this section.

"(b) BENEFITS.—(1) The program shall include a uniform skilled nursing facility benefit that shall be provided in the manner and under the conditions described in section 1861(h) and (i) of the Social Security Act (42 U.S.C. 1395x(h) and (i)), except that the limitation on the number of days of coverage under section 1812(a) and (b) of such Act (42 U.S.C. 1395d(a) and (b)) shall not be applicable under the program. Skilled nursing facility care for each spell of illness shall continue to be provided for as long as medically necessary and appropriate.

"(2) In this subsection:

"(A) The term 'skilled nursing facility' has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)).

"(B) The term 'spell of illness' has the meaning given such term in section 1861(a) of such Act (42 U.S.C. 1395x(a)).

"(3) The program shall include a comprehensive, part-time or intermittent home health care benefit that shall be provided in the manner and under the conditions described in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074i the following new item:

"1074j. Sub-acute care program.".

(b) EXTENDED BENEFITS FOR DISABLED BENEFICIARIES.—Section 1079 of title 10, United States Code, is amended by striking subsections (d), (e), and (f) and inserting the following new subsections:

"(d)(1) The Secretary of Defense shall establish a program to provide extended benefits for eligible dependents, which may include the provision of comprehensive health care services, including case management services, to assist in the reduction of the disabling effects of a qualifying condition of an eligible dependent. Registration shall be required to receive the extended benefits.

"(2) The Secretary of Defense, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this subsection.

"(3) In this subsection:

"(A) The term 'eligible dependent' means a dependent of a member of the uniformed services on active duty for a period of more than 30 days, as described in subparagraph (A), (D), or (I) of section 1072(2) of this title, who has a qualifying condition.

"(B) The term 'qualifying condition' means the condition of a dependent who is moderately or severely mentally retarded, has a serious physical disability, or has an extraordinary physical or psychological condition.

"(e) Extended benefits for eligible dependents under subsection (d) may include comprehensive health care services (including services necessary to maintain, or minimize or prevent deterioration of, function of the patient) and case management services with respect to the qualifying condition of such a dependent, and include, to the extent such benefits are not provided under provisions of this chapter other than under this section, the following:

"(1) Diagnosis.

"(2) Inpatient, outpatient, and comprehensive home health care supplies and services which may include cost effective and medically appropriate services other than part-time or intermittent services (within the meaning of such terms as used in the second sentence of section 1861(m) of the Social Security Act).

"(3) Training, rehabilitation, special education, and assistive technology devices.

"(4) Institutional care in private nonprofit, public, and State institutions and facilities and, if appropriate, transportation to and from such institutions and facilities.

"(5) Custodial care, notwithstanding the prohibition in section 1077(b)(1) of this title.

"(6) Respite care for the primary caregiver of the eligible dependent.

"(7) Such other services and supplies as determined appropriate by the Secretary, notwithstanding the limitations in subsection (a)(13).

"(f)(1) Members shall be required to share in the cost of any benefits provided to their dependents under subsection (d) as follows:

"(A) Members in the lowest enlisted pay grade shall be required to pay the first $25 incurred each month, and members in the highest commissioned pay grade shall be required to pay the first $250 incurred each month. The amounts to be paid by members in all other pay grades shall be determined under regulations to be prescribed by the Secretary of Defense in consultation with the administering Secretaries.

"(B) A member who has more than one dependent incurring expenses in a given month under a plan covered by subsection (d) shall not be required to pay an amount greater than would be required if the member had only one such dependent.

"(2) In the case of extended benefits provided under paragraph (3) or (4) of subsection (e) to a dependent of a member of the uniformed services—

"(A) the Government's share of the total cost of providing such benefits in any month shall not exceed $2,500, except for costs that a member is exempt from paying under paragraph (3); and

"(B) the member shall pay (in addition to any amount payable under paragraph (1)) the amount, if any, by which the amount of such total cost for the month exceeds the Government's maximum share under subparagraph (A).

"(3) A member of the uniformed services who incurs expenses under paragraph (2) for a month for more than one dependent shall not be required to pay for the month under subparagraph (B) of that paragraph an amount greater than the amount the member would otherwise be required to pay under that subparagraph for the month if the member were incurring expenses under that subparagraph for only one dependent.

"(4) To qualify for extended benefits under paragraph (3) or (4) of subsection (e), a dependent of a member of the uniformed services shall be required to use public facilities to the extent such facilities are available and adequate, as determined under joint regulations of the administering Secretaries.

"(5) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to carry out this subsection.".

(c) DEFINITIONS OF CUSTODIAL CARE AND DOMICILIARY CARE.—Section 1072 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(8) The term 'custodial care' means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that—

"(A) can be rendered safely and reasonably by a person who is not medically skilled; or

"(B) is or are designed mainly to help the patient with the activities of daily living.

"(9) The term 'domiciliary care' means care provided to a patient in an institution or home-like environment because—

"(A) providing support for the activities of daily living in the home is not available or is unsuitable; or

"(B) members of the patient's family are unwilling to provide the care.".

(d) CONTINUATION OF INDIVIDUAL CASE MANAGEMENT SERVICES FOR CERTAIN ELIGIBLE BENEFICIARIES.—(1) Notwithstanding the termination of the Individual Case Management Program by subsection (g), the Secretary of Defense shall, in any case in which the Secretary makes the determination described in paragraph (2), continue to provide payment as if such program were in effect for home health care or custodial

care services provided to an eligible beneficiary that would otherwise be excluded from coverage under regulations implementing chapter 55 of title 10, United States Code.

(2) The determination referred to in paragraph (1) is a determination that discontinuation of payment for services not otherwise provided under such chapter would result in the provision of services inadequate to meet the needs of the eligible beneficiary and would be unjust to such beneficiary.

(3) For purposes of this subsection, "eligible beneficiary" means a covered beneficiary (as that term is defined in section 1072 of title 10, United States Code) who, before the effective date of this section, was provided custodial care services under the Individual Case Management Program for which the Secretary provided payment.

(e) Report on Initiatives Regarding Long-Term Care.—The Secretary of Defense shall, not later than April 1, 2002, submit to Congress a report on the feasibility and desirability of establishing new initiatives, taking into account chapter 90 of title 5, United States Code, to improve the availability of long-term care for members and retired members of the uniformed services and their families.

(f) Reference in Title 10 to Long-Term Care Program in Title 5.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074j (as added by subsection (a)) the following new section:

"§ 1074k. Long-term care insurance

"Provisions regarding long-term care insurance for members and certain former members of the uniformed services and their families are set forth in chapter 90 of title 5.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074j (as added by subsection (a)) the following new item:

"1074k. Long-term care insurance.".

(g) Conforming Amendments.—(1) The following provisions of law are repealed:

(A) Section 703 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 682; 10 U.S.C. 1077 note).

(B) Section 8118 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1260).

(C) Section 8100 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 696).

(2) Section 1079 of title 10, United States Code, is amended in subsection (a) by striking paragraph (17).

SEC. 702. PROSTHETICS AND HEARING AIDS.

Section 1077 of title 10 United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

"(16) A hearing aid, but only for a dependent of a member of the uniformed services on active duty and only if the dependent has a profound hearing loss, as determined under standards prescribed in regulations by the Secretary of Defense in consultation with the administering Secretaries.";

(2) in subsection (b)(2), by striking "Hearing aids, orthopedic footwear," and inserting "Orthopedic footwear"; and

(3) by adding at the end the following new subsection:

"(e)(1) Authority to provide a prosthetic device under subsection (a)(15) includes authority to provide the following:

"(A) Any accessory or item of supply that is used in conjunction with the device for the purpose of achieving therapeutic benefit and proper functioning.

"(B) Services necessary to train the recipient of the device in the use of the device.

"(C) Repair of the device for normal wear and tear or damage.

"(D) Replacement of the device if the device is lost or irreparably damaged or the cost of repair would exceed 60 percent of the cost of replacement.

"(2) An augmentative communication device may be provided as a voice prosthesis under subsection (a)(15).

"(3) A prosthetic device customized for a patient may be provided under this section only by a prosthetic practitioner who is qualified to customize the device, as determined under regulations prescribed by the Secretary of Defense in consultation with the administering Secretaries.".

SEC. 703. DURABLE MEDICAL EQUIPMENT.

(a) Items Authorized.—Section 1077 of title 10, United States Code, as amended by section 702, is further amended—

(1) in subsection (a)(12), by striking "such as wheelchairs, iron lungs, and hospital beds" and inserting "which"; and

(2) by adding at the end the following new subsection:

"(f)(1) Items that may be provided to a patient under subsection (a)(12) include the following:

"(A) Any durable medical equipment that can improve, restore, or maintain the function of a malformed, diseased, or injured body part, or can otherwise minimize or prevent the deterioration of the patient's function or condition.

"(B) Any durable medical equipment that can maximize the patient's function consistent with the patient's physiological or medical needs.

"(C) Wheelchairs.

"(D) Iron lungs.

"(E) Hospital beds.

"(2) In addition to the authority to provide durable medical equipment under subsection (a)(12), any customization of equipment owned by the patient that is durable medical equipment authorized to be provided to the patient under this section or section 1079(a)(5) of this title, and any accessory or item of supply for any such equipment, may be provided to the patient if the customization, accessory, or item of supply is essential for—

"(A) achieving therapeutic benefit for the patient;

"(B) making the equipment serviceable; or

"(C) otherwise assuring the proper functioning of the equipment.".

(b) Provision of Items on Rental Basis.—Paragraph (5) of section 1079(a) of such title is amended to read as follows:

"(5) Durable equipment provided under this section may be provided on a rental basis.".

SEC. 704. REHABILITATIVE THERAPY.

Section 1077(a) of title 10, United States Code, as amended by sections 702 and 703, is further amended by inserting after paragraph (16) the following new paragraph:

"(17) Any rehabilitative therapy to improve, restore, or maintain function, or to minimize or prevent deterioration of function, of a patient when prescribed by a physician.".

SEC. 705. REPORT ON MENTAL HEALTH BENEFITS.

(a) Requirement for Study.—The Secretary of Defense shall carry out a study to determine the adequacy of the scope and availability of outpatient mental health benefits provided for members of the Armed Forces and covered beneficiaries under the TRICARE program.

(b) Report.—Not later than March 31, 2002, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study, including the conclusions and any recommendations for legislation that the Secretary considers appropriate.

SEC. 706. CLARIFICATION OF ELIGIBILITY FOR REIMBURSEMENT OF TRAVEL EXPENSES OF ADULT ACCOMPANYING PATIENT IN TRAVEL FOR SPECIALTY CARE.

Section 1074i of title 10, United States Code, is amended by inserting before the period at the end the following: "and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age".

SEC. 707. TRICARE PROGRAM LIMITATIONS ON PAYMENT RATES FOR INSTITUTIONAL HEALTH CARE PROVIDERS AND ON BALANCE BILLING BY INSTITUTIONAL AND NONINSTITUTIONAL HEALTH CARE PROVIDERS.

(a) Institutional Providers.—Section 1079(j) of title 10, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking "(A)"; and

(B) by striking "may be determined under joint regulations" and inserting "shall be determined under joint regulations";

(2) by redesignating subparagraph (B) of paragraph (2) as paragraph (4), and, in such paragraph, as so redesignated, by striking "subparagraph (A)," and inserting "this subsection,"; and

(3) by inserting before paragraph (4), as redesignated by paragraph (2), the following new paragraph (3):

"(3) A contract for a plan covered by this section shall include a clause that prohibits each provider of services under the plan from billing any person covered by the plan for any balance of charges for services in excess of the amount paid for those services under the joint regulations referred to in paragraph (2), except for any unpaid amounts of deductibles or copayments that are payable directly to the provider by the person.".

(b) Noninstitutional Providers.—Section 1079(h)(4) of such title is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following new subparagraph:

"(B) The regulations shall include a restriction that prohibits an individual health care professional (or other noninstitutional health care provider) from billing a beneficiary for services for more than the amount that is equal to—

"(i) the excess of the limiting charge (as defined in section 1848(g)(2) of the Social Security Act (42 U.S.C. 1395w–4(g)(2))) that would be applicable if the services had been provided by the professional (or other provider) as an individual health care professional (or other noninstitutional health care provider) on a nonassignment-related basis under part B of title XVIII of such Act over the amount that is payable by the United States for those services under this subsection, plus

"(ii) any unpaid amounts of deductibles or copayments that are payable directly to the professional (or other provider) by the beneficiary.".

(c) Effective Date.—The amendments made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 708. IMPROVEMENTS IN ADMINISTRATION OF THE TRICARE PROGRAM.

(a) Flexibility in Contracting.—(1) During the one-year period following the date of the enactment of this Act, section 1072(7) of title 10, United States Code, shall be deemed to be amended by striking "the competitive selection of contractors to financially underwrite".

(2) The terms and conditions of any contract to provide health care services under the TRICARE program entered into during the period described in paragraph (1) shall not be considered to be modified or terminated as a result of the termination of such period.

(b) Reduction of Contract Start-Up Time.—Section 1095c(b) of such title is amended—

(1) in paragraph (1)—

(A) by striking "The" and inserting "Except as provided in paragraph (3), the"; and

(B) by striking "contract." and all that follows through "as soon as practicable after the award of the"; and

(2) by adding at the end the following new paragraph:

"(3) The Secretary may reduce the nine-month start-up period required under paragraph (1) if—

"(A) the Secretary—

"(i) determines that a shorter period is sufficient to ensure effective implementation of all contract requirements; and

"(ii) submits notification to the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to reduce the nine-month start-up period; and

"(B) 60 days have elapsed since the date of such notification.".

Subtitle B—Senior Health Care

SEC. 711. CLARIFICATIONS AND IMPROVEMENTS REGARDING THE DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.

(a) Clarification Regarding Coverage.—Subsection (b) of section 1111 of title 10, United States Code, is amended to read as follows:

"(b) In this chapter:

"(1) The term 'uniformed services retiree health care programs' means the provisions of this title or any other provision of law creating an entitlement to or eligibility for health care for a member or former member of a participating uniformed service who is entitled to retired or retainer pay, and an eligible dependent under such program.

"(2) The term 'eligible dependent' means a dependent described in section 1076(a)(2) (other than a dependent of a member on active duty), 1076(b), 1086(c)(2), or 1086(c)(3) of this title.

"(3) The term 'medicare-eligible', with respect to any person, means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(4) The term 'participating uniformed service' means the Army, Navy, Air Force, and Marine Corps, and any other uniformed service that is covered by an agreement entered into under subsection (c).".

(b) Participation of Other Uniformed Services.—(1) Section 1111 of such title is further amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may enter into an agreement with any other administering Secretary (as defined in section 1072(3) of this title) for participation in the Fund by a uniformed service under the jurisdiction of that Secretary. Any such agreement shall require that Secretary to determine contributions to the Fund on behalf of the members of the uniformed service under the jurisdiction of that Secretary in a manner comparable to the determination with respect to contributions to the Fund made by the Secretary of Defense under section 1116 of this title, and such administering Secretary may make such contributions.".

(2) Section 1112 of such title is amended by adding at the end the following new paragraph:

"(4) Amounts paid into the Fund pursuant to section 1111(c) of this title.".

(3) Section 1115 of such title is amended—

(A) in subsection (a), by inserting "participating" before "uniformed services";

(B) in subparagraphs (A)(ii) and (B)(ii) of subsection (b)(1), by inserting "under the jurisdiction of the Secretary of Defense" after "uniformed services";

(C) in subsection (b)(2), by inserting "(or to the other executive department having jurisdiction over the participating uniformed service)" after "Department of Defense"; and

(D) in subparagraphs (A) and (B) of subsection (c)(1), by inserting "participating" before "uniformed services".

(4) Section 1116(a) of such title is amended in paragraphs (1)(B) and (2)(B) by inserting "under the jurisdiction of the Secretary of Defense" after "uniformed services".

(c) Clarification of Payments From the Fund.—(1) Subsection (a) of section 1113 of such title is amended to read as follows:

"(a) There shall be paid from the Fund amounts payable for the costs of all uniformed service retiree health care programs for the benefit of members or former members of a participating uniformed service who are entitled to retired or retainer pay and are medicare eligible, and eligible dependents who are medicare eligible.".

(2) Such section is further amended by adding at the end the following new subsections:

"(c)(1) In carrying out subsection (a), the Secretary of Defense may transfer periodically from the Fund to applicable appropriations of the Department of Defense, or to applicable appropriations of other departments or agencies, such amounts as the Secretary determines necessary to cover the costs chargeable to those appropriations for uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible. Such transfers may include amounts necessary for the administration of such programs. Amounts so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred. Upon a determination that all or part of the funds transferred from the Fund are not necessary for the purposes for which transferred, such amounts may be transferred back to the Fund. This transfer authority is in addition to any other transfer authority that may be available to the Secretary.

"(2) A transfer from the Fund under paragraph (1) may not be made to an appropriation after the end of the second fiscal year after the fiscal year that the appropriation is available for obligation. A transfer back to the Fund under paragraph (1) may not be made after the end of the second fiscal year after the fiscal year for which the appropriation to which the funds were originally transferred is available for obligation.

"(d) The Secretary of Defense shall by regulation establish the method or methods for calculating amounts to be transferred under subsection (c). Such method or methods may be based (in whole or in part) on a proportionate share of the volume (measured as the Secretary determines appropriate) of health care services provided or paid for under uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible in relation to the total volume of health care services provided or paid for under Department of Defense health care programs.

"(e) The regulations prescribed by the Secretary under subsection (d) shall be provided to the Comptroller General not less than 60 days before such regulations become effective. The Comptroller General shall, not later than 30 days after receiving such regulations, report to the Secretary of Defense and Congress on the adequacy and appropriateness of the regulations.

"(f) If the Secretary of Defense enters into an agreement with another administering Secretary pursuant to section 1111(c), the Secretary of Defense may take the actions described in subsections (c), (d), and (e) on behalf of the beneficiaries and programs of the other participating uniformed service.".

(d) Source of Funds for Monthly Accrual Payments Into the Fund.—Section 1116 of such title is further amended—

(1) in subsection (a)(2)(B) (as amended by subsection (b)(4)), by striking the sentence beginning "Amounts paid into"; and

(2) by adding at the end the following new subsection:

"(c) Amounts paid into the Fund under subsection (a) shall be paid from funds available for the health care programs of the participating uniformed services under the jurisdiction of the respective administering Secretaries.".

(e) Technical Amendments.—(1) Sections 1111(a), 1115(c)(2), 1116(a)(1)(A), and 1116(a)(2)(A) of such title are amended by striking "Department of Defense retiree health care programs" and inserting "uniformed services retiree health care programs".

(2) The heading for section 1111 of such title is amended to read as follows:

"§ 1111. Establishment and purpose of Fund; definitions; authority to enter into agreements".

(3) The item relating to section 1111 in the table of sections at the beginning of chapter 56 of such title is amended to read as follows:

"1111. Establishment and purpose of Fund; definitions; authority to enter into agreements.".

(f) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of chapter 56 of title 10, United States Code, by section 713(a)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–179).

(g) First Year Contributions.—With respect to contributions under section 1116(a) of title 10, United States Code, for the first year that the Department of Defense Medicare-Eligible Retiree Health Care Fund is established under chapter 56 of such title, if the Board of Actuaries is unable to execute its responsibilities with respect to such section, the Secretary of Defense may make contributions under such section using methods and assumptions developed by the Secretary.

Subtitle C—Studies and Reports

SEC. 721. COMPTROLLER GENERAL STUDY OF HEALTH CARE COVERAGE OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES AND THE NATIONAL GUARD.

(a) Requirement for Study.—The Comptroller General shall carry out a study of the needs of members of the reserve components of the Armed Forces and the National Guard and their families for health care benefits. The study shall include the following:

(1) An analysis of how members of the reserve components of the Armed Forces and the National Guard currently obtain coverage for health care benefits when not on active duty, together with statistics on enrollments in health care benefits plans, including—

(A) the percentage of such members who are not covered by an employer health benefits plan;

(B) the percentage of such members who are not covered by an individual health benefits plan; and

(C) the percentage of such members who are not covered by any health insurance or other health benefits plan.

(2) An assessment of the disruptions in health benefits coverage that a mobilization of members of the reserve components of the Armed Forces and the National Guard causes for the members and their families.

(3) An assessment of the cost and effectiveness of various options for preventing or reducing disruptions described in paragraph (2), including—

(A) providing health care benefits to all members of the reserve components of the Armed Forces and the National Guard and their families through the TRICARE program, the Federal

Employees Health Benefits Program, or otherwise;

(B) revising and extending the program of transitional medical and dental care that is provided under section 1074b of title 10, United States Code, for members of the Armed Forces upon release from active duty served in support of a contingency operation;

(C) requiring the health benefits plans of such members, including individual health benefits plans and group health benefits plans, to permit such members to elect to resume coverage under such health benefits plans upon release from active duty in support of a contingency operation;

(D) allowing members of the reserve components of the Armed Forces and the National Guard to participate in TRICARE Standard using various cost-sharing arrangements;

(E) providing employers of members of the reserve components of the Armed Forces and the National Guard with the option of paying the costs of participation in the TRICARE program for such members and their families using various cost-sharing arrangements;

(F) providing financial assistance for paying premiums or other subscription charges for continuation of coverage by private sector health insurance or other health benefits plans; and

(G) any other options that the Comptroller General determines advisable to consider.

(b) REPORT.—Not later than May 1, 2002, the Comptroller General shall submit to Congress a report describing the findings of the study conducted under subsection (a).

SEC. 722. COMPTROLLER GENERAL STUDY OF ADEQUACY AND QUALITY OF HEALTH CARE PROVIDED TO WOMEN UNDER THE DEFENSE HEALTH PROGRAM.

(a) REQUIREMENT FOR STUDY.—The Comptroller General shall carry out a study of the adequacy and quality of the health care provided to women under chapter 55 of title 10, United States Code.

(b) SPECIFIC CONSIDERATION.—The study shall include an intensive review of the availability and quality of reproductive health care services.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to Congress not later than May 1, 2002.

SEC. 723. REPEAL OF OBSOLETE REPORT REQUIREMENT.

Section 701 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 1074g note) is amended by striking subsection (d).

SEC. 724. COMPTROLLER GENERAL REPORT ON REQUIREMENT TO PROVIDE SCREENINGS, PHYSICAL EXAMINATIONS, AND OTHER CARE FOR CERTAIN MEMBERS.

(a) REPORT REQUIRED.—The Comptroller General shall prepare a report on the advisability, need, and cost effectiveness of the requirements under section 1074a(d) of title 10, United States Code, that the Secretary of the Army provide medical and dental screenings, physical examinations, and certain dental care for early deploying members of the Selected Reserve. The report shall include any recommendations for changes to such requirements based on the most current information available on the value of periodic physical examinations and any role such examinations play in monitoring force and individual member pre-deployment and post-deployment health status.

(b) DEADLINE FOR SUBMISSION.—The report required by subsection (a) shall be provided to the Committees on Armed Services of the Senate and the House of Representatives not later than June 1, 2002.

Subtitle D—Other Matters

SEC. 731. PROHIBITION AGAINST REQUIRING MILITARY RETIREES TO RECEIVE HEALTH CARE SOLELY THROUGH THE DEPARTMENT OF DEFENSE.

(a) PROHIBITION.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1086a the following new section:

"§ 1086b. Prohibition against requiring retired members to receive health care solely through the Department of Defense

"The Secretary of Defense may not take any action that would require, or have the effect of requiring, a member or former member of the armed forces who is entitled to retired or retainer pay to enroll to receive health care from the Federal Government only through the Department of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1086a the following new item:

"1086b. Prohibition against requiring retired members to receive health care solely through the Department of Defense.".

SEC. 732. FEES FOR TRAUMA AND OTHER MEDICAL CARE PROVIDED TO CIVILIANS.

(a) REQUIREMENT TO IMPLEMENT PROCEDURES.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1079a the following new section:

"§ 1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected

"(a) REQUIREMENT TO IMPLEMENT PROCEDURES.—The Secretary of Defense shall implement procedures under which a military medical treatment facility may charge civilians who are not covered beneficiaries (or their insurers) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilians.

"(b) USE OF FEES COLLECTED.—A military medical treatment facility may retain and use the amounts collected under subsection (a) for—

"(1) trauma consortium activities;

"(2) administrative, operating, and equipment costs; and

"(3) readiness training.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1079a the following new item:

"1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected.".

(b) DEADLINE FOR IMPLEMENTATION.—The Secretary of Defense shall begin to implement the procedures required by section 1079b(a) of title 10, United States Code (as added by subsection (a)), not later than one year after the date of the enactment of this Act.

SEC. 733. ENHANCEMENT OF MEDICAL PRODUCT DEVELOPMENT.

Section 980 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "Funds"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary of Defense may waive the prohibition in this section with respect to a specific research project to advance the development of a medical product necessary to the armed forces if the research project may directly benefit the subject and is carried out in accordance with all other applicable laws.".

SEC. 734. PILOT PROGRAM PROVIDING FOR DEPARTMENT OF VETERANS AFFAIRS SUPPORT IN THE PERFORMANCE OF SEPARATION PHYSICAL EXAMINATIONS.

(a) AUTHORITY.—The Secretary of Defense and the Secretary of Veterans Affairs may jointly carry out a pilot program under which the Secretary of Veterans Affairs may perform the physical examinations required for members of the uniformed services separating from the uniformed services who are in one or more geographic areas designated for the pilot program by the Secretaries.

(b) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for the cost incurred by the Secretary of Veterans Affairs in performing, under the pilot program, the elements of physical examination that are required by the Secretary concerned in connection with the separation of a member of a uniformed service. Reimbursements shall be paid out of funds available for the performance of separation physical examinations of members of that uniformed service in facilities of the uniformed services.

(c) AGREEMENT.—(1) If the Secretary of Defense and the Secretary of Veterans Affairs carry out the pilot program authorized by this section, the Secretaries shall enter into an agreement specifying the geographic areas in which the pilot program is carried out and the means for making reimbursement payments under subsection (b).

(2) The other administering Secretaries shall also enter into the agreement to the extent that the Secretary of Defense determines necessary to apply the pilot program, including the requirement for reimbursement, to the uniformed services not under the jurisdiction of the Secretary of a military department.

(d) CONSULTATION REQUIREMENT.—In developing and carrying out the pilot program, the Secretary of Defense shall consult with the other administering Secretaries.

(e) PERIOD OF PROGRAM.—The Secretary of Defense and the Secretary of Veterans Affairs may carry out the pilot program under this section beginning not later than July 1, 2002, and terminating on December 31, 2005.

(f) REPORTS.—(1) If the Secretary of Defense and the Secretary of Veterans Affairs carry out the pilot program authorized by this section—

(A) not later than January 31, 2004, the Secretaries shall jointly submit to Congress an interim report on the conduct of the pilot program; and

(B) not later than March 1, 2005, the Secretaries shall jointly submit to Congress a final report on the conduct of the pilot program.

(2) Reports under this subsection shall include the Secretaries' assessment, as of the date of the report, of the efficacy of the performance of separation physical examinations as provided for under the pilot program.

(g) DEFINITIONS.—In this section:

(1) The term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

(2) The term "Secretary concerned" has the meaning given that term in section 101(5) of title 37, United States Code.

SEC. 735. MODIFICATION OF PROHIBITION ON REQUIREMENT OF NONAVAILABILITY STATEMENT OR PREAUTHORIZATION.

(a) CLARIFICATION OF COVERED BENEFICIARIES.—Subsection (a) of section 721 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–184) is amended by striking "covered beneficiary under chapter 55 of title 10, United States Code, who is enrolled in TRICARE Standard," and inserting "covered beneficiary under TRICARE Standard pursuant to chapter 55 of title 10, United States Code,".

(b) REPEAL OF REQUIREMENT FOR NOTIFICATION REGARDING HEALTH CARE RECEIVED FROM ANOTHER SOURCE.—Subsection (b) of such section is repealed.

(c) WAIVER AUTHORITY.—Such section, as so amended, is further amended by striking subsection (c) and inserting the following new subsections:

"(b) WAIVER AUTHORITY.—The Secretary may waive the prohibition in subsection (a) if—

"(1) the Secretary—

"(A) demonstrates that significant costs would be avoided by performing specific procedures at the affected military medical treatment facility or facilities;

"(B) determines that a specific procedure must be provided at the affected military medical treatment facility or facilities to ensure the proficiency levels of the practitioners at the facility or facilities; or

"(C) determines that the lack of nonavailability statement data would significantly interfere with TRICARE contract administration;

"(2) the Secretary provides notification of the Secretary's intent to grant a waiver under this subsection to covered beneficiaries who receive care at the military medical treatment facility or facilities that will be affected by the decision to grant a waiver under this subsection;

"(3) the Secretary notifies the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to grant a waiver under this subsection, the reason for the waiver, and the date that a nonavailability statement will be required; and

"(4) 60 days have elapsed since the date of the notification described in paragraph (3).

"(c) WAIVER EXCEPTION FOR MATERNITY CARE.—Subsection (b) shall not apply with respect to maternity care.".

(d) EFFECTIVE DATE.—(1) Subsection (a) of such section is amended by striking "under any new contract for the provision of health care services".

(2) Subsection (d) of such section is amended by striking "take effect on October 1, 2001." and inserting "take effect on the earlier of the following:

"(1) The date that a new contract entered into by the Secretary to provide health care services under TRICARE Standard takes effect.

"(2) The date that is two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002.".

(e) REPORT.—Not later than March 1, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the Secretary's plans for implementing section 721 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as amended by this section.

SEC. 736. TRANSITIONAL HEALTH CARE FOR MEMBERS SEPARATED FROM ACTIVE DUTY.

(a) PERMANENT AUTHORITY FOR INVOLUNTARILY SEPARATED MEMBERS AND MOBILIZED RESERVES.—Subsection (a) of section 1145 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2), a member" and all that follows through "of the member)," and inserting "paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2)";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) This subsection applies to the following members of the armed forces:

"(A) A member who is involuntarily separated from active duty.

"(B) A member of a reserve component who is separated from active duty to which called or ordered in support of a contingency operation if the active duty is active duty for a period of more than 30 days.

"(C) A member who is separated from active duty for which the member is involuntarily retained under section 12305 of this title in support of a contingency operation.

"(D) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than one year in support of a contingency operation."; and

(4) in paragraph (3), as redesignated by paragraph (2), by striking "involuntarily" each place it appears.

(b) CONFORMING AMENDMENTS.—Such section 1145 is further amended—

(1) in subsection (c)(1), by striking "during the period beginning on October 1, 1990, and ending on December 31, 2001"; and

(2) in subsection (e), by striking the first sentence.

(c) REPEAL OF SUPERSEDED AUTHORITY.—(1) Section 1074b of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 55 of such title is amended by striking the item relating to section 1074b.

(d) TRANSITION PROVISION.—Notwithstanding the repeal of section 1074b of title 10, United States Code, by subsection (c), the provisions of that section, as in effect before the date of the enactment of this Act, shall continue to apply to a member of the Armed Forces who is released from active duty in support of a contingency operation before that date.

SEC. 737. TWO-YEAR EXTENSION OF HEALTH CARE MANAGEMENT DEMONSTRATION PROGRAM.

(a) EXTENSION.—Subsection (d) of section 733 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–191) is amended by striking "December 31, 2001" and inserting "December 31, 2003".

(b) REPORT.—Subsection (e) of that section is amended—

(1) by striking "REPORTS.—" and inserting "REPORT.—"; and

(2) by striking "March 15, 2002" and inserting "March 15, 2004".

SEC. 738. JOINT DOD-VA PILOT PROGRAM FOR PROVIDING GRADUATE MEDICAL EDUCATION AND TRAINING FOR PHYSICIANS.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs may jointly carry out a pilot program under which graduate medical education and training is provided to military physicians and physician employees of the Department of Defense and the Department of Veterans Affairs through one or more programs carried out in military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs.

(b) COST-SHARING AGREEMENT.—If the Secretary of Defense and the Secretary of Veterans Affairs carry out a pilot program under subsection (a), the Secretaries shall enter into an agreement for carrying out the pilot program under which means are established for each respective Secretary to assist in paying the costs, with respect to individuals under the jurisdiction of such Secretary, incurred by the other Secretary in providing medical education and training under the pilot program.

(c) USE OF EXISTING AUTHORITIES.—To carry out the pilot program, the Secretary of Defense and the Secretary of Veterans Affairs shall exercise authorities provided to the Secretaries, respectively, under other laws relating to the furnishing or support of medical education and the cooperative use of facilities.

(d) PERIOD OF PROGRAM.—If the Secretary of Defense and the Secretary of Veterans Affairs carry out a pilot program under subsection (a), such pilot program shall begin not later than August 1, 2002, and shall terminate on July 31, 2007.

(e) REPORTS.—If the Secretary of Defense and the Secretary of Veterans Affairs carry out a pilot program under subsection (a), not later than January 31, 2003, and January 31 of each year thereafter through 2008, the Secretaries shall jointly submit to Congress a report on the pilot program. The report shall cover the preceding year and shall include each Secretary's assessment of the efficacy of providing education and training under the program.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Procurement Management and Administration

Sec. 801. Management of procurement of services.

Sec. 802. Savings goals for procurements of services.

Sec. 803. Competition requirement for purchase of services pursuant to multiple award contracts.

Sec. 804. Reports on maturity of technology at initiation of major defense acquisition programs.

Subtitle B—Use of Preferred Sources

Sec. 811. Applicability of competition requirements to purchases from a required source.

Sec. 812. Extension of mentor-protege program.

Sec. 813. Increase of assistance limitation regarding procurement technical assistance program.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Related Matters

Sec. 821. Amendments to conform with administrative changes in acquisition phase and milestone terminology and to make related adjustments in certain requirements applicable at milestone transition points.

Sec. 822. Follow-on production contracts for products developed pursuant to prototype projects.

Sec. 823. One-year extension of program applying simplified procedures to certain commercial items.

Sec. 824. Acquisition workforce qualifications.

Sec. 825. Report on implementation of recommendations of the acquisition 2005 task force.

Subtitle D—Other Matters

Sec. 831. Identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid.

Sec. 832. Codification and modification of provision of law known as the "Berry amendment".

Sec. 833. Personal services contracts to be performed by individuals or organizations abroad.

Sec. 834. Requirements regarding insensitive munitions.

Sec. 835. Inapplicability of limitation to small purchases of miniature or instrument ball or roller bearings under certain circumstances.

Sec. 836. Temporary emergency procurement authority to facilitate the defense against terrorism or biological or chemical attack.

Subtitle A—Procurement Management and Administration

SEC. 801. MANAGEMENT OF PROCUREMENT OF SERVICES.

(a) RESPONSIBILITY OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Section 133(b)(2) of title 10, United States Code, is amended by inserting "of goods and services" after "procurement".

(b) Requirement for Management Structure.—(1) Chapter 137 of such title is amended by inserting after section 2328 the following new section:

"§2330. Procurement of services: management structure

"(a) Requirement for Management Structure.—(1) The Secretary of Defense shall establish and implement a management structure for the procurement of services for the Department of Defense. The management structure shall be comparable to the management structure that applies to the procurement of products by the Department.

"(2) The management structure required by paragraph (1) shall—

"(A) provide for a designated official in each military department to exercise responsibility for the management of the procurement of services for such department;

"(B) provide for a designated official for Defense Agencies and other defense components outside the military departments to exercise responsibility for the management of the procurement of services for such Defense Agencies and components;

"(C) include a means by which employees of the departments, Defense Agencies, and components are accountable to such designated officials for carrying out the requirements of subsection (b); and

"(D) establish specific dollar thresholds and other criteria for advance approvals of purchases under subsection (b)(1)(C) and delegations of activity under subsection (b)(2).

"(b) Contracting Responsibilities of Designated Officials.—(1) The responsibilities of an official designated under subsection (a) shall include, with respect to the procurement of services for the military department or Defense Agencies and components by that official, the following:

"(A) Ensuring that the services are procured by means of contracts or task orders that are in the best interests of the Department of Defense and are entered into or issued and managed in compliance with applicable statutes, regulations, directives, and other requirements, regardless of whether the services are procured through a contract or task order of the Department of Defense or through a contract entered into or task order issued by an official of the United States outside the Department of Defense.

"(B) Analyzing data collected under section 2330a of this title on contracts that are entered into for the procurement of services.

"(C) Approving, in advance, any procurement of services above the thresholds established pursuant to subsection (a)(2)(D) that is to be made through the use of—

"(i) a contract or task order that is not a performance-based contract or task order; or

"(ii) a contract entered into, or a task order issued, by an official of the United States outside the Department of Defense.

"(2) The responsibilities of a designated official may be delegated to other employees of the Department of Defense in accordance with the criteria established by the Secretary of Defense.

"(c) Definition.—In this section, the term 'performance-based', with respect to a contract or a task order means that the contract or task order, respectively, includes the use of performance work statements that set forth requirements in clear, specific, and objective terms with measurable outcomes.".

(2) Not later than 180 days after the date of the enactment of this Act—

(A) the Secretary of Defense shall establish and implement the management structure required under section 2330 of title 10, United States Code (as added by paragraph (1)); and

(B) the Under Secretary of Defense for Acquisition, Technology, and Logistics shall issue guidance for officials in the management structure established under such section 2330 regarding how to carry out their responsibilities under that section.

(c) Tracking of Procurement of Services.—Chapter 137 of title 10, United States Code, as amended by subsection (b), is further amended by inserting after section 2330 the following new section:

"§2330a. Procurement of services: tracking of purchases

"(a) Data Collection Required.—The Secretary of Defense shall establish a data collection system to provide management information with regard to each purchase of services by a military department or Defense Agency in excess of the simplified acquisition threshold, regardless of whether such a purchase is made in the form of a contract, task order, delivery order, military interdepartmental purchase request, or any other form of interagency agreement.

"(b) Data To Be Collected.—The data required to be collected under subsection (a) includes the following:

"(1) The services purchased.

"(2) The total dollar amount of the purchase.

"(3) The form of contracting action used to make the purchase.

"(4) Whether the purchase was made through—

"(A) a performance-based contract, performance-based task order, or other performance-based arrangement that contains firm fixed prices for the specific tasks to be performed;

"(B) any other performance-based contract, performance-based task order, or performance-based arrangement; or

"(C) any contract, task order, or other arrangement that is not performance based.

"(5) In the case of a purchase made through an agency other than the Department of Defense; the agency through which the purchase is made.

"(6) The extent of competition provided in making the purchase and whether there was more than one offer.

"(7) Whether the purchase was made from—

"(A) a small business concern;

"(B) a small business concern owned and controlled by socially and economically disadvantaged individuals; or

"(C) a small business concern owned and controlled by women.

"(c) Compatibility With Data Collection System for Information Technology Purchases.—To the maximum extent practicable, a single data collection system shall be used to collect data under this section and information under section 2225 of this title.

"(d) Definitions.—In this section:

"(1) The term 'performance-based', with respect to a contract, task order, or arrangement, means that the contract, task order, or arrangement, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.

"(2) The definitions set forth in section 2225(f) of this title for the terms 'simplified acquisition threshold', 'small business concern', 'small business concern owned and controlled by socially and economically disadvantaged individuals', and 'small business concern owned and controlled by women' shall apply.".

(d) Requirement for Program Review Structure.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue and implement a policy that applies to the procurement of services by the Department of Defense a program review structure that is similar to the one developed for and applied to the procurement of weapon systems by the Department of Defense.

(2) The program review structure for the procurement of services shall, at a minimum, include the following:

(A) Standards for determining which procurements should be subject to review by either the senior procurement executive of a military department or the senior procurement executive of the Department of Defense under such section, including criteria based on dollar thresholds, program criticality, or other appropriate measures.

(B) Appropriate key decision points at which those reviews should take place.

(C) A description of the specific matters that should be reviewed.

(e) Comptroller General Review.—Not later than 90 days after the date on which the Secretary issues the policy required by subsection (d) and the Under Secretary of Defense for Acquisition, Technology, and Logistics issues the guidance required by subsection (b)(2), the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives an assessment of the compliance with the requirements of this section and the amendments made by this section.

(f) Definitions.—In this section:

(1) The term "senior procurement executive" means the official designated as the senior procurement executive under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

(2) The term "performance-based", with respect to a contract or a task order means that the contract or task order, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.

(g) Clerical Amendments.—(1) The heading for section 2331 of title 10, United States Code, is amended to read as follows:

"§2331. Procurement of services: contracts for professional and technical services".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking the item relating to section 2331 and inserting the following new items:

"2330. Procurement of services: management structure.
"2330a. Procurement of services: tracking of purchases.
"2331. Procurement of services: contracts for professional and technical services.".

SEC. 802. SAVINGS GOALS FOR PROCUREMENTS OF SERVICES.

(a) Goals.—(1) It shall be an objective of the Department of Defense to achieve savings in expenditures for procurements of services through the use of—

(A) performance-based services contracting;

(B) appropriate competition for task orders under services contracts; and

(C) program review, spending analyses, and improved management of services contracts.

(2) In furtherance of such objective, the Department of Defense shall have goals to use improved management practices to achieve, over 10 fiscal years, reductions in the total amount that would otherwise be expended by the Department for the procurement of services (other than military construction) in a fiscal year by the amount equal to 10 percent of the total amount of the expenditures of the Department for fiscal year 2000 for procurement of services (other than military construction), as follows:

(A) By fiscal year 2002, a three percent reduction.

(B) By fiscal year 2003, a four percent reduction.

(C) By fiscal year 2004, a five percent reduction.

(D) By fiscal year 2011, a ten percent reduction.

(b) Annual Report.—Not later than March 1, 2002, and annually thereafter through March 1,

2006, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made toward meeting the objective and goals established in subsection (a). Each report shall include, at a minimum, the following information:

(1) A summary of the steps taken or planned to be taken in the fiscal year of the report to improve the management of procurements of services.

(2) A summary of the steps planned to be taken in the following fiscal year to improve the management of procurements of services.

(3) An estimate of the amount that will be expended by the Department of Defense for procurements of services in the fiscal year of the report.

(4) An estimate of the amount that will be expended by the Department of Defense for procurements of services in the following fiscal year.

(5) An estimate of the amount of savings that, as a result of improvement of the management practices used by the Department of Defense, will be achieved for the procurement of services by the Department in the fiscal year of the report and in the following fiscal year.

SEC. 803. COMPETITION REQUIREMENT FOR PURCHASE OF SERVICES PURSUANT TO MULTIPLE AWARD CONTRACTS.

(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall promulgate in the Department of Defense Supplement to the Federal Acquisition Regulation regulations requiring competition in the purchase of services by the Department of Defense pursuant to multiple award contracts.

(b) CONTENT OF REGULATIONS.—(1) The regulations required by subsection (a) shall provide, at a minimum, that each individual purchase of services in excess of $100,000 that is made under a multiple award contract shall be made on a competitive basis unless a contracting officer of the Department of Defense—

(A) waives the requirement on the basis of a determination that—

(i) one of the circumstances described in paragraphs (1) through (4) of section 2304c(b) of title 10, United States Code, applies to such individual purchase; or

(ii) a statute expressly authorizes or requires that the purchase be made from a specified source; and

(B) justifies the determination in writing.

(2) For purposes of this subsection, an individual purchase of services is made on a competitive basis only if it is made pursuant to procedures that—

(A) require fair notice of the intent to make that purchase (including a description of the work to be performed and the basis on which the selection will be made) to be provided to all contractors offering such services under the multiple award contract; and

(B) afford all contractors responding to the notice a fair opportunity to make an offer and have that offer fairly considered by the official making the purchase.

(3) Notwithstanding paragraph (2), notice may be provided to fewer than all contractors offering such services under a multiple award contract described in subsection (c)(2)(A) if notice is provided to as many contractors as practicable.

(4) A purchase may not be made pursuant to a notice that is provided to fewer than all contractors under paragraph (3) unless—

(A) offers were received from at least three qualified contractors; or

(B) a contracting officer of the Department of Defense determines in writing that no additional qualified contractors were able to be identified despite reasonable efforts to do so.

(c) DEFINITIONS.—In this section:

(1) The term "individual purchase" means a task order, delivery order, or other purchase.

(2) The term "multiple award contract" means—

(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of title 10, United States Code;

(B) a multiple award task order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

(C) any other indefinite delivery, indefinite quantity contract that is entered into by the head of a Federal agency with two or more sources pursuant to the same solicitation.

(3) The term "Defense Agency" has the meaning given that term in section 101(a)(11) of title 10, United States Code.

(d) APPLICABILITY.—The regulations promulgated by the Secretary pursuant to subsection (a) shall take effect not later than 180 days after the date of the enactment of this Act and shall apply to all individual purchases of services that are made under multiple award contracts on or after the effective date, without regard to whether the multiple award contracts were entered into before, on, or after such effective date.

SEC. 804. REPORTS ON MATURITY OF TECHNOLOGY AT INITIATION OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REPORTS REQUIRED.—Not later than March 1 of each of years 2003 through 2006, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the requirement in paragraph 4.7.3.2.2.2 of Department of Defense Instruction 5000.2, as in effect on the date of enactment of this Act, that technology must have been demonstrated in a relevant environment (or, preferably, in an operational environment) to be considered mature enough to use for product development in systems integration.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall—

(1) identify each case in which a major defense acquisition program entered system development and demonstration during the preceding calendar year and into which key technology has been incorporated that does not meet the technological maturity requirement described in subsection (a), and provide a justification for why such key technology was incorporated; and

(2) identify any determination of technological maturity with which the Deputy Under Secretary of Defense for Science and Technology did not concur and explain how the issue has been or will be resolved.

(c) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term "major defense acquisition program" has the meaning given that term in section 139(a)(2) of title 10, United States Code.

Subtitle B—Use of Preferred Sources

SEC. 811. APPLICABILITY OF COMPETITION REQUIREMENTS TO PURCHASES FROM A REQUIRED SOURCE.

(a) CONDITIONS FOR COMPETITION.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following:

"§2410n. Products of Federal Prison Industries: procedural requirements

"(a) MARKET RESEARCH BEFORE PURCHASE.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, the Secretary of Defense shall conduct market research to determine whether the Federal Prison Industries product is comparable in price, quality, and time of delivery to products available from the private sector.

"(b) LIMITED COMPETITION REQUIREMENT.—If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, and time of delivery to products available from the private sector, the Secretary shall use competitive procedures for the procurement of the product. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries for award in accordance with the specifications and evaluation factors specified in the solicitation.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2410n. Products of Federal Prison Industries: procedural requirements.".

(b) APPLICABILITY.—Section 2410n of title 10, United States Code (as added by subsection (a)), shall apply to purchases initiated on or after October 1, 2001.

SEC. 812. EXTENSION OF MENTOR-PROTEGE PROGRAM.

Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note) is amended—

(1) in subsection (j)—

(A) in paragraph (1), by striking "September 30, 2002" and inserting "September 30, 2005"; and

(B) in paragraph (2), by striking "September 30, 2005" and inserting "September 30, 2008"; and

(2) in subsection (l)(3), by striking "2004" and inserting "2007".

SEC. 813. INCREASE OF ASSISTANCE LIMITATION REGARDING PROCUREMENT TECHNICAL ASSISTANCE PROGRAM.

Section 2414(a)(1) of title 10, United States Code, is amended by striking "$300,000" and inserting "$600,000".

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Related Matters

SEC. 821. AMENDMENTS TO CONFORM WITH ADMINISTRATIVE CHANGES IN ACQUISITION PHASE AND MILESTONE TERMINOLOGY AND TO MAKE RELATED ADJUSTMENTS IN CERTAIN REQUIREMENTS APPLICABLE AT MILESTONE TRANSITION POINTS.

(a) ACQUISITION PHASE TERMINOLOGY.—The following provisions of title 10, United States Code, are amended by striking "engineering and manufacturing development" each place it appears and inserting "system development and demonstration": sections 2366(c) and 2434(a), and subsections (b)(3)(A)(i), (c)(3)(A), and (h)(1) of section 2432.

(b) MILESTONE TRANSITION POINTS.—(1) Section 811(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–211), is amended by striking "Milestone I approval, Milestone II approval, or Milestone III approval (or the equivalent) of a major automated information system" and inserting "approval of a major automated information system at Milestone B or C or for full rate production, or an equivalent approval,".

(2) Department of Defense Directive 5000.1, as revised in accordance with subsection (b) of section 811 of such Act, shall be further revised as necessary to comply with subsection (c) of such section, as amended by paragraph (1), within 60 days after the date of the enactment of this Act.

(c) ADJUSTMENTS TO REQUIREMENT FOR DETERMINATION OF QUANTITY FOR LOW-RATE INITIAL PRODUCTION.—Section 2400(a) of title 10, United States Code, is amended—

(1) by striking "milestone II" each place it appears in paragraphs (1)(A), (2), (4) and (5) and inserting "milestone B"; and

(2) in paragraph (2), by striking "engineering and manufacturing development" and inserting "system development and demonstration".

(d) ADJUSTMENTS TO REQUIREMENTS FOR BASELINE DESCRIPTION AND THE RELATED LIMITATION.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (b), by striking "engineering and manufacturing development" and inserting "system development and demonstration"; and

(2) in subsection (c)—

(A) in paragraph (1), by striking "demonstration and validation" and inserting "system development and demonstration";

(B) in paragraph (2), by striking "engineering and manufacturing development" and inserting "production and deployment"; and

(C) in paragraph (3), by striking "production and deployment" and inserting "full rate production".

SEC. 822. FOLLOW-ON PRODUCTION CONTRACTS FOR PRODUCTS DEVELOPED PURSUANT TO PROTOTYPE PROJECTS.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) FOLLOW-ON PRODUCTION CONTRACTS.—(1) A transaction entered into under this section for a prototype project that satisfies the conditions set forth in subsection (d)(1)(B)(i) may provide for the award of a follow-on production contract to the participants in the transaction for a specific number of units at specific target prices. The number of units specified in the transaction shall be determined on the basis of a balancing of the level of the investment made in the project by the participants other than the Federal Government with the interest of the Federal Government in having competition among sources in the acquisition of the product or products prototyped under the project.

"(2) A follow-on production contract provided for in a transaction under paragraph (1) may be awarded to the participants in the transaction without the use of competitive procedures, notwithstanding the requirements of section 2304 of title 10, United States Code, if—

"(A) competitive procedures were used for the selection of parties for participation in the transaction;

"(B) the participants in the transaction successfully completed the prototype project provided for in the transaction;

"(C) the number of units provided for in the follow-on production contract does not exceed the number of units specified in the transaction for such a follow-on production contract; and

"(D) the prices established in the follow-on production contract do not exceed the target prices specified in the transaction for such a follow-on production contract.".

SEC. 823. ONE-YEAR EXTENSION OF PROGRAM APPLYING SIMPLIFIED PROCEDURES TO CERTAIN COMMERCIAL ITEMS.

Section 4202 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) is amended in subsection (e) by striking "January 1, 2002" and inserting "January 1, 2003".

SEC. 824. ACQUISITION WORKFORCE QUALIFICATIONS.

(a) QUALIFICATIONS.—Section 1724 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that, in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, an employee of the Department of Defense or member of the armed forces (other than the Coast Guard) must, except as provided in subsections (c) and (d)—";

(B) in paragraph (1)—

(i) by striking "mandatory"; and

(ii) by striking "at the grade level" and all that follows and inserting "(A) in the case of an employee, serving in the position within the grade of the General Schedule in which the employee is serving, and (B) in the case of a member of the armed forces, in the member's grade;"; and

(C) in paragraph (3)(A), by inserting a comma after "business";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) GS–1102 SERIES POSITIONS AND SIMILAR MILITARY POSITIONS.—(1) The Secretary of Defense shall require that in order to qualify to serve in a position in the Department of Defense that is in the GS–1102 occupational series an employee or potential employee of the Department of Defense meet the requirements set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to serve in such a position an employee or potential employee meet any of the requirements of paragraphs (1) and (2) of that subsection.

"(2) The Secretary of Defense shall require that in order for a member of the armed forces to be selected for an occupational specialty within the armed forces that (as determined by the Secretary) is similar to the GS–1102 occupational series a member of the armed forces meet the requirements set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to be selected for such an occupational specialty a member meet any of the requirements of paragraphs (1) and (2) of that subsection."; and

(3) by striking subsections (c) and (d) inserting the following new subsections:

"(c) EXCEPTIONS.—The qualification requirements imposed by the Secretary of Defense pursuant to subsections (a) and (b) shall not apply to an employee of the Department of Defense or member of the armed forces who—

"(1) served as a contracting officer with authority to award or administer contracts in excess of the simplified acquisition threshold on or before September 30, 2000;

"(2) served, on or before September 30, 2000, in a position either as an employee in the GS–1102 series or as a member of the armed forces in a similar occupational specialty;

"(3) is in the contingency contracting force; or

"(4) is described in subsection (e)(1)(B).

"(d) WAIVER.—The acquisition career program board concerned may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the board certifies that the individual possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. Such document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.

"(e) DEVELOPMENTAL OPPORTUNITIES.—(1) The Secretary of Defense may—

"(A) establish or continue one or more programs for the purpose of recruiting, selecting, appointing, educating, qualifying, and developing the careers of individuals to meet the requirements in subparagraphs (A) and (B) of subsection (a)(3);

"(B) appoint individuals to developmental positions in those programs; and

"(C) separate from the civil service after a three-year probationary period any individual appointed under this subsection who fails to meet the requirements described in subsection (a)(3).

"(2) To qualify for any developmental program described in paragraph (1)(B), an individual shall have—

"(A) been awarded a baccalaureate degree, with a grade point average of at least 3.0 (or the equivalent), from an accredited institution of higher education authorized to grant baccalaureate degrees; or

"(B) completed at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management.

"(f) CONTINGENCY CONTRACTING FORCE.—The Secretary shall establish qualification requirements for the contingency contracting force consisting of members of the armed forces whose mission is to deploy in support of contingency operations and other operations of the Department of Defense, including—

"(1) completion of at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education or similar educational institution in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management; or

"(2) passing an examination that demonstrates skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours or the equivalent of study in any of the disciplines described in paragraph (1).".

(b) CLERICAL AMENDMENT.—Section 1732(c)(2) of such title is amended by inserting a comma after "business".

SEC. 825. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE ACQUISITION 2005 TASK FORCE.

(a) REQUIREMENT FOR REPORT.—Not later than March 1, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the extent of the implementation of the recommendations set forth in the final report of the Department of Defense Acquisition 2005 Task Force, entitled "Shaping the Civilian Acquisition Workforce of the Future".

(b) CONTENT OF REPORT.—The report shall include the following:

(1) For each recommendation in the final report that is being implemented or that the Secretary plans to implement—

(A) a summary of all actions that have been taken to implement the recommendation; and

(B) a schedule, with specific milestones, for completing the implementation of the recommendation.

(2) For each recommendation in the final report that the Secretary does not plan to implement—

(A) the reasons for the decision not to implement the recommendation; and

(B) a summary of any alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plans to take to address concerns raised in the final report about the size and structure of the acquisition workforce of the Department of Defense.

(c) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after the date on which the Secretary submits the report required by subsection (a), the Comptroller General shall—

(1) review the report; and

(2) submit to the committees referred to in subsection (a) the Comptroller General's assessment of the extent to which the report—

(A) complies with the requirements of this section; and

(B) addresses the concerns raised in the final report about the size and structure of the acquisition workforce of the Department of Defense.

Subtitle D—Other Matters

SEC. 831. IDENTIFICATION OF ERRORS MADE BY EXECUTIVE AGENCIES IN PAYMENTS TO CONTRACTORS AND RECOVERY OF AMOUNTS ERRONEOUSLY PAID.

(a) PROGRAM REQUIRED.—(1) Chapter 35 of title 31, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RECOVERY AUDITS

"§3561. Identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid

"(a) PROGRAM REQUIRED.—The head of each executive agency that enters into contracts with a total value in excess of $500,000,000 in a fiscal year shall carry out a cost-effective program for identifying any errors made in paying the contractors and for recovering any amounts erroneously paid to the contractors.

"(b) RECOVERY AUDITS AND ACTIVITIES.—A program of an executive agency under subsection (a) shall include recovery audits and recovery activities. The head of the executive agency shall determine, in accordance with guidance provided under subsection (c), the classes of contracts to which recovery audits and recovery activities are appropriately applied.

"(c) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance for the conduct of programs under subsection (a). The guidance shall include the following:

"(1) Definitions of the terms 'recovery audit' and 'recovery activity' for the purposes of the programs.

"(2) The classes of contracts to which recovery audits and recovery activities are appropriately applied under the programs.

"(3) Protections for the confidentiality of—

"(A) sensitive financial information that has not been released for use by the general public; and

"(B) information that could be used to identify a person.

"(4) Policies and procedures for ensuring that the implementation of the programs does not result in duplicative audits of contractor records.

"(5) Policies regarding the types of contracts executive agencies may use for the procurement of recovery services, including guidance for use, in appropriate circumstances, of a contingency contract pursuant to which the head of an executive agency may pay a contractor an amount equal to a percentage of the total amount collected for the United States pursuant to that contract.

"(6) Protections for a contractor's records and facilities through restrictions on the authority of a contractor under a contract for the procurement of recovery services for an executive agency—

"(A) to require the production of any record or information by any person other than an officer, employee, or agent of the executive agency;

"(B) to establish, or otherwise have, a physical presence on the property or premises of any private sector entity for the purposes of performing the contract; or

"(C) to act as agents for the Government in the recovery of funds erroneously paid to contractors.

"(7) Policies for the appropriate types of management improvement programs authorized by section 3564 of this title that executive agencies may carry out to address overpayment problems and the recovery of overpayments.

"§3562. Disposition of recovered funds

"(a) AVAILABILITY OF FUNDS FOR RECOVERY AUDITS AND ACTIVITIES PROGRAM.—Funds collected under a program carried out by an executive agency under section 3561 of this title shall be available to the executive agency for the following purposes:

"(1) To reimburse the actual expenses incurred by the executive agency in the administration of the program.

"(2) To pay contractors for services under the program in accordance with the guidance issued under section 3561(c)(5) of this title.

"(b) FUNDS NOT USED FOR PROGRAM.—Any amounts erroneously paid by an executive agency that are recovered under such a program of an executive agency and are not used to reimburse expenses or pay contractors under subsection (a)—

"(1) shall be credited to the appropriations from which the erroneous payments were made, shall be merged with other amounts in those appropriations, and shall be available for the purposes and period for which such appropriations are available; or

"(2) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts.

"(c) PRIORITY OF OTHER AUTHORIZED DISPOSITIONS.—Notwithstanding subsection (b), the authority under such subsection may not be exercised to use, credit, or deposit funds collected under such a program as provided in that subsection to the extent that any other provision of law requires or authorizes the crediting of such funds to a nonappropriated fund instrumentality, revolving fund, working-capital fund, trust fund, or other fund or account.

"§3563. Sources of recovery services

"(a) CONSIDERATION OF AVAILABLE RECOVERY RESOURCES.—(1) In carrying out a program under section 3561 of this title, the head of an executive agency shall consider all resources available to that official to carry out the program.

"(2) The resources considered by the head of an executive agency for carrying out the program shall include the resources available to the executive agency for such purpose from the following sources:

"(A) The executive agency.

"(B) Other departments and agencies of the United States.

"(C) Private sector sources.

"(b) COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS.—Before entering into a contract with a private sector source for the performance of services under a program of the executive agency carried out under section 3561 of this title, the head of an executive agency shall comply with—

"(1) any otherwise applicable provisions of Office of Management and Budget Circular A-76; and

"(2) any other applicable provision of law or regulation with respect to the selection between employees of the United States and private sector sources for the performance of services.

"§3564. Management improvement programs

"In accordance with guidance provided by the Director of the Office of Management and Budget under section 3561 of this title, the head of an executive agency required to carry out a program under such section 3561 may carry out a program for improving management processes within the executive agency—

"(1) to address problems that contribute directly to the occurrence of errors in the paying of contractors of the executive agency; or

"(2) to improve the recovery of overpayments due to the agency.

"§3565. Relationship to authority of inspectors general

"Nothing in this subchapter shall be construed as impairing the authority of an Inspector General under the Inspector General Act of 1978 or any other provision of law.

"§3566. Privacy protections

"Any nongovernmental entity that, in the course of recovery auditing or recovery activity under this subchapter, obtains information that identifies an individual or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual, may not disclose the information for any purpose other than such recovery auditing or recovery activity and governmental oversight of such activity, unless disclosure for that other purpose is authorized by the individual to the executive agency that contracted for the performance of the recovery auditing or recovery activity.

"§3567. Definition of executive agency

"Notwithstanding section 102 of this title, in this subchapter, the term 'executive agency' has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).".

(2) The table of sections at the beginning of chapter 35 of such title is amended by adding at the end the following:

"SUBCHAPTER VI—RECOVERY AUDITS

"3561. Identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid.
"3562. Disposition of recovered funds.
"3563. Sources of recovery services.
"3564. Management improvement programs.
"3565. Relationship to authority of inspectors general.
"3566. Privacy protections.
"3567. Definition of executive agency.".

(b) REPORTS.—(1) Not later than 30 months after the date of the enactment of this Act, and annually for each of the first two years following the year of the first report, the Director of the Office of Management and Budget shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, a report on the implementation of subchapter VI of chapter 35 of title 31, United States Code (as added by subsection (a)).

(2) Each report shall include—

(A) a general description and evaluation of the steps taken by the heads of executive agencies to carry out the programs under such subchapter, including any management improvement programs carried out under section 3564 of such title 31;

(B) the costs incurred by executive agencies to carry out the programs under such subchapter; and

(C) the amounts recovered under the programs under such subchapter.

(c) CONFORMING AMENDMENT.—Section 3501 of such title is amended by inserting "and subchapter VI" after "section 3513".

SEC. 832. CODIFICATION AND MODIFICATION OF PROVISION OF LAW KNOWN AS THE "BERRY AMENDMENT".

(a) BUY AMERICAN REQUIREMENTS.—(1) Chapter 148 of title 10, United States Code, is amended by inserting after section 2533 the following new section:

"§2533a. Requirement to buy certain articles from American sources; exceptions

"(a) REQUIREMENT.—Except as provided in subsections (c) through (h), funds appropriated or otherwise available to the Department of Defense may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

"(b) Covered Items.—An item referred to in subsection (a) is any of the following:

"(1) An article or item of—

"(A) food;

"(B) clothing;

"(C) tents, tarpaulins, or covers;

"(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

"(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

"(2) Specialty metals, including stainless steel flatware.

"(3) Hand or measuring tools.

"(c) Availability Exception.—Subsection (a) does not apply to the extent that the Secretary of Defense or the Secretary of the military department concerned determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

"(d) Exception for Certain Procurements Outside the United States.—Subsection (a) does not apply to the following:

"(1) Procurements outside the United States in support of combat operations.

"(2) Procurements by vessels in foreign waters.

"(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

"(e) Exception for Specialty Metals and Chemical Warfare Protective Clothing.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

"(1) such procurement is necessary—

"(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

"(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

"(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of this title.

"(f) Exception for Certain Foods.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

"(g) Exception for Commissaries, Exchanges, and Other Nonappropriated Fund Instrumentalities.—Subsection (a) does not apply to items purchased for resale purposes in commissaries, exchanges, or nonappropriated fund instrumentalities operated by the Department of Defense.

"(h) Exception for Small Purchases.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of this title.

"(i) Applicability to Contracts and Subcontracts for Procurement of Commercial Items.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

"(j) Geographic Coverage.—In this section, the term 'United States' includes the possessions of the United States.".

(2) The table of sections at the beginning of subchapter V of such chapter is amended by inserting after the item relating to section 2533 the following new item:

"2533a. Requirement to buy certain articles from American sources; exceptions.".

(b) Repeal of Source Provisions.—The following provisions of law are repealed:

(1) Section 9005 of the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 10 U.S.C. 2241 note).

(2) Section 8109 of the Department of Defense Appropriations Act, 1997 (as contained in section 101(b) of Public Law 104-208; 110 Stat. 3009–111; 10 U.S.C. 2241 note).

SEC. 833. PERSONAL SERVICES CONTRACTS TO BE PERFORMED BY INDIVIDUALS OR ORGANIZATIONS ABROAD.

Section 2 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669) is amended by adding at the end the following:

"(n) exercise the authority provided in subsection (c), upon the request of the Secretary of Defense or the head of any other department or agency of the United States, to enter into personal service contracts with individuals to perform services in support of the Department of Defense or such other department or agency, as the case may be.".

SEC. 834. REQUIREMENTS REGARDING INSENSITIVE MUNITIONS.

(a) Requirement To Ensure Safety.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2388 the following new section:

"§2389. Ensuring safety regarding insensitive munitions

"The Secretary of Defense shall ensure, to the extent practicable, that insensitive munitions under development or procurement are safe throughout development and fielding when subject to unplanned stimuli.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2388 the following new item:

"2389. Ensuring safety regarding insensitive munitions.".

(b) Report Requirement.—At the same time that the budgets for fiscal years 2003 through 2005 are submitted to Congress under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on insensitive munitions. The reports shall include the following:

(1) The number of waivers granted pursuant to Department of Defense Regulation 5000.2–R (June 2001) during the preceding fiscal year, together with a discussion of the justifications for the waivers.

(2) Identification of the funding proposed for insensitive munitions in the budget with which the report is submitted, together with an explanation of the proposed funding.

SEC. 835. INAPPLICABILITY OF LIMITATION TO SMALL PURCHASES OF MINIATURE OR INSTRUMENT BALL OR ROLLER BEARINGS UNDER CERTAIN CIRCUMSTANCES.

(a) In General.—Section 2534 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) Inapplicability to Certain Contracts To Purchase Ball Bearings or Roller Bearings.—(1) This section does not apply with respect to a contract or subcontract to purchase items described in subsection (a)(5) (relating to ball bearings and roller bearings) for which—

"(A) the amount of the purchase does not exceed $2,500;

"(B) the precision level of the ball or roller bearings to be procured under the contract or subcontract is rated lower than the rating known as Annual Bearing Engineering Committee (ABEC) 5 or Roller Bearing Engineering Committee (RBEC) 5, or an equivalent of such rating;

"(C) at least two manufacturers in the national technology and industrial base that are capable of producing the ball or roller bearings have not responded to a request for quotation issued by the contracting activity for that contract or subcontract; and

"(D) no bearing to be procured under the contract or subcontract has a basic outside diameter (exclusive of flange diameters) in excess of 30 millimeters.

"(2) Paragraph (1) does not apply to a purchase if such purchase would result in the total amount of purchases of ball bearings and roller bearings to satisfy requirements under Department of Defense contracts, using the authority provided in such paragraph, to exceed $200,000 during the fiscal year of such purchase.".

(b) Applicability.—Subsection (j) of such section 2534 (as added by subsection (a)) shall apply with respect to a contract or subcontract to purchase ball bearings or roller bearings entered into after the date of the enactment of this Act.

SEC. 836. TEMPORARY EMERGENCY PROCUREMENT AUTHORITY TO FACILITATE THE DEFENSE AGAINST TERRORISM OR BIOLOGICAL OR CHEMICAL ATTACK.

(a) Increased Flexibility for Use of Streamlined Procedures.—The following special authorities apply to procurements of property and services by or for the Department of Defense for which funds are obligated during fiscal year 2002 and 2003:

(1) Micropurchase and Simplified Acquisition Thresholds.—For any procurement of property or services for use (as determined by the Secretary of Defense) to facilitate the defense against terrorism or biological or chemical attack against the United States—

(A) the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement; and

(B) the term "simplified acquisition threshold" means, in the case of any contract to be awarded and performed, or purchase to be made—

(i) inside the United States in support of a contingency operation, $250,000; or

(ii) outside the United States in support of a contingency operation, $500,000.

(2) Commercial Item Treatment for Procurements of Biotechnology.—For any procurement of biotechnology property or biotechnology services for use (as determined by the Secretary of Defense) to facilitate the defense against terrorism or biological attack against the United States, the procurement shall be treated as being a procurement of commercial items.

(b) Recommendations for Additional Emergency Procurement Authority To Support Anti-Terrorism Operations.—Not later than March 1, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the Secretary's recommendations for additional emergency procurement authority that the Secretary (subject *to the direction of the President) determines necessary to support operations carried out to combat terrorism.*

(c) TERMINATION OF AUTHORITY.—No contract may be entered into pursuant to the authority provided in subsection (a) after September 30, 2003.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Duties and Functions of Department of Defense Officers

Sec. 901. Deputy Under Secretary of Defense for Personnel and Readiness.
Sec. 902. Sense of Congress on functions of new Office of Force Transformation in the Office of the Secretary of Defense.
Sec. 903. Suspension of reorganization of engineering and technical authority policy within the Naval Sea Systems Command pending report to congressional committees.

Subtitle B—Space Activities

Sec. 911. Joint management of space programs.
Sec. 912. Requirement to establish in the Air Force an officer career field for space.
Sec. 913. Secretary of Defense report on space activities.
Sec. 914. Comptroller General assessment of implementation of recommendations of Space Commission.
Sec. 915. Sense of Congress regarding officers recommended to be appointed to serve as Commander of United States Space Command.

Subtitle C—Reports

Sec. 921. Revised requirement for Chairman of the Joint Chiefs of Staff to advise Secretary of Defense on the assignment of roles and missions to the Armed Forces.
Sec. 922. Revised requirements for content of annual report on joint warfighting experimentation.
Sec. 923. Repeal of requirement for one of three remaining required reports on activities of Joint Requirements Oversight Council.
Sec. 924. Revised joint report on establishment of national collaborative information analysis capability.

Subtitle D—Other Matters

Sec. 931. Conforming amendments relating to change of name of Military Airlift Command to Air Mobility Command.
Sec. 932. Organizational realignment for Navy Director for Expeditionary Warfare.

Subtitle A—Duties and Functions of Department of Defense Officers

SEC. 901. DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 136 the following new section:

"§136a. Deputy Under Secretary of Defense for Personnel and Readiness

"(a) There is a Deputy Under Secretary of Defense for Personnel and Readiness, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Personnel and Readiness shall assist the Under Secretary of Defense for Personnel and Readiness in the performance of the duties of that position. The Deputy Under Secretary of Defense for Personnel and Readiness shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 136 the following new item:

"136a. Deputy Under Secretary of Defense for Personnel and Readiness.".

(b) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after "Deputy Under Secretary of Defense for Policy." the following:

"Deputy Under Secretary of Defense for Personnel and Readiness.".

(c) REDUCTION IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE.—(1) Section 138(a) of title 10, United States Code, is amended by striking "nine" and inserting "eight".

(2) Section 5315 of title 5, United States Code, is amended by striking "(9)" after "Assistant Secretaries of Defense" and inserting "(8)".

(d) EFFECTIVE DATE.—The amendments made by subsection (c) shall take effect on the date on which a person is first appointed as Deputy Under Secretary of Defense for Personnel and Readiness.

SEC. 902. SENSE OF CONGRESS ON FUNCTIONS OF NEW OFFICE OF FORCE TRANSFORMATION IN THE OFFICE OF THE SECRETARY OF DEFENSE.

(a) FINDINGS.—Congress finds the following:

(1) The Armed Forces should give careful consideration to implementing transformation to meet operational challenges and exploit opportunities resulting from changes in the threat environment and the emergence of new technologies.

(2) The Department of Defense 2001 Quadrennial Defense Review Report, issued by the Secretary of Defense on September 30, 2001, states that 'The purpose of transformation is to maintain or improve U.S. military preeminence in the face of potential disproportionate discontinuous changes in the strategic environment. Transformation must therefore be focused on emerging strategic and operational challenges and the opportunities created by these challenges.".

(3) That report further states that "To support the transformation effort, and to foster innovation and experimentation, the Department will establish a new office reporting directly to the Secretary and Deputy Secretary of Defense.".

(b) SENSE OF CONGRESS ON FUNCTIONS OF OFFICE OF FORCE TRANSFORMATION.—It is the sense of Congress that the Director of the Office of Force Transformation within the Office of the Secretary of Defense should advise the Secretary on—

(1) development of force transformation strategies to ensure that the military of the future is prepared to dissuade potential military competitors and, if that fails, to fight and win decisively across the spectrum of future conflict;

(2) ensuring a continuous and broadly focused transformation process;

(3) service and joint acquisition and experimentation efforts, funding for experimentation efforts, promising operational concepts and technologies, and other transformation activities, as appropriate; and

(4) development of service and joint operational concepts, transformation implementation strategies, and risk management strategies.

(c) SENSE OF CONGRESS ON FUNDING.—It is the sense of Congress that the Secretary of Defense should consider providing funding adequate for sponsoring selective prototyping efforts, war games, and studies and analyses and for appropriate staffing, as recommended by the Director of the Office of Force Transformation referred to in subsection (b).

SEC. 903. SUSPENSION OF REORGANIZATION OF ENGINEERING AND TECHNICAL AUTHORITY POLICY WITHIN THE NAVAL SEA SYSTEMS COMMAND PENDING REPORT TO CONGRESSIONAL COMMITTEES.

(a) SUSPENSION OF REORGANIZATION.—During the period specified in subsection (b), the Secretary of the Navy may not grant final approval for any reorganization in engineering or technical authority policy for the Naval Sea Systems Command or any of the subsidiary activities of that command.

(b) REPORT.—Subsection (a) applies during the period beginning on the date of the enactment of this Act and ending 45 days after the date on which the Secretary submits to the congressional defense committees a report that sets forth in detail the Navy's plans and justification for the reorganization of engineering and technical authority policy within the Naval Sea Systems Command.

Subtitle B—Space Activities

SEC. 911. JOINT MANAGEMENT OF SPACE PROGRAMS.

(a) IN GENERAL.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 134 the following new chapter:

"CHAPTER 135—SPACE PROGRAMS

"Sec.
"2271. Management of space programs: joint program offices and officer management programs.

"§2271. Management of space programs: joint program offices and officer management programs

"(a) JOINT PROGRAM OFFICES.—The Secretary of Defense shall take appropriate actions to ensure, to the maximum extent practicable, that space development and acquisition programs of the Department of Defense are carried out through joint program offices.

"(b) OFFICER MANGEMENT PROGRAMS.—(1) The Secretary of Defense shall take appropriate actions to ensure, to the maximum extent practicable, that—

"(A) Army, Navy, and Marine Corps officers, as well as Air Force officers, are assigned to the space development and acquisition programs of the Department of Defense; and

"(B) Army, Navy, and Marine Corps officers, as well as Air Force officers, are eligible, on the basis of qualification, to hold leadership positions within the joint program offices referred to in subsection (a).

"(2) The Secretary of Defense shall designate those positions in the Office of the National Security Space Architect of the Department of Defense (or any successor office) that qualify as joint duty assignment positions for purposes of chapter 38 of this title.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of such subtitle and the beginning of part IV of such subtitle are amended by inserting after the item relating to chapter 134 the following new item:

"135. Space Programs .... 2271".

SEC. 912. REQUIREMENT TO ESTABLISH IN THE AIR FORCE AN OFFICER CAREER FIELD FOR SPACE.

(a) IN GENERAL.—Chapter 807 of title 10, United States Code, is amended by adding at the end the following new section:

"§8084. Officer career field for space

"The Secretary of the Air Force shall establish and implement policies and procedures to develop a career field for officers in the Air Force with technical competence in space-related matters to have the capabilty to—

"(1) develop space doctrine and concepts of space operations;

"(2) develop space systems; and

"(3) operate space systems.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8084. Officer career field for space.".

SEC. 913. SECRETARY OF DEFENSE REPORT ON SPACE ACTIVITIES.

(a) REPORT.—(1) Not later than March 15, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on problems in the management and organization of the Department of Defense for space activities that were identified in the report of the Space Commission, including a description of the actions taken by the Secretary to address those problems.

(2) For purposes of paragraph (1), the term "report of the Space Commission" means the report of the Commission To Assess United States National Security Space Management and Organization, dated January 11, 2001, and submitted to Congress under section 1623 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 815).

(b) MATTERS TO BE INCLUDED.—The report of the Secretary of Defense under subsection (a) shall include a description of, and rationale for, each of the following:

(1) Actions taken by the Secretary of Defense to realign management authorities and responsibilities for space programs of the Department of Defense.

(2) Steps taken to—

(A) establish a career field for officers in the Air Force with technical competence in space-related matters, in accordance with section 8084 of title 10, United States Code, as added by section 912;

(B) ensure that officers in that career field are treated fairly and objectively within the overall Air Force officer personnel system; and

(C) ensure that the primary responsibility for management of that career field is assigned appropriately.

(3) Other steps taken within the Air Force to ensure proper priority for development of space systems.

(4) Steps taken to ensure that the interests of the Army, the Navy, and the Marine Corps in development and acquisition of space systems, and in the operations of space systems, are protected.

(5) Steps taken by the Office of the Secretary of Defense and the military departments to ensure that the Army, Navy, and Marine Corps continue to develop military and civilian personnel with the required expertise in space system development, acquisition, management, and operation.

(6) Steps taken to ensure adequate oversight by the Office of the Secretary of Defense of the actions of the Under Secretary of the Air Force as the acquisition executive for Department of Defense space programs.

(7) Steps taken to improve oversight of the level of funding provided for space programs and the level of personnel resources provided for space programs.

SEC. 914. COMPTROLLER GENERAL ASSESSMENT OF IMPLEMENTATION OF RECOMMENDATIONS OF SPACE COMMISSION.

(a) ASSESSMENT.—(1) The Comptroller General shall carry out an assessment through February 15, 2003, of the actions taken by the Secretary of Defense in implementing the recommendations in the report of the Space Commission that are applicable to the Department of Defense.

(2) For purposes of paragraph (1), the term "report of the Space Commission" means the report of the Commission To Assess United States National Security Space Management and Organization, dated January 11, 2001, and submitted to Congress under section 1623 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 815).

(b) REPORTS.—Not later than February 15 of each of 2002 and 2003, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the assessment carried out under subsection (a). Each report shall set forth the results of the assessment as of the date of such report.

SEC. 915. SENSE OF CONGRESS REGARDING OFFICERS RECOMMENDED TO BE APPOINTED TO SERVE AS COMMANDER OF UNITED STATES SPACE COMMAND.

It is the sense of Congress that the position of commander of the United States Space Command, a position of importance and responsibility designated by the President under section 601 of title 10, United States Code, to carry the grade of general or admiral and covered by section 604 of that title, relating to recommendations by the Secretary of Defense for appointment of officers to certain four-star joint officer positions, should by filled by the best qualified officer of the Army, Navy, Air Force, or Marine Corps, rather than by officers from the same armed force that has traditionally provided officers for that position.

Subtitle C—Reports

SEC. 921. REVISED REQUIREMENT FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF TO ADVISE SECRETARY OF DEFENSE ON THE ASSIGNMENT OF ROLES AND MISSIONS TO THE ARMED FORCES.

(a) ASSESSMENT DURING QUADRENNIAL DEFENSE REVIEW.—Section 118(e) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(e) CJCS REVIEW.—";

(2) by designating the second and third sentences as paragraph (3); and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following new paragraph:

"(2) The Chairman shall include as part of that assessment the Chairman's assessment of the assignment of functions (or roles and missions) to the armed forces, together with any recommendations for changes in assignment that the Chairman considers necessary to achieve maximum efficiency of the armed forces. In preparing the assessment under this paragraph, the Chairman shall consider (among other matters) the following:

"(A) Unnecessary duplication of effort among the armed forces.

"(B) Changes in technology that can be applied effectively to warfare.".

(b) REPEAL OF REQUIREMENT FOR TRIENNIAL REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—Section 153 of such title is amended—

(1) by striking "(a) PLANNING; ADVICE; POLICY FORMULATION.—"; and

(2) by striking subsection (b).

(c) ASSESSMENT WITH RESPECT TO 2001 QDR.—With respect to the 2001 Quadrennial Defense Review, the Chairman of the Joint Chiefs of Staff shall submit to Congress a separate assessment of functions (or roles and missions) of the Armed Forces in accordance with paragraph (2) of section 118(e) of title 10, United States Code, as added by subsection (a)(3). Such assessment shall be based on the findings in the 2001 Quadrennial Defense Review, issued by the Secretary of Defense on September 30, 2001, and shall be submitted to Congress not later than one year after the date of the enactment of this Act.

SEC. 922. REVISED REQUIREMENTS FOR CONTENT OF ANNUAL REPORT ON JOINT WARFIGHTING EXPERIMENTATION.

Section 485(b) of title 10, United States Code, is amended—

(1) in paragraph (4)(E)—

(A) by inserting "(by lease or by purchase)" after "acquire"; and

(B) by inserting "(including any prototype)" after "or equipment"; and

(2) by adding at the end the following new paragraph:

"(6) A specific assessment of whether there is a need for a major force program for funding—

"(A) joint warfighting experimentation; and

"(B) the development and acquisition of any technology the value of which has been empirically demonstrated through such experimentation.".

SEC. 923. REPEAL OF REQUIREMENT FOR ONE OF THREE REMAINING REQUIRED REPORTS ON ACTIVITIES OF JOINT REQUIREMENTS OVERSIGHT COUNCIL.

Section 916 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–231) is amended—

(1) in the section heading, by striking "**SEMIANNUAL REPORT**" and inserting "**REPORTS**";

(2) in subsection (a)—

(A) by striking "SEMIANNUAL REPORT" in the subsection heading and inserting "REPORTS REQUIRED"; and

(B) by striking "five semiannual"; and

(3) in subsection (b)—

(A) by striking "September 1, 2002,"; and

(B) by striking the period at the end of the last sentence and inserting ", except that the last report shall cover all of the preceding fiscal year.".

SEC. 924. REVISED JOINT REPORT ON ESTABLISHMENT OF NATIONAL COLLABORATIVE INFORMATION ANALYSIS CAPABILITY.

(a) REVISED REPORT.—At the same time as the submission of the budget for fiscal year 2003 under section 1105 of title 31, United States Code, the Secretary of Defense and the Director of Central Intelligence shall submit to the congressional defense committees and the congressional intelligence committees a revised report assessing alternatives for the establishment of a national collaborative information analysis capability.

(b) MATTERS INCLUDED.—The revised report shall cover the same matters required to be included in the DOD/CIA report, except that the alternative architectures assessed in the revised report shall be limited to architectures that include the participation of all Federal agencies involved in the collection of intelligence. The revised report shall also identify any issues that would require legislative or regulatory changes in order to implement the preferred architecture identified in the revised report.

(c) OFFICIALS TO BE CONSULTED.—The revised report shall be prepared after consultation with all appropriate Federal officials, including the following:

(1) The Secretary of the Treasury.

(2) The Secretary of Commerce.

(3) The Secretary of State.

(4) The Attorney General.

(5) The Director of the Federal Bureau of Investigation.

(6) The Administrator of the Drug Enforcement Administration.

(d) DEFINITIONS.—In this section:

(1) DOD/CIA REPORT.—The term "DOD/CIA report" means the joint report required by section 933 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–237).

(2) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

Subtitle D—Other Matters

SEC. 931. CONFORMING AMENDMENTS RELATING TO CHANGE OF NAME OF MILITARY AIRLIFT COMMAND TO AIR MOBILITY COMMAND.

(a) CURRENT REFERENCES IN TITLE 10, UNITED STATES CODE.—Section 2554(d) of title 10, United States Code, and section 2555(a) of such title (relating to transportation services for international Girl Scout events) are amended by striking "Military Airlift Command" and inserting "Air Mobility Command".

(b) REPEAL OF OBSOLETE PROVISION.—Section 8074 of such title is amended by striking subsection (c).

(c) REFERENCES IN TITLE 37, UNITED STATES CODE.—Sections 430(c) and 432(b) of title 37, United States Code, are amended by striking "Military Airlift Command" and inserting "Air Mobility Command".

SEC. 932. ORGANIZATIONAL REALIGNMENT FOR NAVY DIRECTOR FOR EXPEDITIONARY WARFARE.

Section 5038(a) of title 10, United States Code, is amended by striking "Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments" and inserting "office of the Deputy Chief of Naval Operations with responsibility for warfare requirements and programs".

TITLE X—GENERAL PROVISIONS

Subtitle A—Department of Defense Civilian Personnel

Sec. 1001. Transfer authority.

Sec. 1002. Incorporation of classified annex.

Sec. 1003. Authorization of supplemental appropriations for fiscal year 2001.

Sec. 1004. United States contribution to NATO common-funded budgets in fiscal year 2002.

Sec. 1005. Limitation on funds for Bosnia and Kosovo peacekeeping operations for fiscal year 2002.

Sec. 1006. Maximum amount for National Foreign Intelligence Program.

Sec. 1007. Clarification of applicability of interest penalties for late payment of interim payments due under contracts for services.

Sec. 1008. Reliability of Department of Defense financial statements.

Sec. 1009. Financial Management Modernization Executive Committee and financial feeder systems compliance process.

Sec. 1010. Authorization of funds for ballistic missile defense programs or combating terrorism programs of the Department of Defense.

Subtitle B—Naval Vessels and Shipyards

Sec. 1011. Authority to transfer naval vessels to certain foreign countries.

Sec. 1012 Sale of Glomar Explorer to the lessee.

Sec. 1013. Leasing of Navy ships for university national oceanographic laboratory system.

Sec. 1014. Increase in limitations on administrative authority of the Navy to settle admiralty claims.

Subtitle C—Counter-Drug Activities

Sec. 1021. Extension and restatement of authority to provide Department of Defense support for counter-drug activities of other governmental agencies.

Sec. 1022. Extension of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities.

Sec. 1023. Authority to transfer Tracker aircraft currently used by Armed Forces for counter-drug purposes.

Sec. 1024. Limitation on use of funds for operation of Tethered Aerostat Radar System pending submission of required report.

Subtitle D—Strategic Forces

Sec. 1031. Repeal of limitation on retirement or dismantlement of strategic nuclear delivery systems.

Sec. 1032. Air Force bomber force structure.

Sec. 1033. Additional element for revised nuclear posture review.

Sec. 1034. Report on options for modernization and enhancement of missile wing helicopter support.

Subtitle E—Other Department of Defense Provisions

Sec. 1041. Secretary of Defense recommendation on need for Department of Defense review of proposed Federal agency actions to consider possible impact on national defense.

Sec. 1042. Department of Defense reports to Congress to be accompanied by electronic version upon request.

Sec. 1043. Department of Defense gift authorities.

Sec. 1044. Acceleration of research, development, and production of medical countermeasures for defense against biological warfare agents.

Sec. 1045. Chemical and biological protective equipment for military personnel and civilian employees of the Department of Defense.

Sec. 1046. Sale of goods and services by Naval Magazine, Indian Island, Alaska.

Sec. 1047. Report on procedures and guidelines for embarkation of civilian guests on naval vessels for public affairs purposes.

Sec. 1048. Technical and clerical amendments.

Sec. 1049. Termination of referendum requirement regarding continuation of military training on island of Vieques, Puerto Rico, and imposition of additional conditions on closure of live-fire training range.

Subtitle F—Other Matters

Sec. 1061. Assistance for firefighters.

Sec. 1062. Extension of times for Commission on the Future of the United States Aerospace industry to report and to terminate.

Sec. 1063. Appropriations to Radiation Exposure Compensation Trust Fund.

Sec. 1064. Waiver of vehicle weight limits during periods of national emergency.

Sec. 1065. Repair, restoration, and preservation of Lafayette Escadrille Memorial, Marnes-la-Coquette, France.

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2002 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. [H1002]. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee of conference to accompany the conference report on the bill S. 1438 of the One Hundred Seventh Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1003. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2001.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 2001 in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in title I of the Supplemental Appropriations Act, 2001 (Public Law 107–20).

SEC. 1004. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2002.

(a) FISCAL YEAR 2002 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2002 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2001, of funds appropriated for fiscal years before fiscal year 2002 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $708,000 for the Civil Budget.

(2) Of the amount provided in section 301(a)(1), $175,849,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1005. LIMITATION ON FUNDS FOR BOSNIA AND KOSOVO PEACEKEEPING OPERATIONS FOR FISCAL YEAR 2002.

(a) LIMITATION.—Of the amounts authorized to be appropriated by section 301(a)(24) for the Overseas Contingency Operations Transfer Fund—

(1) no more than $1,315,600,000 may be obligated for incremental costs of the Armed Forces for Bosnia peacekeeping operations; and

(2) no more than $1,528,600,000 may be obligated for incremental costs of the Armed Forces for Kosovo peacekeeping operations.

(b) PRESIDENTIAL WAIVER.—The President may waive the limitation in subsection (a)(1), or the limitation in subsection (a)(2), after submitting to Congress the following:

(1) The President's written certification that the waiver is necessary in the national security interests of the United States.

(2) The President's written certification that exercising the waiver will not adversely affect the readiness of United States military forces..

(3) A report setting forth the following:

(A) The reasons that the waiver is necessary in the national security interests of the United States.

(B) The specific reasons that additional funding is required for the continued presence of United States military forces participating in, or supporting, Bosnia peacekeeping operations, or Kosovo peacekeeping operations, as the case may be, for fiscal year 2002.

(C) A discussion of the impact on the military readiness of United States Armed Forces of the continuing deployment of United States military forces participating in, or supporting, Bosnia peacekeeping operations, or Kosovo peacekeeping operations, as the case may be.

(4) A supplemental appropriations request for the Department of Defense for such amounts as are necessary for the additional fiscal year 2002 costs associated with United States military forces participating in, or supporting, Bosnia or Kosovo peacekeeping operations.

(c) PEACEKEEPING OPERATIONS DEFINED.—For the purposes of this section:

(1) The term "Bosnia peacekeeping operations" has the meaning given such term in section 1004(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2112).

(2) The term "Kosovo peacekeeping operations"—

(A) means the operation designated as Operation Joint Guardian and any other operation involving the participation of any of the Armed Forces in peacekeeping or peace enforcement activities in and around Kosovo; and

(B) includes, with respect to Operation Joint Guardian or any such other operation, each activity that is directly related to the support of the operation.

SEC. 1006. MAXIMUM AMOUNT FOR NATIONAL FOREIGN INTELLIGENCE PROGRAM.

The total amount authorized to be appropriated for the National Foreign Intelligence Program for fiscal year 2002 is the sum of the following:

(1) The total amount set forth for the National Foreign Intelligence Program for fiscal year 2002 in the message of the President to Congress transmitted by the President on June 27, 2001, and printed as House Document 107–92, captioned "Communication of the President of the United States Transmitting Requests for Fiscal Year 2002 Budget Amendments for the Department of Defense".

(2) The total amount, if any, appropriated for the National Foreign Intelligence Program for fiscal year 2002 pursuant to the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38; 115 Stat. 220-221).

(3) The total amount, if any, appropriated for the National Foreign Intelligence Program for fiscal year 2002 in any law making supplemental appropriations for fiscal year 2002 that is enacted during the second session of the 107th Congress.

SEC. 1007. CLARIFICATION OF APPLICABILITY OF INTEREST PENALTIES FOR LATE PAYMENT OF INTERIM PAYMENTS DUE UNDER CONTRACTS FOR SERVICES.

Section 1010(d) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–251) is amended by inserting before the period at the end of the first sentence the following: ", and shall apply with respect to interim payments that are due on or after such date under contracts entered into before, on, or after that date".

SEC. 1008. RELIABILITY OF DEPARTMENT OF DEFENSE FINANCIAL STATEMENTS.

(a) ANNUAL REPORT ON RELIABILITY.—(1) Not later than September 30 of each year but subject to subsection (f), the Secretary of Defense shall submit to the recipients specified in paragraph (3) a report on the reliability of the Department of Defense financial statements, including the financial statements of each component of the Department that is required to prepare a financial statement under section 3515(c) of title 31, United States Code.

(2) The annual report shall contain the following:

(A) A conclusion regarding whether the policies and procedures of the Department of Defense, and the systems used within the Department of Defense, for the preparation of financial statements allow the achievement of reliability in those financial statements.

(B) For each of the financial statements prepared for the Department of Defense for the fiscal year in which the report is submitted, a conclusion regarding the expected reliability of the financial statement (evaluated on the basis of Office of Management and Budget guidance on financial statements), together with a discussion of the major deficiencies to be expected in the statement.

(C) A summary of the specific sections of the annual Financial Management Improvement Plan of the Department of Defense, current as of the date of the report, that—

(i) detail the priorities, milestones, and measures of success that apply to the preparation of the financial statements;

(ii) detail the planned improvements in the process for the preparation of financial statements that are to be implemented within 12 months after the date on which the plan is issued; and

(iii) provide an estimate of when each financial statement will convey reliable information.

(3) The annual report shall be submitted to the following:

(A) The Committee on Armed Services and the Committee on Governmental Affairs of the Senate.

(B) The Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

(C) The Director of the Office of Management and Budget.

(D) The Secretary of the Treasury.

(E) The Comptroller General of the United States.

(4) The Secretary of Defense shall make a copy of the annual report available to the Inspector General of the Department of Defense.

(b) MINIMIZATION OF USE OF RESOURCES FOR UNRELIABLE FINANCIAL STATEMENTS.—(1) With respect to each financial statement for a fiscal year that the Secretary of Defense assesses as being expected to be unreliable in the annual report under subsection (a), the Under Secretary of Defense (Comptroller) shall take appropriate actions to minimize, consistent with the benefits to be derived, the resources (including contractor support) that are used to develop, compile, and report the financial statement.

(2) With the annual budget justifications for the Department of Defense submitted to Congress each year, the Under Secretary of Defense (Comptroller) shall submit, with respect to the fiscal year in which submitted, the preceding fiscal year, and the following fiscal year, the following information:

(A) An estimate of the resources that the Department of Defense is saving or expects to save as a result of actions taken and to be taken under paragraph (1) with respect to the preparation of financial statements.

(B) A discussion of how the resources saved as estimated under subparagraph (A) have been redirected or are to be redirected from the preparation of financial statements to the improvement of systems underlying financial management within the Department of Defense and to the improvement of financial management policies, procedures, and internal controls within the Department of Defense.

(c) INFORMATION TO AUDITORS.—Not later than October 31 of each year, the Under Secretary of Defense (Comptroller) and the Assistant Secretary of each military department with responsibility for financial management and comptroller functions shall each provide to the auditors of the financial statement of that official's department for the fiscal year ending during the preceding month that official's preliminary management representation, in writing, regarding the expected reliability of the financial statement. The representation shall be consistent with guidance issued by the Director of the Office of Management and Budget and shall include the basis for the reliability assessment stated in the representation.

(d) LIMITATION ON INSPECTOR GENERAL AUDITS.—(1) On each financial statement that an official asserts is unreliable under subsection (b) or (c), the Inspector General of the Department of Defense shall only perform the audit procedures required by generally accepted government auditing standards consistent with any representation made by management.

(2) With the annual budget justifications for the Department of Defense submitted to Congress each year, the Under Secretary of Defense (Comptroller) shall submit, with respect to the fiscal year in which submitted, the preceding fiscal year, and the following fiscal year, information which the Inspector General shall report to the Under Secretary, as follows:

(A) An estimate of the resources that the Inspector General is saving or expects to save as a result of actions taken and to be taken under paragraph (1) with respect to the auditing of financial statements.

(B) A discussion of how the resources saved as estimated under subparagraph (A) have been redirected or are to be redirected from the auditing of financial statements to the oversight and improvement of systems underlying financial management within the Department of Defense and to the oversight and improvement of financial management policies, procedures, and internal controls within the Department of Defense.

(e) EFFECTIVE DATE.—The requirements of this section shall apply with respect to financial statements for fiscal years after fiscal year 2001 and to the auditing of those financial statements.

(f) TERMINATION OF APPLICABILITY.—If the Secretary of Defense certifies to the Inspector General of the Department of Defense that the financial statement for the Department of Defense, or a financial statement for a component of the Department of Defense, for a fiscal year is reliable, this section shall not apply with respect to that financial statement or to any successive financial statement for the Department of Defense, or for that component, as the case may be, for any later fiscal year.

SEC. 1009. FINANCIAL MANAGEMENT MODERNIZATION EXECUTIVE COMMITTEE AND FINANCIAL FEEDER SYSTEMS COMPLIANCE PROCESS.

(a) EXECUTIVE COMMITTEE.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§185. Financial Management Modernization Executive Committee

"(a) ESTABLISHMENT OF FINANCIAL MANAGEMENT MODERNIZATION EXECUTIVE COMMITTEE.—(1) The Secretary of Defense shall establish a Financial Management Modernization Executive Committee.

"(2) The Committee shall be composed of the following:

"(A) The Under Secretary of Defense (Comptroller), who shall be the chairman of the committee.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(C) The Under Secretary of Defense for Personnel and Readiness.

"(D) The Chief Information Officer of the Department of Defense.

"(E) Such additional personnel of the Department of Defense (including appropriate personnel of the military departments and Defense Agencies) as are designated by the Secretary.

"(3) The Committee shall be accountable to the Senior Executive Council (composed of the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force).

"(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the Committee shall have the following duties:

"(1) To establish a process that ensures that each critical accounting system, financial management system, and data feeder system of the Department of Defense is compliant with applicable Federal financial management and reporting requirements.

"(2) To develop a management plan for the implementation of the financial and data feeder systems compliance process established pursuant to paragraph (1).

"(3) To supervise and monitor the actions that are necessary to implement the management plan developed pursuant to paragraph (2), as approved by the Secretary of Defense.

"(4) To ensure that a Department of Defense financial management enterprise architecture is developed and maintained in accordance with—

"(A) the overall business process transformation strategy of the Department; and

"(B) the architecture framework of the Department for command, control, communications, computers, intelligence, surveillance, and reconnaissance functions.

"(5) To ensure that investments in existing or proposed financial management systems for the Department comply with the overall business practice transformation strategy of the Department and the financial management enterprise architecture developed under paragraph (4).

"(6) To provide an annual accounting of each financial and data feeder system investment technology project to ensure that each such project is being implemented at acceptable cost and within a reasonable schedule and is contributing to tangible, observable improvements in mission performance.

"(c) MANAGEMENT PLAN FOR IMPLEMENTATION OF FINANCIAL DATA FEEDER SYSTEMS COMPLIANCE PROCESS.—The management plan developed under subsection (b)(2) shall include among its principal elements at least the following elements:

"(1) A requirement for the establishment and maintenance of a complete inventory of all budgetary, accounting, finance, and data feeder systems that support the transformed business processes of the Department and produce financial statements.

"(2) A phased process (consisting of the successive phases of Awareness, Evaluation, Renovation, Validation, and Compliance) for improving systems referred to in paragraph (1) that provides for mapping financial data flow from the cognizant Department business function source (as part of the overall business process transformation strategy of the Department) to Department financial statements.

"(3) Periodic submittal to the Secretary of Defense, the Deputy Secretary of Defense, and the Senior Executive Council (or any combination thereof) of reports on the progress being made in achieving financial management transformation goals and milestones included in the annual financial management improvement plan in 2002.

"(4) Documentation of the completion of each phase specified in paragraph (2) of improvements made to each accounting, finance, and data feeder system of the Department.

"(5) Independent audit by the Inspector General of the Department, the audit agencies of the military departments, and private sector firms contracted to conduct validation audits (or any combination thereof) at the validation phase for each accounting, finance, and data feeder system.

"(d) DATA FEEDER SYSTEMS.—In this section, the term 'data feeder system' has the meaning given that term in section 2222(c)(2) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"185. Financial Management Modernization Executive Committee.".

(b) ANNUAL FINANCIAL MANAGEMENT IMPROVEMENT PLAN.—(1) Subsection (a) of section 2222 of title 10, United States Code, is amended—

(A) by striking "BIENNIAL" in the subsection heading and inserting "ANNUAL";

(B) by striking "a biennial" in the first sentence and inserting "an annual"; and

(C) by striking "even-numbered" in the second sentence.

(2) Subsection (c) of such section is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) In each such plan, the Secretary shall include the following:

"(A) A description of the actions to be taken in the fiscal year beginning in the year in which the plan is submitted to implement the annual performance goals, and the performance milestones, included in the financial management improvement plan submitted in 2002 pursuant to paragraphs (1) and (2), respectively, of section 1009(c) of the National Defense Authorization Act for Fiscal Year 2002.

"(B) An estimate of the amount expended in the fiscal year ending in the year in which the plan is submitted to implement the financial management improvement plan in such preceding calendar year, set forth by system.

"(C) If an element of the financial management improvement plan submitted in the fiscal year ending in the year in which the plan is submitted was not implemented, a justification for the lack of implementation of such element.".

(3)(A) The heading of such section is amended to read as follows:

"§2222. Annual financial management improvement plan".

(B) The item relating to section 2222 in the table of sections at the beginning of chapter 131 of such title is amended to read as follows:

"2222. Annual financial management improvement plan.".

(c) ADDITIONAL ELEMENTS FOR FINANCIAL MANAGEMENT IMPROVEMENT PLAN IN 2002.—In the annual financial management improvement plan submitted under section 2222 of title 10, United States Code, in 2002, the Secretary of Defense shall include the following:

(1) Measurable annual performance goals for improvement of the financial management of the Department of Defense.

(2) Performance milestones for initiatives under that plan for transforming the financial management operations of the Department of Defense and for implementing a financial management architecture for the Department.

(3) An assessment of the anticipated annual cost of any plans for transforming the financial management operations of the Department of Defense and for implementing a financial management architecture for the Department.

(4) A discussion of the following:

(A) The roles and responsibilities of appropriate Department officials to ensure the supervision and monitoring of the compliance of each accounting, finance, and data feeder system of the Department with—

(i) the business practice transformation strategy of the Department;

(ii) the financial management architecture of the Department; and

(iii) applicable Federal financial management systems and reporting requirements.

(B) A summary of the actions taken by the Financial Management Modernization Executive Committee to ensure that such systems comply with—

(i) the business practice transformation strategy of the Department;

(ii) the financial management architecture of the Department; and

(iii) applicable Federal financial management systems and reporting requirements.

(d) EFFECTIVE DATE.—Paragraph (2) of section 2222(c) of title 10, United States Code, as added by subsection (b)(2), shall not apply with respect to the annual financial management improvement plan submitted under section 2222 of title 10, United States Code, in 2002.

SEC. 1010. AUTHORIZATION OF FUNDS FOR BALLISTIC MISSILE DEFENSE PROGRAMS OR COMBATING TERRORISM PROGRAMS OF THE DEPARTMENT OF DEFENSE.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 2002 for the military functions of the Department of Defense, in addition to amounts authorized to be appropriated in titles I, II, and III, the amount of $1,300,000,000, to be available, in accordance with subsection (b), for the following purposes:

(1) Research, development, test, and evaluation for ballistic missile defense programs of the Ballistic Missile Defense Organization.

(2) Activities of the Department of Defense for combating terrorism.

(b) Allocation by President.—(1) The amount authorized to be appropriated by subsection (a) shall be allocated between the purposes stated in paragraphs (1) and (2) of that subsection in such manner as may be determined by the President based upon the national security interests of the United States. The amount authorized in subsection (a) shall not be available for any other purpose.

(2) Upon an allocation of such amount by the President, the amount so allocated shall be transferred to the appropriate regular authorization account under this division in the same manner as provided in section 1001. Transfers under this paragraph shall not be counted for the purposes of section 1001(a)(2).

(3) Not later than 15 days after an allocation is made under this subsection, the Secretary of Defense shall submit to the congressional defense committees a report describing the allocation and the Secretary's plan for the use by the Department of Defense of the funds made available pursuant to such allocation.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) Transfers by Grant.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) Poland.—To the Government of Poland, the OLIVER HAZARD PERRY class guided missile frigate WADSWORTH (FFG 9).

(2) Turkey.—To the Government of Turkey, the KNOX class frigates CAPODANNO (FF 1093), THOMAS C. HART (FF 1092), DONALD B. BEARY (FF 1085), McCANDLESS (FF 1084), REASONER (FF 1063), and BOWEN (FF 1079).

(b) Transfers by Sale.—The President is authorized to transfer vessels to foreign governments and foreign governmental entities on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) Taiwan.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(2) Turkey.—To the Government of Turkey, the OLIVER HAZARD PERRY class guided missile frigates ESTOCIN (FFG 15) and SAMUEL ELIOT MORISON (FFG 13).

(c) Grants Not Counted in Annual Total of Transferred Excess Defense Articles.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) Costs of Transfers on Grant Basis.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))) in the case of a transfer authorized to be made on a grant basis under subsection (a).

(e) Waiver Authority.—For a vessel transferred on a grant basis pursuant to authority provided by subsection (a)(2), the President may waive reimbursement of charges for the lease of that vessel under section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) for a period of one year before the date of the transfer of that vessel.

(f) Repair and Refurbishment in United States Shipyards.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) Expiration of Authority.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1012. SALE OF GLOMAR EXPLORER TO THE LESSEE.

(a) Authority.—The Secretary of the Navy may convey by sale all right, title, and interest of the United States in and to the vessel GLOMAR EXPLORER (AG 193) to the person who, on the date of the enactment of this Act, is the lessee of the vessel.

(b) Consideration.—The price for which the vessel is sold under subsection (a) shall be a fair and reasonable amount determined by the Secretary of the Navy.

(c) Additional Terms.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(d) Proceeds of Sale.—Amounts received by the Secretary from the sale under this section may, to the extent provided in an appropriations Act, be credited to the appropriation available for providing salvage facilities under section 7361 of title 10, United States Code, and are authorized to remain available until expended for that purpose.

SEC. 1013. LEASING OF NAVY SHIPS FOR UNIVERSITY NATIONAL OCEANOGRAPHIC LABORATORY SYSTEM.

Subsection (g) of section 2667 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Paragraph (1) does not apply to a renewal or extension of a lease by the Secretary of the Navy with a selected institution for operation of a ship within the University National Oceanographic Laboratory System if, under the lease, each of the following applies:

"(A) Use of the ship is restricted to federally supported research programs and to non-Federal uses under specific conditions with approval by the Secretary of the Navy.

"(B) Because of the anticipated value to the Navy of the oceanographic research and training that will result from the ship's operation, no monetary lease payments are required from the lessee under the initial lease or under any renewal or extension.

"(C) The lessee is required to maintain the ship in a good state of repair, readiness, and efficient operating condition, conform to all applicable regulatory requirements, and assume full responsibility for the safety of the ship, its crew, and scientific personnel aboard.".

SEC. 1014. INCREASE IN LIMITATIONS ON ADMINISTRATIVE AUTHORITY OF THE NAVY TO SETTLE ADMIRALTY CLAIMS.

(a) Admiralty Claims Against the United States.—Section 7622 of title 10, United States Code, is amended—

(1) in subsections (a) and (b), by striking "$1,000,000" and inserting "$15,000,000"; and

(2) in subsection (c), by striking "$100,000" and inserting "$1,000,000".

(b) Admiralty Claims by the United States.—Section 7623 of such title is amended—

(1) in subsection (a)(2), by striking "$1,000,000" and inserting "$15,000,000"; and

(2) in subsection (c), by striking "$100,000" and inserting "$1,000,000".

(c) Effective Date.—The amendments made by this section shall apply with respect to any claim accruing on or after February 1, 2001.

Subtitle C—Counter-Drug Activities

SEC. 1021. EXTENSION AND RESTATEMENT OF AUTHORITY TO PROVIDE DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER GOVERNMENTAL AGENCIES.

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) is amended to read as follows:

"SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

"(a) Support to Other Agencies.—During fiscal years 2002 through 2006, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

"(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

"(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

"(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

"(b) Types of Support.—The purposes for which the Secretary of Defense may provide support under subsection (a) are the following:

"(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of—

"(A) preserving the potential future utility of such equipment for the Department of Defense; and

"(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

"(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of—

"(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

"(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

"(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

"(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities of the Department of Defense or any Federal, State, or local law enforcement agency within or outside the United States or counter-drug activities of a foreign law enforcement agency outside the United States.

"(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

"(6) The detection, monitoring, and communication of the movement of—

''(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

''(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

''(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

''(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

''(9) The provision of linguist and intelligence analysis services.

''(10) Aerial and ground reconnaissance.

''(c) LIMITATION ON COUNTER-DRUG REQUIREMENTS.—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

''(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

''(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

''(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

''(g) RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

''(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e), section 376 of title 10, United States Code.

''(h) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—(1) When a decision is made to carry out a military construction project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees written notice of the decision, including the justification for the project and the estimated cost of the project. The project may be commenced only after the end of the 21-day period beginning on the date on which the written notice is received by Congress.

''(2) Paragraph (1) applies to an unspecified minor military construction project that—

''(A) is intended for the modification or repair of a Department of Defense facility for the purpose set forth in subsection (b)(4); and

''(B) has an estimated cost of more than $500,000.''.

SEC. 1022. EXTENSION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.

Section 1022 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255) is amended—

(1) by inserting ''and April 15, 2002,'' after ''January 1, 2001,''; and

(2) by striking ''fiscal year 2000'' and inserting ''the preceding fiscal year''.

SEC. 1023. AUTHORITY TO TRANSFER TRACKER AIRCRAFT CURRENTLY USED BY ARMED FORCES FOR COUNTER-DRUG PURPOSES.

(a) TRANSFER AUTHORITY.—The Secretary of Defense may transfer to the administrative jurisdiction and operational control of another Federal agency all Tracker aircraft in the inventory of the Department of Defense.

(b) EFFECT OF FAILURE TO TRANSFER.—If the transfer authority provided by subsection (a) is not exercised by the Secretary of Defense by September 30, 2002, any Tracker aircraft remaining in the inventory of the Department of Defense may not be used by the Armed Forces for counter-drug purposes after that date.

SEC. 1024. LIMITATION ON USE OF FUNDS FOR OPERATION OF TETHERED AEROSTAT RADAR SYSTEM PENDING SUBMISSION OF REQUIRED REPORT.

Not more than 50 percent of the funds appropriated or otherwise made available for fiscal year 2002 for operation of the Tethered Aerostat Radar System, which is used by the Armed Forces in maritime, air, and land counter-drug detection and monitoring, may be obligated or expended until such time as the Secretary of Defense submits to Congress the report on the status of the Tethered Aerostat Radar System required by section 1025 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–256).

Subtitle D—Strategic Forces

SEC. 1031. REPEAL OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

Section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948) is repealed.

SEC. 1032. AIR FORCE BOMBER FORCE STRUCTURE.

(a) LIMITATION.—None of the funds available to the Department of Defense for fiscal year 2002 may be obligated or expended for retiring or dismantling any of the 93 B–1B Lancer bombers in service as of June 1, 2001, or for transferring or reassigning any of those aircraft from the unit or facility to which assigned as of that date, until 15 days after the Secretary of the Air Force submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the Air Force bomber force structure.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall set forth the following:

(1) The Air Force plan for the modernization of the B1–B aircraft fleet, including a transition plan for implementation of that modernization plan and a description of the basing options for the aircraft in that fleet.

(2) The amount and type of bomber force structure in the Air Force appropriate to meet the requirements of the national security strategy of the United States.

(3) Specifications of new missions to be assigned to the National Guard units that currently fly B–1 aircraft and the transition of those units and their facilities from the current B–1 mission to their future missions.

(4) A description of the potential effect of the proposed consolidation and reduction of the B–1 fleet on other National Guard units in the affected States.

(5) A justification of the cost and projected savings of consolidating and reducing the B–1 fleet.

(c) AMOUNT AND TYPE OF BOMBER FORCE STRUCTURE DEFINED.—In this section, the term ''amount and type of bomber force structure'' means the number of B–2 aircraft, B–52 aircraft, and B–1 aircraft that are required to carry out the current national security strategy.

SEC. 1033. ADDITIONAL ELEMENT FOR REVISED NUCLEAR POSTURE REVIEW.

Section 1041(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–262) is amended by adding at the end the following new paragraph:

''(7) The possibility of deactivating or dealerting nuclear warheads or delivery systems immediately, or immediately after a decision to retire any specific warhead, class of warheads, or delivery system.''.

SEC. 1034. REPORT ON OPTIONS FOR MODERNIZATION AND ENHANCEMENT OF MISSILE WING HELICOPTER SUPPORT.

(a) REPORT REQUIRED.—The Secretary of Defense shall prepare a report regarding the options for providing the helicopter support missions for the Air Force intercontinental ballistic missile wings at Minot Air Force Base, North Dakota, Malmstrom Air Force Base, Montana, and F.E. Warren Air Force Base, Wyoming, for as long as these missions are required. The report shall include the Secretary's recommendations on a preferred option.

(b) OPTIONS.—Options to be reviewed under subsection (a) include the following:

(1) The current plan of the Air Force for replacement or modernization of UH–1N helicopters currently flown by the Air Force at the missile wings.

(2) Replacement of the UH–1N helicopters currently flown by the Air Force with UH–60 Black Hawk helicopters, the UH–1Y helicopter, or another platform.

(3) Replacement of the UH–1N helicopters with UH–60 helicopters and transition of the mission to the Army National Guard, as detailed in the Air Force Space Command/Army National Guard plan entitled ''ARNG Helicopter Support to Air Force Space Command'' and dated November 2000.

(4) Replacement of the UH–1N helicopters with UH–60 helicopters or another platform, and establishment of composite units combining active duty Air Force and Army National Guard personnel.

(5) Such other options as the Secretary of Defense considers appropriate.

(c) FACTORS.—Factors to be considered in preparing the report under subsection (a) include the following:

(1) Any implications of transferring the helicopter support missions on the command and control of, and responsibility for, missile field force protection.

(2) Current and future operational requirements, and the capabilities of the UH–1N or UH–60 helicopter or other aircraft to meet such requirements.

(3) Cost, with particular attention to opportunities to realize efficiencies over the long run.

(4) Implications for personnel training and retention.

(5) Evaluation of the assumptions used in the plan specified in subsection (b)(3).

(d) CONSIDERATION.—In preparing the report under subsection (a), the Secretary of Defense shall consider carefully the views of the Secretary of the Army, the Secretary of the Air Force, the commander of the United States Strategic Command, and the Chief of the National Guard Bureau.

(e) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to the congressional defense committees not later than the date on which the President submits to Congress the budget under section 1105 of title 31, United States Code, for fiscal year 2003.

Subtitle E—Other Department of Defense Provisions

SEC. 1041. SECRETARY OF DEFENSE RECOMMENDATION ON NEED FOR DEPARTMENT OF DEFENSE REVIEW OF PROPOSED FEDERAL AGENCY ACTIONS TO CONSIDER POSSIBLE IMPACT ON NATIONAL DEFENSE.

(a) RECOMMENDATION ON NEED FOR DEFENSE IMPACT REVIEW PROCESS.—The Secretary of Defense shall submit to the President the Secretary's recommendation as to whether there should be established within the executive branch a defense impact review process. The Secretary shall submit a copy of such recommendation to Congress.

(b) DEFENSE IMPACT REVIEW PROCESS.—(1) For purposes of this section, the term "'defense impact review process" means a formal process within the executive branch—

(A) to provide for review by the Department of Defense of certain proposed actions of other Federal departments and agencies to identify any reasonably foreseeable significant adverse impact of such a proposed action on national defense; and

(B) when such a review indicates that a proposed agency action may have such an adverse impact—

(i) to afford the Secretary of Defense a timely opportunity to make recommendations for means to eliminate or mitigate any such adverse impact; and

(ii) to afford an opportunity for those recommendations to be given reasonable and timely consideration by the agency to which provided.

(2) For purposes of such a review process, the proposed agency actions subject to review would be those for which a significant adverse impact on national defense is reasonably foreseeable and that meet such additional criteria as may be specified by the Secretary of Defense.

(c) TIME FOR SUBMISSION OF RECOMMENDATION.—The Secretary shall submit the Secretary's recommendation under subsection (a) not later than 180 days after the date of the enactment of this Act.

SEC. 1042. DEPARTMENT OF DEFENSE REPORTS TO CONGRESS TO BE ACCOMPANIED BY ELECTRONIC VERSION UPON REQUEST.

(a) IN GENERAL.—Chapter 23 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

"§480. Reports to Congress: submission in electronic form

"(a) REQUIREMENT.—Whenever the Secretary of Defense or any other official of the Department of Defense submits to Congress (or any committee of either House of Congress) a report that the Secretary (or other official) is required by law to submit, the Secretary (or other official) shall, upon request by any committee of Congress to which the report is submitted or referred, provide to Congress (or each such committee) a copy of the report in an electronic medium.

"(b) EXCEPTION.—Subsection (a) does not apply to a report submitted in classified form.

"(c) DEFINITION.—In this section, the term 'report' includes any certification, notification, or other communication in writing.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 481 the following new item:

"480. Reports to Congress: submission in electronic form.".

SEC. 1043. DEPARTMENT OF DEFENSE GIFT AUTHORITIES.

(a) AUTHORITY TO MAKE LOANS AND GIFTS.—(1) Subsection (a) of section 7545 of title 10, United States Code, is amended by striking "(a) Subject to" and all that follows through "to—" and inserting the following:

"(a) AUTHORITY TO MAKE LOANS AND GIFTS.—The Secretary of the Navy may lend or give, without expense to the United States, items described in subsection (b) that are not needed by the Department of the Navy to any of the following:".

(2) Such subsection is further amended—

(A) by capitalizing the first letter after the paragraph designation in each of paragraphs (1) through (12);

(B) by striking the semicolon at the end of paragraphs (1) through (10) and inserting a period;

(C) by striking "; or" at the end of paragraph (11) and inserting a period;

(D) in paragraph (5), by striking "World War I or World War II" and inserting "a foreign war";

(E) in paragraph (6), by striking "soldiers' monument" and inserting "servicemen's monument"; and

(F) in paragraph (8), by inserting "or memorial" after "museum".

(b) ADDITIONAL ITEMS AUTHORIZED TO BE DONATED BY SECRETARY OF THE NAVY.—Such section is further amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(2) by inserting after subsection (a) the following new subsections:

"(b) ITEMS ELIGIBLE FOR DISPOSAL.—This section applies to the following types of property held by the Department of the Navy:

"(1) Captured, condemned, or obsolete ordnance material.

"(2) Captured, condemned, or obsolete combat or shipboard material.

"(c) REGULATIONS.—A loan or gift made under this section shall be subject to regulations prescribed by the Secretary and to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)."; and

(3) by adding at the end the following new subsection:

"(f) AUTHORITY TO TRANSFER A PORTION OF A VESSEL.—The Secretary may lend, give, or otherwise transfer any portion of the hull or superstructure of a vessel stricken from the Naval Vessel Register and designated for scrapping to a qualified organization specified in subsection (a). The terms and conditions of an agreement for the transfer of a portion of a vessel under this section shall include a requirement that the transferee will maintain the material conveyed in a condition that will not diminish the historical value of the material or bring discredit upon the Navy.".

(c) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (d) (as redesignated by subsection (b)(1)), by inserting "MAINTENANCE OF THE RECORDS OF THE GOVERNMENT.—" after the subsection designation; and

(2) in subsection (e) (as redesignated by subsection (b)(1)), by inserting "ALTERNATIVE AUTHORITIES TO MAKE GIFTS OR LOANS.—" after the subsection designation.

(d) CONFORMING AMENDMENTS.—Section 2572(a) of such title is amended—

(1) in paragraph (1), by inserting ", county, or other political subdivision of a State" before the period at the end;

(2) in paragraph (2), by striking "soldiers' monument" and inserting "servicemen's monument"; and

(3) in paragraph (4), by inserting "or memorial" after "An incorporated museum".

SEC. 1044. ACCELERATION OF RESEARCH, DEVELOPMENT, AND PRODUCTION OF MEDICAL COUNTERMEASURES FOR DEFENSE AGAINST BIOLOGICAL WARFARE AGENTS.

(a) AGGRESSIVE PROGRAM REQUIRED.—(1) The Secretary of Defense shall carry out a program to aggressively accelerate the research, development, testing, and licensure of new medical countermeasures for defense against the biological warfare agents that are the highest threat.

(2) The program shall include the following activities:

(A) As the program's first priority, investment in multiple new technologies for medical countermeasures for defense against the biological warfare agents that are the highest threat, including for the prevention and treatment of anthrax.

(B) Leveraging of ideas and technologies from the biological technology industry.

(b) STUDY REQUIRED.—(1) The Secretary of Defense shall enter into a contract with the Institute of Medicine and the National Research Council under which the Institute and Council, in consultation with the Secretary, shall carry out a study of the review and approval process for new medical countermeasures for biological warfare agents. The purpose of the study shall be to identify—

(A) new approaches to accelerating such process; and

(B) definitive and reasonable methods for assuring the agencies responsible for regulating such countermeasures that such countermeasures will be effective in preventing disease in humans or in providing safe and effective therapy against such agents.

(2) Not later than June 1, 2002, the Institute and Council shall jointly submit to Congress a report on the results of the study.

(c) FACILITY FOR PRODUCTION OF VACCINES.—(1) Subject to paragraph (2) and to the availability of funds for such purposes appropriated pursuant to an authorization of appropriations, the Secretary of Defense may—

(A) design and construct a facility on a Department of Defense installation for the production of vaccines to meet the requirements of the Department of Defense to prevent or mitigate the physiological effects of exposure to biological warfare agents;

(B) operate that facility;

(C) qualify and validate that facility for the production of vaccines in accordance with the requirements of the Food and Drug Administration; and

(D) contract with a private-sector source for the production of vaccines in that facility.

(2) The authority under paragraph (1)(A) to construct a facility may be exercised only to the extent that a project for such construction is authorized by law in accordance with section 2802 of title 10, United States Code.

(3) The Secretary shall use competitive procedures under chapter 137 of title 10, United States Code, to enter into contracts to carry out subparagraphs (A), (B), and (D) of paragraph (1).

(d) PLAN REQUIRED.—(1) The Secretary shall develop a long-range plan to provide for the production and acquisition of vaccines to meet the requirements of the Department of Defense to prevent or mitigate the physiological effects of exposure to biological warfare agents.

(2) The plan shall include the following:

(A) An evaluation of the need for one or more vaccine production facilities that are specifically dedicated to meeting the requirements of the Department of Defense and other national interests.

(B) An evaluation of the options for the means of production of such vaccines, including—

(i) use of public facilities, private facilities, or a combination of public and private facilities; and

(ii) management and operation of the facilities by the Federal Government, one or more private persons, or a combination of the Federal Government and one or more private persons.

(C) A specification of the means that the Secretary determines is most appropriate for the production of such vaccines.

(3) The Secretary shall ensure that the plan is consistent with the requirement for safe and effective vaccines approved by the Food and Drug Administration.

(4) In preparing the plan, the Secretary shall—

(A) consider and, as the Secretary determines appropriate, include the information compiled and the analyses developed in preparing the reports required by sections 217 and 218 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–36, 1654A–37); and

(B) consult with the heads of other appropriate departments and agencies of the Federal Government.

(e) REPORT.—Not later than February 1, 2002, the Secretary shall submit to the congressional defense committees a report on the plan required by subsection (d). The report shall include, at a minimum, the contents of the plan and the following matters:

(1) A description of the policies and requirements of the Department of Defense regarding acquisition and use of such vaccines.

(2) The estimated schedule for the acquisition of such vaccines in accordance with the plan.

(3) A discussion of the options considered under subsection (d)(2)(B) for the means of production of such vaccines.

(4) The Secretary's recommendations for the most appropriate course of action to meet the requirements specified in subsection (d)(1), together with the justification for such recommendations and the long-term cost of implementing such recommendations.

(f) FUNDING.—Of the amount authorized to be appropriated under section 201(4) for research, development, test, and evaluation, Defense-wide, $5,000,000 may be available in Program Element 62384BP, and $5,000,000 may be available in Program Element 63384BP, for the program required by subsection (a).

SEC. 1045. CHEMICAL AND BIOLOGICAL PROTECTIVE EQUIPMENT FOR MILITARY PERSONNEL AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the requirements of the Department of Defense, including the reserve components, regarding chemical and biological protective equipment. The report shall set forth the following:

(1) A description of any current shortfalls with respect to requirements regarding chemical and biological protective equipment for military personnel, whether for individuals or units.

(2) An assessment of what should be the appropriate level of protection for civilian employees of the Department of Defense against chemical and biological attack.

(3) A plan for providing required chemical and biological protective equipment for military personnel and civilian employees of the Department of Defense.

(4) An assessment of the costs associated with carrying out the plan described in paragraph (3).

SEC. 1046. SALE OF GOODS AND SERVICES BY NAVAL MAGAZINE, INDIAN ISLAND, ALASKA.

(a) SALE AUTHORIZED.—Subject to subsections (c) and (d) of section 2563 of title 10, United States Code, the Secretary of the Navy may sell to a person outside the Department of Defense any article or service provided by the Naval Magazine, Indian Island, Alaska, that is not available from a United States commercial source.

(b) CREDITING OF PROCEEDS.—The proceeds from the sale of any article or service under this section shall be credited to the appropriation supporting the maintenance and operation of the Naval Magazine, Indian Island, for the fiscal year in which the proceeds are received.

SEC. 1047. REPORT ON PROCEDURES AND GUIDELINES FOR EMBARKATION OF CIVILIAN GUESTS ON NAVAL VESSELS FOR PUBLIC AFFAIRS PURPOSES.

Not later than February 1, 2002, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth in detail the procedures and guidelines of the Navy for the embarkation of civilian guests on naval vessels for public affairs purposes. The report shall include the following:

(1) Procedures for nominating and approving civilian guests for embarkation on naval vessels.

(2) Procedures for ensuring that civilian guest embarkations are conducted only as part of regularly scheduled operations.

(3) Guidelines regarding the operation of equipment by civilian guests on naval vessels.

(4) Any other procedures or guidelines the Secretary considers necessary or appropriate to ensure that operational readiness and safety are not hindered by activities related to the embarkation of civilian guests on naval vessels.

SEC. 1048. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are each amended by striking the period after "1111" in the item relating to chapter 56.

(2) Section 119(g)(2) is amended by striking "National Security Subcommittee" and inserting "Subcommittee on Defense".

(3) Section 130c(b)(3)(C) is amended by striking "subsection (f)" and inserting "subsection (g)".

(4) Section 176(a)(3) is amended by striking "Chief Medical Director" and inserting "Under Secretary for Health".

(5)(A) Section 503(c) is amended in paragraph (6)(A)(i) by striking "14101(18)" and "8801(18)" and inserting "14101" and "8801", respectively.

(B) The amendment made by subparagraph (A) shall take effect on July 1, 2002, immediately after the amendment to such section effective that date by section 563(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–131).

(6) Section 663(e) is amended—

(A) by striking "Armed Forces Staff College" in paragraph (1) and inserting "Joint Forces Staff College"; and

(B) by striking "ARMED FORCES STAFF COLLEGE" and inserting "JOINT FORCES STAFF COLLEGE".

(7) Section 667(17) is amended by striking "Armed Forces Staff College" both places it appears and inserting "Joint Forces Staff College".

(8) Section 874(a) is amended by inserting after "a sentence of confinement for life without eligibility for parole" the following: "that is adjudged for an offense committed after October 29, 2000".

(9) Section 1056(c)(2) is amended by striking ", not later than September 30, 1991,".

(10) The table of sections at the beginning of chapter 55 is amended by transferring the item relating to section 1074i, as inserted by section 758(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–200), so as to appear after the item relating to section 1074h.

(11) Section 1097a(e) is amended by striking "section 1072" and inserting "section 1072(2)".

(12) Sections 1111(a) and 1114(a)(1) are each amended by striking "hereafter" and inserting "hereinafter".

(13) Section 1116 is amended—

(A) in subsection (a)(2)(B), by inserting an open parenthesis before "other than for training"; and

(B) in subsection (b)(2)(D), by striking "section 111(c)(4)" and inserting "section 1115(c)(4)".

(14) The heading for subchapter II of chapter 75 is transferred within that chapter so as to appear before the table of sections at the beginning of that subchapter (as if the amendment made by section 721(c)(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 694) had inserted that heading following section 1471 instead of before section 1475).

(15) Section 1611(d) is amended by striking "with".

(16) Section 2166(e)(9) is amended by striking "App. 2" and inserting "App.".

(17) Section 2323(a)(1)(C) is amended—

(A) by striking "section 1046(3)" and inserting "section 365(3)";

(B) by striking "20 U.S.C. 1135d–5(3)" and inserting "20 U.S.C. 1067k"; and

(C) by striking ", which, for the purposes of this section" and all that follows through the period at the end and inserting a period.

(18) Section 2375(b) is amended by inserting "(41 U.S.C. 430)" after "section 34 of the Office of Federal Procurement Policy Act".

(19) Section 2376(1) is amended by inserting "(41 U.S.C. 403)" after "section 4 of the Office of Federal Procurement Policy Act".

(20) Section 2410f(a) is amended by inserting after "inscription" the following: ", or another inscription with the same meaning,".

(21) Section 2461a(a)(2) is amended by striking "effeciency" and inserting "efficiency".

(22) Section 2467 is amended—

(A) in subsection (a)(2)—

(i) by striking ", United States Code" in subparagraph (A); and

(ii) by striking "such" in subparagraphs (B) and (C); and

(B) in subsection (b)(2)(A), by striking "United States Code,".

(23) Section 2535 is amended—

(A) in subsection (a)—

(i) by striking "intent of Congress" and inserting "intent of Congress—";

(ii) by realigning clauses (1), (2), (3), and (4) so that each such clause appears as a separate paragraph indented two ems from the left margin; and

(iii) in paragraph (1), as so realigned, by striking "Armed Forces" and inserting "armed forces";

(B) in subsection (b)(1)—

(i) by striking "in this section, the Secretary is authorized and directed to—" and inserting "in subsection (a), the Secretary of Defense shall—"; and

(ii) by striking "defense industrial reserve" in subparagraph (A) and inserting "Defense Industrial Reserve"; and

(C) in subsection (c)—

(i) by striking paragraph (1);

(ii) by redesignating paragraph (2) as paragraph (1) and in that paragraph—

(I) by striking "means" and inserting "means—";

(II) by realigning clauses (A), (B), and (C) so that each such clause appears as a separate

subparagraph indented four ems from the left margin; and

(III) by inserting "and" at the end of subparagraph (B), as so realigned; and

(iii) by redesignating paragraph (3) as paragraph (2).

(24) Section 2541c is amended by striking "subtitle" both places it appears in the matter preceding paragraph (1) and inserting "subchapter".

(25) The second section 2582, added by section 1(a) of Public Law 106–446 (114 Stat. 1932), is redesignated as section 2583, and the item relating to that section in the table of sections at the beginning of chapter 153 is revised to conform to such redesignation.

(26)(A) Section 2693(a) is amended—

(i) in the matter preceding paragraph (1), by inserting "of Defense" after "Secretary"; and

(ii) in paragraph (3)—

(I) by inserting "to the Secretary of Defense" after "certifies";

(II) by inserting "(42 U.S.C. 3762a)" after "of 1968"; and

(III) by striking "to the public agencies referred to in section 515(a)(1) or 515(a)(3) of title I of such Act" and inserting "to a public agency referred to in paragraph (1) or (3) of subsection (a) of such section".

(B)(i) The heading of such section is amended to read as follows:

"§2693. Conveyance of certain property: Department of Justice correctional options program".

(ii) The item relating to such section in the table of sections at the beginning of chapter 159 is amended to read as follows:

"2693. Conveyance of certain property: Department of Justice correctional options program.".

(27) Section 3014(f)(3) is amended by striking "the number equal to" and all that follows and inserting "67.".

(28) Section 5014(f)(3) is amended by striking "the number equal to" and all that follows and inserting "74.".

(29) Section 8014(f)(3) is amended by striking "the number equal to" and all that follows and inserting "60.".

(30) Section 9783(e)(1) is amended by striking "40101(a)(2)" and inserting "40102(a)(2)".

(31) Section 12741(a)(2) is amended by striking "received" and inserting "receive".

(b) AMENDMENTS RELATING TO CHANGE IN TITLE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Title 10, United States Code, is further amended as follows:

(1) Section 133a(b) is amended by striking "shall assist the Under Secretary of Defense for Acquisition and Technology" and inserting "shall assist the Under Secretary of Defense for Acquisition, Technology, and Logistics".

(2) The following provisions are each amended by striking "Under Secretary of Defense for Acquisition and Technology" and inserting "Under Secretary of Defense for Acquisition, Technology, and Logistics": sections 139(c), 139(g) (as redesignated by section 263), 171(a)(3), 179(a)(1), 1702, 1703, 1707(a), 1722(a), 1722(b)(2)(B), 1735(c)(1), 1737(c)(1), 1737(c)(2)(B), 1741(b), 1746(a), 1761(b)(4), 1763, 2302c(a)(2), 2304(f)(1)(B)(iii), 2304(f)(6)(B), 2311(c)(1), 2311(c)(2)(B), 2350a(e)(1)(A), 2350a(e)(2)(B), 2350a(f)(1), 2399(b)(3), 2435(b), 2435(d)(2), 2521(a), and 2534(i)(3).

(3)(A) The heading for section 1702 is amended to read as follows:

"§1702. Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities".

(B) The item relating to section 1702 in the table of sections at the beginning of subchapter I of chapter 87 is amended to read as follows:

"1702. Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities.".

(4) Section 2503(b) is amended by striking "Under Secretary of Defense for Acquisition" and inserting "Under Secretary of Defense for Acquisition, Technology, and Logistics".

(c) AMENDMENTS TO SUBSTITUTE CALENDAR DATES FOR DATE-OF-ENACTMENT REFERENCES.—Title 10, United States Code, is further amended as follows:

(1) Section 130c(d)(1) is amended by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001" and inserting "October 30, 2000,".

(2) Section 184(a) is amended by striking "the date of the enactment of this section," and inserting "October 30, 2000,".

(3) Section 986(a) is amended by striking "the date of the enactment of this section," and inserting "October 30, 2000,".

(4) Section 1074g(a)(8) is amended by striking "the date of the enactment of this section" and inserting "October 5, 1999,".

(5) Section 1079(h)(2) is amended by striking "the date of the enactment of this paragraph" and inserting "February 10, 1996,".

(6) Section 1206(5) is amended by striking "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2000," and inserting "October 5, 1999,".

(7) Section 1405(c)(1) is amended by striking "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995," and inserting "October 5, 1994,".

(8) Section 1407(f)(2) is amended by striking "the date of the enactment of this subsection—" and inserting "October 30, 2000—".

(9) Section 1408(d)(6) is amended by striking "the date of the enactment of this paragraph" and inserting "August 22, 1996,".

(10) Section 1511(b) is amended by striking "the date of the enactment of this chapter." and inserting "February 10, 1996.".

(11) Section 2461a(b)(1) is amended by striking "the date of the enactment of this section," and inserting "October 30, 2000,".

(12) Section 4021(c)(1) is amended by striking "the date of the enactment of this section." and inserting "November 29, 1989.".

(13) Section 6328(a) is amended by striking "the date of the enactment of this section" and inserting "February 10, 1996,".

(14) Section 7439 is amended—

(A) in subsection (a)(2), by striking "one year after the date of the enactment of this section," and inserting "November 18, 1998,";

(B) in subsection (b)(1), by striking "the date of the enactment of this section." and inserting "November 18, 1997.";

(C) in subsection (b)(2), by striking "the end of the one-year period beginning on the date of the enactment of this section." and inserting "November 18, 1998."; and

(D) in subsection (f)(2), by striking "the date of the enactment of this section" and inserting "November 18, 1997,".

(15) Section 12533 is amended—

(A) in each of subsections (b) and (c)(1), by striking "the date of the enactment of this section." and inserting "November 18, 1997."; and

(B) in each of subsections (c)(2) and (d), by striking "the date of the enactment of this section" and inserting "November 18, 1997,".

(16) Section 12733(3) is amended—

(A) in subparagraph (B), by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001;" and inserting "October 30, 2000;"; and

(B) in subparagraph (C), by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001" and inserting "October 30, 2000,".

(d) AMENDMENTS RELATING TO CHANGE IN TITLE OF MCKINNEY-VENTO HOMELESS ASSISTANCE ACT.—The following provisions are each amended by striking "Stewart B. McKinney Homeless Assistance Act" and inserting "McKinney-Vento Homeless Assistance Act":

(1) Sections 2814(j)(2), 2854a(d)(2), and 2878(d)(4) of title 10, United States Code.

(2) Sections 2905(b)(6)(A) and 2910(11) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(3) Section 204(b)(6)(A) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(4) Section 2915(c)(10) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2687 note).

(5) Section 2(e)(4)(A) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421; 10 U.S.C. 2687 note).

(6) Section 1053(a) of the National Defense Authorization Act for Fiscal Year 1997 (110 Stat. 2650).

(e) AMENDMENTS TO REPEAL OBSOLETE PROVISIONS.—Title 10, United States Code, is further amended as follows:

(1) Section 1144 is amended—

(A) in subsection (a)(3), by striking the second sentence; and

(B) by striking subsection (e).

(2) Section 1581(b) is amended—

(A) by striking "(1)" and all that follows through "The Secretary of Defense shall deposit" and inserting "The Secretary of Defense shall deposit"; and

(B) by striking "on or after December 5, 1991,".

(3) Subsection (e) of section 1722 is repealed.

(4) Subsection 1732(a) is amended by striking the second sentence.

(5) Section 1734 is amended—

(A) in subsection (b)(1)(B), by striking "on and after October 1, 1991,"; and

(B) in subsection (c)(2), by striking the last sentence.

(6)(A) Section 1736 is repealed.

(B) The table of sections at the beginning of subchapter III of chapter 87 is amended by striking the item relating to section 1736.

(7)(A) Sections 1762 and 1764 are repealed.

(B) The table of sections at the beginning of subchapter V of chapter 87 is amended by striking the items relating to sections 1762 and 1764.

(8) Section 2112(a) is amended by striking ", with the first class graduating not later than September 21, 1982".

(9) Section 2218(d)(1) is amended by striking "for fiscal years after fiscal year 1993".

(10)(A) Section 2468 is repealed.

(B) The table of sections at the beginning of chapter 146 is amended by striking the item relating to section 2468.

(11) Section 2832 is amended—

(A) by striking "(a)" before "The Secretary of Defense"; and

(B) by striking subsection (b).

(12) Section 7430(b)(2) is amended—

(A) by striking "at a price less than" and all that follows through "the current sales price" and inserting "at a price less than the current sales price";

(B) by striking "; or" and inserting a period; and

(C) by striking subparagraph (B).

(f) PUBLIC LAW 106–398.—Effective as of October 30, 2000, and as if included therein as enacted, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) is amended as follows:

(1) Section 525(b)(1) (114 Stat. 1654A-109) is amended by striking "subsection (c)" and inserting "subsections (a) and (b)".

(2) Section 1152(c)(2) (114 Stat. 1654A–323) is amended by inserting "inserting" after "and".

(g) PUBLIC LAW 106–65.—Effective as of October 5, 1999, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended as follows:

(1) Section 531(b)(2)(A) (113 Stat. 602) is amended by inserting "in subsection (a)," after "(A)".

(2) Section 549(a)(2) (113 Stat. 611) is amended by striking "such chapter" and inserting "chapter 49 of title 10, United States Code,".

(3) Section 576(a)(3) (10 U.S.C. 1501 note; 113 Stat. 625) is amended by adding a period at the end.

(4) Section 577(a)(2) (113 Stat. 625) is amended by striking "bad conduct" in the first quoted matter and inserting "bad-conduct".

(5) Section 811(d)(3)(B)(v) (10 U.S.C. 2302 note; 113 Stat. 709) is amended by striking "Mentor-Protegee" and inserting "Mentor-Protege".

(6) Section 1052(b)(1) (113 Stat. 764) is amended by striking "'The Department" and inserting "the 'Department".

(7) Section 1053(a)(5) (10 U.S.C. 113 note; 113 Stat. 764) is amended by inserting "and" before "Marines".

(8) Section 1402(f)(2)(A) (22 U.S.C. 2778 note; 113 Stat. 799) is amended by striking "3201 note" and inserting "6305(4)".

(9) Section 2902(d) (10 U.S.C. 111 note; 113 Stat. 882) is amended by striking "section 2871(b)" and inserting "section 2881(b)".

(h) PUBLIC LAW 102–484.—The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows:

(1) Section 3161(c)(6)(C) (42 U.S.C. 7274h(c)(6)(C)) is amended by striking "title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.)" and inserting "title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.)".

(2) Section 4416(b)(1) (10 U.S.C. 12681 note) is amended by striking "force reduction period" and inserting "force reduction transition period".

(3) Section 4461(5) (10 U.S.C. 1143 note) is amended by adding a period at the end.

(i) OTHER LAWS.—

(1) Section 1083(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 113 note) is amended by striking "NAMES" and inserting "NAME".

(2) Section 845(d)(1)(B)(ii) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note) is amended by inserting a closed parenthesis after "41 U.S.C. 414(3))".

(3) Section 1123(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1556) is amended by striking "Armed Forces Staff College" each place it appears and inserting "Joint Forces Staff College".

(4) Section 1412(g)(2)(C)(vii) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)(2)(C)(vii)) is amended by striking "(c)(3)" and inserting "(c)(4)".

(5) Section 8336 of title 5, United States Code, is amended—

(A) in subsection (d)(2), by striking "subsection (o)" and inserting "subsection (p)"; and

(B) by redesignating the second subsection (o), added by section 1152(a)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–320), as subsection (p).

(6) Section 9001(3) of title 5, United States Code, is amended by striking "and" at the end of subparagraph (A) and inserting "or".

(7) Section 318(h)(3) of title 37, United States Code, is amended by striking "subsection (a)" and inserting "subsection (b)".

(8) Section 3695(a)(5) of title 38, United States Code, is amended by striking "1610" and inserting "1611".

(9) Section 13(b) of the Peace Corps Act (22 U.S.C. 2512(b)) is amended by striking ", subject to section 5532 of title 5, United States Code".

(10) Section 127(g)(6) of the Trade Deficit Review Commission Act (19 U.S.C. 2213 note), as amended by section 311(b) of the Legislative Branch Appropriations Act, 2000 (Public Law 106–57; 113 Stat. 428), is amended—

(A) by striking "AUTHORITIES.—" and all that follows through "An individual" and inserting "AUTHORITIES.—An individual"; and

(B) by striking subparagraph (B).

(11) Section 28 of the Atomic Energy Act of 1954 (42 U.S.C. 2038) is amended in the last sentence by striking ", subject to" and all that follows through the period at the end and inserting a period.

(12) Section 3212 of the National Nuclear Security Administration Act (50 U.S.C. 2402) is amended by redesignating the second subsection (e), added by section 3159(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat..1654A–469), as subsection (f).

(j) COORDINATION WITH OTHER AMENDMENTS.—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately before the other provisions of this Act.

SEC. 1049. TERMINATION OF REFERENDUM REQUIREMENT REGARDING CONTINUATION OF MILITARY TRAINING ON ISLAND OF VIEQUES, PUERTO RICO, AND IMPOSITION OF ADDITIONAL CONDITIONS ON CLOSURE OF TRAINING RANGE.

(a) IN GENERAL.—Title XV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–348) is amended by striking sections 1503, 1504, and 1505 and inserting the following new sections:

"SEC. 1503. CONDITIONS ON CLOSURE OF VIEQUES NAVAL TRAINING RANGE.

"(a) CONDITIONAL AUTHORITY TO CLOSE.—The Secretary of the Navy may close the Vieques Naval Training Range on the island of Vieques, Puerto Rico, and discontinue training at that range only if the Secretary certifies to the President and Congress that both of the following conditions are satisfied:

"(1) One or more alternative training facilities exist that, individually or collectively, provide an equivalent or superior level of training for units of the Navy and the Marine Corps stationed or deployed in the eastern United States.

"(2) The alternative facility or facilities are available and fully capable of supporting such Navy and Marine Corps training immediately upon cessation of training on Vieques.

"(b) CONSULTATION REQUIRED.—In determining whether the conditions specified in paragraphs (1) and (2) of subsection (a) are satisfied, the Secretary of the Navy shall take into account the written views and recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps. The Secretary shall submit these written views and recommendations to Congress with the certification submitted under subsection (a).

"SEC. 1504. CLOSURE OF VIEQUES NAVAL TRAINING RANGE AND DISPOSAL OF CLOSED RANGE.

"(a) TERMINATION OF TRAINING AND RELATED CLOSURES.—If the conditions specified in section 1503(a) are satisfied and the Secretary of the Navy makes a determination to close the Vieques Naval Training Range and discontinue live-fire training at that range the Secretary of the Navy shall—

"(1) terminate all Navy and Marine Corps training operations on the island of Vieques;

"(2) terminate all Navy and Marine Corps operations at Naval Station Roosevelt Roads, Puerto Rico, that are related exclusively to the use of the training range on the island of Vieques by the Navy and the Marine Corps; and

"(3) close the Navy installations and facilities on the island of Vieques, other than properties exempt from conveyance and transfer under section 1506.

"(b) TRANSFER TO SECRETARY OF THE INTERIOR.—Upon termination of Navy and Marine Corps training operations on the island of Vieques, the Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior—

"(1) the Live Impact Area on the island of Vieques;

"(2) all Department of Defense real properties on the eastern side of the island that are identified as conservation zones; and

"(3) all other Department of Defense real properties on the eastern side of the island.

"(c) ADMINISTRATION BY SECRETARY OF THE INTERIOR.—

"(1) RETENTION AND ADMINISTRATION.—The Secretary of the Interior shall retain, and may not dispose of any of, the properties transferred under paragraphs (2) and (3) of subsection (b) and shall administer such properties as wildlife refuges under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) pending the enactment of a law that addresses the disposition of such properties.

"(2) LIVE IMPACT AREA.—The Secretary of the Interior shall assume responsibility for the administration of the Live Impact Area upon transfer under paragraph (1) of subsection (b), administer that area as a wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.), and deny public access to the area.

"(d) LIVE IMPACT AREA DEFINED.—In this section, the term 'Live Impact Area' means the parcel of real property, consisting of approximately 900 acres (more or less), on the island of Vieques that is designated by the Secretary of the Navy for targeting by live ordnance in the training of forces of the Navy and Marine Corps.".

(b) CONFORMING AMENDMENT.—Section 1507(c) of such Act (114 Stat. 1654A–355) is amended by striking "the issuance of a proclamation described in section 1504(a) or".

Subtitle F—Other Matters

SEC. 1061. ASSISTANCE FOR FIREFIGHTERS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (e) of section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended to read as follows:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $900,000,000 for each of the fiscal years 2002 through 2004 for the purposes of this section.

"(2) ADMINISTRATIVE EXPENSES.—Of the funds appropriated pursuant to paragraph (1) for a fiscal year, the Director may use not more than three percent of the funds to cover salaries and expenses and other administrative costs incurred by the Director to operate the office established under subsection (b)(2) and make grants and provide assistance under this section.".

(b) RESPONSE TO TERRORISM OR USE OF WEAPONS OF MASS DESTRUCTION.—Subsection (b)(3) of such section is amended—

(1) in subparagraph (B), by inserting "(including response to a terrorism incident or use of a weapon of mass destruction)" after "response";

(2) in subparagraph (H), by striking "and monitoring" and inserting ", monitoring, and response to a terrorism incident or use of a weapon of mass destruction"; and

(3) in subparagraph (I), by inserting ", including protective equipment to respond to a terrorism incident or the use of a weapon of mass

destruction" after "personnel" the second place it appears.

(c) TECHNICAL AMENDMENTS.—Subsection (b)(3) of such section is further amended—

(1) by striking "the grant funds—" in the matter preceding subparagraph (A) and inserting "the grant funds for one or more of the following purposes:";

(2) by capitalizing the initial letter of the first word of each of subparagraphs (A) through (N);

(3) by striking the semicolon at the end of each of subparagraphs (A) through (L) and inserting a period; and

(4) by striking "; or" at the end of subparagraph (M) and inserting a period.

SEC. 1062. EXTENSION OF TIMES FOR COMMISSION ON THE FUTURE OF THE UNITED STATES AEROSPACE INDUSTRY TO REPORT AND TO TERMINATE.

(a) DEADLINE FOR REPORT.—Subsection (d)(1) of section 1092 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–302) is amended by striking "March 1, 2002" and inserting "one year after the date of the first official meeting of the Commission".

(b) TERMINATION OF COMMISSION.—Subsection (g) of such section is amended by striking "30 days" and inserting "60 days".

SEC. 1063. APPROPRIATIONS TO RADIATION EXPOSURE COMPENSATION TRUST FUND.

Section 3(e) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended to read as follows:

"(e) APPROPRIATION.—

"(1) IN GENERAL.—There are appropriated to the Fund, out of any money in the Treasury not otherwise appropriated, for fiscal year 2002 and each fiscal year thereafter through fiscal year 2011, such sums as may be necessary, not to exceed the applicable maximum amount specified in paragraph (2), to carry out the purposes of the Fund.

"(2) LIMITATION.—Appropriation of amounts to the Fund pursuant to paragraph (1) is subject to the following maximum amounts:

"(A) For fiscal year 2002, $172,000,000.

"(B) For fiscal year 2003, $143,000,000.

"(C) For fiscal year 2004, $107,000,000.

"(D) For fiscal year 2005, $65,000,000. .

"(E) For fiscal year 2006, $47,000,000.

"(F) For fiscal year 2007, $29,000,000.

"(G) For fiscal year 2008, $29,000,000.

"(H) For fiscal year 2009, $23,000,000.

"(I) For fiscal year 2010, $23,000,000.

"(J) For fiscal year 2011, $17,000,000.".

SEC. 1064. WAIVER OF VEHICLE WEIGHT LIMITS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(h) WAIVER FOR A ROUTE IN STATE OF MAINE DURING PERIODS OF NATIONAL EMERGENCY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section with respect to the portion of Interstate Route 95 in the State of Maine between Augusta and Bangor for the purpose of making bulk shipments of jet fuel to the Air National Guard Base at Bangor International Airport during a period of national emergency in order to respond to the effects of the national emergency.

"(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.".

SEC. 1065. REPAIR, RESTORATION, AND PRESERVATION OF LAFAYETTE ESCADRILLE MEMORIAL, MARNES-LA-COQUETTE, FRANCE.

(a) AUTHORITY TO MAKE GRANT.—(1) Subject to subsections (b) and (c), the Secretary of the Air Force may make a grant to the Lafayette Escadrille Memorial Foundation, Inc., to be used solely for the purpose of repairing, restoring, and preserving the structure, plaza, and surrounding grounds of the Lafayette Escadrille Memorial in Marnes la-Coquette, France.

(2) The amount of the grant may not exceed $2,000,000.

(b) CONTRIBUTION OF FUNDS BY FRANCE.—The Secretary of the Air Force may not make the grant authorized by subsection (a) until 30 days after the Secretary submits to Congress a report indicating that the government of France has also contributed funds toward the repair, restoration, and preservation of the memorial. The report shall specify the amount of the funds contributed by the government of France and describe the purpose for which the funds are to be used.

(c) CONDITIONS ON RECEIPT OF GRANT.—(1) The grant under subsection (a) shall be subject to the following conditions:

(A) That the Lafayette Escadrille Memorial Foundation submit to the Secretary of the Air Force an annual report, until the grant funds are fully expended, containing an itemized accounting of expenditures of grant funds and describing the progress made to repair, restore, and preserve the memorial.

(B) That the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, be given access for the purpose of audit and examination to any books, documents, papers, and records of the Lafayette Escadrille Memorial Foundation.

(C) That none of the grant funds be used for remuneration of any entity or individual associated with fundraising for any project in connection with the repair, restoration, and preservation of the memorial.

(2) The Secretary shall transmit to Congress a copy of each report received under paragraph (1)(A).

(d) REPORT ON ARCHITECTURAL AND ENGINEERING COSTS.—Not later than one year after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a report containing an estimate of the architectural and engineering costs to be incurred to fully repair, restore, and preserve the memorial and ensure the long-term structural integrity of the memorial. The estimate shall be prepared by a private United States entity, under contract with the Secretary. Funds for the contract shall also be derived from the amount specified in subsection (e).

(e) FUNDS FOR GRANT.—Funds for the grant under subsection (a) shall be derived only from amounts authorized to be appropriated under section 301(a)(4) for operation and maintenance for the Air Force.

TITLE XI—CIVILIAN PERSONNEL MATTERS

Subtitle A—Department of Defense Civilian Personnel

Sec. 1101. Personnel pay and qualifications authority for Department of Defense Pentagon Reservation civilian law enforcement and security force.
Sec. 1102. Pilot program for payment of retraining expenses.
Sec. 1103. Authority of civilian employees to act as notaries.
Sec. 1104. Authority to appoint certain health care professionals in the excepted service.

Subtitle B—Civilian Personnel Management Generally

Sec. 1111. Authority to provide hostile fire pay.
Sec. 1112. Payment of expenses to obtain professional credentials.
Sec. 1113. Parity in establishment of wage schedules and rates for prevailing rate employees.
Sec. 1114. Modification of limitation on premium pay.
Sec. 1115. Participation of personnel in technical standards development activities.
Sec. 1116. Retention of travel promotional items.
Sec. 1117. Applicability of certain laws to certain individuals assigned to work in the Federal Government.

Subtitle C—Intelligence Civilian Personnel

Sec. 1121. Authority to increase maximum number of positions in the Defense Intelligence Senior Executive Service.

Subtitle D—Matters Relating To Retirement

Sec. 1131. Improved portability of retirement coverage for employees moving between civil service employment and employment by nonappropriated fund instrumentalities.
Sec. 1132. Federal employment retirement credit for nonappropriated fund instrumentality service.
Sec. 1133. Modification of limitations on exercise of voluntary separation incentive pay authority and voluntary early retirement authority.

Subtitle A—Department of Defense Civilian Personnel

SEC. 1101. PERSONNEL PAY AND QUALIFICATIONS AUTHORITY FOR DEPARTMENT OF DEFENSE PENTAGON RESERVATION CIVILIAN LAW ENFORCEMENT AND SECURITY FORCE.

Section 2674(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" before the text in the first paragraph of that subsection;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following new paragraph:

"(2) For positions for which the permanent duty station is the Pentagon Reservation, the Secretary, in his sole and exclusive discretion, may without regard to the pay provisions of title 5, fix the rates of basic pay for such positions occupied by civilian law enforcement and security personnel appointed under the authority of this section so as to place such personnel on a comparable basis with personnel of other similar Federal law enforcement and security organizations within the vicinity of the Pentagon Reservation, not to exceed the basic pay for personnel performing similar duties in the United States Secret Service Uniformed Division or the United States Park Police.".

SEC. 1102. PILOT PROGRAM FOR PAYMENT OF RETRAINING EXPENSES.

(a) AUTHORITY TO CARRY OUT PILOT PROGRAM.—(1) The Secretary of Defense may establish a pilot program to facilitate the reemployment of eligible employees of the Department of Defense who are involuntarily separated due to a reduction in force, relocation as a result of a transfer of function, realignment, or change of duty station. Under the pilot program, the Secretary may pay retraining incentives to encourage non-Federal employers to hire and retain such eligible employees.

(2) Under the pilot program, the Secretary may enter into an agreement with a non-Federal employer under which the employer agrees—

(A) to employ an eligible employee for at least 12 months at a salary that is mutually agreeable to the employer and the eligible employee; and

(B) to certify to the Secretary the amount of costs incurred by the employer for any necessary training (as defined by the Secretary) provided to such eligible employee in connection with the employment.

(3) The Secretary may pay a retraining incentive to the non-Federal employer upon the employee's completion of 12 months of continuous employment with that employer. The Secretary shall determine the amount of the incentive, except that in no event may such amount exceed the lesser of the amount certified with respect to such eligible employee under paragraph (2)(B), or $10,000.

(4) In a case in which an eligible employee does not remain employed by the non-Federal employer for at least 12 months, the Secretary may pay to the employer a prorated amount of what would have been the full retraining incentive if the eligible employee had remained employed for such 12-month period.

(b) ELIGIBLE EMPLOYEES.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under an appointment without time limitation, who has been employed by the Department for a continuous period of at least 12 months and who has been given notice of separation pursuant to a reduction in force, relocation as a result of a transfer of function, realignment, or change of duty station, except that such term does not include—

(1) a reemployed annuitant under the retirement systems described in subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title, or another retirement system for employees of the Federal Government;

(2) an employee who, upon separation from Federal service, is eligible for an immediate annuity under subchapter III of chapter 83 of such title, or subchapter II of chapter 84 of such title; or

(3) an employee who is eligible for disability retirement under any of the retirement systems referred to in paragraph (1).

(c) DURATION.—No incentive may be paid under the pilot program for training commenced after September 30, 2005.

(d) DEFINITIONS.—In this section:

(1) The term "non-Federal employer" means an employer that is not an Executive agency, as defined in section 105 of title 5, United States Code, or an entity in the legislative or judicial branch of the Federal Government.

(2) The term "reduction in force" has the meaning of that term as used in chapter 35 of such title 5.

(3) The term "realignment" has the meaning given that term in section 2910 of the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

SEC. 1103. AUTHORITY OF CIVILIAN EMPLOYEES TO ACT AS NOTARIES.

(a) CLARIFICATION OF STATUS OF CIVILIAN ATTORNEYS ELIGIBLE TO ACT AS NOTARIES.—Subsection (b) of section 1044a of title 10, United States Code, is amended by striking "legal assistance officers" in paragraph (2) and inserting "legal assistance attorneys".

(b) OTHER CIVILIAN EMPLOYEES DESIGNATED TO ACT AS NOTARIES ABROAD.—Such subsection is further amended by adding at the end the following new paragraph:

"(5) For the performance of notarial acts at locations outside the United States, all employees of a military department or the Coast Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside the United States.".

SEC. 1104. AUTHORITY TO APPOINT CERTAIN HEALTH CARE PROFESSIONALS IN THE EXCEPTED SERVICE.

(a) AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§1599c. Appointment in excepted service of certain health care professionals

"(a) AUTHORITY.—The Secretary of Defense may appoint in the excepted service without regard to the provisions of subchapter I of chapter 33 of title 5 (except as provided in section 3328 of such title and in subsection (c) of this section) an individual who has—

"(1) a recognized degree or certificate from an accredited institution in a covered health care profession or occupation; and

"(2) successfully completed a clinical education program affiliated with the Department of Defense or the Department of Veterans Affairs.

"(b) COVERED HEALTH CARE PROFESSION OR OCCUPATION.—For purposes of subsection (a), a covered health care profession or occupation is any of the following:

"(1) Physician.

"(2) Dentist.

"(3) Podiatrist.

"(4) Optometrist.

"(5) Nurse.

"(6) Physician assistant.

"(7) Expanded-function dental auxiliary.

"(c) PREFERENCES IN HIRING.—In using the authority provided by this section, the Secretary shall apply the principles of preference for the hiring of veterans and other individuals established in subchapter I of chapter 33 of title 5.

"(d) PROBATIONARY PERIOD.—There shall be an initial probationary period of two years for appointments made under the authority of this section.

"(e) PROMOTIONS AND ADVANCEMENT.—(1) Promotions of individuals appointed under the authority of this section shall be made only after an examination performed in accordance with regulations prescribed by the Secretary.

"(2) Advancement of such individuals within a pay grade may be made in increments of the minimum rate of basic pay of the grade in accordance with regulations prescribed by the Secretary.

"(f) REVIEW OF RECORDS BY BOARD.—The record of each individual appointed under the authority of this section in the medical, dental, and nursing services shall be reviewed periodically by a board, which shall be appointed in accordance with regulations prescribed by the Secretary. If such board finds that such individual is not fully qualified and satisfactory, such individual shall be separated from service.

"(g) ADJUSTMENT OF PAY.—In accordance with regulations prescribed by the Secretary, the grade and annual rate of basic pay of an individual appointed under this section whose level of assignment is changed from a level of assignment in which the grade level is based on both the nature of the assignment and qualifications may be adjusted to the grade and annual rate of basic pay otherwise appropriate.

"(h) APPOINTMENT TO ADDITIONAL POSITIONS.—(1) The Secretary may use the authority of this subsection (subject to paragraph (2)) to establish the qualifications for, and appoint and advance an individual in the Department of Defense as—

"(A) a clinical or counseling psychologist (if such psychologist holds a diploma as a diplomate in psychology from an accrediting authority approved by the Secretary);

"(B) a certified or registered respiratory therapist;

"(C) a licensed physical therapist;

"(D) a licensed practical or vocational nurse;

"(E) a pharmacist; or

"(F) an occupational therapist.

"(2) Notwithstanding any other provision of this title or any other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving an individual appointed to a position described in paragraph (1) (including such actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individual had been appointed under such title.

"(i) REINSTATEMENT.—In determining eligibility for reinstatement in the civil service of individuals appointed to positions in the Department of Defense under this section who at the time of appointment have a civil service status and whose employment in the Department of Defense is terminated, the period of service performed in the Department shall be included in computing the period of service under applicable civil service regulations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1599c. Appointment in excepted service of certain health care professionals.".

Subtitle B—Civilian Personnel Management Generally

SEC. 1111. AUTHORITY TO PROVIDE HOSTILE FIRE PAY.

(a) IN GENERAL.—Subchapter IV of chapter 59 of title 5, United States Code, is amended by adding at the end the following new section:

"§5949. Hostile fire pay

"(a) The head of an Executive agency may pay an employee hostile fire pay at the rate of $150 for any month in which the employee was—

"(1) subject to hostile fire or explosion of hostile mines;

"(2) on duty in an area in which the employee was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period on duty in that area, other employees were subject to hostile fire or explosion of hostile mines; or

"(3) killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

"(b) An employee covered by subsection (a)(3) who is hospitalized for the treatment of his or her injury or wound may be paid hostile fire pay under this section for not more than three additional months during which the employee is so hospitalized.

"(c) An employee may be paid hostile fire pay under this section in addition to other pay and allowances to which entitled, except that an employee may not be paid hostile fire pay under this section for periods of time during which the employee receives payment under section 5925 of this title because of exposure to political violence or payment under section 5928 of this title.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 59 of such title is amended by inserting at the end the following new item:

"5949. Hostile fire pay.".

(c) EFFECTIVE DATE.—This provision is effective as if enacted into law on September 11, 2001, and may be applied with respect to any hostile action that took place on or after that date.

SEC. 1112. PAYMENT OF EXPENSES TO OBTAIN PROFESSIONAL CREDENTIALS.

(a) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§5757. Payment of expenses to obtain professional credentials

"(a) An agency may use appropriated funds or funds otherwise available to the agency to pay for—

"(1) expenses for employees to obtain professional credentials, including expenses for professional accreditation, State-imposed and professional licenses, and professional certification; and

"(2) examinations to obtain such credentials.

"(b) The authority under subsection (a) may not be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position that is excepted from the competitive service because of the confidential, policy-

determining, policy-making, or policy-advocating character of the position.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5757. Payment of expenses to obtain professional credentials.".

SEC. 1113. PARITY IN ESTABLISHMENT OF WAGE SCHEDULES AND RATES FOR PREVAILING RATE EMPLOYEES.

(a) In General.—Paragraph (2) of section 5343(d) of title 5, United States Code, is amended to read as follows:

"(2) When the lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish the wage schedules and rates on the basis of—

"(A) local private industry rates; and

"(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.".

(b) Effective Date.—Wage adjustments made pursuant to the amendment made by this section shall take effect in each applicable wage area on the first normal effective date of the applicable wage survey adjustment that occurs after the date of the enactment of this Act.

SEC. 1114. MODIFICATION OF LIMITATION ON PREMIUM PAY.

(a) In General.—Section 5547 of title 5, United States Code, is amended to read as follows:

"§ 5547. Limitation on premium pay

"(a) An employee may be paid premium pay under sections 5542, 5545(a), (b), and (c), 5545a, and 5546(a) and (b) only to the extent that the payment does not cause the aggregate of basic pay and such premium pay for any pay period for such employee to exceed the greater of—

"(1) the maximum rate of basic pay payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

"(2) the rate payable for level V of the Executive Schedule.

"(b)(1) Subject to regulations prescribed by the Office of Personnel Management, subsection (a) shall not apply to an employee who is paid premium pay by reason of work in connection with an emergency (including a wildfire emergency) that involves a direct threat to life or property, including work performed in the aftermath of such an emergency.

"(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would, in any calendar year, exceed the greater of—

"(A) the maximum rate of basic pay payable for GS–15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

"(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

"(3) Subject to regulations prescribed by the Office of Personnel Management, the head of an agency may determine that subsection (a) shall not apply to an employee who is paid premium pay to perform work that is critical to the mission of the agency. Such employees may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would not, in any calendar year, exceed the greater of—

"(A) the maximum rate of basic pay payable for GS–15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

"(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

"(c) The Office of Personnel Management shall prescribe regulations governing the methods of applying subsection (b)(2) and (b)(3) to employees who receive premium pay under section 5545(c) or 5545a, or to firefighters covered by section 5545b who receive overtime pay for hours in their regular tour of duty, and the method of payment to such employees. Such regulations may limit the payment of such premium pay on a biweekly basis.

"(d) This section shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a.".

(b) Conforming Amendment.—Section 118 of the Treasury and General Government Appropriations Act, 2001 (as enacted into law by section 1(3) of Public Law 106–554; 114 Stat. 2763A–134) is amended by striking "limitation on the rate of pay payable during a pay period contained in section 5547(c)(2)" and inserting "restrictions contained in section 5547".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first pay period beginning on or after the date that is 120 days following the date of enactment of this Act.

SEC. 1115. PARTICIPATION OF PERSONNEL IN TECHNICAL STANDARDS DEVELOPMENT ACTIVITIES.

Subsection (d) of section 12 of the National Technology Transfer and Advancement Act of 1995 (Pub. Law 104–113; 15 U.S.C. 272 note) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) Expenses of Government Personnel.—Section 5946 of title 5, United States Code, shall not apply with respect to any activity of an employee of a Federal agency or department that is determined by the head of that agency or department as being an activity undertaken in carrying out this subsection.".

SEC. 1116. RETENTION OF TRAVEL PROMOTIONAL ITEMS.

(a) Definition.—In this section, the term "agency" has the meaning given that term under section 5701 of title 5, United States Code.

(b) Retention of Travel Promotional Items.—To the extent provided under subsection (c), a Federal employee, member of the Foreign Service, member of a uniformed service, any family member or dependent of such an employee or member, or other individual who receives a promotional item (including frequent flyer miles, upgrade, or access to carrier clubs or facilities) as a result of using travel or transportation services obtained at Federal Government expense or accepted under section 1353 of title 31, United States Code, may retain the promotional item for personal use if the promotional item is obtained under the same terms as those offered to the general public and at no additional cost to the Federal Government.

(c) Limitation.—Subsection (b)—

(1) applies only to travel that—

(A) is at the expense of an agency; or

(B) is accepted by an agency under section 1353 of title 31, United States Code; and

(2) does not apply to travel by any officer, employee, or other official of the Government who is not in or under any agency.

(d) Regulatory Authority.—Any agency with authority to prescribe regulations governing the acquisition, acceptance, use, or disposal of any travel or transportation services obtained at Government expense or accepted under section 1353 of title 31, United States Code, may prescribe regulations to carry out subsection (b) with respect to those travel or transportation services.

(e) Repeal of Superseded Law.—Section 6008 of the Federal Acquisition Streamlining Act of 1994 (5 U.S.C. 5702 note; Public Law 103–355) is repealed.

(f) Applicability.—This section shall apply with respect to promotional items received before, on, or after the date of enactment of this Act.

SEC. 1117. APPLICABILITY OF CERTAIN LAWS TO CERTAIN INDIVIDUALS ASSIGNED TO WORK IN THE FEDERAL GOVERNMENT.

Section 3374(c)(2) of title 5, United States Code, is amended by inserting "the Ethics in Government Act of 1978, section 27 of the Office of Federal Procurement Policy Act," after "chapter 73 of this title,".

Subtitle C—Intelligence Civilian Personnel

SEC. 1121. AUTHORITY TO INCREASE MAXIMUM NUMBER OF POSITIONS IN THE DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.

Section 1606(a) of title 10, United States Code, is amended by striking "517" and inserting "544".

Subtitle D—Matters Relating To Retirement

SEC. 1131. IMPROVED PORTABILITY OF RETIREMENT COVERAGE FOR EMPLOYEES MOVING BETWEEN CIVIL SERVICE EMPLOYMENT AND EMPLOYMENT BY NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) Civil Service Retirement System.—Section 8347(q) of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) in paragraph (2)(B)—

(A) by striking "vested"; and

(B) by striking ", as the term" and all that follows through "such system".

(b) Federal Employees' Retirement System.—Section 8461(n) of such title is amended—

(1) in paragraph (1)—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) in paragraph (2)(B)—

(A) by striking "vested"; and

(B) by striking ", as the term" and all that follows through "such system".

SEC. 1132. FEDERAL EMPLOYMENT RETIREMENT CREDIT FOR NONAPPROPRIATED FUND INSTRUMENTALITY SERVICE.

(a) Civil Service Retirement System.—(1) Section 8332(b) of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (15);

(B) by striking the period at the end of paragraph (16) and inserting "; and";

(C) by inserting after paragraph (16) the following new paragraph:

"(17) service performed by any individual as an employee paid from nonappropriated funds of an instrumentality of the Department of Defense or the Coast Guard described in section

2105(c) that is not covered by paragraph (16) and that is not otherwise creditable, if the individual elects (in accordance with regulations prescribed by the Office) to have such service credited under this paragraph.";

(D) in the last sentence, by inserting "or (17)" after "service of the type described in paragraph (16)"; and

(E) by inserting after the last sentence the following: "Service credited under paragraph (17) may not also be credited under any other retirement system provided for employees paid from nonappropriated funds of a nonappropriated fund instrumentality.".

(2) Section 8334 of such title is amended by adding at the end the following new subsection:

"(n) Notwithstanding subsection (c), no deposit may be made with respect to service credited under section 8332(b)(17).".

(3) Section 8339 of such title is amended by adding at the end the following new subsection:

"(u) The annuity of an employee retiring under this subchapter with service credited under section 8332(b)(17) shall be reduced by the amount necessary to ensure that the present value of the annuity payable to the employee is actuarially equivalent to the present value of the annuity that would be payable to the employee under this subchapter if it were computed—

"(1) on the basis of service that does not include service credited under section 8332(b)(17); and

"(2) assuming the employee separated from service on the actual date of the separation of the employee.

"The amount of the reduction shall be computed under regulations prescribed by the Office of Personnel Management for the administration of this subsection.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8411 of such title is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (4);

(ii) by striking the period at the end of paragraph (5) and inserting "; and"; and

(iii) by inserting after paragraph (5) the following new paragraph:

"(6) service performed by any individual as an employee paid from nonappropriated funds of an instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) that is not otherwise creditable, if the individual elects (in accordance with regulations prescribed by the Office) to have such service credited under this paragraph."; and

(B) by adding at the end the following new subsection:

"(k)(1) The Office of Personnel Management shall accept, for the purposes of this chapter, the certification of the head of a nonappropriated fund instrumentality of the United States concerning service of the type described in subsection (b)(6) that was performed for such nonappropriated fund instrumentality.

"(2) Service credited under subsection (b)(6) may not also be credited under any other retirement system provided for employees paid from nonappropriated funds of a nonappropriated fund instrumentality.".

(2)(A) Section 8422 of such title is amended by adding at the end the following new subsection:

"(h) No deposit may be made with respect to service credited under section 8411(b)(6).".

(B) The heading for such section is amended to read as follows:

"§8422. Deductions from pay; contributions for other service".

(C) The item relating to such section in the table of contents at the beginning of chapter 84 of title 5, United States Code, is amended to read as follows:

"8422. Deductions from pay; contributions for other service.".

(3) Section 8415 of such title is amended by adding at the end the following new subsection:

"(j) The annuity of an employee retiring under this chapter with service credited under section 8411(b)(6) shall be reduced by the amount necessary to ensure that the present value of the annuity payable to the employee under this subchapter is actuarially equivalent to the present value of the annuity that would be payable to the employee under this subchapter if it were computed—

"(1) on the basis of service that does not include service credited under section 8411(b)(6); and

"(2) assuming the employee separated from service on the actual date of the separation of the employee.

"The amount of the reduction shall be computed under regulations prescribed by the Office of Personnel Management for the administration of this subsection.".

(c) APPLICABILITY.—The amendments made by this section shall apply only to separations from service as an employee of the United States on or after the date of the enactment of this Act.

SEC. 1133. MODIFICATION OF LIMITATIONS ON EXERCISE OF VOLUNTARY SEPARATION INCENTIVE PAY AUTHORITY AND VOLUNTARY EARLY RETIREMENT AUTHORITY.

(a) IN GENERAL.—Section 1153(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–323) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

(B) by striking "in each of fiscal years 2002 and 2003, not more than 4000 employees of the Department of Defense are" and inserting "in fiscal year 2002 not more than 2000 employees of the Department of Defense are, and in fiscal year 2003 not more than 6000 employees of the Department of Defense are"; and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) by striking paragraph (2).

(b) CONSTRUCTION.—The amendments made by subsection (a) may be superceded by another provision of law that takes effect after the date of the enactment of this Act, and before October 1, 2003, establishing a uniform system of providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Related to Arms Control and Monitoring

Sec. 1201. Clarification of authority to furnish nuclear test monitoring equipment to foreign governments.
Sec. 1202. Limitation on funding for joint Data Exchange Center in Moscow.
Sec. 1203. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
Sec. 1204. Authority for employees of Federal Government contractors to accompany chemical weapons inspection teams at Government-owned facilities.
Sec. 1205. Plan for securing nuclear weapons, material, and expertise of the states of the former Soviet Union.

Subtitle B—Matters Relating to Allies and Friendly Foreign Nations

Sec. 1211. Acquisition of logistical support for security forces.
Sec. 1212. Extension of authority for international cooperative research and development projects.
Sec. 1213. Cooperative agreements with foreign countries and international organizations for reciprocal use of test facilities.
Sec. 1214. Sense of Congress on allied defense burdensharing.

Subtitle C—Reports

Sec. 1221. Report on significant sales and transfers of military hardware, expertise, and technology to the People's Republic of China.
Sec. 1222. Repeal of requirement for reporting to Congress on military deployments to Haiti.
Sec. 1223. Report by Comptroller General on provision of defense articles, services, and military education and training to foreign countries and international organizations.

Subtitle A—Matters Related to Arms Control and Monitoring

SEC. 1201. CLARIFICATION OF AUTHORITY TO FURNISH NUCLEAR TEST MONITORING EQUIPMENT TO FOREIGN GOVERNMENTS.

(a) REDESIGNATION OF EXISTING SECTION.—(1) The second section 2555 of title 10, United States Code, added by section 1203(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–324), is redesignated as section 2565.

(2) The item relating to that section in the table of sections at the beginning of chapter 152 of that title is amended to read as follows:

"2565. Nuclear test monitoring equipment: furnishing to foreign governments.".

(b) CLARIFICATION OF AUTHORITY.—Section 2565 of that title, as so redesignated by subsection (a), is amended—

(1) in subsection (a)—

(A) by striking "CONVEY OR" in the subsection heading and inserting "TRANSFER TITLE TO OR OTHERWISE";

(B) in paragraph (1)—

(i) by striking "convey" and inserting "transfer title"; and

(ii) by striking "and" at the end;

(C) by striking the period at the end of paragraph (2) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(3) inspect, test, maintain, repair, or replace any such equipment."; and

(2) in subsection (b)—

(A) by striking "conveyed or otherwise provided" and inserting "provided to a foreign government";

(B) by inserting "and" at the end of paragraph (1);

(C) by striking "; and" at the end of paragraph (2) and inserting a period; and

(D) by striking paragraph (3).

SEC. 1202. LIMITATION ON FUNDING FOR JOINT DATA EXCHANGE CENTER IN MOSCOW.

(a) LIMITATION.—Not more than 50 percent of the funds made available to the Department of Defense for fiscal year 2002 for activities associated with the Joint Data Exchange Center in Moscow, Russia, may be obligated for any such activity until—

(1) the United States and the Russian Federation enter into a cost-sharing agreement as described in subsection (d) of section 1231 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398 (114 Stat. 1654A–329);

(2) the United States and the Russian Federation enter into an agreement or agreements exempting the United States and any United States person from Russian taxes, and from liability under Russian laws, with respect to activities associated with the Joint Data Exchange Center;

(3) the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of each agreement referred to in paragraphs (1) and (2); and

(4) a period of 30 days has expired after the date of the final submission under paragraph (3).

(b) Joint Data Exchange Center.—For purposes of this section, the term "Joint Data Exchange Center" means the United States-Russian Federation joint center for the exchange of data to provide early warning of launches of ballistic missiles and for notification of such launches that is provided for in a joint United States-Russian Federation memorandum of agreement signed in Moscow in June 2000.

SEC. 1203. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) Limitation on Amount of Assistance in Fiscal Year 2002—The total amount of the assistance for fiscal year 2002 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) Extension of Authority To Provide Assistance.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking "2001" and inserting "2002".

SEC. 1204. AUTHORITY FOR EMPLOYEES OF FEDERAL GOVERNMENT CONTRACTORS TO ACCOMPANY CHEMICAL WEAPONS INSPECTION TEAMS AT GOVERNMENT-OWNED FACILITIES.

(a) Authority.—Section 303(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6723(b)(2)) is amended by inserting after "designation of employees of the Federal Government" the following: "(and, in the case of an inspection of a United States Government facility, the designation of contractor personnel who shall be led by an employee of the Federal Government)".

(b) Credentials.—Section 304(c) of such Act (22 U.S.C. 6724(c)) is amended by striking "Federal government" and inserting "Federal Government (and, in the case of an inspection of a United States Government facility, any accompanying contractor personnel)".

SEC. 1205. PLAN FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF THE STATES OF THE FORMER SOVIET UNION.

(a) Plan Required.—Not later than June 15, 2002, the President shall submit to Congress a plan, that has been developed in coordination with all relevant Federal agencies—

(1) for cooperating with Russia on disposing, as soon as practicable, of nuclear weapons and weapons-usable nuclear material in Russia that Russia does not retain in its nuclear arsenals;

(2) for assisting Russia in downsizing its nuclear weapons research and production complex;

(3) for cooperating with the other states of the former Soviet Union on disposing, as soon as practicable, of all nuclear weapons and weapons-usable nuclear material in such states; and

(4) for preventing the outflow from the states of the former Soviet Union of scientific expertise that could be used for developing nuclear weapons, other weapons of mass destruction, and delivery systems for such weapons.

(b) Content of Plan.—The plan required by subsection (a) shall include the following:

(1) Specific goals and measurable objectives for programs that are designed to carry out the objectives described in subsection (a).

(2) Criteria for success for such programs, and a strategy for eventual termination of United States contributions to such programs and assumption of the ongoing support of those programs by others.

(3) A description of any administrative and organizational changes necessary to improve the coordination and effectiveness of such programs. In particular, the plan shall include consideration of the creation of an interagency committee that would have primary responsibilities within the executive branch for—

(A) monitoring United States nonproliferation efforts in the states of the former Soviet Union;

(B) coordinating the implementation of United States policy with respect to such efforts; and

(C) recommending to the President integrated policies, budget options, and private sector and international contributions for such programs.

(4) An estimate of the cost of carrying out such programs.

(c) Consultation.—In developing the plan required by subsection (a), the President—

(1) is encouraged to consult with the relevant states of the former Soviet Union regarding the practicality of various options; and

(2) shall consult with the majority and minority leadership of the appropriate committees of Congress.

Subtitle B—Matters Relating to Allies and Friendly Foreign Nations

SEC. 1211. ACQUISITION OF LOGISTICAL SUPPORT FOR SECURITY FORCES.

Section 5 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3424) is amended by adding at the end the following new subsection:

"(d)(1) The United States may use contractors to provide logistical support to the Multinational Force and Observers under this section in lieu of providing such support through a logistical support unit comprised of members of the United States Armed Forces.

"(2) Notwithstanding subsections (a) and (b) and section 7(b), support by a contractor under this subsection may be provided without reimbursement whenever the President determines that such action enhances or supports the national security interests of the United States.".

SEC. 1212. EXTENSION OF AUTHORITY FOR INTERNATIONAL COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.

(a) Eligibility of Friendly Foreign Countries.—Section 2350a of title 10, United States Code, is amended—

(1) in subsection (a)—

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Limitation on use of funds until submission of reports.
Sec. 1304. Requirement to consider use of revenue generated by activities carried out under Cooperative Threat Reduction programs.
Sec. 1305. Prohibition against use of funds for second wing of fissile material storage facility.
Sec. 1306. Prohibition against use of funds for certain construction activities.
Sec. 1307. Reports on activities and assistance under Cooperative Threat Reduction programs.
Sec. 1308. Chemical weapons destruction.
Sec. 1309. Additional matter in annual report on activities and assistance under Cooperative Threat Reduction programs.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) Specification of CTR Programs.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) Fiscal Year 2002 Cooperative Threat Reduction Funds Defined.—As used in this title, the term "fiscal year 2002 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) Availability of Funds.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) Funding for Specific Purposes.—Of the $403,000,000 authorized to be appropriated to the Department of Defense for fiscal year 2002 in section 301(23) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $133,405,000.

(2) For strategic nuclear arms elimination in Ukraine, $51,500,000.

(3) For nuclear weapons transportation security in Russia, $9,500,000.

(4) For nuclear weapons storage security in Russia, $56,000,000.

(5) For biological weapons proliferation prevention activities in the former Soviet Union, $17,000,000.

(6) For activities designated as Other Assessments/Administrative Support, $13,221,000.

(7) For defense and military contacts, $18,650,000.

(8) For chemical weapons destruction in Russia, $50,000,000.

(9) For weapons of mass destruction infrastructure elimination activities in Kazakhstan, $6,000,000.

(10) For weapons of mass destruction infrastructure elimination activities in Ukraine, $6,024,000.

(11) For activities to assist Russia in the elimination of plutonium production reactors, $41,700,000.

(b) Report on Obligation or Expenditure of Funds for Other Purposes.—No fiscal year 2002 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2002 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) Limited Authority To Vary Individual Amounts.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2002 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for the purposes stated in paragraph (6), (7), or (11) of subsection (a) in excess of 115 percent of the amount specifically authorized for such purposes.

(d) Modification of Authority To Vary Individual Amounts of FY 2001 Funds.—Section 1302(c)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–340) is amended by striking "(4),".

SEC. 1303. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF REPORTS.

Not more than 50 percent of fiscal year 2002 Cooperative Threat Reduction funds may be obligated or expended until 30 days after the date of the submission of—

(1) the report required to be submitted in fiscal year 2001 under section 1308(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341); and

(2) the multiyear plan required to be submitted for fiscal year 2001 under section 1308(h) of such Act.

SEC. 1304. REQUIREMENT TO CONSIDER USE OF REVENUE GENERATED BY ACTIVITIES CARRIED OUT UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

The Secretary of Defense shall consider the use of revenue generated by activities carried out under Cooperative Threat Reduction programs in negotiating and executing contracts with Russia to carry out such programs.

SEC. 1305. PROHIBITION AGAINST USE OF FUNDS FOR SECOND WING OF FISSILE MATERIAL STORAGE FACILITY.

(a) Prohibition.—No fiscal year 2002 Cooperative Threat Reduction funds and no funds authorized to be appropriated for Cooperative Threat Reduction programs for any prior fiscal year may be used for the construction of a second wing for a storage facility for Russian fissile material.

(b) Conforming Amendment.—Section 1304 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) is amended to read as follows:

"SEC. 1304. LIMITATION ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.

"Out of funds authorized to be appropriated for Cooperative Threat Reduction programs for fiscal year 2001 or any other fiscal year, not more than $412,600,000 may be used for planning, design, or construction of the first wing for the storage facility for Russian fissile material referred to in section 1302(a)(5) other than planning, design, or construction to improve security at such first wing.".

SEC. 1306. PROHIBITION AGAINST USE OF FUNDS FOR CERTAIN CONSTRUCTION ACTIVITIES.

No fiscal year 2002 Cooperative Threat Reduction funds may be used for construction activities carried out under Russia's program to eliminate the production of weapons grade plutonium.

SEC. 1307. REPORTS ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1308(c)(4) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–342) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "audits" and all that follows through "conducted" and inserting "means (including program management, audits, examinations, and other means) used"; and

(B) by striking "and that such assistance is being used for its intended purpose" and inserting ", that such assistance is being used for its intended purpose, and that such assistance is being used efficiently and effectively";

(2) in subparagraph (C), by inserting "and an assessment of whether the assistance being provided is being used effectively and efficiently" before the semicolon; and

(3) in subparagraph (D), by striking "audits, examinations, and other".

SEC. 1308. CHEMICAL WEAPONS DESTRUCTION.

Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 794; 22 U.S.C. 5952 note) is amended by inserting before the period at the end the following: "until the Secretary of Defense submits to Congress a certification that there has been—

"(1) information provided by Russia, that the United States assesses to be full and accurate, regarding the size of the chemical weapons stockpile of Russia;

"(2) a demonstrated annual commitment by Russia to allocate at least $25,000,000 to chemical weapons elimination;

"(3) development by Russia of a practical plan for destroying its stockpile of nerve agents;

"(4) enactment of a law by Russia that provides for the elimination of all nerve agents at a single site;

"(5) an agreement by Russia to destroy or convert its chemical weapons production facilities at Volgograd and Novocheboksark; and

"(6) a demonstrated commitment from the international community to fund and build infrastructure needed to support and operate the facility.".

SEC. 1309. ADDITIONAL MATTER IN ANNUAL REPORT ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1308(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) (as amended by section 1308) is further amended by adding at the end of the following new paragraph:

"(6) A description of the amount of the financial commitment from the international community, and from Russia, for the chemical weapons destruction facility located at Shchuch'ye, Russia, for the fiscal year beginning in the year in which the report is submitted.".

TITLE XIV—ARMED FORCES RETIREMENT HOME

Sec. 1401. Amendment of Armed Forces Retirement Home Act of 1991.
Sec. 1402. Definitions.
Sec. 1403. Revision of authority establishing the Armed Forces Retirement Home.
Sec. 1404. Chief Operating Officer.
Sec. 1405. Residents of Retirement Home.
Sec. 1406. Local Boards of Trustees.
Sec. 1407. Directors, Deputy Directors, Associate Directors, and staff of facilities.
Sec. 1408. Disposition of effects of deceased persons and unclaimed property.
Sec. 1409. Transitional provisions.
Sec. 1410. Conforming and clerical amendments and repeals of obsolete provisions.

SEC. 1401. AMENDMENT OF ARMED FORCES RETIREMENT HOME ACT OF 1991.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Armed Forces Retirement Home Act of 1991 (title XV of Public Law 101–510; 24 U.S.C. 401 et seq.).

SEC. 1402. DEFINITIONS.

Section 1502 (24 U.S.C. 401) is amended—

(1) by striking paragraphs (1), (2), (3), (4), and (5), and inserting the following new paragraphs:

"(1) The term 'Retirement Home' includes the institutions established under section 1511, as follows:

"(A) The Armed Forces Retirement Home—Washington.

"(B) The Armed Forces Retirement Home—Gulfport.

"(2) The term 'Local Board' means a Local Board of Trustees established under section 1516.

"(3) The terms 'Armed Forces Retirement Home Trust Fund' and 'Fund' mean the Armed Forces Retirement Home Trust Fund established under section 1519(a).";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), respectively; and

(3) in paragraph (5), as so redesignated—

(A) in subparagraph (C), by striking ", Manpower and Personnel" and inserting "for Personnel"; and

(B) in subparagraph (D), by striking "with responsibility for personnel matters" and inserting "for Manpower and Reserve Affairs".

SEC. 1403. REVISION OF AUTHORITY ESTABLISHING THE ARMED FORCES RETIREMENT HOME.

Section 1511 (24 U.S.C. 411) is amended to read as follows:

"SEC. 1511. ESTABLISHMENT OF THE ARMED FORCES RETIREMENT HOME.

"(a) Independent Establishment.—The Armed Forces Retirement Home is an independent establishment in the executive branch.

"(b) Purpose.—The purpose of the Retirement Home is to provide, through the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, residences and related services for certain retired and former members of the Armed Forces.

"(c) Facilities.—(1) Each facility of the Retirement Home referred to in paragraph (2) is a separate establishment of the Retirement Home.

"(2) The United States Soldiers' and Airmen's Home is hereby redesignated as the Armed Forces Retirement Home—Washington. The Naval Home is hereby redesignated as the Armed Forces Retirement Home—Gulfport.

"(d) Operation.—(1) The Chief Operating Officer of the Armed Forces Retirement Home is the head of the Retirement Home. The Chief Operating Officer is subject to the authority, direction, and control of the Secretary of Defense.

"(2) Each facility of the Retirement Home shall be maintained as a separate establishment of the Retirement Home for administrative purposes and shall be under the authority, direction, and control of the Director of that facility. The Director of each facility of the Retirement Home is subject to the authority, direction, and control of the Chief Operating Officer.

"(e) Property and Facilities.—(1) The Retirement Home shall include such property and facilities as may be acquired under paragraph (2) or accepted under section 1515(f) for inclusion in the Retirement Home.

"(2) The Secretary of Defense may acquire, for the benefit of the Retirement Home, property and facilities for inclusion in the Retirement Home.

"(3) The Secretary of Defense may dispose of any property of the Retirement Home, by sale, lease, or otherwise, that the Secretary determines is excess to the needs of the Retirement Home. The proceeds from such a disposal of property shall be deposited in the Armed Forces Retirement Home Trust Fund. No such disposal of real property shall be effective earlier than 120 days after the date on which the Secretary transmits a notification of the proposed disposal to the Committees on Armed Services of the Senate and the House of Representatives.

"(f) DEPARTMENT OF DEFENSE SUPPORT.—The Secretary of Defense may make available from the Department of Defense to the Retirement Home, on a nonreimbursable basis, administrative support and office services, legal and policy planning assistance, access to investigative facilities of the Inspector General of the Department of Defense and of the military departments, and any other support necessary to enable the Retirement Home to carry out its functions under this title.

"(g) ACCREDITATION.—The Chief Operating Officer shall endeavor to secure for each facility of the Retirement Home accreditation by a nationally recognized civilian accrediting organization, such as the Continuing Care Accreditation Commission and the Joint Commission for Accreditation of Health Organizations.

"(h) ANNUAL REPORT.—The Secretary of Defense shall transmit to Congress an annual report on the financial and other affairs of the Retirement Home for each fiscal year.".

SEC. 1404. CHIEF OPERATING OFFICER.

(a) ESTABLISHMENT AND AUTHORITY OF POSITION.—Section 1515 (24 U.S.C. 415) is amended to read as follows:

"SEC. 1515. CHIEF OPERATING OFFICER.

"(a) APPOINTMENT.—(1) The Secretary of Defense shall appoint the Chief Operating Officer of the Retirement Home.

"(2) The Chief Operating Officer shall serve at the pleasure of the Secretary of Defense.

"(3) The Secretary of Defense shall evaluate the performance of the Chief Operating Officer at least once each year.

"(b) QUALIFICATIONS.—To qualify for appointment as the Chief Operating Officer, a person shall—

"(1) be a continuing care retirement community professional;

"(2) have appropriate leadership and management skills; and

"(3) have experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

"(c) RESPONSIBILITIES.—(1) The Chief Operating Officer shall be responsible to the Secretary of Defense for the overall direction, operation, and management of the Retirement Home and shall report to the Secretary on those matters.

"(2) The Chief Operating Officer shall supervise the operation and administration of the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, including the Local Boards of those facilities.

"(3) The Chief Operating Officer shall perform the following duties:

"(A) Issue, and ensure compliance with, appropriate rules for the operation of the Retirement Home.

"(B) Periodically visit, and inspect the operation of, the facilities of the Retirement Home.

"(C) Periodically examine and audit the accounts of the Retirement Home.

"(D) Establish any advisory body or bodies that the Chief Operating Officer considers to be necessary.

"(d) COMPENSATION.—(1) The Secretary of Defense may prescribe the pay of the Chief Operating Officer, except that the annual rate of basic pay, including locality pay, of the Chief Operating Officer may not exceed the annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(2) In addition to basic pay and any locality pay prescribed for the Chief Operating Officer, the Secretary may award the Chief Operating Officer, not more than once each year, a bonus based on the performance of the Chief Operating Officer for the year. The Secretary shall prescribe the amount of any such bonus.

"(3) The total amount of the basic pay and bonus paid the Chief Operating Officer for a year under this section may not exceed the annual rate of basic pay payable for level I of the Executive Schedule under section 5312 of title 5, United States Code.

"(e) ADMINISTRATIVE STAFF.—(1) The Chief Operating Officer may, subject to the approval of the Secretary of Defense, appoint a staff to assist in the performance of the Chief Operating Officer's duties in the overall administration of the Retirement Home.

"(2) The Chief Operating Officer shall prescribe the rates of pay applicable to the members of the staff appointed under paragraph (1), except that—

"(A) a staff member who is a member of the Armed Forces on active duty or who is a full-time officer or employee of the United States may not receive additional pay by reason of service on the administrative staff; and

"(B) the limitations in section 5373 of title 5, United States Code, relating to pay set by administrative action, shall apply to the rates of pay prescribed under this paragraph.

"(f) ACCEPTANCE OF GIFTS.—(1) The Chief Operating Officer may accept gifts of money, property, and facilities on behalf of the Retirement Home.

"(2) Monies received as gifts, or realized from the disposition of property and facilities received as gifts, shall be deposited in the Armed Forces Retirement Home Trust Fund.".

(b) TRANSFER OF AUTHORITIES.—(1) The following provisions are amended by striking "Retirement Home Board" each place it appears and inserting "Chief Operating Officer":

(A) Section 1512 (24 U.S.C. 412), relating to eligibility and acceptance for residence in the Armed Forces Retirement Home.

(B) Section 1513(a) (24 U.S.C. 412(a)), relating to services provided to residents of the Armed Forces Retirement Home.

(C) Section 1518(c) (24 U.S.C. 418(c)), relating to inspection of the Armed Forces Retirement Home.

(2) Section 1519(c) (24 U.S.C. 419(c)), relating to authority to invest funds in the Armed Forces Retirement Home Trust Fund, is amended by striking "Director" and inserting "Chief Operating Officer".

(3) Section 1521(a) (24 U.S.C. 421(a)), relating to payment of residents for services, is amended by striking "Chairman of the Armed Forces Retirement Board" and inserting "Chief Operating Officer".

(4) Section 1522 (24 U.S.C. 422), relating to authority to accept certain uncompensated services, is amended—

(A) in subsection (a)—

(i) by striking "Chairman of the Retirement Home Board or the Director of each establishment" and inserting "Chief Operating Officer or the Director of a facility"; and

(ii) by striking "unless" and all that follows through "Retirement Home Board";

(B) in subsection (b)(1)—

(i) by striking "Chairman of the Retirement Home Board or the Director of the establishment" and inserting "Chief Operating Officer or the Director of a facility"; and

(ii) by inserting "offering the services" after "notify the person";

(C) in subsection (b)(2), by striking "Chairman" and inserting "Chief Operating Officer";

(D) in subsection (c), by striking "Chairman of the Retirement Home Board or the Director of an establishment" and inserting "Chief Operating Officer or the Director of a facility"; and

(E) in subsection (e)—

(i) by striking "Chairman of the Retirement Board or the Director of the establishment" in the first sentence and inserting "Chief Operating Officer or the Director of a facility"; and

(ii) by striking "Chairman" in the second sentence and inserting "Chief Operating Officer".

(5) Section 1523(b) (24 U.S.C. 423(b)), relating to preservation of historic buildings and grounds at the Armed Forces Retirement Home—Washington, is amended by striking "Chairman of the Retirement Home Board" and inserting "Chief Operating Officer".

SEC. 1405. RESIDENTS OF RETIREMENT HOME.

(a) REPEAL OF REQUIREMENT OF RESIDENT TO REAPPLY AFTER SUBSTANTIAL ABSENCE.—Subsection (e) of section 1512 (24 U.S.C. 412) is repealed.

(b) FEES PAID BY RESIDENTS.—Section 1514 (24 U.S.C. 414) is amended to read as follows:

"SEC. 1514. FEES PAID BY RESIDENTS.

"(a) MONTHLY FEES.—The Director of each facility of the Retirement Home shall collect a monthly fee from each resident of that facility.

"(b) DEPOSIT OF FEES.—The Directors shall deposit fees collected under subsection (a) in the Armed Forces Retirement Home Trust Fund.

"(c) FIXING FEES.—(1) The Chief Operating Officer, with the approval of the Secretary of Defense, shall from time to time prescribe the fees required by subsection (a). Changes to such fees shall be based on the financial needs of the Retirement Home and the ability of the residents to pay. A change of a fee may not take effect until 120 days after the Secretary of Defense transmits a notification of the change to the Committees on Armed Services of the Senate and the House of Representatives.

"(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident. The percentage shall be the same for each facility of the Retirement Home. The Secretary of Defense may make any adjustment in a percentage that the Secretary determines appropriate.

"(3) The fee shall be subject to a limitation on maximum monthly amount. The amount of the limitation shall be increased, effective on January 1 of each year, by the percentage of the increase in retired pay and retainer pay that takes effect on the preceding December 1 under subsection (b) of section 1401a of title 10, United States Code, without regard to paragraph (3) of such subsection. The first increase in a limitation on maximum monthly amount shall take effect on January 1, 2003.

"(d) TRANSITIONAL FEE STRUCTURES.—(1) Until different fees are prescribed and take effect under subsection (c), the percentages and limitations on maximum monthly amount that are applicable to fees charged residents of the Retirement Home are (subject to any adjustment that the Secretary of Defense determines appropriate) as follows:

"(A) For months beginning before January 1, 2002—

"(i) for a permanent health care resident, 65 percent (without limitation on maximum monthly amount); and

"(ii) for a resident who is not a permanent health care resident, 40 percent (without limitation on maximum monthly amount).

"(B) For months beginning after December 31, 2001—

"(i) for an independent living resident, 35 percent, but not to exceed $1,000 each month;

"(ii) for an assisted living resident, 40 percent, but not to exceed $1,500 each month; and

"(iii) for a long-term care resident, 65 percent, but not to exceed $2,500 each month.

"(2) Notwithstanding the limitations on maximum monthly amount prescribed under subsection (c) or set forth in paragraph (1)(B), until the earlier of December 31, 2006, or the date on which an independent living resident or assisted living resident of the Armed Forces Retirement Home—Gulfport occupies a renovated room at that facility, as determined by the Secretary of

Defense, the limitation on maximum monthly amount applicable to the resident for months beginning after December 31, 2001, shall be—

"(A) in the case of an independent living resident, $800; and

"(B) in the case of an assisted living resident, $1,300.

SEC. 1406. LOCAL BOARDS OF TRUSTEES.

Section 1516 (24 U.S.C. 416) is amended to read as follows:

"SEC. 1516. LOCAL BOARDS OF TRUSTEES.

"(a) ESTABLISHMENT.—Each facility of the Retirement Home shall have a Local Board of Trustees.

"(b) DUTIES.—The Local Board for a facility shall serve in an advisory capacity to the Director of the facility and to the Chief Operating Officer.

"(c) COMPOSITION.—(1) The Local Board for a facility shall consist of at least 11 members who (except as otherwise specifically provided) shall be appointed by the Secretary of Defense in consultation with each of the Secretaries of the military departments concerned. At least one member of the Local Board shall have a perspective that is oriented toward the Retirement Home overall. The Local Board for a facility shall consist of the following members:

"(A) One member who is a civilian expert in nursing home or retirement home administration and financing from the geographical area of the facility.

"(B) One member who is a civilian expert in gerontology from the geographical area of the facility.

"(C) One member who is a service expert in financial management.

"(D) One representative of the Department of Veterans Affairs regional office nearest in proximity to the facility, who shall be designated by the Secretary of Veterans Affairs.

"(E) One representative of the resident advisory committee or council of the facility.

"(F) One enlisted representative of the Services' Retiree Advisory Council.

"(G) The senior noncommissioned officer of one of the Armed Forces.

"(H) One senior representative of the military hospital nearest in proximity to the facility.

"(I) One senior judge advocate from one of the Armed Forces.

"(J) The Director of the facility, who shall be a nonvoting member.

"(K) One senior representative of one of the chief personnel officers of the Armed Forces.

"(L) Other members designated by the Secretary of Defense (if the Local Board is to have more than 11 members).

"(2) The Secretary of Defense shall designate one member of a Local Board to serve as the chairman of the Local Board at the pleasure of the Secretary of Defense.

"(d) TERMS.—(1) Except as provided in subsections (e), (f), and (g), the term of office of a member of a Local Board shall be five years.

"(2) Unless earlier terminated by the Secretary of Defense, a person may continue to serve as a member of the Local Board after the expiration of the member's term until a successor is appointed or designated, as the case may be.

"(e) EARLY EXPIRATION OF TERM.—A member of a Local Board who is a member of the Armed Forces or an employee of the United States serves as a member of the Local Board only for as long as the member is assigned to or serving in a position for which the duties include the duty to serve as a member of the Local Board.

"(f) VACANCIES.—(1) A vacancy in the membership of a Local Board shall be filled in the manner in which the original appointment or designation was made, as the case may be.

"(2) A member appointed or designated to fill a vacancy occurring before the end of the term of the predecessor of the member shall be appointed or designated, as the case may be, for the remainder of the term for which the predecessor was appointed.

"(3) A vacancy in a Local Board shall not affect its authority to perform its duties.

"(g) EARLY TERMINATION.—The Secretary of Defense may terminate the appointment of a member of a Local Board before the expiration of the member's term for any reason that the Secretary determines appropriate.

"(h) COMPENSATION.—(1) Except as provided in paragraph (2), a member of a Local Board shall—

"(A) be provided a stipend consistent with the daily government consultant fee for each day on which the member is engaged in the performance of services for the Local Board; and

"(B) while away from home or regular place of business in the performance of services for the Local Board, be allowed travel expenses (including per diem in lieu of subsistence) in the same manner as a person employed intermittently in Government under sections 5701 through 5707 of title 5, United States Code.

"(2) A member of a Local Board who is a member of the Armed Forces on active duty or a full-time officer or employee of the United States shall receive no additional pay by reason of serving a member of a Local Board.".

SEC. 1407. DIRECTORS, DEPUTY DIRECTORS, ASSOCIATE DIRECTORS, AND STAFF OF FACILITIES.

Section 1517 (24 U.S.C. 417) is amended to read as follows:

"SEC. 1517. DIRECTORS, DEPUTY DIRECTORS, ASSOCIATE DIRECTORS, AND STAFF OF FACILITIES.

"(a) APPOINTMENT.—The Secretary of Defense shall appoint a Director, a Deputy Director, and an Associate Director for each facility of the Retirement Home.

"(b) DIRECTOR.—The Director of a facility shall—

"(1) be a civilian with experience as a continuing care retirement community professional or a member of the Armed Forces serving on active duty in a grade below brigadier general or, in the case of the Navy, rear admiral (lower half);

"(2) have appropriate leadership and management skills; and

"(3) be required to pursue a course of study to receive certification as a retirement facilities director by an appropriate civilian certifying organization, if the Director is not so certified at the time of appointment.

"(c) DUTIES OF DIRECTOR.—(1) The Director of a facility shall be responsible for the day-to-day operation of the facility, including the acceptance of applicants to be residents of that facility.

"(2) The Director of a facility shall keep accurate and complete records of the facility.

"(d) DEPUTY DIRECTOR.—(1) The Deputy Director of a facility shall—

"(A) be a civilian with experience as a continuing care retirement community professional or a member of the Armed Forces serving on active duty in a grade below colonel or, in the case of the Navy, captain; and

"(B) have appropriate leadership and management skills.

"(2) The Deputy Director of a facility shall serve at the pleasure of the Secretary of Defense.

"(e) DUTIES OF DEPUTY DIRECTOR.—The Deputy Director of a facility shall, under the authority, direction, and control of the Director of the facility, perform such duties as the Director may assign.

"(f) ASSOCIATE DIRECTOR.—(1) The Associate Director of a facility shall—

"(A) be a member of the Armed Forces serving on active duty in the grade of Sergeant Major, Master Chief Petty Officer, or Chief Master Sergeant or a member or former member retired in that grade; and

"(B) have appropriate leadership and management skills.

"(2) The Associate Director of a facility shall serve at the pleasure of the Secretary of Defense.

"(g) DUTIES OF ASSOCIATE DIRECTOR.—The Associate Director of a facility shall, under the authority, direction, and control of the Director and Deputy Director of the facility, serve as ombudsman for the residents and perform such other duties as the Director may assign.

"(h) STAFF.—(1) The Director of a facility may, subject to the approval of the Chief Operating Officer, appoint and prescribe the pay of such principal staff as the Director considers appropriate to assist the Director in operating the facility.

"(2) The principal staff of a facility shall include persons with experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

"(i) ANNUAL EVALUATION OF DIRECTORS.—(1) The Chief Operating Officer shall evaluate the performance of each of the Directors of the facilities of the Retirement Home each year.

"(2) The Chief Operating Officer shall submit to the Secretary of Defense any recommendations regarding a Director that the Chief Operating Officer determines appropriate taking into consideration the annual evaluation.".

SEC. 1408. DISPOSITION OF EFFECTS OF DECEASED PERSONS AND UNCLAIMED PROPERTY.

(a) LEGAL REPRESENTATION FOR RETIREMENT HOME.—Subsection (b)(2)(A) of section 1520 (24 U.S.C. 420) is amended by inserting "who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty" after "may designate an attorney".

(b) CORRECTION OF REFERENCE.—Subsection (b)(1)(B) of such section is amended by inserting "Armed Forces" before "Retirement Home Trust Fund".

SEC. 1409. TRANSITIONAL PROVISIONS.

Part B is amended by striking sections 1531, 1532, and 1533 and inserting the following new sections:

"SEC. 1531. TEMPORARY CONTINUATION OF ARMED FORCES RETIREMENT HOME BOARD.

"Until the Secretary of Defense appoints the first Chief Operating Officer after the enactment of the National Defense Authorization Act for Fiscal Year 2002, the Armed Forces Retirement Home Board, as constituted on the day before the date of the enactment of that Act, shall continue to serve and shall perform the duties of the Chief Operating Officer.

"SEC. 1532. DIRECTORS OF FACILITIES.

"(a) ACTIVE DUTY OFFICERS.—During the three-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, the Directors and Deputy Directors of the facilities shall be members of the Armed Forces serving on active duty, notwithstanding the authority in subsections (b) and (d) of section 1517 for the Directors and Deputy Directors to be civilians.

"(b) TEMPORARY CONTINUATION OF DIRECTOR OF THE ARMED FORCES RETIREMENT HOME—WASHINGTON.—The person serving as the Director of the Armed Forces Retirement Home—Washington on the day before the enactment of the National Defense Authorization Act for Fiscal Year 2002 may continue to serve as the Director of that facility until April 2, 2002.

"SEC. 1533. TEMPORARY CONTINUATION OF INCUMBENT DEPUTY DIRECTORS.

"A person serving as the Deputy Director of a facility of the Retirement Home on the day before the enactment of the National Defense Authorization Act for Fiscal Year 2002 may continue to serve, at the pleasure of the Secretary of Defense, as the Deputy Director until the date on which a Deputy Director is appointed for that facility under section 1517, except that the service in that position may not continue under this section after December 31, 2004.".

SEC. 1410. CONFORMING AND CLERICAL AMENDMENTS AND REPEALS OF OBSOLETE PROVISIONS.

(a) CONFORMING AMENDMENTS.—(1) Section 1513(b) (24 U.S.C. 413(b)), relating to services provided to residents of the Armed Forces Retirement Home, is amended by striking "maintained as a separate establishment" in the second sentence.

(2) The heading for section 1519 (24 U.S.C. 419) is amended to read as follows:

"SEC. 1519. ARMED FORCES RETIREMENT HOME TRUST FUND.".

(3) Section 1520 (24 U.S.C. 420), relating to disposition of effects of deceased persons and unclaimed property, is amended—

(A) in subsection (a), by striking "each facility that is maintained as a separate establishment" and inserting "a facility";

(B) in subsection (b)(2)(A); by striking "maintained as a separate establishment"; and

(C) in subsection (e), by striking "Directors" and inserting "Director of the facility".

(4)(A) Section 1523 (24 U.S.C. 423), relating to preservation of historic buildings and grounds at the Armed Forces Retirement Home—Washington, is amended by striking "United States Soldiers' and Airmen's Home" each place it appears and inserting "Armed Forces Retirement Home—Washington".

(B) The heading for such section is amended to read as follows:

"SEC. 1523. PRESERVATION OF HISTORIC BUILDINGS AND GROUNDS AT THE ARMED FORCES RETIREMENT HOME—WASHINGTON.".

(5) Section 1524 (24 U.S.C. 424), relating to conditional supervisory control of the Retirement Home Board, is repealed.

(b) REPEAL OF OBSOLETE PROVISIONS.—The following provisions are repealed:

(1) Section 1512(f) (24 U.S.C. 412(f)), relating to the applicability of certain eligibility requirements.

(2) Section 1519(d) (24 U.S.C. 419(d)), relating to transitional accounts in the Armed Forces Retirement Home Trust Fund.

(3) Part C, relating to effective date and authorization of appropriations.

(c) ADDITION OF TABLE OF CONTENTS.—Section 1501 (24 U.S.C. 401 note) is amended—

(1) by inserting "(a) SHORT TITLE.—" before "This title"; and

(2) by adding at the end the following new subsection:

"(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

"Sec. 1501. Short title; table of contents.
"Sec. 1502. Definitions.

"PART A—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME

"Sec. 1511. Establishment of the Armed Forces Retirement Home.
"Sec. 1512. Residents of Retirement Home.
"Sec. 1513. Services provided residents.
"Sec. 1514. Fees paid by residents.
"Sec. 1515. Chief Operating Officer.
"Sec. 1516. Local Boards of Trustees.
"Sec. 1517. Directors, Deputy Directors, Associate Directors, and staff of facilities.
"Sec. 1518. Inspection of Retirement Home.
"Sec. 1519. Armed Forces Retirement Home Trust Fund.
"Sec. 1520. Disposition of effects of deceased persons; unclaimed property.
"Sec. 1521. Payment of residents for services.
"Sec. 1522. Authority to accept certain uncompensated services.
"Sec. 1523. Preservation of historic buildings and grounds at the Armed Forces Retirement Home—Washington.

"PART B—TRANSITIONAL PROVISIONS

"Sec. 1531. Temporary Continuation of Armed Forces Retirement Home Board.
"Sec. 1532. Directors of Facilities.
"Sec. 1533. Temporary Continuation of Incumbent Deputy Directors.".

TITLE XV—ACTIVITIES RELATING TO COMBATING TERRORISM

Subtitle A—Increased Funding for Combating Terrorism

Sec. 1501. Definitions.
Sec. 1502. Authorization of emergency appropriations for fiscal year 2001 made by Public Law 107–38 and allocated for national defense functions.
Sec. 1503. Authorization of emergency supplemental appropriations for fiscal year 2002.
Sec. 1504. Authorization of use of funds for military construction projects.
Sec. 1505. Treatment of transferred amounts.
Sec. 1506. Quarterly reports.

Subtitle B—Policy Matters Relating to Combating Terrorism

Sec. 1511. Study and report on the role of the Department of Defense with respect to homeland security.
Sec. 1512. Combating Terrorism Readiness Initiatives Fund for combatant commands.
Sec. 1513. Conveyances of equipment and related materials loaned to State and local governments as assistance for emergency response to a use or threatened use of a weapon of mass destruction.
Sec. 1514. Two-year extension of advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction.

Subtitle A—Increased Funding for Combating Terrorism

SEC. 1501. DEFINITIONS.

For purposes of this subtitle:

(1) The term "ETR Supplemental Appropriations Act, 2001" means the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38).

(2) The term "Emergency Supplemental Appropriations Act, 2002" means an Act (or a portion of an Act) making available for obligation emergency appropriations that were provided, subject to enactment in a subsequent appropriation Act, in the ETR Supplemental Appropriations Act, 2001.

SEC. 1502. AUTHORIZATION OF EMERGENCY APPROPRIATIONS FOR FISCAL YEAR 2001 MADE BY PUBLIC LAW 107–38 AND ALLOCATED FOR NATIONAL DEFENSE FUNCTIONS.

(a) ADJUSTMENT IN AUTHORIZATION AMOUNTS.—(1) Subject to paragraph (2), amounts authorized to be appropriated for fiscal year 2001 in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) are hereby increased, with respect to any such authorized amount, by the amount (if any) by which appropriations pursuant to such authorization are increased by amounts appropriated in the ETR Supplemental Appropriations Act, 2001, and transferred by the President (before the date of the enactment of this Act) to the Department of Defense or the National Nuclear Security Administration and subsequently allocated to such appropriations.

(2) Authorization amounts may not be increased under paragraph (1) in excess of amounts derived from allocation of the amounts specified in subsection (b), for the Department of Defense, and in subsection (c), for the National Nuclear Security Administration.

(b) DEPARTMENT OF DEFENSE.—Amounts referred to in subsection (a)(2) for the Department of Defense are amounts for emergency expenses to respond to the terrorist attacks on the United States that occurred on September 11, 2001, allocated to the Department of Defense for fiscal year 2001 for the use of the Armed Forces and other activities and agencies of the Department of Defense, including the purposes stated in section 1504, in the total amount of $13,741,000,000, as follows:

(1) INCREASED SITUATIONAL AWARENESS.—For Increased Situational Awareness, $4,272,000,000.

(2) ENHANCED FORCE PROTECTION.—For Enhanced Force Protection, $1,509,000,000.

(3) IMPROVED COMMAND AND CONTROL.—For Improved Command and Control, $1,403,000,000.

(4) INCREASED WORLDWIDE POSTURE.—For Increased Worldwide Posture, $3,603,000,000.

(5) OFFENSIVE COUNTERTERRORISM.—For Offensive Counterterrorism, $1,459,000,000.

(6) INITIAL CRISIS RESPONSE.—For Initial Crisis Response, $637,000,000.

(7) PENTAGON REPAIR AND UPGRADE.—For Pentagon Repair and Upgrade Activities, $530,000,000.

(8) FUEL COSTS.—For increased fuel costs, $100,000,000.

(9) AIRPORT AND BORDER SECURITY.—For airport and border security, $228,000,000.

(c) NNSA.—The amount referred to in subsection (a)(2) for the National Nuclear Security Administration is the amount of $5,000,000 for emergency expenses to respond to the terrorist attacks on the United States that occurred on September 11, 2001, allocated for fiscal year 2001 atomic energy defense activities of the National Nuclear Security Administration for weapons activities.

(d) TREATMENT AS ADDITIONAL AUTHORIZATIONS.—The amounts authorized to be appropriated by this section are in addition to amounts otherwise authorized to be appropriated by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act, for fiscal year 2001 for the use of the Armed Forces and other activities and agencies of the Department of Defense and for the use of the National Nuclear Security Administration.

SEC. 1503. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.

(a) DEPARTMENT OF DEFENSE.—For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, funds are hereby authorized to be appropriated to the Defense Emergency Response Fund for fiscal year 2002 for the use of the Armed Forces and other activities and agencies of the Department of Defense, including the purposes stated in section 1504, in the total amount of $7,349,000,000, as follows:

(1) INCREASED SITUATIONAL AWARENESS.—For Increased Situational Awareness, $1,735,000,000.

(2) ENHANCED FORCE PROTECTION.—For Enhanced Force Protection, $881,000,000.

(3) IMPROVED COMMAND AND CONTROL.—For Improved Command and Control, $219,000,000.

(4) INCREASED WORLDWIDE POSTURE.—For Increased Worldwide Posture, $2,938,000,000.

(5) OFFENSIVE COUNTERTERRORISM.—For Offensive Counterterrorism, $545,000,000.

(6) INITIAL CRISIS RESPONSE.—For Initial Crisis Response, $106,000,000.

(7) PENTAGON REPAIR AND UPGRADE.—For Pentagon Repair and Upgrade Activities, $925,000,000.

(b) NNSA.—For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other expenses to increase the security of the Nation's nuclear weapons complex, funds are hereby authorized to be appropriated for fiscal year 2002 for the atomic energy defense activities of the National Nuclear Security Administration in the amount of $106,000,000, to be available for weapons activities.

(c) DEPARTMENT OF ENERGY.—For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, funds are hereby authorized to be appropriated for fiscal year 2002 to the Department of Energy in the total amount of $11,700,000, as follows:

(1) For Defense Environmental Restoration and Waste Management, $8,200,000.

(2) For Other Defense Activities, $3,500,000.

(d) TRANSFER OF DEFENSE FUNDS.—In order to carry out the specified purposes in subsection (a), the Secretary of Defense may transfer amounts authorized by subsection (a) from the Defense Emergency Response Fund to any other defense appropriations account, including the account "Support for International Sporting Events, Defense" and any military construction account as provided in section 1504.

(e) AVAILABILITY.—Amounts appropriated pursuant to authorizations in this section may remain available until expended, if so provided in appropriations Acts.

(f) SOURCE OF FUNDS.—Amounts appropriated pursuant to authorizations in this section shall be derived from amounts provided, subject to subsequent appropriation, in the ETR Supplemental Appropriations Act, 2001.

(g) TREATMENT AS ADDITIONAL AUTHORIZATIONS.—The amounts authorized to be appropriated by this section are in addition to amounts otherwise authorized to be appropriated, by the other provisions of this Act or by any other Act, for fiscal year 2001 for the use of the Armed Forces and other activities and agencies of the Department of Defense and for the use of the National Nuclear Security Administration.

SEC. 1504. AUTHORIZATION OF USE OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS.

(a) AUTHORITY FOR USE OF FUNDS.—Qualified emergency defense appropriations may be used to acquire real property and carry out military construction projects not otherwise authorized by law that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism or to respond to the terrorist attacks on the United States that occurred on September 11, 2001..

(b) PROJECT AUTHORIZATION.—Any project with respect to which the Secretary makes a determination under subsection (a) and that is to be carried out using qualified emergency defense appropriations is hereby authorized for purposes of section 2802 of title 10, United States Code.

(c) QUALIFIED EMERGENCY DEFENSE APPROPRIATIONS.—For purposes of this subsection, the term "qualified emergency defense appropriations" means emergency appropriations available to the Department of Defense that are authorized by section 1502 or 1503.

SEC. 1505. TREATMENT OF TRANSFERRED AMOUNTS.

Amounts transferred under authority of section 1502 or 1503 shall be merged with, and shall be available for the same purposes and for the same time period as, the accounts to which transferred. The transfer authority under those sections is in addition to the transfer authority provided by section 1001 or any other provision of law.

SEC. 1506. QUARTERLY REPORTS.

(a) QUARTERLY REPORT.—Promptly after the end of each quarter of a fiscal year, the Secretary of Defense and the Director of Central Intelligence shall each submit to the congressional defense committees a report (in classified and unclassified form, as needed) on the use of funds authorized by this subtitle. Each such report shall, at a minimum, specify the following:

(1) Any balance of funds remaining in the Defense Emergency Response Fund as of the end of the quarter covered by the report.

(2) The accounts to which funds have been transferred or are to be transferred and the amount of each such transfer.

(3) Within such accounts, each project to which any such funds have been transferred or are to be transferred and the amount of funds obligated and the amount expended for each such project as of the end of the quarter covered by the report.

(b) INITIAL REPORT.—The first report under subsection (a) shall be submitted not later than January 2, 2002.

(c) FINAL REPORT.—No further report under subsection (a) is required after all funds made available to the Department of Defense pursuant to such Act have been obligated.

Subtitle B—Policy Matters Relating to Combating Terrorism

SEC. 1511. STUDY AND REPORT ON THE ROLE OF THE DEPARTMENT OF DEFENSE WITH RESPECT TO HOMELAND SECURITY.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the appropriate role of the Department of Defense with respect to homeland security. The study shall identify and describe the policies, plans, and procedures of the Department of Defense for combating terrorism, including for the provision of support for the consequence management activities of other Federal, State, and local agencies. The study shall specifically identify the following:

(1) The strategy, roles, and responsibilities of the Department of Defense for combating terrorism.

(2) How the Department of Defense will interact with the Office of Homeland Security and how intelligence sharing efforts of the Department of Defense will be organized relative to other Federal agencies and departments and State and local governments.

(3) The ability of the Department of Defense to protect the United States from airborne threats, including threats originating from within the borders of the United States.

(4) Improvements that could be made to enhance the security of the people of the United States against terrorist threats and recommended actions (including legislative action) and programs to address and overcome existing vulnerabilities.

(5) The policies, plans, and procedures relating to how the civilian official in the Department of Defense responsible for combating terrorism and the Joint Task Force Civil Support of the Joint Forces Command will coordinate the performance of functions for combating terrorism with—

(A) teams in the Department of Defense that have responsibilities for responding to acts or threats of terrorism, including—

(i) weapons of mass destruction civil support teams when operating as the National Guard under the command of the Governor of a State, the Governor of Puerto Rico, or the Commanding General of the District of Columbia National Guard;

(ii) weapons of mass destruction civil support teams when operating as the Army National Guard of the United States or the Air National Guard of the United States under the command of the President;

(iii) teams in the departments and agencies of the Federal Government other than the Department of Defense that have responsibilities for responding to acts or threats of terrorism;

(iv) organizations outside the Federal Government, including any State, local and private entities, that function as first responders to acts or threats of terrorism; and

(v) units and organizations of the Reserve Components of the Armed Forces that have missions relating to combating terrorism;

(B) the Director of Military Support of the Department of the Army;

(C) any preparedness plans to combat terrorism that are developed for installations of the Department of Defense by the commanders of the installations and the integration of those plans with the plans of the teams and organizations described in subparagraph (A);

(D) the policies, plans and procedures for using and coordinating the integrated vulnerability assessment teams of the Joint Staff inside and outside the United States; and

(E) the missions of Fort Leonard Wood and other installations for training units, weapons of mass destruction civil support teams and other teams, and individuals in combating terrorism.

(6) The appropriate number and missions of the teams referred to in paragraph (5)(A)(i).

(7) How the Department of Defense Weapons of Mass Destruction Civil Support Teams should interact with the Federal Bureau of Investigation and the Federal Emergency Management Agency during crisis response and consequence management situations.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report including the findings of the study conducted under subsection (a).

SEC. 1512. COMBATING TERRORISM READINESS INITIATIVES FUND FOR COMBATANT COMMANDS.

(a) FUNDING FOR INITIATIVES.—Chapter 6 of title 10, United States Code, is amended by inserting after section 166a the following new section:

"§ 166b. Combatant commands: funding for combating terrorism readiness initiatives

"(a) COMBATING TERRORISM READINESS INITIATIVES FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the 'Combating Terrorism Readiness Initiatives Fund', the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for initiating any activity named in subsection (b) and for maintaining and sustaining the activity for the fiscal year in which initiated and one additional fiscal year.

"(b) AUTHORIZED ACTIVITIES.—Activities for which funds may be provided under subsection (a) are the following:

"(1) Procurement and maintenance of physical security equipment.

"(2) Improvement of physical security sites.

"(3) Under extraordinary circumstances—

"(A) physical security management planning;

"(B) procurement and support of security forces and security technicians;

"(C) security reviews and investigations and vulnerability assessments; and

"(D) any other activity relating to physical security.

"(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds *in the Combating Terrorism Readiness Initiatives Fund, should give priority consideration to emergency or emergent unforeseen high-priority requirements for combating terrorism.*

"(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided by the Chairman of the Joint Chiefs of Staff for a fiscal year out of the Combating Terrorism Readiness Initiatives Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

"(e) LIMITATION.—Funds may not be provided under this section for any activity that has been denied authorization by Congress.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 166a the following new item:

"166b. Combatant commands: funding for combating terrorism readiness initiatives.".

SEC. 1513. CONVEYANCES OF EQUIPMENT AND RELATED MATERIALS LOANED TO STATE AND LOCAL GOVERNMENTS AS ASSISTANCE FOR EMERGENCY RESPONSE TO A USE OR THREATENED USE OF A WEAPON OF MASS DESTRUCTION.

Section 1412(e) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2718; 50 U.S.C. 2312(e)) is amended by adding at the end the following new paragraph:

"(5) A conveyance of ownership of United States property to a State or local government, without cost and without regard to subsection (f) and title II of the Federal Property and Administrative Services Act of 1949 (or any other provision of law relating to the disposal of property of the United States), if the property is equipment, or equipment and related materials, that is in the possession of the State or local government on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 pursuant to a loan of the property as assistance under this section.".

SEC. 1514. TWO-YEAR EXTENSION OF ADVISORY PANEL TO ASSESS DOMESTIC RESPONSE CAPABILITIES FOR TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION.

(a) EXTENSION OF ADVISORY PANEL.—Section 1405 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 2301 note) is amended—

(1) in subsection (h)(2), by striking "2001" and inserting "2003"; and

(2) in subsection (l), by striking "three years" and inserting "five years".

(b) PAY AND EXPENSES OF MEMBERS.—(1) Subsection (k) of such section is amended to read as follows:

"(k) COMPENSATION OF PANEL MEMBERS.—The provisions of paragraph (4) of section 591(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in section 101(d) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–212)), shall apply to members of the panel in the same manner as to members of the National Commission on Terrorism under that paragraph.".

(2) The amendment made by paragraph (1) shall apply with respect to periods of service on the advisory panel under section 1405 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 on or after the date of the enactment of this Act.

TITLE XVI—UNIFORMED SERVICES VOTING

Sec. 1601. Sense of Congress regarding the importance of voting.
Sec. 1602. Voting assistance programs.
Sec. 1603. Guarantee of residency for military personnel.
Sec. 1604. Electronic voting demonstration project.
Sec. 1605. Governors' reports on implementation of recommendations for changes in State law made under Federal Voting Assistance Program.
Sec. 1606. Simplification of voter registration and absentee ballot application procedures for absent uniformed services and overseas voters.
Sec. 1607. Use of certain Department of Defense facilities as polling places.

SEC. 1601. SENSE OF CONGRESS REGARDING THE IMPORTANCE OF VOTING.

(a) SENSE OF CONGRESS.—It is the sense of Congress that each person who is an administrator of a Federal, State, or local election—

(1) should be aware of the importance of the ability of each uniformed services voter to exercise the right to vote; and

(2) should perform that person's duties as an election administrator with the intent to ensure that—

(A) each uniformed services voter receives the utmost consideration and cooperation when voting;

(B) each valid ballot cast by such a voter is duly counted; and

(C) all eligible American voters, regardless of race, ethnicity, disability, the language they speak, or the resources of the community in which they live, should have an equal opportunity to cast a vote and to have that vote counted.

(b) UNIFORMED SERVICES VOTER DEFINED.—In this section, the term "uniformed services voter" means—

(1) a member of a uniformed service (as defined in section 101(a)(5) of title 10, United States Code) in active service;

(2) a member of the merchant marine (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6)); and

(3) a spouse or dependent of a member referred to in paragraph (1) or (2) who is qualified to vote.

SEC. 1602. VOTING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 80 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1566. Voting assistance: compliance assessments; assistance

"(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations to require that the Army, Navy, Air Force, and Marine Corps ensure their compliance with any directives issued by the Secretary of Defense in implementing any voting assistance program.

"(b) VOTING ASSISTANCE PROGRAMS DEFINED.—In this section, the term 'voting assistance programs' means—

"(1) the Federal Voting Assistance Program carried out under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.); and

"(2) any similar program.

"(c) ANNUAL EFFECTIVENESS AND COMPLIANCE REVIEWS.—(1) The Inspector General of each of the Army, Navy, Air Force, and Marine Corps shall conduct—

"(A) an annual review of the effectiveness of voting assistance programs; and

"(B) an annual review of the compliance with voting assistance programs of that armed force.

"(2) Upon the completion of each annual review under paragraph (1), each Inspector General specified in that paragraph shall submit to the Inspector General of the Department of Defense a report on the results of each such review. Such report shall be submitted in time each year to be reflected in the report of the Inspector General of the Department of Defense under paragraph (3).

"(3) Not later than March 31 each year, the Inspector General of the Department of Defense shall submit to Congress a report on—

"(A) the effectiveness during the preceding calendar year of voting assistance programs; and

"(B) the level of compliance during the preceding calendar year with voting assistance programs of each of the Army, Navy, Air Force, and Marine Corps.

"(d) INSPECTOR GENERAL ASSESSMENTS.—(1) The Inspector General of the Department of Defense shall periodically conduct at Department of Defense installations unannounced assessments of the compliance at those installations with—

"(A) the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);

"(B) Department of Defense regulations regarding that Act and the Federal Voting Assistance Program carried out under that Act; and

"(C) other requirements of law regarding voting by members of the armed forces.

"(2) The Inspector General shall conduct an assessment under paragraph (1) at not less than 10 Department of Defense installations each calendar year.

"(3) Each assessment under paragraph (1) shall include a review of such compliance—

"(A) within units to which are assigned, in the aggregate, not less than 20 percent of the personnel assigned to duty at that installation;

"(B) within a representative survey of members of the armed forces assigned to that installation and their dependents; and

"(C) within unit voting assistance officers to measure program effectiveness.

"(e) REGULAR MILITARY DEPARTMENT ASSESSMENTS.—The Secretary of each military department shall include in the set of issues and programs to be reviewed during any management effectiveness review or inspection at the installation level an assessment of compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) and with Department of Defense regulations regarding the Federal Voting Assistance Program.

"(f) VOTING ASSISTANCE OFFICERS.—Voting assistance officers shall be appointed or assigned under Department of Defense regulations. Commanders at all levels are responsible for ensuring that unit voting officers are trained and equipped to provide information and assistance to members of the armed forces on voting matters. Performance evaluation reports pertaining to a member who has been assigned to serve as a voting assistance officer shall comment on the performance of the member as a voting assistance officer.

"(g) DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.—(1) During the four months preceding a general Federal election month, the Secretary of Defense shall periodically conduct surveys of all overseas locations and vessels at sea with military units responsible for collecting mail for return shipment to the United States and all port facilities in the United States and overseas where military-related mail is collected for shipment to overseas locations or to the United States. The purpose of each survey shall be to determine if voting materials are awaiting shipment at any such location and, if so, the length of time that such materials have been held at that location. During the fourth and third months before a general Federal election month, such surveys shall be conducted biweekly. During the second and first months before a general Federal election month, such surveys shall be conducted weekly.

"(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times.

"(3) In this section, the term 'general Federal election month' means November in an even-numbered year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1566. Voting assistance: compliance assessments; assistance.".

(b) INITIAL REPORT.—The first report under section 1566(c)(3) of title 10, United States Code, as added by subsection (a), shall be submitted not later than March 31, 2003.

SEC. 1603. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by adding at the end the following:

"SEC. 704. (a) For purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become a resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

SEC. 1604. ELECTRONIC VOTING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Defense shall carry out a demonstration project under which absent uniformed services voters are permitted to cast ballots in the regularly scheduled general election for Federal office for November 2002 through an electronic voting system. The project shall be carried out with participation of sufficient numbers of absent uniformed services voters so that the results are statistically relevant.

(2) AUTHORITY TO DELAY IMPLEMENTATION.—If the Secretary of Defense determines that the implementation of the demonstration project under paragraph (1) with respect to the regularly scheduled general election for Federal office for November 2002 may adversely affect the national security of the United States, the Secretary may delay the implementation of such demonstration project until the regularly scheduled general election for Federal office for November 2004. The Secretary shall notify the Committee on Armed Services and the Committee on Rules and Administration of the Senate and the Committee on Armed Services and the Committee on House Administration of the House of Representatives of any decision to delay implementation of the demonstration project.

(b) COORDINATION WITH STATE ELECTION OFFICIALS.—The Secretary shall carry out the demonstration project under this section through cooperative agreements with State election officials of States that agree to participate in the project.

(c) REPORT TO CONGRESS.—Not later than June 1 of the year following the year in which the demonstration project is conducted under this section, the Secretary of Defense shall submit to Congress a report analyzing the demonstration project. The Secretary shall include in the report any recommendations the Secretary considers appropriate for continuing the project on an expanded basis for absent uniformed services voters during the next regularly scheduled general election for Federal office.

(d) DEFINITIONS.—In this section:

(1) ABSENT UNIFORMED SERVICES VOTER.—The term "absent uniformed services voter" has the meaning given that term in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6(1)).

(2) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

SEC. 1605. GOVERNORS' REPORTS ON IMPLEMENTATION OF RECOMMENDATIONS FOR CHANGES IN STATE LAW MADE UNDER FEDERAL VOTING ASSISTANCE PROGRAM.

(a) REPORTS.—(1) Whenever a State receives a uniformed services voting assistance legislative recommendation from the Secretary of Defense, acting as the Presidential designee, the chief executive authority of that State shall, not later than 90 days after receipt of that recommendation, provide a report on the status of implementation of that recommendation by that State.

(2) If a legislative recommendation referred to in paragraph (1) has been implemented, in whole or in part, by a State, the report of the chief executive authority of that State under that paragraph with respect to that recommendation shall include a description of the changes made to State law to implement the recommendation. If the recommendation has not been implemented, the report shall include a statement of the status of the recommendation before the State legislature and a statement of any recommendation the chief executive officer has made or intends to make to the legislature with respect to that recommendation.

(3) Any report under paragraph (1) shall be transmitted to the Secretary of Defense, acting as the Presidential designee. The Secretary shall transmit a copy of the response to each Member of Congress who represents that State.

(b) PERIOD OF APPLICABILITY.—This section applies with respect to any uniformed services voting assistance legislative recommendation transmitted to a State by the Secretary of Defense, acting as the Presidential designee, during the three-year period beginning on the date of the enactment of this Act.

(c) DEFINITIONS.—In this section:

(1) The term "uniformed services voting assistance legislative recommendation" means a recommendation of the Presidential designee for a modification in the laws of a State for the purpose of improving the access to the polls of absent uniformed services voters and overseas voters.

(2) The term "Presidential designee" means the head of the executive department designated by the President under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).

(3) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

(4) The term "Member of Congress" includes a Delegate or Resident Commissioner to the Congress.

SEC. 1606. SIMPLIFICATION OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION PROCEDURES FOR ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS.

(a) REQUIREMENT FOR STATES TO ACCEPT OFFICIAL FORM FOR SIMULTANEOUS VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION.—

(1) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(A) in paragraph (2)—

(i) by striking "general, special, primary, or runoff";

(ii) by inserting "and absentee ballot application" after "voter registration application";

(iii) by striking "and" after the semicolon at the end;

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application.".

(2) CONFORMING AMENDMENT.—Section 101(b)(2) of such Act (42 U.S.C. 1973ff(b)(2)) is amended by striking "as recommended in section 104" and inserting "as required under section 102(4)".

(b) USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.—Section 104 of such Act (42 U.S.C. 1973ff–3) is amended to read as follows:

"SEC. 104. USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.

"(a) IN GENERAL.—If a State accepts and processes an official post card form (prescribed under section 101) submitted by an absent uniformed services voter or overseas voter for simultaneous voter registration and absentee ballot application (in accordance with section 102(a)(4)) and the voter requests that the application be considered an application for an absentee ballot for each subsequent election for Federal office held in the State during that year, the State shall provide an absentee ballot to the voter for each subsequent election for Federal office held in the State during that year.

"(b) EXCEPTION FOR VOTERS CHANGING REGISTRATION.—Subsection (a) shall not apply with respect to a voter registered to vote in a State for any election held after the voter notifies the State that the voter no longer wishes to be registered to vote in the State or after the State determines that the voter has registered to vote in another State.

"(c) REVISION OF OFFICIAL POST CARD FORM.—The Presidential designee shall revise the official post card form (prescribed under section 101) to enable a voter using the form to—

"(1) request an absentee ballot for each election for Federal office held in a State during a year; or

"(2) request an absentee ballot for only the next scheduled election for Federal office held in a State.

"(d) NO EFFECT ON VOTER REMOVAL PROGRAMS.—Nothing in this section may be construed to prevent a State from removing any voter from the rolls of registered voters in the State under any program or method permitted under section 8 of the National Voter Registration Act of 1993.".

SEC. 1607. USE OF CERTAIN DEPARTMENT OF DEFENSE FACILITIES AS POLLING PLACES.

(a) USE OF MILITARY FACILITIES.—Section 2670 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(b) USE OF CERTAIN FACILITIES AS POLLING PLACES.—(1) Notwithstanding chapter 29 of title 18 (including sections 592 and 593 of such title) or any other provision of law, the Secretary of Defense or Secretary of a military department may not (except as provided in paragraph (3)) prohibit the designation or use of a qualifying facility under the jurisdiction of the Secretary as an official polling place for local, State, or Federal elections.

"(2) A Department of Defense facility is a qualifying facility for purposes of this subsection if as of December 31, 2000—

"(A) the facility is designated as an official polling place by a State or local election official; or

"(B) the facility has been used as such an official polling place since January 1, 1996.

"(3) The limitation in paragraph (1) may be waived by the Secretary of Defense or Secretary of the military department concerned with respect to a particular Department of Defense facility if the Secretary of Defense or Secretary concerned determines that local security conditions require prohibition of the designation or use of that facility as an official polling place for any election.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) Such section is further amended—

(A) by striking "Under" and inserting "(a) USE BY RED CROSS.—Under"; and

(B) by striking "this section" and inserting "this subsection".

(2) The heading of such section is amended to read as follows:

"§2670. Military installations: use by American National Red Cross; use as polling places".

(3) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2670. Military installations: use by American National Red Cross; use as polling places.".

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE; DEFINITION.

(a) SHORT TITLE.—This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2002".

(b) DEFINITION OF FISCAL YEAR 2001 DEFENSE AUTHORIZATION ACT.—In this division, the term "Spence Act" means the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398 (114 Stat. 1654).

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Modification of authority to carry out certain fiscal year 2001 projects.
Sec. 2106. Modification of authority to carry out certain fiscal year 2000 projects.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	*Installation or location*	*Amount*
Alabama	Anniston Army Depot	$5,150,000
	Fort Rucker	$18,200,000
	Redstone Arsenal	$9,900,000
Alaska	Fort Richardson	$115,000,000
	Fort Wainwright	$27,200,000
Arizona	Fort Huachuca	$6,100,000
	Yuma Proving Ground	$3,100,000
California	Defense Language Institute	$5,900,000
	Fort Irwin	$23,000,000
Colorado	Fort Carson	$66,000,000
District of Columbia	Fort McNair	$11,600,000
Georgia	Fort Benning	$23,900,000
	Fort Gillem	$34,600,000
	Fort Gordon	$34,000,000
	Fort Stewart/Hunter Army Air Field	$39,800,000
Hawaii	Kahuku Windmill Site	$900,000
	Navy Public Works Center, Pearl Harbor	$11,800,000
	Pohakuloa Training Facility	$6,600,000
	Wheeler Army Air Field	$50,000,000
Illinois	Rock Island Arsenal	$3,500,000
Kansas	Fort Riley	$10,900,000
Kentucky	Fort Campbell	$88,900,000
	Fort Knox	$12,000,000
Louisiana	Fort Polk	$21,200,000
Maryland	Aberdeen Proving Ground	$58,300,000
	Fort Meade	$11,200,000
Missouri	Fort Leonard Wood	$7,850,000
New Jersey	Fort Monmouth	$20,000,000
	Picatinny Arsenal	$10,200,000
New Mexico	White Sands Missile Range	$7,600,000
New York	Fort Drum	$56,350,000
North Carolina	Fort Bragg	$21,300,000
	Sunny Point Military Ocean Terminal	$11,400,000
Oklahoma	Fort Sill	$5,100,000
South Carolina	Fort Jackson	$65,650,000
Texas	Corpus Christi Army Depot	$10,400,000
	Fort Sam Houston	$2,250,000
	Fort Bliss	$5,000,000
	Fort Hood	$104,200,000
Virginia	Fort Belvoir	$35,950,000
	Fort Eustis	$34,650,000
	Fort Lee	$23,900,000
Washington	Fort Lewis	$238,200,000
	Total:	$1,358,750,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	*Installation or location*	*Amount*
Germany	Area Support Group, Bamberg	$36,000,000
	Area Support Group, Darmstadt	$13,500,000
	Baumholder	$9,000,000
	Hanau	$7,200,000
	Heidelberg	$15,300,000
	Mannheim	$16,000,000
	Wiesbaden Air Base	$26,300,000
Japan	Camp Schab	$3,800,000
Korea	Camp Carroll	$16,593,000
	Camp Casey	$8,500,000
	Camp Hovey	$35,750,000
	Camp Humphreys	$14,500,000
	Camp Jackson	$6,100,000
	Camp Stanley	$28,000,000
	Camp Yongsan	$12,800,000
Kwajalein	Kwajalein Atoll	$11,000,000
	Total:	$260,343,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(3), the Secretary of the Army may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Army: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Classified Location	$4,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State or Country	Installation or location	Purpose	Amount
Alaska	Fort Wainwright	32 Units	$12,000,000
Arizona	Fort Huachuca	72 Units	$10,800,000
Kansas	Fort Leavenworth	80 Units	$20,000,000
Texas	Fort Bliss	76 Units	$13,600,000
	Fort Sam Houston	80 Units	$11,200,000
Korea	Camp Humphreys	54 Units	$12,800,000
		Total:	$80,400,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $11,592,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $220,750,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $3,155,594,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,127,750,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $260,343,000.

(3) For a military construction project at an unspecified worldwide location authorized by section 2101(c), $4,000,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $18,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $159,533,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $312,742,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,089,573,000.

(7) For the construction of a cadet development center at the United States Military Academy, West Point, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261; 112 Stat. 2182), $37,900,000.

(8) For the construction of phase 2C of a barracks complex, Tagaytay Street, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 825), $17,500,000.

(9) For the construction of phase 1C of a barracks complex, Wilson Street, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 825), $23,000,000.

(10) For construction of phase 2 of a basic combat training complex at Fort Leonard Wood, Missouri, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389), as amended by section 2105 of this Act, $27,000,000.

(11) For the construction of phase 2 of a battle simulation center at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389), as amended by section 2105 of this Act, $9,000,000.

(12) For the construction of phase 1 of a barracks complex, Butner Road, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389), $49,000,000.

(13) For the construction of phase 1 of a barracks complex, Longstreet Road, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389), $27,000,000.

(14) For the construction of a multipurpose digital training range at Fort Hood, Texas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389), as amended by section 2105 of this Act, $13,000,000.

(15) For the homeowners assistance program, as authorized by section 2832(a) of title 10, United States Code, $10,119,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) $52,000,000 (the balance of the amount authorized under section 2201(a) for construction of a barracks complex, D Street, at Fort Richardson, Alaska);

(3) $41,000,000 (the balance of the amount authorized under section 2201 (a) for construction of phase 1 of a barracks complex, Nelson Boulevard, at Fort Carson, Colorado);

(4) $36,000,000 (the balance of the amount authorized under section 2201(a) for construction of phase 1 of a basic combat training complex at Fort Jackson, South Carolina); and

(5) $102,000,000 (the balance of the amount authorized under section 2201(a) for construction of a barracks complex, 17th & B Streets, at Fort Lewis, Washington).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (15) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $29,866,000, which represents the combination of savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States and savings resulting from favorable bids, reduced overhead charges, and cancellations due to force structure changes.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389) is amended—

(1) in the item relating to Fort Leonard Wood, Missouri, by striking "$65,400,000" in the amount column and inserting "$69,800,000";

(2) in the item relating to Fort Drum, New York, by striking "$18,000,000" in the amount column and inserting "$21,000,000";

(3) in the item relating to Fort Hood, Texas, by striking "$36,492,000" in the amount column and inserting "$39,492,000"; and

(4) by striking the amount identified as the total in the amount column and inserting "$626,374,000".

(b) CONFORMING AMENDMENTS.—Section 2104 of that Act (114 Stat. 1654A–391) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "$1,925,344,000" and inserting "$1,935,744,000"; and

(2) in subsection (b)—

(A) in paragraph (2), by striking "$22,600,000" and inserting "$27,000,000";

(B) in paragraph (3), by striking "$10,000,000" and inserting "$13,000,000"; and

(C) in paragraph (6), by striking "$6,000,000" and inserting "$9,000,000".

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECTS.

Section 2104 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 826), as amended by section 2105(c) of the Spence Act; 114 Stat. 1654A-393), is amended —

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$2,358,331,000" and inserting "$2,321,931,000"; and

(B) in paragraph (1), by striking "$930,058,000" and inserting "$893,658,000"; and

(2) in subsection (b)(7), by striking "$102,500,000" and inserting "$138,900,000".

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Modification of authority to carry out certain fiscal year 2001 projects.

Sec. 2206. Modification of authority to carry out certain fiscal year 2000 project.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$22,570,000
California	Marine Air-Ground Task Force Training Center, Twentynine Palms	$75,125,000
	Marine Corps Air Station, Camp Pendleton	$4,470,000
	Marine Corps Base, Camp Pendleton	$96,490,000
	Naval Air Facility, El Centro	$23,520,000
	Naval Air Station, Lemoore	$10,010,000
	Naval Air Warfare Center, China Lake	$30,200,000
	Naval Air Warfare Center, Point Mugu, San Nicholas Island	$13,730,000
	Naval Amphibious Base, Coronado	$8,610,000
	Naval Construction Battalion Center, Port Hueneme	$12,400,000
	Naval Construction Training Center, Port Hueneme	$3,780,000
	Naval Station, San Diego	$47,240,000
District of Columbia	Naval Air Facility, Washington	$9,810,000
Florida	Naval Air Station, Key West	$11,400,000
	Naval Air Station, Whiting Field, Milton	$2,140,000
	Naval Station, Mayport	$16,420,000
	Naval Station, Pensacola	$3,700,000
Hawaii	Marine Corps Base, Kaneohe	$24,920,000
	Naval Magazine Lualualei	$6,000,000
	Naval Shipyard, Pearl Harbor	$20,000,000
	Naval Station, Pearl Harbor	$54,700,000
	Navy Public Works Center, Pearl Harbor	$16,900,000
Illinois	Naval Training Center, Great Lakes	$82,260,000
Indiana	Naval Surface Warfare Center, Crane	$14,930,000
Maine	Naval Air Station, Brunswick	$67,395,000
	Naval Shipyard, Portsmouth	$14,620,000
Maryland	Naval Air Warfare Center, Paturent River	$2,260,000
	Naval Air Warfare Center, St. Inigoes	$5,100,000
	Naval Explosive Ordinance Disposal Technology Center, Indian Head	$1,250,000
Mississippi	Naval Air Station, Meridian	$3,370,000
	Naval Construction Battalion Center, Gulfport	$21,660,000
	Naval Station, Pascaguola	$4,680,000
Missouri	Marine Corps Support Activity, Kansas City	$9,010,000
Nevada	Naval Air Station, Fallon	$6,150,000
New Jersey	Naval Weapons Station, Earle	$4,370,000
North Carolina	Marine Corps Air Station, New River	$4,050,000
	Marine Corps Base, Camp Lejeune	$67,070,000
Pennsylvania	Naval Foundry and Propeller Center, Philadelphia	$14,800,000
Rhode Island	Naval Station, Newport	$15,290,000
	Naval Underwater Warfare Center, Newport	$9,370,000
South Carolina	Marine Corps Air Station, Beaufort	$8,020,000
	Marine Corps Recruit Depot, Parris Island	$5,430,000
Tennessee	Naval Support Activity, Millington	$3,900,000
Virginia	Marine Corps Air Facility, Quantico	$3,790,000
	Marine Corps Combat Dev Com	$9,390,000
	Naval Amphibious Base, Little Creek	$9,090,000
	Naval Station, Norfolk	$139,270,000
Washington	Naval Air Station, Whidbey Island	$7,370,000
	Naval Station, Everett	$6,820,000
	Strategic Weapons Facility, Bangor	$3,900,000
	Total:	$1,058,750,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Naval Support Activity Joint Headquarters Command, Larissa	$12,240,000
	Naval Support Activity, Souda Bay	$3,210,000
Guam	Naval Station, Guam	$9,300,000
	Navy Public Works Center, Guam	$14,800,000
Iceland	Naval Air Station, Keflavik	$2,820,000
Italy	Naval Air Station, Sigonella	$3,060,000
Spain	Naval Station, Rota	$2,240,000
	Total:	$47,670,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation or location	Purpose	Amount
Arizona	Marine Corps Air Station, Yuma	51 Units	$9,017,000
California	Marine Air-Ground Task Force Training Center, Twentynine Palms	74 Units	$16,250,000
Hawaii	Marine Corps Base, Kaneohe	172 Units	$46,996,000
	Naval Station, Pearl Harbor	70 Units	$16,827,000

Navy: Family Housing—Continued

State	Installation or location	Purpose	Amount
Mississippi	Naval Construction Battalion Center, Gulfport	160 Units	$23,354,000
Virginia	Marine Corps Combat Development Command, Quantico	60 Units	$7,000,000
Italy	Naval Air Station, Sigonella	10 Units	$2,403,000
		Total:	$121,847,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $6,499,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $203,434,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,366,742,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,005,410,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $47,670,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $10,546,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $39,557,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $331,780,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $910,095,000.

(6) For construction of phase 6 of a large anachoic chamber facility at the Patuxent River Naval Air Warfare Center, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2590), $10,770,000.

(7) For construction of the Commander-in-Chief Headquarters, Pacific Command, Camp H.M. Smith, Hawaii, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 828), as amended by section 2206 of this Act, $37,580,000.

(8) For repair of a pier at Naval Station, San Diego, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–396), $17,500,000.

(9) For replacement of a pier at Naval Station, Bremerton, Washington, formerly Naval Shipyard, Bremerton, Puget Sound, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–396), as amended by section 2205 of this Act, $24,460,000.

(10) For construction of an industrial skills center at Puget Sound Naval Shipyard, Bremerton, Washington, formerly Naval Shipyard, Bremerton, Puget Sound, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–396), as amended by section 2205 of this Act, $14,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $33,240,000 (the balance of the amount authorized under section 2201(a) for replacement of a pier, increment I, at Naval Station, Norfolk, Virginia); and

(3) $20,100,000 (the balance of the amount authorized under section 2201(a) for a combined propulsion and explosives lab at Naval Air Warfare Center, China Lake, California).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (10) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $82,626,000, which represents the combination of savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States and savings resulting from favorable bids, reduced overhead charges, and cancellations due to force structure changes.

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) AUTHORIZED CONSTRUCTION AND LAND ACQUISITION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–395) is amended—

(1) in the item relating to Naval Shipyard, Bremerton, Puget Sound, Washington, by striking "$100,740,000" in the amount column and inserting "$102,460,000";

(2) in the item relating to Naval Station, Bremerton, Washington, by striking "$11,930,000" in the amount column and inserting "$1,930,000"; and

(3) by striking the amount identified as the total in the amount column and inserting "$803,217,000".

(b) PLANNING AND DESIGN.—Section 2204(a) of that Act (114 Stat. 1654A–398) is amended—

(1) in the matter preceding paragraph (1), by striking "$2,227,995,000" and inserting "$2,208,407,000"; and

(2) in paragraph (4), by striking "$73,335,000" and inserting "$53,747,000".

(c) CONFORMING AMENDMENT.—Section 2204(b)(4) of that Act (114 Stat. 1654A–398) is amended by striking "$10,280,000" and inserting "$14,000,000".

SEC. 2206. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECT.

(a) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 828) is amended—

(1) in the item relating to Camp H.M. Smith, Hawaii, by striking "$86,050,000" in the amount column and inserting "$89,050,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$820,230,000".

(b) CONFORMING AMENDMENT.—Section 2204(b)(3) of that Act (113 Stat. 831) is amended by striking "$70,180,000" and inserting "$73,180,000".

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Modification of authority to carry out certain fiscal year 2001 projects.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$34,400,000
Alaska	Eareckson Air Force Base	$4,600,000
	Elmendorf Air Force Base	$32,200,000
Arizona	Davis-Monthan Air Force Base	$23,500,000
	Luke Air Force Base	$4,500,000
Arkansas	Little Rock Air Force Base	$18,100,000
California	Beale Air Force Base	$7,900,000
	Edwards Air Force Base	$16,300,000
	Los Angeles Air Force Base	$23,000,000
	Travis Air Force Base	$10,100,000
	Vandenberg Air Force Base	$11,800,000
Colorado	Buckley Air Force Base	$23,200,000
	Schriever Air Force Base	$30,400,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
	United States Air Force Academy	$25,500,000
Delaware	Dover Air Force Base	$7,300,000
District of Columbia	Bolling Air Force Base	$2,900,000
Florida	Cape Canaveral Air Force Station	$7,800,000
	Eglin Air Force Base	$11,400,000
	Hurlburt Field	$10,400,000
	Tyndall Air Force Base	$20,350,000
Georgia	Moody Air Force Base	$8,600,000
	Robins Air Force Base	$14,650,000
Idaho	Mountain Home Air Force Base	$14,600,000
Kansas	McConnell Air Force Base	$5,100,000
Louisiana	Barksdale Air Force Base	$5,000,000
Maryland	Andrews Air Force Base	$19,420,000
Massachusetts	Hanscom Air Force Base	$9,400,000
Mississippi	Columbus Air Force Base	$5,000,000
	Keesler Air Force Base	$28,600,000
Montana	Malmstrom Air Force Base	$4,650,000
Nevada	Nellis Air Force Base	$31,600,000
New Jersey	McGuire Air Force Base	$36,550,000
New Mexico	Cannon Air Force Base	$9,400,000
	Kirtland Air Force Base	$19,800,000
North Carolina	Pope Air Force Base	$17,800,000
North Dakota	Grand Forks Air Force Base	$7,800,000
Ohio	Wright-Patterson Air Force Base	$28,250,000
Oklahoma	Altus Air Force Base	$20,200,000
	Tinker Air Force Base	$21,400,000
South Carolina	Shaw Air Force Base	$5,800,000
South Dakota	Ellsworth Air Force Base	$12,200,000
Tennessee	Arnold Air Force Base	$24,400,000
Texas	Dyess Air Force Base	$16,800,000
	Lackland Air Force Base	$12,800,000
	Laughlin Air Force Base	$15,600,000
	Sheppard Air Force Base	$45,200,000
Utah	Hill Air Force Base	$44,000,000
Virginia	Langley Air Force Base	$47,300,000
Washington	Fairchild Air Force Base	$2,800,000
	McChord Air Force Base	$20,700,000
Wyoming	F. E. Warren Air Force Base	$10,200,000
	Total:	$891,270,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Force Base	$42,900,000
	Spangdahlem Air Base	$8,700,000
Guam	Andersen Air Force Base	$10,150,000
Italy	Aviano Air Base	$11,800,000
Korea	Kunsan Air Base	$12,000,000
	Osan Air Base	$101,142,000
Oman	Masirah	$8,000,000
Turkey	Eskisehir	$4,000,000
	Incirlik	$5,500,000
United Kingdom	Royal Air Force, Lakenheath	$11,300,000
	Royal Air Force, Mildenhall	$22,400,000
Wake Island	Wake Island	$25,000,000
	Total:	$262,892,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Classified Location	$4,458,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Arizona	Luke Air Force Base	120 Units	$15,712,000
California	Travis Air Force Base	118 Units	$18,150,000
Colorado	Buckley Air Force Base	55 Units	$11,400,000
Delaware	Dover Air Force Base	120 Units	$18,145,000
District of Columbia	Bolling Air Force Base	136 Units	$16,926,000
Hawaii	Hickam Air Force Base	102 Units	$25,037,000
Idaho	Mountain Home Air Force Base	56 Units	$10,000,000
Louisiana	Barksdale Air Force Base	56 Units	$7,300,000

Air Force: Family Housing—Continued

State	Installation or location	Purpose	Amount
South Dakota	Ellsworth Air Force Base	78 Units	$13,700,000
Virginia	Langley Air Force Base	4 Units	$1,200,000
Portugal	Lajes Field, Azores	64 Units	$13,230,000
		Total:	$150,800,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $24,558,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $375,345,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,573,122,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $879,270,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $223,592,000.

(3) For a military construction project at an unspecified worldwide location authorized by section 2301(c), $4,458,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $11,250,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $94,970,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $550,703,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $844,715,000.

(7) $12,600,000 for construction of an air freight terminal and base supply complex at McGuire Air Force Base, New Jersey, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–399), as amended by section 2305 of this Act.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) $12,000,000 (the balance of the amount authorized under section 2301(a) for a maintenance depot hanger at Hill Air Force Base, Utah);

(3) $15,300,000 (the balance of the amount authorized under section 2301(b) for repair of an airfield runway at Wake Island); and

(4) $24,000,000 (the balance of the amount authorized under section 2301(b) for a civil engineer complex at Osan Air Force Base, Korea).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (7) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $48,436,000, which represents the combination of savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States and savings resulting from favorable bids, reduced overhead charges, and cancellations due to force structure changes.

SEC. 2305. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) MCGUIRE AIR FORCE BASE.—The table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–399) is amended—

(1) in the item relating to McGuire Air Force Base, New Jersey, by striking "$29,772,000" in the amount column and inserting "$32,972,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$748,955,000".

(b) MOUNTAIN HOME AIR FORCE BASE.—The table in section 2302(a) of that Act (114 Stat. 1654A–400) is amended in the item relating to Mountain Home Air Force Base, Idaho, by striking "119 Units" in the purpose column and inserting "46 Units".

(c) CONFORMING AMENDMENT.—Section 2304(b)(2) of that Act (114 Stat. 1654A–402) is amended by striking "$9,400,000" and inserting "$12,600,000".

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Energy conservation projects.
Sec. 2403. Authorization of appropriations, Defense Agencies.
Sec. 2404. Cancellation of authority to carry out certain fiscal year 2001 projects.
Sec. 2405. Modification of authority to carry out certain fiscal year 2000 projects.
Sec. 2406. Modification of authority to carry out certain fiscal year 1999 project.
Sec. 2407. Modification of authority to carry out certain fiscal year 1995 project.
Sec. 2408. Prohibition on expenditures to develop forward operating location on Aruba.

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Education Activity	Laurel Bay, South Carolina	$12,850,000
	Marine Corps Base, Camp LeJeune, North Carolina	$8,857,000
Defense Logistics Agency	Defense Distribution Depot Tracy, California	$30,000,000
	Defense Distribution New Cumberland, Pennsylvania	$19,900,000
	Eielson Air Force Base, Alaska	$8,800,000
	Fort Belvoir, Virginia	$900,000
	Grand Forks Air Force Base, North Dakota	$9,110,000
	Hickam Air Force Base, Hawaii	$29,200,000
	McGuire Air Force Base, New Jersey	$4,400,000
	Minot Air Force Base, North Dakota	$14,000,000
	Philadelphia, Pennsylvania	$2,429,000
	Pope Air Force Base, North Carolina	$3,400,000
Special Operations Command	Aberdeen Proving Ground, Maryland	$3,200,000
	CONUS Classified	$2,400,000
	Fort Benning, Georgia	$5,100,000
	Fort Bragg, North Carolina	$33,562,000
	Fort Lewis, Washington	$6,900,000
	Hurlburt Field, Florida	$13,400,000
	MacDill Air Force Base, Florida	$12,000,000
	Naval Station, San Diego, California	$13,650,000
TRICARE Management Activity	Andrews Air Force Base, Maryland	$10,250,000
	Dyess Air Force Base, Texas	$3,300,000
	F. E. Warren Air Force Base, Wyoming	$2,700,000
	Fort Hood, Texas	$12,200,000

Defense Agencies: Inside the United States—Continued

Agency	Installation or location	Amount
	Fort Stewart/Hunter Army Air Field, Georgia	*$11,000,000*
	Holloman Air Force Base, New Mexico	*$5,700,000*
	Hurlburt Field, Florida	*$8,800,000*
	Marine Corps Base, Camp Pendleton, California	*$15,300,000*
	Marine Corps Logistics Base, Albany, Georgia	*$5,800,000*
	Naval Air Station, Whidbey Island, Washington	*$6,600,000*
	Naval Hospital, Twentynine Palms, California	*$1,600,000*
	Naval Station, Mayport, Florida	*$24,000,000*
	Naval Station, Norfolk, Virginia	*$21,000,000*
	Schriever Air Force Base, Colorado	*$4,000,000*
Washington Headquarters Services	*Pentagon Reservation, Virginia*	*$25,000,000*
	Total:	*$391,308,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Education Activity	*Aviano Air Base, Italy*	*$3,647,000*
	Geilenkirchen AB, Germany	*$1,733,000*
	Heidelberg, Germany	*$3,312,000*
	Kaiserslautern, Germany	*$1,439,000*
	Kitzingen, Germany	*$1,394,000*
	Landstuhl, Germany	*$1,444,000*
	Ramstein Air Force Base, Germany	*$2,814,000*
	Royal Air Force, Feltwell, United Kingdom	*$22,132,000*
	Vogelweh Annex, Germany	*$1,558,000*
	Wiesbaden Air Base, Germany	*$1,378,000*
	Wuerzburg, Germany	*$2,684,000*
Defense Logistics Agency	*Anderson Air Force Base, Guam*	*$20,000,000*
	Camp Casey, Korea	*$5,500,000*
	Naval Station, Rota, Spain	*$3,000,000*
	Yokota Air Base, Japan	*$13,000,000*
Office Secretary of Defense	*Comalapa Air Base, El Salvador*	*$12,577,000*
TRICARE Management Activity	*Heidelberg, Germany*	*$28,000,000*
	Lajes Field, Azores, Portugal	*$3,750,000*
	Thule, Greenland	*$10,800,000*
	Total:	*$140,162,000*

SEC. 2402. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $27,100,000.

SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $1,481,208,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $391,308,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $140,162,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $24,492,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $54,496,000.

(6) For energy conservation projects authorized by section 2402, $27,100,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $632,713,000.

(8) For military family housing functions:

(A) For improvement of military family housing and facilities, $250,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $43,762,000, of which not more than $37,298,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,000,000.

(9) For the construction of phase 6 of an ammunition demilitarization facility at Pine Bluff Arsenal, Arkansas, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), section 2406 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2197), and section 2407 of this Act, $26,000,000.

(10) For the construction of phase 3 of an ammunition demilitarization facility at Pueblo Army Depot, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839), $11,000,000.

(11) For construction of phase 4 of an ammunition demilitarization facility at Newport Army Depot, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), $66,000,000.

(12) For construction of phase 4 of an ammunition demilitarization facility at Aberdeen Proving Ground, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of this Act, $66,500,000.

(13) For the construction of phase 2 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65, 113 Stat. 836), as amended by section 2405 of this Act, $3,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (13) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $17,575,000, which represents the combination of savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States and savings resulting from favorable bids, reduced overhead charges, and cancellations due to force structure changes.

SEC. 2404. CANCELLATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) CANCELLATION OF PROJECTS AT CAMP PENDLETON, CALIFORNIA.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–402) is amended—

(1) under the agency heading TRICARE Management Activity, by striking the item relating to Marine Corps Base, Camp Pendleton, California; and

(2) by striking the amount identified as the total in the amount column and inserting "$242,756,000".

(b) Cancellation of Projects at Unspecified Worldwide Locations.—Section 2401(c) of that Act (114 Stat. 1654A–404) is amended by striking "$451,135,000" and inserting "$30,065,000".

(c) Treatment of Authorization of Appropriations for Certain Canceled Projects.—Of the amount authorized to be appropriated by section 2403(a) of that Act (114 Stat. 1654A–404), and paragraph (1) of that section, $14,150,000 shall be available for purposes relating to construction of the Portsmouth Naval Hospital, Virginia, as authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640).

(d) Reduction in Authorization of Appropriations for Projects at Unspecified Worldwide Locations.—Section 2403 of that Act (114 Stat. 1654A–404) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$1,883,902,000" and inserting "$1,828,872,000"; and

(B) in paragraph (3), by striking "$85,095,000" and inserting "$30,065,000"; and

(2) in subsection (b), by striking "may not exceed—" and all that follows through the end of the subsection and inserting "may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).".

SEC. 2405. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECTS.

(a) Modification.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835) is amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Blue Grass Army Depot, Kentucky, by striking "$206,800,000" in the amount column and inserting "$254,030,000";

(2) under the agency heading relating to TRICARE Management Agency—

(A) in the item relating to Fort Wainwright, Alaska, by striking "$133,000,000" in the amount column and inserting "$215,000,000"; and

(B) by striking the item relating to Naval Air Station, Whidbey Island, Washington; and

(3) by striking the amount identified as the total in the amount column and inserting "$711,950,000".

(b) Treatment of Authorization of Appropriations for Canceled Whidbey Island, Project.—Of the amount authorized to be appropriated by section 2405(a) of that Act (113 Stat. 837), and paragraph (1) of that section, $4,700,000 shall be available for purposes relating to construction of the Portsmouth Naval Hospital, Virginia, as authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640).

(c) Conforming Amendments.—Section 2405(b) of that Act (113 Stat. 839) is amended—

(1) in paragraph (2), by striking "$115,000,000" and inserting "$197,000,000"; and

(2) in paragraph (3), by striking "$184,000,000" and inserting "$231,230,000".

SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1999 PROJECT.

(a) Modification.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193) is amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Aberdeen Proving Ground, Maryland, by striking "$186,350,000" in the amount column and inserting "$223,950,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$727,616,000".

(b) Conforming Amendment.—Section 2404(b)(3) of that Act (112 Stat. 2196) is amended by striking "$158,000,000" and inserting "$195,600,000".

SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1995 PROJECT.

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), and section 2406 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2197), is amended under the agency heading relating to Chemical Agents and Munitions Destruction, in the item relating to Pine Bluff Arsenal, Arkansas, by striking "$154,400,000" in the amount column and inserting "$177,400,000".

SEC. 2408. PROHIBITION ON EXPENDITURES TO DEVELOP FORWARD OPERATING LOCATION ON ARUBA.

None of the funds appropriated under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" in chapter 3 of title III of the Emergency Supplemental Act, 2000 (Public Law 106–246; 114 Stat. 579), may be used by the Secretary of Defense to develop any forward operating location on the island of Aruba.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment Program authorized by section 2501, in the amount of $162,600,000.

TITLE XXVI—GUARD AND RESERVE FACILITIES

Sec. 2601. Authorized guard and reserve construction and land acquisition projects.

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) In General.—There are authorized to be appropriated for fiscal years beginning after September 30, 2001, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $393,253,000; and

(B) for the Army Reserve, $168,969,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $52,896,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $253,852,000; and

(B) for the Air Force Reserve, $73,032,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.

Sec. 2702. Extension of authorizations of certain fiscal year 1999 projects.

Sec. 2703. Extension of authorizations of certain fiscal year 1998 projects.

Sec. 2704. Effective date.

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) Expiration of Authorizations After Three Years.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2004; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2004; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2005 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1999 PROJECTS.

(a) Extension.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2199), authorizations set forth in the tables in subsection (b), as provided in section 2302 or 2601 of that Act, shall remain in effect until October 1, 2002, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2003, whichever is later.

(b) Tables.—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 1999 Project Authorizations

State	Installation or location	Project	Amount
Delaware	*Dover Air Force Base*	*Replace Family Housing (55 units)*	*$8,998,000*
Florida	*Patrick Air Force Base*	*Replace Family Housing (46 units)*	*$9,692,000*
New Mexico	*Kirtland Air Force Base*	*Replace Family Housing (37 units)*	*$6,400,000*
Ohio	*Wright-Patterson Air Force Base*	*Replace Family Housing (40 units)*	*$5,600,000*

Army National Guard: Extension of 1999 Project Authorizations

State	Installation or location	Project	Amount
Massachusetts	*Westfield*	*Army Aviation Support Facility*	*$9,274,000*
South Carolina	*Spartanburg*	*Readiness Center*	*$5,260,000*

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1998 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 1984), authorizations set forth in the tables in subsection (b), as provided in section 2102, 2202, or 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A-408), shall remain in effect until October 1, 2002, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2003, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1998 Project Authorization

State	Installation or location	Project	Amount
Maryland	*Fort Meade*	*Family Housing Construction (56 units)*	*$7,900,000*

Navy: Extension of 1998 Project Authorizations

State	Installation or location	Project	Amount
California	*Naval Complex, San Diego*	*Replace Family Housing (94 units)*	*$13,500,000*
California	*Marine Corps Air Station, Miramar*	*Family Housing Construction (166 units)*	*$28,881,000*
Louisiana	*Naval Complex, New Orleans*	*Replace Family Housing (100 units)*	*$11,930,000*
Texas	*Naval Air Station, Corpus Christi*	*Family Housing Construction (212 units)*	*$22,250,000*

Air Force: Extension of 1998 Project Authorization

State	Installation or location	Project	Amount
New Mexico	*Kirtland Air Force Base*	*Replace Family Housing (180 units)*	*$20,900,000*

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 2001; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Increase in thresholds for certain unspecified minor military construction projects.
Sec. 2802. Exclusion of unforeseen environmental hazard remediation from limitation on authorized cost variations.
Sec. 2803. Repeal of annual reporting requirement on military construction and military family housing activities.
Sec. 2804. Funds for housing allowances of members assigned to military family housing under alternative authority for acquisition and improvement of military housing.
Sec. 2805. Extension of alternative authority for acquisition and improvement of military housing.
Sec. 2806. Treatment of financing costs as allowable expenses under contracts for utility services from utility systems conveyed under privatization initiative.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Use of military installations for certain recreational activities.
Sec. 2812. Availability of proceeds of sales of Department of Defense property from certain closed military installations.
Sec. 2813. Pilot program to provide additional tools for efficient operation of military installations.
Sec. 2814. Demonstration program on reduction in long-term facility maintenance costs.
Sec. 2815. Base efficiency project at Brooks Air Force Base, Texas.

Subtitle C—Implementation of Prior Base Closure and Realignment Rounds

Sec. 2821. Lease back of base closure property.

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

Sec. 2831. Land conveyance, Whittier-Anchorage Pipeline Tank Farm, Anchorage, Alaska.
Sec. 2832. Lease authority, Fort DeRussy, Hawaii.
Sec. 2833. Modification of land exchange, Rock Island Arsenal, Illinois.
Sec. 2834. Land conveyance, Fort Des Moines, Iowa.
Sec. 2835. Modification of land conveyances, Fort Dix, New Jersey.
Sec. 2836. Land conveyance, Engineer Proving Ground, Fort Belvoir, Virginia.
Sec. 2837. Land exchange and consolidation, Fort Lewis, Washington.
Sec. 2838. Land conveyance, Army Reserve Center, Kewaunee, Wisconsin.

PART II—NAVY CONVEYANCES

Sec. 2841. Transfer of jurisdiction, Centerville Beach Naval Station, Humboldt County, California.
Sec. 2842. Land conveyance, Port of Long Beach, California.
Sec. 2843. Conveyance of pier, Naval Base, San Diego, California.

Sec. 2844. Modification of authority for conveyance of Naval Computer and Telecommunications Station, Cutler, Maine.
Sec. 2845. Land transfer and conveyance, Naval Security Group Activity, Winter Harbor, Maine.
Sec. 2846. Land acquisition, Perquimans County, North Carolina.
Sec. 2847. Land conveyance, Naval Weapons Industrial Reserve Plant, Toledo, Ohio.
Sec. 2848. Modification of land conveyance, former United States Marine Corps Air Station, Eagle Mountain Lake, Texas.

PART III—AIR FORCE CONVEYANCES

Sec. 2851. Conveyance of avigation easements, former Norton Air Force Base, California.
Sec. 2852. Reexamination of land conveyance, Lowry Air Force Base, Colorado.
Sec. 2853. Water rights conveyance, Andersen Air Force Base, Guam.
Sec. 2854. Conveyance of segment of Loring petroleum pipeline, Maine, and related easements.
Sec. 2855. Land conveyance, petroleum terminal serving former Loring Air Force Base and Bangor Air National Guard Base, Maine.
Sec. 2856. Land conveyances, certain former Minuteman III ICBM facilities in North Dakota.
Sec. 2857. Land conveyances, Charleston Air Force Base, South Carolina.
Sec. 2858. Transfer of jurisdiction, Mukilteo Tank Farm, Everett, Washington.

Subtitle E—Other Matters

Sec. 2861. Management of the Presidio of San Francisco.
Sec. 2862. Transfer of jurisdiction for development of Air Force morale, welfare, and recreation facility, Park City, Utah.
Sec. 2863. Alternate site for United States Air Force Memorial, preservation of open space on Arlington Ridge tract, and related land transfer at Arlington National Cemetery, Virginia.
Sec. 2864. Establishment of memorial to victims of terrorist attack on Pentagon Reservation and authority to accept monetary contributions for memorial and repair of Pentagon.
Sec. 2865. Repeal of limitation on cost of renovation of Pentagon Reservation.
Sec. 2866. Development of United States Army Heritage and Education Center at Carlisle Barracks, Pennsylvania.
Sec. 2867. Effect of limitation on construction of roads or highways, Marine Corps Base, Camp Pendleton, California.
Sec. 2868. Establishment of World War II memorial at additional location on Guam.
Sec. 2869. Demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies.
Sec. 2870. Report on future land needs of United States Military Academy, New York, and adjacent community.
Sec. 2871. Naming of Patricia C. Lamar Army National Guard Readiness Center, Oxford, Mississippi.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. INCREASE IN THRESHOLDS FOR CERTAIN UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.

(a) PROJECTS REQUIRING ADVANCE APPROVAL OF SECRETARY CONCERNED.—Subsection (b)(1) of section 2805 of title 10, United States Code, is amended by striking "$500,000" and inserting "$750,000".

(b) PROJECTS USING AMOUNTS FOR OPERATION AND MAINTENANCE.—Subsection (c)(1) of that section is amended—

(1) in subparagraph (A), by striking "$1,000,000" and inserting "$1,500,000"; and

(2) in subparagraph (B), by striking "$500,000" and inserting "$750,000".

SEC. 2802. EXCLUSION OF UNFORESEEN ENVIRONMENTAL HAZARD REMEDIATION FROM LIMITATION ON AUTHORIZED COST VARIATIONS.

Subsection (d) of section 2853 of title 10, United States Code, is amended to read as follows:

"(d) The limitation on cost increases in subsection (a) does not apply to the following:

"(1) The settlement of a contractor claim under a contract.

"(2) The costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.".

SEC. 2803. REPEAL OF ANNUAL REPORTING REQUIREMENT ON MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING ACTIVITIES.

(a) REPEAL.—Section 2861 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2861.

SEC. 2804. FUNDS FOR HOUSING ALLOWANCES OF MEMBERS ASSIGNED TO MILITARY FAMILY HOUSING UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) IN GENERAL.—Subchapter IV of chapter 169 of title 10, United States Code, is amended by inserting after section 2883 the following new section:

"§2883a. Funds for housing allowances of members of the armed forces assigned to certain military family housing units

"(a) AUTHORITY TO TRANSFER FUNDS TO COVER HOUSING ALLOWANCES.—During the fiscal year in which a contract is awarded for the acquisition or construction of military family housing units under this subchapter that are not to be owned by the United States, the Secretary of Defense may transfer the amount determined under subsection (b) with respect to such housing from appropriations available for support of military housing for the armed force concerned for that fiscal year to appropriations available for pay and allowances of military personnel of that same armed force for that same fiscal year.

"(b) AMOUNT TRANSFERRED.—The total amount authorized to be transferred under subsection (a) in connection with a contract under this subchapter may not exceed an amount equal to any additional amounts payable during the fiscal year in which the contract is awarded to members of the armed forces assigned to the acquired or constructed housing units as basic allowance for housing under section 403 of title 37 that would not otherwise have been payable to such members if not for assignment to such housing units.

"(c) TRANSFERS SUBJECT TO APPROPRIATIONS.—The transfer of funds under the authority of subsection (a) is limited to such amounts as may be provided in advance in appropriations Acts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that subchapter is amended by inserting after the item relating to section 2883 the following new item:

"2883a. Funds for housing allowances of members of the armed forces assigned to certain military family housing units.".

SEC. 2805. EXTENSION OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

Section 2885 of title 10, United States Code, is amended by striking "2004" and inserting "2012".

SEC. 2806. TREATMENT OF FINANCING COSTS AS ALLOWABLE EXPENSES UNDER CONTRACTS FOR UTILITY SERVICES FROM UTILITY SYSTEMS CONVEYED UNDER PRIVATIZATION INITIATIVE.

(a) EVALUATION OF FEDERAL ACQUISITION REGULATION.—The Secretary of Defense shall conduct an evaluation of the Federal Acquisition Regulation to determine whether or not it is advisable to modify the Federal Acquisition Regulation to provide that a contract for utility services from a utility system conveyed under section 2688(a) of title 10, United States Code, may include terms and conditions that recognize financing costs, such as return on equity and interest on debt, as an allowable expense when incurred by the conveyee of the utility system to acquire, operate, renovate, replace, upgrade, repair, or expand the utility system. The Secretary shall complete the evaluation not later than 90 days after the date of the enactment of this Act.

(b) SUBMISSION OF RECOMMENDATION TO FEDERAL ACQUISITION REGULATORY COUNCIL.—If the Secretary determines under subsection (a) that it is advisable to modify the Federal Acquisition Regulation to provide that a contract described in such subsection may include terms and conditions described in such subsection, the Secretary shall submit the results of the evaluation to the Federal Acquisition Regulatory Council together with a recommendation regarding the amendments to the Federal Acquisition Regulation necessary to effectuate the modification.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. USE OF MILITARY INSTALLATIONS FOR CERTAIN RECREATIONAL ACTIVITIES.

(a) WAIVER AUTHORITY.—Section 2671 of title 10, United States Code, is amended—

(1) in subsection (b), by striking "(b)" and inserting "(e) REGULATIONS.—" and transferring the subsection to the end of the section; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive or otherwise modify the fish and game laws of a State or Territory otherwise applicable under subsection (a)(1) to hunting, fishing, or trapping at a military installation or facility if the Secretary determines that the application of such laws to such hunting, fishing, or trapping without modification could result in undesirable consequences for public health or safety at the installation or facility. The authority to waive such laws includes the authority to extend, but not reduce, the specified season for certain hunting, fishing, or trapping. The Secretary may not waive the requirements under subsection (a)(2) regarding a license for such hunting, fishing, or trapping or

any fee imposed by a State or Territory to obtain such a license.

"(2) If the Secretary determines that a waiver of fish and game laws of a State or Territory is appropriate under paragraph (1), the Secretary shall provide written notification to the appropriate State or Territory officials stating the reasons for, and extent of, the waiver. The notification shall be provided at least 30 days before implementation of the waiver.".

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "GENERAL REQUIREMENTS FOR HUNTING, FISHING, AND TRAPPING.—" after "(a)";

(2) in subsection (c), by inserting "VIOLATIONS.—" after "(c)"; and

(3) in subsection (d), by inserting "RELATION TO TREATY RIGHTS.—" after "(d)".

SEC. 2812. AVAILABILITY OF PROCEEDS OF SALES OF DEPARTMENT OF DEFENSE PROPERTY FROM CERTAIN CLOSED MILITARY INSTALLATIONS.

(a) MODIFICATION OF AVAILABILITY PERCENTAGES.—Subsection (h)(2) of section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) In the case of property located at a military installation that is closed, such amount shall be available for facility maintenance and repair or environmental restoration by the military department that had jurisdiction over such property before the closure of the military installation.

"(B) In the case of property located at any other military installation—

"(i) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where such property was located before it was disposed of or transferred; and

"(ii) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department that had jurisdiction over such property before it was disposed of or transferred.".

(b) RELATION TO OTHER LAWS.—Subsection (h) of such section is further amended—

(1) in paragraph (1), by inserting "pursuant to a base closure law" after "realignment" in the first sentence; and

(5) in paragraph (5), by inserting before the period at the end the following: ", and the term 'base closure law' shall have the meaning given that term in section 2667(h)(2) of such title".

SEC. 2813. PILOT PROGRAM TO PROVIDE ADDITIONAL TOOLS FOR EFFICIENT OPERATION OF MILITARY INSTALLATIONS.

(a) INITIATIVE AUTHORIZED.—The Secretary of Defense may carry out a pilot program (to be known as the "Pilot Efficient Facilities Initiative") for purposes of determining the potential for increasing the efficiency and effectiveness of the operation of military installations.

(b) DESIGNATION OF PARTICIPATING MILITARY INSTALLATIONS.—(1) The Secretary of Defense may designate up to two military installations of each military department for participation in the Initiative.

(2) Before designating a military installation under paragraph (1), the Secretary shall consult with employees at the installation and communities in the vicinity of the installation regarding the Initiative.

(3) The Secretary shall transmit to Congress written notification of the designation of a military installation to participate in the Initiative not later than 30 days before taking any action to carry out the Initiative at the installation. The notification shall include a description of the steps taken by the Secretary to comply with paragraph (2).

(c) MANAGEMENT PLAN.—(1) As part of the notification required under subsection (b), the Secretary of Defense shall submit a management plan for the Initiative at the military installation designated in the notification.

(2) The management plan for a designated military installation shall include a description of—

(A) each proposed lease of real or personal property located at the military installation;

(B) each proposed disposal of real or personal property located at the installation;

(C) each proposed leaseback of real or personal property leased or disposed of at the installation;

(D) each proposed conversion of services at the installation from Federal Government performance to non-Federal Government performance, including performance by contract with a State or local government or private entity or performance as consideration for the lease or disposal of property at the installation; and

(E) each other action proposed to be taken to improve mission effectiveness and reduce the cost of providing quality installation support at the installation.

(3) With respect to each proposed action described under paragraph (2), the management plan shall include—

(A) an estimate of the savings expected to be achieved as a result of the action;

(B) each regulation not required by statute that is proposed to be waived to implement the action; and

(C) each statute or regulation required by statute that is proposed to be waived to implement the action, including—

(i) an explanation of the reasons for the proposed waiver; and

(ii) a description of the action to be taken to protect the public interests served by the statute or regulation, as the case may be, in the event of the waiver.

(4) The management plan shall include measurable criteria for the evaluation of the effects of the actions taken pursuant to the Initiative at the designated military installation.

(d) WAIVER OF STATUTORY REQUIREMENTS.—The Secretary of Defense may waive any statute, or regulation required by statute, for purposes of carrying out the Initiative only if specific authority for the waiver of such statute or regulation is provided in a law that is enacted after the date of the enactment of this Act.

(e) INSTALLATION EFFICIENCY INITIATIVE FUND.—(1) There is established on the books of the Treasury a fund to be known as the "Installation Efficiency Initiative Fund".

(2) There shall be deposited in the Fund all cash rents, payments, reimbursements, proceeds, and other amounts from leases, sales, or other conveyances or transfers, joint activities, and other actions taken under the Initiative.

(3) To the extent provided in advance in authorization Acts and appropriations Acts, amounts in the Fund shall be available to the Secretary of Defense for purposes of managing capital assets and providing support services at military installations participating in the Initiative. Amounts in the Fund may be used for such purposes in addition to, or in combination with, other amounts authorized to appropriated for such purposes. Amounts in the Fund shall be available for such purposes for five years.

(4) Subject to applicable financial management regulations, the Secretary shall structure the Fund, and provide administrative policies and procedures, in order provide proper control of deposits in and disbursements from the Fund.

(f) REPORT.—Not later than December 31, 2004, the Secretary of Defense shall submit to Congress a report on the Initiative. The report shall contain a description of the actions taken under the Initiative and include such other information, including recommendations, as the Secretary considers appropriate regarding the Initiative.

(g) DEFINITIONS.—In this section:

(1) The term "Initiative" means the Pilot Efficient Facilities Initiative.

(2) The term "Fund" means the Installation Efficiency Initiative Fund.

(3) The term "military installation" has the meaning given such term in section 2687(e) of title 10, United States Code.

(h) TERMINATION.—The authority of the Secretary of Defense to carry out the Initiative shall terminate December 31, 2005.

SEC. 2814. DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.

(a) AUTHORITY TO CARRY OUT PROGRAM.—The Secretary of the Army may conduct a demonstration program to assess the feasibility and desirability of including facility maintenance requirements in construction contracts for military construction projects for the purpose of determining whether such requirements facilitate reductions in the long-term facility maintenance costs of the military departments.

(b) CONTRACTS.—Not more than three contracts entered into in any year may contain requirements referred to in subsection (a) for the purpose of the demonstration program. The demonstration program may only cover contracts entered into on or after the date of the enactment of this Act.

(c) EFFECTIVE PERIOD OF REQUIREMENTS.—The effective period of a requirement referred to in subsection (a) that is included in a contract for the purpose of the demonstration program may not exceed five years.

(d) REPORTING REQUIREMENTS.—Not later than January 31, 2005, the Secretary of the Army shall submit to Congress a report on the demonstration program, including the following:

(1) A description of all contracts that contain requirements referred to in subsection (a) for the purpose of the demonstration program.

(2) An evaluation of the demonstration program and a description of the experience of the Secretary with respect to such contracts.

(3) Any recommendations, including recommendations for the termination, continuation, or expansion of the demonstration program, that the Secretary considers appropriate.

(e) EXPIRATION.—The authority under subsection (a) to include requirements referred to in that subsection in contracts under the demonstration program shall expire on September 30, 2006.

(f) FUNDING.—Amounts authorized to be appropriated for the Army for a fiscal year for military construction shall be available for the demonstration program under this section in such fiscal year.

SEC. 2815. BASE EFFICIENCY PROJECT AT BROOKS AIR FORCE BASE, TEXAS.

(a) ADMINISTRATION OF PROJECT.—Section 136(m)(9) of the Military Construction Appropriations Act, 2001 (division A of Public Law 106–246; 114 Stat. 524), is amended by striking ", who shall be a civilian official of the Department appointed by the President with the advice and consent of the Senate".

(b) INDEMNIFICATION OF TRANSFEREES.—Not later than March 1, 2002, the Secretary of Defense shall submit to Congress a report evaluating the base efficiency project conducted under section 136 of the Military Construction Appropriations Act, 2001 (division A of Public Law 106–246; 114 Stat. 520). The evaluation shall address whether the disposal of real property under subsection (e) or other provisions of that section requires any additional authority for the Secretary beyond the authority provided under existing law to hold harmless, defend, and indemnify the recipients of the property against claims arising out of Department of Defense activities on the property before disposal. If the Secretary determines that inclusion of such an indemnity provision would facilitate activities under the base efficiency project, the Secretary shall include a recommendation in the report regarding the nature and extent of the indemnification to be provided.

Subtitle C—Implementation of Prior Base Closure and Realignment Rounds

SEC. 2821. LEASE BACK OF BASE CLOSURE PROPERTY.

(a) 1988 LAW.—Section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (E), (F), (G), (H), and (I) as subparagraphs (F), (G), (H), (I), and (J), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph (E):

"(E)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this title (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

"(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

"(iii) A lease under clause (i) may not require rental payments by the United States.

"(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

"(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—

"(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or

"(II) firefighting or security-guard functions.".

(b) 1990 LAW.—Section 2905(b)(4)(E) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new clause:

"(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—

"(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or

"(II) firefighting or security-guard functions.".

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2831. LAND CONVEYANCE, WHITTIER-ANCHORAGE PIPELINE TANK FARM, ANCHORAGE, ALASKA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Port of Anchorage, an entity of the Municipality of Anchorage, Alaska (in this section referred to as the "Port"), all right, title, and interest of the United States in and to two adjoining parcels of real property, including any improvements thereon, consisting of approximately 48 acres in Anchorage, Alaska, which are known as of the Whittier-Anchorage Pipeline Tank Farm, for the purpose of permitting the Port to use the parcels for economic development.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Port shall pay to the United States an amount, in cash or in-kind, equal to not less than the fair market value of the conveyed property, as determined by the Secretary. The Secretary may authorize the Port to carry out, as in-kind consideration, environmental remediation activities for the property to be conveyed.

(c) TIME FOR CONVEYANCE.—The Secretary may delay the conveyance under subsection (a) until such time as the Army studies relating to the Alaska deployment of the Interim Brigade Combat Team in Alaska are completed.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Port.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. LEASE AUTHORITY, FORT DERUSSY, HAWAII.

(a) LEASE AUTHORIZED.—Notwithstanding section 809 of the Military Construction Authorization Act, 1968 (Public Law 90–110; 81 Stat. 309), and section 2814(b) of the Military Construction Authorization Act, 1989 (Public Law 100–456; 102 Stat. 2117), the Secretary of the Army may enter into a lease with the City and County of Honolulu, Hawaii, for the purpose of making available to the City and County a parcel of real property at Fort DeRussy, Hawaii, for the construction and operation of a parking facility. The size and location of the parcel shall be determined by the Secretary.

(b) TERMS AND CONDITIONS.—The lease under subsection (a) may be for such term of years, require such consideration, and contain such other terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(c) RELATIONSHIP TO OTHER LEASE AUTHORITY.—Section 2667 of title 10, United States Code, shall not apply to the lease under subsection (a).

(d) DISPOSITION OF MONEY RENTALS.—All money rentals received pursuant to the lease under subsection (a) shall be—

(1) retained by the Secretary;

(2) credited to an appropriation account that supports the operation and maintenance of Fort DeRussy; and

(3) available for such purpose until expended.

SEC. 2833. MODIFICATION OF LAND EXCHANGE, ROCK ISLAND ARSENAL, ILLINOIS.

(a) ADDITIONAL CONVEYANCE AUTHORIZED.—Subsection (a) of section 2832 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 857) is amended—

(1) by inserting "(1)" after "CONVEYANCE AUTHORIZED.—"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may convey to the City all right, title, and interest of the United States in and to an additional parcel of real property, including improvements thereon, at the Rock Island Arsenal consisting of approximately .513 acres.".

(b) CONSIDERATION.—Subsection (b) of such section is amended—

(1) by inserting "(1)" after "CONSIDERATION.—";

(2) by striking "subsection (a)" both places it appears and inserting "subsection (a)(1)"; and

(3) by adding at the end the following new paragraph:

"(2) As consideration for the conveyance under subsection (a)(2), the City shall convey to the Secretary all right, title, and interest of the City in and to a parcel of real property consisting of approximately .063 acres and construct on the parcel, at the City's expense, a new access ramp to the Rock Island Arsenal.".

SEC. 2834. LAND CONVEYANCE, FORT DES MOINES, IOWA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Fort Des Moines Memorial Park, Inc., a nonprofit organization (in this section referred to as the "Memorial Park"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 4.6 acres located at Fort Des Moines United States Army Reserve Center, Des Moines, Iowa, for the purpose of the establishment of the Fort Des Moines Memorial Park and Education Center.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the Memorial Park use the property for museum and park purposes.

(c) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used for museum and park purposes, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Memorial Park shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Memorial Park. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10 United States Code, shall apply to any amount received under this subsection.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Memorial Park.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. MODIFICATION OF LAND CONVEYANCES, FORT DIX, NEW JERSEY.

Section 2835(c) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2004) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1) or (2), the Borough and Board may exchange between each other, without the consent of the Secretary, all or any portion of the property conveyed under subsection (a) so long as the property continues to be used by the grantees for economic development or educational purposes.".

SEC. 2836. LAND CONVEYANCE, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Commonwealth of Virginia (in this section referred to as the "Commonwealth") all right, title, and interest of United States in and to two parcels of real property, including any improvements thereon, located at the Engineer Proving Ground, Fort Belvoir, Virginia, as follows:

(1) The parcel, consisting of approximately 170 acres, that is to be used for construction of a portion of the Fairfax County Parkway.

(2) The parcel, consisting of approximately 11.45 acres, that is subject to an easement previously granted to the Commonwealth as Army easement DACA 31–3–96–440 for the construction of a portion of Interstate Highway 95.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Commonwealth shall—

(1) design and construct, at its expense and for public benefit, the portion of the Fairfax County Parkway through the Engineer Proving Ground;

(2) provide a conceptual design for eventual incorporation and construction by others of access into the Engineer Proving Ground at the Rolling Road Interchange from Fairfax County Parkway as specified in Virginia Department of Transportation Project #R000–029–249, C514;

(3) provide such easements or rights of way for utilities under or across the Fairfax County Parkway as the Secretary considers appropriate for the optimum development of the Engineer Proving Ground; and

(4) pay the United States an amount, jointly determined by the Secretary and the Commonwealth, appropriate to cover the costs of constructing a replacement building for building 5089 located on the Engineer Proving Ground.

(c) RESPONSIBILITY FOR ENVIRONMENTAL CLEANUP.—The Secretary shall retain liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and any other applicable environmental statute or regulation, for any environmental hazard on the property conveyed under subsection (a) as of the date of the conveyance under that subsection.

(d) ACCEPTANCE AND DISPOSITION OF FUNDS.—(1) The Secretary of the Army may accept the funds paid by the Commonwealth as consideration under subsection (b)(4) and shall credit the accepted funds to the appropriation or appropriations that are appropriate for paying the costs of the replacement of Building 5089, located on the Engineer Proving Ground, Fort Belvoir, Virginia, consistent with paragraphs (2) and (3) of this subsection.

(2) Funds accepted under paragraph (1) shall be available, until expended, for the replacement of Building 5089.

(3) Funds appropriated pursuant to the authorization of appropriations in section 301(a)(1), and funds appropriated pursuant to the authorization of appropriations in section 2104(a)(4), shall be available in accordance with section 2805 of title 10, United States Code, for the excess, if any, of the cost of the replacement of Building 5089 over the amount available for such project under paragraph (2).

(e) DESCRIPTION OF PROPERTY.—(1) The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Commonwealth.

(2) The exact acreage and legal description of the real property to be conveyed under subsection (a)(2) are as set forth in Army easement DACA 31–3–96–440.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. LAND EXCHANGE AND CONSOLIDATION, FORT LEWIS, WASHINGTON.

(a) EXCHANGE AUTHORIZED.—(1) The Secretary of the Army may convey to the Nisqually Tribe, a federally recognized Indian tribe whose tribal lands are located within the State of Washington, all right, title, and interest of the United States in and to two parcels of real property, including any improvements thereon, consisting of approximately 138 acres at Fort Lewis, Washington, in exchange for the real property described in subsection (b).

(2) The property authorized for conveyance under paragraph (1) does not include Bonneville Power Administration transmission facilities or the right of way described in subsection (c).

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Nisqually Tribe shall—

(1) acquire from Thurston County, Washington, several parcels of real property consisting of approximately 416 acres that are owned by the county, are located within the boundaries of Fort Lewis, and are currently leased by the Army; and

(2) convey fee title over the acquired property to the Secretary.

(c) RIGHT-OF-WAY FOR BONNEVILLE POWER ADMINISTRATION.—The Secretary may use the authority provided in section 2668 of title 10, United States Code, to convey to the Bonneville Power Administration a right-of-way that authorizes the Bonneville Power Administration to use real property at Fort Lewis as a route for the Grand Coulee-Olympia and Olympia-White River electric transmission lines and appurtenances for the purpose of facilitating the removal of such transmission lines from tribal lands of the Nisqually Tribe.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) and acquired under subsection (b) shall be determined by surveys satisfactory to the Secretary and the Nisqually Tribe. The cost of a survey shall be borne by the recipient of the property being surveyed.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. LAND CONVEYANCE, ARMY RESERVE CENTER, KEWAUNEE, WISCONSIN.

(a) CONVEYANCE AUTHORIZED.—The Administrator of General Services may convey, without consideration, to the City of Kewaunee, Wisconsin (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of Federal real property, including improvements thereon, that is located at 401 5th Street in Kewaunee, Wisconsin, and contains a surplus Army Reserve Center. After such conveyance, the property may be used and occupied only by the City or by another local or State government entity approved by the City.

(b) REVERSIONARY INTEREST.—(1) During the 20-year period beginning on the date the Administrator makes the conveyance under subsection (a), if the Administrator determines that the conveyed property is not being used and occupied in accordance with such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States.

(2) Upon reversion, the Administrator shall immediately proceed to a public sale of the property. The Administrator shall deposit the net proceeds from the public sale in the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C 460l–5).

(c) ADDITIONAL LIMITATION ON USE.—The property conveyed under subsection (a) shall not be used for commercial purposes.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Administrator. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

PART II—NAVY CONVEYANCES

SEC. 2841. TRANSFER OF JURISDICTION, CENTERVILLE BEACH NAVAL STATION, HUMBOLDT COUNTY, CALIFORNIA.

(a) TRANSFER AUTHORIZED.—The Secretary of the Navy may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior the real property, including any improvements thereon, consisting of the closed Centerville Beach Naval Station in Humboldt County, California, for the purpose of permitting the Secretary of the Interior to manage the real property as open space or for other public purposes.

(b) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of the survey shall be borne by the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the transfer under subsection (a) as the Secretary of the Navy considers appropriate to protect the interests of the United States.

SEC. 2842. LAND CONVEYANCE, PORT OF LONG BEACH, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Long Beach, California, acting by and through its Board of Harbor Commissioners (in this section referred to as the "City"), all right, title, and interest of the United States in and to up to 11.08 acres of real property, including any improvements thereon, comprising a portion of the Navy Mole at the former Long Beach Naval Complex, Long Beach, California, for the purpose of permitting the City to use the property to support the reuse of other former Navy property conveyed to the City.

(b) CONSIDERATION.—(1) Subject to paragraph (2), as consideration for the conveyance under subsection (a), the City shall—

(A) convey to the Secretary all right, title, and interest of the City in and to a parcel of real property of equal size on the Mole that is acceptable to the Secretary; and

(B) construct on the property conveyed under subparagraph (A) suitable replacement fuel transfer and storage facilities for the Navy, similar or equivalent to the facilities on the property to be conveyed under subsection (a), as determined necessary by the Secretary.

(2) If the Secretary determines that replacement fuel transfer and storage facilities are not required by the Navy, the Secretary may make the conveyance under subsection (a) at no cost to the City.

(c) Time for Conveyance.—Unless the Secretary makes the determination referred to in subsection (b)(2), the conveyance to the City authorized by subsection (a) shall be made only after the Secretary determines that the replacement fuel transfer and storage facilities have been constructed and are ready for use.

(d) Construction Schedule.—The City shall construct the replacement fuel transfer and storage facilities pursuant to such schedule and in such a manner so as to not interrupt or otherwise adversely affect the capability of the Navy to accomplish its mission.

(e) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The City shall be responsible for conducting the surveys.

(f) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. CONVEYANCE OF PIER, NAVAL BASE, SAN DIEGO, CALIFORNIA.

(a) Conveyance Authorized.—(1) The Secretary of the Navy may convey, without consideration, to the San Diego Aircraft Carrier Museum or its designee (in this section referred to as the "Museum") all right, title, and interest of the United States in and to the property known as Pier 11A at Naval Base, San Diego, California, together with associated structures and interests in the land underlying the pier, if any, for the purpose of permitting the Museum to use the property to berth a vessel and operate a museum for the general public.

(2) The Secretary may not make the conveyance until such time as the Museum certifies that the Museum has acquired an interest in property from the State of California or a political subdivision of the State to facilitate the use of the conveyed pier to berth a vessel and operate a museum for the general public.

(b) Assumption of Liability.—The Museum shall expressly accept any and all liability pertaining to the physical condition of the property conveyed under subsection (a) and shall hold the United States harmless from any and all liability arising from the property's physical condition.

(c) Reimbursement for Costs of Conveyance.—(1) The Museum shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Museum. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(d) Description of Property.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Museum.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2844. MODIFICATION OF AUTHORITY FOR CONVEYANCE OF NAVAL COMPUTER AND TELECOMMUNICATIONS STATION, CUTLER, MAINE.

Section 2853(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–430) is amended by inserting "any or" before "all right".

SEC. 2845. LAND TRANSFER AND CONVEYANCE, NAVAL SECURITY GROUP ACTIVITY, WINTER HARBOR, MAINE.

(a) Transfer of Jurisdiction of Schoodic Point Property Authorized.—(1) The Secretary of the Navy may transfer to the Secretary of the Interior administrative jurisdiction of a parcel of real property, including any improvements thereon and appurtenances thereto, consisting of approximately 26 acres as generally depicted as Tract 15–116 on the map entitled "Acadia National Park Schoodic Point Area", numbered 123/80,418 and dated May 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(2) The transfer authorized by this subsection shall occur, if at all, concurrently with the reversion of administrative jurisdiction of a parcel of real property consisting of approximately 71 acres, as depicted as Tract 15–115 on the map referred to in paragraph (1), from the Secretary of the Navy to the Secretary of the Interior as authorized by Public Law 80–260 (61 Stat. 519) and to be executed on or about June 30, 2002.

(b) Conveyance of Corea and Winter Harbor Properties Authorized.—The Secretary of the Navy may convey, without consideration, to the State of Maine, any political subdivision of the State of Maine, or any tax-supported agency in the State of Maine, all right, title, and interest of the United States in and to any of the parcels of real property, including any improvements thereon and appurtenances thereto, consisting of approximately 485 acres and comprising the former facilities of the Naval Security Group Activity, Winter Harbor, Maine, located in Hancock County, Maine, less the real property described in subsection (a)(1), for the purpose of economic redevelopment.

(c) Transfer of Personal Property.—The Secretary of the Navy may transfer, without consideration, to the Secretary of the Interior in the case of the real property transferred under subsection (a), or to any recipient of such real property in the case of real property conveyed under subsection (b), any or all personal property associated with the real property so transferred or conveyed, including any personal property required to continue the maintenance of the infrastructure of such real property (including the generators for an uninterrupted power supply in building 154 at the Corea site).

(d) Maintenance of Property Pending Conveyance.—(1) The Secretary of the Navy shall maintain any real property, including any improvements thereon, appurtenances thereto, and supporting infrastructure, to be conveyed under subsection (b) in accordance with the protection and maintenance standards specified in section 101–47.4913 of title 41, Code of Federal Regulations, until the earlier of—

(A) the date of the conveyance of such real property under subsection (b); or

(B) September 30, 2003.

(2) The requirement in paragraph (1) shall not be construed as authority to improve the real property, improvements, and infrastructure referred to in that paragraph so as to bring such real property, improvements, or infrastructure into compliance with any zoning or property maintenance codes or to repair any damage to such improvements and infrastructure caused by natural accident or disaster.

(e) Interim Lease.—(1) Until such time as any parcel of real property to be conveyed under subsection (b) is conveyed by deed under that subsection, the Secretary of the Navy may lease such parcel to any person or entity determined by the Secretary to be an appropriate lessee of such parcel.

(2) The amount of rent for a lease under paragraph (1) shall be the amount determined by the Secretary to be appropriate, and may be an amount less than the fair market value of the lease.

(f) Reimbursement for Environmental and Other Assessments.—(1) The Secretary of the Navy may require each recipient of real property conveyed under subsection (b) to reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis carried out by the Secretary in connection with the conveyance of such property, if the excess costs were incurred as a result of a request by the recipient. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance to the recipient.

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(g) Description of Property.—The exact acreage and legal description of the real property transferred under subsection (a), and each parcel of real property conveyed under subsection (b), shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of any survey for real property conveyed under subsection (b) shall be borne by the recipient of the real property.

(h) Additional Terms and Conditions.—The Secretary of the Navy may require such additional terms and conditions in connection with any conveyance under subsection (b), and any lease under subsection (e), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2846. LAND ACQUISITION, PERQUIMANS COUNTY, NORTH CAROLINA.

The Secretary of the Navy may, using funds previously appropriated for such purpose, acquire any and all right, title, and interest in and to a parcel of real property, including improvements thereon, consisting of approximately 240 acres, or any portion thereof, in Perquimans County, North Carolina, for purposes of including such parcel in the Harvey Point Defense Testing Activity, Hertford, North Carolina.

SEC. 2847. LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, TOLEDO, OHIO.

(a) Conveyance Authorized.—(1) The Secretary of the Navy may convey, without consideration, to the Toledo-Lucas County Port Authority, Ohio (in this section referred to as the "Port Authority"), any or all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 29 acres and comprising the Naval Weapons Industrial Reserve Plant, Toledo, Ohio.

(2) The Secretary may include in the conveyance under paragraph (1) such facilities, equipment, fixtures, and other personal property located or based on the parcel conveyed under that paragraph, or used in connection with the

parcel, as the Secretary determines to be excess to the Navy.

(b) Lease Authority.—Until such time as the real property described in subsection (a)(1) is conveyed by deed, the Secretary may lease such real property, and any personal property described in subsection (a)(2), to the Port Authority in exchange for such security, fire protection, and maintenance services as the Secretary considers appropriate.

(c) Conditions of Conveyance.—The conveyance under subsection (a), and any lease under subsection (b), shall be subject to the conditions that the Port Authority—

(1) accept the real and personal property concerned in their condition at the time of the conveyance or lease, as the case may be; and

(2) except as provided in subsection (d), use the real and personal property concerned, whether directly or through an agreement with a public or private entity, for economic development or such other public purposes as the Port Authority considers appropriate.

(d) Subsequent Use.—(1) Subject to the approval of the Secretary, the Port Authority may sublease real property or personal property covered by a lease under subsection (b) to another person for economic development or such other public purposes as the Port Authority considers appropriate.

(2) Following the conveyance of real property under subsection (a), the Port Authority may lease or reconvey the real property, and any personal property conveyed with such real property under that subsection, for economic development or such other public purposes as the Port Authority considers appropriate.

(e) Reimbursement for Costs of Conveyance and Lease.—(1) The Port Authority shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Port Authority. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(f) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1), and an appropriate inventory or other description of the personal property to be conveyed under subsection (a)(2), shall be determined by a survey and other means satisfactory to the Secretary. The cost of the survey shall be borne by the Port Authority.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a)(1), and any lease under subsection (b), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2848. MODIFICATION OF LAND CONVEYANCE, FORMER UNITED STATES MARINE CORPS AIR STATION, EAGLE MOUNTAIN LAKE, TEXAS.

Section 5 of Public Law 85–258 (71 Stat. 583) is amended by inserting before the period at the end the following: "or for the protection, maintenance, and operation of other Texas National Guard facilities".

PART III—AIR FORCE CONVEYANCES

SEC. 2851. CONVEYANCE OF AVIGATION EASEMENTS, FORMER NORTON AIR FORCE BASE, CALIFORNIA.

(a) Conveyance Required.—The Administrator of General Services shall convey, without consideration, to the Inland Valley Development Agency (the redevelopment authority for former Norton Air Force Base, California) two avigation easements (identified as APN 289–231–08 and APN 289–232–08) held by the United States.

(b) Condition of Conveyance.—The conveyance required by subsection (a) shall be subject to the condition that, if the recipient sells one or both of the easements conveyed under subsection (a), the recipient shall pay to the United States an amount equal to the lesser of—

(1) the sale price of the easement; or

(2) the fair market value of the easement.

(c) Duration of Condition.—The condition specified in subsection (b) shall apply only to a conveyance that occurs during the 10-year period beginning on the date the Administrator makes the conveyance required by subsection (a).

SEC. 2852. REEXAMINATION OF LAND CONVEYANCE, LOWRY AIR FORCE BASE, COLORADO.

The Secretary of the Air Force shall reevaluate the terms and conditions of the pending negotiated sale agreement with the Lowry Redevelopment Authority for certain real property at Lowry Air Force Base, Colorado, in light of changed circumstances regarding the property, including changes in the flood plain designations affecting some of the property, to determine whether the changed circumstances warrant a reduction in the amount of consideration otherwise required under the agreement or other modifications to the agreement.

SEC. 2853. WATER RIGHTS CONVEYANCE, ANDERSEN AIR FORCE BASE, GUAM.

(a) Authority To Convey.—In conjunction with the conveyance of the water supply system for Andersen Air Force Base, Guam, under the authority of section 2688 of title 10, United States Code, and in accordance with all the requirements of that section, the Secretary of the Air Force may convey all right, title, and interest of the United States, or such lesser estate as the Secretary considers appropriate to serve the interests of the United States, in the water rights related to the following Air Force properties located on Guam:

(1) Andy South, also known as the Andersen Administrative Annex.

(2) Marianas Bonins Base Command.

(3) Andersen Water Supply Annex, also known as the Tumon Water Well or the Tumon Maui Well.

(b) Additional Requirements.—The Secretary may exercise the authority contained in subsection (a) only if the Secretary—

(1) determines that adequate supplies of potable groundwater exist under the main base and northwest field portions of Andersen Air Force Base to meet the current and long-term requirements of the installation for water;

(2) determines that such supplies of groundwater are economically obtainable; and

(3) requires the conveyee of the water rights under subsection (a) to provide a water system capable of meeting the water supply needs of the main base and northwest field portions of Andersen Air Force Base, as determined by the Secretary.

(c) Interim Water Supplies.—If the Secretary determines that it is in the best interests of the United States to transfer title to the water rights and utility systems at Andy South and Andersen Water Supply Annex before placing into service a replacement water system and well field on Andersen Air Force Base, the Secretary may require that the United States have the primary right to all water produced from Andy South and Andersen Water Supply Annex until the replacement water system and well field is placed into service and operates to the satisfaction of the Secretary. In exercising the authority provided by this subsection, the Secretary may retain a reversionary interest in the water rights and utility systems at Andy South and Andersen Water Supply Annex until such time as the replacement water system and well field is placed into service and operates to the satisfaction of the Secretary.

(d) Sale of Excess Water Authorized.—(1) As part of the conveyance of water rights under subsection (a), the Secretary may authorize the conveyee of the water system to sell to public or private entities such water from Andersen Air Force Base as the Secretary determines to be excess to the needs of the United States. In the event the Secretary authorizes the conveyee to resell water, the Secretary shall negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee, which return the Secretary may receive in the form of reduced charges for utility services provided by the conveyee.

(2) If the Secretary cannot meet the requirements of subsection (b), and the Secretary determines to proceed with a water utility system conveyance under section 2688 of title 10, United States Code, without the conveyance of water rights, the Secretary may provide in any such conveyance that the conveyee of the water system may sell to public or private entities such water from Andy South and Andersen Water Supply Annex as the Secretary determines to be excess to the needs of the United States. The Secretary shall negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee, which return the Secretary may receive in the form of reduced charges for utility services provided by the conveyee.

(e) Treatment of Water Rights.—For purposes of section 2688 of title 10, United States Code, the water rights referred to in subsection (a) shall be considered as part of a utility system (as that term is defined in subsection (h)(2) of such section).

SEC. 2854. CONVEYANCE OF SEGMENT OF LORING PETROLEUM PIPELINE, MAINE, AND RELATED EASEMENTS.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey, without consideration, to the Loring Development Authority, Maine (in this section referred to as the "Authority"), all right, title, and interest of the United States in and to the segment of the Loring Petroleum (POL) Pipeline, Maine, consisting of approximately 27 miles in length and running between the Searsport terminal and Bangor Air National Guard Base.

(b) Related Easements.—As part of the conveyance authorized by subsection (a), the Secretary may convey to the Authority, without consideration, all right, title, and interest of the United States in and to any easements or rights-of-way necessary for the operation or maintenance of the segment of pipeline conveyed under that subsection.

(c) Reimbursement for Costs of Conveyance.—(1) The Authority shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Authority. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(d) Description of Property.—The exact acreage and legal description of the segment of

pipeline conveyed under subsection (a), and of any easements or rights-of-way conveyed under subsection (b), shall be determined by surveys and other means satisfactory to the Secretary. The cost of any survey or other services performed at the direction of the Secretary under the preceding sentence shall be borne by the Authority.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2855. LAND CONVEYANCE, PETROLEUM TERMINAL SERVING FORMER LORING AIR FORCE BASE AND BANGOR AIR NATIONAL GUARD BASE, MAINE.

(a) Conveyance Authorized.—(1) The Secretary of the Air Force may convey to the Maine Port Authority of the State of Maine (in this section referred to as the "Authority") all right, title, and interest of the United States in and to the Petroleum Terminal (POL) at Mack Point, Searsport, Maine, which served former Loring Air Force Base and Bangor Air National Guard Base, Maine.

(2) The conveyance under paragraph (1) may include the following:

(A) A parcel of real property, including any improvements thereon, consisting of approximately 20 acres and comprising a portion of the Petroleum Terminal.

(B) Any additional fuel tanks, other improvements, and equipment located on the 43-acre parcel of property adjacent to the property described in subparagraph (A), and leased by the Secretary as of the date of the enactment of this Act, which constitutes the remaining portion of the Petroleum Terminal.

(b) Condition of Conveyance.—The Secretary may not make the conveyance under subsection (a) unless the Authority agrees to utilize the property to be conveyed under that subsection solely for economic development purposes.

(c) Consideration.—(1) As consideration for the conveyance under subsection (a), the Authority shall lease to the Secretary approximately one acre of the real property conveyed under that subsection, together with any improvements thereon, that constitutes the Aerospace Fuels Laboratory (also known as Building 14).

(2) The real property leased under this subsection shall include the parking lot, outbuildings, and other improvements associated with the Aerospace Fuels Laboratory and such easements of ingress and egress to the real property, including easements for utilities, as are required for the operations of the Aerospace Fuels Laboratory.

(3) As part of the lease of real property under this subsection, the Authority shall maintain around the real property for the term of the lease a zone, not less than 75 feet in depth, free of improvements or encumbrances.

(4) The lease under this subsection shall be without cost to the United States.

(5) The term of the lease under this subsection may not exceed 25 years. If operations at the Aerospace Fuels Laboratory cease before the expiration of the term of the lease otherwise provided for under this subsection, the lease shall be deemed to have expired upon the cessation of such operations.

(d) Conveyance Contingent on Expiration of Lease of Fuel Tanks.—The Secretary may not make the conveyance under subsection (a) until the expiration of the lease referred to in paragraph (2)(B) of that subsection.

(e) Reimbursement for Costs of Conveyance.—(1) The Authority shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Authority. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(f) Description of Property.—The exact acreage and legal description of the real property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Authority.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a), and the lease under subsection (c), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2856. LAND CONVEYANCES, CERTAIN FORMER MINUTEMAN III ICBM FACILITIES IN NORTH DAKOTA.

(a) Conveyances Authorized.—(1) The Secretary of the Air Force may convey, without consideration, to the State Historical Society of North Dakota (in this section referred to as the "Historical Society") all right, title, and interest of the United States in and to parcels of real property, together with any improvements thereon, of the Minuteman III ICBM facilities of the former 321st Missile Group at Grand Forks Air Force Base, North Dakota, as follows:

(A) The parcel consisting of the launch facility designated "November-33".

(B) The parcel consisting of the missile alert facility and launch control center designated "Oscar-O".

(2) The purpose of the conveyance of the facilities is to provide for the establishment of an historical site allowing for the preservation, protection, and interpretation of the facilities.

(b) Consultation.—The Secretary shall consult with the Secretary of State and the Secretary of Defense in order to ensure that the conveyances required by subsection (a) are carried out in accordance with applicable treaties.

(c) Historical Site.—The Secretary may, in cooperation with the Historical Society, enter into one or more cooperative agreements with appropriate public or private entities or individuals in order to provide for the establishment and maintenance of the historic site referred to in subsection (a)(2).

(d) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by survey satisfactory to the Secretary. The cost of the survey shall be borne by the Secretary.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2857. LAND CONVEYANCES, CHARLESTON AIR FORCE BASE, SOUTH CAROLINA.

(a) Conveyance to State of South Carolina Authorized.—The Secretary of the Air Force may convey, without consideration, to the State of South Carolina (in this section referred to as the "State"), all right, title, and interest of the United States in and to a portion (as determined under subsection (c)) of the real property, including any improvements thereon, consisting of approximately 24 acres at Charleston Air Force Base, South Carolina, and comprising the Air Force Family Housing Annex. The purpose of the conveyance is to facilitate the Remount Road Project.

(b) Conveyance to City of North Charleston Authorized.—The Secretary may convey, without consideration, to the City of North Charleston, South Carolina (in this section referred to as the "City"), all right, title, and interest of the United States in and to a portion (as determined under subsection (c)) of the real property, including any improvements thereon, referred to in subsection (a). The purpose of the conveyance is to permit the use of the property by the City for municipal purposes.

(c) Determination of Portions of Property To Be Conveyed.—(1) Subject to paragraph (2), the Secretary, the State, and the City shall jointly determine the portion of the property referred to in subsection (a) that is to be conveyed to the State under subsection (a) and the portion of the property that is to be conveyed to the City under subsection (b).

(2) In determining under paragraph (1) the portions of property to be conveyed under this section, the portion to be conveyed to the State shall be the minimum portion of the property required by the State for the purpose specified in subsection (a), and the portion to be conveyed to the City shall be the balance of the property.

(d) Limitation on Conveyances.—The Secretary may not carry out the conveyance of property authorized by subsection (a) or (b) until the completion of an assessment of environmental contamination of the property authorized to be conveyed by such subsection for purposes of determining responsibility for environmental remediation of such property.

(e) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of the survey for the property to be conveyed under subsection (a) shall be borne by the State, and the cost of the survey for the property to be conveyed under subsection (b) shall be borne by the City.

(f) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2858. TRANSFER OF JURISDICTION, MUKILTEO TANK FARM, EVERETT, WASHINGTON.

(a) Transfer Authorized.—The Secretary of the Air Force shall transfer, without reimbursement, to the Secretary of Commerce administrative jurisdiction over a parcel of real property, including improvements thereon, consisting of approximately 1.1 acres located at the Mukilteo Tank Farm in Everett, Washington, and containing the Mukilteo Research Center facility of the National Marine Fisheries Service.

(b) Time for Conveyance.—The Secretary of the Air Force shall make the transfer under subsection (a) at the same time that the Secretary makes the conveyance authorized by section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–436).

(c) Exchange.—With the consent of the Port Authority for Everett, Washington, the Secretary of Commerce may exchange with the Port Authority all or any portion of the property transferred under subsection (a) for a parcel of real property of equal area at the Mukilteo Tank Farm that is owned by the Port Authority.

(d) Administration.—The Secretary of Commerce shall administer the property transferred under subsection (a) or received under subsection (c) through the Administrator of the National Oceanic and Atmospheric Administration as part of the Administration. The Administrator shall use the property as the location of

a research facility, and may construct a new facility on the property for such research purposes as the Administrator considers appropriate.

(e) EFFECT OF FAILURE TO UTILIZE TRANSFERRED PROPERTY.—(1) If, after the 12-year period beginning on the date of the enactment of this Act, the Administrator is not using any portion of the property transferred under subsection (a) or received under subsection (c) for the purpose specified in subsection (d), the Administrator shall convey, without consideration, to the Port Authority for Everett, Washington, all right, title, and interest in and to such portion of the real property, including improvements thereon.

(2) The Port Authority shall use any real property conveyed to the Port Authority under this subsection for development and operation of a port facility and for other public purposes.

(f) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force. The cost of the survey shall be borne by the Secretary of Commerce.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer under subsection (a) as the Secretary of the Air Force considers appropriate to protect the interests of the United States.

(h) CONFORMING AMENDMENT.—Section 2866(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–436) is amended by striking "22 acres" and inserting "20.9 acres".

Subtitle E—Other Matters

SEC. 2861. MANAGEMENT OF THE PRESIDIO OF SAN FRANCISCO.

(a) AUTHORITY TO LEASE CERTAIN HOUSING UNITS FOR USE AS ARMY HOUSING.—Title I of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 16 U.S.C. 460bb note) is amended by adding at the end the following new section:

"SEC. 107. CONDITIONAL AUTHORITY TO LEASE CERTAIN HOUSING UNITS WITHIN THE PRESIDIO.

"(a) AVAILABILITY OF HOUSING UNITS FOR LONG-TERM ARMY LEASE.—Subject to subsection (c), the Trust shall make available for lease, to those persons designated by the Secretary of the Army and for such length of time as requested by the Secretary of the Army, 22 housing units located within the Presidio that are under the administrative jurisdiction of the Trust and specified in the agreement between the Trust and the Secretary of the Army in existence as of the date of the enactment of this section.

"(b) LEASE AMOUNT.—The monthly amount charged by the Trust for the lease of a housing unit under this section shall be equivalent to the monthly rate of the basic allowance for housing that the occupant of the housing unit is entitled to receive under section 403 of title 37, United States Code.

"(c) CONDITION ON CONTINUED AVAILABILITY OF HOUSING UNITS.—Effective after the end of the four-year period beginning on the date of the enactment of this section, the Trust shall have no obligation to make housing units available under subsection (a) unless, during that four-year period, the Secretary of the Treasury purchases new obligations of at least $80,000,000 issued by the Trust under section 104(d)(2). In the event that this condition is not satisfied, the existing agreement referred to in subsection (a) shall be renewed on the same terms and conditions for an additional five years.".

(b) INCREASED BORROWING AUTHORITY AND TECHNICAL CORRECTIONS.—Paragraphs (2) and (3) of section 104(d) of title I of division I of the Omnibus Parks and Public Lands Management Act of 1996, as amended by section 334 of appendix C of Public Law 106–113 (113 Stat. 1501A–198) and amended and redesignated by section 101(13) of Public Law 106–176 (114 Stat. 25), are amended—

(1) in paragraph (2), by striking "including a review of the creditworthiness of the loan and establishment of a repayment schedule," the second place it appears; and

(2) in paragraph (3)—

(A) by striking "$50,000,000" and inserting "$150,000,000"; and

(B) by striking "paragraph (3) of".

SEC. 2862. TRANSFER OF JURISDICTION FOR DEVELOPMENT OF AIR FORCE MORALE, WELFARE, AND RECREATION FACILITY, PARK CITY, UTAH.

(a) TRANSFER AUTHORIZED.—(1) The Secretary of the Interior may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Air Force a parcel of real property in Park City, Utah, including any improvements thereon, that consists of approximately 35 acres, is located on the north side of State highway 248 in township 2 south, range 4 east, Salt Lake meridian, and is designated as parcel 3 by the Bureau of Land Management. The real property to be transferred under this paragraph does not include any lands located on the south side of State highway 248.

(2) The transfer shall be subject to existing rights, except that the Secretary of the Interior shall terminate any lease with respect to the parcel issued under the Act of June 14, 1926 (commonly known as the Recreation and Public Purposes Act; 43 U.S.C. 689 et seq.), and still in effect as of the date of the enactment of this Act.

(b) USE OF TRANSFERRED LAND.—(1) The Secretary of the Air Force may use the real property transferred under subsection (a) as the location for an Air Force morale, welfare, and recreation facility to be developed using nonappropriated funds.

(2) The Secretary of the Air Force may return the transferred property (or property acquired in exchange for the transferred property under subsection (c)) to the administrative jurisdiction of the Secretary of the Interior at any time upon certifying that development of the morale, welfare, and recreation facility would not be in the best interests of the Government.

(c) SUBSEQUENT CONVEYANCE AUTHORITY.—(1) In lieu of developing the Air Force morale, welfare, and recreation facility on the real property transferred under subsection (a), the Secretary of the Air Force may convey or lease the property to the State of Utah, a local government, or a private entity in exchange for other property to be used as the site of the facility.

(2) The values of the properties exchanged by the Secretary under this subsection either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. The conveyance or lease shall be on such other terms as the Secretary of the Air Force considers to be advantageous to the development of the facility.

(d) ALTERNATIVE DEVELOPMENT AUTHORITY.—The Secretary of the Air Force may lease the real property transferred under subsection (a), or any property acquired pursuant to subsection (c), to another party and may enter into a contract with the party for the design, construction, and operation of the Air Force morale, welfare, and recreation facility. The Secretary of the Air Force may authorize the contractor to operate the facility as both a military and a commercial operation if the Secretary determines that such an authorization is a necessary incentive for the contractor to agree to design, construct, and operate the facility.

(e) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey. The cost of the survey shall be borne by the Secretary of the Air Force.

SEC. 2863. ALTERNATE SITE FOR UNITED STATES AIR FORCE MEMORIAL, PRESERVATION OF OPEN SPACE ON ARLINGTON RIDGE TRACT, AND RELATED LAND TRANSFER AT ARLINGTON NATIONAL CEMETERY, VIRGINIA.

(a) DEFINITIONS.—In this section:

(1) The term "Arlington Naval Annex" means the parcel of Federal land located in Arlington County, Virginia, that is subject to transfer to the administrative jurisdiction of the Secretary of the Army under section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 879).

(2) The term "Foundation" means the Air Force Memorial Foundation, which was authorized in Public Law 103–163 (107 Stat. 1973; 40 U.S.C. 1003 note) to establish a memorial in the District of Columbia or its environs to honor the men and women who have served in the United States Air Force and its predecessors.

(3) The term "Air Force Memorial" means the United States Air Force Memorial to be established by the Foundation.

(4) The term "Arlington Ridge tract" means the parcel of Federal land in Arlington County, Virginia, known as the Nevius Tract and transferred to the Department of the Interior in 1953, that is bounded generally by—

(A) Arlington Boulevard (United States Route 50) to the north;

(B) Jefferson Davis Highway (Virginia Route 110) to the east;

(C) Marshall Drive to the south; and

(D) North Meade Street to the west.

(5) The term "Section 29" means a parcel of Federal land in Arlington County, Virginia, that is currently administered by the Secretary of the Interior within the boundaries of Arlington National Cemetery and is identified as "Section 29".

(b) USE OF ARLINGTON NAVAL ANNEX AS SITE FOR AIR FORCE MEMORIAL.—

(1) AVAILABILITY OF SITE.—The Secretary of Defense shall make available to the Foundation, without reimbursement, up to three acres of the Arlington Naval Annex, which the Foundation shall use as the location for the Air Force Memorial in lieu of any previously approved location for the Air Force Memorial. The land made available shall include the promontory adjacent to, and the land underlying, Wing 8 of Federal Office Building #2 in the northeast quadrant of the Arlington Naval Annex.

(2) EXCEPTION.—The requirement to use the land made available under paragraph (1) as the location for the Air Force Memorial, and the prohibition on the use of any previously approved location, shall not apply if the Secretary of Defense determines that it is physically impracticable to construct the Air Force Memorial on such land on account of the geological nature of the land.

(3) RELATION TO OTHER TRANSFER AUTHORITY.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall transfer to the Secretary of the Army administrative jurisdiction over the Arlington Naval Annex site made available under this subsection for construction of the Air Force Memorial. Nothing in this subsection alters the deadline for transfer of the remainder of the Arlington Naval Annex to the Secretary of the Army and remediation of the transferred land for use as part of Arlington National Cemetery, as required by section 2881 of the Military Construction Authorization Act for Fiscal Year 2000.

(c) SITE PREPARATION.—

(1) PREPARATION FOR CONSTRUCTION.—Upon receipt of notification from the Foundation that the Foundation has sufficient funds to commence construction of the Air Force Memorial,

the Secretary of Defense, in coordination with the Foundation, shall remove Wing 8 of Federal Office Building #2 at the Arlington Naval Annex, as well as its associated outbuilding and parking lot, and prepare the land made available under subsection (b) for construction of the Air Force Memorial. In addition to demolition and removal, such site preparation work may include environmental remediation, installation of water, sewer, telephone, electrical, and storm water management infrastructure necessary for the memorial, installation of sidewalks consistent with the design of the memorial compliant with the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the placement of screening berms and mature evergreen trees between Federal Office Building #2 and the memorial.

(2) COMPLETION.—Not later than two years after the date on which the Foundation provides the notification referred to in paragraph (1), the Secretary of Defense shall complete the demolition and removal of the structures and such site preparation work as the Secretary agrees to undertake under this subsection.

(3) FUNDING SOURCE.—The Secretary of Defense shall use amounts appropriated for operation and maintenance to carry out the demolition and removal work and site preparation described in paragraph (1).

(4) ASSISTANCE FOR DISPLACED AGENCY.—The Secretary of the Army shall serve as the Executive Agent for the Ballistic Missile Defense Organization in securing suitable sites, including, if necessary, sites not currently owned by the United States, to replace offices lost as a result of the demolition of Wing 8 of Federal Office Building #2 at the Arlington Naval Annex.

(d) CONSTRUCTION OF AIR FORCE MEMORIAL.—

(1) COMMENCEMENT.—Upon the demolition and removal of the structures required to be removed under subsection (c)(1), the Secretary of Defense shall permit the Foundation to commence construction of the Air Force Memorial on the Arlington Naval Annex site made available under subsection (b).

(2) OVERSIGHT.—The Secretary of Defense shall have exclusive authority in all matters relating to approval of the siting and design of the Air Force Memorial on the Arlington Naval Annex site, and the siting, design, and construction of the memorial on such site shall not be subject to the requirements of the Commemorative Works Act (40 U.S.C. 1001 et seq.).

(3) EFFECT OF FAILURE TO COMMENCE CONSTRUCTION.—If, within five years after the date of the enactment of this Act, the Foundation has not commenced construction of the Air Force Memorial on the Arlington Naval Annex site made available under subsection (b), the Secretary of Defense may revoke the authority of the Foundation to use the site as the location of the memorial.

(e) ACCESS AND MANAGEMENT OF AIR FORCE MEMORIAL.—The Secretary of the Army may enter into a cooperative agreement with the Foundation to provide for management, maintenance, and repair of the Air Force Memorial constructed on the Arlington Naval Annex site made available under subsection (b) and to guarantee public access to the memorial.

(f) LIMITATION ON USE OF ARLINGTON NAVAL ANNEX AS SITE FOR OTHER MEMORIALS OR MUSEUMS.—Section 2881(b) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 879) is amended by striking paragraph (2) and inserting the following new paragraph (2):

"(2) The Secretary of Defense shall reserve not more than four acres of the Navy Annex property south of the existing Columbia Pike as a site for—

"(A) a National Military Museum, if such site is recommended for such purpose by the Commission on the National Military Museum established under section 2901 and the Secretary of Defense considers such site compatible with Arlington National Cemetery and the Air Force Memorial; or

"(B) such other memorials or museums that the Secretary of Defense considers compatible with Arlington National Cemetery and the Air Force Memorial.".

(g) PRESERVATION OF ARLINGTON RIDGE TRACT.—

(1) GENERAL RULE.—After the date of the enactment of this Act, no additional structure or memorials shall be constructed on the Arlington Ridge tract.

(2) OPTION FOR FUTURE BURIALS.—Paragraph (1) does not prohibit the eventual use of a portion of the Arlington Ridge tract as a location for in-ground burial sites and columbarium for the burial of individuals eligible for burial in Arlington National Cemetery, if the development of such sites is specifically authorized in a law enacted after the date of the enactment of this Act.

(h) LAND TRANSFER, SECTION 29.—

(1) TRANSFER REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Interior shall transfer, without reimbursement, to the Secretary of the Army administrative jurisdiction over that portion of Section 29 designated as the interment zone and consisting of approximately 12 acres. The Secretary of the Interior shall modify the boundaries of the George Washington Memorial Parkway as may be necessary to reflect the land transfer required by this subsection.

(2) USE OF TRANSFERRED LAND.—The Secretary of the Army shall use the transferred property for the development of in-ground burial sites and columbarium that are designed to meet the contours of Section 29.

(3) MANAGEMENT OF REMAINDER.—The Secretary of the Interior shall manage that portion of Section 29 not transferred under this subsection in perpetuity to provide a natural setting and visual buffer for Arlington House, the Robert E. Lee Memorial.

(4) REPEAL OF OBSOLETE LAW.—Section 2821(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2791) is repealed.

SEC. 2864. ESTABLISHMENT OF MEMORIAL TO VICTIMS OF TERRORIST ATTACK ON PENTAGON RESERVATION AND AUTHORITY TO ACCEPT MONETARY CONTRIBUTIONS FOR MEMORIAL AND REPAIR OF PENTAGON.

(a) MEMORIAL AUTHORIZED.—The Secretary of Defense may establish a memorial at the Pentagon Reservation dedicated to the victims of the terrorist attack on the Pentagon that occurred on September 11, 2001. The Secretary shall use necessary amounts in the Pentagon Reservation Maintenance Revolving Fund established by section 2674(e) of title 10, United States Code, including amounts deposited in the Fund under subsection (c), to plan, design, construct, and maintain the memorial.

(b) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of Defense may accept monetary contributions made for the purpose of assisting in—

(1) the establishment of the memorial to the victims of the terrorist attack; and

(2) the repair of the damage caused to the Pentagon Reservation by the terrorist attack.

(c) DEPOSIT OF CONTRIBUTIONS.—The Secretary of Defense shall deposit contributions accepted under subsection (b) in the Pentagon Reservation Maintenance Revolving Fund. The contributions shall be available for expenditure only for the purposes specified in subsection (b).

SEC. 2865. REPEAL OF LIMITATION ON COST OF RENOVATION OF PENTAGON RESERVATION.

Section 2864 of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2806) is repealed.

SEC. 2866. DEVELOPMENT OF UNITED STATES ARMY HERITAGE AND EDUCATION CENTER AT CARLISLE BARRACKS, PENNSYLVANIA.

(a) AUTHORITY TO ENTER INTO AGREEMENT.—(1) The Secretary of the Army may enter into an agreement with the Military Heritage Foundation, a nonprofit organization, for the design, construction, and operation of a facility for the United States Army Heritage and Education Center at Carlisle Barracks, Pennsylvania (in this section referred to as the "facility").

(2) The facility is to be used for curation and storage of artifacts, research facilities, classrooms, and offices, and for education and other activities, agreed to by the Secretary, relating to the heritage of the Army. The facility may also be used to support such education and training as the Secretary considers appropriate.

(b) DESIGN AND CONSTRUCTION.—The design of the facility shall be subject to the approval of the Secretary. At the election of the Secretary, the Secretary may—

(1) accept funds from the Military Heritage Foundation for the design and construction of the facility; or

(2) permit the Military Heritage Foundation to contract for the design and construction of the facility.

(c) ACCEPTANCE OF FACILITY.—(1) Upon satisfactory completion, as determined by the Secretary, of the facility, and upon the satisfaction of any and all financial obligations incident thereto by the Military Heritage Foundation, the Secretary shall accept the facility from the Military Heritage Foundation, and all right, title, and interest in and to the facility shall vest in the United States.

(2) Upon becoming property of the United States, the facility shall be under the jurisdiction of the Secretary.

(d) USE OF CERTAIN GIFTS.—(1) Under regulations prescribed by the Secretary, the Commandant of the Army War College may, without regard to section 2601 of title 10, United States Code, accept, hold, administer, invest, and spend any gift, devise, or bequest of personnel property of a value of $250,000 or less made to the United States if such gift, devise, or bequest is for the benefit of the United States Army Heritage and Education Center.

(2) The Secretary may pay or authorize the payment of any reasonable and necessary expense in connection with the conveyance or transfer of a gift, devise, or bequest under this subsection.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized to be entered into by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2867. EFFECT OF LIMITATION ON CONSTRUCTION OF ROADS OR HIGHWAYS, MARINE CORPS BASE, CAMP PENDLETON, CALIFORNIA.

Section 2851(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2219) is amended in the first sentence by inserting after "maintain" the following: ", notwithstanding any provision of State law to the contrary,".

SEC. 2868. ESTABLISHMENT OF WORLD WAR II MEMORIAL AT ADDITIONAL LOCATION ON GUAM.

Section 2886 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–441) is amended—

(1) in subsection (a), by inserting ", and on Federal lands near Yigo," after "Fena Caves";

(2) in the heading of subsection (b), by striking "MEMORIAL" and inserting "MEMORIALS"; and

(3) in subsections (b) and (c), by striking "memorial" each place it appears and inserting "memorials".

SEC. 2869. DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

(a) Extension.—Subsection (c) of section 816 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2820), as added by section 2873 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2225), is amended by striking "September 30, 2001." and inserting "January 31, 2002, with regard to fire-fighting and police services, and September 30, 2003, with regard to other services described in subsection (a).".

(b) Conforming Amendment.—Section 1206 of the Supplemental Appropriations Act, 2001 (Public Law 107–20; 115 Stat. 161), is repealed.

SEC. 2870. REPORT ON FUTURE LAND NEEDS OF UNITED STATES MILITARY ACADEMY, NEW YORK, AND ADJACENT COMMUNITY.

(a) Report Required.—Not later than February 1, 2002, the Secretary of the Army shall submit to Congress a report evaluating the future needs of the United States Military Academy for lands suitable for use for military training and the feasibility of making unneeded lands available to the Village of Highland Falls, New York, through fee simple conveyance, long-term lease under section 2667 of title 10, United States Code, or other means.

(b) Consultation.—The Secretary shall prepare the report in consultation with appropriate officials of the Village of Highland Falls.

SEC. 2871. NAMING OF PATRICIA C. LAMAR ARMY NATIONAL GUARD READINESS CENTER, OXFORD, MISSISSIPPI.

The Oxford Army National Guard Readiness Center, Oxford, Mississippi, shall be known and designated as the "Patricia C. Lamar Army National Guard Readiness Center". Any reference to that readiness center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Patricia C. Lamar Army National Guard Readiness Center.

TITLE XXIX—FORT IRWIN MILITARY LAND WITHDRAWAL

Sec. 2901. Short title.
Sec. 2902. Withdrawal and reservation of lands for National Training Center.
Sec. 2903. Map and legal description.
Sec. 2904. Management of withdrawn and reserved lands.
Sec. 2905. Water rights.
Sec. 2906. Environmental compliance and environmental response requirements.
Sec. 2907. West Mojave Coordinated Management Plan.
Sec. 2908. Release of wilderness study areas.
Sec. 2909. Training activity separation from utility corridors.
Sec. 2910. Duration of withdrawal and reservation.
Sec. 2911. Extension of initial withdrawal and reservation.
Sec. 2912. Termination and relinquishment.
Sec. 2913. Delegation of authority.

SEC. 2901. SHORT TITLE.

This title may be cited as the "Fort Irwin Military Land Withdrawal Act of 2001".

SEC. 2902. WITHDRAWAL AND RESERVATION OF LANDS FOR NATIONAL TRAINING CENTER.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this title, all public lands and interests in lands described in subsection (c) are hereby withdrawn from all forms of appropriation under the general land laws, including the mining laws and mineral and geothermal leasing laws, and jurisdiction over such lands and interests in lands withdrawn and reserved by this title is hereby transferred to the Secretary of the Army.

(b) Reservation.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army for the following purposes:

(1) The conduct of combined arms military training at the National Training Center.

(2) The development and testing of military equipment at the National Training Center.

(3) Other defense-related purposes consistent with the purposes specified in paragraphs (1) and (2).

(4) Conservation and related research purposes.

(c) Land Description.—The public lands and interests in lands withdrawn and reserved by this section comprise approximately 110,000 acres in San Bernardino County, California, as generally depicted as "Proposed Withdrawal Land" on the map entitled "National Training Center—Proposed Withdrawal of Public Lands for Training Purposes", dated September 21, 2000, and filed in accordance with section 2903.

(d) Changes in Use.—The Secretary of the Army shall consult with the Secretary of the Interior before using the lands withdrawn and reserved by this section for any purpose other than those purposes identified in subsection (b).

(e) Indian Tribes.—Nothing in this title shall be construed as altering any rights reserved for tribal use by treaty or Federal law. The Secretary of the Army shall consult with federally recognized Indian tribes in the vicinity of the lands withdrawn under subsection (a) before taking action affecting rights or cultural resources protected by treaty or Federal law.

SEC. 2903. MAP AND LEGAL DESCRIPTION.

(a) Preparation of Map and Legal Description.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map and legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(b) Legal Effect.—The map and legal description shall have the same force and effect as if included in this title, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(c) Availability.—Copies of the map and the legal description shall be available for public inspection in the following offices:

(1) The offices of the California State Director, California Desert District Office, and Riverside and Barstow Field Offices of the Bureau of Land Management.

(2) The Office of the Commander, National Training Center and Fort Irwin.

(d) Costs.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs incurred by the Secretary of the Interior in implementing this section.

SEC. 2904. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.

(a) General Management Authority.—During the period of the withdrawal and reservation made by this title, the Secretary of the Army shall manage the lands withdrawn and reserved by this title for the purposes specified in section 2902.

(b) Temporary Prohibition on Certain Use.—Military use of the lands withdrawn and reserved by this title that result in ground disturbance, as determined by the Secretary of the Army and the Secretary of the Interior, are prohibited until the Secretary of the Army and the Secretary of the Interior certify to Congress that there has been full compliance with respect to such lands with the appropriate provisions of this title, the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable laws.

(c) Access Restrictions.—

(1) In general.—If the Secretary of the Army determines that military operations, public safety, or national security require the closure to the public of any road, trail, or other portion of the lands withdrawn and reserved by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Limitation.—Any closure under paragraph (1) shall be limited to the minimum areas and periods that the Secretary of the Army determines are required for the purposes specified in such paragraph.

(3) Notice.—Immediately preceding and during any closure under paragraph (1), the Secretary of the Army shall post appropriate warning notices and take other steps, as necessary, to notify the public of the closure.

(d) Integrated Natural Resources Management Plan.—The Secretary of the Army shall prepare and implement, in accordance with title I of the Sikes Act (16 U.S.C. 670 et seq.), an integrated natural resources management plan for the lands withdrawn and reserved by this title. In addition to the elements required under the Sikes Act, the integrated natural resources management plan shall include the following:

(1) A requirement that any hunting, fishing, and trapping on the lands withdrawn and reserved by this title be conducted in accordance with section 2671 of title 10, United States Code.

(2) A requirement that the Secretary of the Army take necessary actions to prevent, suppress, and manage brush and range fires occurring within the boundaries of Fort Irwin and brush and range fires occurring outside the boundaries of Fort Irwin that result from military activities at Fort Irwin.

(e) Firefighting.—Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Army may obligate funds appropriated or otherwise available to the Secretary of the Army to enter into a memorandum of understanding, cooperative agreement, or contract for fire fighting services to carry out the requirements of subsection (d)(2). The Secretary of the Army shall reimburse the Secretary of the Interior for costs incurred by the Secretary of the Interior to assist in carrying out the requirements of such subsection.

(f) Consultation With National Aeronautics and Space Administration.—In preparing and implementing any plan, report, assessment, survey, opinion, or impact statement regarding the lands withdrawn and reserved by this title, the Secretary of the Army shall consult with the Administrator of the National Aeronautics and Space Administration whenever proposed Army actions have the potential to affect the operations or the environmental management of the Goldstone Deep Space Communications Complex. The requirement for consultation shall apply, at a minimum, to the following:

(1) Plans for military training, military equipment testing, or related activities that have the potential of impacting communications between Goldstone Deep Space Communications Complex and space flight missions or other transmission or receipt of signals from outer space by the Goldstone Deep Space Communications Complex.

(2) The integrated natural resources management plan required by subsection (d).

(3) The West Mojave Coordinated Management Plan referred to in section 2907.

(4) Any document prepared in compliance with the Endangered Species Act of 1973, the National Environmental Policy Act of 1969, and other laws applicable to the lands withdrawn and reserved by this title.

(g) USE OF MINERAL MATERIALS.—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 601 et seq.), the Secretary of the Army may use sand, gravel, or similar mineral material resources of the type subject to disposition under such Act from the lands withdrawn and reserved by this title if the use of such resources is required for construction needs of the National Training Center.

SEC. 2905. WATER RIGHTS.

(a) NO RESERVED WATER RIGHT ESTABLISHED.—Nothing in this title shall be construed—

(1) to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title; or

(2) to authorize the appropriation of water on such lands by the United States after the date of the enactment of this Act, except in accordance with applicable State law.

(b) EFFECT ON PREVIOUSLY ACQUIRED OR RESERVED WATER RIGHTS.—This section shall not be construed to affect any water rights acquired or reserved by the United States before the date of the enactment of this Act, and the Secretary of the Army may exercise any such previously acquired or reserved water rights.

SEC. 2906. ENVIRONMENTAL COMPLIANCE AND ENVIRONMENTAL RESPONSE REQUIREMENTS.

(a) AGREEMENTS CONCERNING THE ENVIRONMENT AND PUBLIC HEALTH.—The Secretary of the Army and the Secretary of the Interior shall enter into such agreements as are necessary, appropriate, and in the public interest to carry out the purposes of this title.

(b) RELATION TO OTHER ENVIRONMENTAL LAWS.—Nothing in this title shall relieve, and no action taken under this title may relieve, the Secretary of the Army or the Secretary of the Interior, or any other person from any liability or other obligation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or any other Federal or State law.

SEC. 2907. WEST MOJAVE COORDINATED MANAGEMENT PLAN.

(a) COMPLETION.—The Secretary of the Interior shall make every effort to complete the West Mojave Coordinated Management Plan not later than two years after the date of the enactment of this Act.

(b) CONSIDERATION OF WITHDRAWAL AND RESERVATION IMPACTS.—The Secretary of the Interior shall ensure that the West Mojave Coordinated Management Plan considers the impacts of the availability or nonavailability of the lands withdrawn and reserved by this title on the plan as a whole.

(c) CONSULTATION.—The Secretary of the Interior shall consult with the Secretary of the Army and the Administrator of the National Aeronautics and Space Administration in the development of the West Mojave Coordinated Management Plan.

SEC. 2908. RELEASE OF WILDERNESS STUDY AREAS.

Congress hereby finds and directs that lands withdrawn and reserved by this title have been adequately studied for wilderness designation pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), and are no longer subject to the requirement of such section pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

SEC. 2909. TRAINING ACTIVITY SEPARATION FROM UTILITY CORRIDORS.

(a) REQUIRED SEPARATION.—All military ground activity training on the lands withdrawn and reserved by this title shall remain at least 500 meters from any utility system, in existence as of the date of the enactment of this Act, in Utility Planning Corridor D, as described in the California Desert Conservation Area Plan, dated 1980 and subsequently amended.

(b) EXCEPTION.—Subsection (a) does not modify the use of any lands used, as of the date of the enactment of this Act, by the National Training Center for training or alter any right of access granted by interagency agreement.

SEC. 2910. DURATION OF WITHDRAWAL AND RESERVATION.

(a) TERMINATION DATE.—Unless extended pursuant to section 2911, unless relinquishment is postponed by the Secretary of the Interior pursuant to section 2912(b), and except as provided in section 2912(d), the withdrawal and reservation made by this title shall terminate 25 years after the date of the enactment of this Act.

(b) LIMITATION ON SUBSEQUENT AVAILABILITY FOR APPROPRIATION.—At the time of termination of the withdrawal and reservation made by this title, the previously withdrawn lands shall not be open to any forms of appropriation under the general land laws, including the mining laws and the mineral and geothermal leasing laws, until the Secretary of the Interior publishes in the Federal Register an appropriate order specifying the date upon which such lands shall be restored to the public domain and opened.

SEC. 2911. EXTENSION OF INITIAL WITHDRAWAL AND RESERVATION.

(a) NOTIFICATION REQUIREMENT.—Not later than three years before the termination date specified in section 2910(a), the Secretary of the Army shall notify Congress and the Secretary of the Interior whether the Army will have a continuing military need, beyond the termination date, for all or any portion of the lands withdrawn and reserved by this title.

(b) PROCESS FOR EXTENSION OF WITHDRAWAL AND RESERVATION.—

(1) CONSULTATION AND APPLICATION.—If the Secretary of the Army determines that there will be a continuing military need after the termination date for any of the lands withdrawn and reserved by this title, the Secretary of the Army shall—

(A) consult with the Secretary of the Interior concerning any adjustments to be made to the extent of, or to the allocation of management responsibility for, such needed lands; and

(B) file with the Secretary of the Interior, within one year after the notice required by subsection (a), an application for extension of the withdrawal and reservation of such needed lands.

(2) APPLICATION REQUIREMENTS.—Notwithstanding any general procedure of the Department of the Interior for processing Federal land withdrawals, an application for extension of the land withdrawal and reservation made by this title shall be considered to be complete if the application includes the information required by section 3 of Public Law 85–337 (commonly known as the Engle Act; 43 U.S.C. 157), except that no information shall be required concerning the use or development of mineral, timber, or grazing resources unless, and only to the extent, the Secretary of the Army proposes to use or develop such resources during the period of extension.

(c) SUBMISSION OF PROPOSED EXTENSION TO CONGRESS.—The Secretary of the Interior and the Secretary of the Army may submit to Congress a legislative proposal for the extension of the withdrawal and reservation made by this title. The legislative proposal shall be accompanied by an appropriate analysis of environmental impacts associated with the proposal, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

SEC. 2912. TERMINATION AND RELINQUISHMENT.

(a) NOTICE OF TERMINATION.—During the first 22 years of the withdrawal and reservation made by this title, if the Secretary of the Army determines that there is no continuing military need for the lands withdrawn and reserved by this title, or any portion of such lands, the Secretary of the Army shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands. The notice shall specify the proposed date of relinquishment.

(b) ACCEPTANCE OF JURISDICTION.—The Secretary of the Interior may accept jurisdiction over any lands covered by a notice under subsection (a) if the Secretary of the Interior determines that the Secretary of the Army has taken or will take all environmental response and restoration activities required under applicable laws and regulations with respect to such lands.

(c) NOTICE OF ACCEPTANCE.—If the Secretary of the Interior decides to accept jurisdiction over lands covered by a notice under subsection (a) before the termination date of the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order that shall—

(1) terminate the withdrawal and reservation of such lands under this title;

(2) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(d) RETAINED ARMY JURISDICTION.—Notwithstanding the termination date specified in section 2910, unless and until the Secretary of the Interior accepts jurisdiction of land proposed for relinquishment pursuant to this section, such land shall remain withdrawn and reserved for the Secretary of the Army for the limited purposes of environmental response and restoration actions under section 2906 and continued land management responsibilities pursuant to the integrated natural resources management plan required under section 2904, until such environmental response and restoration activities on those lands are completed.

(e) SEVERABILITY OF FUNCTIONS.—All functions described under this section, including transfers, relinquishments, extensions, and other determinations, may be made on a parcel-by-parcel basis.

SEC. 2913. DELEGATION OF AUTHORITY.

(a) SECRETARY OF THE ARMY.—The Secretary of the Army may delegate to officials in the Department of the Army such functions as the Secretary of the Army may determine appropriate to carry out this title.

(b) SECRETARY OF THE INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that the order described in section 2912(c) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

TITLE XXX—REALIGNMENT AND CLOSURE OF MILITARY INSTALLATIONS AND PREPARATION OF INFRASTRUCTURE PLAN FOR THE NUCLEAR WEAPONS COMPLEX

Sec. 3001. Authorization of round of realignments and closures of military installations in 2005.

Sec. 3002. Selection criteria.
Sec. 3003. Revised procedures for making recommendations for realignments and closures and commission consideration of recommendations.
Sec. 3004. Limitations on privatization in place.
Sec. 3005. Department of Defense Base Closure Account 2005.
Sec. 3006. Implementation of closure and realignment decisions.
Sec. 3007. Technical and clarifying amendments.
Sec. 3008. Preparation of infrastructure plan for the nuclear weapons complex.

SEC. 3001. AUTHORIZATION OF ROUND OF REALIGNMENTS AND CLOSURES OF MILITARY INSTALLATIONS IN 2005.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new section:

“SEC. 2912. 2005 ROUND OF REALIGNMENTS AND CLOSURES OF MILITARY INSTALLATIONS.

‘‘(a) Force-Structure Plan and Infrastructure Inventory.—

‘‘(1) Preparation and submission.—As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for fiscal year 2005, the Secretary shall include the following:

‘‘(A) A force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the 20-year period beginning with fiscal year 2005, the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet these threats, and the anticipated levels of funding that will be available for national defense purposes during such period.

‘‘(B) A comprehensive inventory of military installations world-wide for each military department, with specifications of the number and type of facilities in the active and reserve forces of each military department.

‘‘(2) Relationship of plan and inventory.—Using the force-structure plan and infrastructure inventory prepared under paragraph (1), the Secretary shall prepare (and include as part of the submission of such plan and inventory) the following:

‘‘(A) A description of the infrastructure necessary to support the force structure described in the force-structure plan.

‘‘(B) A discussion of categories of excess infrastructure and infrastructure capacity.

‘‘(C) An economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure.

‘‘(3) Special considerations.—In determining the level of necessary versus excess infrastructure under paragraph (2), the Secretary shall consider the following:

‘‘(A) The anticipated continuing need for and availability of military installations outside the United States, taking into account current restrictions on the use of military installations outside the United States and the potential for future prohibitions or restrictions on the use of such military installations.

‘‘(B) Any efficiencies that may be gained from joint tenancy by more than one branch of the Armed Forces at a military installation.

‘‘(4) Revision.—The Secretary may revise the force-structure plan and infrastructure inventory. If the Secretary makes such a revision, the Secretary shall submit the revised plan or inventory to Congress as part of the budget justification documents submitted to Congress for fiscal year 2006.

‘‘(b) Certification of Need for Further Closures and Realignments.—

‘‘(1) Certification required.—On the basis of the force-structure plan and infrastructure inventory prepared under subsection (a) and the descriptions and economic analysis prepared under such subsection, the Secretary shall include as part of the submission of the plan and inventory—

‘‘(A) a certification regarding whether the need exists for the closure or realignment of additional military installations; and

‘‘(B) if such need exists, a certification that the additional round of closures and realignments would result in annual net savings for each of the military departments beginning not later than fiscal year 2011.

‘‘(2) Effect of failure to certify.—If the Secretary does not include the certifications referred to in paragraph (1), the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

‘‘(c) Comptroller General Evaluation.—

‘‘(1) Evaluation required.—If the certification is provided under subsection (b), the Comptroller General shall prepare an evaluation of the following:

‘‘(A) The force-structure plan and infrastructure inventory prepared under subsection (a) and the final selection criteria prepared under section 2913, including an evaluation of the accuracy and analytical sufficiency of such plan, inventory, and criteria.

‘‘(B) The need for the closure or realignment of additional military installations.

‘‘(2) Submission.—The Comptroller General shall submit the evaluation to Congress not later than 60 days after the date on which the force-structure plan and infrastructure inventory are submitted to Congress.

‘‘(d) Authorization of Additional Round; Commission.—

‘‘(1) Appointment of commission.—Subject to the certifications required under subsection (b), the President may commence an additional round for the selection of military installations for closure and realignment under this part in 2005 by transmitting to the Senate, not later than March 15, 2005, nominations pursuant to section 2902(c) for the appointment of new members to the Defense Base Closure and Realignment Commission.

‘‘(2) Effect of failure to nominate.—If the President does not transmit to the Senate the nominations for the Commission by March 15, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

‘‘(3) Members.—Notwithstanding section 2902(c)(1), the Commission appointed under the authority of this subsection shall consist of nine members.

‘‘(4) Terms; meetings; termination.—Notwithstanding subsections (d), (e)(1), and (l) of section 2902, the Commission appointed under the authority of this subsection shall meet during calendar year 2005 and shall terminate on April 15, 2006.

‘‘(5) Funding.—If no funds are appropriated to the Commission by the end of the second session of the 108th Congress for the activities of the Commission in 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in that year such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.’’.

SEC. 3002. SELECTION CRITERIA.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after section 2912, as added by section 3001, the following new section:

“SEC. 2913. SELECTION CRITERIA FOR 2005 ROUND.

‘‘(a) Preparation of Proposed Selection Criteria.—

‘‘(1) In general.—Not later than December 31, 2003, the Secretary shall publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.

‘‘(2) Public comment.—The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under this subsection.

‘‘(b) Military Value as Primary Consideration.—The selection criteria prepared by the Secretary shall ensure that military value is the primary consideration in the making of recommendations for the closure or realignment of military installations under this part in 2005. Military value shall include at a minimum the following:

‘‘(1) Preservation of training areas suitable for maneuver by ground, naval, or air forces to guarantee future availability of such areas to ensure the readiness of the Armed Forces.

‘‘(2) Preservation of military installations in the United States as staging areas for the use of the Armed Forces in homeland defense missions.

‘‘(3) Preservation of military installations throughout a diversity of climate and terrain areas in the United States for training purposes.

‘‘(4) The impact on joint warfighting, training, and readiness.

‘‘(5) Contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations and training.

‘‘(c) Special Considerations.—The selection criteria for military installations shall also address at a minimum the following:

‘‘(1) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

‘‘(2) The economic impact on existing communities in the vicinity of military installations.

‘‘(3) The ability of both existing and potential receiving communities' infrastructure to support forces, missions, and personnel.

‘‘(4) The impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

‘‘(d) Effect on Department and Other Agency Costs.—Any selection criteria proposed by the Secretary relating to the cost savings or return on investment from the proposed closure or realignment of military installations shall take into account the effect of the proposed closure or realignment on the costs of any other activity of the Department of Defense or any other Federal agency that may be required to assume responsibility for activities at the military installations.

‘‘(e) Final Selection Criteria.—Not later than February 16, 2004, the Secretary shall publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005. Such criteria shall be the final criteria to be used, along with the force-structure plan and infrastructure inventory referred to in section 2912, in making such recommendations unless disapproved by an Act of Congress enacted on or before March 15, 2004.

‘‘(f) Relation to Criteria for Earlier Rounds.—Section 2903(b), and the selection criteria prepared under such section, shall not

apply with respect to the process of making recommendations for the closure or realignment of military installations in 2005.''.

SEC. 3003. REVISED PROCEDURES FOR MAKING RECOMMENDATIONS FOR REALIGNMENTS AND CLOSURES AND COMMISSION CONSIDERATION OF RECOMMENDATIONS.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after section 2913, as added by section 3002, the following new section:

"SEC. 2914. SPECIAL PROCEDURES FOR MAKING RECOMMENDATIONS FOR REALIGNMENTS AND CLOSURES FOR 2005 ROUND; COMMISSION CONSIDERATION OF RECOMMENDATIONS.

''(a) Recommendations Regarding Closure or Realignment of Military Installations.—If the Secretary makes the certifications required under section 2912(b), the Secretary shall publish in the Federal Register and transmit to the congressional defense committees and the Commission, not later than May 16, 2005, a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and infrastructure inventory prepared by the Secretary under section 2912 and the final selection criteria prepared by the Secretary under section 2913.

''(b) Preparation of Recommendations.—

''(1) In general.—The Secretary shall comply with paragraphs (2) through (6) of section 2903(c) in preparing and transmitting the recommendations under this section. However, paragraph (6) of section 2903(c) relating to submission of information to Congress shall be deemed to require such submission within 48 hours.

''(2) Consideration of local government views.—(A) In making recommendations to the Commission in 2005, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

''(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan, infrastructure inventory, and final selection criteria otherwise applicable to such recommendations.

''(C) The recommendations shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to a military installation covered by such recommendations. The statement shall set forth the reasons for the result.

''(c) Recommendations to Retain Bases in Inactive Status.—In making recommendations for the closure or realignment of military installations, the Secretary may recommend that an installation be placed in an inactive status if the Secretary determines that—

''(1) the installation may be needed in the future for national security purposes; or

''(2) retention of the installation is otherwise in the interest of the United States.

''(d) Commission Review and Recommendations.—

''(1) In general.—Except as provided in this subsection, section 2903(d) shall apply to the consideration by the Commission of the recommendations transmitted by the Secretary in 2005. The Commission's report containing its findings and conclusions, based on a review and analysis of the Secretary's recommendations, shall be transmitted to the President not later than September 8, 2005.

''(2) Availability of recommendations to Congress.—After September 8, 2005, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

''(3) Limitations on authority to add to closure or realignment lists.—The Commission may not consider making a change in the recommendations of the Secretary that would add a military installation to the Secretary's list of installations recommended for closure or realignment unless, in addition to the requirements of section 2903(d)(2)(C)—

''(A) the Commission provides the Secretary with at least a 15-day period, before making the change, in which to submit an explanation of the reasons why the installation was not included on the closure or realignment list by the Secretary; and

''(B) the decision to add the installation for Commission consideration is supported by at least seven members of the Commission.

''(4) Testimony by Secretary.—The Commission shall invite the Secretary to testify at a public hearing, or a closed hearing if classified information is involved, on any proposed change by the Commission to the Secretary's recommendations.

''(5) Comptroller General report.—The Comptroller General report required by section 2903(d)(5)(B) analyzing the recommendations of the Secretary and the selection process in 2005 shall be transmitted to the congressional defense committees not later than July 1, 2005.

''(e) Review by the President.—

''(1) In general.—Except as provided in this subsection, section 2903(e) shall apply to the review by the President of the recommendations of the Commission under this section, and the actions, if any, of the Commission in response to such review, in 2005. The President shall review the recommendations of the Secretary and the recommendations contained in the report of the Commission under subsection (d) and prepare a report, not later than September 23, 2005, containing the President's approval or disapproval of the Commission's recommendations.

''(2) Commission reconsideration.—If the Commission prepares a revised list of recommendations under section 2903(e)(3) in 2005 in response to the review of the President in that year under paragraph (1), the Commission shall transmit the revised list to the President not later than October 20, 2005.

''(3) Effect of failure to transmit.—If the President does not transmit to Congress an approval and certification described in paragraph (2) or (4) of section 2903(e) by November 7, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

''(4) Effect of transmittal.—A report of the President under this subsection containing the President's approval of the Commission's recommendations is deemed to be a report under section 2903(e) for purposes of sections 2904 and 2908.''.

SEC. 3004. LIMITATIONS ON PRIVATIZATION IN PLACE.

Section 2904(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in the 2005 report only if privatization in place is a method of closure or realignment of the military installation specified in the recommendations of the Commission in such report and is determined by the Commission to be the most cost-effective method of implementation of the recommendation;''.

SEC. 3005. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

(a) Establishment.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after section 2906 the following new section:

"SEC. 2906A. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

''(a) In General.—(1) If the Secretary makes the certifications required under section 2912(b), there shall be established on the books of the Treasury an account to be known as the 'Department of Defense Base Closure Account 2005' (in this section referred to as the 'Account'). The Account shall be administered by the Secretary as a single account.

''(2) There shall be deposited into the Account—

''(A) funds authorized for and appropriated to the Account;

''(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees; and

''(C) except as provided in subsection (d), proceeds received from the lease, transfer, or disposal of any property at a military installation that is closed or realigned under this part pursuant to a closure or realignment the date of approval of which is after January 1, 2005.

''(3) The Account shall be closed at the time and in the manner provided for appropriation accounts under section 1555 of title 31, United States Code. Unobligated funds which remain in the Account upon closure shall be held by the Secretary of the Treasury until transferred by law after the congressional defense committees receive the final report transmitted under subsection (c)(2).

''(b) Use of Funds.—(1) The Secretary may use the funds in the Account only for the purposes described in section 2905 with respect to military installations the date of approval of closure or realignment of which is after January 1, 2005.

''(2) When a decision is made to use funds in the Account to carry out a construction project under section 2905(a) and the cost of the project will exceed the maximum amount authorized by law for a minor military construction project, the Secretary shall notify in writing the congressional defense committees of the nature of, and justification for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

''(c) Reports.—(1)(A) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this part using amounts in the Account, the Secretary shall transmit a report to the congressional defense committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 2905(a) during such fiscal year.

''(B) The report for a fiscal year shall include the following:

''(i) The obligations and expenditures from the Account during the fiscal year, identified by subaccount, for each military department and Defense Agency.

''(ii) The fiscal year in which appropriations for such expenditures were made and the fiscal year in which funds were obligated for such expenditures.

''(iii) Each military construction project for which such obligations and expenditures were made, identified by installation and project title.

''(iv) A description and explanation of the extent, if any, to which expenditures for military

construction projects for the fiscal year differed from proposals for projects and funding levels that were included in the justification transmitted to Congress under section 2907(1), or otherwise, for the funding proposals for the Account for such fiscal year, including an explanation of—

"(I) any failure to carry out military construction projects that were so proposed; and

"(II) any expenditures for military construction projects that were not so proposed.

"(2) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this part with respect to military installations the date of approval of closure or realignment of which is after January 1, 2005, and no later than 60 days after the closure of the Account under subsection (a)(3), the Secretary shall transmit to the congressional defense committees a report containing an accounting of—

"(A) all the funds deposited into and expended from the Account or otherwise expended under this part with respect to such installations; and

"(B) any amount remaining in the Account.

"(d) Disposal or Transfer of Commissary Stores and Property Purchased With Nonappropriated Funds.—(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part the date of approval of closure or realignment of which is after January 1, 2005, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

"(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary.

"(3) The Secretary may use amounts in the reserve account, without further appropriation, for the purpose of acquiring, constructing, and improving—

"(A) commissary stores; and

"(B) real property and facilities for nonappropriated fund instrumentalities.

"(4) In this subsection, the terms 'commissary store funds', 'nonappropriated funds', and 'nonappropriated fund instrumentality' shall have the meaning given those terms in section 2906(d)(4).

"(e) Account Exclusive Source of Funds for Environmental Restoration Projects.—Except as provided in section 2906(e) with respect to funds in the Department of Defense Base Closure Account 1990 under section 2906 and except for funds deposited into the Account under subsection (a), funds appropriated to the Department of Defense may not be used for purposes described in section 2905(a)(1)(C). The prohibition in this subsection shall expire upon the closure of the Account under subsection (a)(3).".

(b) Conforming Amendments.—Section 2906 of that Act is amended—

(1) in subsection (a)(2)(C), by inserting "the date of approval of closure or realignment of which is before January 1, 2005" after "under this part";

(2) in subsection (b)(1), by inserting "with respect to military installations the date of approval of closure or realignment of which is before January 1, 2005," after "section 2905";

(3) in subsection (c)(2)—

(A) in the matter preceding subparagraph (A), by inserting "with respect to military installations the date of approval of closure or realignment of which is before January 1, 2005," after "under this part"; and

(B) in subparagraph (A), by inserting "with respect to such installations" after "under this part";

(4) in subsection (d)(1), by inserting "the date of approval of closure or realignment of which is before January 1, 2005" after "under this part"; and

(5) in subsection (e), by striking "Except for" and inserting "Except as provided in section 2906A(e) with respect to funds in the Department of Defense Base Closure Account 2005 under section 2906A and except for".

*(c) Clerical Amendment.—The section heading of section 2906 of that Act is amended by striking "***ACCOUNT***" and inserting "***DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990***".*

SEC. 3006. IMPLEMENTATION OF CLOSURE AND REALIGNMENT DECISIONS.

(a) Requirement to Receive Fair Market Value.—Section 2905(b)(4)(B) of that Act is amended—

(1) in the first sentence, by striking "shall be without consideration" in the matter preceding clause (i) and inserting "may be without consideration"; and

(2) by inserting after "(B)" the following new sentence: "With respect to military installations for which the date of approval of closure or realignment is after January 1, 2005, the Secretary shall seek to obtain consideration in connection with any transfer under this paragraph of property located at the installation in an amount equal to the fair market value of the property, as determined by the Secretary.".

(b) Transfers in Connection With Payment of Environmental Remediation.—Section 2905(c) of that Act is amended—

(1) in paragraph (1)(B), by adding at the end the following new sentence: "The real property and facilities referred to in subparagraph (A) are also the real property and facilities located at an installation approved for closure or realignment under this part after 2001 that are available for purposes other than to assist the homeless.";

(2) in paragraph (2)(A), by striking "to be paid by the recipient of the property or facilities" and inserting "otherwise to be paid by the Secretary with respect to the property or facilities";

(3) by striking paragraph (6);

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), (6), respectively; and

(5) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of property or facilities covered by a certification under paragraph (2)(A), the Secretary may pay the recipient of such property or facilities an amount equal to the lesser of—

"(A) the amount by which the costs incurred by the recipient of such property or facilities for all environmental restoration, waste, management, and environmental compliance activities with respect to such property or facilities exceed the fair market value of such property or facilities as specified in such certification; or

"(B) the amount by which the costs (as determined by the Secretary) that would otherwise have been incurred by the Secretary for such restoration, management, and activities with respect to such property or facilities exceed the fair market value of such property or facilities as so specified.".

(c) Scope of Indemnification of Transferees in Connection With Payment of Environmental Remediation.—Paragraph (6) of section 2905(e) of that Act, as redesignated by subsection (b)(4), is amended by inserting before the period the following: ", except in the case of releases or threatened releases not disclosed pursuant to paragraph (4)".

SEC. 3007. TECHNICAL AND CLARIFYING AMENDMENTS.

(a) Relationship to Other Base Closure Authority.—Section 2909(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking "the date of the enactment of this Act and ending on December 31, 1995," and inserting "November 5, 1990, and ending on April 15, 2006,".

(b) Commencement of Period for Notice of Interest in Property for Homeless.—Section 2905(b)(7)(D)(ii)(I) of that Act is amended by striking "that date" and inserting "the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV)".

(c) Committee Name.—That Act is further amended by striking "National Security" and inserting "Armed Services" each place it appears in the following provisions:

(A) Section 2902(e)(2)(B)(ii).

(B) Section 2908(b).

(d) Other Clarifying Amendments.—(1) That Act is further amended by inserting "or realignment" after "closure" each place it appears in the following provisions:

(A) Section 2905(b)(3).

(B) Section 2905(b)(5).

(C) Section 2905(b)(7)(B)(iv).

(D) Section 2905(b)(7)(N).

(E) Section 2910(10)(B).

(2) That Act is further amended by inserting "or realigned" after "closed" each place it appears in the following provisions:

(A) Section 2905(b)(3)(C)(ii).

(B) Section 2905(b)(3)(D).

(C) Section 2905(b)(3)(E).

(D) Section 2905(b)(5)(A).

(E) Section 2910(9).

(F) Section 2910(10).

(3) Section 2905(e)(1)(B) of that Act is amended by inserting ", or realigned or to be realigned," after "closed or to be closed".

SEC. 3008. PREPARATION OF INFRASTRUCTURE PLAN FOR THE NUCLEAR WEAPONS COMPLEX.

(a) Infrastructure Plan for Nuclear Weapons Complex.—

(1) Preparation and submission.—Not later than the date on which the budget for the Department of Energy for fiscal year 2004 is submitted to Congress, the Secretary of Energy shall submit to Congress an infrastructure plan for the nuclear weapons complex adequate to support the nuclear weapons stockpile, the naval reactors program, and nonproliferation and national security activities.

(2) Special considerations.—In preparing the infrastructure plan, the Secretary shall take into consideration the following:

(A) The Department of Defense Nuclear Posture Review required pursuant to section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–262).

(B) Any efficiencies and security benefits of consolidation of facilities of the nuclear weapons complex.

(C) The necessity to have a residual production capability.

(b) Recommendations Regarding Realignments and Closures.—On the basis of the infrastructure plan prepared under subsection (a), the Secretary shall make such recommendations regarding the need to close or realign facilities of the nuclear weapons complex as the Secretary considers appropriate, including the Secretary's recommendations on whether to establish a

process by which a round of closures and realignments would be carried out and any additional legislative authority necessary to implement the recommendations. The Secretary shall submit the recommendations as part of the infrastructure plan under subsection (a).

(c) DEFINITIONS.—In this section:

(1) The terms "Secretary" and "Secretary of Energy" mean the Secretary of Energy, acting after consideration of the recommendations of the Administrator for Nuclear Security.

(2) The term "nuclear weapons complex" means the national security laboratories and nuclear weapons production facilities (as such terms are defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471)) and the facilities of the Naval Nuclear Propulsion Program provided for under the Naval Nuclear Propulsion Executive Order (as such term is defined in section 3216 of such Act (50 U.S.C. 2406)).

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $7,121,094,000, to be allocated as follows:

(1) WEAPONS ACTIVITIES.—For weapons activities, $5,343,567,000, to be allocated as follows:

(A) For stewardship operation and maintenance, $4,601,871,000, to be allocated as follows:

(i) For directed stockpile work, $1,002,274,000.

(ii) For campaigns, $2,074,473,000, to be allocated as follows:

(I) For operation and maintenance, $1,704,501,000.

(II) For construction, $369,972,000, to be allocated as follows:

Project 01–D–101, distributed information systems laboratory, Sandia National Laboratories, Livermore, California, $5,400,000.

Project 00–D–103, terascale simulation facility, Lawrence Livermore National Laboratory, Livermore, California, $22,000,000.

Project 00–D–105, strategic computing complex, Los Alamos National Laboratory, Los Alamos, New Mexico, $11,070,000.

Project 00–D–107, joint computational engineering laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $5,377,000.

Project 98–D–125, tritium extraction facility, Savannah River Plant, Aiken, South Carolina, $81,125,000.

Project 96–D–111, national ignition facility (NIF), Lawrence Livermore National Laboratory, Livermore, California, $245,000,000.

(iii) For readiness in technical base and facilities, $1,525,124,000, to be allocated as follows:

(I) For operation and maintenance, $1,348,260,000.

(II) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $176,864,000, to be allocated as follows:

Project 02–D–103, project engineering and design (PED), various locations, $22,830,000.

Project 02–D–105, engineering technology complex upgrade, Lawrence Livermore National Laboratory, Livermore, California, $4,750,000.

Project 02–D–107, electrical power systems safety communications and bus upgrades, Nevada Test Site, Nevada, $3,507,000.

Project 01–D–101, microsystems and engineering sciences applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico, $39,000,000.

Project 01–D–103, preliminary project design and engineering, various locations, $16,379,000.

Project 01–D–107, Atlas relocation, Nevada Test Site, Nevada, $3,300,000.

Project 01–D–126, weapons evaluation test laboratory, Pantex Plant, Amarillo, Texas, $7,700,000.

Project 01–D–800, sensitive compartmented information facility, Lawrence Livermore National Laboratory, Livermore, California, $12,993,000.

Project 99–D–103, isotope sciences facilities, Lawrence Livermore National Laboratory, Livermore, California, $4,400,000.

Project 99–D–104, protection of real property (roof reconstruction, phase II), Lawrence Livermore National Laboratory, Livermore, California, $2,800,000.

Project 99–D–106, model validation and system certification center, Sandia National Laboratories, Albuquerque, New Mexico, $4,955,000.

Project 99–D–108, renovate existing roadways, Nevada Test Site, Nevada, $2,000,000.

Project 99–D–125, replace boilers and controls, Kansas City Plant, Kansas City, Missouri, $300,000.

Project 99–D–127, stockpile management restructuring initiative, Kansas City plant, Kansas City, Missouri, $22,200,000.

Project 99–D–128, stockpile management restructuring initiative, Pantex Plant, Amarillo, Texas, $3,300,000.

Project 98–D–123, stockpile management restructuring initiative, tritium facility modernization and consolidation, Savannah River Plant, Aiken, South Carolina, $13,700,000.

Project 98–D–124, stockpile management restructuring initiative, Y–12 consolidation, Oak Ridge, Tennessee, $6,850,000.

Project 97–D–123, structural upgrades, Kansas City Plant, Kansas City, Missouri, $3,000,000.

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $2,900,000.

(B) For secure transportation asset, $121,800,000, to be allocated as follows:

(i) For operation and maintenance, $77,571,000.

(ii) For program direction, $44,229,000.

(C) For safeguards and security, $448,881,000, to be allocated as follows:

(i) For operations and maintenance, $439,281,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, *modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $9,600,000, to be allocated as follows:*

Project 99–D–132, stockpile management restructuring initiative, nuclear material safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,600,000.

(D) For facilities and infrastructure, $200,000,000.

(E) The total amount authorized by this paragraph is the sum of the amounts authorized to be appropriated by subparagraphs (A) through (D), reduced by $28,985,000, to be derived from a security charge for reimbursable work.

(2) DEFENSE NUCLEAR NONPROLIFERATION.—For defense nuclear nonproliferation activities, $776,886,000, to be allocated as follows:

(A) For nonproliferation and verification research and development, $244,306,000, to be allocated as follows:

(i) For operation and maintenance, $208,500,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $35,806,000, to be allocated as follows:

Project 00–D–192, nonproliferation and international security center (NISC), Los Alamos National Laboratory, Los Alamos, New Mexico, $35,806,000.

(B) For arms control and Russian transition initiatives, $117,741,000.

(C) For international materials protection, control, and accounting, $143,800,000.

(D) For highly enriched uranium transparency implementation, $13,950,000.

(E) For international nuclear safety, $10,000,000.

(F) For fissile materials control and disposition, $289,089,000, to be allocated as follows:

(i) For United States surplus fissile materials disposition, $228,089,000, to be allocated as follows:

(I) For operation and maintenance, $130,089,000.

(II) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $98,000,000, to be allocated as follows:

Project 01–D–407, highly enriched uranium blend-down, Savannah River Site, Aiken, South Carolina, $24,000,000.

Project 99–D–141, pit disassembly and conversion facility, Savannah River Site, Aiken, South Carolina, $11,000,000.

Project 99–D–143, mixed oxide fuel fabrication facility, Savannah River Site, Aiken, South Carolina, $63,000,000.

(ii) For Russian surplus fissile materials disposition, $61,000,000.

(G) The total amount authorized by this paragraph is the sum of the amounts authorized to be appropriated by subparagraphs (A) through (F), reduced by $42,000,000, to be derived from offsets and use of prior year balances.

(3) NAVAL REACTORS.—For naval reactors, $688,045,000, to be allocated as follows:

(A) For naval reactors development, $665,445,000, to be allocated as follows:

(i) For operation and maintenance, $652,245,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $13,200,000, to be allocated as follows:

Project 01–D–200, major office replacement building, Schenectady, New York, $9,000,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $4,200,000.

(B) For program direction, $22,600,000.

(4) OFFICE OF ADMINISTRATOR FOR NUCLEAR SECURITY.—For the Office of the Administrator for Nuclear Security, and for program direction for the National Nuclear Security Administration (other than for naval reactors and secure transportation asset), $312,596,000.

SEC. 3102. DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for environmental restoration and waste management activities in carrying out programs necessary for national security in the amount of $6,022,415,000, to be allocated as follows:

(1) CLOSURE PROJECTS.—For closure projects carried out in accordance with section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836; 42 U.S.C. 7277n), $1,080,538,000.

(2) SITE/PROJECT COMPLETION.—For site completion and project completion in carrying out environmental management activities necessary for national security programs, $959,696,000, to be allocated as follows:

(A) For operation and maintenance, $919,030,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $40,666,000, to be allocated as follows:

Project 01–D–402, Intec cathodic protection system expansion, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $3,256,000.

Project 02–D–420, plutonium stabilization and packaging, Savannah River Site, Aiken, South Carolina, $20,000,000.

Project 01–D–414, preliminary project, engineering and design (PE&D), various locations, $2,754,000.

Project 99–D–402, tank farm support services, F&H areas, Savannah River Site, Aiken, South Carolina, $5,040,000.

Project 99–D–404, health physics instrumentation laboratory, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $2,700,000.

Project 98–D–453, plutonium stabilization and handling system for plutonium finishing plant, Richland, Washington, $1,910,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $4,244,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $762,000.

(3) POST-2006 COMPLETION.—For post-2006 completion in carrying out environmental restoration and waste management activities necessary for national security programs, $3,265,201,000, to be allocated as follows:

(A) For operation and maintenance, $1,955,979,000.

(B) For uranium enrichment decontamination and decommissioning fund contribution, $420,000,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $6,754,000, to be allocated as follows:

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, $6,754,000.

(D) For the Office of River Protection in carrying out environmental restoration and waste management activities necessary for national security programs, $882,468,000, to be allocated as follows:

(i) For operation and maintenance, $322,151,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $560,317,000, to be allocated as follows:

Project 01–D–416, waste treatment and immobilization plant, Richland, Washington, $520,000,000.

Project 97–D–402, tank farm restoration and safe operations, Richland, Washington, $33,473,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $6,844,000.

(4) SCIENCE AND TECHNOLOGY DEVELOPMENT.—For science and technology development in carrying out environmental restoration and waste management activities necessary for national security programs, $216,000,000.

(5) EXCESS FACILITIES.—For excess facilities in carrying out environmental restoration and waste management activities necessary for national security programs, $1,300,000.

(6) SAFEGUARDS AND SECURITY.—For safeguards and security in carrying out environmental restoration and waste management activities necessary for national security programs, $205,621,000.

(7) PROGRAM DIRECTION.—For program direction in carrying out environmental restoration and waste management activities necessary for national security programs, $355,761,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated by subsection (a) is the sum of the amounts authorized to be appropriated by paragraphs (1) through (7) of that subsection, reduced by $61,702,000, of which $56,311,000 is to reflect an offset provided by use of prior year balances and $5,391,000 is to be derived from a security charge for reimbursable work.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for other defense activities in carrying out programs necessary for national security in the amount of $499,663,000, to be allocated as follows:

(1) INTELLIGENCE.—For intelligence, $40,844,000.

(2) COUNTERINTELLIGENCE.—For counterintelligence, $46,000,000.

(3) SECURITY AND EMERGENCY OPERATIONS.—For security and emergency operations, $250,427,000, to be allocated as follows:

(A) For nuclear safeguards and security, $116,500,000.

(B) For security investigations, $44,927,000.

(C) For corporate management information programs, $10,000,000.

(D) For program direction, $79,000,000.

(4) INDEPENDENT OVERSIGHT AND PERFORMANCE ASSURANCE.—For independent oversight and performance assurance, $14,904,000.

(5) ENVIRONMENT, SAFETY, AND HEALTH.—For the Office of Environment, Safety, and Health, $113,307,000, to be allocated as follows:

(A) For environment, safety, and health (defense), $91,307,000.

(B) For program direction, $22,000,000.

(6) WORKER AND COMMUNITY TRANSITION ASSISTANCE.—For worker and community transition assistance, $20,000,000, to be allocated as follows:

(A) For worker and community transition, $18,000,000.

(B) For program direction, $2,000,000.

(7) OFFICE OF HEARINGS AND APPEALS.—For the Office of Hearings and Appeals, $2,893,000.

(8) NATIONAL SECURITY PROGRAMS ADMINISTRATIVE SUPPORT.—For national security programs administrative support, $22,000,000.

(b) ADJUSTMENT.—The amount authorized to be appropriated pursuant to subsection (a) is the total of the amounts authorized to be appropriated by paragraphs (1) through (8) of that subsection, reduced by $10,712,000, of which $10,000,000 is to reflect an offset provided by use of prior year balances and $712,000 is to be derived from a security charge for reimbursable work.

SEC. 3104. DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for privatization initiatives in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $153,537,000, to be allocated as follows:

Project 02–PVT–1, Paducah disposal facility, Paducah, Kentucky, $13,329,000.

Project 02–PVT–2, Portsmouth disposal facility, Portsmouth, Ohio, $2,000,000.

Project 98–PVT–2, spent nuclear fuel dry storage, Idaho Falls, Idaho, $49,332,000.

Project 98–PVT–5, environmental management/waste management disposal, Oak Ridge, Tennessee, $26,065,000.

Project 97–PVT–2, advanced mixed waste treatment project, Idaho Falls, Idaho, $52,000,000.

Project 97–PVT–3, transuranic waste treatment, Oak Ridge, Tennessee, $10,826,000.

SEC. 3105. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $280,000,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Except as provided in sections 3129 and 3130, until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year, the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON MINOR CONSTRUCTION PROJECTS.

(a) AUTHORITY.—The Secretary of Energy may carry out any minor construction project using operation and maintenance funds, or facilities and infrastructure funds, authorized by this title.

(b) ANNUAL REPORT.—The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding year. Each report shall provide a brief description of each minor construction project covered by the report.

(c) COST VARIATION REPORTS TO CONGRESSIONAL COMMITTEES.—If, at any time during the construction of any minor construction project authorized by this title, the estimated cost of the project is revised and the revised cost of the project exceeds $5,000,000, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.

(d) MINOR CONSTRUCTION PROJECT DEFINED.—In this section, the term "minor construction project" means any plant project not specifically authorized by law if the approved total estimated cost of the plant project does not exceed $5,000,000.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, authorized by 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there is excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) does not apply to a construction project with a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than 5 percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(c) LIMITATIONS.—The authority provided by this subsection to transfer authorizations—

(1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT OF CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a minor construction project the total estimated cost of which is less than $5,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for that design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, under sections 3101, 3102, 3103, and 3104 to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (b), when so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to an authorization of appropriations in subtitle A shall remain available to be expended only until the end of fiscal year 2003.

SEC. 3129. TRANSFER OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—(1) Not more than three transfers may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project under in any one transfer under subsection (a) may not exceed $5,000,000.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary—

(A) to address a risk to health, safety, or the environment; or

(B) to assure the most efficient use of defense environmental management funds at the field office.

(4) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, any of the following:

(A) A program referred to or a project listed in paragraph (2) or (3) of section 3102(a).

(B) A program or project not described in subparagraph (A) that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental management funds have been authorized and appropriated before the date of the enactment of this Act.

(2) The term "defense environmental management funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 2001, and ending on September 30, 2002.

SEC. 3130. TRANSFER OF WEAPONS ACTIVITIES FUNDS.

(a) TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—(1) Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer—

(A) is necessary to address a risk to health, safety, or the environment; or

(B) will result in cost savings and efficiencies.

(4) A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.

(5) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Administrator for Nuclear Security, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, any of the following:

(A) A program referred to or a project listed in 3101(1).

(B). A program or project not described in subparagraph (A) that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated before the date of the enactment of this Act.

(2) The term "weapons activities funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 2001, and ending on September 30, 2002.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. CONSOLIDATION OF NUCLEAR CITIES INITIATIVE PROGRAM WITH INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.

The Administrator for Nuclear Security shall consolidate the Nuclear Cities Initiative program with the Initiatives for Proliferation Prevention program under a single management line.

SEC. 3132. NUCLEAR CITIES INITIATIVE.

(a) LIMITATIONS ON USE OF FUNDS.—No funds authorized to be appropriated for the Nuclear Cities Initiative after fiscal year 2001 may be obligated or expended with respect to more than three nuclear cities, or more than two serial production facilities in Russia, until 30 days after the Administrator for Nuclear Security submits to the appropriate congressional committees an agreement signed by the Russian Federation on access under the Nuclear Cities Initiative to the ten closed nuclear cities and four serial production facilities of the Nuclear Cities Initiative.

(b) ANNUAL REPORT.—(1) Not later than the first Monday in February each year, the Administrator shall submit to the appropriate congressional committees a report on financial and programmatic activities with respect to the Nuclear Cities Initiative during the preceding fiscal year.

(2) Each report shall include, for the fiscal year covered by such report, the following:

(A) A list of each project that is or was completed, ongoing, or planned under the Nuclear Cities Initiative during such fiscal year.

(B) For each project listed under subparagraph (A), information, current as of the end of such fiscal year, on the following:

(i) The purpose of such project.

(ii) The budget for such project.

(iii) The life-cycle costs of such project.

(iv) Participants in such project.

(v) The commercial viability of such project.

(vi) The number of jobs in Russia created or to be created by or through such project.

(vii) Of the total amount of funds spent on such project, the percentage of such amount spent in the United States and the percentage of such amount spent overseas.

(C) A certification by the Administrator that each project listed under subparagraph (A) did contribute, is contributing, or will contribute, as the case may be, to the downsizing of the nuclear weapons complex in Russia, together with a description of the evidence utilized to make such certification.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(2) NUCLEAR CITIES INITIATIVE.—The term "Nuclear Cities Initiative" means the initiative arising pursuant to the March 1998 discussion between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation.

(3) NUCLEAR CITY.—The term "nuclear city" means any of the nuclear cities within the complex of the Russia Ministry of Atomic Energy (MINATOM) as follows:

(A) Sarov (Arzamas–16 and Avangard).

(B) Zarechnyy (Penza–19).

(C) Novoural'sk (Sverdlovsk–44).

(D) Lesnoy (Sverdlovsk–45).

(E) Ozersk (Chelyabinsk-65).

(F) Snezhinsk (Chelyabinsk–70).

(G) Trechgornyy (Zlatoust–36).

(H) Seversk (Tomsk–7).

(I) Zhelenznogorsk (Krasnoyarsk–26).

(J) Zelenogorsk (Krasnoyarsk–45).

SEC. 3133. LIMITATION ON AVAILABILITY OF FUNDS FOR WEAPONS ACTIVITIES FOR FACILITIES AND INFRASTRUCTURE.

Not more than 50 percent of the funds authorized to be appropriated by section 3101(a)(1)(D) for the National Nuclear Security Administration for weapons activities for facilities and infrastructure may be obligated or expended until the Administrator for Nuclear Security submits to the congressional defense committees a report setting forth the following:

(1) Criteria for the selection of projects to be carried out using such funds.

(2) Criteria for establishing priorities among projects so selected.

(3) A list of the projects so selected, including the priority assigned to each such project.

SEC. 3134. LIMITATION ON AVAILABILITY OF FUNDS FOR OTHER DEFENSE ACTIVITIES FOR NATIONAL SECURITY PROGRAMS ADMINISTRATIVE SUPPORT.

Not more than $5,000,000 of the funds authorized to be appropriated by section 3103(a)(8) for other defense activities for national security programs administrative support may be obligated or expended until the latest of the following:

(1) The date on which the Secretary of Energy submits to Congress a report setting forth the purposes for which the Secretary plans to obligate and expend such funds.

(2) The date on which the Administrator for Nuclear Security submits to Congress the future-years nuclear security program for fiscal year 2002 required by section 3253 of the National Nuclear Security Administration Act (title XXXII of Public Law 106–65; 50 U.S.C. 2453).

(3) The date on which the Secretary of Energy submits to Congress the report on the feasibility of using an energy savings performance contract mechanism to offset, or possibly cover, the cost of a new office building for the Albuquerque operations office of the Department of Energy, as completed by the Secretary in accordance with the directive contained in Senate Report 106–50 (the report of the Committee on Armed Services of the Senate to accompany the bill S. 1059 of the One Hundred Sixth Congress, relating to the National Defense Authorization Act for Fiscal Year 2000; p. 470).

SEC. 3135. TERMINATION DATE OF OFFICE OF RIVER PROTECTION, RICHLAND, WASHINGTON.

Subsection (f) of section 3139 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2250), as amended by section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–462), is amended to read as follows:

"(f) Termination.—(1) The Office shall terminate on the later to occur of the following dates:

"(A) September 30, 2010.

"(B) The date on which the Assistant Secretary of Energy for Environmental Management determines, in consultation with the head of the Office, that continuation of the Office is no longer necessary to carry out the responsibilities of the Department of Energy under the Tri-Party Agreement.

"(2) The Assistant Secretary shall notify, in writing, the committees referred to in subsection (d) of a determination under paragraph (1).

"(3) In this subsection, the term 'Tri-Party Agreement' means the Hanford Federal Facility Agreement and Consent Order entered into among the Department of Energy, the Environmental Protection Agency, and the State of Washington Department of Ecology.".

SEC. 3136. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

(a) Support for Fiscal 2002.—From amounts appropriated or otherwise made available to the Secretary of Energy by this title—

(1) $6,900,000 shall be available for payment by the Secretary for fiscal year 2002 to the Los Alamos National Laboratory Foundation, a not-for-profit foundation chartered in accordance with section 3167(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2052); and

(2) $8,000,000 shall be available for extension of the contract between the Department of Energy and the Los Alamos Public Schools through fiscal year 2002.

(b) Support for Fiscal 2003.—Subject to the availability of appropriations, the Secretary is authorized to—

(1) make payment for fiscal year 2003 similar to the payment referred to in subsection (a)(1); and

(2) provide for a contract extension through fiscal 2003 similar to the contract extension referred to in subsection (a)(2).

(c) Use of Funds.—The foundation referred to in subsection (a)(1) shall—

(1) utilize funds provided under this section as a contribution to the endowment fund for the foundation; and

(2) use the income generated from investments in the endowment fund that are attributable to payments made under this section to fund programs to support the educational needs of children in public schools in the vicinity of Los Alamos National Laboratory.

(d) Report.—Not later than March 1, 2002, the Secretary shall submit to the congressional defense committees a report setting forth the following:

(1) An evaluation of the requirements for continued payments beyond fiscal year 2003 into the endowment fund of the foundation referred to in subsection (a) to enable the foundation to meet the goals of the Department to support the recruitment and retention of staff at the Los Alamos National Laboratory.

(2) The Secretary's recommendations for any further support beyond fiscal year 2003 directly to the Los Alamos Public Schools.

SEC. 3137. REPORTS ON ACHIEVEMENT OF MILESTONES FOR NATIONAL IGNITION FACILITY.

(a) Notification of Achievement.—The Administrator for Nuclear Security shall notify the congressional defense committees when the National Ignition Facility (NIF), Lawrence Livermore National Laboratory, Livermore, California, achieves each Level I milestone and Level II milestone for the National Ignition Facility.

(b) Report on Failure of Timely Achievement.—Not later than 10 days after the date on which the National Ignition Facility fails to achieve a Level I milestone or Level II milestone for the National Ignition Facility in a timely manner, the Administrator shall submit to the congressional defense committees a report on such failure. Each such report shall include—

(1) a statement of the failure of the National Ignition Facility to achieve the milestone concerned in a timely manner;

(2) an explanation for the failure; and

(3) either—

(A) an estimate when that milestone will be achieved; or

(B) if that milestone will not be achieved—

(i) a statement that that milestone will not be achieved;

(ii) an explanation why that milestone will not be achieved; and

(iii) the implications for the overall scope, schedule, and budget of the National Ignition Facility project of not achieving that milestone.

(c) Milestones.—For purposes of this section, the Level I milestones and Level II milestones for the National Ignition Facility are as established in the August 2000 revised National Ignition Facility baseline document.

(d) Termination.—The requirements of this section shall terminate on September 30, 2004.

Subtitle D—Matters Relating to Management of the National Nuclear Security Administration

SEC. 3141. ESTABLISHMENT OF PRINCIPAL DEPUTY ADMINISTRATOR OF NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) Establishment.—Subtitle A of the National Nuclear Security Administration Act (title XXXII of Public Law 106–65; 50 U.S.C. 2401 et seq.) is amended—

(1) by redesignating section 3213 as section 3220 and transferring such section, as so redesignated, to the end of that subtitle; and

(2) by inserting after section 3212 the following new section 3213:

"SEC. 3213. PRINCIPAL DEPUTY ADMINISTRATOR FOR NUCLEAR SECURITY.

"(a) In General.—(1) There is in the Administration a Principal Deputy Administrator, who is appointed by the President, by and with the advice and consent of the Senate.

"(2) The Principal Deputy Administrator shall be appointed from among persons who have extensive background in organizational management and are well qualified to manage the nuclear weapons, nonproliferation, and materials disposition programs of the Administration in a manner that advances and protects the national security of the United States.

"(b) Duties.—Subject to the authority, direction, and control of the Administrator, the Principal Deputy Administrator shall perform such duties and exercise such powers as the Administrator may prescribe, including the coordination of activities among the elements of the Administration. The Principal Deputy Administrator shall act for, and exercise the powers of, the Administrator when the Administrator is disabled or the position of Administrator is vacant.".

(b) Pay Level.—Section 5315 of title 5, United States Code, is amended—

(1) by inserting before the item relating to Deputy Administrators of the National Nuclear Security Administration the following new item:

"Principal Deputy Administrator, National Nuclear Security Administration."; and

(2) by inserting "Additional" before "Deputy Administrators of the National Nuclear Security Administration".

(c) Clerical Amendments.—The table of contents preceding section 3201 of such Act is amended—

(1) by striking the item relating to section 3213 and inserting the following:

"Sec. 3213. Principal Deputy Administrator for National Security.";

and

(2) by inserting after the item relating to section 3218 the following new items:

"Sec. 3219. Scope of authority of Secretary of Energy to modify organization of Administration.

"Sec. 3220. Status of Administration and contractor personnel within Department of Energy.".

SEC. 3142. ELIMINATION OF REQUIREMENT THAT NATIONAL SECURITY LABORATORIES AND NUCLEAR WEAPONS PRODUCTION FACILITIES REPORT TO DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS.

Section 3214 of the National Nuclear Security Administration Act (title XXXII of Public Law 106–65; 113 Stat. 959; 50 U.S.C. 2404) is amended by striking subsection (c).

SEC. 3143. REPEAL OF DUPLICATIVE PROVISION RELATING TO DUAL OFFICE HOLDING BY PERSONNEL OF NATIONAL NUCLEAR SECURITY ADMINISTRATION.

Section 3245 of the National Nuclear Security Administration Act (50 U.S.C. 2443), as added by section 315 of the Energy and Water Development Appropriations Act, 2001 (as enacted into law by Public Law 106–377; 114 Stat. 1441B–23), is repealed.

SEC. 3144. REPORT ON ADEQUACY OF FEDERAL PAY AND HIRING AUTHORITIES TO MEET PERSONNEL REQUIREMENTS OF NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) Report Required.—Not later than March 1, 2002, the Administrator for Nuclear Security shall submit to the congressional committees specified in subsection (b) a report on the adequacy of Federal pay and hiring authorities to meet the personnel requirements of the National Nuclear Security Administration. The report shall include the following:

(1) A description of the Federal pay and hiring authorities available to the Administrator.

(2) A description of the Federal pay and hiring authorities that are not available to the Administrator, and an explanation why such authorities are not available.

(3) If any Federal pay and hiring authorities referred to in paragraph (1) are not being used, an explanation why such authorities are not being used.

(4) An assessment of whether or not existing Federal pay and hiring authorities are adequate or inadequate to meet the personnel requirements of the Administration.

(5) Any recommendations that the Administrator considers appropriate for modifications or enhancements of existing Federal pay and hiring authorities in order to meet the personnel requirements of the Administration.

(6) Any recommendations that the Administrator considers appropriate for new Federal pay and hiring authorities in order to meet the personnel requirements of the Administration.

(7) A plan for structuring the pay and hiring authorities with respect to the Federal workforce of the Administration so to ensure that such workforce meets applicable requirements of the most current five-year program plan for the Administration.

(b) SPECIFIED COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

(1) The Committee on Armed Services and the Committee on Governmental Affairs of the Senate.

(2) The Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

Subtitle E—Other Matters

SEC. 3151. IMPROVEMENTS TO ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.

(a) AMENDMENTS TO ENERGY EMPLOYEES PROGRAM.—The Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–394); 42 U.S.C. 7384 et seq.) is amended as follows:

(1) CERTAIN LEUKEMIA AS SPECIFIED CANCER.—Section 3621(17) (114 Stat. 1654A–502; 42 U.S.C. 7384l(17)), as amended by section 2403 of the Supplemental Appropriations Act, 2001 (Public Law 107–20; 115 Stat. 175), is further amended by adding at the end the following new subparagraph:

"(D) Leukemia (other than chronic lymphocytic leukemia), if initial occupation exposure occurred before 21 years of age and onset occurred more than two years after initial occupational exposure.".

(2) ADDITIONAL MEMBERS OF SPECIAL EXPOSURE COHORT.—Section 3626(b) (114 Stat. 1654A–505; 42 U.S.C. 7384q(b)) is amended in the matter preceding paragraph (1) by inserting after "Department of Energy facility" the following: ", or at an atomic weapons employer facility,".

(3) ESTABLISHMENT OF CHRONIC SILICOSIS.—Section 3627(e)(2)(A) (114 Stat. 1654A–506; 42 U.S.C. 7384r(e)(2)(A)) is amended by striking "category 1/1" and inserting "category 1/0".

(4) SURVIVORS.—

(A) Section 3628(e) (114 Stat. 1654A–506; 42 U.S.C. 7384s(e)) is amended to read as follows:

"(e) PAYMENTS IN THE CASE OF DECEASED PERSONS.—(1) In the case of a covered employee who is deceased at the time of payment of compensation under this section, whether or not the death is the result of the covered employee's occupational illness, such payment may be made only as follows:

"(A) If the covered employee is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

"(B) If there is no surviving spouse described in subparagraph (A), such payment shall be made in equal shares to all children of the covered employee who are living at the time of payment.

"(C) If there is no surviving spouse described in subparagraph (A) and if there are no children described in subparagraph (B), such payment shall be made in equal shares to the parents of the covered employee who are living at the time of payment.

"(D) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B) or parents described in subparagraph (C), such payment shall be made in equal shares to all grandchildren of the covered employee who are living at the time of payment.

"(E) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B), parents described in subparagraph (C), or grandchildren described in subparagraph (D), then such payment shall be made in equal shares to the grandparents of the covered employee who are living at the time of payment.

"(F) Notwithstanding the other provisions of this paragraph, if there is—

"(i) a surviving spouse described in subparagraph (A); and

"(ii) at least one child of the covered employee who is living and a minor at the time of payment and who is not a recognized natural child or adopted child of such surviving spouse,

then half of such payment shall be made to such surviving spouse, and the other half of such payment shall be made in equal shares to each child of the covered employee who is living and a minor at the time of payment.

"(2) If a covered employee eligible for payment dies before filing a claim under this title, a survivor of that employee who may receive payment under paragraph (1) may file a claim for such payment.

"(3) For purposes of this subsection—

"(A) the 'spouse' of an individual is a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

"(B) a 'child' includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

"(C) a 'parent' includes fathers and mothers through adoption;

"(D) a 'grandchild' of an individual is a child of a child of that individual; and

"(E) a 'grandparent' of an individual is a parent of a parent of that individual.".

(B) Section 3630(e) (114 Stat. 1654A–507; 42 U.S.C. 7384u(e)) is amended to read as follows:

"(e) PAYMENTS IN THE CASE OF DECEASED PERSONS.—(1) In the case of a covered employee who is deceased at the time of payment of compensation under this section, whether or not the death is the result of the covered employee's occupational illness, such payment may be made only as follows:

"(A) If the covered employee is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

"(B) If there is no surviving spouse described in subparagraph (A), such payment shall be made in equal shares to all children of the covered employee who are living at the time of payment.

"(C) If there is no surviving spouse described in subparagraph (A) and if there are no children described in subparagraph (B), such payment shall be made in equal shares to the parents of the covered employee who are living at the time of payment.

"(D) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B) or parents described in subparagraph (C), such payment shall be made in equal shares to all grandchildren of the covered employee who are living at the time of payment.

"(E) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B), parents described in subparagraph (C), or grandchildren described in subparagraph (D), then such payment shall be made in equal shares to the grandparents of the covered employee who are living at the time of payment.

"(F) Notwithstanding the other provisions of this paragraph, if there is—

"(i) a surviving spouse described in subparagraph (A); and

"(ii) at least one child of the covered employee who is living and a minor at the time of payment and who is not a recognized natural child or adopted child of such surviving spouse,

then half of such payment shall be made to such surviving spouse, and the other half of such payment shall be made in equal shares to each child of the covered employee who is living and a minor at the time of payment.

"(2) If a covered employee eligible for payment dies before filing a claim under this title, a survivor of that employee who may receive payment under paragraph (1) may file a claim for such payment.

"(3) For purposes of this subsection—

"(A) the 'spouse' of an individual is a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

"(B) a 'child' includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

"(C) a 'parent' includes fathers and mothers through adoption;

"(D) a 'grandchild' of an individual is a child of a child of that individual; and

"(E) a 'grandparent' of an individual is a parent of a parent of that individual.".

(C) Paragraph (18) of section 3621 (114 Stat. 1654A–502; 42 U.S.C. 7384l) is repealed.

(D) The amendments made by this paragraph shall take effect on July 1, 2001.

(5) ELECTION OF REMEDIES.—Section 3645 (114 Stat. 1654A–510; 42 U.S.C. 7385d) is amended by amending subsections (a) through (d) to read as follows:

"(a) EFFECT OF TORT CASES FILED BEFORE ENACTMENT OF ORIGINAL LAW.—(1) Except as provided in paragraph (2), if an otherwise eligible individual filed a tort case specified in subsection (d) before October 30, 2000, such individual shall be eligible for compensation and benefits under subtitle B.

"(2) If such tort case remained pending as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, and such individual does not dismiss such tort case before December 31, 2003, such individual shall not be eligible for such compensation or benefits.

"(b) EFFECT OF TORT CASES FILED BETWEEN ENACTMENT OF ORIGINAL LAW AND ENACTMENT OF 2001 AMENDMENTS.—(1) Except as provided in paragraph (2), if an otherwise eligible individual filed a tort case specified in subsection (d) during the period beginning on October 30, 2000, and ending on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, such individual shall not be eligible for such compensation or benefits.

"(2) If such individual dismisses such tort case on or before the last permissible date specified in paragraph (3), such individual shall be eligible for such compensation or benefits.

"(3) The last permissible date referred to in paragraph (2) is the later of the following dates:

"(A) April 30, 2003.

"(B) The date that is 30 months after the date the individual first becomes aware that an illness covered by subtitle B of a covered employee may be connected to the exposure of the covered employee in the performance of duty under section 3623.

"(c) Effect of Tort Cases Filed After Enactment of 2001 Amendments.—(1) If an otherwise eligible individual files a tort case specified in subsection (d) after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, such individual shall not be eligible for such compensation or benefits if a final court decision is entered against such individual in such tort case.

"(2) If such a final court decision is not entered, such individual shall nonetheless not be eligible for such compensation or benefits, except as follows: If such individual dismisses such tort case on or before the last permissible date specified in paragraph (3), such individual shall be eligible for such compensation and benefits.

"(3) The last permissible date referred to in paragraph (2) is the later of the following dates:

"(A) April 30, 2003.

"(B) The date that is 30 months after the date the individual first becomes aware that an illness covered by subtitle B of a covered employee may be connected to the exposure of the covered employee in the performance of duty under section 3623.

"(d) Covered Tort Cases.—A tort case specified in this subsection is a tort case alleging a claim referred to in section 3643 against a beryllium vendor or atomic weapons employer.".

(6) Attorney Fees.—Section 3648 (114 Stat. 1654A–511; 42 U.S.C. 7385g) is amended—

(A) in subsection (a), by inserting after "the claim of an individual" the following: "for payment of lump-sum compensation";

(B) in subsection (b)(1), by inserting after "initial claim" the following: "for payment of lump-sum compensation";

(C) in subsection (b)(2), by striking "with respect to any claim" and all that follows through the period at the end and inserting "with respect to objections to a recommended decision denying payment of lump-sum compensation.";

(D) by redesignating subsection (c) as subsection (d); and

(E) by inserting after subsection (b) the following new subsection (c):

"(c) Inapplicability to Other Services.—This section shall not apply with respect to services rendered that are not in connection with such a claim for payment of lump-sum compensation.".

(b) Study of Residual Contamination of Facilities.—(1) The National Institute for Occupational Safety and Health shall, with the cooperation of the Department of Energy and the Department of Labor, carry out a study on the following matters:

(A) Whether or not significant contamination remained in any atomic weapons employer facility or facility of a beryllium vendor after such facility discontinued activities relating to the production of nuclear weapons.

(B) If so, whether or not such contamination could have caused or substantially contributed to the cancer of a covered employee with cancer or a covered beryllium illness, as the case may be.

(2)(A) The National Institute for Occupational Safety and Health shall submit to the applicable congressional committees the following reports:

(i) Not later than 180 days after the date of the enactment of this Act, a report on the progress made as of the date of the report on the study required by paragraph (1).

(ii) Not later than one year after the date of the enactment of this Act, a final report on the study required by paragraph (1).

(B) In this paragraph, the term "applicable congressional committees" means—

(i) the Committee on Armed Services, Committee on Appropriations, Committee on the Judiciary, and Committee on Health, Education, Labor, and Pensions of the Senate; and

(ii) the Committee on Armed Services, Committee on Appropriations, Committee on the Judiciary, and Committee on Education and the Workforce of the House of Representatives.

(3) Amounts for the study under paragraph (1) shall be derived from amounts authorized to be appropriated by section 3614(a) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (114 Stat. 1654A–498).

(4) In this subsection:

(A) The terms "atomic weapons employer facility", "beryllium vendor", "covered employee with cancer", and "covered beryllium illness" have the meanings given those terms in section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (114 Stat. 1654A–498; 42 U.S.C. 7384l).

(B) The term "contamination" means the presence of any—

(i) material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; or

(ii) beryllium dust, particles, or vapor,

exposure to which could cause or substantially contribute to the cancer of a covered employee with cancer or a covered beryllium illness, as the case may be.

SEC. 3152. DEPARTMENT OF ENERGY COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) New Counterintelligence Polygraph Program Required.—The Secretary of Energy shall carry out, under regulations prescribed under this section, a new counterintelligence polygraph program for the Department of Energy. The purpose of the new program is to minimize the potential for release or disclosure of classified data, materials, or information.

(b) Authorities and Limitations.—(1) The Secretary shall prescribe regulations for the new counterintelligence polygraph program required by subsection (a) in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(2) In prescribing regulations for the new program, the Secretary shall take into account the results of the Polygraph Review.

(3) Not later than six months after obtaining the results of the Polygraph Review, the Secretary shall issue a notice of proposed rulemaking for the new program.

(c) Repeal of Existing Polygraph Program.—Effective 30 days after the Secretary submits to the congressional defense committees the Secretary's certification that the final rule for the new counterintelligence polygraph program required by subsection (a) has been fully implemented, section 3154 of the Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999 (subtitle D of title XXXI of Public Law 106–65; 42 U.S.C. 7383h) is repealed.

(d) Report on Further Enhancement of Personnel Security Program.—(1) Not later than January 1, 2003, the Administrator for Nuclear Security shall submit to Congress a report setting forth the recommendations of the Administrator for any legislative action that the Administrator considers appropriate in order to enhance the personnel security program of the Department of Energy.

(2) Any recommendations under paragraph (1) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

(e) Polygraph Review Defined.—In this section, the term "Polygraph Review" means the review of the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 3153. ONE-YEAR EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) In General.—Section 3161(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 942; 5 U.S.C. 5597 note) is amended by striking "January 1, 2003" and inserting "January 1, 2004".

(b) Construction.—The amendment made by subsection (a) may be superseded by another provision of law that takes effect after the date of the enactment of this Act, and before January 1, 2004, establishing a uniform system for providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.

SEC. 3154. ANNUAL ASSESSMENT AND REPORT ON VULNERABILITY OF DEPARTMENT OF ENERGY FACILITIES TO TERRORIST ATTACK.

(a) In General.—Part C of title VI of the Department of Energy Organization Act (42 U.S.C. 7251 et seq.) is amended by adding at the end the following new section:

"ANNUAL ASSESSMENT AND REPORT ON VULNERABILITY OF FACILITIES TO TERRORIST ATTACK

"Sec. 663. (a) The Secretary shall, on an annual basis, conduct a comprehensive assessment of the vulnerability of Department facilities to terrorist attack.

"(b) Not later than January 31 each year, the Secretary shall submit to Congress a report on the assessment conducted under subsection (a) during the preceding year. Each report shall include the results of the assessment covered by such report, together with such findings and recommendations as the Secretary considers appropriate.".

(b) Clerical Amendment.—The table of sections at the beginning of that Act is amended by inserting after the item relating to section 662 the following new item:

"Sec. 663. Annual assessment and report on vulnerability of facilities to terrorist attack.".

SEC. 3155. DISPOSITION OF SURPLUS DEFENSE PLUTONIUM AT SAVANNAH RIVER SITE, AIKEN, SOUTH CAROLINA.

(a) Consultation Required.—The Secretary of Energy shall consult with the Governor of the State of South Carolina regarding any decisions or plans of the Secretary related to the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, Aiken, South Carolina.

(b) Notice Required.—For each shipment of defense plutonium or defense plutonium materials to the Savannah River Site, the Secretary shall, not less than 30 days before the commencement of such shipment, submit to the congressional defense committees a report providing notice of such shipment.

(c) Plan for Disposition.—The Secretary shall prepare a plan for disposal of the surplus defense plutonium and defense plutonium materials currently located at the Savannah River Site and for disposal of defense plutonium and defense plutonium materials to be shipped to the Savannah River Site in the future. The plan shall include the following:

(1) A review of each option considered for such disposal.

(2) An identification of the preferred option for such disposal.

(3) With respect to the facilities for such disposal that are required by the Department of Energy's Record of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement dated January 14, 1997—

(A) a statement of the cost of construction and operation of such facilities;

(B) a schedule for the expeditious construction of such facilities, including milestones; and

(C) a firm schedule for funding the cost of such facilities.

(4) A specification of the means by which all such defense plutonium and defense plutonium

materials will be removed in a timely manner from the Savannah River Site for storage or disposal elsewhere.

(d) Plan for Alternative Disposition.—If the Secretary determines not to proceed at the Savannah River Site with construction of the plutonium immobilization plant, or with the mixed oxide fuel fabrication facility, the Secretary shall prepare a plan that identifies a disposition path for all defense plutonium and defense plutonium materials that would otherwise have been disposed of at such plant or such facility, as applicable.

(e) Submission of Plans.—Not later than February 1, 2002, the Secretary shall submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable).

(f) Limitation on Plutonium Shipments.—If the Secretary does not submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable) by February 1, 2002, the Secretary shall be prohibited from shipping defense plutonium or defense plutonium materials to the Savannah River Site during the period beginning on February 1, 2002, and ending on the date on which such plans are submitted to Congress.

(g) Rule of Construction.—Nothing in this section may be construed to prohibit or limit the Secretary from shipping defense plutonium or defense plutonium materials to sites other than the Savannah River Site during the period referred to in subsection (f) or any other period.

(h) Annual Report on Funding for Fissile Materials Disposition Activities.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report setting forth the extent to which amounts requested for the Department for such fiscal year for fissile materials disposition activities will enable the Department to meet commitments for the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, and for any other fissile materials disposition activities, in such fiscal year.

SEC. 3156. MODIFICATION OF DATE OF REPORT OF PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE.

Section 3159(d) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 42 U.S.C. 2121 note) is amended by striking "of each year, beginning with 1999," and inserting "of 1999 and 2000, and not later than February 1, 2002,".

Subtitle F—Rocky Flats National Wildlife Refuge

SEC. 3171. SHORT TITLE.

This subtitle may be cited as the "Rocky Flats National Wildlife Refuge Act of 2001".

SEC. 3172. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) The Federal Government, through the Atomic Energy Commission, acquired the Rocky Flats site in 1951 and began operations there in 1952. The site remains a Department of Energy facility. Since 1992, the mission of the Rocky Flats site has changed from the production of nuclear weapons components to cleanup and closure in a manner that is safe, environmentally and socially responsible, physically secure, and cost-effective.

(2) The majority of the Rocky Flats site has generally remained undisturbed since its acquisition by the Federal Government.

(3) The State of Colorado is experiencing increasing growth and development, especially in the metropolitan Denver Front Range area in the vicinity of the Rocky Flats site. That growth and development reduces the amount of open space and thereby diminishes for many metropolitan Denver communities the vistas of the striking Front Range mountain backdrop.

(4) Some areas of the Rocky Flats site contain contamination and will require further response action. The national interest requires that the ongoing cleanup and closure of the entire site be completed safely, effectively, and without unnecessary delay and that the site thereafter be retained by the United States and managed so as to preserve the value of the site for open space and wildlife habitat.

(5) The Rocky Flats site provides habitat for many wildlife species, including a number of threatened and endangered species, and is marked by the presence of rare xeric tallgrass prairie plant communities. Establishing the site as a unit of the National Wildlife Refuge System will promote the preservation and enhancement of those resources for present and future generations.

(b) Purposes.—The purposes of this subtitle are—

(1) to provide for the establishment of the Rocky Flats site as a national wildlife refuge following cleanup and closure of the site;

(2) to create a process for public input on the management of the refuge referred to in paragraph (1) before transfer of administrative jurisdiction to the Secretary of the Interior; and

(3) to ensure that the Rocky Flats site is thoroughly and completely cleaned up.

SEC. 3173. DEFINITIONS.

In this subtitle:

(1) CERCLA.—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) Cleanup and closure.—The term "cleanup and closure" means the response actions for covered substances carried out at Rocky Flats, as required by any of the following:

(A) The RFCA.

(B) CERCLA.

(C) RCRA.

(D) The Colorado Hazardous Wdste Act, 25–15–101 to 25–15–327, Colorado Revised Statutes.

(3) Covered substance.—The term "covered substance" means any of the following:

(A) Any hazardous substance, as such term is defined in paragraph (14) of section 101 of CERCLA (42 U.S.C. 9601).

(B) Any pollutant or contaminant, as such term is defined in paragraph (33) of such section 101.

(C) Any petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of such section 101.

(4) RCRA.—The term "RCRA" means the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), popularly known as the Resource Conservation and Recovery Act.

(5) Refuge.—The term "refuge" means the Rocky Flats National Wildlife Refuge established under section 3177.

(6) Response action.—The term "response action" means any of the following:

(A) A response, as such term is defined in paragraph (25) of section 101 of CERCLA (42 U.S.C. 9601).

(B) A corrective action under RCRA or under the Colorado Hazardous Waste Act, 25–15–101 to 25–15–327, Colorado Revised Statutes.

(C) Any requirement for institutional controls imposed by any of the laws referred to in subparagraph (A) or (B).

(7) RFCA.—The term "RFCA" means the Rocky Flats Cleanup Agreement, an intergovernmental agreement, dated July 19, 1996, among—

(A) the Department of Energy;

(B) the Environmental Protection Agency; and

(C) the Department of Public Health and Environment of the State of Colorado.

(8) Rocky flats.—

(A) In general.—Except as provided in subparagraph (B), the term "Rocky Flats" means the Rocky Flats Environmental Technology Site, Colorado, a defense nuclear facility, as depicted on the map titled "Rocky Flats Environmental Technology Site", dated October 22, 2001, and available for inspection in the appropriate offices of the United States Fish and Wildlife Service.

(B) Exclusions.—The term "Rocky Flats" does not include—

(i) the land and facilities of the Department of Energy's National Renewable Energy Laboratory, including the acres retained by the Secretary under section 3174(f); and

(ii) any land and facilities not within the boundaries depicted on the map referred to in subparagraph (A).

(9) Secretary.—The term "Secretary" means the Secretary of Energy.

SEC. 3174. FUTURE OWNERSHIP AND MANAGEMENT.

(a) Federal Ownership.—Except as expressly provided in this subtitle, all right, title, and interest of the United States, held on or acquired after the date of the enactment of this Act, to land or interest therein, including minerals, within the boundaries of Rocky Flats shall be retained by the United States.

(b) Lindsay Ranch.—The structures that comprise the former Lindsay Ranch homestead site in the Rock Creek Reserve area of the buffer zone, as depicted on the map referred to in section 3173(8)(A), shall be permanently preserved and maintained in accordance with the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(c) Prohibition on Annexation.—Neither the Secretary nor the Secretary of the Interior shall allow the annexation of land within the refuge by any unit of local government.

(d) Prohibition on Through Roads.—Except as provided in subsection (e), no public road shall be constructed through Rocky Flats.

(e) Transportation Right-of-Way.—

(1) In general.—

(A) Availability of land.—On submission of an application meeting each of the conditions specified in paragraph (2), the Secretary, in consultation with the Secretary of the Interior, shall make available land along the eastern boundary of Rocky Flats for the sole purpose of transportation improvements along Indiana Street.

(B) Boundaries.—Land made available under this paragraph may not extend more than 300 feet from the west edge of the Indiana Street right-of-way, as that right-of-way exists as of the date of the enactment of this Act.

(C) Easement or sale.—Land may be made available under this paragraph by easement or sale to one or more appropriate entities.

(D) Compliance with applicable law.—Any action under this paragraph shall be taken in compliance with applicable law.

(2) Conditions.—An application referred to in paragraph (1) meets the conditions specified in this paragraph if the application—

(A) is submitted by any county, city, or other political subdivision of the State of Colorado; and

(B) includes documentation demonstrating that the transportation improvements for which the land is to be made available—

(i) are carried out so as to minimize adverse effects on the management of Rocky Flats as a wildlife refuge; and

(ii) are included in the regional transportation plan of the metropolitan planning organization

designated for the Denver metropolitan area under section 5303 of title 49, United States Code.

(f) WIND TECHNOLOGY EXPANSION AREA.—The Secretary shall retain, for the use of the National Renewable Energy Laboratory, the approximately 25 acres identified on the map referred to in section 3173(8)(A) as the "Wind Technology Expansion Area".

SEC. 3175. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ROCKY FLATS.

(a) TRANSFER REQUIRED.—

(1) IN GENERAL.—Subject to the other provisions of this section, the Secretary shall transfer administrative jurisdiction over the property that is to comprise the refuge to the Secretary of the Interior.

(2) DATE OF TRANSFER.—The transfer shall be carried out not earlier than the completion certification date, and not later than 30 business days after that date.

(3) COMPLETION CERTIFICATION DATE.—For purposes of paragraph (2), the completion certification date is the date on which the Administrator of the Environmental Protection Agency certifies to the Secretary and to the Secretary of the Interior that cleanup and closure at Rocky Flats has been completed, except for the operation and maintenance associated with response actions, and that all response actions are operating properly and successfully.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) REQUIRED ELEMENTS.—The transfer required by subsection (a) shall be carried out pursuant to a memorandum of understanding between the Secretary and the Secretary of the Interior. The memorandum of understanding shall—

(A) provide for the division of responsibilities between the Secretary and the Secretary of the Interior necessary to carry out such transfer;

(B) address the impacts that any property rights referred to in section 3179(a) may have on the management of the refuge, and provide strategies for resolving or mitigating these impacts;

(C) identify the land the administrative jurisdiction of which is to be transferred to the Secretary of the Interior; and

(D) specify the allocation of the Federal costs incurred at the refuge after the date of such transfer for any site investigations, response actions, and related activities for covered substances.

(2) PUBLICATION OF DRAFT.—Not later than one year after the date of the enactment of this Act, the Secretary and the Secretary of the Interior shall publish in the Federal Register a draft of the memorandum of understanding.

(3) FINALIZATION AND IMPLEMENTATION.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary and Secretary of the Interior shall finalize and implement the memorandum of understanding.

(B) In finalizing the memorandum of understanding, the Secretary and Secretary of the Interior shall specifically identify the land the administrative jurisdiction of which is to be transferred to the Secretary of the Interior and provide for a determination of the exact acreage and legal description of such land by a survey mutually satisfactory to the Secretary and the Secretary of the Interior.

(c) TRANSFER OF IMPROVEMENTS.—The transfer required by subsection (a) may include such buildings or other improvements as the Secretary of the Interior has requested in writing for purposes of managing the refuge.

(d) PROPERTY RETAINED FOR RESPONSE ACTIONS.—

(1) IN GENERAL.—The transfer required by subsection (a) shall not include, and the Secretary shall retain jurisdiction, authority, and control over, the following real property and facilities at Rocky Flats:

(A) Any engineered structure, including caps, barrier walls, and monitoring or treatment wells, to be used in carrying out a response action for covered substances.

(B) Any real property or facility to be used for any other purpose relating to a response action or any other action that is required to be carried out by the Secretary at Rocky Flats.

(2) CONSULTATION.—The Secretary shall consult with the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Governor of the State of Colorado on the identification of all real property and facilities to be retained under this subsection.

(e) COST.—The transfer required by subsection (a) shall be completed without cost to the Secretary of the Interior.

(f) NO REDUCTION IN FUNDS.—The transfer required by subsection (a), and the memorandum of understanding required by subsection (b), shall not result in any reduction in funds available to the Secretary for cleanup and closure of Rocky Flats.

SEC. 3176. ADMINISTRATION OF RETAINED PROPERTY; CONTINUATION OF CLEANUP AND CLOSURE.

(a) ADMINISTRATION OF RETAINED PROPERTY.—

(1) IN GENERAL.—In administering the property retained under section 3175(d), the Secretary shall consult with the Secretary of the Interior to minimize any conflict between—

(A) the administration by the Secretary of such property for a purpose relating to a response action; and

(B) the administration by the Secretary of the Interior of land the administrative jurisdiction of which is transferred under section 3175(a).

(2) PRIORITY IN CASE OF CONFLICT.—In the case of any such conflict, the Secretary and the Secretary of the Interior shall ensure that the administration for a purpose relating to a response action, as described in paragraph (1)(A), shall take priority.

(3) ACCESS.—The Secretary of the Interior shall provide to the Secretary such access and cooperation with respect to the refuge as the Secretary requires to carry out operation and maintenance, future response actions, natural resources restoration, or any other obligations.

(b) ONGOING CLEANUP AND CLOSURE.—

(1) IN GENERAL.—The Secretary shall carry out to completion cleanup and closure at Rocky Flats.

(2) CLEANUP LEVELS.—The Secretary shall carry out such cleanup and closure to the levels established for soil, water, and other media, following a thorough review by the parties to the RFCA and the public (including the United States Fish and Wildlife Service and other interested government agencies) of the appropriateness of the interim levels in the RFCA.

(3) NO RESTRICTION ON USE OF NEW TECHNOLOGIES.—Nothing in this subtitle, and no action taken under this subtitle, restricts the Secretary from using at Rocky Flats any new technology that may become available for remediation of contamination.

(c) OPPORTUNITY TO COMMENT.—The Secretary of the Interior shall have the opportunity to comment with respect to any proposed response action as to the impacts, if any, of such proposed response action on the refuge.

(d) RULES OF CONSTRUCTION.—

(1) NO RELIEF FROM OBLIGATIONS UNDER OTHER LAW.—Nothing in this subtitle, and no action taken under this subtitle—

(A) relieves the Secretary, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, or any other person from any obligation or other liability with respect to Rocky Flats under the RFCA or any Federal or State law;

(B) impairs or alters any provision of the RFCA; or

(C) alters any authority of the Administrator of the Environmental Protection Agency under section 120(e) of CERCLA (42 U.S.C. 9620(e)), or any authority of the State of Colorado.

(2) CLEANUP LEVELS.—Nothing in this subtitle shall reduce the level of cleanup and closure at Rocky Flats required under the RFCA or any Federal or State law.

(3) PAYMENT OF RESPONSE ACTION COSTS.—Nothing in this subtitle affects the obligation of a Federal department or agency that had or has operations at Rocky Flats resulting in the release or threatened release of a covered substance to pay the costs of response actions carried out to abate the release of, or clean up, the covered substance.

SEC. 3177. ROCKY FLATS NATIONAL WILDLIFE REFUGE.

(a) IN GENERAL.—On completion of the transfer required by section 3175(a), and subject to section 3176(a), the Secretary of the Interior shall commence administration of the real property comprising the refuge in accordance with this subtitle.

(b) ESTABLISHMENT OF REFUGE.—Not later than 30 days after the transfer required by section 3175(a), the Secretary of the Interior shall establish at Rocky Flats a national wildlife refuge to be known as the Rocky Flats National Wildlife Refuge.

(c) COMPOSITION.—The refuge shall be comprised of the property the administrative jurisdiction of which was transferred as required by section 3175(a).

(d) NOTICE.—The Secretary of the Interior shall publish in the Federal Register a notice of the establishment of the refuge.

(e) ADMINISTRATION AND PURPOSES.—

(1) IN GENERAL.—The Secretary of the Interior shall manage the refuge in accordance with applicable law, including this subtitle, the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), and the purposes specified in that Act.

(2) REFUGE PURPOSES.—The refuge shall be managed for the purposes of—

(A) restoring and preserving native ecosystems;

(B) providing habitat for, and population management of, native plants and migratory and resident wildlife;

(C) conserving threatened and endangered species (including species that are candidates for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)); and

(D) providing opportunities for compatible scientific research.

(3) MANAGEMENT.—In managing the refuge, the Secretary of the Interior shall—

(A) ensure that wildlife-dependent recreation and environmental education and interpretation are the priority public uses of the refuge; and

(B) comply with all response actions.

SEC. 3178. COMPREHENSIVE PLANNING PROCESS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, in developing a comprehensive conservation plan for the refuge in accordance with section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(e)), the Secretary of the Interior shall establish a comprehensive planning process that involves the public and local communities. The Secretary of the Interior shall establish such process in consultation with the Secretary, the members of the Coalition, the Governor of the State of Colorado, and the Federal and State of Colorado officials who have been designated as trustees for Rocky Flats under section 107(f)(2) of CERCLA (42 U.S.C. 9607(f)(2)).

(b) Other Participants.—In addition to the entities specified in subsection (a), the comprehensive planning process required by subsection (a) shall include the opportunity for direct involvement of entities that are not members of the Coalition as of the date of the enactment of this Act, including the Rocky Flats Citizens' Advisory Board and the cities of Thornton, Northglenn, Golden, Louisville, and Lafayette, Colorado.

(c) Dissolution of Coalition.—If the Coalition dissolves, or if any Coalition member elects to leave the Coalition during the comprehensive planning process required by subsection (a)—

(1) such comprehensive planning process shall continue; and

(2) an opportunity shall be provided to each entity that is a member of the Coalition as of September 1, 2000, for direct involvement in such comprehensive planning process.

(d) Contents.—In addition to the requirements of section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(e)), the comprehensive conservation plan referred to in subsection (a) shall address and make recommendations on the following:

(1) The identification of any land referred to in subsection (e) of section 3174 that could be made available under that subsection.

(2) The characteristics and configuration of any perimeter fencing that may be appropriate or compatible for cleanup and closure purposes, refuge purposes, or other purposes.

(3) The feasibility of locating, and the potential location for, a visitor and education center at the refuge.

(4) Any other issues relating to Rocky Flats.

(e) Coalition Defined.—In this section, the term "Coalition" means the Rocky Flats Coalition of Local Governments established by the Intergovernmental Agreement, dated February 16, 1999, among—

(1) the city of Arvada, Colorado;

(2) the city of Boulder, Colorado;

(3) the city of Broomfield, Colorado;

(4) the city of Westminster, Colorado;

(5) the town of Superior, Colorado;

(6) Boulder County, Colorado; and

(7) Jefferson County, Colorado.

(f) Report.—Not later than three years after the date of the enactment of this Act, the Secretary of the Interior shall submit to Congress—

(1) the comprehensive conservation plan referred to in subsection (a); and

(2) a report that contains—

(A) an outline of the involvement of the public and local communities in the comprehensive planning process, as required by subsection (a);

(B) to the extent that any input or recommendation from the comprehensive planning process is not accepted, a clear statement of the reasons why such input or recommendation is not accepted; and

(C) a discussion of the impacts of any property rights referred to in section 3179(a) on management of the refuge, and an identification of strategies for resolving and mitigating these impacts.

SEC. 3179. PROPERTY RIGHTS.

(a) In General.—Except as provided in subsections (c) and (d), nothing in this subtitle limits any valid, existing property right at Rocky Flats that is owned by any person or entity, including, but not limited to—

(1) any mineral right;

(2) any water right or related easement; and

(3) any facility or right-of-way for a utility.

(b) Access.—Except as provided in subsection (c), nothing in this subtitle affects any right of an owner of a property right referred to in subsection (a) to access the owner's property.

(c) Reasonable Conditions.—

(1) In general.—The Secretary or the Secretary of the Interior may impose such reasonable conditions on access to property rights referred to in subsection (a) as are appropriate for the cleanup and closure of Rocky Flats and for the management of the refuge.

(2) No effect on other law.—Nothing in this subtitle affects any Federal, State, or local law (including any regulation) relating to the use, development, and management of property rights referred to in subsection (a).

(3) No effect on access rights.—Nothing in this subsection precludes the exercise of any access right, in existence on the date of the enactment of this Act, that is necessary to perfect or maintain a water right in existence on that date.

(d) Utility Extension.—

(1) In general.—The Secretary or the Secretary of the Interior may allow not more than one extension from an existing utility right-of-way on Rocky Flats, if necessary.

(2) Conditions.—An extension under paragraph (1) shall be subject to the conditions specified in subsection (c).

(e) Easement Surveys.—Subject to subsection (c), until the date that is 180 days after the date of the enactment of this Act, an entity that possesses a decreed water right or prescriptive easement relating to land at Rocky Flats may carry out such surveys at Rocky Flats as the entity determines are necessary to perfect the right or easement.

SEC. 3180. LIABILITIES AND OTHER OBLIGATIONS.

(a) In General.—Nothing in this subtitle shall relieve, and no action may be taken under this subtitle to relieve, the Secretary, the Secretary of the Interior, or any other person from any liability or other obligation at Rocky Flats under CERCLA, RCRA, or any other Federal or State law.

(b) Cost Recovery, Contribution, and Other Action.—Nothing in this subtitle is intended to prevent the United States from bringing a cost recovery, contribution, or other action that would otherwise be available under Federal or State law.

SEC. 3181. ROCKY FLATS MUSEUM.

(a) Museum.—To commemorate the contribution that Rocky Flats and its worker force provided to winning the Cold War and the impact that such contribution has had on the nearby communities and the State of Colorado, the Secretary may establish a Rocky Flats Museum.

(b) Location.—The Rocky Flats Museum shall be located in the city of Arvada, Colorado, unless, after consultation under subsection (c), the Secretary determines otherwise.

(c) Consultation.—The Secretary shall consult with the city of Arvada, other local communities, and the Colorado State Historical Society on—

(1) the development of the museum;

(2) the siting of the museum; and

(3) any other issues relating to the development and construction of the museum.

(d) Report.—Not later than three years after the date of the enactment of this Act, the Secretary, in coordination with the city of Arvada, shall submit to Congress a report on the costs associated with the construction of the museum and any other issues relating to the development and construction of the museum.

SEC. 3182. ANNUAL REPORT ON FUNDING.

For each of fiscal years 2003 through 2007, at the time of submission of the budget of the President under section 1105(a) of title 31, United States Code, for such fiscal year, the Secretary and the Secretary of the Interior shall jointly submit to Congress a report on the costs of implementation of this subtitle. The report shall include—

(1) the costs incurred by each Secretary in implementing this subtitle during the preceding fiscal year; and

(2) the funds required by each Secretary to implement this subtitle during the current and subsequent fiscal years.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2002, $18,500,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Definitions.
Sec. 3302. Authorized uses of stockpile funds.
Sec. 3303. Authority to dispose of certain materials in National Defense Stockpile.
Sec. 3304. Revision of limitations on required disposals of certain materials in National Defense Stockpile.
Sec. 3305. Acceleration of required disposal of cobalt in National Defense Stockpile.
Sec. 3306. Restriction on disposal of manganese ferro.

SEC. 3301. DEFINITIONS.

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

(3) The term "Market Impact Committee" means the Market Impact Committee appointed under section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(c)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) Obligation of Stockpile Funds.—During fiscal year 2002, the National Defense Stockpile Manager may obligate up to $65,200,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) Disposal Authorized.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials contained in the National Defense Stockpile. The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Bauxite	*40,000 short tons*

Authorized Stockpile Disposals—Continued

Material for disposal	*Quantity*
Chromium Metal	*3,512 short tons*
Iridium	*25,140 troy ounces*
Jewel Bearings	*30,273,221 pieces*
Manganese Ferro HC	*209,074 short tons*
Palladium	*11 troy ounces*
Quartz Crystal	*216,648 pounds*
Tantalum Metal Ingot	*120,228 pounds contained*
Tantalum Metal Powder	*36,020 pounds contained*
Thorium Nitrate	*600,000 pounds.*

(b) Minimization of Disruption and Loss.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(c) Relationship to Other Disposal Authority.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

SEC. 3304. REVISION OF LIMITATIONS ON REQUIRED DISPOSALS OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) Public Law 105–261.—Section 3303 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note) is amended—

(1) in subsection (a)—

(A), by striking "the amount of—" and inserting "total amounts not less than—";

(B) by striking "and" at the end of paragraph (3); and

(C) by striking paragraph (4) and inserting the following new paragraphs:

"(4) $760,000,000 by the end of fiscal year 2005; and

"(5) $770,000,000 by the end of fiscal year 2011."; and

(2) in subsection (b)(2), by striking "receipts in the amounts specified in subsection (a)" and inserting "receipts in the total amount specified in subsection (a)(5)".

(b) Public Law 105–85.—Section 3305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 98d note) is amended—

(1) in subsection (a), by striking "amounts equal to—" and inserting "total amounts not less than—"; and

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

"(2) The President may not dispose of cobalt under this section in fiscal year 2006 in excess of the disposals necessary to result in receipts during that fiscal year in the total amount specified in subsection (a)(5).".

(c) Public Law 104–201.—Section 3303 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 98d note) is amended—

(1) in subsection (a), by striking "amounts equal to—" and inserting "total amounts not less than—"; and

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

"(2) The President may not dispose of materials under this section during the 10-fiscal year period referred to in subsection (a)(2) in excess of the disposals necessary to result in receipts during that period in the total amount specified in such subsection.".

SEC. 3305. ACCELERATION OF REQUIRED DISPOSAL OF COBALT IN NATIONAL DEFENSE STOCKPILE.

Section 3305(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 98d note), as amended by section 3304(b) of this Act, is amended—

(1) in paragraph (1), by striking "2003" and inserting "2002";

(2) in paragraph (2), by striking "2004" and inserting "2003";

(3) in paragraph (3), by striking "2005" and inserting "2004";

(4) in paragraph (4), by striking "2006" and inserting "2005"; and

(5) in paragraph (5), by striking "2007" and inserting "2006".

SEC. 3306. RESTRICTION ON DISPOSAL OF MANGANESE FERRO.

(a) Temporary Quantity Restrictions.—During fiscal years 2002 through 2005, the disposal of manganese ferro in the National Defense Stockpile may not exceed the following quantities:

(1) During fiscal year 2002, 25,000 short tons of all grades of manganese ferro.

(2) During fiscal year 2003, 25,000 short tons of high carbon manganese ferro of the highest grade.

(3) During each of the fiscal years 2004 and 2005, 50,000 short tons of high carbon manganese ferro of the highest grade.

(b) Conforming Amendment.—Section 3304 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 629) is repealed.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) Amount.—There are hereby authorized to be appropriated to the Secretary of Energy $17,371,000 for fiscal year 2002 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) Period of Availability.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2002.

Sec. 3502. Define "war risks" to vessels to include confiscation, expropriation, nationalization, and deprivation of the vessels.

Sec. 3503. Holding obligor's cash as collateral under title XI of Merchant Marine Act, 1936.

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002.

Funds are hereby authorized to be appropriated for fiscal year 2002, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $89,054,000.

(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), $103,978,000, of which—

(A) $100,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) $3,978,000 is for administrative expenses related to loan guarantee commitments under the program.

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, $10,000,000.

SEC. 3502. DEFINE "WAR RISKS" TO VESSELS TO INCLUDE CONFISCATION, EXPROPRIATION, NATIONALIZATION, AND DEPRIVATION OF THE VESSELS.

Section 1201(c) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1281(c)) is amended to read as follows:

"(c) The term 'war risks' includes to such extent as the Secretary may determine—

"(1) all or any part of any loss that is excluded from marine insurance coverage under a 'free of capture or seizure' clause, or under analogous clauses; and

"(2) other losses from hostile acts, including confiscation, expropriation, nationalization, or deprivation.".

SEC. 3503. HOLDING OBLIGOR'S CASH AS COLLATERAL UNDER TITLE XI OF MERCHANT MARINE ACT, 1936.

Title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) is amended by inserting after section 1108 the following:

"SEC. 1109. DEPOSIT FUND.

"(a) Establishment of Deposit Fund.—There is established in the Treasury a deposit fund for purposes of this section. The Secretary may, in accordance with an agreement under subsection (b), deposit into and hold in the deposit fund cash belonging to an obligor to serve as collateral for a guarantee under this title made with respect to the obligor.

"(b) Agreement.—

"(1) In General.—The Secretary and an obligor shall enter into a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the deposit fund established by subsection (a).

"(2) Terms.—The agreement shall contain such terms and conditions as are required under this section and such additional terms as are considered by the Secretary to be necessary to protect fully the interests of the United States.

"(3) Security Interest of United States.—The agreement shall include terms that grant to the United States a security interest in all amounts deposited into the deposit fund.

"(c) Investment.—The Secretary may invest and reinvest any part of the amounts in the deposit fund established by subsection (a) in obligations of the United States with such maturities as ensure that amounts in the deposit fund will be available as required for purposes of agreements under subsection (b). Cash balances of the deposit fund in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

"(d) Withdrawals.—

"(1) In General.—The cash deposited into the deposit fund established by subsection (a) may not be withdrawn without the consent of the Secretary.

"(2) Use of Income.—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the deposit fund in accordance with the terms of the agreement with the obligor under subsection (b).

"(3) Retention Against Default.—The Secretary may retain and offset any or all of the cash of an obligor in the deposit fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation.".

And the House agree to the same.

From the Committee on Armed Services, for consideration of the Senate Bill and the House amendment, and modifications committed to conference:

BOB STUMP,
DUNCAN HUNTER,
JAMES V. HANSEN,
CURT WELDON,
JIM SAXTON,
JOHN M. MCHUGH,
TERRY EVERETT,
ROSCOE G. BARTLETT,
HOWARD "BUCK" MCKEON,
J.C. WATTS, JR.,
MAC THORNBERRY,
SAXBY CHAMBLISS,

Ike Skelton,
Solomon P. Ortiz,
Lane Evans,
Neil Abercrombie,
Martin T. Meehan,
Robert A. Underwood,
Thomas Allen,
Vic Snyder,

From the Committee on Education and the Workforce, for consideration of secs. 304, 305, 1123, 3151, and 3157 of the Senate bill, and secs. 341, 342, 509, and 584 of the House amendment, and modifications committed to conference:

Michael N. Castle,
Johnny Isakson,
George Miller,

From the Committee on Government Reform, for consideration of secs. 564, 622, 803, 813, 901, 1044, 1047, 1051, 1065, 1075, 1102, 1111–1113, 1124–1126, 2832, 3141, 3144, and 3153 of the Senate bill, and secs. 333, 519, 588, 802, 803, 811–819, 1101, 1103–1108, 1110, and 3132 of the House amendment, and modifications committed to conference:

Dan Burton,
Dave Weldon,
Henry A. Waxman,

Provided that Mr. Tom Davis of Virginia is appointed in lieu of Mr. Weldon of Florida for consideration of secs. 803 and 2832 of the Senate bill, and secs. 333 and 803 of the House amendment, and modifications committed to conference:

Tom Davis,

Provided that Mr. Horn is appointed in lieu of Mr. Weldon of Florida for consideration of secs. 811–819 of the House amendment, and modifications committed to conference:

Stephen Horn,

From the Committee on House Administration, for consideration of secs. 572, 574–577, and 579 of the Senate bill, and sec. 552 of the House amendment, and modifications committed to conference:

Robert W. Ney,
John L. Mica,

From the Committee on International Relations, for consideration of secs. 331, 333, 1201–1205, and 1211–1218 of the Senate bill, and secs. 1011, 1201, 1202, 1205, and 1209, title XIII, and sec. 3133 of the House amendment, and modifications committed to conference:

Henry Hyde,
Ben Gilman,
Tom Lantos,

From the Committee on the Judiciary, for consideration of secs. 821, 1066, and 3151 of the Senate bill, and secs. 323 and 818 of the House amendment, and modifications committed to conference:

F. James Sensenbrenner, Jr.,
Lamar Smith,

From the Committee on Resources, for consideration of secs. 601, 663, 2823, and 3171–3181 of the Senate bill, and secs. 601, 1042, 2841, 2845, 2861–2863, and 2865 and title XXIX of the House amendment, and modifications committed to conference:

Jim Gibbons,
George Radanovich,

Provided that Mr. Udall of Colorado is appointed in lieu of Mr. Rahall for consideration of secs. 3171–3181 of the Senate bill, and modifications committed to conference:

Mark Udall,

From the Committee on Science, for consideration of secs. 1071 and 1124 of the Senate bill, and modifications committed to conference:

Sherwood Boehlert,
Nick Smith,
Ralph M. Hall,

Provided that Mr. Ehlers is appointed in lieu of Mr. Smith of Michigan for consideration of sec. 1124 of the Senate bill, and modifications committed to conference:

Vernon J. Ehlers,

From the Committee on Small Business, for consideration of secs. 822-824 and 1068 of the Senate bill, and modifications committed to conference:

Donald A. Manzulo,
Larry Combest,

From the Committee on Transportation and Infrastructure, for consideration of secs. 563, 601, and 1076 of the Senate bill, and secs. 543, 544, 601, 1049, and 1053 of the House amendment, and modifications committed to conference:

Don Young,
Frank A. LoBiondo,
Corrine Brown,

Provided that Mr. Pascrell is appointed in lieu of Ms. Brown of Florida for consideration of sec. 1049 of the House amendment, and modifications committed to conference:

Bill Pascrell, Jr.,

From the Committee on Veterans' Affairs, for consideration of secs. 538, 539, 573, 651, 717, and 1064 of the Senate bill, and sec. 641 of the House amendment, and modifications committed to conference:

Christopher H. Smith,
(except sec. 641 of House amendment and secs. 539 and 651 of Senate bill),
Mike Bilirakis,
Managers on the Part of the House.

Carl Levin,
Ted Kennedy,
Joseph Lieberman,
Max Cleland,
Mary Landrieu,
Jack Reed,
Daniel K. Akaka,
Bill Nelson,
Ben Nelson,
Jean Carnahan,
Mark Dayton,
Jeff Bingaman,
John Warner,
Strom Thurmond,
Bob Smith,
Jim Inhofe,
Rick Santorum,
Pat Roberts,
Wayne Allard
Tim Hutchinson,
Jeff Sessions,
Susan Collins,
Jim Bunning,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1438), to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees recommend authorization of appropriations for fiscal year 2002 for the Department of Defense for procurement; research and development; test and evaluation; operation and maintenance; working capital funds; military construction and family housing; and for weapons and environmental restoration programs of the Department of Energy, that have a budget authority implication of $343.3 billion for the national defense function.

SUMMARY TABLE OF AUTHORIZATIONS

The defense authorization act provides authorizations for appropriations but does not generally provide budget authority. Budget authority is provided in appropriations acts.

In order to relate the conference recommendations to the Budget Resolution, matters in addition to the dollar authorizations contained in this bill must be taken into account. A number of programs in the national defense function are authorized permanently or, in certain instances, authorized in other annual legislation.

The following table summarizes authorizations included in the bill for fiscal year 2002 and, in addition, summarizes the implications of the conference action for the budget authority totals for national defense (budget function 050).

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002

(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization	Budget Authority Implication: FY 2002 Request	Budget Authority Implication: House Authorization	Budget Authority Implication: Senate Authorization	Budget Authority Implication: Conference Change to Request	Budget Authority Implication: Conference Authorization
DIVISION A										
Title I -- PROCUREMENT										
Aircraft Procurement, Army	1,925,491	1,987,491	2,123,391	149,881	2,075,372	1,925,491	1,987,491	2,123,391	149,881	2,075,372
Missile Procurement, Army	1,859,634	1,097,286	1,807,384	(772,680)	1,086,954	1,859,634	1,097,286	1,807,384	(772,680)	1,086,954
Procurement of W&TCV, Army	2,276,746	2,367,046	2,276,746	71,399	2,348,145	2,276,746	2,367,046	2,276,746	71,399	2,348,145
Procurement of Ammunition, Army	1,193,365	1,208,565	1,187,565	(6,132)	1,187,233	1,193,365	1,208,565	1,187,565	(6,132)	1,187,233
Other Procurement, Army	3,961,737	4,143,986	4,024,486	82,343	4,044,080	3,961,737	4,143,986	4,024,486	82,343	4,044,080
Aircraft Procurement, Navy	8,252,543	8,337,243	8,169,013	70,604	8,323,147	8,252,543	8,337,243	8,169,013	70,604	8,323,147
Weapons Procurement, Navy	1,433,475	1,476,692	1,503,475	50,846	1,484,321	1,433,475	1,476,692	1,503,475	50,846	1,484,321
Shipbuilding & Conversion, Navy	9,344,121	9,378,221	9,522,121	26,851	9,370,972	9,344,121	9,378,221	9,522,121	26,851	9,370,972
Other Procurement, Navy	4,097,576	4,157,313	4,293,476	184,895	4,282,471	4,097,576	4,157,313	4,293,476	184,895	4,282,471
Procurement, Marine Corps	981,724	1,025,624	981,724	32,913	1,014,637	981,724	1,025,624	981,724	32,913	1,014,637
Procurement of Ammunition, Navy & Marine Corps	457,099	463,507	476,099	9,808	466,907	457,099	463,507	476,099	9,808	466,907
Aircraft Procurement, Air Force	10,744,458	10,705,687	10,892,957	44,709	10,789,167	10,744,458	10,705,687	10,892,957	44,709	10,789,167
Procurement of Ammunition, Air Force	865,344	871,344	885,344	16,500	881,844	865,344	871,344	885,344	16,500	881,844
Missile Procurement, Air Force	3,233,536	3,226,336	3,286,136	(10,900)	3,222,636	3,233,536	3,226,336	3,286,136	(10,900)	3,222,636
Other Procurement, Air Force	8,159,521	8,250,821	8,081,721	36,500	8,196,021	8,159,521	8,250,821	8,081,721	36,500	8,196,021
Procurement, Defense Wide	1,603,927	2,267,346	1,596,725	675,555	2,279,482	1,603,927	2,267,346	1,596,725	675,555	2,279,482
National Guard & Reserve Equipment		0	0	0	0		0	0		0
Defense Inspector General	1,800	1,800	2,800	1,000	2,800		0	1,000	1,000	1,000
Defense Production Act Purchases	0	0	4,000	0	0	50,000	50,000	54,000	0	50,000
Chemical Agents & Munitions Destruction, Army	1,153,557	0	0	(1,153,557)	0	1,153,557	0	0	(1,153,557)	0
Chemical Agents & Munitions Destruction, Defense		1,078,557	1,153,557	1,153,557	1,153,557		1,078,557	1,153,557	1,153,557	1,153,557
Defense Health Program	267,915	267,915	267,915	0	267,915		0		0	0
TOTAL PROCUREMENT	61,813,569	62,312,780	62,536,665	664,092	62,477,661	61,593,854	62,093,065	62,316,950	664,092	62,257,946
Title II -- RESEARCH, DEVELOPMENT, TEST & EVALUATION										
RDT&E, Army	6,693,920	6,749,025	6,901,670	(18,595)	6,675,325	6,693,920	6,749,025	6,901,670	(18,595)	6,675,325
RDT&E, Navy	11,123,389	10,863,274	11,134,806	(339,125)	10,784,264	11,123,389	10,863,274	11,134,806	(339,125)	10,784,264
RDT&E, Air Force	14,343,982	14,485,653	14,459,457	63,205	14,407,187	14,343,982	14,485,653	14,459,457	63,205	14,407,187
RDT&E, Defense Wide	15,050,787	15,109,623	13,878,747	(678,147)	14,372,640	15,050,787	15,109,623	13,878,747	(678,147)	14,372,640
Developmental Test & Evaluation, Defense		0	0	0	0		0	0		0
Operational Test & Evaluation	217,355	217,355	227,855	4,000	221,355	217,355	217,355	227,855	4,000	221,355
Defense Health Program	65,304	65,304	65,304	0	65,304		0	0		0
TOTAL RDT&E	47,494,737	47,490,234	46,667,839	(968,662)	46,526,075	47,429,433	47,424,930	46,602,535	(968,662)	46,460,771

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002

(In Thousands of Dollars)

						Budget Authority Implication				
Title III -- OPERATION AND MAINTENANCE	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization	FY 2002 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
Operation and Maintenance, Army	21,191,680	21,015,280	21,146,882	(538,439)	20,653,241	21,191,680	21,015,280	21,146,882	(538,439)	20,653,241
Operation and Maintenance, Navy	26,961,382	26,587,962	26,927,931	(500,083)	26,461,299	26,961,382	26,587,962	26,927,931	(500,083)	26,461,299
Operation and Maintenance, Marine Corps	2,892,314	2,898,114	2,911,319	(19,790)	2,872,524	2,892,314	2,898,114	2,911,319	(19,790)	2,872,524
Operation and Maintenance, Air Force	26,146,770	25,811,462	25,993,582	(548,003)	25,598,767	26,146,770	25,811,462	25,993,582	(548,003)	25,598,767
Operation and Maintenance, Defense Wide	12,518,631	11,690,031	12,470,732	(569,045)	11,949,586	12,518,631	11,690,031	12,470,732	(569,045)	11,949,586
Operation and Maintenance, Army Reserve	1,787,246	1,814,246	1,803,146	36,900	1,824,146	1,787,246	1,814,246	1,803,146	36,900	1,824,146
Operation and Maintenance, Navy Reserve	1,003,690	1,003,690	1,000,369	(3,640)	1,000,050	1,003,690	1,003,690	1,000,369	(3,640)	1,000,050
Operation and Maintenance, Marine Corps Reserve	144,023	144,023	142,956	(1,170)	142,853	144,023	144,023	142,956	(1,170)	142,853
Operation and Maintenance, Air Force Reserve	2,029,866	2,017,866	2,029,866	0	2,029,866	2,029,866	2,017,866	2,029,866	0	2,029,866
Operation and Maintenance, Army National Guard	3,677,359	3,705,359	3,697,659	19,200	3,696,559	3,677,359	3,705,359	3,697,659	19,200	3,696,559
Operation and Maintenance, Air National Guard	3,867,361	3,967,361	4,037,161	100,000	3,967,361	3,867,361	3,967,361	4,037,161	100,000	3,967,361
Office of the Inspector General	150,221	152,021	149,221	(1,000)	149,221	152,021	153,821	151,021	(1,000)	151,021
US Court of Appeals, Armed Forces	9,096	9,096	9,096	0	9,096	9,096	9,096	9,096		9,096
Environmental Restoration, Army	389,800	389,800	389,800	0	389,800	389,800	389,800	389,800		389,800
Environmental Restoration, Navy	257,517	257,517	257,517	0	257,517	257,517	257,517	257,517		257,517
Environmental Restoration, Air Force	385,437	385,437	385,437	0	385,437	385,437	385,437	385,437		385,437
Environmental Restoration, Defense	23,492	23,492	23,492	0	23,492	23,492	23,492	23,492		23,492
Environmental Restoration, Formerly Used Defense Sites	190,255	190,255	230,255	40,000	230,255	190,255	190,255	230,255	40,000	230,255
General Reduction, Title III			(40,000)	0	0			(40,000)		0
Overseas Humanitarian Disaster & Civic Aid	49,700	49,700	49,700	0	49,700	49,700	49,700	49,700		49,700
Drug Interdiction & Counter Drug Activities, Defense	820,381	- 820,381	860,381	0	820,381	820,381	820,381	860,381		820,381
Payment to Kaho'olawe Island Fund	25,000	25,000	60,000	15,000	40,000	25,000	25,000	60,000	15,000	40,000
Defense Health Program	17,565,750	17,570,750	17,546,750	5,000	17,570,750	17,898,969	17,903,969	17,879,969	5,000	17,903,969
Cooperative Threat Reduction	403,000	403,000	403,000	0	403,000	403,000	403,000	403,000		403,000
Overseas Contingency Operations Transfer Fund	2,844,226	2,844,226	2,844,226	0	2,844,226	2,844,226	2,844,226	2,844,226		2,844,226
Support for International Sporting Competitions	15,800	15,800	15,800	0	15,800	15,800	15,800	15,800		15,800
Utilities Adjustment				(125,000)	(125,000)	0	0	0	(125,000)	(125,000)
Restoration of Rocky Mountain Arsenal	0	0	0	0	0	6,000	6,000	6,000		6,000
Kaho'olawe Island Environmental Restoration	0	0	0	0	0	25,000	25,000	25,000		25,000
Disposal of DoD Real Property	0	0	0	0	0	8,389	8,389	8,389		8,389
Lease of DoD Real Property	0	0	0	0	0	8,407	8,407	8,407		8,407
National Science Center, Army	0	0	0	0	0	30	30	30		30
DoD Overseas Military Facility Investment Recovery	0	0	0	0	0	3,300	3,300	3,300		3,300
Defense Burdensharing - Allies/NATO	0	0	0	0	0	210,000	210,000	210,000		210,000
TOTAL OPERATION AND MAINTENANCE	125,349,997	123,791,869	125,346,298	(2,090,070)	123,259,927	125,946,142	124,388,014	125,942,443	(2,090,070)	123,856,072

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002

(In Thousands of Dollars)

						Budget Authority Implication				
	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization	FY 2002 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
REVOLVING AND MANAGEMENT FUNDS										
Defense Working Capital Fund, Army	170,000	170,000	170,000	0	170,000	170,000	170,000	170,000		170,000
Defense Working Capital Fund, Air Force	36,786	36,786	36,786	0	36,786	36,786	36,786	36,786		36,786
Defense Working Capital Fund, Defense Agencies	641,900	641,900	591,600	(295,590)	346,310	641,900	641,900	591,600	(295,590)	346,310
National Defense Sealift Fund	506,408	407,708	506,408	(98,700)	407,708	506,408	407,708	506,408	(98,700)	407,708
Defense Working Capital Fund, DECA	1,103,300	1,103,300	1,103,300	0	1,103,300	1,103,300	1,103,300	1,103,300		1,103,300
TOTAL REVOLVING AND MANAGEMENT FUNDS	2,458,394	2,359,694	2,408,094	(394,290)	2,064,104	2,458,394	2,359,694	2,408,094	(394,290)	2,064,104
TOTAL TITLE III	127,808,391	126,151,563	127,754,192	(2,484,360)	125,324,031	128,404,536	126,747,708	128,350,537	(2,484,360)	125,920,176
Title IV V VI MILITARY PERSONNEL	0	82,307,281	82,390,900	82,307,281	82,307,281	82,307,281	82,279,101	82,390,900	0	82,307,281
Title X -- GENERAL PROVISIONS										
Proposed Legislation	(330,000)	0	0	330,000	0	(330,000)	0	0	330,000	0
Management Efficiencies		0	(1,630,000)	0	0		0	(1,630,000)		0
Combating Terrorism		400,000		0	0		400,000	0		0
Missile Defense & Combating Terrorism		0	1,300,000	1,300,000	1,300,000		0	1,300,000	1,300,000	1,300,000
TOTAL GENERAL PROVISIONS	(330,000)	400,000	(330,000)	1,630,000	1,300,000	(330,000)	400,000	(330,000)	1,630,000	1,300,000
TOTAL DIVISION A	236,786,697	318,661,858	319,019,796	81,148,351	317,935,048	319,405,104	318,944,804	319,130,922	(1,158,930)	318,246,174

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002

(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization	Budget Authority Implication				
						FY 2002 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
DIVISION B										
MILITARY CONSTRUCTION										
Military Construction, Army	1,760,541	1,686,601	1,635,341	(17,381)	1,743,160	1,760,541	1,686,601	1,635,341	(17,381)	1,743,160
Military Construction, Navy	1,071,408	1,159,654	1,146,918	53,459	1,124,867	1,071,408	1,159,654	1,146,918	53,459	1,124,867
Military Construction, Air Force	1,068,250	1,171,504	1,176,289	109,454	1,177,704	1,068,250	1,171,504	1,176,289	109,454	1,177,704
Military Construction, Defense-Wide	694,558	838,957	859,744	107,925	802,483	694,558	838,957	859,744	107,925	802,483
Military Construction, Army National Guard	267,389	304,915	365,240	125,864	393,253	267,389	304,915	365,240	125,864	393,253
Military Construction, Air National Guard	149,072	197,472	227,232	104,780	253,852	149,072	197,472	227,232	104,780	253,852
Military Construction, Army Reserve	111,404	173,017	111,404	57,565	168,969	111,404	173,017	111,404	57,565	168,969
Military Construction, Naval Reserve	33,641	53,291	33,641	19,255	52,896	33,641	53,291	33,641	19,255	52,896
Military Construction, Air Force Reserve	53,732	79,132	53,732	19,300	73,032	53,732	79,132	53,732	19,300	73,032
Base Realignment & Closure IV	532,200	532,200	592,200	100,513	632,713	524,470	524,470	584,470	100,513	624,983
NATO Security Investment Program	162,600	162,600	162,600	0	162,600	162,600	162,600	162,600	0	162,600
Prior Year Reductions and Savings		0	(55,000)	(181,268)	(181,268)		0	(55,000)	(181,268)	(181,268)
TOTAL MILITARY CONSTRUCTION	5,904,795	6,359,341	6,309,371	499,466	6,404,261	5,897,065	6,351,611	6,301,641	499,466	6,396,531
FAMILY HOUSING										
Family Housing Construction, Army	291,542	275,154	313,852	21,200	312,742	291,542	275,154	313,852	21,200	312,742
Family Housing Operations and Debt, Army	1,108,991	1,046,203	1,108,991	(19,418)	1,089,573	1,108,991	1,046,203	1,108,991	(19,418)	1,089,573
Family Housing Construction, Navy & Marine Corps	304,400	332,766	342,591	27,380	331,780	304,400	332,766	342,591	27,380	331,780
Family Housing Operations & Debt, Navy & Marine Corps	918,095	900,585	918,095	(8,000)	910,095	918,095	900,585	918,095	(8,000)	910,095
Family Housing Construction, Air Force	518,237	511,512	542,381	32,466	550,703	518,237	511,512	542,381	32,466	550,703
Family Housing Operations & Debt, Air Force	869,121	843,018	869,121	(24,406)	844,715	869,121	843,018	869,121	(24,406)	844,715
Family Housing Construction Defense Wide	250	250	250	0	250	250	250	250		250
Family Housing Operations & Debt, Defense Wide	43,762	43,762	43,762	0	43,762	43,762	43,762	43,762		43,762
Homeowners Assistance Fund, Defense	10,119	10,119	10,119	0	10,119	17,849	17,849	17,849		17,849
DoD Family Housing Improvement Fund	2,000	2,000	2,000	0	2,000	2,000	2,000	2,000		2,000
TOTAL FAMILY HOUSING	4,066,517	3,965,369	4,121,162	29,222	4,095,739	4,074,247	3,973,099	4,128,892	29,222	4,103,469
TOTAL DIVISION B	9,971,312	10,324,712	10,430,533	528,688	10,500,000	9,971,312	10,324,712	10,430,533	528,688	10,500,000

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002
(In Thousands of Dollars)

						Budget Authority Implication				
	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization	FY 2002 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
DIVISION C -- DEPARTMENT OF DEFENSE										
National Defense Stockpile Transaction Fund	0	0	0	0	0	(150,000)	(150,000)	(150,000)		(150,000)
MANDATORY/PERMANENT DOD AUTHORIZATIONS		(13,000)					(13,000)	(40,000)	(37,000)	(37,000)
TRUST FUNDS AND OFFSETTING RECEIPTS	0	0	0	0	0	(1,227,126)	(1,227,126)	(1,227,126)		(1,227,126)
TOTAL DEPARTMENT OF DEFENSE (051)	246,758,009	328,973,570	329,450,329	81,677,039	328,435,048	327,999,290	327,879,390	328,344,329	(667,242)	327,332,048
DIVISION C -- ATOMIC ENERGY DEFENSE ACTIVITIES (053)										
National Nuclear Security Administration										
Weapons Activities	5,300,025	5,369,488	5,452,810	43,542	5,343,567	5,300,025	5,369,488	5,452,810	43,542	5,343,567
Defense Nuclear Nonproliferation	773,700	783,700	830,500	3,186	776,886	773,700	783,700	830,500	3,186	776,886
Naval Reactors	688,045	688,045	688,045	0	688,045	688,045	688,045	688,045	0	688,045
Defense Nuclear Counterintelligence		13,662	0	0	0		13,662	0	0	0
Office of the Administrator	15,000	15,000	380,366	297,596	312,596	15,000	15,000	380,366	297,596	312,596
Total National Nuclear Security Administration	6,776,770	6,869,895	7,351,721	344,324	7,121,094	6,776,770	6,869,895	7,351,721	344,324	7,121,094
Defense Environmental Restoration & Waste Management	4,548,708	4,616,427	4,924,918	393,169	4,941,877	4,548,708	4,616,427	4,924,918	393,169	4,941,877
Defense Facilities Closure Projects	1,050,538	1,050,538	1,080,538	30,000	1,080,538	1,050,538	1,050,538	1,080,538	30,000	1,080,538
Defense Environmental Management Privatization	141,537	126,208	157,537	12,000	153,537	141,537	126,208	157,537	12,000	153,537
Other Defense Activities	527,614	502,099	501,483	(27,951)	499,663	527,614	502,099	501,483	(27,951)	499,663
Defense Nuclear Waste Disposal	310,000	310,000	250,000	(30,000)	280,000	310,000	310,000	250,000	(30,000)	280,000
Total DOE/NNSA Discretionary Authorizations	13,355,167	13,505,167	14,266,197	721,542	14,076,709	13,355,167	13,505,167	14,266,197	721,542	14,076,709
Energy Employees Compensation Admin Expenses	0	0	0	0	0	63,000	63,000	63,000		63,000
Energy Employees Illness Compensation	0					152,000	152,000	163,000	11,000	163,000
Radiation Exposure Compensation	0	0	0	0	0	102,000	102,000	102,000		102,000
Radiation Exposure - Proposed Legislation						(26,000)	(26,000)	0	26,000	0
Total Department of Energy/NNSA	13,355,167	13,505,167	14,266,197	721,542	14,076,709	13,646,167	13,796,167	14,594,197	758,542	14,404,709
Defense Nuclear Facilities Safety Board	18,500	18,500	18,500	0	18,500	18,500	18,500	18,500	0	18,500
Formerly Used Sites Remedial Action Program	0			0		140,000	0	0	(140,000)	0
Total Atomic Energy Defense Activities (053)	13,373,667	13,523,667	14,284,697	721,542	14,095,209	13,804,667	13,814,667	14,612,697	618,542	14,423,209
TOTAL DIVISION C	13,373,667	13,523,667	14,284,697	721,542	14,095,209	13,804,667	13,814,667	14,612,697	618,542	14,423,209

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002
(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization	Budget Authority Implication: FY 2002 Request	Budget Authority Implication: House Authorization	Budget Authority Implication: Senate Authorization	Budget Authority Implication: Conference Change to Request	Budget Authority Implication: Conference Authorization
DEFENSE RELATED ACTIVITIES (054)										
Radiation Exposure Compensation Act benefits (Sec. 1061)	0	0	0	0	0	172,000	172,000	172,000	0	172,000
FEMA Salaries, Expenses, Planning and Assistance	50,000	0	0	(50,000)	0	50,000	0	0	(50,000)	0
Maritime Security Program (Title XXXV)	0	98,700	0	98,700	98,700		98,700	0	98,700	98,700
Other Defense Related Activities (054)		0		0	0	1,258,000	1,258,000	1,258,000		1,258,000
Total Defense Related Activities (054)	50,000	98,700	0	48,700	98,700	1,480,000	1,528,700	1,430,000	48,700	1,528,700
TOTAL NATIONAL DEFENSE FUNCTION (050)	360,181,676	342,595,937	343,735,036	83,447,281	342,628,957	343,283,957	343,222,757	344,387,026	0	343,283,957

CONGRESSIONAL DEFENSE COMMITTEES

The term "congressional defense committees" is often used in this statement of managers. It means the Defense Authorization and Appropriations Committees of the Senate and the House of Representatives.

COMMITTEE REPORTS

The Senate bill contained a provision (sec. 4) regarding the applicability of the report of the Committee on Armed Services of the Senate to accompany S. 1416 to this bill.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree that the report of the Committee on Armed Services of the Senate to accompany S. 1416 (Senate Report 107-62) shall apply to this Act to the same extent, and in the same manner, as the report of the Committee on Armed Services of the House of Representatives to accompany H.R. 2586 (House Report 107-194).

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Procurement overview

The budget request for fiscal year 2002 included an authorization of $61,813.6 million for Procurement for the Department of Defense.

The Senate bill would authorize $62,532.7 million.

The House amendment would authorize $62,312.8 million.

The conferees recommended an authorization of $62,477.7 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002
(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
DIVISION A					
Title I -- PROCUREMENT					
Aircraft Procurement, Army	1,925,491	1,987,491	2,123,391	149,881	2,075,372
Missile Procurement, Army	1,859,634	1,097,286	1,807,384	.(772,680)	1,086,954
Procurement of W&TCV, Army	2,276,746	2,367,046	2,276,746	71,399	2,348,145
Procurement of Ammunition, Army	1,193,365	1,208,565	1,187,565	(6,132)	1,187,233
Other Procurement, Army	3,961,737	4,143,986	4,024,486	82,343	4,044,080
Aircraft Procurement, Navy	8,252,543	8,337,243	8,169,043	70,604	8,323,147
Weapons Procurement, Navy	1,433,475	1,476,692	1,503,475	50,846	1,484,321
Shipbuilding & Conversion, Navy	9,344,121	9,378,221	9,522,121	26,851	9,370,972
Other Procurement, Navy	4,097,576	4,157,313	4,293,476	184,895	4,282,471
Procurement, Marine Corps	981,724	1,025,624	981,724	32,913	1,014,637
Procurement of Ammunition, Navy & Marine Corps	457,099	463,507	476,099	9,808	466,907
Aircraft Procurement, Air Force	10,744,458	10,705,687	10,892,957	44,709	10,789,167
Procurement of Ammunition, Air Force	865,344	871,344	885,344	16,500	881,844
Missile Procurement, Air Force	3,233,536	3,226,336	3,286,136	(10,900)	3,222,636
Other Procurement, Air Force	8,159,521	8,250,821	8,081,721	36,500	8,196,021
Procurement, Defense-Wide	1,603,927	2,267,346	1,596,725	675,555	2,279,482
National Guard & Reserve Equipment		0	0	0	0
Defense Inspector General	1,800	1,800	2,800	1,000	2,800
Defense Production Act Purchases	0	0	4,000	0	0
Chemical Agents & Munitions Destruction, Army	1,153,557	0	0	(1,153,557)	0
Chemical Agents & Munitions Destruction, Defense		1,078,557	1,153,557	1,153,557	1,153,557
Defense Health Program	267,915	267,915	267,915	0	267,915
TOTAL PROCUREMENT	**61,813,569**	**62,312,780**	**62,536,665**	**664,092**	**62,477,661**

Management reform initiatives

The conferees agree to reduce procurement accounts by $90.0 million to reflect savings from management reform initiatives, as discussed in Title VIII.

Aircraft Procurement, Army—Overview

The budget request for fiscal year 2002 included an authorization of $1,925.5 million for Aircraft Procurement, Army in the Department of Defense.

The Senate bill would authorize $2,123.4 million.

The House amendment would authorize $1,987.5 million.

The conferees recommended an authorization of $2,075.4 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Army										
	Fixed Wing										
1	ARL (TIARA)										
2	UTILITY F/W (MR) AIRCRAFT										
	Rotary Wing										
3	UH-60 BLACK HAWK (MYP)	12	174,515	12	174,515	22	277,015	10	102,500	22	277,015
4	UH-60 BLACK HAWK (MYP) (AP-CY)		26,906		26,906		26,906				26,906
5	HELICOPTER NEW TRAINING					21	34,100	15	25,000	15	25,000
	Modification of Aircraft										
6	GUARDRAIL MODS (TIARA)		8,827		8,827		8,827				8,827
7	ARL MODS (TIARA)		12,322		12,322		12,322				12,322
8	AH-1F MODS										
9	AH-64 MODS		38,473		50,473		50,273		5,000		43,473
	Vibration Management Enhancement Program, ARNG				[7,000]						
	Oil Debris Detection System (ODDS)				[5,000]				[5,000]		
	Increase Components in Pool for AH-64 Retrofit						[11,800]				
10	CH-47 CARGO HELICOPTER MODS (MYP)		277,460		281,460		277,460		4,000		281,460
	Crashworthy Cockpit Seats				[4,000]				[4,000]		
11	CH-47 CARGO HELICOPTER MODS (MYP) (AP-CY)		17,722		17,722		17,722				17,722
12	CH-47 ICH										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
13	UTILITY/CARGO AIRPLANE MODS		16,095		16,095		16,095				16,095
14	OH-58 MODS		463		463		463				463
15	AIRCRAFT LONG RANGE MODS		753		753		753				753
16	LONGBOW		888,561		898,561		935,561		10,000		898,561
	Recapitalization				[10,000]				[10,000]		
	Increase Components in Pool for Longbow Retrofit						[47,000]				
17	LONGBOW (AP-CY)		29,526		29,526		29,526				29,526
18	UH-1 MODS										
19	UH-60 MODS		52,269		58,269		52,269		6,000		58,269
	Crashworthy External Fuel Systems, ARNG				[6,000]				[6,000]		
20	KIOWA WARRIOR		42,600		42,600		42,600				42,600
21	PROPHET AIR (TIARA)										
22	AIRBORNE AVIONICS		78,421		78,421		78,421				78,421
23	ASE MODS (SIRFC)										
24	ASE MODS (ATIRCM)										
25	GATM										
26	GATM ROLLUP		54,551		54,551		54,551				54,551
27	MODIFICATIONS < $5.0M										
	Spares and Repair Parts										
28	SPARE PARTS (AIR)		5,331		5,331		5,331				5,331

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Support Equipment and Facilities										
	Ground Support Avionics										
29	AIRCRAFT SURVIVABILITY EQUIPMENT		32,780		52,780		32,780		-		32,780
	AN / AVR-2A Laser Detecting Sets				[20,000]						
30	ASE INFRARED CM	12	36,653	12	36,653	12	36,653			12	36,653
	Other Support										
31	AVIONICS SUPPORT EQUIPMENT		7,544		7,544		10,044		2,500		10,044
	ANVIS 6 Goggles						[2,500]		[2,500]		
32	COMMON GROUND EQUIPMENT		19,113		19,113		19,113				19,113
33	AIRCREW INTEGRATED SYSTEMS		10,253		10,253		10,253				10,253
34	AIR TRAFFIC CONTROL		68,887		78,887		68,887		3,000		71,887
	Cold Cathode Portable Landing Lights				[10,000]				[3,000]		
35	INDUSTRIAL FACILITIES		707		707		707				707
36	LAUNCHER, 2.75 ROCKET		4,960		4,960		4,960				4,960
37	AIRBORNE COMMUNICATIONS		19,799		19,799		19,799				19,799
38	CLOSED ACCOUNT ADJUSTMENT										
38a	Management Reform Initiatives								(8,119)		(8,119)
	Total - Aircraft Procurement, Army		1,925,491		1,987,491		2,123,391		149,881		2,075,372

Missile Procurement, Army—Overview

The budget request for fiscal year 2002 included an authorization of $1,859.6 million for Missile Procurement, Army in the Department of Defense.

The Senate bill would authorize $1,807.4 million.

The House amendment would authorize $1,097.3 million.

The conferees recommended an authorization of $1,087.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Missile Procurement, Army										
	Surface-to-air Missile System										
1	PATRIOT PAC-3	72	676,574			72	676,574	-72	(676,574)		
	Transfer to PDW, BMDO				[-676,574]				[-676,574]		
2	STINGER SYSTEM SUMMARY	497	45,890	497	23,390	253	23,390		(22,500)	497	23,390
	Transfer to Other Army R&D Programs				[-22,500]				[-22,500]		
	Reduce Excessive Growth from Last Year's Estimate						[-22,500]				
3	AVENGER SYSTEM SUMMARY		11,624		11,624		11,624				11,624
	Air-to-surface Missile System										
4	HELLFIRE SYS SUMMARY	2200	241,811	2200	241,811	2200	241,811			2200	241,811
	Anti-tank/Assault Missile System										
5	JAVELIN (AAWS M) SYSTEM SUMMARY	4139	414,632	4139	414,632	4139	414,632			4139	414,632
6	JAVELIN (AAWS-M) SYSTEM SUMMARY (AP-CY)										
7	LINE OF SIGHT ANTI-TANK (LOSAT) SYSTEM SUM (AP-CY)		11,427		9,427		9,427		(2,000)		9,427
	Transfer to Other Army R&D Programs				[-2,000]				[-2,000]		
	Advance Procurement Funds Budgeted Too Early						[-2,000]				
8	MLRS ROCKET										
9	GUIDED MLRS ROCKET (GMLRS)		8,480		8,480		8,480				8,480

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
10	MLRS LAUNCHER SYSTEMS	35	148,294	35	138,044	53	174,044	18	(10,250)	53	138,044
	Transfer to Other Army R&D Programs				[-10,250]				[-10,250]		
	Buy Additional Launcher Upgrade for 1 Battalion						[36,000]				
	Reduce Excessive Growth in Engineering Services						[-10,250]				
11	ARMY TACTICAL MSL SYS (ATACMS) - SYS	24	34,263	24	40,263	24	25,263		(9,000)	24	25,263
	ATACMS Block IV				[15,000]						
	Transfer to PE 64768A (RDA 106)				[-9,000]		[-9,000]		[-9,000]		
12	ATACMS BLKII SYSTEM SUMMARY	6	61,000	6	61,000	6	61,000		-	6	61,000
	Modification of Missiles										
13	PATRIOT MODS		37,617		25,107		37,617				37,617
	Transfer to Other Army R&D Programs				[-12,510]						
14	STINGER MODS		5,830		5,830		5,830				5,830
15	AVENGER MODS		17,991		11,877		11,891		(6,114)		11,877
	Transfer to Other Army R&D Programs				[-6,114]				[-6,114]		
	Reduce Excessive Growth from Last Year's Appropriated Level						[-6,100]				
16	ITAS/TOW MODS		96,204		60,804		60,804		(35,400)		60,804
	Transfer to Other Army R&D Programs				[-15,400]				[-15,400]		
	Reduce Excessive Growth from Last Year's Appropriated Level				[-20,000]		[-35,400]		[-20,000]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
17	MLRS MODS		23,599		20,599		20,599		(3,000)		20,599
	Transfer to Other Army R&D Programs				[-3,000]				[-3,000]		
	Reduce Excessive Growth in Legacy System						[-3,000]				
	Spares and Repair Parts										
18	SPARES AND REPAIR PARTS		15,299		15,299		15,299				15,299
	Support Equipment and Facilities										
19	AIR DEFENSE TARGETS		3,325		3,325		3,325				3,325
20	ITEMS LESS THAN $5.0M (MISSILES)		1,039		1,039		1,039				1,039
21	MISSILE DEMILITARIZATION		1,358		1,358		1,358				1,358
22	PRODUCTION BASE SUPPORT		3,377		3,377		3,377				3,377
22a	Management Reform Initiatives								(7,842)		(7,842)
	Total - Missile Procurement Army		1,859,634		1,097,286		1,807,384		(772,680)		1,086,954

Procurement of Weapons and Tracked Combat Vehicles, Army—Overview

The budget request for fiscal year 2002 included an authorization of $2,276.7 million for Procurement of Weapons and Tracked Combat Vehicles, Army in the Department of Defense.

The Senate bill would authorize $2,276.7 million.

The House amendment would authorize $2,367.0 million.

The conferees recommended an authorization of $2,348.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Weapons and Tracked Combat Vehicles, Army										
	Tracked Combat Vehicles										
1	ABRAMS TRNG DEV MOD		5,545		5,545		5,545				5,545
2	BRADLEY BASE SUSTAINMENT		400,779		460,779		400,779		60,000		460,779
	Bradley A0 to A2ODS, ARNG				[60,000]				[60,000]		
3	BRADLEY BASE SUSTAINMENT (AP-CY)		2,681		2,681		2,681				2,681
4	BRADLEY FVS TRAINING DEVICES		2,609		2,609		2,609				2,609
5	HAB TRAINING DEVICES										
6	BRADLEY FVS TRAINING DEVICES (MOD)		8,814		8,814		8,814				8,814
7	ABRAMS TANK TRAINING DEVICES		11,814		11,814		11,814				11,814
8	INTERIM ARMORED VEHICLE (IAV) FAMILY	326	662,595	326	662,595	326	662,595			326	662,595
9	COMMAND & CONTROL VEHICLE										
10	COMMAND & CONTROL VEHICLE (AP-CY)										
	Modification of Tracked Combat Vehicles										
11	CARRIER, MOD		48,567		63,867		48,567				48,567
	M113 recapitalization				[15,300]						
12	FIST VEHICLE (MOD)		14,590		14,590		14,590				14,590
13	BFVS SERIES (MOD)		42,262		42,262		42,262				42,262
14	HOWITZER, MED SP FT 155MM M109A6 (MOD)		5,370		5,370		5,370				5,370

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
15	FAASV PIP TO FLEET		18,501		18,501		18,501				18,501
16	IMPROVED RECOVERY VEHICLE (M88 MOD)		58,114		58,114		58,114				58,114
17	BREACHER SYSTEM (MOD)										
18	HEAVY ASSAULT BRIDGE (HAB) SYS (MOD)		48,592		48,592		48,592				48,592
19	ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)		4,025		4,025		4,025				4,025
20	M1 ABRAMS TANK (MOD)		113,485		113,485		113,485				113,485
21	M1A1D RETROFIT		11,647		11,647		11,647				11,647
22	SYSTEM ENHANCEMENT PGM SEP M1A2		102,152		102,152		102,152				102,152
23	ABRAMS UPGRADE PROGRAM		395,802		385,802		395,802				395,802
	Unjustified Cost Growth in Systems Technical Support				[-10,000]						
24	ABRAMS UPGRADE PROGRAM (AP-CY)		194,438		194,438		194,438				194,438
25	MODIFICATIONS LESS THAN $5.0M (TCV-WTCV)										
	Support Equipment and Facilities										
26	ITEMS LESS THAN $5.0M (TCV-WTCV)		146		146		146				146
27	PRODUCTION BASE SUPPORT (TCV-WTCV)		9,979		9,979		9,979				9,979
	Weapons and Other Combat Vehicles										
28	ARMOR MACHINE GUN, 7.62MM M240 SERIES	716	8,033	716	8,033	716	8,033			716	8,033
29	MACHINE GUN, 5.56MM (SAW)										
30	GRENADE LAUNCHER, AUTO, 40MM, MK19-3	1510	28,826	1510	38,826	1510	28,826		6,000	1510	34,826
	Production base support				[10,000]				[6,000]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
31	81MM MORTAR (ROLL)		3,321		3,321		3,321				3,321
32	M16 RIFLE	3060	1,978	3060	1,978	3060	1,978			3060	1,978
33	XM107, CAL. 50, SNIPER RIFLE	150	2,149	150	2,149	150	2,149			150	2,149
34	5.56 CARBINE M4	2800	2,400	2800	2,400	2800	2,400			2800	2,400
35	HOWITZER LT WT 155MM (T)		1,107		1,107		1,107				1,107
	Modification of Weapons and Other Combat Vehicles										
36	MARK-19 MODIFICATIONS		745		745		745				745
37	M4 CARBINE MODS										
38	SQUAD AUTOMATIC WEAPON (MOD)		4,450		4,450		4,450				4,450
39	MEDIUM MACHINE GUNS (MODS)		746		746		746				746
40	HOWITZER, TOWED, 155MM, M198 (MODS)		2,823		2,823		2,823				2,823
41	M119 MODIFICATIONS		4,887		4,887		4,887				4,887
42	M16 RIFLE MODS		2,100		2,100		2,100				2,100
43	MODIFICATIONS LESS THAN $5.0M (WOCV-WTCV)		1,261		1,261		1,261				1,261
	Support Equipment and Facilities										
44	ITEMS LESS THAN $5.0M (WOCV-WTCV)		1,275		1,275		1,275				1,275
45	PRODUCTION BASE SUPPORT (WOCV-WTCV)		6,430		6,430		6,430				6,430
46	INDUSTRIAL PREPAREDNESS		4,270		19,270		4,270		15,000		19,270
	Arsenal Support Initiative				[15,000]				[15,000]		
47	SMALL ARMS (SOLDIER ENH PROG)		303		303		303				303

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Spares and Repair Parts										
48	SPARES AND REPAIR PARTS (WTCV)		37,135		37,135		37,135				37,135
48a	Management Reform Initiatives								(9,601)		(9,601)
	Total - Procurement of WTCV, Army		2,276,746		2,367,046		2,276,746		71,399		2,348,145

Procurement of Ammunition, Army—Overview

The budget request for fiscal year 2002 included an authorization of $1,193.4 million for Procurement of Ammunition, Army in the Department of Defense.

The Senate bill would authorize $1,187.6 million.

The House amendment would authorize $1,208.6 million.

The conferees recommended an authorization of $1,187.2 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Procurement of Ammunition, Army										
	Small/Medium Caliber Ammunition										
1	CTG, 5.56MM, ALL TYPES		67,241		67,241		67,241				67,241
2	CTG 5.56MM ARMOR PIERCING M995	2605	3,551	2605	3,551	2605	3,551			2605	3,551
3	CTG, 7.62MM, ALL TYPES		11,833		11,833		11,833				11,833
4	CTG 7.62MM ARMOR PIERCING XM993	1168	2,412	1168	2,412	1168	2,412			1168	2,412
5	CTG, 9MM, ALL TYPES		2,657		2,657		2,657				2,657
6	CTG, .50 CAL, ALL TYPES		26,823		26,823		26,823				26,823
7	CTG CAL .50 API MK211 MOD 0	404	3,211	404	3,211	404	3,211			404	3,211
8	CTG, 20MM, ALL TYPES		85		85		85				85
9	CTG, 25MM, ALL TYPES		46,231		46,231		46,231				46,231
10	CTG, 30MM, ALL TYPES		9,811		9,811		9,811				9,811
11	CTG, 40MM, ALL TYPES		49,395		49,395		49,395				49,395
12	NONLETHAL WEAPONS CAPABILITY SET	5	5,891	5	5,891	5	5,891			5	5,891
	Mortar Ammunition										
13	60MM MORTAR, ALL TYPES		45,389		45,389		45,389				45,389
14	81MM MORTAR, ALL TYPES				8,000				4,000		4,000
	M816				[8,000]				[4,000]		
15	CTG MORTAR 120MM HE M934 W/MO FUZE	50	39,536	50	39,536	50	39,536			50	39,536

Title I - Procurement

(Dollars in Thousands)

		FY 2002		House		Senate		Conference Agreement			
Line		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
16	CTG MORTAR 120MM ILLUM XM930 W/MTSQ	2	3,521	2	6,321	2	3,521		2,800	2	6,321
	White Phosphorous Production Line Upgrade				[2,800]				[2,800]		
17	CTG 120MM WP SMOKE M929A1	11	11,480	11	11,480	11	11,480			11	11,480
18	CTG 120MM IR ILLUM XM983	2	3,521	2	8,521	2	3,521			2	3,521
	Tank Ammunition										
19	CTG, 105MM, HEP T, W/FUZE F/TANK M393	1	6,036	1	6,036	1	6,036			1	6,036
20	CTG 120MM APFSDS-T M829A2/M829E3	5	35,596	5	35,596	5	35,596			5	35,596
21	CTG 120MM HEAT-MP-T M830A1										
22	CTG TANK 120MM TP-T M831/M831A1	86	46,200	86	46,200	86	46,200			86	46,200
23	CTG TANK 120MM TPCSDS-T M865	198	97,487	198	97,487	198	97,487			198	97,487
	Artillery Ammunition										
24	CTG ARTY 75MM BLANK M337A1	38	1,824	38	1,824	38	1,824			38	1,824
25	CTG ARTY 105MM BLANK M395										
26	CTG ARTY 105MM DPICM XM915										
27	CTG ARTY 105MM M927		14		14		14				14
28	CTG ARTY 105MM ILLUM M314 SERIES	6	5,037	6	5,037	6	5,037			6	5,037
29	PROJ ARTY 155MM SMOKE WP M825										
30	PROJ ARTY 155MM HE M795						10,000		5,000		5,000
31	PROJ ARTY 155MM SADARM M898										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002	Budget Request	House	Authorized	Senate	Authorized	Conference Agreement	Change		Authorized
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
32	REMOTE AREA DENIAL ARTILLERY MUNITION (RADAM)	104	48,218	104	20,818	104	27,418		(27,400)	104	20,818
	Use FY 01 Funds to Meet FY 02 Requirements				[-27,400]		[-20,800]		[-27,400]		
33	PROJ ARTY 155MM HE M107	224	41,400	224	41,400	224	41,400			224	41,400
34	MODULAR ARTILLERY CHARGE SYSTEM (MACS)	836	87,413	836	87,413	836	87,413			836	87,413
	Artillery Fuzes										
35	ARTILLERY FUZES, ALL TYPES		56,443		56,443		56,443				56,443
	Mines										
36	MINE, TRAINING, ALL TYPES		9,536		9,536		9,536				9,536
37	MINE AT M87 (VOLCANO)										
38	WIDE AREA MUNITIONS		2,025		2,025		2,025				2,025
	Rockets										
39	BUNKER DEFEATING MUNITION (BDM)				10,000				5,000		5,000
	Bunker Defeating Munition (BDM)				[10,000]				[5,000]		
40	ROCKET, HYDRA 70, ALL TYPES		136,654		136,654		136,654				136,654

Title I - Procurement

(Dollars in Thousands)

		FY 2002		House		Senate		Conference Agreement			
Line		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Ammunition										
41	DEMOLITION MUNITIONS, ALL TYPES		18,168		21,168		23,168		4,500		22,668
	Modernization Demolition Initiators				[3,000]				[2,000]		
	Anti-personnel Obstacle Breaching System						[5,000]		[2,500]		
42	GRENADES, ALL TYPES		25,710		25,710		25,710				25,710
43	SIGNALS, ALL TYPES		10,611		16,811		10,611				10,611
	XM-211 / XM-212 AIRCM				[6,200]						
44	SIMULATORS, ALL TYPES		3,409		3,409		3,409				3,409
	Miscellaneous										
45	AMMO COMPONENTS, ALL TYPES		6,874		6,874		6,874				6,874
46	CAD PAD ALL TYPES		5,037		5,037		5,037				5,037
47	ITEMS LESS THAN $5 MILLION		11,018		11,018		11,018				11,018
48	AMMUNITION PECULIAR EQUIPMENT		8,816		8,816		8,816				8,816
49	FIRST DESTINATION TRANSPORTATION (AMMO)		5,218		5,218		5,218				5,218
50	CLOSEOUT LIABILITIES		32,213		32,213		32,213				32,213
	Ammunition Production Base Support										
51	PROVISION OF INDUSTRIAL FACILITIES		57,277		57,277		57,277				57,277
52	LAYAWAY OF INDUSTRIAL FACILITIES		13,815		13,815		13,815				13,815
53	MAINTENANCE OF INACTIVE FACILITIES		10,802		10,802		10,802				10,802

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
54	CONVENTIONAL AMMO DEMILITARIZATION		73,225		73,225		73,225				73,225
55	ARMS INITIATIVE		4,701		12,301		4,701		5,000		9,701
55b	Management Reform Initiatives								(5,032)		(5,032)
	Total - Procurement of Ammunition, Army		1,193,365		1,208,565		1,187,565		(6,132)		1,187,233

Other Procurement, Army—Overview

The budget request for fiscal year 2002 included an authorization of $3,961.7 million for Other Procurement, Army in the Department of Defense.

The Senate bill would authorize $4,024.5 million.

The House amendment would authorize $4,144.0 million.

The conferees recommended an authorization of $4,044.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Other Procurement, Army										
	Tactical and Support Vehicles										
	Tactical Vehicles										
1	TACTICAL TRAILERS/DOLLY SETS		3,723		3,723		3,723				3,723
2	SEMITRAILERS, FLATBED		29,317		29,317		29,317				29,317
3	SEMITRAILERS, TANKERS		6,664		6,664		6,664				6,664
4	SEMITRAILER VAN CGO SUPPLY 12T 4WHL M129A2C	95	7,300	95	7,300	95	7,300			95	7,300
5	HI MOB MULTI-PURP WHLD VEH (HMMWV)		130,821		130,821		130,821				130,821
6	TRUCK, DUMP, 20T (CCE)	30	8,078	30	8,078	30	8,078			30	8,078
7	FAMILY OF MEDIUM TACTICAL VEH (FMTV)		467,386		467,386		467,386				467,386
8	FIRETRUCKS & ASSOCIATED FIREFIGHTING EQUIPMENT		5,024		5,024		5,024				5,024
9	FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)		157,633		157,633		157,633				157,633
10	ARMORED SECURITY VEHICLES (ASV)	20	14,483	20	14,483	20	14,483			20	14,483
11	TRUCK, TRACTOR, LINE HAUL, M915/M916		47,507		47,507		47,507				47,507
12	TOWING DEVICE, 5TH WHEEL	34	2,013	34	2,013	34	2,013			34	2,013
13	TRUCK, TRACTOR, YARD TYPE, M878 (C/S)	35	4,003	35	4,003	35	4,003			35	4,003

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
14	HVY EXPANDED MOBILE TACTICAL TRUCK EXT SERV PROGRAM	169	31,304	169	31,304	169	26,304		(5,000)	169	26,304
	Align with 3rd IBCT Production & Fielding						[-5,000]		[-5,000]		
15	LINE HAUL ESP	240	18,515	240	18,515	240	18,515			240	18,515
16	MODIFICATION OF IN SVC EQUIP		49,184		59,184		49,184				49,184
	Wheel-to-Track Conversion System				[10,000]						
17	ITEMS LESS THAN $5.0M (TAC VEH)		1,903		1,903		1,903				1,903
	Non-tactical Vehicles										
18	HEAVY ARMORED SEDAN	3	585	3	585	3	585			3	585
19	PASSENGER CARRYING VEHICLES		1,115		1,115		1,115				1,115
20	NONTACTICAL VEHICLES, OTHER	53	5,458	53	5,458	53	5,458			53	5,458
	Communications and Electronics Equipment										
	Comm-Joint Communications										
21	COMBAT IDENTIFICATION PROGRAM		13,147		13,147		13,147				13,147
22	JCSE EQUIPMENT (USREDCOM)		5,594		5,594		5,594				5,594
	Comm-Satellite Communications										
23	DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE)		99,420		99,420		99,420				99,420
24	SHF TERM		16,951						(16,951)		
	Incumbent contractor terminated plans unclear				[-16,951]		[-16,951]		[-16,951]		

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
25	SAT TERM, EMUT (SPACE)		12,640		12,640		12,640				12,640
26	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)	7120	20,806	7120	20,806	7120	20,806			7120	20,806
27	SMART-T (SPACE)		21,704		21,704		21,704				21,704
28	SCAMP (SPACE)		3,562		3,562		3,562				3,562
29	GLOBAL BRDCST SVC - GBS		6,969		6,969		6,969				6,969
30	MOD OF IN-SVC EQUIP (TAC SAT)		2,492		2,492		15,592				2,492
	Secure Enroute Communications						[13,100]				
	Comm-C3 System										
31	ARMY GLOBAL CMD & CONTROL SYS (AGCCS)		8,622		8,622		8,622				8,622
	Comm-Combat Communications										
32	ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)		46,332		46,332		56,332		7,000		53,332
	Enhanced Position Location & Reporting System (EPLRS)						[10,000]		[7,000]		
33	SINCGARS FAMILY		20,687		20,687		24,187				20,687
	Transfer from PE 23761A (RDA 160) - GPS in SINCGARS						[3,500]				
34	TRACTOR CAGE		1,866		1,866		1,866				1,866
35	JOINT TACTICAL AREA COMMAND SYSTEMS		971		971		971				971

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
36	ACUS MOD PROGRAM		113,137		113,137		153,137		25,000		138,137
	Downsize Communications Switches and Shelters						[40,000]		[25,000]		
37	COMMS ELEC EQUIP FIELDING		3,412		3,412		3,412				3,412
37a	Improved High Frequency Radio, USAR				10,000				5,000		5,000
	Replace Older, Unsupportable HF Radios in the USAR				[10,000]				[5,000]		
38	SOLDIER ENHANCEMENT PROGRAM COMM/ELECTRONICS		5,136		5,136		5,136				5,136
39	PRODUCT IMPROVED COMBAT VEHICLE CREWMAN HEADSETS				9,000						
	Complete replacement of Headsets to Eliminate EMI Communications Losses				[9,000]						
40	COMBAT SURVIVOR EVADER LOCATOR (CSE		12,720		12,720		12,720				12,720
41	MEDICAL COMM FOR CBT CASUALTY CARE (MC4)		7,703		7,703		7,703				7,703
	Comm-Intelligence Communications										
42	CI AUTOMATION ARCHITECTURE		1,635		1,635		1,635				1,635
	Information Security										
43	TSEC - ARMY KEY MGT SYS (AKMS)		12,203		12,203		12,203				12,203

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
44	INFORMATION SYSTEM SECURITY PROGRAM-ISSP		42,244		52,244		42,244		3,000		45,244
	Additional Secure Terminal Equipment				[10,000]				[3,000]		
	Comm-Long Haul Communications										
45	TERRESTRIAL TRANSMISSION		2,038		2,038		2,038				2,038
46	BASE SUPPORT COMMUNICATIONS		11,739		11,739		11,739				11,739
47	ARMY DISN ROUTER		4,931		4,931		4,931				4,931
48	ELECTROMAG COMP PROG (EMCP)		462		462		462				462
49	WW TECH CON IMP PROG (WWTCIP)		2,998		2,998		2,998				2,998
	Comm-Base Communications										
50	INFORMATION SYSTEMS		166,679		166,679		166,679				166,679
51	DEFENSE MESSAGE SYSTEM (DMS).		18,463		18,463		18,463				18,463
52	LOCAL AREA NETWORK (LAN)		103,965		103,965		103,965				103,965
53	PENTAGON INFORMATION MGT AND TELECOM		33,605		33,605		33,605				33,605
	Elect Equip-Nat For Int Prog (NFIP)										
54	FOREIGN COUNTERINTELLIGENCE PROG (FCI)		877		877		877				877
55	GENERAL DEFENSE INTELL PROG (GDIP)		27,994		27,994		27,994				27,994
	Elect Equip-Tact Int Rel Act (TIARA)										
56	ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		46,931		46,931		46,931				46,931
57	JTT/CIBS-M (TIARA)	59	10,345	59	10,345	59	10,345			59	10,345

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
58	PROPHET GROUND (TIARA)	28	15,734	28	15,734	28	15,734			28	15,734
59	TACTICAL UNMANNED AERIAL VEHICLE (TUAV)	12	84,300	12	91,600	12	100,500		-7,300	12	91,600
	Upgrade I RIP sensors for use by Objective Force				[7,300]		[16,200]		[7,300]		
60	JOINT STARS (ARMY) (TIARA)		21,304		21,304		21,304				21,304
61	DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIARA)		20,124		20,124		20,124				20,124
62	DRUG INTERDICTION PROGRAM (DIP) (TIARA)										
63	TACTICAL EXPLOITATION OF NATIONAL CAPABILITIES										
64	TACTICAL EXPLOITATION SYSTEM/DCGS-A (TIARA)		26,168		26,168		26,168				26,168
	Transfer from PE 35208A (RDA 175) - Tactical Surveillance System										
65	COMMON IMAGERY GROUND/SURFACE SYSTEM (CIGSS)		2,611		2,611		2,611				2,611
66	TROJAN (TIARA)		4,895		4,895		4,895				4,895
67	MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)		1,744		1,744		1,744				1,744
68	CI HUMINT AUTOMATED TOOL SET (CHATS) (TIARA)		1,492		1,492		1,492				1,492
69	ITEMS LESS THAN $5.0M (TIARA)		2,091		2,091		2,091				2,091

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Elect Equip-Electronic Warfare (EW)										
70	SHORTSTOP		5		5		5				5
71	COUNTERINTELLIGENCE/SECURITY COUNTERMEASURES		2,306		2,306		2,306				2,306
	Elect Equip-Tactical Surv. (TAC SURV)										
72	FAAD GBS		1,887		1,887		1,887				1,887
73	SENTINEL MODS		30,885		30,885		30,885				30,885
74	NIGHT VISION DEVICES		37,019		37,019		37,019				37,019
75	LONG RANGE ADVANCED SCOUT SURVEILLANCE SYSTEM	80	44,535	80	44,535	80	46,135			80	44,535
	Commander's Remote Display						[1,600]				
76	LTWT VIDEO RECON SYSTEM (LWVRS)	16	1,339	16	1,339	16	1,339			16	1,339
77	NIGHT VISION, THERMAL WPN SIGHT	1643	35,134	1643	35,134	1643	35,134			1643	35,134
78	COMBAT IDENTIFICATION / AIMING LIGHT		8,503		8,503		8,503				8,503
79	ARTILLERY ACCURACY EQUIP		10,413		14,913		10,413				10,413
	AN / TMQ-41 Meteorological Measuring System, ARNG				[4,500]						
80	MOD OF IN-SVC EQUIP (MMS)		935		935		935				935
81	MOD OF IN-SVC EQUIP (MVS)		251		251		251				251

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(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
82	PORTABLE INDUCTIVE ARTILLERY FUZE SETTER										
83	MOD OF IN SVC EQUIP (TAC SURV)		21,478		21,478		21,478				21,478
84	FORCE XXI BATTLE CMD BRIGADE & BELOW (FBCB2)	1655	74,663	1655	74,663	1655	74,663			1655	74,663
85	LIGHTWEIGHT LASER DESIGNATOR / RANGEFINDER	21	7,059	21	7,059	21	7,059			21	7,059
86	COMPUTER BALLISTICS: MORTAR M-30										
87	MORTAR FIRE CONTROL SYSTEM	53	16,785	53	16,785	53	16,785			53	16,785
88	INTEGRATED MET SYS SENSORS (IMETS) - TIARA		2,521		2,521		2,521				2,521
	Elect Equip-Tactical C2 Systems										
89	TACTICAL OPERATIONS CENTERS		38,952		38,952		38,952				38,952
90	ADV FIELD ARTILLERY TACT DATA SYS (AFATDS)		49,476		49,476		49,476				49,476
91	LIGHT WEIGHT TECHNICAL FIRE DIRECTION SYS		1,677		1,677		1,677				1,677
92	CMBT SVC SUPT CONTROL SYS (CSSCS)		25,201		25,201		25,201				25,201
93	FAAD C2		8,900		8,900		8,900				8,900
94	FAADC2I MODIFICATIONS										
95	AIR & MSL DEFENSE PLANNING & CONTROL SYS		10,299		10,299		10,299				10,299
96	FORWARD ENTRY DEVICE (FED)		15,915		15,915		15,915				15,915
97	STRIKER COMMAND AND CONTROL SYSTEM	31	21,442	31	21,442	31	21,442			31	21,442

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
98	LIFE CYCLE SOFTWARE SUPPORT (LCSS)		936		936		936				936
99	LOGTECH		8,212		8,212		8,212				8,212
100	TC AIMS II		25,512		25,512		25,512				25,512
101	GUN LAYING AND POS SYS (GLPS)	131	12,079	131	12,079	131	12,079			131	12,079
102	ISYSCON EQUIPMENT		32,448		32,448		32,448				32,448
103	MANEUVER CONTROL SYSTEM (MCS)	49	6,839	49	6,839	49	6,839			49	6,839
104	STAMIS TACTICAL COMPUTERS (STACOMP)		60,621		60,621		60,921				60,621
	Transfer from PE 23761A (RDA 160) - Future Finance System						[300]				
105	STANDARD INTEGRATED CMD POST SYSTEM		30,513		45,513		30,513				30,513
	Additional Modular Command Post System Tents				[15,000]						
	Elect Equip-Automation										
106	ARMY TRAINING MODERNIZATION		26,312		26,312		26,312				26,312
107	AUTOMATED DATA PROCESSING EQUIP		146,885		146,885		146,885				146,885
108	RESERVE COMPONENT AUTOMATION SYS (RCAS)		89,319		89,319		89,319				89,319
	Elect Equip-Audio Visual Sys (A/V)										
109	SPECIAL INFORMATION OPERATIONS (SIO) (TIARA)		206		206		206				206
110	AFRTS		2,481		2,481		2,481				2,481
111	ITEMS LESS THAN $5.0M (A/V)		5,778		5,778		5,778				5,778
112	ITEMS LESS THAN $5M (SURVEYING EQUIPMENT)		631		631		631				631

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Elect Equip-Support										
113	PRODUCTION BASE SUPPORT (C-E)		419		419		419				419
	Other Support Equipment										
	Chemical Defensive Equipment										
114	SMOKE & OBSCURANT FAMILY: SOF (NON AAO ITEM)		23,547		23,547		23,547				23,547
	Bridging Equipment										
115	TACTICAL BRIDGING, DRY SUPPORT		25,752		25,752		25,752				25,752
116	TACTICAL BRIDGE, FLOAT RIBBON		48,181		59,381		48,181		11,200		59,381
	Accelerate Fielding of 2 ARNG Multi role Bridge Companies				[11,200]				[11,200]		
	Engineer (Non-construction) Equipment										
117	DISPENSER, MINE M139		2,400		2,400		2,400				2,400
118	KIT, STANDARD TELEOPERATING										
119	GRND STANDOFF MINE DETECTION SYSTEM (GSTAMIDS)		13,272		13,272		13,272				13,272
120	WIDE AREA MUNITIONS (REMOTE CONTROL UNIT)	274	3,317	274	3,317	274	3,317			274	3,317
121	EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD EQPMT)	11207	4,058	11207	4,058	11207	4,058			11207	4,058

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
122	< $5M, COUNTERMINE EQUIPMENT		156		156		156				156
123	BN COUNTERMINE SIP										
	Combat Service Support Equipment										
124	HEATERS AND ECUS		5,082		5,082		5,082				5,082
125	LAUNDRIES, SHOWERS AND LATRINES		23,232		28,232		23,232		5,000		28,232
	Additional Laundry Advanced Systems				[5,000]				[5,000]		
126	SOLDIER ENHANCEMENT		3,148		3,148		3,148				3,148
127	LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)	276	3,636	276	18,636	276	3,636		3,000	276	6,636
	Additional LMEs				[15,000]				[3,000]		
128	FORCE PROVIDER										
129	FIELD FEEDING AND REFRIGERATION		7,043		7,043		7,043				7,043
130	AIR DROP PROGRAM										
131	CAMOUFLAGE, ULCANS				10,000						
132	ITEMS LESS THAN $5.0M (CSS-EQ)		4,001		4,001		4,001				4,001
	Petroleum Equipment										
133	FAMILY OF TANK ASSEMBLIES, FABRIC, COLLAPSIBLE										
134	QUALITY SURVEILLANCE EQUIPMENT		7,694		7,694		7,694				7,694
135	DISTRIBUTION SYSTEMS, PETROLEUM & WATER		18,294		18,294		18,294				18,294

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
136	PUMPS, WATER AND FUEL										
137	ASSAULT HOSELINE SYSTEM	35	5,361	35	5,361	35	5,361			35	5,361
138	INLAND PETROLEUM DISTRIBUTION SYSTEM		1,706		1,706		1,706				1,706
139	ITEMS LESS THAN $5.0M (POL)										
	Water Equipment										
140	WATER PURIFICATION SYSTEMS		39,289		39,289		39,289				39,289
141	ITEMS LESS THAN $5.0M (WATER EQ)										
	Medical Equipment										
142	COMBAT SUPPORT MEDICAL		16,731		23,731		16,731				16,731
	Rapid IV Pumps				[6,000]						
	Temper Tents, USAR				[1,000]						
	Maintenance Equipment										
143	SHOP EQ CONTACT MAINTENANCE TRK MTD (MYP)	160	9,979	160	9,979	160	9,979			160	9,979
144	WELDING SHOP, TRAILER MTD	144	6,053	144	6,053	144	6,053			144	6,053
145	ITEMS LESS THAN $5.0M (MAINT EQ)		2,617		2,617		2,617				2,617
146	STEAM CLEANER, TRAILER MOUNTED										
	Construction Equipment										
147	SCRAPER, EARTHMOVING, 7 1/2 CU YD		7,230		13,230		7,230		6,000		13,230
	Commercial, Self-propelled Elevating Scrapers				[6,000]				[6,000]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
148	DISTR, WATER, SP MIN 2500G SEC/NON-SEC	28	1,006	28	5,006	28	1,006			28	1,006
	2000G Module Water Distributors				[4,000]						
149	MISSION MODULES - ENGINEERING		6,121		6,121		6,121				6,121
150	COMPACTOR	50	4,589	50	4,589	50	4,589			50	4,589
151	LOADERS		12,669		12,669		12,669				12,669
152	HYDRAULIC EXCAVATOR	21	4,589	21	4,589	21	4,589			21	4,589
153	DEPLOYABLE UNIVERSAL COMBAT EARTH MOVERS		5,301		21,301		5,301		16,000		21,301
	War Reserve & Production Base Support				[16,000]				[16,000]		
154	TRACTOR, FULL TRACKED		2,018		2,018		2,018				2,018
155	CRANES		22,029		22,029		22,029				22,029
156	CRUSHING/SCREENING PLANT, 150 TPH	2	4,474	2	4,474	2	4,474			2	4,474
157	PLANT, ASPHALT MIXING	1	2,013	1	2,013	1	2,013			1	2,013
158	ARMORED COMBAT EARTHMOVER, M9 ACE	1	1,107	1	1,107	1	1,107			1	1,107
159	TACTICAL RAPID EXCAVATION SYSTEM (TRE	1	5,031	1	5,031	1	5,031			1	5,031
160	CONST EQUIP ESP		12,974		12,974		12,974				12,974
161	ITEMS LESS THAN $5.0M (CONST EQUIP)		12,428		12,428		12,428				12,428
	Rail Float Containerization Equipment										
162	SMALL TUG										
163	FLOATING CRANE, 100-250 TON										

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(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
164	LOGISTIC SUPPORT VESSEL (LSV)	1	25,437	1	25,437	1	25,437			1	25,437
165	LOGISTICS SUPPORT VESSEL (ESP)										
166	CAUSEWAY SYSTEMS										
167	RAILWAY CAR, FLAT, 89 FOOT										
168	ITEMS LESS THAN $5.0M (FLOAT/RAIL)		3,254		3,254		3,254				3,254
	Generators										
169	GENERATORS AND ASSOCIATED EQUIP		59,768		59,768		59,768				59,768
	Material Handling Equipment										
170	ROUGH TERRAIN CONTAINER HANDLER (RTC	84	43,353	84	43,353	84	43,353			84	43,353
171	ALL TERRAIN LIFTING ARMY SYSTEM	145	21,062	145	21,062	145	21,062			145	21,062
172	MHE EXTENDED SERVICE PROGRAM (ESP)	5	1,007	5	1,007	5	1,007			5	1,007
173	ROUGH TERRAIN CONTAINER CRANE										
174	ITEMS LESS THAN $5.0M (MHE)		481		481		481				481
	Training Equipment										
175	CTC INSTRUMENTATION SUPPORT		10,307		16,307		10,307		6,000		16,307
	Deploy Force-on-force Instrum Range Sys (DFIRST), ARNG				[6,000]				[6,000]		

Title I - Procurement

(Dollars in Thousands)

Line	Program	FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
176	TRAINING DEVICES, NONSYSTEM		74,481		111,681		74,481		14,500		88,981
	Army Aviation Institutional Training Simulator, (AAITS)				[20,000]				[5,000]		
	BEAMHIT, USAR				[14,200]				[7,000]		
	Fire Fighter Training System				[3,000]				[2,500]		
177	CLOSE COMBAT TACTICAL TRAINER		36,783		36,783		36,783				36,783
178	AVIATION COMBINED ARMS TACTICAL TRAINER (AVCAT)		25,227		25,227		25,227				25,227
179	FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER										
	Test Measure and Dig Equipment (TMD)										
180	CALIBRATION SETS EQUIPMENT		16,001		16,001		16,001				16,001
181	INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)		52,397		52,397		52,397				52,397
182	TEST EQUIPMENT MODERNIZATION (TEMOD)		15,655		15,655		15,655				15,655
183	ARMY DIAGNOSTICS IMPROVEMENT PGM (ADIP)		18,344		18,344		18,344				18,344
	Other Support Equipment										
184	RECONFIGURABLE SIMULATORS		365		365		365				365
185	PHYSICAL SECURITY SYSTEMS (OPA3)		69,227		69,227		69,227				69,227
186	BASE LEVEL COM'L EQUIPMENT		8,696		8,696		8,696				8,696
187	MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)		32,468		32,468		32,468				32,468

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(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
188	PRODUCTION BASE SUPPORT (OTH)		2,545		2,545		2,545				2,545
189	SPECIAL EQUIPMENT FOR USER TESTING		16,400		32,400		16,400		12,000		28,400
	XM Target Acquisition Radar-Agile Multi-beam (XMTARAMB)				[12,000]				[12,000]		
	Target Receiver Injection Module Threat Simulator				[4,000]						
190	MA8975		6,057		6,057		6,057				6,057
191	CLOSED ACCOUNT ADJUSTMENTS										
	Spares and Repair Parts										
192	INITIAL SPARES - TSV										
193	INITIAL SPARES - C&E		43,093		43,093		43,093				43,093
194	INITIAL SPARES - OTHER SUPPORT EQUIPMENT		971		971		971				971
194a	Management Reform Initiatives								(16,706)		(16,706)
	Total - Other Procurement, Army		3,961,737		4,143,986		4,024,486		82,343		4,044,080

Chemical Agents and Munitions Destruction, Army—Overview

The budget request for fiscal year 2002 included an authorization of $1.153.6 million for Chemical Agents & Munitions Destruction, Army in the Department of Defense.

The Senate bill would authorize $1,153.6 million for Chemical Agents & Munitions Destruction, Defense.

The House amendment would authorize $1.078.6 million for Chemical Agents & Munitions Destruction, Defense.

The conferees recommended an authorization of $1,153.6 million for Chemical Agents & Munitions Destruction, Defense. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

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(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Chemical Agents & Munitions Destruction, Army										
1	CHEM DEMILITARIZATION - RDTE		200,379						(200,379)		
	Transfer to CAMD, D - Comply with 50 USC 1521				[-192,879]		[-200,379]		[-200,379]		
	Program reduction				[-7,500]						
2	CHEM DEMILITARIZATION - PROC		164,158						(164,158)		
	Transfer to CAMD, D - Comply with 50 USC 1521				[-157,158]		[-164,158]		[-164,158]		
	Program reduction				[-7,000]						
3	CHEM DEMILITARIZATION - O&M		789,020						(789,020)		
	Transfer to CAMD, D - Comply with 50 USC 1521				[-728,520]		[-789,020]		[-789,020]		
	Program reduction				[-60,500]						
	Total - Chemical Agents & Munitions Destruction, Army		1,153,557						(1,153,557)		

Aircraft Procurement, Navy—Overview

The budget request for fiscal year 2002 included an authorization of $8,252.5 million for Aircraft Procurement, Navy in the Department of Defense.

The Senate bill would authorize $8,169.0 million.

The House amendment would authorize $8,337.2 million.

The conferees recommended an authorization of $8,323.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Navy										
	Combat Aircraft										
1	AV-8B (V/STOL)HARRIER (MYP)										
2	AV-8B (V/STOL)HARRIER (MYP) (AP-CY)										
3	F/A-18E/F (FIGHTER) HORNET (MYP)	48	3,067,522	48	3,067,522	48	3,082,522		13,000	48	3,080,522
	Accelerate IDECM Purchases						[15,000]		[13,000]		
4	F/A-18E/F (FIGHTER) HORNET (MYP) (AP-CY)		88,876		88,876		88,876				88,876
5	V-22 (MEDIUM LIFT)	12	1,009,881	12	1,009,881	9	783,181	-1	(50,000)	11	959,881
6	V-22 (MEDIUM LIFT) (AP-CY)		48,428		48,428		48,428				48,428
7	AH-1W (HELICOPTER) SEA COBRA		1,383		1,383		1,383				1,383
8	SH-60R		25,064		25,064		25,064				25,064
9	E-2C (EARLY WARNING) HAWKEYE (MYP)	5	242,746	5	242,746	5	242,746			5	242,746
10	E-2C (EARLY WARNING) HAWKEYE (MYP) (AP-CY)		36,191		36,191		36,191				36,191
	Airlift Aircraft										
11	CH-60S (MYP)	13	181,957	11	181,957	13	181,957				181,957
12	CH-60S (MYP) (AP-CY)		64,212		64,212		64,212				64,212
13	UC-35										
14	C-40A										
15	C-37										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Trainer Aircraft										
16	T-45TS (TRAINER) GOSHAWK	6	179,331	6	192,331	6	179,331		6,500	6	185,831
	Operational Flight Trainers				[13,000]				[6,500]		
17	T-45TS (TRAINER) GOSHAWK (AP-CY)										
18	JPATS					10	44,600	7	31,500	7	31,500
	Other Aircraft										
19	KC-130J	4	299,047	4	299,047	4	299,047			4	299,047
	Modification of Aircraft										
20	EA-6 SERIES		137,645		137,645		191,645		25,000		162,645
	Band 9 / 10 Transmitters						[38,000]		[25,000]		
	Wing Center Sections						[16,000]				
21	AV-8 SERIES		49,541		79,541		85,541		30,000		79,541
	Litening II+ Targeting Pods				[30,000]		[36,000]		[30,000]		
22	F-14 SERIES		4,504		4,504		4,504				4,504
23	ADVERSARY		34,769		34,769		34,769				34,769
24	F-18 SERIES		193,206		193,206		193,206				193,206
25	H-46 SERIES		38,664		38,664		38,664				38,664
26	AH-1W SERIES		10,821		10,821		10,821				10,821
27	H-53 SERIES		16,541		16,541		16,541				16,541

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
28	SH-60 SERIES		1,735		15,935		1,735		3,000		4,735
	AQS-13F Sonar Upgrades				[11,000]				[3,000]		
	Advanced Helicopter Emergency Egress Lighting System				[3,200]						
29	H-1 SERIES		1,149		1,149		1,149				1,149
30	H-3 SERIES		4,191		4,191		4,191				4,191
31	EP-3 SERIES		123,747		123,747		123,747				123,747
32	P-3 SERIES		113,191		113,191		209,191		15,000		128,191
	AIP Upgrades						[60,000]		[15,000]		
	BMUP Upgrades						[27,000]				
	CNS / ATM Upgrades						[9,000]				
33	S-3 SERIES		43,242		43,242		43,242				43,242
34	E-2 SERIES		14,636		39,636		14,636		25,000		39,636
	Mission Computer Upgrade A / C Conversion to Hawkeye 2000				[25,000]				[25,000]		
35	TRAINER A/C SERIES		5,155		5,155		5,155				5,155
36	C-2A		27,369		24,369		27,369				27,369
	Component installation cost growth				[-3,000]						
37	C-130 SERIES		5,407		5,407		5,407				5,407
38	FEWSG		643		643		643				643

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
39	CARGO/TRANSPORT A/C SERIES		4,224		4,224		4,224				4,224
40	E-6 SERIES		74,847		74,847		74,847				74,847
41	EXECUTIVE HELICOPTERS SERIES		16,183		16,183		16,183				16,183
42	SPECIAL PROJECT AIRCRAFT		3,088		3,088		3,088				3,088
43	T-45 SERIES		12,778		12,778		12,778				12,778
44	POWER PLANT CHANGES		13,083		13,083		13,083				13,083
45	COMMON ECM EQUIPMENT		33,315		31,315		33,315				33,315
	ALR-67 support costs				[-2,000]						
46	COMMON AVIONICS CHANGES		65,147		65,147		65,147				65,147
47	V-22 (TILT/ROTOR ACFT) OSPREY		35,000		35,000		35,000				35,000
	Aircraft Spares and Repair Parts										
48	SPARES AND REPAIR PARTS		1,420,252		1,420,252		1,321,252		(20,000)		1,400,252
	V-22 Spares						[-99,000]		[-20,000]		
	Aircraft Support Equipment and Facilities										
49	COMMON GROUND EQUIPMENT		332,926		332,926		332,926				332,926
50	AIRCRAFT INDUSTRIAL FACILITIES		18,219		22,719		18,219		4,500		22,719
	Calibration test equipment				[4,500]				[4,500]		
51	WAR CONSUMABLES		12,585		12,585		12,585				12,585
52	OTHER PRODUCTION CHARGES		27,637		30,637		27,637		3,000		30,637
	TARPS-CD				[3,000]				[3,000]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change -		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
53	SPECIAL SUPPORT EQUIPMENT		110,897		110,897		110,897				110,897
54	FIRST DESTINATION TRANSPORTATION		1,568		1,568		1,568				1,568
55	CANCELED ACCOUNT ADJUSTMENTS (M)										
55a	General Reduction						(3,400)		(3,400)		(3,400)
	Transfer to APAF 12 - Fix USAF JPATS Pricing Problem						[-3,400]		[-3,400]		
55b	Management Reform Initiatives								(12,496)		(12,496)
	Total - Aircraft Procurement, Navy		8,252,543		8,337,243		8,169,043		70,604		8,323,147

Weapons Procurement, Navy—Overview

The budget request for fiscal year 2002 included an authorization of $1,433.5 million for Weapons Procurement, Navy in the Department of Defense.

The Senate bill would authorize $1,503.5 million.

The House amendment would authorize $1,476.7 million.

The conferees recommended an authorization of $1,484.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Weapons Procurement, Navy										
	Ballistic Missiles										
1	TRIDENT II	12	559,042	12	559,042	12	559,042			12	559,042
2	TRIDENT II (AP-CY)		8,727		8,727		8,727				8,727
	Support Equipment and Facilities										
3	MISSILE INDUSTRIAL FACILITIES		1,275		1,275		1,275				1,275
	Theater Ballistic Missile Defense										
4	NAVY AREA MISSILE DEFENSE		6,983				6,983		(6,983)		
	Transfer to PDW, BMDO				[-6,983]				[-6,983]		
	Other Missiles										
	Strategic Missiles										
5	TOMAHAWK	34	50,101	34	70,101	34	50,101		15,000	34	65,101
	Tooling & Test Equipment				[20,000]				[15,000]		
6	ESSM	38	45,017	38	45,017	38	45,017			38	45,017
	Tactical Missiles										
7	AMRAAM	57	40,028	57	40,028	57	40,028			57	40,028
8	SIDEWINDER	105	27,310	105	27,310	105	27,310			105	27,310
9	JSOW										
10	SLAM-ER	30	26,174	30	26,174	30	26,174			30	26,174
11	STANDARD MISSILE	91	195,404	91	195,404	91	195,404	5		96	195,404

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
12	RAM	90	43,024	90	43,024	90	43,024			90	43,024
13	HELLFIRE				25,000	250	20,000	250	20,000	250	20,000
14	PENGUIN										
15	AERIAL TARGETS		66,349		66,349		66,349				66,349
16	DRONES AND DECOYS										
17	OTHER MISSILE SUPPORT		15,840		15,840		15,840				15,840
	Modification of Missiles										
18	SIDEWINDER MODS		802		802		802				802
19	HARM MODS										
20	STANDARD MISSILES MODS		35,353		35,353		35,353				35,353
	Support Equipment and Facilities										
21	WEAPONS INDUSTRIAL FACILITIES		17,247		17,247		37,247		15,000		32,247
	Allegany Ballistics Lab Facilities Restoration						[20,000]		[15,000]		
22	FLEET SATELLITE COMM (MYP) (SPACE)										
23	FLEET SATELLITE COMM FOLLOW ON		77,840		77,840		77,840				77,840
	Ordnance Support Equipment										
24	ORDNANCE SUPPORT EQUIPMENT		4,210		4,210		4,210				4,210
	Torpedoes and Related Equipment										
	Torpedoes and Related Equipment										
25	ASW TARGETS		15,335		15,335		15,335				15,335

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Mod of Torpedoes and Related Equipment										
26	MK-46 TORPEDO MODS		7,444		7,444		7,444				7,444
27	MK-48 TORPEDO ADCAP MODS		42,386		42,386		42,386				42,386
28	QUICKSTRIKE MINE		3,899		3,899		3,899				3,899
	Support Equipment										
29	TORPEDO SUPPORT EQUIPMENT		30,025		30,025		30,025				30,025
30	ASW RANGE SUPPORT		14,861		14,861		14,861				14,861
	Destination Transportation										
31	FIRST DESTINATION TRANSPORTATION		2,802		2,802		2,802				2,802
	Other Weapons										
	Guns and Gun Mounts										
32	SMALL ARMS AND WEAPONS		910		6,110		910				910
	MK 46 Mod 0 Machine Gun				[5,200]						
	Modification of Guns and Gun Mounts										
33	CIWS MODS		40,503		40,503		55,503		5,000		45,503
	Block 1B modifications						[15,000]		[5,000]		
34	5/54 GUN MOUNT MODS										
35	MK-75 76MM GUN MOUNT MODS										
36	GUN MOUNT MODS		5,748		5,748		20,748		5,000		10,748
	5"/54 for Cruiser Conversion and other mods						[15,000]		[5,000]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
37	MODS UNDER $2 MILLION										
	Other										
38	PIONEER										
39	CANCELED ACCOUNT ADJUSTMENTS										
40	CANCELED ACCOUNT ADJUSTMENTS										
41	PRIOR YEAR DEFICIENCIES										
42	CANCELED ACCOUNT ADJ (88)										
43	CANCELED ACCOUNT ADJ (89)										
	Spares and Repair Parts										
44	SPARES AND REPAIR PARTS		48,836		48,836		48,836				48,836
44a	Management Reform Initiatives								(2,171)		(2,171)
	Total - Weapons Procurement, Navy		1,433,475		1,476,692		1,503,475		50,846		1,484,321

Procurement of Ammunition, Navy and Marine Corps—Overview

The budget request for fiscal year 2002 included an authorization of $457.1 million for Procurement of Ammunition, Navy and Marine Corps in the Department of Defense.

The Senate bill would authorize $476.1 million.

The House amendment would authorize $463.6 million.

The conferees recommended an authorization of $466.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Procurement of Ammunition, Navy & Marine Corps										
	Navy Ammunition										
1	GENERAL PURPOSE BOMBS		65,155		65,155		65,155				65,155
2	CANCELLED ACCOUNT ADJUSTMENTS										
3	JDAM	1417	41,133	1417	41,133	1417	41,133			1417	41,133
4	2.75 INCH ROCKETS										
5	AIRBORNE ROCKETS, ALL TYPES		21,138		21,138		21,138				21,138
6	MACHINE GUN AMMUNITION		16,423		16,423		16,423				16,423
7	PRACTICE BOMBS		35,019		35,019		35,019				35,019
8	CARTRIDGES & CART ACTUATED DEVICES		26,697		26,697		26,697				26,697
9	AIRCRAFT ESCAPE ROCKETS		10,784		10,784		10,784				10,784
10	AIR EXPENDABLE COUNTERMEASURES		36,403		42,903		36,403		6,500		42,903
	Additional MJU 52				[6,500]				[6,500]		
11	JATOS		4,771		4,771		4,771				4,771
12	5 INCH/54 GUN AMMUNITION		12,009		12,009		12,009				12,009
13	EXTENDED RANGE GUIDED MUNITIONS (ERGM)		5,151		5,151		5,151				5,151
14	76MM GUN AMMUNITION		990		990		990				990
15	OTHER SHIP GUN AMMUNITION		7,318		7,318		7,318				7,318
16	SMALL ARMS & LANDING PARTY AMMO		8,878		8,878		8,878				8,878
17	PYROTECHNIC AND DEMOLITION		8,439		8,439		8,439				8,439

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
18	MINE NEUTRALIZATION DEVICES		4,985		4,985		4,985				4,985
19	AMMUNITION LESS THAN $5 MILLION		1,343		1,343		1,343				1,343
20	CAWCF CLOSURE COSTS		6,993		6,993		6,993				6,993
	Marine Corps Ammunition										
21	5.56 MM, ALL TYPES		9,402		9,402		9,402				9,402
22	7.62 MM, ALL TYPES		7,395		7,395		7,395				7,395
23	LINEAR CHARGES, ALL TYPES		18,957		18,957		18,957				18,957
24	.50 CALIBER		6,225		6,225		6,225				6,225
25	40 MM, ALL TYPES		5,857		5,857		5,857				5,857
26	60MM, ALL TYPES		2,699		2,699		2,699				2,699
27	81MM, ALL TYPES		6,669		6,669		6,669				6,669
28	120MM, ALL TYPES		7,639		7,639		7,639				7,639
29	CTG 25MM, ALL TYPES		6,031		6,031		6,031				6,031
30	9 MM ALL TYPES		2,832		2,832		2,832				2,832
31	GRENADES, ALL TYPES		10,533		10,533		10,533				10,533
32	STINGER SLEP		7,330		7,330		7,330				7,330
33	ROCKETS, ALL TYPES		4,794		4,794		4,794				4,794
34	ARTILLERY, ALL TYPES		24,488		24,488		34,488		4,000		28,488
	155mm M795 HE						[10,000]		[4,000]		
35	DEMOLITION MUNITIONS, ALL TYPES		2,925		2,925		2,925				2,925

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
36	FUZE, ALL TYPES										
37	NON LETHALS		4,461		4,461		4,461				4,461
38	AMMO MODERNIZATION		7,019		7,019		7,019				7,019
39	ITEMS LESS THAN $5 MILLION		1,014		1,014		1,014				1,014
40	CAWCF CLOSURE COSTS		7,200		7,200		7,200				7,200
40a	Undistributed						9,000				
40b	Management Reform Initiatives								(692)		(692)
	Total - Procurement of Ammunition, Navy & Marine Corps		457,099		463,599		476,099		9,808		466,907

Shipbuilding and Conversion, Navy—Overview

The budget request for fiscal year 2002 included an authorization of $9,344.1 million for Shipbuilding and Conversion, Navy in the Department of Defense.

The Senate bill would authorize $9,522.1 million.

The House amendment would authorize $9,378.2 million.

The conferees recommended an authorization of $9,371.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
Line No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Shipbuilding and Conversion, Navy										
	Other Warships										
1	CARRIER REPLACEMENT PROGRAM										
2	CARRIER REPLACEMENT PROGRAM (AP-CY)		138,890		138,890		138,890				138,890
3	SSGN (AP-CY)		86,440		137,440		264,440		51,000		137,440
	Four boat SSGN program				[51,000]		[178,000]		[51,000]		
4	VIRGINIA CLASS SUBMARINE	1	1,608,914	1	1,608,914	1	1,608,914			1	1,608,914
5	VIRGINIA CLASS SUBMARINE (AP-CY)		684,288		684,288		684,288				684,288
6	CVN REFUELING OVERHAULS	1	1,118,124	1	1,175,224	1	1,118,124		57,000	1	1,175,124
	CVN-69 RCOH				[57,100]				[57,000]		
7	CVN REFUELING OVERHAULS (AP-CY)		73,707		73,707		73,707				73,707
8	SUBMARINE REFUELING OVERHAULS	2	382,265	2	382,265	2	382,265			2	382,265
9	SUBMARINE REFUELING OVERHAULS (AP-CY)		77,750		77,750		77,750				77,750
10	DDG-51	3	2,966,036	3	2,966,036	3	2,966,036			3	2,966,036
11	DDG-51 (AP-CY)										
	Amphibious Ships										
12	LHD-1 AMPHIBIOUS ASSAULT SHIP	1	267,238	1	267,238	1	267,238			1	267,238
13	LHD-1 AMPHIBIOUS ASSAULT SHIP (AP-CY)										
14	LPD-17										
15	LPD-17 (AP-CY)		421,330		421,330		421,330				421,330

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Auxiliaries, Craft and Prior Year Program Costs										
16	ADC(X)	1	370,818	1	370,818	1	370,818			1	370,818
17	LCAC LANDING CRAFT										
18	OUTFITTING		307,230		297,230		307,230				307,230
	Delete Funds Budgeted for FY 02 Starts & FY 03 Deliveries				[-10,000]						
19	LCAC SLEP	2	41,091	2	41,091	2	41,091			2	41,091
20	COMPLETION OF PY SHIPBUILDING PROGRAMS		800,000		725,000		800,000		(75,000)		725,000
	Offset for LPD-17 Supplemental Appropriations				[-75,000]				[-75,000]		
20a	Mine Hunter SWATH				2,000				2,000		2,000
	Purchase Small MCM Boat				[2,000]				[2,000]		
20b	Yard Oilers			3	9,000				6,000		6,000
	Additional yard oilers				[9,000]				[6,000]		
20c	Management Reform Initiatives								(14,149)		(14,149)
	Total - Shipbuilding and Conversion, Navy		9,344,121		9,378,221		9,522,121		26,851		9,370,972

Other Procurement, Navy—Overview

The budget request for fiscal year 2002 included an authorization of $4,097.6 million for Other Procurement, Navy in the Department of Defense.

The Senate bill would authorize $4,293.5 million.

The House amendment would authorize $4,157.3 million.

The conferees recommended an authorization of $4,282.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Other Procurement, Navy										
	Ships Support Equipment										
	Ship Propulsion Equipment										
1	LM-2500 GAS TURBINE		7,083		7,083		7,083				7,083
2	ALLISON 501K GAS TURBINE		6,896		6,896		6,896				6,896
	Propellers										
3	SUBMARINE PROPELLERS		4,460		4,460		4,460				4,460
	Navigation Equipment										
4	OTHER NAVIGATION EQUIPMENT		45,946		55,946		52,946		11,500		57,446
	MSC Force Protection Thermal Imaging System				[10,000]				[7,500]		
	AN/WSN-7B						[7,000]		[4,000]		
	Underway Replenishment Equipment										
5	UNDERWAY REPLENISHMENT EQUIPMENT		1,802		1,802		1,802				1,802
	Periscopes										
6	SUB PERISCOPES & IMAGING EQUIPMENT		29,240		29,240		29,240				29,240
	Other Shipboard Equipment										
7	FIREFIGHTING EQUIPMENT		17,539		17,539		17,539				17,539
8	COMMAND AND CONTROL SWITCHBOARD		9,139		9,139		9,139				9,139
9	POLLUTION CONTROL EQUIPMENT		66,958		66,958		66,958				66,958
10	SUBMARINE SUPPORT EQUIPMENT		6,796		6,796		6,796				6,796

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement			
								Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
11	SUBMARINE BATTERIES		10,891		10,891		10,891				10,891
12	STRATEGIC PLATFORM SUPPORT EQUIPMENT		11,276		11,276		11,276				11,276
13	DSSP EQUIPMENT		7,498		7,498		7,498				7,498
14	LCAC										
15	MINESWEEPING EQUIPMENT		20,168		20,168		20,168				20,168
16	ITEMS LESS THAN $5 MILLION		79,285		79,285		86,185		4,600		83,885
	Integrated Condition Assessment (ICAS) System						[5,300]		[3,000]		
	Engineering Control & Surveillance System						[1,600]		[1,600]		
17	SURFACE IMA										
18	SUBMARINE LIFE SUPPORT SYSTEM		4,940		4,940		4,940				4,940
	Reactor Plant Equipment										
19	REACTOR COMPONENTS		208,849		208,849		320,849		112,000		320,849
	Reactor Core Funding to Support 4 Conversions						[112,000]		[112,000]		
	Ocean Engineering										
20	DIVING AND SALVAGE EQUIPMENT		5,712		5,712		5,712				5,712
21	EOD UNDERWATER EQUIPMENT										
	Small Boats										
22	STANDARD BOATS		32,151		35,351		32,151				32,151
	Rigid Inflatable EOD Boats				[3,200]						

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement			
								Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Training Equipment										
23	OTHER SHIPS TRAINING EQUIPMENT		16,772		16,772		16,772				16,772
	Production Facilities and Equipment										
24	OPERATING FORCES IPE		27,522		28,022		27,522				27,522
	Expeditionary Maintenance Facilities				[500]						
	Other Ship Support										
25	NUCLEAR ALTERATIONS		121,105		121,105		121,105				121,105
	Drug Interdiction Support										
26	DRUG INTERDICTION SUPPORT										
	Communications and Electronics Equipment										
	Ship Radars										
27	AN/SPS-49										
28	RADAR SUPPORT				15,000				5,000		5,000
	MK-92 Mod 1 Upgrade to Mod 2 Configuration				[15,000]				[5,000]		
29	TISS										
	Ship Sonars										
30	AN/SQQ-89 SURF ASW COMBAT SYSTEM		16,561		16,561		16,561				16,561
31	SSN ACOUSTICS		113,016		113,016		113,016				113,016
32	UNDERSEA WARFARE SUPPORT EQUIPMENT		4,263		4,263		4,263				4,263
33	SURFACE SONAR WINDOWS AND DOME										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement			
								Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
34	SONAR SUPPORT EQUIPMENT										
35	SONAR SWITCHES AND TRANSDUCERS		10,808		10,808		10,808				10,808
	ASW Electronic Equipment										
36	SUBMARINE ACOUSTIC WARFARE SYSTEM		12,624		12,624		12,624				12,624
37	FIXED SURVEILLANCE SYSTEM		33,692		33,692		33,692				33,692
38	SURTASS		17,650		17,650		17,650				17,650
39	ASW OPERATIONS CENTER		6,059		6,059		6,059				6,059
	Electronic Warfare Equipment										
40	AN/SLQ-32		1,971		1,971		1,971				1,971
41	INFORMATION WARFARE SYSTEMS		2,908		2,908		2,908				2,908
	Reconnaissance Equipment										
42	SHIPBOARD IW EXPLOIT		57,535		57,535		57,535				57,535
43	COMMON HIGH BANDWIDTH DATA LINK										
	Submarine Surveillance Equipment										
44	SUBMARINE SUPPORT EQUIPMENT PROGRAM		22,928		22,928		22,928				22,928
	Other Ship Electronic Equipment										
45	NAVY TACTICAL DATA SYSTEM										
46	COOPERATIVE ENGAGEMENT CAPABILITY		77,133		77,133		77,133				77,133
47	GCCS-M EQUIPMENT		61,085		61,085		61,085				61,085

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
48	NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS)		42,826		42,826		42,826				42,826
49	ATDLS		9,965		9,965		9,965				9,965
50	MINESWEEPING SYSTEM REPLACEMENT		8,903		8,903		13,903		5,000		13,903
	High resolution side scan sonar						[5,000]		[5,000]		
51	SHALLOW WATER MCM										
52	NAVSTAR GPS RECEIVERS (SPACE)		9,857		9,857		9,857				9,857
53	ARMED FORCES RADIO AND TV		14,609		14,609		14,609				14,609
54	STRATEGIC PLATFORM SUPPORT EQUIPMENT		11,361		11,361		11,361				11,361
	Training Equipment										
55	OTHER SPAWAR TRAINING EQUIPMENT		1,793		1,793		1,793				1,793
56	OTHER TRAINING EQUIPMENT		37,225		41,225		41,225		2,000		39,225
	Battle Force Tactical Trainer (BFTT) - Air Traffic Control				[4,000]						
	Tactical Communications Onboard Trainer for BFTT						[4,000]		[2,000]		
	Aviation Electronic Equipment										
57	MATCALS		1,005		1,005		1,005				1,005
58	SHIPBOARD AIR TRAFFIC CONTROL		8,036		8,036		8,036				8,036
59	AUTOMATIC CARRIER LANDING SYSTEM		15,617		15,617		15,617				15,617

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No.	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
60	NATIONAL AIR SPACE SYSTEM		43,618		43,618		43,618				43,618
61	AIR STATION SUPPORT EQUIPMENT		7,421		7,421		7,421				7,421
62	MICROWAVE LANDING SYSTEM		5,409		5,409		5,409				5,409
63	FACSFAC		1,151		1,151		1,151				1,151
64	ID SYSTEMS		18,310		17,310		18,310				18,310
	Unjustified cost increases				[-1,000]						
65	SURFACE IDENTIFICATION SYSTEMS										
66	TAC A/C MISSION PLANNING SYS (TAMPS)		13,411		13,411		13,411				13,411
	Other Shore Electronic Equipment										
67	GCCS-M EQUIPMENT ASHORE										
68	TADIX-B										
69	NAVAL SPACE SURVEILLANCE SYSTEM		4,898		4,898		4,898				4,898
70	GCCS-M EQUIPMENT TACTICAL/MOBILE										
71	COMMON IMAGERY GROUND SURFACE SYSTEMS		58,446		58,446		58,446				58,446
72	RADIAC		7,876		7,876		7,876				7,876
73	GPETE		4,727		4,727		4,727				4,727
74	INTEG COMBAT SYSTEM TEST FACILITY		4,502		4,502		4,502				4,502
75	EMI CONTROL INSTRUMENTATION		5,162		5,162		5,162				5,162

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
76	ITEMS LESS THAN $5 MILLION		6,332		6,332		29,332		10,000		16,332
	AN / SPS-73 (V)						[14,000]		[5,000]		
	AN / BPS-15H Integration into TIDS						[9,000]		[5,000]		
	Shipboard Communications										
77	SHIPBOARD TACTICAL COMMUNICATIONS										
78	SHIP COMMUNICATIONS AUTOMATION		121,242		121,242		121,242				121,242
79	SHIP COMM ITEMS UNDER $5 MILLION										
80	COMMUNICATIONS ITEMS UNDER $5M		24,278		24,278		24,278				24,278
	Submarine Communications										
81	SHORE LF/VLF COMMUNICATIONS		17,517		17,517		17,517				17,517
82	SUBMARINE COMMUNICATION EQUIPMENT		89,309		89,309		89,309				89,309
	Satellite Communications										
83	SATCOM SHIP TERMINALS (SPACE)										
84	SATELLITE COMMUNICATIONS SYSTEMS		198,143		213,143		198,143		12,000		210,143
	Digital Modular Radio				[15,000]				[12,000]		
85	SATCOM SHORE TERMINALS (SPACE)										
	Shore Communications										
86	JCS COMMUNICATIONS EQUIPMENT		4,623		4,623		4,623				4,623
87	ELECTRICAL POWER SYSTEMS		1,301		1,301		1,301				1,301
88	NSIPS		14,232		14,232		14,232				14,232

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
89	JEDMICS										
90	NAVAL SHORE COMMUNICATIONS .		66,772		66,772		66,772				66,772
	Cryptographic Equipment										
91	INFO SYSTEMS SECURITY PROGRAM (ISSP)		78,170		88,170		78,170				81,170
	Additional Secure Terminal Equipment								3,000		
	Cryptologic Equipment				[10,000]				[3,000]		
92	SPECIAL DCP										
93	CRYPTOLOGIC COMMUNICATIONS EQUIPMENT		15,595		15,595		15,595				15,595
	Drug Interdiction Support										
94	OTHER DRUG INTERDICTION SUPPORT										
	Aviation Support Equipment										
	Sonobuoys										
95	PASSIVE SONOBUOYS (NON-BEAM FORMING)										
96	AN/SSQ-62 (DICASS)										
97	AN/SSQ-101 (ADAR)										
98	SONOBUOYS - ALL TYPES										
99	MISCELLANEOUS SONOBUOYS LESS THAN $5 MILLION		57,886		57,886		77,886		10,000		67,886
	Aircraft Support Equipment										
100	WEAPONS RANGE SUPPORT EQUIPMENT		10,129		10,129		10,129				10,129

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
101	EXPEDITIONARY AIRFIELDS		7,551		7,551		7,551				7,551
102	AIRCRAFT REARMING EQUIPMENT		12,265		12,265		12,265				12,265
103	AIRCRAFT LAUNCH & RECOVERY EQUIPMENT		27,500		27,500		27,500				27,500
104	METEOROLOGICAL EQUIPMENT		29,833		29,833		29,833				29,833
105	OTHER PHOTOGRAPHIC EQUIPMENT		1,710		1,710		1,710				1,710
106	AVIATION LIFE SUPPORT		21,035		21,035		21,035				21,035
107	AIRBORNE MINE COUNTERMEASURES		46,860		46,860		46,860				46,860
108	OTHER AVIATION SUPPORT EQUIPMENT		13,645		13,645		13,645				13,645
	Ordnance Support Equipment										
	Ship Gun System Equipment										
109	GUN FIRE CONTROL EQUIPMENT		17,926		17,926		21,926		4,000		21,926
	SPQ-9B Solid State Transmitter						[4,000]		[4,000]		
110	NAVAL FIRES CONTROL SYSTEM		600		600		600				600
	Ship Missile System Equipment										
111	NATO SEASPARROW		10,670		10,670		10,670				10,670
112	RAM GMLS		31,838		31,838		31,838				31,838
113	SHIP SELF DEFENSE SYSTEM		34,378		34,378		34,378				34,378
114	AEGIS SUPPORT EQUIPMENT		155,113		155,113		155,113				155,113
115	SURFACE TOMAHAWK SUPPORT EQUIPMENT		61,241		61,241		61,241				61,241

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
116	SUBMARINE TOMAHAWK SUPPORT EQUIPMENT		3,062		3,062		3,062				3,062
117	VERTICAL LAUNCH SYSTEMS		6,857		6,857		6,857				6,857
	FBM Support Equipment										
118	STRATEGIC PLATFORM SUPPORT EQUIPMENT		9,823		9,823		9,823				9,823
119	STRATEGIC MISSILE SYSTEMS EQUIPMENT		205,094		203,094		205,094				205,094
	Unjustified cost increases				[-2,000]						
	ASW Support Equipment										
120	SSN COMBAT CONTROL SYSTEMS		40,716		40,716		40,716				40,716
121	SUBMARINE ASW SUPPORT EQUIPMENT		5,935		5,935		5,935				5,935
122	SURFACE ASW SUPPORT EQUIPMENT		3,213		3,213		3,213				3,213
123	ASW RANGE SUPPORT EQUIPMENT		6,012		6,012		6,012				6,012
	Other Ordnance Support Equipment										
124	EXPLOSIVE ORDNANCE DISPOSAL EQUIPMENT		9,353		9,353		9,353				9,353
125	ITEMS LESS THAN $5 MILLION		5,795		5,795		5,795				5,795

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Expendable Ordnance										
126	ANTI-SHIP MISSILE DECOY SYSTEM		27,513		27,513		41,513		10,000		37,513
	NULKA Decoy Procurement						[12,000]		[8,000]		
	NULKA Modifications						[2,000]		[2,000]		
127	SURFACE TRAINING DEVICE MODS		7,318		7,318		7,318				7,318
128	SUBMARINE TRAINING DEVICE MODS		20,753		20,753		20,753				20,753
	Civil Engineering Support Equipment										
	Civil Engineering Support Equipment										
129	ARMORED SEDANS		440		440		440				440
130	PASSENGER CARRYING VEHICLES		1,351		1,351		1,351				1,351
131	GENERAL PURPOSE TRUCKS		1,531		1,531		1,531				1,531
132	CONSTRUCTION & MAINTENANCE EQUIPMENT		9,587		9,587		9,587				9,587
133	FIRE FIGHTING EQUIPMENT		5,300		5,300		5,300				5,300
134	TACTICAL VEHICLES		20,154		20,154		20,154				20,154
135	AMPHIBIOUS EQUIPMENT		14,633		14,633		14,633				14,633
136	POLLUTION CONTROL EQUIPMENT		19,969		19,969		19,969				19,969
137	ITEMS UNDER $5 MILLION		11,323		11,323		11,323				11,323

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Supply Support Equipment										
	Supply Support Equipment										
138	MATERIALS HANDLING EQUIPMENT		8,786		8,786		8,786				8,786
139	OTHER SUPPLY SUPPORT EQUIPMENT		7,534		13,534		7,534		2,000		9,534
	Serial Number Tracking System				[6,000]				[2,000]		
140	FIRST DESTINATION TRANSPORTATION		5,222		5,222		5,222				5,222
141	SPECIAL PURPOSE SUPPLY SYSTEMS		490,438		490,438		490,438				490,438
	Personnel and Command Support Equipment										
	Training Devices										
142	TRAINING SUPPORT EQUIPMENT		1,101		1,101		1,101				1,101
	Command Support Equipment										
143	TRAINING SUPPORT EQUIPMENT										
144	OTHER TRAINING EQUIPMENT										
145	COMMAND SUPPORT EQUIPMENT		28,787		27,787		28,787				28,787
	Unjustified cost increases				[-1,000]						
146	EDUCATION SUPPORT EQUIPMENT		6,646		6,646		6,646				6,646
147	MEDICAL SUPPORT EQUIPMENT		7,693		7,693		7,693				7,693
148	INTELLIGENCE SUPPORT EQUIPMENT										
149	OPERATING FORCES SUPPORT EQUIPMENT		15,812		15,812		15,812				15,812
150	MOBILE SENSOR PLATFORM		4,006		4,006		4,006				4,006

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
151	ENVIRONMENTAL SUPPORT EQUIPMENT		25,205		25,205		25,205				25,205
152	PHYSICAL SECURITY EQUIPMENT		116,932		116,932		116,932				116,932
	Productivity Programs										
153	JUDGMENT FUND REIMBURSEMENT										
	Other										
154	CANCELED ACCOUNT ADJUSTMENTS										
	Spares and Repair Parts										
155	SPARES AND REPAIR PARTS		234,136		234,136		234,136				234,136
999	CLASSIFIED PROGRAMS		15,463		15,463		15,463				15,463
155a	Management Reform Initiatives								(6,205)		(6,205)
	Total - Other Procurement, Navy		4,097,576		4,157,276		4,293,476		184,895		4,282,471

Procurement, Marine Corps—Overview

The budget request for fiscal year 2002 included an authorization of $981.7 million for Procurement, Marine Corps in the Department of Defense.

The Senate bill would authorize $981.7 million.

The House amendment would authorize $1,025.6 million.

The conferees recommended an authorization of $1,014.6 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Procurement, Marine Corps										
	Weapons and Combat Vehicles										
	Tracked Combat Vehicles										
1	AAV7A1 PIP	170	77,087	170	77,087	170	77,087			170	77,087
2	AAAV		1,512		1,512		1,512				1,512
3	LAV PIP		25,783		25,783		25,783				25,783
4	IMPROVED RECOVERY VEHICLE (IRV)	8	21,026	8	21,026	8	21,026			8	21,026
5	MODIFICATION KITS (TRKD VEH)		3,825		3,825		3,825				3,825
	Artillery and Other Weapons										
6	155MM LIGHTWEIGHT TOWED HOWITZER										
7	MOD KITS (ARTILLERY)		1,478		1,478		1,478				1,478
8	MARINE ENHANCEMENT PROGRAM		2,243		2,243		2,243				2,243
9	WEAPONS AND COMBAT VEHICLES UNDER $5 MILLION		274		5,274		274				274
	Weapons										
10	MODULAR WEAPON SYSTEM		7,501		7,501		7,501				7,501
	Other Support										
11	OPERATIONS OTHER THAN WAR		1,552		1,552		1,552				1,552

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Guided Missiles and Equipment										
	Guided Missiles										
12	JAVELIN		1,036		1,036		1,036				1,036
13	PEDESTAL MOUNTED STINGER (PMS) (MYP)										
14	ITEMS UNDER $5 MILLION										
15	PREDATOR (SRAW)										
	Other Support										
16	MODIFICATION KITS		6,612		6,612		6,612				6,612
	Communications and Electronics Equipment										
	Repair and Test Equipment										
17	AUTO TEST EQUIP SYS		616		616		616				616
18	GENERAL PURPOSE ELECTRONIC TEST EQUIPMENT		8,115		8,115		8,115				8,115
	Intell/Comm Equipment (Non-tel)										
19	INTELLIGENCE SUPPORT EQUIPMENT		9,615		9,615		9,615				9,615
20	MOD KITS (INTEL)		7,217		7,217		7,217				7,217
21	ITEMS UNDER $5 MILLION (INTELL)		1,654		1,654		1,654				1,654
	Repair and Test Equipment (Non-tel)										
22	GENERAL PURPOSE MECHANICAL TMDE		4,578		4,578		4,578				4,578

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Other Comm/Elec Equipment (Non-tel)										
23	NIGHT VISION EQUIPMENT		22,374		36,874		22,374		10,000		32,374
	AN / PVS-17				[14,500]				[10,000]		
	Other Support (Non-tel)										
24	ITEMS UNDER $5 MILLION (COMM & ELEC)		9,028		9,028		9,028				9,028
25	COMMON COMPUTER RESOURCES		21,302		21,302		21,302				21,302
26	COMMAND POST SYSTEMS		17,338		17,338		17,338				17,338
27	MANEUVER C2 SYSTEMS										
28	RADIO SYSTEMS		50,911		50,911		50,911				50,911
29	COMM SWITCHING & CONTROL SYSTEMS										
30	COMM & ELEC INFRASTRUCTURE SUPPORT		7,546		7,546		7,546				7,546
31	MOD KITS MAGTF C4I		21,136		21,136		21,136				21,136
32	AIR OPERATIONS C2 SYSTEMS		5,210		5,210		5,210				5,210
33	INTELLIGENCE C2 SYSTEMS		11,825		11,825		11,825				11,825
34	FIRE SUPPORT SYSTEM		16,152		16,152		16,152				16,152
	Support Vehicles										
	Administrative Vehicles										
35	COMMERCIAL PASSENGER VEHICLES		773		773		773				773
36	COMMERCIAL CARGO VEHICLES		6,487		6,487		6,487				6,487

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Tactical Vehicles										
37	5/4T TRUCK HMMWV (MYP)	1466	109,201	1466	109,201	1466	109,201			1466	109,201
38	MEDIUM TACTICAL VEHICLE REPLACEMENT	1946	312,199	1946	312,199	1946	312,199			1946	312,199
	Other Support										
39	ITEMS LESS THAN $5 MILLION		2,564		2,564		2,564				2,564
	Engineer and Other Equipment										
	Engineer and Other Equipment										
40	ENVIRONMENTAL CONTROL EQUIP ASSORT		2,571		2,571		2,571				2,571
41	BULK LIQUID EQUIPMENT		8,130		8,130		8,130				8,130
42	TACTICAL FUEL SYSTEMS		2,721		2,721		2,721				2,721
43	DEMOLITION SUPPORT SYSTEMS		5,674		5,674		5,674				5,674
44	POWER EQUIPMENT ASSORTED		7,622		7,622		7,622				7,622
45	SHOP EQ CONTACT MAINTENANCE (SECM)										
	Material Handling Equipment										
46	COMMAND SUPPORT EQUIPMENT										
47	AMPHIBIOUS RAID EQUIPMENT		2,349		2,349		2,349				2,349
48	PHYSICAL SECURITY EQUIPMENT		4,846		4,846		4,846				4,846
49	GARRISON MOBILE ENGR EQUIP		5,938		5,938		5,938				5,938

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement			
								Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
50	MATERIAL HANDLING EQUIP		27,453		27,453		27,453		7,400		34,853
	Tractor, Rubber Tired Articulated Steering, Multi-purpose (TRAM)								[7,400]		
51	FIRST DESTINATION TRANSPORTATION		9,340		9,340		9,340				9,340
	General Property										
52	FIELD MEDICAL EQUIPMENT		7,530		7,530		7,530				7,530
53	TRAINING DEVICES		30,566		30,566		30,566				30,566
54	CONTAINER FAMILY		5,909		13,309		5,909				5,909
	Tractor, Rubber Tired Articulated Steering, Multi-purpose (TRAM) SLEP				[7,400]						
55	FAMILY OF CONSTRUCTION EQUIPMENT		8,281		25,281		8,281		17,000		25,281
	D-7G Dozer / Scraper / Grader Remanufacture				[17,000]				[17,000]		
56	FAMILY OF INTERNALLY TRANSPORTABLE VEHICLE (ITV)		4,852		4,852		4,852				4,852
57	RAPID DEPLOYABLE KITCHEN		5,947		5,947		5,947				5,947
	Other Support										
58	MODIFICATION KITS		11,892		11,892		11,892				11,892
59	ITEMS LESS THAN $5 MILLION		7,684		7,684		7,684				7,684
60	CANCELED ACCOUNT ADJUSTMENT (M)										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Spares and Repair Parts										
61	SPARES AND REPAIR PARTS		26,649		26,649		26,649				26,649
61a	Management Reform Initiatives								(1,487)		(1,487)
	Total - Procurement, Marine Corps		981,724		1,025,624		981,724		32,913		1,014,637

Aircraft Procurement, Air Force—Overview

The budget request for fiscal year 2002 included an authorization of $10,744.5 million for Aircraft Procurement, Air Force in the Department of Defense.

The Senate bill would authorize $10,893.0 million.

The House amendment would authorize $10,705.7 million.

The conferees recommended an authorization of $10,789.2 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Aircraft Procurement, Air Force										
	Combat Aircraft										
	Tactical Forces										
1	F-22 RAPTOR	13	2,658,153	13	2,658,153	13	2,658,153			13	2,658,153
2	F-22 RAPTOR (AP-CY)		379,159		379,159		379,159				379,159
3	F-15A										
4	F-15A (AP-CY)										
5	F-16A (MYP)										
6	F-16A (MYP) (AP-CY)										
	Airlift Aircraft										
7	C-17A (MYP)	15	2,875,775	15	2,839,775	15	2,875,775			15	2,875,775
	Transfer to Support 15 C-17s in FY 03				[-36,000]						
8	C-17A (MYP) (AP-CY)		228,100		264,100		228,100				228,100
	Transfer to Support 15 C-17s in FY 03				[36,000]						
9	C-17 ICS		441,163		441,163		441,163				441,163
10	EC-130J										
11	C-130J	2	221,809	2	221,809	3	320,809	1	72,000	3	293,809
	Additional Aircraft						[72,000]		[72,000]		
	Spares & Support						[9,000]				
	Maintenance Training Devices						[18,000]				

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Trainer Aircraft										
12	JPATS	48	228,409	48	228,409	48	231,809		3,400	48	231,809
	Transfer from APN - Fix USAF JPATS Pricing Problem						[3,400]		[3,400]		
	Other Aircraft										
	Helicopters										
13	V-22 OSPREY		95,110						(95,110)		
14	V-22 OSPREY (AP-CY)		14,991						(14,991)		
	Mission Support Aircraft										
15	C-32B FEST/DEST AIRCRAFT	1	72,451	1	72,451	1	72,451			1	72,451
16	CIVIL AIR PATROL A/C	27	2,629	27	2,629	27	2,629			27	2,629
17	OPERATIONAL SUPPORT AIRCRAFT										
	Other Aircraft										
18	TARGET DRONES		35,484		35,484		35,484				35,484
19	C-40 ANG										
20	EC-130H		19,000		19,000		19,000				19,000
21	E-8C	1	283,202	1	283,202	1	283,202			1	283,202
22	E-8C (AP-CY)		49,000		49,000		49,000				49,000
23	E-8C ICS										
24	HAEUAV	2	85,427	2	85,427	2	85,427			2	85,427

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
25	HAEUAV (AP-CY)		33,500		33,500		33,500				33,500
26	PREDATOR UAV	6	19,632	6	39,632	8	25,632		20,000	6	39,632
	Predator B Air Vehicles				[20,000]				[20,000]		
	Additional Attrition Reserve Air Vehicles						[6,000]				
	Modification of Inservice Aircraft										
	Strategic Aircraft										
27	B-2A		11,858		44,858		11,858		13,500		25,358
	SATCOM Upgrades				[33,000]				[13,500]		
28	B-1B		95,493		37,493		95,493				95,493
	Transfer to O&M, ANG				[-58,000]						
29	B-52		3,548		3,548		54,548				3,548
	ALQ-172 ECM Upgrades						[51,000]				
30	F-117								27,620		27,620
	AF-requested realignment of funds from classified line								[27,620]		
	Tactical Aircraft										
31	A-10		18,547		18,547		18,547				18,547

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
32	F-15		212,160		264,660		237,160		33,000		245,160
	F-15E Link 16				[19,500]						
	F100-PW-220E Engine Upgrades				[25,000]		[25,000]		[25,000]		
	Additional ALQ 135 Band 1.5 Internal Countermeasures Systems				[8,000]				[8,000]		
33	F-16		231,962		233,962		319,962		32,000		263,962
	Advance Concept Ejection Seat (ACES) II Upgrade				[2,000]				[2,000]		
	F100 PW 229 Engines						[88,000]		[30,000]		
34	T/AT-37		84		84		84				84
	Airlift Aircraft										
35	C-5		103,214		103,214		103,214				103,214
36	C-9		647		647		647				647
37	C-17A		139,278		139,278		160,378		9,800		149,078
	Training Evaluation Performance Aircraft Training Set (TEPATS)						[9,800]		[9,800]		
	Trainer Block Concurrency Upgrades						[2,100]				
	Combined Engine'/ Engine Cowling Trainer						[9,200]				
38	C-21		2,675		2,675		2,675				2,675
39	C-22										
40	C-32A		40,393		40,393		40,393				40,393

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
41	C-37A		379		379		379				379
42	C-141		825		825		825				825
	Trainer Aircraft										
43	T-1										
44	T-3 (EFS) AIRCRAFT										
45	T-38		144,726		144,726		144,726				144,726
46	T-41 AIRCRAFT		90		90		90				90
47	T-43		3,750		3,750		3,750				3,750
	Other Aircraft										
48	KC-10A (ATCA)		31,249		31,249		31,249				31,249
49	C-12		412		412		412				412
50	C-18		830		830		830				830
51	C-20 MODS		635		635		635				635
52	VC-25A MOD		14,165		14,165		14,165				14,165
53	C-130		57,936		57,936		57,936				57,936
54	C-135		231,066		256,566		231,066				231,066
	KC-135E Re-engining				[25,500]						
55	DARP		195,045		206,045		195,045				195,045
	Cobra Ball Dual Sided 3-Channel Optics & SIGINT Collection				[11,000]						

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
56	E-3		92,520		92,520		92,520				92,520
57	E-4		45,539		45,539		45,539				45,539
58	E-8		82,996		82,996		71,496		(11,500)		71,496
	Transfer to PE 27581F (RDAF 138) SATCOM Kit Development						[-5,700]		[-5,700]		
	Transfer to PE 27581F (RDAF 138) - Global Air Traffic Management (GATM) - Radio Integration						[-5,800]		[-5,800]		
59	H-1		288		288		288				288
60	H-60		26,519		31,019		26,519				26,519
	HH-60G FLIR				[4,500]						
61	OTHER AIRCRAFT		50,954		55,754		50,954				50,954
	Fixed Aircrew Standardized Seat				[4,800]						
62	PREDATOR MODS		10,384		16,384		10,384		6,000		16,384
	Structured R&M Program				[6,000]				[6,000]		
	Other Modifications										
63	CLASSIFIED PROJECTS		23,227		23,227		23,227				23,227
64	SPECIAL PROJECTS										
	Aircraft Spares and Repair Parts										
65	SPARES/REPAIR PARTS		321,539		295,149		295,139		(26,390)		295,149
	CV-22 Spares				[-26,390]		[-26,400]		[-26,390]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Support Equipment and Facilities										
66	AIRCRAFT SUPPORT EQ & FACILITIES		211,334		205,934		211,334				211,334
	Over budgeted for reprogramming equipment / electronic tester				[-5,400]						
	Post Production Support										
67	A-10										
68	B-2A		12,647		12,647		12,647				12,647
69	B-2A		38,612		38,612		38,612				38,612
70	B-1B		6,400		6,400		6,400				6,400
71	C-130		1,372		4,172		1,372				1,372
	MC-130P Weapon System Trainer Software Upgrade				[1,500]						
	MC-130H Simulator Visual Scene and Sensor Display Upgrade				[1,300]						
72	F-4										
73	F-15 POST PRODUCTION SUPPORT		7,409		7,409		7,409				7,409
74	F-16 POST PRODUCTION SUPPORT		14,542		14,542		14,542				14,542
75	INDUSTRIAL PREPAREDNESS		25,711		24,711		25,711				25,711
	Cost growth - rehabilitation / assessment				[-1,000]						
76	WAR CONSUMABLES		44,369		44,369		44,369				44,369

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
77	MISC PRODUCTION CHARGES		324,986		324,986		324,986				324,986
78	COMMON ECM EQUIPMENT		1,200		1,200		1,200				1,200
79	DARP		90,329		90,329		93,329		3,000		93,329
	U-2 SYERS P3I Spares						[3,000]		[3,000]		
999	CLASSIFIED PROGRAMS		27,620		27,620		27,620		(27,620)		
	AF-requested realignment of funds - APAF 30								[-27,620]		
	Total - Aircraft Procurement, Air Force		10,744,458		10,705,667		10,892,957		44,709		10,789,167

High altitude endurance unmanned aerial vehicle

The budget request included $33.5 million for advanced procurement of additional Global Hawk high altitude endurance unmanned aerial vehicles (HAE-UAVs).

The Senate bill and the House amendment would authorize the budget request.

The House Intelligence Authorization for Fiscal Year 2002 (H.R. 2883) would not authorize any of the requested funds.

The conferees agree to authorize the budget request.

The conferees are aware that much has been evolving in the Global Hawk HAE-UAV program in recent months. At the time of the budget request, the plan for these funds was to procure HAE-UAVs in the less capable Block 5 configuration, which contributed to the House recommendation. The accelerated program that is now underway would make these funds available for advanced procurement of the Block 10 configuration, which will provide the electrical power, cooling, and interfaces for sensor packages, which should meet the evolving Global Hawk requirement. These changes have addressed some of the concerns expressed in the House report (H. Rept. 107-219).

Another concern shared by the conferees is the fact that the requirements for this system are evolving at the very time that the program is being accelerated. The conferees would expect requirements documentation with completed mission area annexes to be the basis for future program decisions. The conferees want to ensure that existing intelligence, surveillance, and reconnaissance (ISR) assets, such as the U-2, continue to be operated and upgraded as necessary until such time that any new systems, like the Global Hawk HAE-UAV and its sensors, are fully tested and integrated with the required ground architecture and satisfy the operational mission requirements.

Finally, the conferees expect, before these advanced procurement funds are released, that the milestone decision authority approve this production in an acquisition decision memorandum that approves a coordinated and integrated acquisition strategy, taking into account the requirement, platform and sensor integration, ground architecture plan, and test plan for this spiral of the program.

Missile Procurement, Air Force—Overview

The budget request for fiscal year 2002 included an authorization of $3,233.5 million for Missile Procurement, Air Force in the Department of Defense.

The Senate bill would authorize $3,286.1 million.

The House amendment would authorize $3,226.3 million.

The conferees recommended an authorization of $3,222.6 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Missile Procurement, Air Force										
	Ballistic Missiles										
1	MISSILE REPLACEMENT EQ-BALLISTIC		25,124		25,124		25,124				25,124
	Other Missiles										
2	ADVANCED CRUISE MISSILE										
	Tactical										
3	JASSM	76	45,010	76	43,710	76	45,010			76	45,010
	Budget documents reflect program total of $43.6M				[-1,300]						
4	JOINT STANDOFF WEAPON	104	54,641	104	54,641	104	54,641			104	54,641
5	SIDEWINDER (AIM-9X)	138	38,923	138	38,923	138	38,923			138	38,923
6	AGM-130 POWERED GBU-15										
7	AMRAAM	190	104,701	190	104,701	190	104,701			190	104,701
	Industrial Facilities										
8	INDUSTRIAL FACILITIES		3,040		2,040		3,040				3,040
	Budget documents reflect $2.0M program requirement				[-1,000]						
	Missile Replacement Equipment-Other										
9	MISSILE REPLACEMENT EQ-OTHER										
	Modification of Inservice Missiles										
	Class IV										
10	ADVANCED CRUISE MISSILE		784		784		784				784

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
11	SIDEWINDER (AIM-9X)										
12	MM III MODIFICATIONS		552,678		552,678		556,878				552,678
	Batteries for MM III Launch Facilities						[4,200]				
13	AGM-65D MAVERICK		966		966		966				966
14	AIR LAUNCH CRUISE MISSILE										
15	PEACEKEEPER (M-X)		5,146		5,146		17,346		12,200		17,346
	Purchase Equipment for Peacekeeper Retirement						[12,200]		[12,200]		
16	MODIFICATIONS UNDER $5.0M										
	Missile Spares and Repair Parts										
17	SPARES AND REPAIR PARTS		61,844		56,944		61,844				61,844
	LGM-118 crating equipment				[-4,900]						
	Other Support										
	Space Programs										
18	WIDEBAND GAPFILLER SATELLITES	2	377,509	2	377,509	2	377,509			2	377,509
19	WIDEBAND GAPFILLER SATELLITES (AP-CY)		13,447		13,447		46,047				13,447
	Exercise Unfunded Options to Buy 3 More Satellites						[32,600]				
20	SPACEBORNE EQUIP (COMSEC)		9,332		9,332		9,332				9,332
21	GLOBAL POSITIONING (SPACE)		177,719		177,719		177,719				177,719
22	GLOBAL POSITIONING (SPACE) (AP-CY)		23,760		23,760		23,760				23,760

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
23	NUDET DETECTION SYSTEM						22,700		22,700		22,700
	Transfer NUDETS to Air Force Funding						[22,700]		[22,700]		
24	DEF METEOROLOGICAL SAT PROG(SPACE)		47,580		47,580		47,580				47,580
25	DEFENSE SUPPORT PROGRAM(SPACE)		112,456		112,456		112,456				112,456
26	DEFENSE SATELLITE COMM SYSTEM		27,004		27,004		27,004				27,004
27	TITAN SPACE BOOSTERS(SPACE)		385,298		385,298		385,298				385,298
28	EVOLVED EXPENDABLE LAUNCH VEHICLE	1	98,007	1	98,007	1	98,007			1	98,007
29	MEDIUM LAUNCH VEHICLE(SPACE)		42,355		42,355		42,355				42,355
30	SBIR HIGH (SPACE) (AP-CY)		93,752		93,752		93,752		(45,800)		47,952
	Defer - serious hardware & software design problems								[-45,800]		
	Special Programs										
31	CANCELLED ACCOUNT										
32	SPECIAL PROGRAMS		803,946		803,946		784,846				803,946
33	SPECIAL UPDATE PROGRAMS		128,514		128,514		128,514				128,514
	Total - Missile Procurement, Air Force		3,233,536		3,226,336		3,286,136		(10,900)		3,222,636

Procurement of Ammunition, Air Force—Overview

The budget request for fiscal year 2002 included an authorization of $865.3 million for Procurement of Ammunition, Air Force in the Department of Defense.

The Senate bill would authorize $885.3 million.

The House amendment would authorize $871.3 million.

The conferees recommended an authorization of $881.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Air Force										
	Rockets										
1	ROCKETS		29,580		29,580		49,580		15,000		44,580
	Hydra 70						[20,000]		[15,000]		
	Cartridges										
2	CARTRIDGES		122,907		122,907		122,907				122,907
	Bombs										
3	PRACTICE BOMBS		50,230		53,230		50,230		1,500		51,730
	BDU-56 Cast Ductile Iron				[3,000]				[1,500]		
4	GENERAL PURPOSE BOMBS		110,522		113,522		110,522				110,522
	MK-84 Cast Ductile Iron				[3,000]						
5	CAWCF CLOSURE COSTS		7,946		7,946		7,946				7,946
6	SENSOR FUZED WEAPON	300	109,521	300	109,521	300	109,521			300	109,521
7	JOINT DIRECT ATTACK MUNITION	8383	187,257	8383	187,257	8383	187,257			8383	187,257
8	WIND CORRECTED MUNITIONS DISPENSER	6838	111,853	6838	111,853	6838	111,853			6838	111,853
	Flare, IR MJU-7B										
9	CAD/PAD		18,170		18,170		18,170				18,170
10	EXPLOSIVE ORDINANCE DISPOSAL		1,421		1,421		1,421				1,421
11	INITIAL SPARES		2,727		2,727		2,727				2,727
12	MODIFICATIONS <5M		211		211		211				211

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
13	ITEMS LESS THAN $5,000,000		1,633		1,633		1,633				1,633
	Fuzes										
14	FLARES		108,965		108,965		108,965				108,965
15	JOINT PROGRAMMABLE FUSE(JPF)										
	Weapons										
16	SMALL ARMS		2,401		2,401		2,401				2,401
	Total - Procurement of Ammunition, Air Force		865,344		871,344		885,344		16,500		881,844

Other Procurement, Air Force—Overview

The budget request for fiscal year 2002 included an authorization of $8,159.5 million for Other Procurement, Air Force in the Department of Defense.

The Senate bill would authorize $8,081.7 million.

The House amendment would authorize $8,250.8 million.

The conferees recommended an authorization of $8,196.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Other Procurement, Air Force										
	Vehicular Equipment										
	Passenger Carrying Vehicles										
1	SEDAN, 4 DR 4X2	54	686	54	686	54	686			54	686
2	STATION WAGON, 4X2	8	124	8	124	8	124			8	124
3	BUSES	72	4,307	72	4,307	72	4,307			72	4,307
4	AMBULANCES	3	252	3	252	3	252			3	252
5	LAW ENFORCEMENT VEHICLE	79	1,531	79	1,531	79	1,531			79	1,531
6	ARMORED VEHICLE	3	684	3	684	3	684			3	684
	Cargo and Utility Vehicles										
7	TRUCK, CARGO-UTILITY, 3/4T, 4		5,733		5,733		5,733				5,733
8	TRUCK MULTI-STOP 1 TON 4X2		10,367		10,367		10,367				10,367
9	FAMILY MEDIUM TACTICAL VEHICLE										
10	HIGH MOBILITY VEHICLE (MYP)		6,390		6,390		6,390				6,390
11	CAP VEHICLES		785		785		785				785
12	ITEMS LESS THAN $5,000,000		34,320		34,320		34,320				34,320
	Special Purpose Vehicles										
13	HMMWV, ARMORED,		1,000		1,000		1,000				1,000
14	TRACTOR, TOW, FLIGHTLINE		6,035		6,035		6,035				6,035
15	TRUCK HYDRANT FUEL		5,895		5,895		5,895				5,895

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
16	ITEMS LESS THAN $5,000,000		19,818		19,818		19,818				19,818
	Fire Fighting Equipment										
17	TRUCK CRASH P-19										
18	ITEMS LESS THAN $5,000,000		5,029		5,029		5,029				5,029
	Material Handling Equipment										
19	TRUCK, F/L 10,000 LB		6,914		6,914		6,914				6,914
20	60K A/C LOADER	44	90,763	44	90,763	44	90,763			44	90,763
21	NEXT GENERATION SMALL LOADER	101	53,461	101	53,461	101	53,461			101	53,461
22	ITEMS LESS THAN $5,000,000		4,106		4,106		4,106				4,106
	Base Maintenance Support										
23	TRUCK, DUMP		2,839		2,839		2,839				2,839
24	RUNWAY SNOW REMOVAL AND CLEANING		12,484		12,484		12,484				12,484
25	MODIFICATIONS		3,360		3,360		3,360				3,360
26	ITEMS LESS THAN $5,000,000		11,943		11,943		11,943				11,943
	Canceled Account Adjustments										
27	CANCELLED ACCOUNT ADJUSTMENTS										
	Electronics and Telecommunications										
	Comm Security Equipment (COMSEC)										
28	COMSEC EQUIPMENT		35,188		35,188		35,188				35,188
29	MODIFICATIONS (COMSEC)		468		468		468				468

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Intelligence Programs										
30	INTELLIGENCE DATA HANDLING SYSTEM										
31	INTELLIGENCE TRAINING EQUIPMENT		1,237		1,237		1,237				1,237
32	INTELLIGENCE COMM EQUIPMENT		1,955		10,755		1,955		8,800		10,755
	Upgrades for Senior Scout, ANG										
	Data Management Processors				[820]				[800]		
	Buy & Install JTIDS Equipment				[3,600]				[3,600]		
	Upgrade 3rd Shelter to Common Configuration				[2,800]				[2,800]		
	Ground Data Reduction System				[1,600]				[1,600]		
	Unallocated				[-20]						
	Electronics Programs										
33	AIR TRAFFIC CTRL/LAND SYS (ATCALS)		4,698		5,198		4,698				4,698
	Tower Communications Upgrades, McEntire ANGB				[500]						
34	NATIONAL AIRSPACE SYSTEM		71,930		71,930		71,930				71,930
35	THEATER AIR CONTROL SYS IMPROVEMENT		15,057		30,057		15,057		15,000		30,057
	AN / TYQ-23 Modular Control Eqpt (MCE) Tech Insertion & Sustainment				[15,000]				[15,000]		
36	WEATHER OBSERVATION /FORECAST		33,766		33,766		33,766				33,766
37	STRATEGIC COMMAND AND CONTROL		21,066		21,066		21,066				21,066
38	CHEYENNE MOUNTAIN COMPLEX		30,642		30,642		30,642				30,642

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
39	TAC SIGINT SUPPORT		976		976		976				976
40	DRUG INTERDICTION PROGRAM										
	Special Comm-Electronics Projects										
41	GENERAL INFORMATION TECHNOLOGY		56,817		66,817		56,817				56,817
	Spare Parts Production & Reprocurement System (SPARES)				[10,000]						
42	AF GLOBAL COMMAND & CONTROL SYSTEM		15,151		15,151		15,151				15,151
43	MOBILITY COMMAND AND CONTROL		8,879		8,879		8,879				8,879
44	AIR FORCE PHYSICAL SECURITY SYSTEM		62,313		62,313		62,313				62,313
45	COMBAT TRAINING RANGES		67,585		97,585		67,585				67,585
	Unmanned Threat Emitter (UMTE) Modernization				[30,000]						
46	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS		2,078		2,078		2,078				2,078
47	C3 COUNTERMEASURES		9,623		19,623		9,623				9,623
	Secure Terminal Equipment				[10,000]						
48	JOINT SURVEILLANCE SYSTEM										
49	BASE LEVEL DATA AUTO PROGRAM		12,895		12,895		12,895				12,895
50	THEATER BATTLE MGT C2 SYSTEM		47,291		47,291		47,291				47,291
	Air Force Communications										
51	INFORMATION TRANSMISSION SYSTEM										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
52	BASE INFORMATION INFRASTRUCTURE		154,097		154,097		182,797		9,000		163,097
	Fiber Optic Communications Upgrades						[28,700]		[9,000]		
53	USCENTCOM		10,867		10,867		10,867				10,867
54	DEFENSE MESSAGE SYSTEM (DMS)		13,336		13,336		13,336				13,336
	DISA Programs										
55	SPACE BASED IR SENSOR PROG SPACE		54,347		54,347		54,347				54,347
56	NAVSTAR GPS SPACE		4,003		4,003		4,003				4,003
57	DEFENSE METEOROLOGICAL SAT PROGRAM										
58	NUDET DETECTION SYS (NDS) SPACE		8,470		8,470		8,470				8,470
59	AF SATELLITE CONTROL NETWORK		29,678		29,678		29,678				29,678
60	SPACELIFT RANGE SYSTEM SPACE		132,764		132,764		150,364				132,764
	Range Safety Improvements						[17,600]				
61	MILSATCOM SPACE		21,367		21,367		21,367				21,367
62	SPACE MODS SPACE		31,915		31,915		35,515				31,915
	Transfer from PE 35910F (RDAF 186) - Camera Spares						[3,600]				
	Organization and Base										
63	TACTICAL C-E EQUIPMENT		95,096		95,096		95,096				95,096
64	COMBAT SURVIVOR EVADER LOCATE		2,222		2,222		2,222				2,222
65	RADIO EQUIPMENT		13,926		13,926		13,926				13,926
66	TV EQUIPMENT (AFRTV)		2,640		2,640		2,640				2,640

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
67	CCTV/AUDIOVISUAL EQUIPMENT		3,275		3,275		3,275				3,275
68	BASE COMM INFRASTRUCTURE		76,903		76,903		76,903				76,903
69	SPARES AND REP PARTS		16		16		16				16
70	CAP COM & ELECT										
71	ITEMS LESS THAN $5,000,000		6,094		6,094		6,094				6,094
	Modifications										
72	COMM ELECT MODS		66,386		66,386		66,386				66,386
	Other Base Maintenance and Support Equipment										
	Test Equipment										
73	BASE/ALC CALIBRATION PACKAGE		11,974		11,974		11,974				11,974
74	PRIMARY STANDARDS LABORATORY		1,073		1,073		1,073				1,073
75	ITEMS LESS THAN $5,000,000		17,493		17,493		17,493				17,493
	Personal Safety and Rescue Equipment										
76	NIGHT VISION GOGGLES		3,330		3,330		7,330		2,000		5,330
77	ITEMS LESS THAN $5,000,000		7,680		11,680		7,680				7,680
	Clear Laser Eye Protection for Infrared (CLEPIR)				[4,000]						
	Depot Plant and Material Handling Equipment										
78	MECHANIZED MATERIAL HANDLING		14,361		22,361		14,361		5,000		19,361
	Supply Asset Tracking System (SATS)				[8,000]				[5,000]		
79	ITEMS LESS THAN $5,000,000		9,437		9,437		9,437				9,437

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Electrical Equipment										
80	FLOODLIGHTS		6,946		6,946		6,946				6,946
81	ITEMS LESS THAN $5,000,000		6,061		6,061		6,061				6,061
	Base Support Equipment										
82	BASE PROCURED EQUIPMENT		11,957		16,957		11,957				11,957
	Combined Arms Training System, ANG				[5,000]						
83	MEDICAL/DENTAL EQUIPMENT		15,525		15,525		15,525				15,525
84	ENVIRONMENTAL PROJECTS		938		938		938				938
85	AIR BASE OPERABILITY		6,000		6,000		6,000				6,000
86	PHOTOGRAPHIC EQUIPMENT		5,805		5,805		5,805				5,805
87	PRODUCTIVITY ENHANCING CAPITAL INVESTMENTS		7,981		7,981		7,981				7,981
88	MOBILITY EQUIPMENT		27,581		27,581		27,581				27,581
89	AIR CONDITIONERS		7,058		7,058		7,058				7,058
90	ITEMS LESS THAN $5,000,000		25,876		25,876		25,876				25,876
	Special Support Projects										
91	INTELLIGENCE PRODUCTION ACTIVITIES		64,110		64,110		64,110				64,110
92	TECH SURV COUNTERMEASURES EQUIPMENT		4,236		4,236		4,236				4,236
93	DARP RC135		14,247		14,247		14,247				14,247
94	DARP, MRIGS		89,478		89,478		89,478				89,478

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
95	SELECTED ACTIVITIES		6,070,259		6,070,259		5,938,559				6,070,259
96	SPECIAL UPDATE PROGRAM		161,157		161,157		161,157				161,157
97	DEFENSE SPACE RECONNAISSANCE		6,829		6,829		6,829				6,829
98	INDUSTRIAL PREPAREDNESS		1,134		1,134		1,134				1,134
99	MODIFICATIONS		209		209		209				209
100	FIRST DESTINATION TRANSPORTATION		11,822		11,822		11,822				11,822
	Spares and Repair Parts										
101	SPARES AND REPAIR PARTS		33,121		33,121		33,121				33,121
101a	Management Reform Initiatives								(3,300)		(3,300)
	Total - Other Procurement, Air Force		8,159,521		8,250,821		8,081,721		36,500		8,196,021

Procurement, Defense-Wide—Overview

The budget request for fiscal year 2002 included an authorization of $1,603.9 million for Procurement, Defense-Wide in the Department of Defense.

The Senate bill would authorize $1,596.7 million.

The House amendment would authorize $2,267.3 million.

The conferees recommended an authorization of $2,279.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement, Defense-Wide										
	Major Equipment										
	Major Equipment, OSD/WHS										
1	MOTOR VEHICLES, WHS										
2	MAJOR EQUIPMENT, OSD		87,189		77,189		87,189				87,189
	Mentor Protege Program				[-10,000]						
3	MAJOR EQUIPMENT, WHS		18,836		18,836		18,836				18,836
	Major Equipment, NSA										
4	DEFENSE CRYPTOLOGIC PROGRAM		[ ]								
5	CONSOLIDATED CRYPTOLOGIC PROGRAM		[ ]								
6	INFORMATION SYSTEMS SECURITY PROGRAM		[ ]								
7	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM		[ ]								
8	DEFENSE COUNTERDRUG INTELLIGENCE PROGRAM										
	Major Equipment, DISA										
9	MOBILE SATELLITE SYSTEM TECHNOLOGY										
10	INFORMATION SYSTEMS SECURITY		43,211		43,211		43,211				43,211
11	CONTINUITY OF OPERATIONS		3,288		3,288		3,288				3,288
12	DEFENSE MESSAGE SYSTEM		19,062		19,062		19,062				19,062

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
13	GLOBAL COMMAND AND CONTROL SYSTEM		3,550		3,550		3,550				3,550
14	GLOBAL COMBAT SUPPORT SYSTEM		1,843		1,843		1,843				1,843
15	STANDARD TACTICAL ENTRY POINT										
16	TELEPORTS		97,351		97,351		97,351				97,351
17	ITEMS LESS THAN $5M		29,580		29,580		29,580				29,580
18	DRUG INTERDICTION SUPPORT										
	Major Equipment, DIA										
19	INTELLIGENCE AND COMMUNICATIONS		[ ]				(5,500)				
20	UNDISTRIBUTED NFIP ADJUSTMENTS		[ ]								
21	HEADQUARTERS MANAGEMENT, DIA		[ ]								
	Major Equipment, DLA										
22	MAJOR EQUIPMENT		12,805		12,805		12,805				12,805
	Major Equipment, DCAA										
23	MAJOR EQUIPMENT ITEMS LESS THAN $5.0M		1,500		1,500		1,500				1,500
	Major Equipment, TJS										
24	MAJOR EQUIPMENT, TJS		35,380		35,380		35,380				35,380
	Ballistic Missile Defense Organization										
25	PATRIOT PAC-3			72	676,574			72	676,574	72	676,574
	Transfer from MPA				[676,574]				[676,574]		
26	NATIONAL MISSILE DEFENSE										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
27	C4I										
28	NAVY AREA TBDM PROGRAM				6,983				6,983		6,983
	Transfer from WPN				[6,983]				[6,983]		
	Major Equipment, DHRA										
29	PERSONNEL ADMINISTRATION		7,352		7,352		7,352				7,352
	National Imagery and Mapping Agency										
30	MAJOR EQUIPMENT, NIMA		[ ]				(3,000)				
	Defense Threat Reduction Agency										
31	VEHICLES		145		145		145				145
32	OTHER MAJOR EQUIPMENT		24,480		24,480		24,480				24,480
	Defense Security Cooperation Agency										
33	OTHER MAJOR EQUIPMENT		200		200		200				200
	Major Equipment, AFIS										
34	MAJOR EQUIPMENT, AFIS		5,369		5,369		5,369				5,369
	Major Equipment, DODDE										
35	AUTOMATION/EDUCATIONAL SUPPORT AND LOGISTICS		1,576		1,576		1,576				1,576
	Major Equipment, DCMA										
36	MAJOR EQUIPMENT		31,413		31,413		31,413				31,413

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2002 Budget Request Qty	FY 2002 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Special Operations Command										
	Aviation Programs										
37	SOF ROTARY WING UPGRADES		79,084		79,084		79,084				79,084
38	SOF TRAINING SYSTEMS										
39	MC-130H COMBAT TALON II		10,427		10,427		10,427				10,427
40	CV-22 SOF MODIFICATION		28,202						(28,202)		
	Reflect Delay of CV-22 Procurement				[-28,202]		[-28,202]		[-28,202]		
41	AC-130U GUNSHIP ACQUISITION		8,705		8,705		8,705				8,705
42	C-130 MODIFICATIONS		8,176		8,176		8,176				8,176
43	AIRCRAFT SUPPORT		1,763		1,763		1,763				1,763
	Shipbuilding										
44	ADVANCED SEAL DELIVERY SYSTEM		33,439		33,439		33,439				33,439
45	ADVANCED SEAL DELIVERY SYSTEM (AP-CY)		13,697		13,697		13,697				13,697
46	MK VIII MOD 1 - SEAL DELIVERY VEHICLE		504		504		504				504
47	SUBMARINE CONVERSION										
	Ammunition Programs										
48	SOF ORDNANCE REPLENISHMENT		31,415		31,415		31,415				31,415
49	CONVENTIONAL AMMO WORKING CAPITAL FUND		1,509		1,509		1,509				1,509
50	SOF ORDNANCE ACQUISITION		5,635		5,635		5,635				5,635

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement			
								Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Procurement Programs										
51	COMM EQUIPMENT & ELECTRONICS		41,404		41,404		55,804				41,404
	AN / PRC-148 SOF Radios						[14,400]				
52	SOF INTELLIGENCE SYSTEMS		8,133		13,133		8,133		2,500		10,633
	Portable Intelligence Collection & Relay Capability				[5,000]				[2,500]		
53	SOF SMALL ARMS & WEAPONS		6,936		6,936		10,636		2,500		9,436
	Advanced Lightweight Grenade Launcher						[2,500]		[2,500]		
	M4A1 Carbine Modification Kits						[1,200]				
54	MARITIME EQUIPMENT MODS		1,660		1,660		1,660				1,660
55	SOF COMBATANT CRAFT SYSTEMS		6,042		6,042		6,042				6,042
56	SPARES AND REPAIR PARTS		5,036		5,036		5,036				5,036
57	SOF MARITIME EQUIPMENT		2,975		2,975		2,975				2,975
58	DRUG INTERDICTION										
59	MISCELLANEOUS EQUIPMENT		8,111		8,111		8,111				8,111
60	SOF PLANNING AND REHEARSAL SYSTEM		1,448		1,448		1,448				1,448
61	SOF OPERATIONAL ENHANCEMENTS		102,571		102,571		102,571				102,571
62	PSYOP EQUIPMENT		2,780		2,780		2,780				2,780

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement			
								Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Chemical/Biological Defense										
63	INDIVIDUAL PROTECTION		114,327		114,327		118,727		4,400		118,727
	M291 Skin Decontamination Kits						[3,400]		[3,400]		
	M49 Chem-Bio Filters						[1,000]		[1,000]		
64	DECONTAMINATION		15,196		15,196		15,196				15,196
65	JOINT BIOLOGICAL DEFENSE PROGRAM		155,916		155,916		155,916				155,916
66	COLLECTIVE PROTECTION		38,940		51,940		45,940		13,000		51,940
	Chem Bio Defense Collective Protection Shelters				[13,000]				[13,000]		
	Chem Bio Protective Shelters						[7,000]				
67	CONTAMINATION AVOIDANCE		24,330		24,330		24,330				24,330
999	CLASSIFIED PROGRAMS		421,436		421,436		421,436				421,436
67a	Management Reform Initiatives								(2,200)		(2,200)
	Total - Procurement, Defense-Wide		1,603,927		2,267,282		1,596,725		675,555		2,279,482

Chemical Agents and Munitions Destruction, Defense—Overview

The budget request for fiscal year 2002 included an authorization of $1,153.6 million for Chemical Agents & Munitions Destruction, Army in the Department of Defense.

The Senate bill would authorize $1,153.6 million.

The House amendment would authorize $1,078.6 million.

The conferees recommended an authorization of $1,153.6 million for Chemical Agents & Munitions Destruction, Defense. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2002 Budget Request		House Authorized		Senate Authorized		Conference Agreement			
								Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Chemical Agents & Munitions Destruction, Defense										
1	CHEM DEMILITARIZATION - RDTE				192,879		200,379		200,379		200,379
	Transfer from CAMD, A - Comply with 50 USC 1521				[192,879]		[200,379]		[200,379]		
2	CHEM DEMILITARIZATION - PROC				157,158		164,158		164,158		164,158
	Transfer from CAMD, A - Comply with 50 USC 1521				[157,158]		[164,158]		[164,158]		
3	CHEM DEMILITARIZATION - O&M				728,520		789,020		789,020		789,020
	Transfer from CAMD, A - Comply with 50 USC 1521				[728,520]		[789,020]		[789,020]		
	Total - Chemical Agents & Munitions Destruction, Defense				1,078,557		1,153,557		1,153,557		1,153,557

ITEMS OF SPECIAL INTEREST

Acquisition programs at the National Reconnaissance Office

The Senate report (S. Rept. 107-62) raised several concerns about acquisition programs at the National Imagery and Mapping Agency (NIMA). The report expressed concern that the requirements trade-off process for the future imagery architecture (FIA) may not have provided sufficient attention to all aspects of an end-to-end capability, focusing too narrowly on the collection aspects of the problem.

The Senate report insisted that the requirements trade-off process consider the complete picture, not just the more narrow question of the collection instrument. The report further directed the Secretary of Defense and the Director of Central Intelligence to ensure that the acquisition policies of the Office of the Secretary of Defense, the Community Management Staff, and the National Reconnaissance Office (NRO) be changed to prevent recurrences of these problems at the NIMA. The report stated that these policies should prevent NRO satellite programs from entering acquisition until the Joint Requirements Oversight Council (JROC) and Mission Requirements Board (MRB) have approved a set of requirements for end-to-end system performance (i.e., ground and space segments together), and cost and schedule estimates to meet those requirements have been prepared by the NRO and its mission partners or other appropriate organizations.

The report accompanying the House amendment (H. Rept. 107-194) expressed no similar sentiment.

The conferees agree that the requirements trade-off process should consider the entire end-to-end system, not just the collection instruments. NRO satellite programs should include an assessment of the costs and impacts to the mission partners before being approved to enter acquisition. The JROC and MRB should also have an approved set of requirements for end-to-end system performance, i.e., ground, communications and space segments together. Complete cost and schedule estimates to meet these requirements should be presented by the NRO and its mission partners or other appropriate organizations and presented to the Director of Central Intelligence, the Secretary of Defense, and Congress.

However, the conferees do not believe that this should be an absolute prohibition placed on all NRO systems. For example, there are technology demonstration activities and other non-major systems procurement where spending resources on fielding an end-to-end capability is neither required nor appropriate.

The conferees believe that there has been progress in this area, but that the Secretary of Defense and the DCI should further ensure major new acquisition programs that support national-level requirements and the Department of Defense customers have completed the appropriate level of documentation in a formal requirements process, and the cost and schedule estimates to meet these end-to-end requirements have been prepared, before such programs enter into acquisition.

Acquisition programs at the National Security Agency

The Senate report (S. Rept. 107-62) raised several concerns about acquisition programs at the National Security Agency (NSA). The report noted that the Director of the NSA has made progress in transforming the NSA. The report, however, expressed concern that more progress needs to be made in the NSA processes if the NSA is to achieve the capabilities that the nation will require.

The report identified a number of specific actions that the NSA would have to complete before December 1, 2001. Otherwise, the report would direct that the NSA modernization effort be designated a major defense acquisition program and milestone decision authority reside with the Under Secretary of Defense (Acquisition, Technology & Logistics).

In light of the problems identified in the Senate report, the report would direct that the Office of the Secretary of Defense (OSD) and the Community Management Staff (CMS) conduct a "baselining" of the NSA that parallels the successful and productive effort performed at the National Imagery and Mapping Agency in fiscal year 2001. There were a number of specific actions identified in the Senate report to help improve the situation at the NSA, including the following:

(1) The NSA must create a rational requirements process and produce a prioritized requirements baseline that is structured to support a spiral-development approach to major elements of the modernization program;

(2) The NSA must produce a rationalized, integrated schedule and requirements allocation for all the major elements of its modernization effort;

(3) The NSA must develop plans for turning over most or all of the systems integration job to a single industry team;

(4) The NSA must create a detailed plan to subordinate the interim Trailblazer program under the Objective Trailblazer program upon contract award;

(5) The NSA must produce a detailed audit of all the hundreds of ongoing development activities and programs within the Agency;

(6) The NSA must produce a detailed plan and schedule to establish a rigorous "make-versus-buy" decision process for all the NSA acquisition activities; and

(7) The NSA must produce a plan acceptable to the Department of Defense and the Director of Central Intelligence for enterprise-wide systems engineering.

The House report (H. Rept. 107-194) expressed no similar sentiments.

The conferees believe that the senior acquisition executive (SAE) and the NSA have made significant improvements in the acquisition process. For example, the SAE has initiated an orderly review process and has increased the percentage of competitive acquisitions.

However, much needed progress still remains to be achieved. The SAE is operating within a requirements and architecture vacuum, is not responsible for technology selection, has no control over correcting deficiencies in systems or software engineering disciplines, and appears to lack the authority to cancel or redirect troubled programs. The chief financial manager (CFM) is understaffed and has struggled to gain internal support to implement a cost accounting system that would enable the NSA to conduct an accurate financial baselining of all programs.

To its credit, the NSA has acknowledged that its major modernization programs were proceeding in isolation, and over the past several months, there has been an attempt to address the integration problem within the Signals Intelligence Directorate. However, such revelations must be accompanied by concrete plans for improvement.

The conferees agree with the need for the OSD and the CMS to enforce the baselining activities identified in the Senate report. In addition to the specific tasks identified above, the baselining effort should oversee and verify effective implementation of the CFM's plans for cost centers that will comprise the fiscal year 2003 budget request. The conferees further encourage the NSA to seek the advice of independent, outside experts to assist in guiding its selection of technologies under this baselining effort.

The conferees agree that, unless the OSD, the CMS and the NSA complete the baselining by December 1, 2002, the Congress will direct that the NSA's modernization effort be designated a major defense acquisition program, with milestone decision authority likely residing with the Under Secretary of Defense (Acquisition, Technology, and Logistics) until initial operational capability is achieved.

Airborne signals intelligence recapitalization and modernization

The conferees remain interested in sustaining and improving airborne reconnaissance platforms, sensors and payloads, and the architecture under which they operate. These systems provide theater and operational commanders with the bulk of real-time tactical imagery and signals intelligence (SIGINT).

The current fleet of reconnaissance platforms, consisting of the RC-135, the EP-3, and the U-2, is aging. In addition to the platforms under development, including the Aerial Common Sensor and the Global Hawk High Altitude Endurance Unmanned Aerial Vehicle (HAE-UAV), the conferees are aware of Army, Navy and Air Force initiatives to consider the replacement of their older reconnaissance platforms.

The conferees are also aware of the current status of collection systems used by the reconnaissance platforms, and are particularly concerned with SIGINT systems. The recent cancellation of the low-band subsystem (LBSS) portion of the Joint SIGINT Avionics Family (JSAF) program has necessitated a complete review of the way ahead for this vital capability. Although the development of the JSAF high-band subsystem has been more successful, without LBSS the SIGINT requirement will not have been fully met. Prior to establishment of the JSAF program, the individual services had disparate upgrade programs. Although technology sharing occurred, it was sporadic and uncoordinated.

The Department of Defense's approach must be coordinated and based on architectural standards. The conferees are pleased with the National Security Agency efforts to develop the Joint Airborne SIGINT Architecture and the associated maritime SIGINT architecture. The conferees believe the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence should develop an architectural plan to provide standards-based policy direction to the services, whose platform program offices can develop systems and, to the maximum extent possible, share developments. The conferees expect the plan to include: (1) a robust spiral development approach; and (2) adequate emphasis on fielding and modernizing the appropriate ground support infrastructure.

The conferees believe the time is right to begin the formal discussion of the recapitalization and modernization of the airborne signals intelligence platforms, systems, and architecture. The conferees are specifically not endorsing any option for recapitalization. In fact, with several options under consideration, the conferees believe the Department of Defense should conduct an analysis of alternatives to determine the most cost effective approach to this recapitalization and modernization. The conferees believe, in weighing the various options, consideration should be given to: (1) collaborative, network-centric operations that allow the various platforms to coordinate their various collection and analytical functions; (2) the ability to control unmanned aerial vehicles and their payloads; (3) a reach-back capability allowing analysts not on the platform to operate systems; (4) software re-programmable systems to allow for rapid threat updates; and (5) the ability to share in system upgrades.

Arleigh Burke-class destroyer procurement

The conferees agree with the Navy assessment that the destroyer industrial base is at risk unless three destroyers are built each year or unless the destroyer shipbuilders attain significant other work beyond their historic level of the past 10 years. Therefore, the conferees agree that the Secretary of the Navy should include procurement of three Arleigh Burke-class destroyers in the fiscal year 2003 budget request to attain an economic rate of production and consider options for maintaining and transitioning the industrial base, including second tier suppliers, to future destroyer production.

Attack submarine force structure study

Section 123 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 required the Secretary of Defense to provide a report on the Navy's fleet of attack submarines. That provision required that the Secretary submit this report with the fiscal year 2002 budget request.

Although the amended budget request was submitted to Congress on June 27, 2001, the Secretary has not yet submitted the required report. The conferees urge the Secretary of Defense to submit the required report, which is intended to provide the Congress with the information required to review the plans for recapitalizing the attack submarine force structure.

Legislative Provisions Adopted

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 101–107)

The Senate bill contained provisions (secs. 101–107) that would authorize the recommended fiscal year 2002 funding levels for procurement for the Army, Navy, Marine Corps, Air Force, Defense-Wide activities, Defense Inspector General, Chemical Demilitarization Program, and Defense Health Program.

The House amendment contained similar provisions.

The conference agreement includes these provisions.

Chemical agents and munitions destruction, Defense (sec. 106)

The Senate bill contained a provision (sec. 106) that would authorize the requested amount of $1.2 billion for the Office of the Secretary of Defense for destruction of chemical agents, weapons and materiel.

The House amendment contained a similar provision (sec. 106) that would authorize $1.1 billion for chemical demilitarization.

The House recedes with an amendment that would authorize the requested $1.2 billion for the Department of Defense for Chemical Agents and Munitions Destruction, Defense.

The conferees are disappointed that the Department of Defense requested funds for chemical demilitarization for fiscal year 2002 in an Army account, contrary to the requirements of law. Section 1521(f) of title 50, United States Code, requires that funds for this program shall not be included in the budget accounts for any military department. The conferees expect the Department of Defense to comply with the law in future budget requests for the chemical demilitarization program.

The conferees note that the Department of Defense has initiated a high-level review of the entire chemical demilitarization program and all its component elements. The conferees direct the Department to provide the congressional defense committees with the results and recommendations of this review, including an updated assessment required by section 141(a) of the National Defense Authorization Act for Fiscal Year 2000, as directed in the House report accompanying H.R. 2586 (H. Rept. 107–194), by March 1, 2002.

Subtitle B—Army Programs

Repeal of limitations on bunker defeat munitions program (sec. 111)

The House amendment contained a provision (sec. 112) to repeal section 115 of the National Defense Authorization Act for Fiscal Year 1995, which limits the acquisition of bunker defeat munitions.

The Senate bill contained no similar provision.

The Senate recedes.

Extension of pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources (sec. 112)

The Senate bill contained a provision (sec. 141) that would extend the pilot program for sales of manufactured articles and services from up to three Army industrial facilities enacted by section 141 of the National Defense Authorization Act for Fiscal Year 1998 through fiscal year 2002.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the authority for the pilot program through fiscal year 2002 but would limit the program to one facility. The conferees direct that the facility that has demonstrated the most success with the pilot program to date be selected as the facility to continue the pilot program.

Limitations on acquisition of interim armored vehicles and deployment of interim brigade combat teams (sec. 113)

The conferees agree to a provision that would amend section 113 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, which required the Secretary of the Army to submit a report on the process for developing the Objective Force in the transformation of the Army. The provision also required the Secretary of the Army to conduct a comparative cost and operational effectiveness evaluation of the interim armored vehicles (IAV) selected for the Interim Brigade Combat Team (IBCT) with the infantry troop-carrying medium armored vehicles currently in the Army inventory.

The provision further prohibited the obligation of funds for a third IBCT until: the comparative evaluation is carried out; the Secretary of Defense submits the results of the evaluation to the congressional defense committees; and the Secretary certifies that (1) he approves of the obligation of funds for that purpose and (2) the force structure resulting from the acquisition and subsequent operational capability of Interim Brigade Combat Teams will not diminish the combat power of the Army.

The Secretary of the Army has requested relief from the requirement for the comparative evaluation directed in this provision. The Secretary stated that the comparative evaluation would replicate the comparison accomplished during source selection, and duplicate more comprehensive testing already required by law.

Last year, the conferees concluded that the costs associated with the comparative evaluation were worth incurring for a better understanding of whether the differences in operational effectiveness, if any, justify the increased cost of new IAV procurement compared to using current inventory equipment.

While the conferees continue to believe that there is merit to the comparative evaluation, the conferees recommend a modification to section 113 that would grant the Secretary of Defense the authority to waive those portions of section 113 pertaining to the comparative evaluation, subject to certain certifications.

The conferees direct the Secretary of the Army to conduct an operational evaluation of the initial IBCT, to include deployment to the evaluation site and the execution of combat missions across the full spectrum of potential threats and operational scenarios. The plan for the operational evaluation must be approved by the Director of Operational Test and Evaluation, Department of Defense, prior to execution.

The Army is prohibited from acquiring interim armored vehicles for other than the first three brigades, and from deploying any IBCT, until 30 days after a report on the operational evaluation is forwarded to the Congress and the Secretary of Defense certifies to the Congress that the results of the evaluation indicate that the IBCT design is operationally effective and suitable.

The Secretary of Defense can waive the deployment prohibition if he determines it to be in the national security interests of the United States, and reports to Congress the reasons for the waiver.

The conferees expect the Army to develop and resource an experimentation program that will inform the design of the Objective Force, including a formal linkage of the Interim Brigade Combat Teams to that experimentation.

Subtitle C—Navy Programs

Virginia class submarine program (sec. 121)

The Senate bill contained a provision (sec. 121) that would modify section 123(b)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 by authorizing the Secretary of the Navy to enter into contracts for the procurement of material in economic order quantities, when cost savings are achievable, for up to seven Virginia-class submarines. This authority would apply to boats to be procured during the period from fiscal years 2003 through 2007.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Multiyear procurement authority for F/A–18E/F aircraft engines (sec. 122)

The Senate bill contained a provision (sec. 122) that would authorize the Secretary of the Navy to enter a multiyear contract for procurement of F/A–18E/F aircraft engines in accordance with section 2306b of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary to certify that each of the conditions listed in subsection (a) of section 2306b of title 10, United States Code, has been satisfied. The provision would also require that this multiyear procurement contract could not be entered into until 30 days after the aforementioned certification has been transmitted.

The Navy procures engines for F/A-18E/F aircraft directly from the engine contractor and provides the engines to the prime airframe contractor as government-furnished equipment. The Navy is currently procuring the F/A-18E/F airframe under a multiyear contract that covers the fiscal years from 2000 to 2004. The conferees understand that this provision would authorize a multiyear procurement contract that may not cover exactly the same time period as that for the airframe itself. The conferees believe that the Secretary of the Navy should, if he chooses to enter into a multiyear contract for these engines, consider synchronizing the time periods of the contracts for these two items.

V-22 Osprey aircraft program (sec. 123)

The Senate bill contained a provision (sec. 123) that would keep the production rate of V-22 aircraft at the minimum sustaining rate, defined as the number for which funds are authorized to be appropriated in this Act, until the Secretary of Defense certifies to Congress that operational testing has successfully demonstrated certain effectiveness and suitability aspects not yet demonstrated.

The House amendment contained no similar provision.

The House recedes.

The conferees note that this provision is consistent with the recommendations of the report of the Panel to Review the V-22 Program, which was released in May 2001.

Report on status of V-22 Osprey aircraft before resumption of flight testing (sec. 124)

The Senate bill contained two provisions relating to reports that would be required before the V-22 could return to flight status.

One provision (sec. 124) would require the Secretary of Defense to notify Congress of the waiver, if any, of any item capability or other requirement specified in the V-22 Joint Operational Requirements Document, along with justification for any such waiver. The provision would require that any such notice be given at least 30 days before the V-22 resumes flight operations.

The second provision (sec. 215) would require the Under Secretary of Defense (Acquisition, Technology, and Logistics) to submit a report, 30 days before V-22 resumption of flight, that would include: (1) a description of any hydraulics and flight control software deficiencies and corrective actions; (2) actions to implement the recommendations of the Panel to Review the V-22 Program; and (3) an assessment of the recommendations of the National Aeronautics and Space Administration in its report on tiltrotor aeromechanics.

The House amendment contained no similar provisions.

The House recedes with an amendment that would combine the reporting requirements into one provision, and would require the Secretary of Defense to submit the report no later than 30 days prior to V-22 resumption of flight.

Subtitle D—Air Force Programs

Multiyear procurement authority for C-17 aircraft (sec. 131)

The Senate bill contained a provision (sec. 131) that would authorize a multiyear procurement of up to 60 additional C-17 aircraft in accordance with section 2306b of title 10, United States Code.

The House amendment contained a similar provision (sec. 121) that would authorize a multiyear procurement of up to 60 additional C-17 aircraft after the Secretary of Defense certifies that such a procurement is in the interest of the Department of Defense.

The conferees agree to a provision that would authorize the Secretary of the Air Force to enter into a multiyear contract for procurement of up to 60 additional C-17 aircraft in accordance with section 2306b of title 10, United States Code, except that the contract could cover a period of up to six program years.

The provision would require that the Secretary certify that each of the conditions listed in subsection (a) of section 2306b of title 10, United States Code, has been satisfied. The provision would also require that this multiyear procurement contract could not be entered into until 30 days after the aforementioned certification has been transmitted.

LEGISLATIVE PROVISIONS NOT ADOPTED

Additional amount for Shipbuilding and Conversion, Navy

The House amendment contained a provision (sec. 108) that would authorize an increase of $57.1 million for a ship overhaul.

The Senate bill contained no similar provision.

The House recedes.

Destruction of existing stockpile of lethal chemical agents and munitions

The House amendment contained a provision (sec. 141) that would amend section 152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 50 U.S.C. 1521 note) to add to the requirements that must be satisfied before the Secretary of Defense may initiate destruction of the chemical munition stockpile stored at a chemical stockpile destruction site. The provision would require the Under Secretary of Defense (Acquisition, Technology, and Logistics) to convene independent oversight boards that would make a recommendation to the Under Secretary on whether the destruction of the chemical munitions stockpile should be initiated at a particular chemical stockpile destruction site. Finally, the provision would require that the Under Secretary, after considering a negative recommendation of a board, may not recommend commencing destruction of the chemical munitions stockpile at the site until 90 days after the Under Secretary notifies the Congress of his intent to recommend initiation of chemical munitions destruction operations.

The Senate bill contained no similar provision.

The House recedes.

Extension of multiyear contract for Family of Medium Tactical Vehicles

The House amendment contained a provision (sec. 111) that would give the Secretary of the Army discretionary authority to extend the existing multiyear procurement contract for the Family of Medium Tactical Vehicles for one additional year.

The Senate bill contained no similar provision.

The House recedes.

Procurement of additional M291 skin decontamination kits

The Senate bill contained a provision (sec. 142) that would authorize an increase of $2.4 million in the Defense-Wide procurement account for procurement of additional M291 skin decontamination kits.

The House amendment contained no similar provision.

The Senate recedes.

The Senate bill would separately authorize an additional increase of $1.0 million for procurement of M291 skin decontamination kits.

The conferees agree to authorize an increase of $3.4 million for procurement of M291 skin decontamination kits, as noted elsewhere in this report.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, Development, Test, and Evaluation overview

The budget request for fiscal year 2002 included an authorization of $47,429.4 million for Research and Development for the Department of Defense.

The Senate bill would authorize $46,602.5 million.

The House amendment would authorize $47,424.9 million.

The conferees recommended an authorization of $46,460.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002
(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
Title II -- RESEARCH, DEVELOPMENT, TEST & EVALUATION					
RDT&E, Army	6,693,920	6,749,025	6,901,670	(18,595)	6,675,325
RDT&E, Navy	11,123,389	10,863,274	11,134,806	(339,125)	10,784,264
RDT&E, Air Force	14,343,982	14,485,653	14,459,457	63,205	14,407,187
RDT&E, Defense Wide	15,050,787	15,109,623	13,878,747	(678,147)	14,372,640
Developmental Test & Evaluation, Defense		0	0	0	0
Operational Test & Evaluation	217,355	217,355	227,855	4,000	221,355
Defense Health Program	65,304	65,304	65,304	0	65,304
TOTAL RDT&E	47,494,737	47,490,234	46,667,839	(968,662)	46,526,075

Management reform initiatives

The conferees agree to reduce the research, development, test and evaluation accounts by $140.0 million to reflect savings from management reform initiatives, as discussed in Title VIII.

Research, Development, Test and Evaluation, Army—Overview

The budget request for fiscal year 2002 included an authorization of $6,693.9 million for Research, Development, Test and Evaluation, Army in the Department of Defense.

The Senate bill would authorize $6,901.7 million.

The House amendment would authorize $6,749.0 million.

The conferees recommended an authorization of $6,675.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, ARMY					
1	0601101A	In House Laboratory Independent Research	14,815	14,815	14,815		14,815
2	0601102A	Defense Research Sciences	138,281	138,281	138,281		138,281
3	0601104A	University and Industry Research Centers	69,147	79,147	69,897	2,000	71,147
		Collaboration in Biotechnology Research		[10,000]		[2,000]	
		Lightweight Composite Materials			[750]		
4	0602104A	TRACTOR ROSE					
5	0602105A	Materials Technology	13,794	13,794	19,794	5,000	18,794
		Advanced Materials Processing Program			[4,000]	[3,500]	
		Composite Materials Technology			[2,000]	[1,500]	
6	0602120A	Sensors and Electronic Survivability	25,797	30,797	25,797	2,000	27,797
		Passive Millimeter-wave Imaging		[5,000]		[2,000]	
7	0602122A	TRACTOR HIP	7,741	7,741	7,741		7,741
8	0602211A	Aviation Technology	49,265	49,265	49,265		49,265
9	0602270A	EW Technology	17,449	17,449	17,449		17,449
10	0602303A	Missile Technology	40,112	65,112	49,612	11,750	51,862
		Low Cost, Fully Integrated GPS-IMU Guidance Development		[20,000]		[6,000]	
		Short Range Missile Defense with Optimized Radar Distribution (SWORD)		[5,000]			
		Compact Kinetic Energy Missile Inertial ((CKEM) -Future Missile Technology Integration)			[5,000]	[3,250]	
		CKEM Inertial Measurement Unit (IMU)			[2,000]		
		Enhanced Supersonic Combustion Ramjet (SCRAMJET) Mixing			[2,500]	[2,500]	
11	0602307A	Advanced Weapons Technology	19,043	19,043	19,043		19,043

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
12	0602308A	Modeling and Simulation Technology	20,579	20,579	20,579		20,579
13	0602601A	Combat Vehicle and Automotive Technology	82,441	82,441	102,441	15,000	97,441
		Combat Truck Initiative (COMBATT)			[20,000]	[15,000]	
14	0602618A	Ballistics Technology	61,502	61,502	61,502		61,502
15	0602622A	Chemical, Smoke and Equipment Defeating Technology	3,561	3,561	3,561		3,561
16	0602623A	Joint Service Small Arms Program	5,611	5,611	5,611		5,611
17	0602624A	Weapons and Munitions Technology	35,549	35,549	40,549	2,500	38,049
		Single Alloy Tungsten Penetrator			[5,000]	[2,500]	
18	0602705A	Electronics and Electronic Devices	27,819	36,819	31,319	2,000	29,819
		Advanced High Definition Display Technology		[4,000]			
		Hybrid Battery-fuel Cell & Other Fuel Cell Power Source Technology		[5,000]		[1,000]	
		Actuated Coolers for Portable Military Applications			[2,000]		
		Ground Vehicle Battery			[1,500]	[1,000]	
19	0602709A	Night Vision Technology	20,598	22,598	20,598		20,598
		Combustion driven Self-powered Eye-safe Laser		[2,000]			
20	0602712A	Countermine Systems	16,689	16,689	16,689		16,689
21	0602716A	Human Factors Engineering Technology	16,466	27,266	16,466	5,500	21,966
		Emergency Team Coordination Program (Medteams)		[7,800]		[3,500]	
		Soldier-centered Design Tools for Army Transformation		[3,000]		[2,000]	
22	0602720A	Environmental Quality Technology	16,150	16,150	16,150		16,150
23	0602782A	Command, Control, Communications Technology	24,342	24,342	25,342		24,342
		Commercial Wireless Reliability Testbed			[1,000]		

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
24	0602783A	Computer and Software Technology	6,154	6,154	6,154		6,154
25	0602784A	Military Engineering Technology	42,850	45,850	45,850	2,000	44,850
		Brooks AFB Energy & Sustainability Lab		[3,000]			
		Geosciences and Atmospheric Research			[3,000]	[2,000]	
26	0602785A	Manpower/Personnel/Training Technology	16,315	16,315	16,315		16,315
27	0602786A	Warfighter Technology	27,061	30,061	27,061		27,061
		Combat Ready Food Safety for Improved Meals Ready-to-eat (MREs) Processing		[3,000]			
28	0602787A	Medical Technology	82,494	91,494	85,494	2,000	84,494
		Hemoglobin-based Oxygen Carrier		[7,000]		[2,000]	
		Metabolically Engineered Tissues for Trauma Care		[2,000]			
		Arthropod-borne Infectious Disease Control			[3,000]		
29	0602789A	ARMY Artificial Intelligence Technology					
30	0602805A	Dual Use Science and Technology	10,045	10,045	10,045		10,045
31	0603001A	Warfighter Advanced Technology	60,332	86,425	65,332	1,500	61,832
		Rapid Acquisition Program For Transformation (RAPFT)		[2,500]			
		Transfer from PE 23761A (RDA 160) -- RAPFT		[23,593]			
		Personal Warfighter Navigation - MEMS			[5,000]	[1,500]	
32	0603002A	Medical Advanced Technology	17,541	23,541	17,541	5,000	22,541
		Special Operations Medical Diagnostic System (SOMDS)		[1,000]			
		Volumetrically Controlled Manufacturing		[5,000]		[5,000]	

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
33	0603003A	Aviation Advanced Technology	44,843	35,843	47,843		44,843
		Reduction to Support Higher Transformation Priorities		[-9,000]			
		UAV Wideband Radio Frequency Network			[3,000]		
34	0603004A	Weapons and Munitions Advanced Technology	29,684	51,684	29,684	5,000	34,684
		Affordable, Large Caliber Training Ammunition		[5,000]			
		Trajectory Correctable Munition		[17,000]		[5,000]	
35	0603005A	Combat Vehicle and Automotive Advanced Technology	193,858	201,858	211,858	13,000	206,858
		Army Medium Brigade Composite Bridge		[9,000]			
		Conversion of Technical Manuals		[2,000]			
		National Automotive Center Standardized Exchange of Product Data (N-STEP)		[7,000]			
		Decrease		[-10,000]			
		Imp Matls & Powertrain Arch for 21st Century Truck (IMPACT)			[5,000]	[3,000]	
		Mobile Parts Hospital Technology (MPHT) Program			[8,000]	[6,000]	
		Networked STEP-Enabled Production			[5,000]		
		N-STEP				[4,000]	
36	0603006A	Command, Control, Communications Advanced Technology	31,865	31,865	31,865		31,865
37	0603007A	Manpower, Personnel and Training Advanced Technology	3,120	3,120	3,120		3,120
38	0603009A	TRACTOR HIKE	10,415	10,415	10,415		10,415
39	0603017A	TRACTOR RED					
40	0603020A	TRACTOR ROSE	9,293	9,293	9,293		9,293
41	0603105A	Military HIV Research	5,937	5,937	5,937		5,937
42	0603122A	TRACTOR HIP					

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
43	0603238A	Global Surveillance/Air Defense/Precision Strike Technology Demonstration	32,267	32,267	32,267		32,267
44	0603270A	EW Technology	13,868	13,868	13,868		13,868
45	0603313A	Missile and Rocket Advanced Technology	59,518	68,018	59,518	2,500	62,018
		Army Composites Manufacturing and Maintenance Program		[5,000]			
		Aerospace Applications of Volumetrically Controlled Manufacturing (VCM) Composites Technology		[3,500]		[2,500]	
46	0603322A	TRACTOR CAGE	3,312	3,312	3,312		3,312
47	0603606A	Landmine Warfare and Barrier Advanced Technology	23,062	23,062	23,062		23,062
48	0603607A	Joint Service Small Arms Program	5,828	5,828	5,828		5,828
49	0603654A	Line-Of-Sight Technology Demonstration	57,384	70,456	57,384		57,384
		Transfer from Missile Procurement, Army		[13,072]			
50	0603710A	Night Vision Advanced Technology	37,081	49,081	37,081	7,500	44,581
		Dual Use Helmet Mounted Infrared Sensor Technology		[3,000]		[2,500]	
		Digital Fusion of Image Intensification & Infrared Technology		[9,000]		[5,000]	
51	0603728A	Environmental Quality Technology Demonstrations	4,826	4,826	4,826		4,826
52	0603734A	Military Engineering Advanced Technology	4,747	4,747	4,747		4,747
53	0603772A	Advanced Tactical Computer Science and Sensor Technology	18,513	18,513	18,513		18,513

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
54	0603308A	Army Missile Defense Systems Integration (Dem/Val)	19,491	31,491	19,491	3,000	22,491
		Family of Systems Simulators (FOSSIM)		[3,000]			
		P3 Micro-power Devices for Missile Defense Applications		[3,000]		[1,000]	
		Super-cluster Distributed Memory Technology Demonstration		[4,000]		[1,000]	
		Thermionic Technology		[3,000]		[1,000]	
		Management Savings		[-1,000]			
55	0603619A	Landmine Warfare and Barrier - Adv Dev	21,651	21,651	21,651		21,651
56	0603639A	Tank and Medium Caliber Ammunition	32,986	45,000	38,986	3,000	35,986
		XM 1007 Anti-tank Round		[15,000]		[3,000]	
		Reduction to Support Higher Transformation Priorities		[-2,986]			
		Transfer from PE 23761A (RDA 160) -- XM 1028 cartridge			[6,000]		
57	0603653A	Advanced Tank Armament System (ATAS)	101,461	101,461	101,461		101,461
58	0603713A	Army Data Distribution System					
59	0603747A	Soldier Support and Survivability	17,482	14,000	17,482		17,482
		Reduction to Support Higher Transformation Priorities		[-3,482]			
60	0603766A	Tactical Electronic Surveillance System - Adv Dev	16,749	16,749	16,749		16,749
61	0603774A	Night Vision Systems Advanced Development	12,756	10,000	12,756		12,756
		Reduction to Support Higher Transformation Priorities		[-2,756]			

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
62	0603779A	Environmental Quality Technology Dem/Val	7,536	14,036	11,536	7,000	14,536
		Asbestos Removal Pilot Project		[2,000]		[1,000]	
		Porta Bella Environmental Technology		[7,000]		[2,000]	
		Decrease		[-2,500]			
		Plasma Energy Pyrolysis System (PEPS)			[3,000]	[3,000]	
		Managing Army Technology Environmental Enhancement Program			[1,000]	[1,000]	
63	0603782A	Warfighter Information Network-Tactical - (Dem/Val)	15,075	10,075	15,075		15,075
		Reduction to Support Higher Transformation Priorities		[-5,000]			
64	0603790A	NATO Research and Development	8,633	8,633	8,633		8,633
65	0603801A	Aviation - Adv Dev	9,105	19,105	9,105		9,105
		PRC-112 Survival Radio Improvements		[10,000]			
66	0603802A	Weapons and Munitions - Adv Dev	31,670	31,670	31,670		31,670
67	0603804A	Logistics and Engineer Equipment - Adv Dev	7,456	7,456	7,456		7,456
68	0603805A	Combat Service Support Control System Evaluation and Analysis	8,696	8,696	8,696		8,696
69	0603807A	Medical Systems - Adv Dev	15,506	18,506	15,506	1,000	16,506
		International Medical Program Global Satellite System (IMPGSS)		[3,000]		[1,000]	
70	0603850A	Integrated Broadcast Service (JMIP/DISTP)	1,985	1,985	1,985		1,985
71	0603851A	TRACTOR CAGE (Dem/Val)	3,718	3,718	3,718		3,718
72	0603854A	Artillery Systems - Dem/Val	447,949	447,949	447,949		447,949
		Crusader Technology for Weight & Production Cost Reduction		[17,900]			
		Management Savings		[-17,900]			
73	0603856A	SCAMP Block II Dem/Val	9,895	9,895	9,895		9,895

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
74	0603869A	MEADS Concepts - Dem/Val	73,645		73,645	(73,645)	
		Transfer to PE 63881C (RDDW 75)		[-73,645]		[-73,645]	
75	0604201A	Aircraft Avionics	57,474	57,474	57,474		57,474
76	0604220A	Armed, Deployable OH-58D	2,345	2,345	2,345		2,345
77	0604223A	Comanche	787,866	816,366	816,166	28,300	816,166
		Transfer from Missile Procurement, Army		[28,500]			
		Accelerate Development of Communications Suite			[28,300]		
		Transfer from MPA -- Accelerate Comms Suite Development				[28,300]	
78	0604270A	EW Development	57,010	66,010	57,010	4,000	61,010
		Upgrade Army test facilities to test AH-64D/ATIRCM/CMWS against multi-mode missile seekers		[9,000]		[4,000]	
79	0604280A	Joint Tactical Radio	80,449	80,449	80,449		80,449
80	0604321A	All Source Analysis System	42,166	45,666	42,166	1,500	43,666
		ASAS - Light Interoperability with Other Automated Battle Management Systems		[3,500]		[1,500]	
81	0604328A	TRACTOR CAGE	3,888	3,888	5,168		3,888
		Transfer from PE 23761A (RDA 160) -- Classified Program			[1,280]		
82	0604329A	Common Missile	16,731	16,731	16,731		16,731
83	0604601A	Infantry Support Weapons		5,000			
		XM 303 Semi automatic Delivery System		[5,000]			
84	0604604A	Medium Tactical Vehicles	1,962	1,962	1,962		1,962
85	0604609A	Smoke, Obscurant and Target Defeating Sys-Eng Dev	7,920	7,920	7,920		7,920

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
86	0604611A	JAVELIN	492	5,694	5,692	5,200	5,692
		Transfer from Missile Procurement, Army		[5,202]			
		Software & Hardware Mods to Counteract Active Protection Systems			[5,200]		
		Transfer from MPA -- Mods to Counteract Active Protection Systems				[5,200]	
87	0604619A	Landmine Warfare	18,938	18,938	18,938		18,938
88	0604622A	Family of Heavy Tactical Vehicles			3,000	1,500	1,500
		Develop Movement Tracking System Interfaces with Other Systems			[3,000]	[1,500]	
89	0604633A	Air Traffic Control	2,197	2,197	2,197		2,197
90	0604641A	Tactical Unmanned Ground Vehicle (TUGV)					
91	0604642A	Light Tactical Wheeled Vehicles	2,523	2,523	2,523		2,523
92	0604645A	Armored Systems Modernization (ASM) - Eng Dev					
93	0604649A	Engineer Mobility Equipment Development	9,279	9,279	9,279		9,279
94	0604710A	Night Vision Systems - Eng Dev	24,201	24,201	28,361	2,000	26,201
		Develop Enhanced, Reduced-size Goggles			[2,000]	[2,000]	
		Transfer from PE 23761A (RDA 160) -- Digital Reconnaissance, Surveillance & Target Acquisition System (DRSTA)			[2,160]		
95	0604713A	Combat Feeding, Clothing, and Equipment	91,002	91,002	93,702		91,002
		Transfer from PE 23761A (RDA 160) -- Authorized Stockage List Mobility System (ASLMS)			[2,700]		
96	0604715A	Non-System Training Devices - Eng Dev	26,319	26,319	26,319		26,319
97	0604716A	Terrain Information - Eng Dev	8,840	8,840	8,840		8,840
98	0604726A	Integrated Meteorological Support System	1,911	1,911	1,911		1,911
99	0604738A	JSIMS Core Program	30,985	30,985	30,985		30,985

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
100	0604739A	Integrated Broadcast Service					
101	0604741A	Air Defense Command, Control and Intelligence - Eng Dev	18,233	18,233	18,233		18,233
102	0604742A	Constructive Simulation Systems Development	66,164	66,164	66,164		66,164
103	0604746A	Automatic Test Equipment Development	11,582	11,582	11,582		11,582
104	0604760A	Distributive Interactive Simulations (DIS) - Eng Dev	26,058	26,058	26,058		26,058
105	0604766A	Tactical Surveillance Systems - Eng Dev	68,205	68,205	68,205		68,205
106	0604768A	Brilliant Anti-Armor Submunition (BAT)	123,899	132,899	132,899	9,000	132,899
		Transfer from MPA 11 -- Additional ATACMS / BAT Development Testing		[9,000]	[9,000]	[9,000]	
107	0604770A	Joint Surveillance/Target Attack Radar System	8,093	8,093	8,093		8,093
108	0604778A	Positioning Systems Development (SPACE)					
109	0604780A	Combined Arms Tactical Trainer (CATT) Core	13,645	13,645	13,645		13,645
110	0604783A	Joint Network Management System	26,130	26,130	26,130		26,130
111	0604801A	Aviation - Eng Dev	2,263	4,763	2,263	2,500	4,763
		Cockpit Air Bag System (CABS) for CH-47 Upgrade Program		[2,500]		[2,500]	
112	0604802A	Weapons and Munitions - Eng Dev	7,046	10,546	7,046		7,046
		M240D Helicopter Door mounted Machine Gun Testing & Certification		[3,500]			
113	0604804A	Logistics and Engineer Equipment - Eng Dev	30,673	30,673	32,873		30,673
		Transfer from PE 23761A (RDA 160) -- Unit Water Pod (CAMEL)			[1,200]		
		Transfer from PE 23761A (RDA 160) -- Load Handling System Compatible Water Tankrack (HIPPO)			[1,000]		
114	0604805A	Command, Control, Communications Systems - Eng Dev	122,644	137,644	122,644	10,000	132,644
		Applied Communications & Information Networking (ACIN) Program		[15,000]		[10,000]	

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
115	0604807A	Medical Materiel/Medical Biological Defense Equipment - Eng Dev	8,228	8,228	8,228		8,228
116	0604808A	Landmine Warfare/Barrier - Eng Dev	89,153	69,153	89,153	(20,000)	69,153
		Use Unobligated FY 01 Funds for FY 02 Program Requirements		[-20,000]		[-20,000]	
117	0604814A	Artillery Munitions - EMD	67,258	67,258	67,258		67,258
118	0604817A	Combat Identification	3,014	3,014	3,014		3,014
119	0604818A	Army Tactical Command & Control Hardware & Software	50,887	50,887	55,297		50,887
		Transfer from PE 23761A (RDA 160) -- Information Dissemination Management - Tactical (IDM - T)			[4,410]		
120	0604819A	LOSAT	21,596	21,596	21,596		21,596
121	0604820A	Radar Development	5,162	5,162	5,162		5,162
122	0604823A	Firefinder	26,956	26,956	26,956		26,956
123	0604854A	Artillery Systems - EMD	62,481	62,481	62,481		62,481
124	0604865A	Patriot PAC-3 Theater Missile Defense Acquisition - EMD	107,100		107,100	(107,100)	
		Transfer to PE 63881C (RDDW 75)		[-107,100]		[-107,100]	
125	0605013A	Information Technology Development	98,178	98,178	98,178		98,178
126	0604256A	Threat Simulator Development	16,011	16,011	16,011		16,011
127	0604258A	Target Systems Development	25,212	25,212	25,212		25,212
128	0604759A	Major T&E Investment	49,897	49,897	49,897		49,897
129	0605103A	Rand Arroyo Center	19,972	16,972	19,972	(3,000)	16,972
		Reduction to Support Higher Transformation Priorities		[-3,000]		[-3,000]	
130	0605301A	Army Kwajalein Atoll	150,071	150,071	150,071		150,071

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
131	0605326A	Concepts Experimentation Program	33,067	25,567	33,067	2,000	35,067
		MANPRINT Analysis		[2,500]		[2,000]	
		Reduction to Support Higher Transformation Priorities		[-10,000]			
132	0605502A	Small Business Innovative Research					
133	0605601A	Army Test Ranges and Facilities	114,411	114,411	114,411		114,411
134	0605602A	Army Technical Test Instrumentation and Targets	34,259	34,259	34,259		34,259
135	0605604A	Survivability/Lethality Analysis	27,794	32,794	27,794		27,794
		Silent Sentry Surveillance Test		[5,000]			
136	0605605A	DOD High Energy Laser Test Facility	14,570	34,570	14,570	10,000	24,570
		High Energy Laser - Low Aspect Target Tracking (HEL-LATT)		[10,000]			
		Tactical High Energy Laser (THEL)		[10,000]		[10,000]	
137	0605606A	Aircraft Certification	3,582	3,582	3,582		3,582
138	0605702A	Meteorological Support to RDT&E Activities	6,890	6,890	6,890		6,890
139	0605706A	Materiel Systems Analysis	8,884	8,884	8,884		8,884
140	0605709A	Exploitation of Foreign Items	3,525	3,525	3,525		3,525
141	0605712A	Support of Operational Testing	89,047	99,047	89,047	2,000	91,047
		Hybrid Track Technology		[10,000]		[2,000]	
142	0605716A	Army Evaluation Center	31,365	31,365	31,365		31,365
143	0605801A	Programwide Activities	69,096	60,096	87,896		69,096
		Reduction to Support Higher Transformation Priorities		[-9,000]			
		Accelerate Objective Force Task Force Integration			[18,800]		

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
144	0605803A	Technical Information Activities	33,749	28,749	33,749		33,749
		Reduction to Support Higher Transformation Priorities		[-5,000]			
145	0605805A	Munitions Standardization, Effectiveness and Safety	16,072	16,072	16,072		16,072
146	0605856A	Environmental Compliance					
147	0605857A	Environmental Quality Technology Mgmt Support	1,733	1,733	1,733		1,733
148	0605898A	Management Headquarters (Research and Development)	7,268	7,268	7,268		7,268
149	0909999A	Financing for Cancelled Account Adjustments					
150	0603778A	MLRS Product Improvement Program	111,389	111,389	111,389		111,389
151	0102419A	Aerostat Joint Project Office	30,408	32,408	30,408	1,000	31,408
		Lightweight, MEMS-based, X-Band Radar Antenna		[2,000]		[1,000]	
152	0203610A	Domestic Preparedness Against Weapons of Mass Destruction					
153	0203726A	Adv Field Artillery Tactical Data System	36,969	36,969	36,969		36,969
154	0203735A	Combat Vehicle Improvement Programs	195,602	203,602	215,602	20,000	215,602
		Transfer from Missile Procurement, Army		[20,000]			
		Reduction to Support Higher Transformation Priorities		[-12,000]			
		Accelerate Hybrid Electric Power System for IAV			[20,000]	[20,000]	
155	0203740A	Maneuver Control System	40,231	40,231	40,231		40,231
156	0203744A	Aircraft Modifications/Product Improvement Programs	143,631	138,631	165,131		143,631
		Reduction to Support Higher Transformation Priorities		[-5,000]			
		Buy Aerial Common Sensor Aircraft, Sensors & Risk Reduction for R&D Program			[21,500]		

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
157	0203752A	Aircraft Engine Component Improvement Program	13,017	21,017	23,017	10,000	23,017
		Full Authority Digital Engine Control (FADEC)		[8,000]	[8,000]	[8,000]	
		Liquid or Light-end Air (LOLA) Boost Pump			[2,000]	[2,000]	
158	0203758A	Digitization	29,302	31,302	29,302	2,000	31,302
		Full Scale Testing for Dismounted Situational Awareness System (DISM)		[2,000]		[2,000]	
159	0203759A	Force XXI Battle Command, Brigade and Below (FBCB2)	56,872	56,872	56,872		56,872
160	0203761A	Rapid Acq Program For Transformation	23,593		43		23,593
		Transfer to PE 63001A (RDA 31) -- Warfighter Advanced Technology		[-23,593]			
		Transfer to PE 63639A (RDA 56) -- XM 1028 cartridge			[-6,000]		
		Transfer to PE 64328A (RDA 81) -- Classified Program			[-1,280]		
		Transfer to PE 64710A (RDA 94) -- Digital Recon, Surveillance & Target Acq System (DRSTA)			[-2,160]		
		Transfer to PE 64713A (RDA 95) -- Authorized Stockage List Mobility System (ASLMS)			[-2,700]		
		Transfer to PE 64804A (RDA 113) -- Unit Water Pod (CAMEL)			[-1,200]		
		Transfer to PE 64804A (RDA 113) -- Load Handling System Compatible Water Tankrack (HIPPO)			[-1,000]		
		Transfer to PE 64818A (RDA 119) -- Information Dissemination Management - Tactical (IDM - T)			[-4,410]		
		Transfer to PE 33141A (RDA 169) -- Future Finance System			[-1,000]		
		Transfer to OPA 104 -- Future Finance System			[-300]		
		Transfer to OPA 33 -- GPS in SINCGARS			[-3,500]		
161	0203801A	Missile/Air Defense Product Improvement Program	8,539	8,539	8,539		8,539

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
162	0203802A	Other Missile Product Improvement Programs	84,935	78,935	84,935		84,935
		Reduction to Support Higher Transformation Priorities		[-6,000]			
163	0203808A	TRACTOR CARD	6,551	11,551	6,551		6,551
		Transfer from Missile Procurement, Army		[5,000]			
164	0208010A	Joint Tactical Communications Program (TRI-TAC)	21,615	21,615	21,615		21,615
165	0208053A	Joint Tactical Ground System	5,221	5,221	5,221		5,221
166	0301359A	Special Army Program	5,072	5,072	10,072		5,072
167	0303028A	Security and Intelligence Activities	452	452	452		452
168	0303140A	Information Systems Security Program	8,261	8,261	9,261	1,000	9,261
		Information Operations Training (Functional Area 30)			[1,000]	[1,000]	
169	0303141A	Global Combat Support System	94,177	94,177	95,177		94,177
		Transfer from PE 23761A (RDA 160) -- Future Finance System			[1,000]		
170	0303142A	SATCOM Ground Environment (SPACE)	47,647	47,647	47,647		47,647
171	0303150A	WWMCCS/Global Command and Control System	13,501	13,501	13,501		13,501
172	0305114A	Traffic Control, Approach and Landing System-FY 1987 and Prior	785	785	785		785
173	0305204A	Tactical Unmanned Aerial Vehicles	38,210	18,210	44,210		38,210
		Reflect 6 Month to 1 Year Delay in Fielding of TUAV		[-20,000]			
		LIDAR Sensors			[5,000]		
		BAT / Hunter Experiment			[1,000]		

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
174	0305206A	Airborne Reconnaissance Systems	6,862	14,862	6,862	6,000	12,862
		Hyperspectral Long Wave Imager		[8,000]		[6,000]	
175	0305208A	Distributed Common Ground Systems (JMIP)	85,242	85,242	85,242		85,242
176	0708045A	End Item Industrial Preparedness Activities	45,697	35,697	45,697		45,697
		Reduction to Support Higher Transformation Priorities		[-10,000]			
177	1001018A	NATO Joint STARS	2,109	2,109	2,109		2,109
177a		Management Reform Initiatives				(21,100)	(21,100)
177b		General Reduction to RDT&E, Army				(10,000)	(10,000)
		General reduction to support Tactical High Energy Laser (THEL)				[-10,000]	
		Total, RDT&E Army	6,693,920	6,749,025	6,901,670	(18,595)	6,675,325

Army missile defense technology

To support critical missile defense technology activities, the conferees agree that of the funding authorized in the Army research and development account, certain amounts may be used for advanced technology activities as specified below:

(1) up to $1.9 million for the Short-range missile defense With Optimal Radar Distribution (SWORD) program in PE 62303A;

(2) up to $7.6 million for Patriot ground equipment upgrades and life extension efforts in PE 23801A;

(3) up to $3.8 million for the Aerostat Design and Manufacture (ADAM) program in PE 12419A; and

(4) up to $11.0 million for the Army Space and Missile Defense Battle Lab in PE 63308A.

Comanche

The budget request contained $787.9 million in PE 64223A for continued engineering and manufacturing development (EMD) of the RAH–66 Comanche reconnaissance attack helicopter.

The Senate bill would authorize an increase of $28.3 million for the development of a communications suite that is compatible with air and ground components in a joint environment.

The House amendment would authorize an increase of $28.5 million for a similar purpose.

The conferees agree to authorize an increase of $28.3 million in PE 64223A for this requirement.

The conferees believe the Comanche is a necessary and integral weapon system to the Army's transformation and have been supportive of this program in past fiscal years. The Army has stated that the Comanche is its top modernization program. However, the conferees note that there has been a $3.0 billion increase in research, development, test and evaluation (RDT&E) costs since fiscal year 1991. Despite these substantial cost increases, the program continues to be plagued by delays, which the conferees now understand could result in a full two-year delay of the currently scheduled initial operating capability (IOC) of December 2006 to December 2008. The conferees are disappointed to learn once again of the need to restructure and delay this program for at least a sixth time since fiscal year 1988, and the need to add approximately $1.5 billion to the program to complete EMD.

The conferees question the reliability of any new cost estimates and EMD program milestones, especially since the EMD contract was awarded only slightly over a year ago, in June 2000, and numerous changes in requirements have been made since then.

The conferees believe that as the aircraft continues in the EMD phase, an adequately funded and disciplined development program is absolutely essential to fielding this aircraft as part of the Army's Objective Force. Therefore, the conferees expect the Secretary of the Army, in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics, and its industry team, to present to Congress in the fiscal year 2003 budget request an accurate estimate of funds required to complete EMD and the new time line and plan for bringing the Comanche to IOC.

Rapid acquisition program for transformation

The budget request included $23.6 million in PE 23761A for the Rapid Acquisition Program for Transformation (RAPT).

The Senate bill would authorize $23.6 million for RAPT, but would transfer the funding from the RAPT program element to the program elements supporting the systems chosen by the Army for entry into the program for fiscal year 2002.

The House amendment would authorize $23.6 million for RAPT, but would transfer the funding from the RAPT program element to PE 63001A, Warfighter Advanced Technology.

The conferees agree to authorize $23.6 million in PE 23761A for RAPT or counter-terrorism initiatives and direct the Secretary of the Army to provide a detailed list of how these funds are executed.

Tactical high energy laser

The budget request included no funds for the Tactical High Energy Laser (THEL) program, a joint U.S.-Israeli development program to demonstrate the feasibility of defeating short-range rockets using directed energy.

The Senate bill would authorize $9.0 million of the funds available in PE 63882C to evaluate the development of a Mobile THEL (MTHEL) system.

The House amendment would authorize an increase of $10.0 million to PE 65605A for continuing work on THEL and exploring the option of a mobile version of THEL.

The conferees agree to authorize, from within the funds available in the Army research and development account, an increase of $10.0 million to PE 65605A for evaluating development of THEL as a mobile system.

Thermionics technology

The budget request included $19.5 million in PE 63308A for Army missile defense systems integration, but did not include funds for thermionics technology development.

The Senate bill would authorize, of the funds authorized in PE 63882C for the Midcourse Ground Defense System, $8.0 million for thermionics technology development.

The House amendment would authorize an increase of $3.0 million in PE 63308A for thermionics technology development.

The conferees agree to authorize an increase of $1.0 million in PE 63308A for thermionics technology development. Of the amounts authorized for Army research and development, an additional $7.0 million may be used for thermionics technology development.

Research, Development, Test and Evaluation, Navy—Overview

The budget request for fiscal year 2002 included an authorization of $11,123.4 million for Research, Development, Test and Evaluation, Navy in the Department of Defense.

The Senate bill would authorize $11,134.8 million.

The House amendment would authorize $10,863.3 million.

The conferees recommended an authorization of $10,784.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, NAVY					
1	0601152N	In-House Laboratory Independent Research	16,291	16,291	16,291		16,291
2	0601153N	Defense Research Sciences	389,829	389,829	398,829		389,829
		High frequency / high power wide bandgap semiconductor electronics technology (Fence--Non-add)		[5,000]		[5,000]	
		Southeast Atlantic Coastal Ocean Observing System (SEA-COOS)			[8,000]		
		Marine Mammal Low Frequency Sound Research			[1,000]		
3	0602111N	Air and Surface Launched Weapons Technology			44,092		
		Transfer from PE 62123N (RDN 7) -- Restore FY 01 PE Structure			[44,092]		
4	0602114N	Power Projection Applied Research	66,322	70,322	68,322		66,322
		Embedded Software Engineering Research Initiative		[4,000]			
		Integrated Biological & Chemical Warfare Defense Technology Platform			[2,000]		
5	0602121N	Ship, Submarine & Logistics Technology			56,064		
		Transfer from PE 62123N (RDN 7) -- Restore FY 01 PE Structure			[56,064]		
6	0602122N	Aircraft Technology					
7	0602123N	Force Protection Applied Research	117,072	117,372		250	117,322
		Submarine Electrical Power to Augment On-shore Power Grids		[300]		[250]	
		Restore Funding to FY 01 PE Structure			[-117,072]		
8	0602131M	Marine Corps Landing Force Technology	31,248	31,248	31,248		31,248
9	0602232N	Communications, Command and Control, Intelligence, Surveillance			5,000	5,000	5,000
		Fusion of Hyperspectral & Panchromatic Data			[5,000]	[5,000]	
10	0602233N	Human Systems Technology					

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
11	0602234N	Materials, Electronics and Computer Technology			14,278		
		Transfer from PE 62123N (RDN 7) -- Restore FY 01 PE Structure			[14,278]		
12	0602235N	Common Picture Applied Research	83,557	90,645	86,557	4,000	87,557
		Advanced High Definition Display Technology		[4,000]			
		Hybrid Fiber Optic Wireless Communication		[2,000]		[2,000]	
		SEADEEP Aircraft - Submarine Laser Communications		[3,000]			
		Reduction to Support Higher Transformation Priorities		[-1,912]			
		Advanced Personal Communicator			[3,000]	[2,000]	
13	0602236N	Warfighter Sustainment Applied Research	71,294	82,294	80,294	10,500	81,794
		COTS Carbon Fiber Qualification		[2,000]		[2,000]	
		Formable Aligned Carbon Thermo Sets (FACTS)		[4,000]			
		Detection & Identification of Human Pathogens		[2,000]			
		Knowledge-based Ship Systems Diagnosis & Repair		[3,000]		[2,000]	
		Biosensor Nanotechnology			[4,000]	[3,500]	
		Integrated Bioenvironmental Hazards Research Program			[3,000]	[2,000]	
		Modeling, Simulation, & Training Immersion Facility			[2,000]	[1,000]	
14	0602270N	Electronic Warfare Technology					

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
15	0602271N	RF Systems Applied Research	62,141	83,441	74,141	8,500	70,641
		Laser Welding and Cutting		[4,300]			
		Vacuum Electronics		[10,000]			
		High Brightness Electron Source Program			[2,500]	[2,000]	
		High Performance Wave Form Generator			[3,000]	[2,000]	
		Wide Bandgap Semiconductor Technology		[7,000]			
		High frequency / high power wide bandgap semiconductor electronics technology (Fence--Non-add)		[3,500]		[3,500]	
		Nanoscale Devices (Wide Bandgap Materials)			[1,000]	[1,000]	
		Nanoscience and Technology			[3,000]	[1,000]	
		Wide Bandgap Semiconductor Research Initiative			[2,500]		
		Wide Bandgap Semiconductor Development-				[2,500]	
16	0602314N	Undersea Warfare Surveillance Technology			15,569		
		Transfer from PE 62747N (RDN 20) -- Restore FY 01 PE Structure			[15,569]		
17	0602315N	Mine Countermeasures, Mining and Special Warfare					
18	0602435N	Ocean Warfighting Environment Applied Research	50,738	50,738	50,738		50,738
19	0602633N	Undersea Warfare Weaponry Technology			63,579		
		Transfer from PE 62123N (RDN 7) -- Restore FY 01 PE Structure			[2,638]		
		Transfer from PE 62747N (RDN 20) -- Restore FY 01 PE Structure			[60,941]		
20	0602747N	Undersea Warfare Applied Research	76,510	86,510			76,510
		Non-acoustic Antisubmarine Warfare (NAASW)		[10,000]			
		Restore Funding to FY 01 PE Structure			[-76,510]		
21	0602782N	Mine and Expeditionary Warfare Applied Research	57,668	57,668	57,668		57,668

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
22	0602805N	Dual Use Science and Technology Program	10,000	2,000	10,000		10,000
		Reduction to Support Higher Transformation Priorities		[-8,000]			
23	0603114N	Power Projection Advanced Technology	76,410	94,410	76,410	18,000	94,410
		Affordable Weapon		[10,000]		[10,000]	
		DP-2 Thrust Vectoring System Concept Demonstration		[8,000]		[5,000]	
		High Energy Laser - Low Aspect Target Tracking (HEL-LATT)		[10,000]		[3,000]	
		Reduction to Support Higher Transformation Priorities		[-10,000]			
24	0603123N	Force Protection Advanced Technology	85,297	132,000		17,000	102,297
		Advanced Water Jet (AWJ-21) Propulsor		[6,000]		[2,000]	
		DC Homopolar Motor Program		[4,000]		[1,000]	
		Direct Ship Service Fuel Cell Technology Demonstrator		[7,000]		[1,000]	
		Electric Propulsion / Ship Power Systems Distributed Test Bed		[10,000]			
		Littoral Support Craft - Experimental (LSC-X)		[19,000]		[11,000]	
		LSC-X (Fence--Non-add)		[20,000]		[20,000]	
		SEALs Mk V Patrol Craft Project M Modification		[6,000]		[2,000]	
		Reduction to Support Higher Transformation Priorities		[-5,297]			
		Restore Funding to FY 01 PE Structure			[-85,297]		
25	0603217N	Air Systems and Weapons Advanced Technology					
26	0603235N	Common Picture Advanced Technology	48,583	50,583	48,583		48,583
		Upgrade Extending the Littoral Battlespace ACTD Equipment		[2,000]			

Title II - RDT and E

(Dollars in Thousands)

Line	Program		FY2002	House	Senate	Conference Agreement	
No.	Element	Program Title	Request	Authorized	Authorized	Change	Authorized
27	0603236N	Warfighter Sustainment Advanced Technology	57,685	67,615	57,685	2,000	59,685
		Real Time Heart Rate Variability Technology		[8,930]			
		Naval Environmental Compliance Operations Monitoring System		[6,000]		[2,000]	
		Reduction to Support Higher Transformation Priorities		[-5,000]			
28	0603238N	Precision Strike and Air Defense Technology					
29	0603270N	Advanced Electronic Warfare Technology					
30	0603271N	RF Systems Advanced Technology	76,876	66,876	76,876		76,876
		Vacuum Electronics		[5,000]			
		Reduction to Support Higher Transformation Priorities		[-15,000]			
31	0603508N	Surface Ship & Submarine HM&E Advanced Technology			83,958	9,300	9,300
		Transfer from PE 63123N (RDN 24) -- Restore FY 01 PE Structure			[66,658]		
		Ship Service Fuel Cell Technology Verification and Training Program			[5,000]	[3,000]	
		DDG-51 Composite Twisted Rudder			[3,000]	[1,000]	
		Future Ship Systems Technology Demos			[2,000]		
		Laser Welding and Cutting			[4,300]	[4,300]	
		Modular Advance Composite Hull (MACH) Form			[3,000]	[1,000]	
32	0603640M	Marine Corps Advanced Technology Demonstration (ATD)	51,310	72,310	51,310		51,310
		Rapid Acquisition Program For Transformation (RAPFT)		[21,000]			
33	0603706N	Medical Development					
34	0603707N	Manpower, Personnel and Training Adv Tech Dev					
35	0603712N	Environmental Quality and Logistics Advanced Technology					
36	0603727N	Joint Experimentation	118,802	118,802	118,802		118,802

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
37	0603729N	Warfighter Protection Advanced Technology	17,678	21,678	17,678	2,000	19,678
		Organ Transfer Technology		[4,000]		[2,000]	
38	0603747N	Undersea Warfare Advanced Technology	56,303	66,303	56,303		56,303
		Non-acoustic Antisubmarine Warfare (NAASW)		[10,000]			
39	0603758N	Navy Warfighting Experiments and Demonstrations	43,277	85,277	43,277		43,277
		Rapid Acquisition Program For Transformation (RAPFT)		[42,000]			
40	0603782N	Mine and Expeditionary Warfare Advanced Technology	48,279	48,279	49,979	1,000	49,279
		Ocean Modeling for MCM & Expeditionary Warfare			[1,700]	[1,000]	
41	0603792N	Advanced Technology Transition			18,639		
		Transfer from PE 63123N (RDN 24) -- Restore FY 01 PE Structure			[18,639]		
42	0603794N	C3 Advanced Technology					
43	0603207N	Air/Ocean Tactical Applications	32,332	32,332	32,332		32,332
44	0603216N	Aviation Survivability	25,572	7,672	7,538		25,572
		Reduction to Support Higher Transformation Priorities		[-17,900]			
		Transfer to PE 64272N (RDN 90a) -- Budget Request Included TADIRCM in RDN 44 total in error			[-18,034]		
45	0603237N	Deployable Joint Command & Control	50,000		30,000	(30,000)	20,000
		Reduction to Support Higher Transformation Priorities		[-50,000]			
		Fund a More Reasonable Start-up Level for This New Activity			[-20,000]	[-30,000]	
46	0603254N	ASW Systems Development	12,922	17,922	12,922	2,000	14,922
		Project Bear Trap		[5,000]		[2,000]	
47	0603261N	Tactical Airborne Reconnaissance	1,934	1,934	1,934		1,934

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
48	0603382N	Advanced Combat Systems Technology	3,458		3,458		3,458
		Reduction to Support Higher Transformation Priorities		[-3,458]			
49	0603502N	Surface and Shallow Water Mine Countermeasures	135,284	147,284	135,284		135,284
		Surface Navy Integrated Undersea Tactical Technology		[12,000]			
50	0603506N	Surface Ship Torpedo Defense	4,818	9,818	4,818	1,000	5,818
		Accelerate Development & Fielding of SSTD Systems		[5,000]		[1,000]	
51	0603512N	Carrier Systems Development	165,150	165,150	165,150		165,150
52	0603513N	Shipboard System Component Development	288,382	263,382	288,382	(50,000)	238,382
		Reduction to Support Higher Transformation Priorities		[-25,000]		[-50,000]	
53	0603525N	PILOT FISH	99,600	99,600	99,600		99,600
54	0603527N	RETRACT LARCH	50,441	50,441	50,441		50,441
55	0603536N	RETRACT JUNIPER					
56	0603542N	Radiological Control	1,056	1,056	1,056		1,056
57	0603553N	Surface ASW	3,724	3,724	3,724		3,724
58	0603559N	SSGN Conversion	30,000	30,000	64,000	15,000	45,000
		Accelerate Design Effort to Convert 4 Boats			[34,000]	[15,000]	
59	0603561N	Advanced Submarine System Development	110,766	115,309	114,666	5,900	116,666
		Advanced Composite Sail Phase II		[15,000]			
		Submarine Composite Sail			[2,000]		
		Advanced Composite Sail				[4,000]	
		Electromechanical Actuator Development			[1,900]	[1,900]	
		Reduction to Support Higher Transformation Priorities		[-10,457]			

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
60	0603562N	Submarine Tactical Warfare Systems	5,405	5,405	5,405		5,405
61	0603563N	Ship Concept Advanced Design	1,949		1,949		1,949
		Reduction to Support Higher Transformation Priorities		[-1,949]			
62	0603564N	Ship Preliminary Design & Feasibility Studies	14,922	4,922	14,922		14,922
		Reduction to Support Higher Transformation Priorities		[-10,000]			
63	0603570N	Advanced Nuclear Power Systems	175,176	173,076	175,176		175,176
		Reduction to Support Higher Transformation Priorities		[-2,100]			
64	0603573N	Advanced Surface Machinery Systems	3,921	3,921	3,921		3,921
65	0603576N	CHALK EAGLE	35,313	35,313	35,313		35,313
66	0603582N	Combat System Integration	42,915	67,915	42,915	2,000	44,915
		Common Command & Decision (CC&D) System		[25,900]			
		Wideband Optically Multiplexed Beamforming Architecture (WOMBAT)		[4,000]		[2,000]	
		Reduction to Support Higher Transformation Priorities		[-4,900]			
67	0603609N	Conventional Munitions	22,299	22,299	22,299		22,299
68	0603611M	Marine Corps Assault Vehicles	263,066	240,000	263,066		263,066
		Reduction to Support Higher Transformation Priorities		[-23,066]			
69	0603635M	Marine Corps Ground Combat/Support System	25,957	40,957	31,957	4,500	30,457
		Lightweight 155mm Howitzer		[5,000]			
		Low Observable Signature Ejection Technology		[5,000]			
		Urban Operations Environmental Lab		[5,000]	[4,000]	[3,000]	
		Nanoparticles for Neutralization of Facility Threats (Weapon)			[2,000]	[1,500]	
70	0603654N	Joint Service Explosive Ordnance Development	12,918	12,918	12,918		12,918

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
71	0603658N	Cooperative Engagement	74,231	74,231	74,231		74,231
72	0603713N	Ocean Engineering Technology Development	16,077	16,077	16,077		16,077
73	0603721N	Environmental Protection	46,117	46,117	46,117		46,117
74	0603724N	Navy Energy Program	5,025	5,025	5,025		5,025
75	0603725N	Facilities Improvement	1,728	4,128	1,728		1,728
		Photovoltaic Energy Savings Initiative		[2,400]			
76	0603734N	CHALK CORAL	48,187	48,187	48,187		48,187
77	0603739N	Navy Logistic Productivity	11,735	23,235	11,735	4,000	15,735
		Compatible Processor Upgrade Program		[6,500]		[2,000]	
		Rapid Retargeting		[5,000]		[2,000]	
78	0603746N	RETRACT MAPLE	148,856	157,856	148,856		148,856
		Classified Program		[9,000]			
79	0603748N	LINK PLUMERIA	62,601	62,601	62,601		62,601
80	0603751N	RETRACT ELM	22,200	22,200	22,200		22,200
81	0603755N	Ship Self Defense - Dem/Val	8,353	8,353	8,353		8,353
82	0603764N	LINK EVERGREEN	26,151	26,151	26,151		26,151
83	0603787N	Special Processes	58,858	58,858	58,858		58,858
84	0603790N	NATO Research and Development	11,551	11,551	11,551		11,551
		VECTOR Study & Analysis (Fence--Non-add)		[1,000]			

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
85	0603795N	Land Attack Technology	130,993	176,193	111,510		130,993
		Advanced Land Attack Missile Program		[20,000]			
		Distributed Common Ground Station		[25,200]			
		Future Missile System			[15,000]		
		Land Attack Standard Missile (LASM)			[-34,483]		
86	0603800N	Joint Strike Fighter (JSF) - Dem/Val			30,000		
		Reflect Delay in Decision About Down-select of JSF Winning Team			[30,000]		
87	0603851M	Nonlethal Weapons - Dem/Val	34,008	24,008	34,008		34,008
		Reduction to Support Higher Transformation Priorities		[-10,000]			
88	0603857N	All Service Combat Identification Evaluation Team (ASCIET)	13,530	13,530	13,530		13,530
89	0603879N	Single Integrated Air Picture (SIAP) System Engineer (SE)	43,140	43,140	43,140		43,140
90	0603889N	Counterdrug RDT&E Projects					
90a	0604272N	Tactical Aircraft Directed InfraRed Countermeasure (TADIRCM)			18,034		
		Transfer from PE 63216N (RDN 44) -- Budget Request Included TADIRCM in RDN 44 total in error			[18,034]		
91	0604327N	Hard and Deeply Buried Target Defeat System (HDBTDS) Program					
92	0604707N	Space and Electronic Warfare (SEW) Architecture/Engineering Support	32,259	32,259	32,259		32,259
93	0603208N	Training System Aircraft					
94	0603662N	Foreign Counter-Intelligence (FCI) - RDT&E	[ ]			[ ]	
95	0604212N	Other Helo Development	64,392	66,392	64,392	2,000	66,392
		Sea Target Laser Aim Scoring System		[2,000]		[2,000]	
96	0604214N	AV-8B Aircraft - Eng Dev	32,897	32,897	32,897		32,897

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
97	0604215N	Standards Development	120,552	127,052	66,748	6,500	127,052
		Metrology Projects		[6,500]		[6,500]	
		Transfer to PE 65500N (RDN 156a) -- Budget Request Included MMA in RDN 97 total in error			[-53,804]		
98	0604216N	Multi-Mission Helicopter Upgrade Development	149,418	149,418	149,418		149,418
99	0604217N	S-3 Weapon System Improvement	428	428	428		428
100	0604218N	Air/Ocean Equipment Engineering	6,346	6,346	6,346		6,346
101	0604221N	P-3 Modernization Program	3,220	3,220	3,220		3,220
102	0604231N	Tactical Command System	64,832	64,832	64,832		64,832
103	0604234N	E-2C Radar Modernization Program	96,000	96,000	96,000		96,000
104	0604235N	Navy Area Missile Defense	388,496		388,496	(388,496)	
		Transfer to PE 63881C (RDDW 75)		[-388,496]		[-388,496]	
105	0604245N	H-1 Upgrades	170,068	170,068	170,068		170,068
106	0604261N	Acoustic Search Sensors	16,825	16,825	16,825		16,825
107	0604262N	V-22A	546,735	446,735	451,735	(100,000)	446,735
		Defer Building SOCOM CV-22 EMD Aircraft		[-100,000]	[-100,000]	[-100,000]	
		USD (AT&L) Review of Alternatives			[5,000]		
108	0604264N	Air Crew Systems Development	7,717	7,717	12,717	3,000	10,717
		Modular Helmet Development			[5,000]	[3,000]	
109	0604270N	EW Development	112,473	126,473	112,473	4,000	116,473
		Follow-on Support Jammer		[10,000]			
		Location of GPS Interferers (LOCO GPSI)		[4,000]		[4,000]	

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
110	0604300N	SC-21 Total Ship System Engineering	355,093	355,093	359,093	3,000	358,093
		Personnel Tracking & Locating System			[1,000]	[1,000]	
		Power Node Control Center (PNCC)			[3,000]	[2,000]	
111	0604307N	Surface Combatant Combat System Engineering	262,037	276,937	268,037	14,900	276,937
		Operational Readiness Test Systems Network		[6,000]		[6,000]	
		AEGIS Operational Readiness Training Systems (ORTS)			[6,000]		
		Peripheral Consolidation Program		[8,900]		[8,900]	
112	0604311N	LPD-17 Class Systems Integration	1,001	1,001	1,001		1,001
113	0604312N	Tri-Service Standoff Attack Missile	1,946	1,946	10,046	5,000	6,946
		Joint Air-to-Surface Standoff Missile (JASSM) Integration on F-18			[8,100]	[5,000]	
114	0604366N	Standard Missile Improvements	1,309	1,309	6,309	2,000	3,309
		Advanced Optical Correlator			[5,000]	[2,000]	
115	0604373N	Airborne MCM	52,041	52,041	52,041		52,041
116	0604503N	SSN-688 and Trident Modernization	43,706	68,706	57,006	13,300	57,006
		Multipurpose Processor		[25,000]			
		Improved Antenna Technology			[3,300]	[3,300]	
		Tactical Control Information Management			[10,000]		
		Multipurpose Processor / Advanced Processing Build for Tactical Information Systems Management				[10,000]	
117	0604504N	Air Control	12,821	12,821	12,821		12,821
118	0604507N	Enhanced Modular Signal Processor	1,013	1,013	1,013		1,013
119	0604512N	Shipboard Aviation Systems	16,375	21,375	16,375	3,500	19,875
		Aviation - Shipboard Information Technology Initiative		[5,000]		[3,500]	

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
120	0604518N	Combat Information Center Conversion	5,392	5,392	10,392	5,000	10,392
		Common Command-& Decision (CC&D) Upgrade			[5,000]	[5,000]	
121	0604524N	Submarine Combat System					
122	0604528N	SWATH (Small Waterplane Area Twin Hull) Oceanographic Ship					
123	0604558N	New Design SSN	201,596	201,596	201,596		201,596
124	0604561N	SSN-21 Developments	5,770	5,770	5,770		5,770
125	0604562N	Submarine Tactical Warfare System	29,246	29,246	56,246	25,000	54,246
		Accelerate Combat Control System Consolidation			[27,000]	[25,000]	
126	0604567N	Ship Contract Design/ Live Fire T&E	130,388	130,388	130,388		130,388
		Titanium Watertight Door & Hatch Cover (Fence--Non-add)		[1,000]			
127	0604574N	Navy Tactical Computer Resources	3,836	3,836	3,836		3,836
128	0604601N	Mine Development					
129	0604603N	Unguided Conventional Air-Launched Weapons	12,890	12,890	12,890		12,890
130	0604610N	Lightweight Torpedo Development	10,310	10,310	10,310		10,310
131	0604618N	Joint Direct Attack Munition	56,285	56,285	56,285		56,285
132	0604654N	Joint Service Explosive Ordnance Development	8,123	8,123	8,123		8,123
133	0604703N	Personnel, Training, Simulation, and Human Factors	1,300	1,300	1,300		1,300
134	0604710N	Navy Energy Program	3,157	3,157	3,157		3,157
135	0604721N	Battle Group Passive Horizon Extension System	8,130	8,130	8,130		8,130
136	0604727N	Joint Standoff Weapon Systems	26,852	26,852	26,852		26,852
137	0604755N	Ship Self Defense - EMD	52,163	52,163	67,163	5,000	57,163
		Infrared Search & Track (IRST)			[15,000]	[5,000]	

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
138	0604756N	Ship Self Defense - Hard Kill	33,530	33,530	33,530		33,530
139	0604757N	Ship Self Defense - Soft Kill	41,670	41,670	45,670	2,000	43,670
		NULKA Decoy Developments			[4,000]	[2,000]	
140	0604771N	Medical Development	5,455	5,455	5,455		5,455
141	0604777N	Navigation/ID System	23,884	23,884	23,884		23,884
142	0604784N	Distributed Surveillance System	34,711	34,711	34,711		34,711
143	0604800N	Joint Strike Fighter (JSF) - EMD	767,259	767,259	613,659		767,259
		Reflect Delay in Decision About Down-select of JSF Winning Team			[-153,600]		
144	0604805N	Commercial Operations and Support Savings Initiative					
145	0604910N	Smart Card	896	896	896		896
146	0605013M	Information Technology Development	11,031	11,031	11,031		11,031
147	0605013N	Information Technology Development	49,333	49,333	54,333	3,500	52,833
		Human Resource Enterprise Strategy			[5,000]	[3,500]	
148	0605014N	Defense Integrated Military Human Resources System (DIMHRS) RDT&E	47,184	47,184	47,184		47,184
149	0605015N	Joint Counter-Intelligence Assessment Group (JCAG) - RDT&E	6,000	6,000	6,000		6,000
150	0508713N	Navy Standard Integrated Personnel System (NSIPS)	13,082	13,082	13,082		13,082
151	0604256N	Threat Simulator Development	30,110	30,110	30,110		30,110
152	0604258N	Target Systems Development	49,511	49,511	49,511		49,511
153	0604759N	Major T&E Investment	41,804	41,804	41,804		41,804
154	0605152N	Studies and Analysis Support - Navy	6,679	4,000	6,679	(2,679)	4,000
		Reduction to Support Higher Transformation Priorities		[-2,679]		[-2,679]	
155	0605154N	Center for Naval Analyses	44,891	44,891	44,891		44,891

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
156	0605155N	Fleet Tactical Development	2,912	2,912	2,912		2,912
156a	0605500N	Multi-Mission Maritime Aircraft (MMA)			53,804		
		Transfer from PE 64215N (RDN 97) -- Budget Request Included MMA in RDN 97 total in error			[53,804]		
157	0605502N	Small Business Innovative Research					
158	0605804N	Technical Information Services	951	12,951	6,951	2,500	3,451
		Commercialization of Advanced Technology		[6,000]			
		Supply Chain Best Practices		[6,000]	[6,000]	[2,500]	
159	0605853N	Management, Technical & International Support	21,628	18,628	21,628		21,628
		Reduction to Support Higher Transformation Priorities		[-3,000]			
160	0605856N	Strategic Technical Support	2,391	2,391	2,391		2,391
161	0605861N	RDT&E Science and Technology Management	54,825	54,825	54,825		54,825
162	0605862N	RDT&E Instrumentation Modernization	11,601	11,601	11,601		11,601
163	0605863N	RDT&E Ship and Aircraft Support	71,735	71,735	71,735		71,735
164	0605864N	Test and Evaluation Support	277,414	270,000	277,414		277,414
		Reduction to Support Higher Transformation Priorities		[-7,414]			
165	0605865N	Operational Test and Evaluation Capability	11,649	11,649	11,649		11,649
166	0605866N	Navy Space and Electronic Warfare (SEW) Support	3,433	3,433	3,433		3,433
167	0605867N	SEW Surveillance/Reconnaissance Support	12,693	12,693	12,693		12,693
168	0605873M	Marine Corps Program Wide Support	9,614	9,614	12,814	3,000	12,614
		Nanoparticle Responses to Chem Bio Threats			[3,200]	[3,000]	
169	0305885N	Tactical Cryptologic Activities	85,000	85,000	85,000		85,000
170	0909999N	Financing for Cancelled Account Adjustments					

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
171	0603660N	Advanced Development Projects	[ ]			[ ]	
172	0603661N	Retract Violet	[ ]			[ ]	
173	0603662N	Foreign Counter-Intelligence (FCI) - RDT&E	[ ]		2,000	[ ]	
174	0604227N	HARPOON Modifications					
175	0604805N	Commercial Operations and Support Savings Initiative					
176	0101221N	Strategic Sub & Weapons System Support	43,322	53,122	43,322	2,500	45,822
		Radiation-hardened Electronics Applications Programs (RHEAP)		[9,800]		[2,500]	
		Re-entry Systems Application Program (RSAP) (Fence--Non-add)			[2,000]	[2,000]	
177	0101224N	SSBN Security Technology Program	34,091	34,091	34,091		34,091
178	0101226N	Submarine Acoustic Warfare Development	996	996	996		996
179	0101402N	Navy Strategic Communications	4,205		4,205		4,205
		Reduction to Support Higher Transformation Priorities		[-4,205]			
180	0204136N	F/A-18 Squadrons	253,257	214,257	280,257		253,257
		Fuel Cell Second Source		[1,000]			
		Joint Helmet Mounted Cueing System (JHMCS) for F/A-18 & Other Aircraft		[10,000]			
		JHMCS for F/A-18C/D			[27,000]		
		JHMCS for F/A-18 Aircraft				[10,000]	
		Reduction to Support Higher Transformation Priorities		[-50,000]		[-10,000]	
181	0204152N	E-2 Squadrons	20,583	30,583	20,583		20,583
		E-2 / C-2 Eight-blade Composite Propeller		[10,000]			
182	0204163N	Fleet Telecommunications (Tactical)	21,136	10,236	21,136		21,136
		Reduction to Support Higher Transformation Priorities		[-10,900]			

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
183	0204229N	Tomahawk and Tomahawk Mission Planning Center (TMPC)	76,036	73,814	76,036		76,036
		Reduction to Support Higher Transformation Priorities		[-2,222]			
184	0204311N	Integrated Surveillance System	20,041	20,041	20,041		20,041
185	0204413N	Amphibious Tactical Support Units	24,387	24,387	24,387		24,387
		Expeditionary Warfare Testbed - Supporting Arms Technology Insertion		[10,000]			
		Reduction to Support Higher Transformation Priorities		[-10,000]			
186	0204571N	Consolidated Training Systems Development	22,407	22,407	22,407		22,407
187	0204575N	Electronic Warfare (EW) Readiness Support	7,659	5,359	7,659		7,659
		Decrease		[-2,300]			
188	0205601N	HARM Improvement	13,630	23,630	13,630	5,000	18,630
		Advanced Anti-radiation Guided Munition (AARGM)		[10,000]		[5,000]	
189	0205604N	Tactical Data Links	39,362	31,662	39,362		39,362
		Reduction to Support Higher Transformation Priorities		[-7,700]			
190	0205620N	Surface ASW Combat System Integration	28,119	24,219	28,119		28,119
		Reduction to Support Higher Transformation Priorities		[-3,900]			
191	0205632N	MK-48 ADCAP	17,130	27,130	22,130	5,000	22,130
		Torpedo Rapid COTS Insertion		[10,000]			
		Expand Advance Processing Build (APB) Process in MK-48 Upgrades			[5,000]		
		Torpedo Rapid COTS Insertion / APB Application for MK-48 Upgrades				[5,000]	
192	0205633N	Aviation Improvements	41,430	41,430	41,430		41,430
193	0205658N	Navy Science Assistance Program	4,945	4,945	4,945		4,945
194	0205667N	F-14 Upgrade					

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
195	0205675N	Operational Nuclear Power Systems	55,202	55,202	55,202		55,202
196	0206313M	Marine Corps Communications Systems	104,835	104,835	112,835	5,000	109,835
		Unit Operations Center (UOC) Development			[8,000]	[5,000]	
197	0206623M	Marine Corps Ground Combat/Supporting Arms Systems	43,935	43,935	43,935		43,935
198	0206624M	Marine Corps Combat Services Support	8,483	8,483	8,483		8,483
199	0207161N	Tactical AIM Missiles	16,402	16,402	16,402		16,402
200	0207163N	Advanced Medium Range Air-to-Air Missile (AMRAAM)	10,795	9,795	10,795		10,795
		Reduction to Support Higher Transformation Priorities		[-1,000]			
201	0301303N	Maritime Intelligence	[ ]			[ ]	
202	0301327N	Technical Reconnaissance and Surveillance	[ ]			[ ]	
203	0303109N	Satellite Communications (SPACE)	54,230	44,230	54,230		54,230
		Reduction to Support Higher Transformation Priorities		[-10,000]			
204	0303140N	Information Systems Security Program	20,942	45,942	20,942	1,000	21,942
		Navy's Intelligent Agent Security Module (IASM)		[25,000]		[1,000]	
205	0304111N	Special Activities	[ ]			[ ]	
206	0305160N	Navy Meteorological and Ocean Sensors-Space (METOC)	23,492	21,592	23,492		23,492
		Reduction to Support Higher Transformation Priorities		[-1,900]			
207	0305188N	Joint C4ISR Battle Center (JBC)	13,618		13,618		13,618
		Reduction to Support Higher Transformation Priorities		[-13,618]			
208	0305192N	Joint Military Intelligence Programs	7,179	7,179	7,179		7,179
209	0305204N	Tactical Unmanned Aerial Vehicles	66,349	66,349	77,349		66,349
		Increased Scope of R&D Effort & Risk Reduction Testing			[11,000]		

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
210	0305206N	Airborne Reconnaissance Systems	5,736	15,236	5,736	3,000	8,736
		Electro-optical Framing Reconnaissance		[9,500]		[3,000]	
211	0305207N	Manned Reconnaissance Systems	29,232	34,232	29,232	4,000	33,232
		Advanced Multiband Surveillance Systems		[5,000]		[4,000]	
212	0305208N	Distributed Common Ground Systems	4,467	5,467	4,467		4,467
		Upgrade Digital Imagery Workstation Suite (DIWS)		[1,000]			
213	0305927N	Naval Space Surveillance	4,237	4,237	4,237		4,237
214	0308601N	Modeling and Simulation Support	7,828	10,828	14,828	2,000	9,828
		SPAWAR Enhanced Modeling & Simulation Initiatives		[3,000]			
		Develop Better Modeling & Simulation Tools to Aid Interoperability			[7,000]		
		Enhanced Modeling & Simulation Initiatives				[2,000]	
215	0702207N	Depot Maintenance (Non-IF)	13,569	8,597	13,569		13,569
		Reduction to Support Higher Transformation Priorities		[-4,972]			
216	0708011N	Industrial Preparedness	70,605	70,605	70,605		70,605
217	0708730N	Maritime Technology (MARITECH)	20,065	20,065	20,065		20,065
999N		Classified Programs	885,347	885,347	885,347		885,347
217a		Management Reform Initiatives				(10,600)	(10,600)
			========	========	========	========	========
		Total, RDT&E Navy	11,123,389	10,863,274	11,134,806	(339,125)	10,784,264

Follow-on support jamming aircraft

The budget request included $112.5 million in PE 64270N for electronic warfare development, but included no funds for pre-engineering and manufacturing development (EMD) risk reduction activities for a follow-on support jamming aircraft program to replace the EA–6B.

The House amendment would authorize an increase of $10.0 million for pre-EMD risk reduction activities for a follow-on support jamming aircraft program.

The Senate bill included no similar authorization.

The conferees agree to authorize no additional funds for a follow-on support jamming aircraft program.

The conferees recognize that the Department of Defense is scheduled to complete the Analysis of Alternatives (AoA) in December 2001 and believe that the Department will identify a need to replace the capability currently provided by the EA–6B fleet of electronic warfare aircraft. The conferees believe that the Department should move expeditiously to translate the results of that AoA into a plan that will avoid having the Nation presented with any gap in this important mission area.

Future destroyer program

The budget request included $288.4 million in PE 63513N and $355.1 million in PE 64300N for the DD–21 program.

The Senate bill would authorize the budget request.

The House amendment would authorize a decrease of $25.0 million in PE 63513N.

Subsequent to passage of both the Senate bill and the House amendment, the Navy announced intentions to restructure the DD–21 program to a family of surface combatants including a destroyer version, DD(X). However, the specifics of the proposed programs for development of the family of surface combatants were not available for the conferees to review.

Therefore, the conferees agree to authorize a decrease of $50.0 million in PE 63513N resulting from the delay in the down-select to a future destroyer detail design. The conferees will review the Navy's decision to restructure DD–21 when the Navy makes available details of the cancellation of the current request for proposals and the proposed replacement program.

Littoral support craft—experimental

The budget request included $85.3 million in PE 63123N for force protection advanced technology, including $20.0 million for development and demonstration of experimental craft for littoral support operations. The Office of Naval Research has proposed to conduct a phased program to develop and demonstrate an experimental littoral support craft demonstrator (LSC–X) that would build upon development and evaluation of operational concepts at the component and subsystem level and provide the basis for operational experiments on the contribution that such craft could make to naval operations in the littoral.

The House amendment would authorize a total of $39.0 million in PE 63123N for development and demonstration of an LSC–X, including an increase of $19.0 million for demonstration and development of an experimental craft for littoral support operations.

The Senate bill included no similar authorization. However, the Senate report accompanying S. 1438 (S. Rept. 107–62) identified at least six efforts that the Navy has underway to test key technologies for future ship programs. The Senate report also would encourage the Navy to focus ship design efforts on programs that will collect the type of information that will be needed to make decisions on future combatant ships, the future amphibious ship (LH(X)), the future joint command and control ship (JCC(X)), and the maritime prepositioning force ship of the future (MPF(F)), rather than duplicating efforts already underway.

The conferees agree to authorize a total of $31.0 million in PE 63123N, an increase of $11.0 million, to continue the ONR program for development and demonstration of the LSC–X.

The conferees direct that the Secretary of the Navy identify the set of experimental objectives that the LSC–X program is intended to explore, and the objective measures of effectiveness that will be used to determine whether those objectives have been achieved. The conferees also direct the Secretary to define the program plan, the schedule, and the funding requirements for development of LSC–X. The Secretary should provide all of this information to the congressional defense committees by March 31, 2002.

Research, Development, Test and Evaluation, Air Force—Overview

The budget request for fiscal year 2002 included an authorization of $14,344.0 million for Research, Development, Test and Evaluation, Air Force in the Department of Defense.

The Senate bill would authorize $14,459.5 million.

The House amendment would authorize $14,485.7 million.

The conferees recommended an authorization of $14,407.2 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, AIR FORCE					
1	0601102F	Defense Research Sciences	220,869	220,869	220,869		220,869
2	0602102F	Materials	77,164	89,664	93,664	8,500	85,664
		UV Free Electron Laser		[5,500]	[2,500]	[2,500]	
		Special Aerospace Materials & Manufacturing Processes		[4,500]			
		Metals Affordability Initiative			[5,000]		
		Special Aerospace Materials				[3,500]	
		Thermal Management for Space Structures		[2,500]			
		Environmentally Sound Coatings			[1,500]		
		Titanium Matrix Composites			[7,500]	[2,500]	
3	0602201F	Aerospace Vehicle Technologies	97,465	97,465	97,465		97,465
4	0602202F	Human Effectiveness Applied Research	69,080	73,080	69,080		69,080
		Advanced High Definition Display Technology		[4,000]			
5	0602203F	Aerospace Propulsion	149,211	164,711	149,211	7,000	156,211
		Integrated High Payoff Rocket Propulsion Technology (IHPRPT)		[9,500]		[3,000]	
		Pulse Detonation Engine		[6,000]		[4,000]	
6	0602204F	Aerospace Sensors	84,149	70,049	84,149		84,149
		Reduction to Support Higher Transformation Priorities		[-14,100]			
7	0602269F	Hypersonic Technology Program					
8	0602601F	Space Technology	61,086	61,086	61,086		61,086
9	0602602F	Conventional Munitions	49,270	49,270	49,270		49,270

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
10	0602605F	Directed Energy Technology	36,678	30,978	36,678		36,678
		Reduction to Support Higher Transformation Priorities		[-5,700]			
11	0602702F	Command, Control and Communications	61,659	56,459	64,659		61,659
		Reduction to Support Higher Transformation Priorities		[-5,200]			
		Information Protection and Authentication			[3,000]		
12	0602805F	Dual Use Science and Technology Program	10,417	10,417	10,417		10,417
13	0603106F	Logistics Systems Technology					
14	0603112F	Advanced Materials for Weapon Systems	32,748	43,248	37,748	3,500	36,248
		Ceramic Matrix Composites for Engines		[2,000]			
		Materials Technologies for Aging Aircraft		[4,000]		[1,000]	
		Special Aerospace Materials & Manufacturing Processes		[4,500]			
		Advanced Aluminum Aerostructures			[5,000]	[2,500]	
15	0603202F	Aerospace Propulsion Subsystems Integration					
16	0603203F	Advanced Aerospace Sensors	55,809	60,809	55,809		55,809
		Advanced Aerospace Sensors		[5,000]			
17	0603205F	Flight Vehicle Technology					
18	0603211F	Aerospace Technology Dev/Demo	26,269	28,269	30,269	3,000	29,269
		Access-to-space Joint System Program Office		[2,000]			
		Fly-by-light Avionics for UCAV			[4,000]	[3,000]	
19	0603216F	Aerospace Propulsion and Power Technology	114,335	114,335	114,335		114,335
20	0603227F	Personnel, Training and Simulation Technology					
21	0603231F	Crew Systems and Personnel Protection Technology	32,356	32,356	32,356		32,356

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
22	0603245F	Flight Vehicle Technology Integration					
23	0603253F	Advanced Sensor Integration					
24	0603270F	Electronic Combat Technology	28,221	28,221	28,221		28,221
25	0603302F	Space and Missile Rocket Propulsion		19,100		2,000	2,000
		Air Force Research Laboratory (AFRL) Test Stands		[12,600]			
		Integrated High Payoff Rocket Propulsion Technology (IHPRPT)		[6,500]		[2,000]	
26	0603311F	Ballistic Missile Technology					
27	0603401F	Advanced Spacecraft Technology	54,528	69,528	54,528	2,000	56,528
		Low Cost Launch Technology (including Scorpius)		[15,000]		[2,000]	
28	0603410F	Space Systems Environmental Interactions Technology					
29	0603444F	Maui Space Surveillance System (MSSS)	6,484	6,484	6,484		6,484
30	0603601F	Conventional Weapons Technology	37,617	45,617	37,617	5,000	42,617
		Low Cost Autonomous Attack System (LOCAAS)		[8,000]		[5,000]	
31	0603605F	Advanced Weapons Technology	43,758	38,758	43,758		43,758
		Reduction to Support Higher Transformation Priorities		[-5,000]			
32	0603723F	Environmental Engineering Technology		3,000		3,000	3,000
		Texas Regional Institute for Environmental Studies (TRIES)		[3,000]		[3,000]	
33	0603726F	Aerospace Info Tech Sys Integration					
34	0603789F	C3I Advanced Development	32,644	32,644	32,644		32,644
35	0603876F	Space-Based Laser					

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
35a	0603XXXF	Warfighter Rapid Acquisition Process (WRAP) Rapid Transition Fund		74,200			
		Transfer from PE 23761F (RDAF 113)		[30,247]			
		Rapid Acquisition Program For Transformation (RAPFT)		[43,953]			
36	0603260F	Intelligence Advanced Development	4,482	4,482	4,482		4,482
37	0603319F	Airborne Laser Program					
38	0603421F	NAVSTAR Global Positioning System III	78,358	78,358	78,358		78,358
39	0603430F	Advanced EHF MILSATCOM (SPACE)	549,659	522,659	549,659		549,659
		Reduction to Support Higher Transformation Priorities		[-27,000]			
40	0603432F	Polar MILSATCOM (SPACE)	18,724	13,724	18,724		18,724
		Reduction to Support Higher Transformation Priorities		[-5,000]			
41	0603434F	National Polar-orbiting Operational Environmental Satellite Sys (Space) - D	157,394	157,394	157,394		157,394
42	0603438F	Space Control Technology	33,022	23,022	33,022		33,022
		Reduction to Support Higher Transformation Priorities		[-10,000]			
43	0603617F	Command, Control, and Communication Applications					
44	0603742F	Combat Identification Technology	11,523	11,523	11,523		11,523
45	0603790F	NATO Research and Development	5,616	5,616	5,616		5,616
46	0603800F	Joint Strike Fighter			30,000		
		Reflect Delay in Decision About Down-select of JSF Winning Team			[30,000]		
47	0603850F	Integrated Broadcast Service (Dem/Val)	20,529	17,529	20,529	(3,000)	17,529
		Reduction to Support Higher Transformation Priorities		[-3,000]		[-3,000]	
48	0603851F	Intercontinental Ballistic Missile - Dem/Val	44,484	44,484	44,484		44,484
49	0603854F	Wideband Gapfiller System RDT&E (Space)	96,670	96,670	96,670		96,670

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
50	0603856F	Air Force/National Program Cooperation (AFNPC)	4,433		4,433	(1,700)	2,733
		Reduction to Support Higher Transformation Priorities		[-4,433]		[-1,700]	
51	0603859F	Pollution Prevention (Dem/Val)	2,688		2,688		2,688
		Reduction to Support Higher Transformation Priorities		[-2,688]			
52	0603860F	Joint Precision Approach and Landing Systems - Dem/Val	9,554	14,554	9,554		9,554
		JPALS		[5,000]			
53	0604327F	Hard and Deeply Buried Target Defeat System (HDBTDS) Program					
54	0603840F	Global Broadcast Service (GBS)	34,544	34,544	34,544		34,544
55	0604012F	Joint Helmet Mounted Cueing System (JHMCS)	5,960	5,960	5,960		5,960
56	0604201F	Integrated Avionics Planning and Development					
57	0604222F	Nuclear Weapons Support	13,120	13,120	13,120		13,120
58	0604226F	B-1B	194,507	152,507	194,507		194,507
		Transfer to O & M, Air National Guard		[-42,000]			
59	0604227F	Distributed Mission Training (DMT)					
60	0604233F	Specialized Undergraduate Pilot Training	4,885	4,885	4,885		4,885
61	0604239F	F-22 EMD	865,464	865,464	865,464		865,464
62	0604240F	B-2 Advanced Technology Bomber	155,004	245,004	229,004	49,900	204,904
		Link-16 / Center Instrument Display / Inflight Replanning		[63,000]		[47,000]	
		Link 16 Improvements			[63,000]		
		EGBU-28		[27,000]			
		Hand held Holographic Radar Gun			[2,900]	[2,900]	
		Correction of Other Shortfalls			[8,100]		

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
63	0604251F	Space Based Radar EMD	50,000	50,000	50,000		50,000
64	0604270F	EW Development	41,267	54,567	54,567	13,300	54,567
		Precision Location & Identification (PLAID)		[13,300]	[13,300]	[13,300]	
65	0604328F	Extended Range Cruise Missile (ERCM)	40,235	40,235	40,235		40,235
66	0604329F	Small Diameter Bomb (SDB) (Dem/Val)	40,000	40,000	40,000		40,000
67	0604441F	Space Based Infrared System (SBIRS) High EMD	405,229	405,229	405,229		405,229
68	0604442F	Space Based Infrared System (SBIRS) Low EMD					
69	0604479F	Milstar LDR/MDR Satellite Communications (SPACE)	232,084	238,584	232,084	4,000	236,084
		Satellite Planning & Information Network (SPIN)		[6,500]		[4,000]	
70	0604600F	Munitions Dispenser Development					
71	0604602F	Armament/Ordnance Development	3,838	3,838	3,838		3,838
72	0604604F	Submunitions	4,809	4,809	4,809		4,809
73	0604617F	Agile Combat Support	6,674	6,674	7,674	1,000	7,674
		Integrated Medical Information Technology			[1,000]	[1,000]	
74	0604618F	Joint Direct Attack Munition	27,956	27,956	27,956		27,956
75	0604703F	Aeromedical/Chemical Defense Systems					
76	0604706F	Life Support Systems	4,586	4,586	12,586	5,000	9,586
		Panoramic Night Vision Goggle (PNVG) Development			[8,000]	[5,000]	
77	0604708F	Civil, Fire, Environmental, Shelter Engineering					
78	0604727F	Joint Standoff Weapons Systems					
79	0604735F	Combat Training Ranges	25,943	25,943	25,943		25,943
80	0604740F	Integrated Command & Control Applications (IC2A)	224	224	224		224

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(Dollars in Thousands)

Line	Program		FY2002	House	Senate	Conference Agreement	
No.	Element	Program Title	Request	Authorized	Authorized	Change	Authorized
81	0604750F	Intelligence Equipment	1,323	1,323	1,323		1,323
82	0604754F	Tactical Data Link Infrastructure	17,648	17,648	17,648		17,648
83	0604762F	Common Low Observables Verification System (CLOVerS)	6,713	6,713	6,713		6,713
84	0604779F	Tactical Data Link Interoperability	5,677	5,677	5,677		5,677
85	0604800F	Joint Strike Fighter EMD	769,511	779,511	615,911		769,511
		Alternative Engine Program		[10,000]			
		Reflect Delay in Decision About Down-select of JSF Winning Team			[-153,600]		
86	0604805F	Commercial Operations and Support Savings Initiative					
87	0604851F	Intercontinental Ballistic Missile - EMD	81,086	81,086	81,086		81,086
88	0604853F	Evolved Expendable Launch Vehicle Program (SPACE) - EMD	320,321	320,321	320,321		320,321
		Composite Materials (Fence--Non-add)			[3,800]	[3,800]	
89	0605011F	RDT&E for Aging Aircraft	20,115	35,115	20,115	14,750	34,865
		Aging Landing Gear Life Extension		[15,000]		[14,750]	
90	0207249F	Precision Attack Systems Procurement	5,984	5,984	5,984		5,984
91	0305176F	Combat Survivor Evader Locator	11,486	11,486	11,486		11,486
92	0401318F	CV-22	10,008	10,008	10,008		10,008
93	0604256F	Threat Simulator Development	38,153	38,153	38,153		38,153
94	0604759F	Major T&E Investment	49,857	59,857	49,857	2,000	51,857
		Laser Induced Surface Improvement (LISI)		[6,000]		[2,000]	
		Propulsion Wind Tunnel (PWT) Upgrade		[4,000]			
95	0605101F	RAND Project Air Force	25,098	20,098	25,098	(3,000)	22,098
		Reduction to Support Higher Transformation Priorities		[-5,000]		[-3,000]	

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
96	0605306F	Ranch Hand II Epidemiology Study	10,950	10,950	10,950		10,950
97	0605502F	Small Business Innovation Research					
98	0605712F	Initial Operational Test & Evaluation	28,998	28,998	28,998		28,998
99	0605807F	Test and Evaluation Support	396,583	382,983	396,583		396,583
		Reduction to Support Higher Transformation Priorities		[-13,600]			
100	0605854F	Pollution Prevention					
101	0605860F	Rocket Systems Launch Program (SPACE)	8,538	19,538	8,538	3,000	11,538
		Missile Technology Demonstration (MTD)-3B		[11,000]		[3,000]	
102	0605864F	Space Test Program (STP)	50,523	55,523	50,523		50,523
		High Accuracy Network Demonstration System (HANDS)		[5,000]			
103	0804731F	General Skill Training	309	309	309		309
104	0909900F	Financing for Expired Account Adjustments					
105	0909980F	Judgment Fund Reimbursement	10,000		10,000		10,000
		Reduction to Support Higher Transformation Priorities		[-10,000]			
106	1001004F	International Activities	3,846	3,846	3,846		3,846
107	0101113F	B-52 Squadrons	66,874	66,874	66,874		66,874
108	0101120F	Advanced Cruise Missile	2,487	2,487	2,487		2,487
109	0101122F	Air-Launched Cruise Missile (ALCM)	6,841	6,841	6,841		6,841
110	0102325F	Atmospheric Early Warning System					
111	0102326F	Region/Sector Operation Control Center Modernization Program					
112	0102411F	North Atlantic Defense System					

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
113	0203761F	Warfighter Rapid Acquisition Process (WRAP) Rapid Transition Fund	30,247		30,247		30,247
		Transfer to PE 63XXXF (RDAF 35a)		[-30,247]			
114	0207027F	AC2ISR Center					
115	0207028F	Joint Expeditionary Force Experiment	64,005	34,605	64,005		64,005
		Reduction to Support Higher Transformation Priorities		[-29,400]			
116	0207131F	A-10 Squadrons	3,049	3,049	3,049		3,049
117	0207133F	F-16 Squadrons	110,797	80,797	110,797		110,797
		Reduction to Support Higher Transformation Priorities		[-30,000]			
118	0207134F	F-15E Squadrons	101,439	75,939	109,859	500	101,939
		Reduction to Support Higher Transformation Priorities		[-25,500]		[-5,000]	
		IFF Systems Integration & Testing			[8,420]	[5,500]	
119	0207136F	Manned Destructive Suppression	22,239	22,239	22,239		22,239
120	0207138F	F-22 Squadrons	16,092	992	16,092		16,092
		Reduction to Support Higher Transformation Priorities		[-15,100]			
121	0207141F	F-117A Squadrons	2,305	2,305	2,305		2,305
122	0207161F	Tactical AIM Missiles	5,771	5,771	5,771		5,771
123	0207163F	Advanced Medium Range Air-to-Air Missile (AMRAAM)	57,702	57,702	57,702		57,702
124	0207247F	AF TENCAP	10,811	13,811	10,811	2,000	12,811
		GPS - Jammer Detection & Location System (GPS-JLOC)		[3,000]		[2,000]	
125	0207248F	Special Evaluation Program	100,027	103,527	100,027		100,027
		Classified Adjustment		[3,500]			
126	0207253F	Compass Call	3,908	3,908	3,908		3,908

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
127	0207268F	Aircraft Engine Component Improvement Program	175,101	149,601	175,101	(8,500)	166,601
		Reduction to Support Higher Transformation Priorities		[-25,500]		[-8,500]	
128	0207277F	CSAF Innovation Program	1,961		1,961		1,961
		Reduction to Support Higher Transformation Priorities		[-1,961]			
129	0207320F	Sensor Fused Weapons					
130	0207325F	Joint Air-to-Surface Standoff Missile (JASSM)	79,197	79,197	79,197		79,197
131	0207410F	Aerospace Operations Center (AOC)	19,514	9,514	19,514		19,514
		Reduction to Support Higher Transformation Priorities		[-10,000]			
132	0207412F	Control and Reporting Center (CRC)	7,047	7,047	7,047		7,047
133	0207417F	Airborne Warning and Control System (AWACS)	39,787	39,787	39,787		39,787
134	0207423F	Advanced Communications Systems	9,324	9,324	9,324		9,324
135	0207424F	Evaluation and Analysis Program	204,467	204,467	204,467		204,467
136	0207433F	Advanced Program Technology	107,716	118,216	107,716		107,716
		Classified Adjustment		[10,500]			
137	0207438F	Theater Battle Management (TBM) C4I	37,331	37,331	37,331		37,331
138	0207581F	Joint Surveillance and Target Attack Radar System (Joint STARS)	147,859	246,859	159,359	11,500	159,359
		JSTARS Ocean Surveillance		[10,000]			
		Multi-platform Radar Technology Insertion Program (MP-RTIP)		[89,000]			
		Transfer from APAF 58 -- SATCOM Kit Development			[5,700]	[5,700]	
		Transfer from APAF 58 -- Global Air Traffic Management (GATM) - Radio Integration			[5,800]	[5,800]	
139	0207590F	Seek Eagle	17,833	17,833	17,833		17,833
140	0207591F	Advanced Program Evaluation	82,397	82,397	82,397		82,397

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
141	0207601F	USAF Modeling and Simulation	25,345	27,345	25,345	1,000	26,345
		: Synthetic Theater Operations Research Model (STORM)		[2,000]		[1,000]	
142	0207605F	Wargaming and Simulation Centers	5,033	5,033	5,033		5,033
143	0207701F	Full Combat Mission Training	3,763	3,763	3,763		3,763
144	0208006F	Mission Planning Systems	16,904	16,904	16,904		16,904
145	0208021F	Information Warfare Support	1,803	1,803	1,803		1,803
146	0208031F	War Reserve Materiel - Equipment/Secondary Items					
147	0208060F	Theater Missile Defenses					
148	0208160F	Technical Evaluation System	154,621	154,621	154,621		154,621
149	0208161F	Special Evaluation System	42,334	42,334	42,334		42,334
150	0301310F	National Air Intelligence Center	[ ]			[ ]	
151	0301314F	COBRA BALL	[ ]			[ ]	
152	0301315F	Missile and Space Technical Collection	[ ]			[ ]	
153	0301324F	FOREST GREEN	[ ]			[ ]	
154	0301357F	NUDET Detection System					
155	0301398F	Management Headquarters GDIP	[ ]			[ ]	
156	0302015F	E-4B National Airborne Operations Center (NAOC)	23,359	23,359	23,359		23,359
157	0303110F	Defense Satellite Communications System (SPACE)	3,895	3,895	3,895		3,895
158	0303112F	Air Force Communications (AIRCOM)	31,828	31,828	31,828		31,828
159	0303131F	Minimum Essential Emergency Communications Network (MEECN)	5,982	5,982	5,982		5,982
160	0303140F	Information Systems Security Program	7,936	7,936	12,936	3,000	10,936
		Cyber Security Research			[5,000]	[3,000]	

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
161	0303141F	Global Combat Support System	48,911	48,911	48,911		48,911
162	0303150F	Global Command and Control System	3,521	3,521	3,521		3,521
163	0303401F	Communications Security (COMSEC)	4,131	4,131	4,131		4,131
164	0303601F	MILSATCOM Terminals	41,763	41,763	41,763		41,763
165	0304111F	Special Activities	[ ]		58,900	[ ]	
166	0304311F	Selected Activities	79,208	79,208	79,208		79,208
167	0305099F	Global Air Traffic Management (GATM)	9,331	9,331	9,331		9,331
168	0305110F	Satellite Control Network (SPACE)	56,349	56,349	56,349		56,349
169	0305111F	Weather Service	11,452	11,452	11,452		11,452
170	0305114F	Air Traffic Control, Approach, and Landing System (ATCALS)	26,982	26,982	26,982		26,982
171	0305128F	Security and Investigative Activities	472	472	472		472
172	0305142F	Applied Technology and Integration	[ ]			[ ]	
173	0305144F	Titan Space Launch Vehicles (SPACE)	21,293	21,293	21,293		21,293
174	0305159F	Defense Reconnaissance Support Activities (SPACE)	46,578	46,578	46,578		46,578
175	0305160F	Defense Meteorological Satellite Program (SPACE)	12,259	12,259	12,259		12,259
176	0305164F	NAVSTAR Global Positioning System (User Equipment) (SPACE)	53,093	53,093	53,093		53,093
177	0305165F	NAVSTAR Global Positioning System (Space and Control Segments)	186,459	186,459	186,459		186,459
178	0305172F	Combined Advanced Applications	[ ]			[ ]	
179	0305182F	Spacelift Range System (SPACE)	65,097	65,097	83,097		65,097
		Range Safety Improvements			[18,000]		
180	0305202F	Dragon U-2 (JMIP)	32,804	32,804	36,804	3,000	35,804
		SYERS Polarimetric Sensor Upgrade			[4,000]	[3,000]	

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
181	0305205F	Endurance Unmanned Aerial Vehicles	190,237	190,237	206,237		190,237
		Global Hawk SIGINT Demonstration			[16,000]		
182	0305206F	Airborne Reconnaissance Systems	77,766	97,266	77,766	12,000	89,766
		Combat Sent Passive Airborne Ranging		[4,500]		[2,000]	
		Theater Airborne Reconnaissance Systems		[15,000]		[10,000]	
183	0305207F	Manned Reconnaissance Systems					
184	0305208F	Distributed Common Ground Systems	11,429	33,929	11,429	2,000	13,429
		Network-centric Collaborative Targeting (NCCT) Functionality in DCGS		[22,500]		[2,000]	
185	0305906F	NCMC - TW/AA System	15,797	15,797	15,797		15,797
186	0305910F	SPACETRACK (SPACE)	32,591	12,591	36,991		32,591
		Reduction to Support Higher Transformation Priorities		[-20,000]			
		Space Surveillance Modernization - Camera Augmentation			[8,000]		
		Transfer to OPAF 62 -- Camera Spares			[-3,600]		
187	0305911F	Defense Support Program (SPACE)	6,363	6,363	6,363		6,363
188	0305913F	NUDET Detection System (SPACE)	18,823	18,823	31,623	12,800	31,623
		Incorporate NUDET on First GPS Block IIF			[12,800]	[12,800]	
189	0305917F	Space Architect					
190	0308601F	Modeling and Simulation Support					
191	0308699F	Shared Early Warning (SEW)	3,697	3,697	3,697		3,697

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Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
192	0401115F	C-130 Airlift Squadron	80,533	80,533	80,533		80,533
193	0401119F	C-5 Airlift Squadrons	166,508	166,508	166,508		166,508
194	0401130F	C-17 Aircraft	110,619	110,619	110,619		110,619
195	0401134F	Large Aircraft IR Countermeasures (LAIRCM)	62,530	40,030	62,530		62,530
		Reduction to Support Higher Transformation Priorities		[-22,500]			
196	0401214F	Air Cargo Material Handling (463-L) (Non-IF)					
197	0401218F	KC-135s	5,416	5,416	2,371	(3,045)	2,371
		KC-135 Replacement Study			[-3,045]	[-3,045]	
198	0401219F	KC-10s	22,774	22,774	22,774		22,774
199	0404011F	Special Operations Forces					
200	0702207F	Depot Maintenance (Non-IF)	1,542	5,542	1,542		1,542
		Joint Service Metrology R&D Support		[4,000]			
201	0708011F	Industrial Preparedness	53,782	59,782	53,782		53,782
		Bipolar Wafer Cell Nickel metal Hydride Battery		[2,500]			
		Special Aerospace Materials & Manufacturing Processes		[3,500]			
202	0708026F	Productivity, Reliability, Availability, Maintain. Prog Ofc (PRAMPO)	20,689	20,689	20,689		20,689
203	0708071F	Joint Logistics Program - Ammunition Standard System	106	106	106		106
204	0708611F	Support Systems Development	24,221	24,221	24,221		24,221
205	0708612F	Computer Resources Support Improvement Program (CRSIP)	2,376	2,376	2,376		2,376
206	0901218F	Civilian Compensation Program	7,019	7,019	7,019		7,019
207	1001018F	NATO Joint STARS					

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
999F		Classified Programs	4,424,521	4,424,521	4,402,821	(22,700)	4,401,821
		Transfer NUDETS to Air Force Funding			[-22,700]	[-22,700]	
		Other			[1,000]		
207a		Management Reform Initiatives				(69,600)	(69,600)
			========	========	========	========	========
		Total, RDT&E Air Force	14,343,982	14,485,653	14,459,457	63,205	14,407,187

Joint Strike Fighter

The budget request included no funding for PE 63800N or PE 63800F for continuing demonstration and validation (DEMVAL) of the joint strike fighter (JSF). The budget request included $767.3 million for PE 64800N and $769.5 million for PE 64800F for initiating the engineering and manufacturing development (EMD) of the JSF.

The Senate bill would authorize an increase of $30.0 million for PE 63800N and an increase of $30.0 million for PE 63800F to continue JSF DEMVAL. The Senate bill would also authorize a decrease of $153.6 million for PE 64800N and a decrease of $153.6 million for PE 64800F. The Senate bill based these actions on a possible delay in the award of the EMD contract.

The House amendment would authorize the budget request for PE 64800N, and an increase of $10.0 million for PE 64800F for the JSF alternate engine program.

The conferees agree to authorize the budget request.

The conferees remain concerned about the technical risks associated with the JSF aircraft engine and expect the Department to develop and integrate the JSF alternate engine within the EMD program. The conferees believe that the Department should execute the alternate engine program with a goal of having that engine integrated into the JSF prior to full rate production.

The conferees are aware of the potential long-term impact to the military aircraft industrial base as a result of the recently completed source selection. Source selection talking points, released by the Department of Defense (DOD) at the announcement of the selection, stated: "The JSF downselect may lead companies to reassess their strategic position and teaming arrangements. The expertise resident in the teams not selected today can still make a contribution to the JSF effort through revised industrial teaming arrangements. DoD will encourage teaming arrangements that make the most efficient use of the expertise in the industrial base to deliver the 'best value' product."

The conferees direct the Under Secretary of Defense for Acquisition, Technology, and Logistics to submit a report, with the submission of the fiscal year 2003 budget request, which details: (1) projections for the military aircraft industrial base, to include foreign military sales, between now and fiscal year 2015; and (2) actions taken by the DOD to encourage teaming arrangements in the JSF program that make the most efficient use of the expertise in the industrial base.

Low cost launch technologies

The budget request included $54.5 million in PE 63401F for advanced spacecraft technology, but included no funds for low cost launch technology.

The Senate bill would authorize, of the funds authorized in PE 63882C for the Midcourse Ground Defense System, $15.0 million for the Excalibur and Scorpius low cost launch concepts.

The House amendment would authorize $15.0 million in PE 63401F for low cost launch technologies, including Scorpius.

The conferees note that the Air Force has terminated the Excalibur project. The conferees agree to authorize an increase of $2.0 million in PE 63401F for low cost launch technologies, including Scorpius. Of the funds authorized in PE 63401F, an additional $13.0 million may be used for low cost launch technologies, including Scorpius.

Special aerospace materials and materials manufacturing processes

The budget request included $77.2 million for PE 62102F for applied research in materials, $32.7 million for PE 63112F for advanced development of advanced materials for weapons systems, and $53.8 million in PE 78011F for the Air Force's manufacturing technology program.

The House amendment would authorize increases of $4.5 million in PE 62102F, $4.5 million in PE63112F, and $3.5 million in PE 78011F to continue the program for development and demonstration of special aerospace materials and materials manufacturing processes.

The Senate bill would authorize an increase of $16.5 in PE 62102F, including $5.0 million for improvements in the manufacturing of speciality aerospace materials.

The conferees agree to an increase of $3.5 million in PE 62102F to continue the program for applied research and development in special aerospace materials and materials manufacturing processes.

The conferees note the continuing need of the military services for advances in speciality aerospace metals and metal alloys for aircraft and space vehicle structures, propulsion, components, and weapon systems. The conferees direct the Secretary of the Air Force, in coordination with the Secretary of the Navy, to assess the requirements for advanced aerospace metals and alloys and report to the congressional defense committees on the plan, including budget, schedule, and technology demonstrations, for meeting these requirements with the submission of the fiscal year 2004 budget request.

Research, Development, Test and Evaluation, Defense-Wide—Overview

The budget request for fiscal year 2002 included an authorization of $15,050.8 million for Research, Development, Test and Evaluation, Defense-Wide in the Department of Defense.

The Senate bill would authorize $13,878.7 million.

The House amendment would authorize $15,109.6 million.

The conferees recommended an authorization of $14,372.6 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, DEFENSE-WIDE					
1	0601101D8Z	In-House Laboratory Independent Research	2,097	2,097	2,097		2,097
2	0601101E	Defense Research Sciences	121,003	121,003	121,003		121,003
3	0601103D8Z	University Research Initiatives	240,374	243,374	245,374	2,000	242,374
		Microelectromechanical Systems (MEMS) Sensors for Rolling Element Bearings		[3,000]		[2,000]	
		National Nanotechnology Initiative			[5,000]		
4	0601105D8Z	Force Health Protection	26,952	26,952	26,952		26,952
5	0601108D8Z	High Energy Laser Research Initiatives	11,877	11,877	11,877		11,877
6	0601111D8Z	Government/Industry Cosponsorship of University Research	3,421	3,421	3,421		3,421
7	0601114D8Z	Defense Experimental Program to Stimulate Competitive Research	9,901	9,901	9,901		9,901
8	0601384BP	Chemical and Biological Defense Program	39,066	41,066	39,066		39,066
		Chemical & Biological Agent Detection via Optical Computing		[2,000]			
9	0602110E	Next Generation Internet					
10	0602173C	Support Technologies - Applied Research					
11	0602227D8Z	Medical Free Electron Laser	14,660	19,660	14,660	3,000	17,660
		Medical free electron laser (MFEL)		[5,000]		[3,000]	
12	0602228D8Z	Historically Black Colleges and Universities (HBCU) Science	14,484	14,484	14,484		14,484
13	0602234D8Z	Lincoln Laboratory Research Program	21,969	21,969	21,969		21,969
14	0602301E	Computing Systems and Communications Technology	382,294	312,294	382,294	(2,000)	380,294
		Reduction to Support Higher Transformation Priorities		[-70,000]		[-2,000]	
15	0602302E	Embedded Software and Pervasive Computing	75,561	70,561	75,561		75,561
		Reduction to Support Higher Transformation Priorities		[-5,000]			

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
16	0602383E	Biological Warfare Defense	140,080	150,080	140,080	3,000	143,080
		Asymmetric Protocols for Biological Defense		[10,000]		[3,000]	
17	0602384BP	Chemical and Biological Defense Program	125,481	109,481	132,981	5,500	130,981
		Chem Bio Regenerative Air Filtration System		[4,000]	[2,000]	[1,000]	
		Mustard Gas Antidote			[1,000]		
		WMD Response Planning Models			[1,000]	[1,000]	
		Bioinformatics Program			[1,500]	[1,500]	
		Fluorescence-based Chem Bio Point Detectors			[2,000]	[2,000]	
		Reduction to Support Higher Transformation Priorities		[-20,000]			
18	0602702E	Tactical Technology	173,885	164,885	173,885	(6,000)	167,885
		Reduction to Support Higher Transformation Priorities		[-9,000]		[-6,000]	
19	0602708E	Integrated Command and Control Technology					
20	0602712E	Materials and Electronics Technology	358,254	349,754	364,754	2,750	361,004
		Detection and Destruction of CW - Nanotechnology			[1,500]	[1,000]	
		Fabrication of 3D Structures			[2,000]		
		Nanomaterials for Frequency Tunable Devices			[3,000]	[1,750]	
		Materials and Electronics Technology		[9,500]			
		Exoskeleton Project		[-4,000]			
		Reduction to Support Higher Transformation Priorities		[-14,000]			
		High frequency / high power wide bandgap semiconductor electronics technology (Fence--Non-add)		[41,000]		[41,000]	

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
21	0602715BR	Nuclear Sustainment & Counterproliferation Technologies	295,132	265,132	298,132	6,000	301,132
		Thermobaric Warhead Development		[5,000]		[4,000]	
		0.25/0.18 Micrometer Radiation Hardening Process			[3,000]	[2,000]	
		Reduction to Support Higher Transformation Priorities		[-35,000]			
22	0602787D8Z	Medical Technology	8,971	8,971	8,971		8,971
23	0602890D8Z	High Energy Laser Research	36,005	36,005	36,005		36,005
24	0305108K	Command and Control Research					
25	0603002D8Z	Medical Advanced Technology	2,086	2,086	2,086		2,086
26	0603104D8Z	Explosives Demilitarization Technology	8,815	13,815	8,815		8,815
		Tactical Missile Recycling		[5,000]			
27	0603121D8Z	SO/LIC Advanced Development	8,799	8,799	8,799		8,799
28	0603122D8Z	Combating Terrorism Technology Support	42,243	52,243	67,243	16,500	58,743
		Facial Recognition Technology		[2,000]		[2,000]	
		Aerogel Chem Bio Detectors			[3,000]	[1,000]	
		Blast Mitigation Testing			[7,000]	[3,500]	
		Device Pre-Detonation Technologies			[2,000]	[2,000]	
		Electrostatic Decontamination System		[8,000]	[8,000]	[5,000]	
		Standoff Detection of Explosives			[5,000]	[3,000]	
29	0603160BR	Counterproliferation Advanced Development Technologies	89,772	92,772	89,772		89,772
		Counterproliferation Analysis & Planning System (CAPS)		[3,000]			
		CAPS (Fence--Non-add)		[9,000]		[9,000]	
30	0603173C	Support Technologies - Advanced Technology Development					

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
31	0603174C	Space Based Laser (SBL)					
32	0603175C	Ballistic Missile Defense Technology	112,890	112,890	112,890		112,890
33	0603225D8Z	Joint DoD-DoE Munitions Technology Development	19,178	19,178	19,178		19,178
34	0603232D8Z	Automatic Target Recognition	7,716	7,716	7,716		7,716
35	0603285E	Advanced Aerospace Systems	153,700	128,700	162,700	6,231	159,931
		Reduction to Support Higher Transformation Priorities		[-25,000]			
		Accelerate Navy Version of UCAV			[9,000]	[6,231]	
36	0603384BP	Chemical and Biological Defense Program - Advanced Development	69,249	59,249	76,249	5,000	74,249
		Reduction to Support Higher Transformation Priorities		[-10,000]			
		Safeguard			[7,000]	[5,000]	
37	0603704D8Z	Special Technical Support	11,019	21,019	13,019	2,000	13,019
		Complex Systems Design		[10,000]			
		Complex Systems Design (MULTIVIEW)			[2,000]	[2,000]	
38	0603711BR	Arms Control Technology	52,474	52,474	52,474		52,474
39	0603712S	Generic Logistics R&D Technology Demonstrations	30,373	30,373	32,373	1,731	32,104
		Competitiveness Sustainment Initiative			[2,000]	[1,731]	
40	0603716D8Z	Strategic Environmental Research Program	69,376	39,376	69,376		69,376
		Reduction to Support Higher Transformation Priorities		[-30,000]			
41	0603727D8Z	Joint Warfighting Program	7,613	7,613	7,613		7,613
42	0603728D8Z	Agile Port Demonstration					
43	0603738D8Z	Cooperative DoD/VA Medical Research		5,000		2,500	2,500
		Implantable Cardioverter Defibrillator		[5,000]		[2,500]	

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
44	0603739E	Advanced Electronics Technologies	177,264	169,264	177,264		177,264
		Reduction to Support Higher Transformation Priorities		[-8,000]			
45	0603750D8Z	Advanced Concept Technology Demonstrations	148,917	128,917	148,917		148,917
		Reduction to Support Higher Transformation Priorities		[-20,000]			
46	0603755D8Z	High Performance Computing Modernization Program	188,376	168,376	188,376		188,376
		Reduction to Support Higher Transformation Priorities		[-20,000]			
47	0603760E	Command, Control and Communications Systems	117,451	117,451	117,451		117,451
48	0603762E	Sensor and Guidance Technology	203,095	199,095	203,095		203,095
		Reduction to Support Higher Transformation Priorities		[-4,000]			
49	0603763E	Marine Technology	41,497	41,497	41,497		41,497
50	0603764E	Land Warfare Technology	153,067	153,067	164,067		153,067
		Unmanned Ground Combat Vehicles (FCS)			[11,000]		
51	0603765E	Classified DARPA Programs	142,395	137,395	142,395		142,395
		Reduction to Support Higher Transformation Priorities		[-5,000]			
52	0603781D8Z	Software Engineering Institute	21,091	21,091	21,091		21,091
53	0603805S	Dual Use Application Programs					
54	0603826D8Z	Quick Reaction Projects	25,000	66,000	25,000		25,000
		Defense Innovative Technology Challenge Program		[40,000]			
		Quick Reaction Projects Increase		[1,000]			
55	0603832D8Z	Joint Wargaming Simulation Management Office	45,065	45,065	45,065		45,065
56	0603924D8Z	High Energy Laser Advanced Technology Program	16,005	16,005	16,005		16,005
57	0605160D8Z	Counterproliferation Support	1,781	1,781	1,781		1,781

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
58	0303132G	Global Grid Communications	[ ]			[ ]	
59	0603228D8Z	Physical Security Equipment	33,543	49,543	33,543	6,000	39,543
		Backscatter Mobile Truck System		[16,000]		[6,000]	
60	0603709D8Z	Joint Robotics Program	11,302	11,302	11,302		11,302
61	0603714D8Z	Advanced Sensor Applications Program	15,780	15,780	15,780		15,780
62	0603736D8Z	CALS Initiative	1,614	1,614	1,614		1,614
63	0603851D8Z	Environmental Security Technical Certification Program	25,314	22,314	30,314		25,314
		Decrease		[-3,000]			
		UXO Remediation			[5,000]		
64	0603861C	Theater High Altitude Area Defense System - TMD - Dem/Val					
65	0603868C	Navy Theater Wide Missile Defense System					
66	0603869C	Meads Concepts - Dem/Val					
67	0603870C	Boost Phase Intercept Theater Missile Defense Acquisition - Dem/Val					
68	0603871C	National Missile Defense - Dem/Val					
69	0603872C	Joint Theater Missile Defense - Dem/Val					
70	0603873C	Family of Systems Engineering and Integration (FoS E&I)					
71	0603874C	BMD Technical Operations					
72	0603875C	International Cooperative Programs					
73	0603876C	Threat and Countermeasures					

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
74	0603880C	Ballistic Missile Defense System Segment	779,584	754,584	575,584		779,584
		Systems Integration & Engineering		[-25,000]			
		BMDO-wide Systems Engineering & Architecture			[-33,000]		
		BMDO-wide Modeling & Simulation			[-49,000]		
		BMDO-wide Test Support			[-55,000]		
		Program-wide Test & Evaluation			[-67,000]		
		Atmospheric Intercept Technology (AIT) (Fence--Non-add)			[10,000]		
75	0603881C	Ballistic Missile Defense Terminal Defense Segment	988,180	1,577,421	840,242	622,241	1,610,421
		Transfer from PE 63869A (RDA 74) for MEADS Concepts		[73,645]		[73,645]	
		Transfer from PE 64865A (RDA 124) for Patriot PAC 3 Theater Missile Defense Acquisition		[107,100]		[107,100]	
		Transfer from PE 64235N (RDN 104) for Navy Area Missile Defense		[388,496]		[388,496]	
		Navy Area Missile Defense - Cost Overruns & Schedule Slips		[-10,000]			
		Ground-based Terminal					
		THAAD			[-210,000]		
		Arrow System Improvement Program (ASIP) Increase		[30,000]			
		Arrow			[76,000]		
		ASIP & Joint Interoperability Efforts				[53,000]	
		Sea-based Terminal					
		Program Operations			[-13,938]		

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
76	0603882C	Ballistic Missile Defense Midcourse Defense Segment	3,940,534	3,765,534	3,263,534		3,940,534
		Ground based Midcourse					
		Block 2006 Ground based Midcourse System			[-240,000]		
		2004 Testbed Testing			[-90,000]		
		Sea based Midcourse					
		Navy Theater Wide					
		Interceptors for Contingency Deployment			[-100,000]		
		Concept Definition		[-30,000]	[-50,000]		
		Radar Risk Reduction Effort			[-87,000]		
		AEGIS LEAP Interceptor Testing			[-110,000]		
		Decrease Midcourse Defense Segment		[-145,000]			
		Thermonic Technology (Fence--Non-add)			[8,000]		
		Magdalena Ridge Observatory (Fence--Non add)			[9,000]		
		Short Range Missile Defense - Optimal Radar Distribution (SWORD) (Fence--Non-add)			[1,900]		
		Tactical High Energy Laser (THEL) (Fence--Non-add)			[9,000]		
		Software Defined Radio (Fence--Non-add)			[5,000]		
		Patriot Ground Equipment (Fence--Non-add)			[7,600]		
		Aerostat Design & Manufacturing (ADAM) for CMD (Fence--Non add)			[3,800]		
		SMDC Advanced Research Center (Fence--Non-add)			[8,000]		
		Space and Missile Defense Battlelab (Fence--Non-add)			[11,000]		
		Airborne IR Surv System (AIRS) (Fence--Non-add)			[8,000]		
		Excalibur/Scorpius Liquid Fueled Target (Fence--Non-add)			[15,000]		

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
		Bottom Anti-reflective Coatings (BARC) (Fence--Non-add)			[2,500]		
		Ultra flat Planarization (Fence--Non-add)			[7,500]		
77	0603883C	Ballistic Missile Defense Boost Defense Segment	685,363	490,363	522,363		685,363
		Sea-based Boost Segment		[-25,000]	[-40,000]		
		Air-based Boost Segment					
		Airborne Laser					
		Long Lead Optics for Full Power ABL		[-10,000]			
		Long Lead Materials for Full Power ABL			[-10,000]		
		Spare Parts & Support Excess to FY 03 Test Program Needs			[-70,000]		
		Space-based Boost Segment					
		Space-based Laser		[-28,000]	[-28,000]		
		Space-based Kinetic Kill		[-10,000]	[-15,000]		
		Program Operations		[-2,000]			
		Decrease to Boost Defense Segment for Space-related Activities		[-120,000]			
78	0603884BP	Chemical and Biological Defense Program - Dem/Val	82,636	101,636	82,636	5,000	87,636
		Chemical & Biological Mass Spectrometer		[10,000]			
		Mobile Chemical Agent Detector (MCAD)		[9,000]		[5,000]	
79	0603884C	Ballistic Missile Defense Sensors	495,600	470,600	398,998		495,600
		Space Sensors					
		SBIRS-Low					
		Significant Program Growth		[-25,000]			
		Concept Definition Contract Extension			[-96,602]		

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
80	0603892D8Z	ASAT					
81	0603920D8Z	Humanitarian Demining	13,512	13,512	13,512		13,512
82	0603923D8Z	Coalition Warfare	12,943	9,943	12,943		12,943
		Reduction to Support Higher Transformation Priorities		[-3,000]			
83	0604722D8Z	Joint Service Education and Training Systems Development					
84	0901585C	Pentagon Reservation					
85	0604384BP	Chemical and Biological Defense Program - EMD	159,943	159,943	159,943		159,943
86	0604709D8Z	Joint Robotics Program - EMD	13,197	13,197	13,197		13,197
87	0604764K	Advanced IT Services Joint Program Office (AITS-JPO)	14,254	14,254	14,254		14,254
88	0604771D8Z	Joint Tactical Information Distribution System (JTIDS)	16,572	16,572	16,572		16,572
89	0604805D8Z	Commercial Operations and Support Savings Initiative					
90	0604861C	Theater High Altitude Area Defense System - TMD - EMD					
91	0604865C	Patriot PAC-3 Theater Missile Defense Acquisition - EMD					
92	0604867C	Navy Area Theater Missile Defense - EMD					
93	0605013BL	Information Technology Development	2,469	2,469	2,469		2,469
94	0605013D8Z	Information Technology Development					
95	0605014S	Information Technology Development (DHRA)					
96	0605014SE	Information Technology Development					
97	0605015BL	Information Technology Development-Standard Procurement System (SPS)	9,747	9,747	9,747		9,747
98	0605016D8Z	Financial Management Modernization Program	100,000	100,000	100,000		100,000
99	0303129K	Defense Message System	11,423	11,423	11,423		11,423
100	0303140K	Information Systems Security Program	11,767	11,767	11,767		11,767

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(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
101	0303141K	Global Combat Support System	16,483	16,483	16,483		16,483
102	0305840K	Electronic Commerce	25,519	25,519	25,519		25,519
103	0603858D8Z	Unexploded Ordnance Detection and Clearance	1,165	1,165	1,165		1,165
104	0604943D8Z	Thermal Vicar	5,952	5,952	5,952		5,952
105	0605104D8Z	Technical Studies, Support and Analysis	33,805	31,805	31,405	(2,000)	31,805
		Joint Technology Applications Analysis Pilot Program		[1,000]		[1,000]	
		Reduction to Support Higher Transformation Priorities		[-3,000]		[-3,000]	
		Offset for M291 Skin Decontamination Kits			[-2,400]		
106	0605110BR	Critical Technology Support	3,313	3,313	3,313		3,313
107	0605114E	BLACK LIGHT	5,000	5,000	5,000		5,000
108	0605116D8Z	General Support to C3I	21,061	16,061	21,061		21,061
		Reduction to Support Higher Transformation Priorities		[-5,000]			
		Transfer from PE 65710D8Z (RDDW 119) (Fence--Non-add)			[8,000]		
109	0605117D8Z	Foreign Materiel Acquisition and Exploitation	31,951	31,951	31,951		31,951
110	0605123D8Z	Interagency Export License Automation	10,559	10,559	10,559		10,559
111	0605124D8Z	Defense Travel System	29,955	19,955	29,955		29,955
		Reduction to Support Higher Transformation Priorities		[-10,000]			
112	0605126J	Joint Theater Air and Missile Defense Organization	26,865	26,865	26,865		26,865
113	0605128D8Z	Classified Program USD(P)					
114	0605130D8Z	Foreign Comparative Testing	30,907	30,907	30,907		30,907
115	0605160BR	Counterproliferation Support					
116	0605384BP	Chemical and Biological Defense Program	31,276	31,276	31,276		31,276

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
117	0605502D8Z	Small Business Innovative Research					
118	0605502E	Small Business Innovative Research					
119	0605710D8Z	Classified Programs - C3I	56,653	56,653	16,653		56,653
		Transfer to O&M, DW -- Information Assurance Scholarship Program			[-1,500]		
		Transfer to O&M, DW -- Other OSD Programs			[-30,500]		
		Transfer to PE 65116D8Z (RDDW 108) -- General Support to C3I			[-8,000]		
120	0605790D8Z	Small Business Innovation Research/Challenge Administration	2,068	2,068	2,068		2,068
121	0605798S	Defense Technology Analysis	5,109	5,109	5,109		5,109
122	0605801K	Defense Technical Information Services (DTIC)	44,228	44,228	44,228		44,228
123	0605803S	R&D in Support of DoD Enlistment, Testing and Evaluation					
124	0605803SE	R&D in Support of DoD Enlistment, Testing and Evaluation	8,834	8,834	8,834		8,834
125	0605804D8Z	Development Test and Evaluation	46,382	46,382	46,382		46,382
126	0605898E	Management Headquarters (Research and Development) DARPA	36,937	36,937	36,937		36,937
127	0901585C	Pentagon Reservation	6,571	6,571	6,571		6,571
128	0901598C	Management Headquarters BMDO	27,758	27,758	27,758		27,758
129	0604805D8Z	Commercial Operations and Support Savings Initiative	10,805	17,000	10,805	15,000	25,805
		Reduction to Support Higher Transformation Priorities		[-10,805]			
		Aircraft Affordability Initiative (EW Digital PIP)		[17,000]		[15,000]	
130	0605127T	Partnership for Peace (PfP) Information Management System	1,922	1,922	1,922		1,922
131	0208045K	C4I Interoperability	41,389	41,389	41,389		41,389
132	0208052J	Joint Analytical Model Improvement Program	12,163	12,163	12,163		12,163
133	0300205R	Information Technology Systems	550	550	550		550

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
134	0301011G	Cryptologic Activities	[ ]		1,000	[ ]	
135	0301301L	General Defense Intelligence Program	[ ]		60,000	[ ]	
136	0301398L	Management Headquarters GDIP, DIA	[ ]			[ ]	
137	0302016K	National Military Command System Wide Support	1,014	1,014	1,014		1,014
138	0302019K	Defense Info Infrastructure Engineering and Integration	6,544	6,544	6,544		6,544
139	0303126K	Long Haul Communications (DCS)	10,744	10,744	10,744		10,744
140	0303127K	Support of the National Communications System	4,968	4,968	4,968		4,968
141	0303131K	Minimum Essential Emergency Communications Network (MEECN)	6,988	6,988	6,988		6,988
142	0303140G	Information Systems Security Program	414,844	414,844	414,844		414,844
		Regional Pilot Program for Infrastructure Protection (Fence--Non-add)			[5,000]	[5,000]	
143	0303149J	C4I for the Warrior	9,622	9,622	9,622		9,622
144	0303149K	C4I for the Warrior					
145	0303153K	Joint Spectrum Center	8,849	8,849	8,849		8,849
146	0303610K	Teleport Program	14,371	14,371	14,371		14,371
147	0304210BB	Special Reconnaissance Capabilities (SRC) Program	4,422	4,422	4,422		4,422
148	0304345BQ	National Imagery and Mapping Program	[ ]		10,000	[ ]	
149	0305102BQ	Defense Imagery and Mapping Program	115,209	139,409	119,209	16,000	131,209
		Commercial Joint Mapping & Visualization Tool Kit		[15,000]		[3,000]	
		Geographic Synthetic Aperture Radar (GeoSAR) Airborne Mapping System		[9,200]		[9,000]	
		Broadcast-request Imagery Technology Development (BRITE)			[3,000]	[3,000]	
		Intelligence Spatial Technologies for Smart Maps			[1,000]	[1,000]	
150	0305127V	Foreign Counterintelligence Activities	664	664	664		664

Title II - RDT and E

(Dollars in Thousands)

Line No.	Program Element	Program Title	FY2002 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
151	0305146D8Z	Defense Joint Counterintelligence Program (JMIP)	5,977	5,977	5,977		5,977
152	0305190D8Z	C3I Intelligence Programs	10,552	10,552	10,552		10,552
153	0305191D8Z	Technology Development	40,000	40,000	35,000		40,000
		Transfer to PE 35889D8Z (RDDW 161a) -- Joint Electromagnetic Technology Program			[-5,000]		
154	0305202G	Dragon U-2 (JMIP)	4,019	4,019	4,019		4,019
155	0305206G	Airborne Reconnaissance Systems	16,515	16,515	16,515		16,515
156	0305207G	Manned Reconnaissance Systems	4,556	4,556	4,556		4,556
157	0305208BQ	Distributed Common Ground Systems	[ ]			[ ]	
158	0305208G	Distributed Common Ground Systems	[ ]			[ ]	
159	0305208L	Distributed Common Ground Systems	1,006	1,006	1,006		1,006
160	0305884L	Intelligence Planning and Review Activities	[ ]			[ ]	
161	0305885G	Tactical Cryptologic Activities	105,455	105,455	105,455		105,455
161a	0305889D8Z	Joint Electromagnetic Technology Program			5,000		
		Transfer from PE 35191D8Z (RDDW 153) -- Technology Development			[5,000]		
162	0305889G	Counterdrug Intelligence Support					
163	0708011S	Industrial Preparedness	17,544	17,544	17,544		17,544
164	0902298J	Management Headquarters (OJCS)	11,312	11,312	11,312		11,312
165	0902740J	Joint Simulation System					
166	1160279BB	Small Business Innovative Research/Small Bus Tech Transfer Pilot Prog					
167	1160401BB	Special Operations Technology Development					
168	1160402BB	Special Operations Advanced Technology Development					
169	1160404BB	Special Operations Tactical Systems Development					

Title II - RDT and E

(Dollars in Thousands)

Line	Program		FY2002	House	Senate	Conference Agreement	
No.	Element	Program Title	Request	Authorized	Authorized	Change	Authorized
170	1160405BB	Special Operations Intelligence Systems Development					
171	1160407BB	SOF Medical Technology Development					
172	1160408BB	SOF Operational Enhancements	85,109	85,109	85,109		85,109
173	1160444BB	SOF Acquisition	252,134	266,034	253,234	3,100	255,434
		Lightweight Counter-mortar Radar		[3,000]		[1,000]	
		Solid-state Synthetic Aperture Radar		[7,500]		[2,000]	
		Special Reconnaissance Tool Kit		[3,200]		[1,000]	
		CV-22 Development			[-1,900]	[-1,900]	
		Threat Warning & Situational Awareness (PRIVATEER)			[2,800]	[1,000]	
999D		Classified Programs	1,829,938	1,829,938	1,829,938		1,829,938
173a		Management Reform Initiatives				(38,700)	(38,700)
173b		General Reduction to Ballistic Missile Defense RDT&E Programs				(1,300,000)	(1,300,000)
		General reduction to support Combating Terrorism or Missile Defense RDT&E				[1,300,000]	
173c		General Reduction to Ballistic Missile Defense RDT&E Programs				(53,000)	(53,000)
		General reduction to support Arrow				[-53,000]	
			========	========	========	========	========
		Total, RDT&E Defense-Wide	15,050,787	15,109,623	13,878,747	(678,147)	14,372,640

Arrow missile defense system

The budget request included $65.7 million in PE 63881C for the Arrow ballistic missile defense system, a joint development program between the United States and Israel.

The Senate bill would authorize an increase of $76.0 million in PE 63881C for the Arrow System Improvement Program and for continued joint interoperability efforts.

The House amendment would authorize an increase of $30.0 million in PE 63881C for acceleration of the Arrow System Improvement Program.

The conferees agree to authorize, from within funds available to the Ballistic Missile Defense Organization, an increase of $53.0 million in PE 63881C to accelerate the Arrow System Improvement Program and to continue joint interoperability efforts for U.S. and Israeli missile defense systems.

Ballistic missile defense advanced technology

To support critical ballistic missile defense technology activities, the conferees agree that, of the funding authorized for the Ballistic Missile Defense Organization, certain amounts may be used for advanced technology activities as specified below:

(1) up to $9.0 million for the Magdalena Ridge Observatory in PE 63175C;

(2) up to $5.0 million for Phase III of the Software Defined Radio program in PE 63175C;

(3) up to $8.0 million for the Army Space and Missile Defense Command's Advanced Research Center (ARC) in PE 63880C;

(4) up to $8.0 million for the Airborne Infrared Surveillance System (AIRS) in PE 63175C;

(5) up to $2.5 million for Bottom Anti-Reflective Coatings (BARC) for circuit boards in PE 63175C;

(6) up to $7.5 million for ultra-flat planarization technology for integrated circuits in PE 63175C; and

(7) up to $10.0 million for the Atmospheric Interceptor Technology (AIT) program in PE 63175C.

Common database asset for biological security

The budget request included $125.5 million in PE 62384BP for applied research in chemical and biological defense.

The Senate bill would authorize an increase of $1.5 million to develop a database of biological pathogen information and bioinformatics tools to support development of medical biological countermeasures.

The House amendment included no similar authorization.

The conferees agree to authorize an increase of $1.5 million for the development of a common database asset to support development of medical biological countermeasures. The database would integrate genomic and other biological data about high-priority pathogens, underlying scientific research and bioinformatics tools, and would serve those agencies addressing threats to biological security.

ITEMS OF SPECIAL INTEREST

Navy research and development budget exhibits

The Senate report accompanying S. 1438 (S. Rept. 107-62) would require the Navy to comply with the research and development budget justification guidelines included in the Department of Defense (DOD) Financial Management Regulation (DOD 7000.14–R). Subsequent to the passage of the Senate bill, the Navy provided additional budget justification information to the congressional defense committees.

The conferees share the concern expressed in the Senate report regarding the reorganization of the Navy's science and technology program elements in the fiscal year 2002 budget justification material. The failure of the Navy to display explicitly the transition between the fiscal year 2001 program element structure and the new fiscal year 2002 structure detracted from the ability of the defense authorizing committees to exercise their oversight responsibilities.

The conferees also share the Senate's concern about the priority given to Fleet and Force operational and support issues in the Navy's science and technology program and direct the Secretary of the Navy to report to the congressional defense committees by March 31, 2002, on the measures being taken to address these issues.

The conferees direct the Secretary of the Navy and the Under Secretary of Defense (Comptroller) to ensure that the Navy's budget justification information accompanying the fiscal year 2003 budget request adequately describes the Navy's science and technology program and complies with the requirements of DOD 7000.14–R. The Under Secretary shall report to the congressional defense committees with submission of the budget request any deficiencies in the budget justification material and the estimated date by which those deficiencies will be resolved.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 201–202)

The Senate bill contained provisions (secs. 201–202) that would authorize the recommended fiscal year 2002 funding levels for all research, development, test, and evaluation accounts.

The House amendment contained similar provisions.

The conference agreement includes these provisions.

Supplemental authorization of appropriations for fiscal year 2001 for Research, Development, Test, and Evaluation Defense-Wide (sec. 203)

The Senate bill contained a provision (sec. 233) that would authorize an increase of $1.0 million in fiscal year 2001 for intelligent spatial technologies for smart maps.

The House amendment contained no similar provision.

The House recedes.

Subtitle B—Program Requirements, Restrictions, and Limitations

Naval surface fire support assessment (sec. 211)

The House amendment contained a provision (sec. 212) that would direct the Secretary of Defense to establish a competitive program for the development of an advanced land attack missile (ALAM) for the DD–21, and would designate $20.0 million in PE 63795N for that purpose. The provision would also require the Secretary to submit a report on the program plan, schedule and funding for the ALAM program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to carry out an assessment of the requirements for naval surface fire support of ground forces operating in the littoral environment, including the role of an advanced fire support missile system for Navy combatant vessels. The amended provision would require that the Secretary submit a report on the results of that assessment by March 31, 2002.

Collaborative program for development of advanced radar systems (sec. 212)

The House amendment contained a provision (sec. 213) that would establish a cooperative research program to develop electronic materials for advanced radar applications.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would eliminate reference to specific dollar amounts for the programs. These dollar issues are treated in the funding tables in this report.

The conferees agree to a provision that would establish a cooperative research program to develop electronic materials for advanced radar applications. The conferees recognize the emerging importance of advanced electronic materials on future military systems, including advanced radar systems and other applications across services.

The provision would direct the Director of Defense Research and Engineering, the Secretary of the Navy, the Director of Defense Advanced Research Projects Agency (DARPA), and other appropriate services and agencies to enter into a collaborative agreement in order to coordinate ongoing efforts within this critical emerging technology area. The conferees believe that the agreement should focus on: (1) activities needed for technology development to extend the range and sensitivity of naval radars, including high frequency and high power wide band gap semiconductor materials and devices; and (2) acquisition systems to accelerate the deployment of the new technology.

The conferees expect the agreement to be constructed in a manner such that the Services and Agencies will increase financial investments to support necessary research, technology transition, and technology insertion activities. The conferees are concerned that, despite a recognition within the Navy of the importance of this emerging technology, the Office of Naval Research budget submission includes only very limited funding for wide band gap electronics research.

In addition, the conferees expect that any agreement will enable DARPA to maintain the flexibility to invest in a variety of research programs and directions associated with wide band gap technologies that will apply to numerous cross-service applications. This will preserve DARPA's role of developing revolutionary technologies and capabilities, while remaining relatively unconstrained from near-term requirements.

Repeal of limitations on total cost of engineering and manufacturing development for F–22 aircraft program (sec. 213)

The Senate bill contained a provision (sec. 211) that would repeal the cost limitation on the engineering and manufacturing development (EMD) phase for the F–22 aircraft program.

The House amendment contained a provision (sec. 214) that would have raised the cost limitation on the F–22 EMD program by $250.0 million.

The House recedes with an amendment that would clarify that the repeal of the cost limitation would apply only to the EMD phase of the program.

Joint biological defense program (sec. 214)

The Senate bill contained a provision (sec. 214) that would extend through fiscal year 2002 section 217 (a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 to define permissible obligations and identify reports to be provided to Congress concerning procurement of anthrax vaccine.

The House amendment contained no similar provision.

The House recedes.

Cooperative Department of Defense-Department of Veterans Affairs Medical Research Program (sec. 215)

The House amendment contained a provision (sec. 211) that would authorize funding for the cooperative Department of Defense/Department of Veterans Affairs medical research program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The conferees agree to authorize $2.5 million in PE 63738D8Z for the cooperative Department of Defense/Department of Veterans Affairs medical research program for research on the efficacy of antiarrythmic drugs with implantable cardioverter defibrillators. The conferees direct the Secretary of Defense to transfer such amount no later than 30 days after the date of the enactment of this Act.

C–5 aircraft reliability enhancement and reengining program (sec. 216)

The Senate bill contained a provision (sec. 212) that would require the Secretary of the Air Force to ensure that engineering and manufacturing development (EMD) under the C–5 aircraft reliability enhancement and reengining program (RERP) includes kit development for an equal number of C–5A and C–5B aircraft. The Air Force program envisioned a total of four aircraft in the RERP EMD program.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary to include at least one aircraft from among the 74 C–5A aircraft in the C–5 RERP EMD program.

Subtitle C—Ballistic Missile Defense

Transfer of responsibility for procurement for missile defense programs from Ballistic Missile Defense Organization to military departments (sec. 231)

The House amendment contained a provision (sec. 231) that would amend section 224 of title 10, United States Code, to change the term "procurement" to the term "research, development, test and evaluation" with respect to the display of budget amounts in budget requests for the Ballistic Missile Defense Organization (BMDO). The provision would also require the Secretary of Defense to establish criteria for the transfer of ballistic missile defense programs from the BMDO to the military departments and to submit these criteria to the congressional defense committees. Prior to the transfer of such a program, the Secretary would be required to notify Congress of his intent to make such a transfer and to certify that the program had met the criteria for transfer. The provision would permit such a transfer 60 days after Congress is notified.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to ensure that, for any transferred program, all appropriate conforming changes are made to proposed or projected funding allocations in the future years defense program. This will ensure that the funding is transferred with a program from the BMDO to a military department. The amendment would also require that, before a program is transferred, the roles and responsibilities are clearly defined for follow-on research, development, test and evaluation related to system improvement for that program.

The budget request proposed transferring the Patriot PAC–3 and the Medium Extended Air Defense System (MEADS) to the Army, and the Navy Area Defense system to the Navy. This provision would delay any such transfer until the requirements of the provision have been met. Consequently, the conferees agree to authorize funding for these ballistic missile defense programs within the BMDO accounts, and not with the military departments.

Program elements for Ballistic Missile Defense Organization (sec. 232)

The House amendment contained a provision (sec. 232) that would repeal section 223 of title 10, United States Code, which established program elements for ballistic missile defense (BMD) programs.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would revise the program elements for ballistic missile defense and require certain information and reviews concerning BMD activities.

The amendment would establish six new functional program elements and require that additional program elements be established for BMD programs entering into engineering and manufacturing development (EMD).

The amendment would require the Secretary of Defense to establish cost, schedule, testing and performance goals for BMD programs for the period covered by the future years defense program and to submit a statement of those goals to Congress each year.

The amendment would require the Secretary of Defense to submit to Congress each year an annual program plan for BMD programs that enter EMD or the equivalent phase, including a funding profile that displays estimated total funding and expenditures for significant procurement, construction and research and development, as well as a program schedule for significant procurement, construction, research and development, flight tests, and other significant test activities. Information included in annual budget justification documents need not be included in the plan.

The amendment would require that specified Department of Defense officials and elements review and comment on the development of goals and the annual program plan required in the provision.

The amendment would require the Director of the Ballistic Missile Defense Organization (BMDO) to develop a plan to ensure that each critical technology for a BMD program is demonstrated in an appropriate environment before entering operational service. The Director of Operational Test and Evaluation would review and comment on the plan.

The amendment would require, at the end of fiscal years 2002 and 2003, the Comptroller General of the United States to assess the extent to which the BMDO achieved the goals established by the Secretary of Defense for BMD programs, as required by the provision, and to report to Congress on the assessment.

The amendment would also require the Director of Operational Test and Evaluation to assess each year the adequacy and sufficiency of the BMDO test program for the preceding year, and to report to Congress on the assessment.

Ballistic missile defense budget justification

The President's budget proposed moving most ballistic missile defense programs into Research, Development, Test and Evaluation, Defense-Wide, and grouping them primarily into five large program elements.

The conferees are concerned that this year's budget justification documentation does not include the level of detail provided in past years for many of the projects within the new program elements. While supportive of the administration's intent to experiment with and test new technologies prior to committing to system development and acquisition, the conferees expect to receive appropriate levels of detailed funding, schedule, and test event information as required by annual budget justification reporting guidelines.

In addition to information provided for those programs that have entered engineering and manufacturing development, or an equivalent phase as described in the legislative provision, the Secretary of Defense shall ensure that each year's budget justification documents include the following information for programs and projects in earlier stages of research and development:

(1) funding appropriated in the previous year;

(2) the expected funding requirement for the next six years, by year; and

(3) detailed schedule including hardware and software deliveries, to the extent known, and planned decision points and test events, at least through completion of the planned testing and evaluation of the prototype or experiment.

This information shall be provided as part of the annual program plan report required by the provision, for programs and projects as identified above and any program or project identified as a matter of special interest, provided the information is not already included in budget justification materials accompanying the annual budget request.

Ballistic missile defense programs are among the most technologically challenging and complex in the Department of Defense. The exploration of leading edge technologies associated with missile defense programs often involves significant costs. Department of Defense directives and instructions (e.g., Department of Defense Instruction 5000.2) require the compilation of acquisition cost, life-cycle cost, and total ownership costs for defense projects and programs where available and approved. The conferees direct the Department of Defense to fully comply with the requirements of these DOD directives and instructions, including Department of Defense Instruction 5000.2.

Support of ballistic missile defense activities of the Department of Defense by the National Defense Laboratories of the Department of Energy (sec. 233)

The House amendment contained a provision (sec. 233) that would, at the discretion of the Director of the Ballistic Missile Defense Organization (BMDO), make available from funds authorized to be appropriated for the BMDO up to $25.0 million for research development and demonstration activities at the national laboratories of the Department of Energy National Nuclear Security Administration (NNSA) in support of the missions of the BMDO. The funds would be available subject to the provision of matching funds by the NNSA. Activities funded using this authority would be conducted under terms of the September 14, 2001 Memorandum of Understanding (MOU) between the Director of the BMDO and the Administrator of the National Nuclear Security Administration for use of the national laboratories by the BMDO.

The Senate bill contained no similar provision.

The Senate recedes.

The provision would authorize the Director of the BMDO to use funds available to

BMDO, on a discretionary basis, to utilize the national laboratories of the NNSA under the terms and conditions of the MOU. The terms of this MOU require that jointly-funded work done pursuant to the MOU be mutually beneficial to the missions of the two Departments.

The conferees note that the NNSA laboratories do a substantial amount of work for the Department of Defense in their role as federally funded research and development centers on a Work for Others basis. The conferees do not intend for this provision in any way to affect the ability of the BMDO to contract with the NNSA laboratories to conduct work under the Work for Others program. On the contrary, the conferees urge the Director to look closely at the capabilities of the NNSA laboratories and to utilize these capabilities fully.

Missile defense testing initiative (sec. 234)

The House amendment contained a provision (sec. 234) that would establish certain guidelines and requirements for the ballistic missile defense testing program of the Department of Defense.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Construction of test bed facilities for missile defense system (sec. 235)

The House amendment contained a provision (sec. 235) that would authorize the Secretary of Defense to use up to $500.0 million of funds appropriated for research, development, test and evaluation for fiscal years after fiscal year 2001 that are available for the Ballistic Missile Defense Organization to carry out construction projects, including construction of facilities "of general utility," to establish and operate the missile defense system test bed. The provision would also authorize the Secretary of Defense to use such funds to provide assistance to communities to meet increased needs for services or facilities resulting from construction or operation of the test bed, subject to certain conditions.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make clear that funds may be used for all construction projects necessary to establish and operate the test bed, but removes the reference to facilities "of general utility." The conferees understand that this authorization would permit the construction of such facilities as a power generation plant, a heating plant and roads. The conferees believe that the term "of general utility" could have been construed to mean facilities not necessary for establishing or operating the test bed, which would be inconsistent with congressional intent.

The amendment would also limit the use of funds for community assistance to funds appropriated for fiscal year 2002. If the Secretary of Defense determines that additional authority is needed to use funds for community assistance, the conferees direct the Secretary to provide full and specific justification for such authority.

Subtitle D—Air Force Science and Technology for the 21st Century

Air Force science and technology for the 21st Century Act (sec. 251-252)

The House amendment contained two provisions (secs. 251 and 252) that establish a sense of Congress regarding the Air Force science and technology development planning process.

The Senate bill contained no similar provisions.

The Senate recedes.

Study and report on effectiveness of Air Force science and technology program changes (sec. 253)

The House amendment contained a provision (sec. 253) that would require the Air Force and the National Research Council to study how changes to the Air Force science and technology program implemented over the past two years affect the future capabilities of the Air Force.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees direct the Air Force to ensure that the National Research Council is provided sufficient resources to adequately conduct the study called for by the provision.

Subtitle E—Other Matters

Establishment of unmanned aerial vehicle joint operational test bed system (sec. 261)

The House amendment contained a provision (sec. 241) that would require the Commander in Chief, U.S. Joint Forces Command to establish a joint operational test bed (JOTB) system to evaluate and ensure joint interoperability of unmanned aerial vehicle (UAV) systems. The provision would also direct the Secretary of the Navy to transfer certain Predator UAVs and related equipment to the Joint Forces Command for use in the JOTB system.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would delete the requirement for the transfer, but ensure that the Commander-in-Chief, U.S. Joint Forces Command controls the priority for use of these predators and UAVs.

Demonstration project to increase small business and university participation in Office of Naval Research efforts to extend benefits of science and technology research to fleet (sec. 262)

The House amendment contained a provision (sec. 242) that would require the Chief of Naval Research to carry out a demonstration project to increase access to Navy facilities of small businesses and universities that are engaged in science and technology research beneficial to the fleet.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would ensure that the Secretary of the Navy has discretion over which Navy facilities to make available for the demonstration project and is able to charge an appropriate fee for the use of these facilities.

The conferees strongly encourage the Chief of Naval Research to reach out to small, high-technology companies and encourage them to participate in this demonstration program. As a part of this outreach effort, the conferees encourage the Chief of Naval Research to consider the use of third-party partners, where appropriate, to help create and maintain contacts and relationships with the high-technology communities.

Communication of safety concerns from operational test and evaluation officials to program managers (sec. 263)

The Senate bill contained a provision (sec. 232) that would amend section 139 of title 10, United States Code. The provision would add a subsection requiring the Director of Operational Test and Evaluation to ensure that any safety concerns found during the operational test and evaluation of a weapon system under a major defense acquisition program are communicated in a timely manner to the program manager responsible for the acquisition of that weapon system.

The House amendment contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Big Crow

The Senate bill contained a provision (sec. 216) that would authorize funding for the Big Crow program.

The House amendment contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize an increase of $2.0 million in PE 65118D8Z for the Big Crow program for test and evaluation activities to support electronic warfare, space operations, and other missions.

C-5 aircraft modernization

The House amendment contained a provision (sec. 215) that would restore a reduction of $30.0 million in the amount requested in Research, Development, Test, and Evaluation, Air Force, for re-engining and avionics modernization programs for the C-5 aircraft.

The Senate bill contained no similar provision.

The House recedes.

The conferees agree to authorize the budget request.

Enhanced scramjet mixing

The Senate bill contained a provision (sec. 203) that would authorize funding for enhanced scramjet mixing.

The House amendment contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize an increase of $2.5 million in PE 62303A for research in enhanced scramjet mixing.

Management responsibility for Navy mine countermeasures programs

The House amendment contained a provision (sec. 243) that would extend the time period during which the Secretary of Defense and the Chairman of the Joint Chiefs would have to provide an annual certification about the adequacy of the Navy's mine countermeasures programs. The provision would change the ending date of that requirement from fiscal year 2003 to fiscal year 2008.

The Senate bill contained no similar provision.

The House recedes.

Review of alternatives to the V-22 Osprey aircraft

The Senate bill contained a provision (sec. 213) that would require the Under Secretary of Defense (Acquisition, Technology, and Logistics) to conduct a review of Marine Corps and Special Operations Command requirements that are expected to be met by the V-22 Osprey aircraft in order to identify potential alternatives to the V-22 in the event that the V-22 program were to be terminated. The provision would also set aside $5.0 million that would be available to conduct this review.

The House amendment contained no similar provision.

The Senate recedes.

Special operations forces command, control, communications, computers, and intelligence systems threat warning and situational awareness program

The Senate bill contained a provision (sec. 204) that would authorize an increase of $2.8 in PE 116405BB for the special operations forces command, control, communications, computers, and intelligence (SOF C4I) systems threat warning and situational awareness (PRIVATEER) program.

The House amendment contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize an increase of $1.0 million in PE 116444BB for the special operations forces command, control, communications, computers, and intelligence (SOF C4I) systems threat warning and situational awareness (PRIVATEER) program, as noted elsewhere in this conference report.

Technology "Challenge" program

The House amendment contained a provision (sec. 244) that would establish a technology "Challenge" program for the acceleration of innovative technology in defense acquisition programs.

The Senate bill contained no similar provision.

The House recedes.

Technology transition initiative

The Senate bill contained a provision (sec. 231) that would establish a technology transition initiative within the Department of Defense.

The House amendment contained no similar provision.

The Senate recedes.

The conferees direct the Department of Defense to continue and expand efforts to accelerate the rapid transition of technologies into operational environments.

TITLE III—OPERATION AND MAINTENANCE

Overview

The budget request for fiscal year 2002 requested an authorization of $125,350.0 million for operation and maintenance programs and $2,458.4 million for working capital fund accounts for the Department of Defense for fiscal year 2002.

The Senate bill would authorize $125,386.3 million for operation and maintenance accounts and $2,408.1 million for working capital fund accounts.

The House amendment would authorize $124,025.0 million for operation and maintenance accounts and $2,359.7 million for working capital fund accounts.

The conferees recommend an authorization of $123,259.9 million for the operation and maintenance accounts and $1,656.4 million for the working capital fund accounts of the Department of Defense for fiscal year 2002. The conferees agree to a reduction of $295.6 million in the Defense Working Capital Fund to reflect lower fuel prices; and a reduction of $125.0 million to reflect adjustments in utility prices, to be allocated proportionately among the Army, Navy, Marine Corps, Air Force and Defense-Wide accounts. Unless noted explicitly in the statement of managers, all funding changes are made without prejudice.

The following table lists the amounts authorized to be appropriated for each program in the operation and maintenance accounts of the Department of Defense.

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002
(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
Title III -- OPERATION AND MAINTENANCE					
Operation and Maintenance, Army	21,191,680	21,015,280	21,146,882	(538,439)	20,653,241
Operation and Maintenance, Navy	26,961,382	26,587,962	26,927,931	(500,083)	26,461,299
Operation and Maintenance, Marine Corps	2,892,314	2,898,114	2,911,339	(19,790)	2,872,524
Operation and Maintenance, Air Force	26,146,770	25,811,462	25,993,582	(548,003)	25,598,767
Operation and Maintenance, Defense-Wide	12,518,631	11,690,031	12,470,732	(569,045)	11,949,586
Operation and Maintenance, Army Reserve	1,787,246	1,814,246	1,803,146	36,900	1,824,146
Operation and Maintenance, Navy Reserve	1,003,690	1,003,690	1,000,369	(3,640)	1,000,050
Operation and Maintenance, Marine Corps Reserve	144,023	144,023	142,956	(1,170)	142,853
Operation and Maintenance, Air Force Reserve	2,029,866	2,017,866	2,029,866	0	2,029,866
Operation and Maintenance, Army National Guard	3,677,359	3,705,359	3,697,659	19,200	3,696,559
Operation and Maintenance, Air National Guard	3,867,361	3,967,361	4,037,161	100,000	3,967,361
Office of the Inspector General	150,221	152,021	149,221	(1,000)	149,221
US Court of Appeals, Armed Forces	9,096	9,096	9,096	0	9,096
Environmental Restoration, Army	389,800	389,800	389,800	0	389,800
Environmental Restoration, Navy	257,517	257,517	257,517	0	257,517
Environmental Restoration, Air Force	385,437	385,437	385,437	0	385,437
Environmental Restoration, Defense	23,492	23,492	23,492	0	23,492
Environmental Restoration, Formerly Used Defense Sites	190,255	190,255	230,255	40,000	230,255
General Reduction, Title III			(40,000)	0	0
Overseas Humanitarian, Disaster & Civic Aid	49,700	49,700	49,700	0	49,700
Drug Intrdiction & Counter-Drug Activities, Defense	820,381	820,381	860,381	0	820,381
Payment to Kaho'olawe Island Fund	25,000	25,000	60,000	15,000	40,000
Defense Health Program	17,565,750	17,570,750	17,546,750	5,000	17,570,750
Cooperative Threat Reduction	403,000	403,000	403,000	0	403,000
Overseas Contingency Operations Transfer Fund	2,844,226	2,844,226	2,844,226	0	2,844,226
Support for International Sporting Competitions	15,800	15,800	15,800	0	15,800

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002
(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
Utilities Adjustment				(125,000)	(125,000)
Restoration of Rocky Mountain Arsenal	0	0	0	0	0
Kaho'olawe Island Environmental Restoration	0	0	0	0	0
Disposal of DoD Real Property	0	0	0	0	0
Lease of DoD Real Property	0	0	0	0	0
National Science Center, Army	0	0	0	0	0
DoD Overseas Military Facility Investment Recovery	0	0	0	0	0
Defense Burdensharing - Allies/NATO	0	0	0	0	0
TOTAL OPERATION AND MAINTENANCE	**125,349,997**	**123,791,869**	**125,346,298**	**(2,090,070)**	**123,259,927**
REVOLVING AND MANAGEMENT FUNDS					
Defense Working Capital Fund, Army	170,000	170,000	170,000	0	170,000
Defense Working Capital Fund, Air Force	36,786	36,786	36,786	0	36,786
Defense Working Capital Fund, Defense Agencies	641,900	641,900	591,600	(295,590)	346,310
National Defense Sealift Fund	506,408	407,708	506,408	(98,700)	407,708
Defense Working Capital Fund, DECA	1,103,300	1,103,300	1,103,300	0	1,103,300
TOTAL REVOLVING AND MANAGEMENT FUNDS	**2,458,394**	**2,359,694**	**2,408,094**	**(394,290)**	**2,064,104**
TOTAL TITLE III	**127,808,391**	**126,151,563**	**127,754,392**	**(2,484,360)**	**125,324,031**

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Army					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	LAND FORCES					
10	DIVISIONS	1,171,981	1,171,981	1,171,981	0	1,171,981
10a	ECWCS/MSS		0	10,000	4,000	4,000
10b	Objective Force Task Force		0	1,200	0	0
20	CORPS COMBAT FORCES	341,802	341,802	341,802	0	341,802
30	CORPS SUPPORT FORCES	315,109	315,109	315,109	0	315,109
40	ECHELON ABOVE CORPS SUPPORT FORCES	476,280	476,280	476,280	0	476,280
50	LAND FORCES OPERATIONS SUPPORT	997,837	997,837	997,837	0	997,837
	LAND FORCES READINESS					
60	FORCE READINESS OPERATIONS SUPPORT	1,132,933	1,132,933	1,132,933	0	1,132,933
60a	M-Gator		6,600	6,600	6,600	6,600
60b	Range Instrumentation		0	11,900	6,000	6,000
70	LAND FORCES SYSTEMS READINESS	467,197	467,197	467,197	0	467,197
80	LAND FORCES DEPOT MAINTENANCE	810,561	810,561	810,561	0	810,561
	LAND FORCES READINESS SUPPORT					
90	BASE OPERATIONS SUPPORT	2,799,321	2,799,321	2,799,321	0	2,799,321
100	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (OP FORCES)	1,178,502	1,178,502	1,178,502	0	1,178,502
110	MANAGEMENT & OPERATIONAL HEADQUARTERS	234,907	234,907	234,907	0	234,907
120	UNIFIED COMMANDS	77,907	77,907	77,907	0	77,907
130	MISCELLANEOUS ACTIVITIES	264,215	264,215	264,215	0	264,215
	TOTAL, BUDGET ACTIVITY 1:	10,268,552	10,275,152	10,298,252	16,600	10,285,152

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 02: MOBILIZATION					
	MOBILITY OPERATIONS					
140	STRATEGIC MOBILIZATION	385,289	385,289	385,289	0	385,289
150	ARMY PREPOSITIONED STOCKS	133,675	133,675	133,675	0	133,675
160	INDUSTRIAL PREPAREDNESS	46,442	46,442	46,442	0	46,442
170	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (MOBILITY OPERATIONS)	16,478	16,478	16,478	0	16,478
	TOTAL, BUDGET ACTIVITY 2:	581,884	581,884	581,884	0	581,884
	BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
	ACCESSION TRAINING					
180	OFFICER ACQUISITION	79,842	79,842	79,842	0	79,842
190	RECRUIT TRAINING	17,265	17,265	17,265	0	17,265
200	ONE STATION UNIT TRAINING	20,485	20,485	20,485	0	20,485
210	SENIOR RESERVE OFFICERS' TRAINING CORPS	183,376	183,376	183,376	0	183,376
220	BASE OPERATIONS SUPPORT (ACCESSION TRAINING)	80,840	80,840	80,840	0	80,840
230	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (ACCESSION TRAINING)	57,432	57,432	57,432	0	57,432
	BASIC SKILL/ADVANCE TRAINING					
240	SPECIALIZED SKILL TRAINING	261,446	261,446	261,446	0	261,446
250	FLIGHT TRAINING	403,105	403,105	403,105	0	403,105
260	PROFESSIONAL DEVELOPMENT EDUCATION	114,373	114,373	114,373	0	114,373
270	TRAINING SUPPORT	485,815	485,815	485,815	0	485,815
270a	New Organization Training Teams		0	2,280	0	0
270b	BCTP Battle Command Training Program		0	1,421	0	0

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
280	BASE OPERATIONS SUPPORT (BASIC SKL/ADV TRAINING)	898,129	898,129	898,129	0	898,129
290	FACILITY SUSTAINMENT, RESTORATION & MODERNIZATION (BASIC SKL/ADV TRAINING)	401,885	401,885	401,885	0	401,885
	RECRUITING/OTHER TRAINING					
300	RECRUITING AND ADVERTISING	442,612	442,612	442,612	0	442,612
310	EXAMINING	78,260	78,260	78,260	0	78,260
320	OFF DUTY AND VOLUNTARY EDUCATION	142,515	142,515	142,515	0	142,515
330	CIVILIAN EDUCATION AND TRAINING	82,563	82,563	82,563	0	82,563
340	JUNIOR RESERVE OFFICERS' TRAINING CORPS	88,873	88,873	88,873	0	88,873
350	BASE OPERATIONS SUPPORT (RECRUIT/OTHER TRAINING)	259,491	259,491	259,491	0	259,491
	TOTAL, BUDGET ACTIVITY 3:	4,098,307	4,098,307	4,102,008	0	4,098,307
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	SECURITY PROGRAMS					
360	SECURITY PROGRAMS	479,506	479,506	479,506	0	479,506
	LOGISTICS OPERATIONS					
370	SERVICEWIDE TRANSPORTATION	517,218	496,218	517,218	-10,000	507,218
380	CENTRAL SUPPLY ACTIVITIES	454,682	454,682	454,682	0	454,682
390	LOGISTICS SUPPORT ACTIVITIES	570,911	570,911	570,911	0	570,911
390a	Corrosion Prevention		0	5,400	0	0
390b	Maintenance AIT/RFID		9,000	0	9,000	9,000
390c	Replacement Containers, Ft. Drum		1,000	0	1,000	1,000
390d	Electronic Maintenance & Point to Point Wiring		4,000	0	4,000	4,000
390e	Wage Grade Employees		4,360	0	0	0

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
400	AMMUNITION MANAGEMENT	357,033	357,033	357,033	0	357,033
	SERVICEWIDE SUPPORT					
410	ADMINISTRATION	536,030	506,030	536,030	-30,000	506,030
420	SERVICEWIDE COMMUNICATIONS	532,013	519,413	532,013	-12,000	520,013
430	MANPOWER MANAGEMENT	160,159	153,759	160,159	-6,400	153,759
440	OTHER PERSONNEL SUPPORT	175,429	175,429	175,429	0	175,429
450	OTHER SERVICE SUPPORT	615,653	603,853	615,653	9,000	606,653
460	ARMY CLAIMS	112,947	112,947	112,947	0	112,947
470	REAL ESTATE MANAGEMENT	51,431	51,431	51,431	0	51,431
480	BASE OPERATIONS SUPPORT (SERVICEWIDE SUPPORT)	1,167,160	1,147,960	1,167,160	0	1,167,160
490	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (SERVICEWIDE SUPPORT)	277,609	277,609	277,609	0	277,609
	SUPPORT OF OTHER NATIONS					
500	INTERNATIONAL MILITARY HEADQUARTERS	180,812	133,812	180,812	0	180,812
510	MISC. SUPPORT OF OTHER NATIONS	54.344	54,344	54,344	0	54,344
520	EXPANSION OF NATO	0	0	0	0	0
	TOTAL, BUDGET ACTIVITY 4:	**6,242,937**	**6,113,297**	**6,248,337**	**-53,400**	**6,189.537**
	ARMY INSTALLATION SECURITY		0	77,700	0	0
	OVERSTATED CIVILIAN BUYOUT COSTS		0	-40,640	-26,240	-26,240
	CLASSIFIED PROGRAM		0	20,000	0	0
	CIVILIAN UNDEREXECUTION		0	-51,300	-17,545	-17,545
	FOREIGN CURRENCY FLUCTUATIONS		0	-89,359	-138,283	138,283
	REDUCTION IN STRATEGIC SOURCING		-8,360	0	0	0
	INFORMATION TECHNOLOGY SYSTEM, ARMY		-20,000	0	25,000	-25,000

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	CONSULTANTS, ARMY		25,000	0	0	0
	DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER		0	[650]	[650]	[650]
	MANAGEMENT REFORM INITIATIVES		0	0	-294,571	-294,571
	Total Operation and Maintenance, Army	21,191,680	21,015,280	21,146,882	-538,439	20,653,241
	Operation and Maintenance, Navy					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	AIR OPERATIONS					
10	MISSION AND OTHER FLIGHT OPERATIONS	3,206,849	3,206,849	3,206,849	0	3,206,849
20	FLEET AIR TRAINING	950,969	950,969	950,969	0	950,969
30	INTERMEDIATE MAINTENANCE	62,487	62,487	62,487	0	62,487
40	AIR OPERATIONS AND SAFETY SUPPORT	103,355	103,355	103,355	0	103,355
50	AIRCRAFT DEPOT MAINTENANCE	854,298	854,298	854,298	0	854,298
60	AIRCRAFT DEPOT OPERATIONS SUPPORT	54,194	54,194	54,194	0	54,194
	SHIP OPERATIONS					
70	MISSION AND OTHER SHIP OPERATIONS	2,315,172	2,315,172	2,315,172	0	2,315,172
80	SHIP OPERATIONAL SUPPORT AND TRAINING	545,279	545,279	545,279	0	545,279
90	INTERMEDIATE MAINTENANCE	387,282	387,282	387,282	0	387,282
100	SHIP DEPOT MAINTENANCE	2,917,829	2,917,829	2,993,229	0	2,917,829
110	SHIP DEPOT OPERATIONS SUPPORT	1,330,524	1,330,524	1,330,524	0	1,330,524
110a	Mk45 Overhauls		0	9,000	4,500	4,500
110b	Shipyard Apprentice Program		0	4,000	0	0
	COMBAT OPERATIONS/SUPPORT					

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
120	COMBAT COMMUNICATIONS	384,534	384,534	384,534	0	384,534
130	ELECTRONIC WARFARE	15,466	15,466	15,466	0	15,466
140	SPACE SYSTEMS & SURVEILLANCE	182,165	182,165	182,165	0	182,165
150	WARFARE TACTICS	163,864	163,864	163,864	0	163,864
160	OPERATIONAL METEOROLOGY & OCEANOGRAPHY	258,051	258,051	258,051	0	258,051
170	COMBAT SUPPORT FORCES	618,874	618,874	618,874	0	618,874
180	EQUIPMENT MAINTENANCE	173,381	173,381	173,381	0	173,381
190	DEPOT OPERATIONS SUPPORT	1,737	1,737	1,737	0	1,737
	WEAPONS SUPPORT					
200	CRUISE MISSILE	124,342	124,342	124,342	0	124,342
210	FLEET BALLISTIC MISSILE	812,743	812,743	812,743	0	812,743
220	IN SERVICE WEAPONS SYSTEMS SUPPORT	47,762	47,762	47,762	0	47,762
230	WEAPONS MAINTENANCE	396,836	396,836	396,836	0	396,836
	WORKING CAPITAL FUND SUPPORT					
240	NWCF SUPPORT	1,421	1,421	1,421	0	1,421
	BASE SUPPORT					
250	FACILITIES SUST, REST & MOD	1,019,891	1,019,891	1,019,891	0	1,019,891
260	BASE SUPPORT	2,572,092	2,572,092	2,572,092	0	2,572,092
	TOTAL, BUDGET ACTIVITY 1:	19,501,397	19,501,397	19,589,797	4,500	19,505,897
	BUDGET ACTIVITY 02: MOBILIZATION					
270	SHIP PREPOSITIONING AND SURGE	506,394	506,394	506,394	0	506,394
280	AIRCRAFT ACTIVATIONS/INACTIVATIONS	5,506	5,506	5,506	0	5,506
290	SHIP ACTIVATIONS/INACTIVATIONS	261,649	261,649	261,649	0	261,649
290a	SSBN Inactivation		0	-17,000	-17,000	-17,000

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
300	FLEET HOSPITAL PROGRAM	23,803	23,803	23,803	0	23,803
310	INDUSTRIAL READINESS	1,177	1,177	1,177	0	1,177
320	COAST GUARD SUPPORT	17,490	17,490	17,490	0	17,490
	TOTAL, BUDGET ACTIVITY 2:	816,019	816,019	799,019	-17,000	799,019
	BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
	ACCESSION TRAINING					
330	OFFICER ACQUISITION	96,581	96,581	96,581	0	96,581
340	RECRUIT TRAINING	6,724	6,724	6,724	0	6,724
350	RESERVE OFFICERS TRAINING CORPS	79,526	79,526	79,526	0	79,526
	BASIC SKILLS AND ADVANCED TRAINING					
360	SPECIALIZED SKILL TRAINING	306,012	306,012	306,012	0	306,012
370	FLIGHT TRAINING	367,343	367,343	367,343	0	367,343
380	PROFESSIONAL DEVELOPMENT EDUCATION	111,404	111,404	111,404	0	111,404
380a	Aviation Depot Apprenticeship Program		2,000	0	2,000	2,000
390	TRAINING SUPPORT	192,931	192,931	192,931	0	192,931
	RECRUITING, AND OTHER TRAINING AND EDUCATION					
400	RECRUITING AND ADVERTISING	238,727	238,727	238,727	0	238,727
410	OFF DUTY AND VOLUNTARY EDUCATION	97,957	97,957	97,957	0	97,957
420	CIVILIAN EDUCATION AND TRAINING	59,745	59,745	59,745	0	59,745
430	JUNIOR ROTC	32,519	32,519	32,519	0	32,519
	BASE SUPPORT					
440	FACILITIES SUST, REST & MOD	195,939	195,939	195,939	0	195,939
450	BASE SUPPORT	365,425	365,425	365,425	0	365,425

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	TOTAL, BUDGET ACTIVITY 3:	2,150,833	2,152,833	2,150,833	2,000	2,152,833
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
460	ADMINISTRATION	692,748	652,748	692,748	-40,000	652,748
470	EXTERNAL RELATIONS	4,131	4,131	4,131	0	4,131
480	CIVILIAN MANPOWER & PERSONNEL MANAGEMENT	111,789	111,789	111,789	0	111,789
490	MILITARY MANPOWER & PERSONNEL MANAGEMENT	94,896	94,896	94,896	0	94,896
500	OTHER PERSONNEL SUPPORT	195,729	195,729	195,729	0	195,729
510	SERVICEWIDE COMMUNICATIONS	601,354	603,354	603,354	0	601,354
520	MEDICAL ACTIVITIES	0	0	0	0	0
530	SERVICEWIDE TRANSPORTATION	185,483	185,483	185,483	0	185,483
540	ENVIRONMENTAL PROGRAMS	0	0	0	0	0
550	PLANNING, ENGINEERING & DESIGN	343,754	337,154	343,754	6,000	337,754
560	ACQUISITION AND PROGRAM MANAGEMENT	723,156	680,156	723,156	-43,000	680,156
570	AIR SYSTEMS SUPPORT	400,955	400,955	400,955	0	400,955
580	HULL, MECHANICAL & ELECTRICAL SUPPORT	52,908	52,908	52,908	0	52,908
590	COMBAT/WEAPONS SYSTEMS	40,850	40,850	40,850	0	40,850
600	SPACE & ELECTRONIC WARFARE SYSTEMS	54,639	54,639	54,639	0	54,639
610	SECURITY PROGRAMS	673,912	673,912	673,912	0	673,912
620	INTERNATIONAL HDQTRS & AGENCIES	9,994	9,994	9,994	0	9,994
630	FACILITIES SUST, REST & MOD	102,588	102,588	102,588	0	102,588
640	BASE SUPPORT	202,247	202,247	202,247	0	202,247
650	CANCELLED ACCOUNT	0	0	0	0	0
660	PROBLEM DISBURSEMENTS	0	0	0	0	0

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	TOTAL, BUDGET ACTIVITY 4:	4,493,133	4,405,533	4,495,133	-87,000	4,406,133
	NAVOCEANO SURF EAGLE		0	4,000	0	0
	HANDHELD EXPLOSIVE DETECTORS		0	6,000	3,000	3,000
	OVERSTATED CIVILIAN BUYOUT COSTS		0	-34,290	-22,140	-22,140
	CLASSIFIED PROGRAM		0	15,000	0	0
	CIVILIAN UNDEREXECUTION		0	-32,600	-11,149	-11,149
	FOREIGN CURRENCY FLUCTUATION		0	-15,445	-23,901	-23,901
	NAVY MARINE CORPS INTRANET		-125,000	-49,516	-54,276	-54,276
	REDUCTION IN STRATEGIC SOURCING (A-76)		-53,560	0	-37,000	-37,000
	INFORMATION TECHNOLOGY CENTER		-35,000	0	0	0
	ENTERPRISE RESOURCE PLANNING		-33,000	0	0	0
	WAGE GRADE EMPLOYEES		3,560	0	0	0
	INFORMATION TECHNOLOGY SYSTEM, NAVY		-20,000	0	-25,000	-25,000
	CONSULTANTS, NAVY		-25,000	0	0	0
	CRITICAL INFRASTRUCTURE PROTECTION		0	[6,000]	[6,000]	[6,000]
	VETERANS AFFAIRS RENOVATIONS/GREAT LAKES		0	[2,000]	[2,000]	[2,000]
	UNITED THROUGH READING PROGRAM		180	0	180	180
	MANAGEMENT REFORM INITIATIVES		0	0	-232,297	-232,297
	Total Operation and Maintenance, Navy	26,961,382	26,587,962	26,927,931	-500,083	26,461,299
	Operation and Maintenance, Marine Corps					
	BUDGET ACTIVITY 01: OPERATING FORCES					
10	OPERATIONAL FORCES	459,739	459,739	459,739	0	459,739
10a	Initial Issue	0	0	15,000	7,300	7,300
20	FIELD LOGISTICS	257,952	257,952	257,952	0	257,952

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(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
30	DEPOT MAINTENANCE	107,849	107,849	122,249	0	107,849
40	BASE SUPPORT	842,631	842,631	842,631	0	842,631
50	FACILITIES SUST, REST & MOD	363,528	363,528	363,528	0	363,528
60	MARITIME PREPOSITIONING	83,506	83,506	83,506	0	83,506
70	NORWAY PREPOSITIONING	5,169	5,169	5,169	0	5,169
	TOTAL, BUDGET ACTIVITY 1:	2,120,374	2,120,374	2,149,774	7,300	2,127,674
	BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
	ACCESSION TRAINING					
80	RECRUIT TRAINING	11,053	11,053	11,053	0	11,053
90	OFFICER ACQUISITION	317	317	317	0	317
100	BASE SUPPORT	62,055	62,055	62,055	0	62,055
110	FACILITIES SUST, REST & MOD	22,285	22,285	22,285	0	22,285
	BASIC SKILLS AND ADVANCED TRAINING					
120	SPECIALIZED SKILLS TRAINING	32,280	32,280	32,280	0	32,280
130	FLIGHT TRAINING	170	170	170	0	170
140	PROFESSIONAL DEVELOPMENT EDUCATION	8,553	8,553	8,553	0	8,553
150	TRAINING SUPPORT	95,066	95,066	95,066	0	95,066
160	BASE SUPPORT	65,140	65,140	65,140	0	65,140
170	FACILITIES SUST, REST & MOD	28,078	28,078	28,078	0	28,078
	RECRUITING AND OTHER TRAINING EDUCATION					
180	RECRUITING AND ADVERTISING	109,012	109,012	109,012	0	109,012
190	OFF DUTY AND VOLUNTARY EDUCATION	21,994	21,994	21,994	0	21,994
200	JUNIOR ROTC	12,808	12,808	12,808	0	12,808
210	BASE SUPPORT	12,209	12,209	12,209	0	12,209
220	FACILITIES SUST, REST & MOD	2,644	2,644	2,644	0	2,644

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Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	TOTAL, BUDGET ACTIVITY 3:	483,664	483,664	483,664	0	483,664
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
230	SPECIAL SUPPORT	209,125	209,125	209,125	0	209,125
240	SERVICEWIDE TRANSPORTATION	31,118	31,118	31,118	0	31,118
250	ADMINISTRATION	29,895	29,895	29,895	0	29,895
260	BASE SUPPORT	16,335	16,335	16,335	0	16,335
270	FACILITIES SUST, REST & MOD	1,803	1,803	1,803	0	1,803
280	CANCELLED ACCOUNT	0	0	0	0	0
	Full Spectrum Battle Equipment		6,800	0	6,800	6,800
	Reduction in Strategic Sourcing		-1,000	0	0	0
	TOTAL, BUDGET ACTIVITY 4:	288,276	294,076	288,276	6,800	295,076
	CIVILIAN UNDEREXECUTION		0	-3,600	-1,234	1,234
	FOREIGN CURRENCY FLUCTUATION		0	-1,379	-2,134	2,134
	NAVY-MARINE CORPS INTRANET		0	-5,396	-5,915	-5,915
	MANAGEMENT REFORM INITIATIVES		0	0	-24,610	24,610
	Total Operation and Maintenance, Marine Corps	2,892,314	2,898,114	2,911,139	-19,790	2,872,524
	Operation and Maintenance, Air Force					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	AIR OPERATIONS					
10	PRIMARY COMBAT FORCES	3,247,230	3,247,230	3,247,230	0	3,247,230

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(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
20	PRIMARY COMBAT WEAPONS	325,948	325,948	325,948	0	325,948
30	COMBAT ENHANCEMENT FORCES	234,838	234,838	234,838	0	234,838
40	AIR OPERATIONS TRAINING	1,227,042	1,227,042	1,227,042	0	1,227,042
50	DEPOT MAINTENANCE	1,361,089	1,361,089	1,361,089	0	1,361,089
60	COMBAT COMMUNICATIONS	1,356,865	1,356,865	1,356,865	0	1,356,865
70	BASE SUPPORT	2,212,409	2,212,409	2,212,409	0	2,212,409
80	FACILITIES SUST, REST & MOD	835,329	835,329	835,329	0	835,329
	COMBAT RELATED OPERATIONS					
90	GLOBAL C3I AND EARLY WARNING	843,775	843,775	843,775	0	843,775
100	NAVIGATION/WEATHER SUPPORT	170,965	170,965	170,965	0	170,965
110	OTHER COMBAT OPERATIONS SUPPORT PROGRAMS	404,665	404,665	404,665	0	404,665
120	JCS EXERCISES	37,839	37,839	37,839	0	37,839
130	MANAGEMENT/OPERATIONAL HEADQUARTERS	174,580	174,580	174,580	0	174,580
140	TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	228,775	228,775	228,775	0	228,775
	SPACE OPERATIONS					
150	LAUNCH FACILITIES	258,792	258,792	258,792	0	258,792
150a	Space Range Facilities		0	18,300	8,000	8,000
160	LAUNCH VEHICLES	147,510	147,510	147,510	0	147,510
170	SPACE CONTROL SYSTEMS	251,738	251,738	251,738	0	251,738
180	SATELLITE SYSTEMS	53,780	53,780	53,780	0	53,780
190	OTHER SPACE OPERATIONS	146,175	146,175	146,175	0	146,175
200	BASE SUPPORT	425,643	425,643	425,643	0	425,643
210	FACILITIES SUST, REST & MOD	131,643	131,643	131,643	0	131,643
	TOTAL, BUDGET ACTIVITY 1:	14,076,630	14,076,630	14,094,930	8,000	14,084,630

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(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 02: MOBILIZATION					
	MOBILITY OPERATIONS					
220	AIRLIFT OPERATIONS	2,056,383	2,056,383	2,056,383	0	2,056,383
230	AIRLIFT OPERATIONS C3I	37,706	37,706	37,706	0	37,706
240	MOBILIZATION PREPAREDNESS	169,421	169,421	169,421	0	169,421
250	DEPOT MAINTENANCE	296,014	296,014	296,014	0	296,014
260	PAYMENTS TO TRANSPORTATION BUSINESS AREA	473,243	473,243	473,243	0	473,243
270	BASE SUPPORT	487,654	487,654	487,654	0	487,654
280	FACILITIES SUST, REST & MOD	97,627	97,627	97,627	0	97,627
	TOTAL, BUDGET ACTIVITY 2:	3,618,048	3,618,048	3,618,048	0	3,618,048
	BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
	ACCESSION TRAINING					
290	OFFICER ACQUISITION	66,566	66,566	66,566	0	66,566
300	RECRUIT TRAINING	5,943	5,943	5,943	0	5,943
310	RESERVE OFFICER TRAINING CORPS (ROTC)	64,289	64,289	64,289	0	64,289
320	BASE SUPPORT (ACADEMIES ONLY)	70,412	70,412	70,412	0	70,412
330	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (ACADEMIES ONLY)	60,434	60,434	60,434	0	60,434
	BASIC SKILLS AND ADVANCED TRAINING					
340	SPECIALIZED SKILL TRAINING	310,216	310,216	310,216	0	310,216
350	FLIGHT TRAINING	657,993	657,993	657,993	0	657,993
360	PROFESSIONAL DEVELOPMENT EDUCATION	115,049	115,049	115,049	0	115,049
370	TRAINING SUPPORT	83,778	83,778	83,778	0	83,778

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Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
380	DEPOT MAINTENANCE	14,748	14,748	14,748	0	14,748
390	BASE SUPPORT (OTHER TRAINING)	543,005	543,005	543,005	0	543,005
400	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (OTHER TRAINING)	148,663	148,663	148,663	0	148,663
	RECRUITING, AND OTHER TRAINING AND EDUCATION					
410	RECRUITING AND ADVERTISING	139,189	139,189	139,189	0	139,189
420	EXAMINING	3,640	3,640	3,640	0	3,640
430	OFF DUTY AND VOLUNTARY EDUCATION	91,757	91,757	91,757	0	91,757
440	CIVILIAN EDUCATION AND TRAINING	82,238	82,238	82,238	0	82,238
450	JUNIOR ROTC	41,829	41,829	41,829	0	41,829
	TOTAL, BUDGET ACTIVITY 3:	2,499,749	2,499,749	2,499,749	0	2,499,749
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	LOGISTICS OPERATIONS					
460	LOGISTICS OPERATIONS	1,052,171	1,052,171	1,052,171	0	1,052,171
460a	Aging Propulsion System Life Extension		10,000	0	10,000	10,000
470	TECHNICAL SUPPORT ACTIVITIES	404,678	404,678	404,678	0	404,678
480	SERVICEWIDE TRANSPORTATION	249,055	208,055	249,055	-20,000	229,055
490	DEPOT MAINTENANCE	305,525	305,525	305,525	0	305,525
500	BASE SUPPORT	1,115,273	1,115,273	1,115,273	0	1,115,273
510	FACILITIES SUST, REST & MOD	239,442	239,442	239,442	0	239,442
	SERVICEWIDE ACTIVITIES					
520	ADMINISTRATION	213,767	160,767	213,767	-53,000	160,767

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Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
530	SERVICEWIDE COMMUNICATIONS	342,864	302,864	342,864	8,000	334,864
540	PERSONNEL PROGRAMS	164,480	146,480	164,480	0	164,480
550	RESCUE AND RECOVERY SERVICES	72,375	72,375	72,375	0	72,375
560	ARMS CONTROL	34,742	34,742	34,742	0	34,742
570	OTHER SERVICEWIDE ACTIVITIES	602,561	591,161	602,561	-11,400	591,161
580	OTHER PERSONNEL SUPPORT	36,984	36,984	36,984	0	36,984
590	CIVIL AIR PATROL CORPORATION	18,303	18,303	22,803	0	18,303
600	BASE SUPPORT	233,256	233,256	233,256	0	233,256
610	FACILITIES SUST, REST & MOD	21,792	21,792	21,792	0	21,792
620	SECURITY PROGRAMS	824,906	761,998	824,906	0	824,906
630	INTERNATIONAL SUPPORT	20,169	12,169	20,169	0	20,169
	TOTAL, BUDGET ACTIVITY 4:	5,952,343	5,728,035	5,956.843	-82,400	5.869,943
	B-1B		0	64,800	0	0
	OVERSTATED CIVILIAN BUYOUT COSTS		0	-30,480	-19,680	-19,680
	CLASSIFIED PROGRAM		0	-22,600	0	0
	LAFAYETTE ESCADRILLE		0	2,000	[2,000]	[2,000]
	CIVILIAN UNDEREXECUTION		0	-15,700	-5,369	-5,369
	FOREIGN CURRENCY FLUCTUATION		0	-24,408	-37,772	-37,772
	ACTIVE DUTY MILPERS UNDEREXECUTION		-75,000	0	-75,000	-75,000
	REDUCTION IN STRATEGIC SOURCING (A-76)		-8,320	0	0	0
	SCOT LIFE SUPPORT SYSTEM		6,000	0	6,000	6,000
	WAGE GRADE EMPLOYEES		4,320	0	0	0
	SPARES INFORMATION SYSTEM		7,000	0	7,000	7,000
	INFORMATION TECHNOLOGY SYSTEM, AIR FORCE		-20,000	0	-25,000	-25,000
	GENERAL REDUCTION		0	-20,000	0	0

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(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	CONSULTANTS, AIR FORCE		-25,000	0	0	0
	MANAGEMENT REFORM INITIATIVES		0	0	-323,782	-323,782
	Total Operation and Maintenance, Air Force	26,146,770	25,811,462	25,993,582	-548,003	25,598,767
	Operation and Maintenance, Defense-wide					
	BUDGET ACTIVITY 1: OPERATING FORCES					
10	JOINT CHIEFS OF STAFF	373,832	373,832	373,832	0	373,832
10a	CINCS COMBATING TERRORISM READINESS FUND		0	10,000	10,000	10,000
20	SPECIAL OPERATIONS COMMAND	1,404,797	1,404,797	1,404,797	0	1,404,797
20a	SPECIAL OPERATIONS COUNTER-TERRRORISM TRAINING		0	14,300	0	0
30	PROBLEM DISBURSEMENTS	0	0	0	0	0
	TOTAL, BUDGET ACTIVITY 1:	1,778,629	1,778,629	1,802,929	10,000	1,788,629
	BUDGET ACTIVITY 2: MOBILIZATION					
50	DEFENSE LOGISTICS AGENCY	44,691	44,691	44,691	0	44,691
	TOTAL, BUDGET ACTIVITY 2:	44,691	44,691	44,691	0	44,691
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING					
60	AMERICAN FORCES INFORMATION SERVICE	11,135	11,135	11,135	0	11,135
70	DEFENSE ACQUISITION UNIVERSITY	101,196	101,196	101,196	0	101,196
80	DEFENSE CONTRACT AUDIT AGENCY	3,833	3,833	3,833	0	3,833
90	DEFENSE FINANCE AND ACCOUNTING SERVICE	8,900	8,900	8,900	0	8,900
100	DEFENSE HUMAN RESOURCES ACTIVITY	86,190	86,190	86,190	0	86,190
110	DEFENSE SECURITY SERVICE	7,590	7,590	7,590	0	7,590
120	DEFENSE THREAT REDUCTION AGENCY	1,246	1,246	1,246	0	1,246
130	SPECIAL OPERATIONS COMMAND	53,573	53,573	53,573	0	53,573

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Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	TOTAL, BUDGET ACTIVITY 3:	273,663	273,663	273,663	0	273,663
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES		0			
140	AMERICAN FORCES INFORMATION SERVICE	96,637	96,637	96,637	0	96,637
150	CIVIL MILITARY PROGRAMS	94,596	94,596	94,596	0	94,596
160	CLASSIFIED PROGRAMS	4,718,802	4,718,802	4,666,002	0	4,718,802
170	DEFENSE CONTRACT AUDIT AGENCY	354,348	346,948	354,348	-5,000	349,348
180	DEFENSE CONTRACT MANAGEMENT AGENCY	948,932	942,032	948,932	-1,000	947,932
190	DEFENSE FINANCE AND ACCOUNTING SERVICE	1,492	1,492	1,492	0	1,492
200	DEFENSE HUMAN RESOURCES ACTIVITY	198,157	174,157	198,157	-24,000	174,157
210	DEFENSE INFORMATION SYSTEMS AGENCY	803,122	762,122	778,422	-11,500	791,622
220	DEFENSE LOGISTICS AGENCY	191,990	191,990	191,990	0	191,990
220a	Defense Wide, Other Logistics Programs		-3,500	0	0	0
220b	CTMA Depot level Activities		20,000	0	20,000	20,000
230	DEFENSE LEGAL SERVICES AGENCY	12,075	12,075	12,075	0	12,075
240	DEPT OF DEFENSE DEPENDENTS EDUCATION	1,465,814	1,465,814	1,465,814	0	1,465,814
250	DEFENSE POW/MISSING PERSONS OFFICE	15,211	15,211	15,211	0	15,211
250a	Travel for Families of Korean/Cold War Missing		1,000	0	1,000	1,000
260	DEFENSE SECURITY COOPERATION AGENCY	65,211	58,111	65,211	-6,000	59,211
270	DEFENSE SECURITY SERVICE	87,118	87,118	87,118	0	87,118
280	DEFENSE THREAT REDUCTION AGENCY	258,597	253,697	258,597	-4,000	254,597
290	OFFICE OF ECONOMIC ADJUSTMENT	16,972	16,972	16,972	0	16,972
300	OFFICE OF THE SECRETARY OF DEFENSE	437,141	417,741	437,141	0	437,141
300a	TRANSFER FROM PE65710D8Z		0	30,500	0	0
300b	INFORMATION ASSURANCE SCHOLARSHIPS-Transfer		0	1,500	0	0
300c	INFORMATION ASSURANCE SCHOLARSHIPS-Addition		0	3,500	3,500	3,500

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Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
300d	LEGACY RESOURCE MANAGEMENT PROGRAM		2,000	8,000	6,500	6,500
300e	WAGE GRADE EMPLOYEES		1,260	0	0	0
310	SPECIAL OPERATIONS COMMAND	46,891	46,891	46,891	0	46,891
320	SPECIAL ACTIVITIES	115,000	115,000	115,000	0	115,000
330	JOINT CHIEFS OF STAFF	169,340	159,840	169,340	0	169,340
340	WASHINGTON HEADQUARTERS SERVICES	324,202	280,202	306,102	-11,500	312,702
350	PROBLEM DISBURSEMENTS	0	0	0	0	0
	TOTAL, BUDGET ACTIVITY 4:	10,421,648	10,278,208	10,369,548	-32,000	10,389,648
	COMMERCIAL IMAGERY INITIATIVE		0	10,000	0	0
	IMPACT AID		31,000	35,000	31,000	31,000
	IMPACT AID - CHILDREN WITH DISABILITIES			5,000	5,000	5,000
	OVERSTATED CIVILIAN BUYOUT COSTS			-21,590	-13,940	-13,940
	CIVILIAN UNDEREXECUTION		0	-29,400	-10,055	-10,055
	FOREIGN CURRENCY FLUCTUATION		-104,800	-7,309	-11,310	-11,310
	REDUCTION IN STRATEGIC SOURCING		-5,260	0	0	0
	INFORMATION TECHNOLOGY SYSTEM		-20,000	0	-25,000	-25,000
	CONSULTANTS, DEFENSE-WIDE		-257,100	0	0	0
	AIR HANDLERS		0	[2,000]	[2,000]	[2,000]
	GENERAL REDUCTION		0	-11,800	0	0
	ELECTRONIC VOTING DEMONSTRATION PROJECT		2,000	0	2,000	2,000
	UNREALIZED SAVINGS		-330,000	0	330,000	-330,000
	MANAGEMENT REFORM INITIATIVES		0	0	194,740	-194,740
	CONSEQUENCE MANAGEMENT TRAINING		0	[5,000]	[5,000]	[5,000]
	Total O&M, Defense Wide	12,518,631	11,691,031	12,470,712	-569,045	11,949,586

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Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Army Reserve					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	LAND FORCES					
10	DIVISION FORCES	14,382	14,382	14,382	0	14,382
10a	ECWCS/MSS		2,000	6,000	2,000	2,000
20	CORPS COMBAT FORCES	24,571	24,571	24,571	0	24,571
30	CORPS SUPPORT FORCES	232,891	232,891	232,891	0	232,891
40	ECHELON ABOVE CORPS FORCES	115,183	115,183	115,183	0	115,183
50	LAND FORCES OPERATIONS SUPPORT	364,700	364,700	364,700	0	364,700
	LAND FORCES READINESS					
60	FORCES READINESS OPERATIONS SUPPORT	139,280	139,280	139,280	0	139,280
60a	Controlled Humidity Preservation		25,000	0	25,000	25,000
70	LAND FORCES SYSTEM READINESS	60,481	60,481	60,481	0	60,481
80	DEPOT MAINTENANCE	60,719	60,719	60,719	0	60,719
	LAND FORCES READINESS SUPPORT					
90	BASE SUPPORT	406,137	406,137	406,137	0	406,137
100	FACILITIES SUST, REST & MOD	161,321	161,321	161,321	0	161,321
110	ADDITIONAL ACTIVITIES	2,536	2,536	2,536	0	2,536
	TOTAL, BUDGET ACTIVITY 1:	1,582,201	1,609,201	1,588,201	27,000	1,609,201
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					

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Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
120	ADMINISTRATION	39,256	39,256	39,256	0	39,256
130	SERVICEWIDE COMMUNICATIONS	30,865	30,865	30,865	0	30,865
140	PERS/FINANCIAL ADMIN (MANPOWER MNGMT)	44,201	44,201	44,201	0	44,201
150	RECRUITING AND ADVERTISING	90,723	90,723	90,723	0	90,723
	TOTAL, BUDGET ACTIVITY 4:	205,045	205,045	205,045	0	205,045
	LAND FORCES READINESS INFO OPS SUSTAIN		0	[5,000]	[5,000]	[5,000]
	FULL TIME SUPPORT		0	9,900	9,900	9,900
	Total Operation and Maintenance, Army Reserve	1,787,246	1,814,246	1,803,146	36,900	1,824,146
	Operation and Maintenance, Navy Reserve					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	RESERVE AIR OPERATIONS					
10	MISSION AND OTHER FLIGHT OPERATIONS	405,515	405,515	405,515	0	405,515
30	INTERMEDIATE MAINTENANCE	17,223	17,223	17,223	0	17,223
40	AIR OPERATION AND SAFETY SUPPORT	1,961	1,961	1,961	0	1,961
50	AIRCRAFT DEPOT MAINTENANCE	116,328	116,328	116,328	0	116,328
60	AIRCRAFT DEPOT OPERATIONS SUPPORT	324	324	324	0	324
	RESERVE SHIP OPERATIONS					
70	MISSION AND OTHER SHIP OPERATIONS	46,572	46,572	46,572	0	46,572
80	SHIP OPERATIONAL SUPPORT AND TRAINING	623	623	623	0	623
90	INTERMEDIATE MAINTENANCE	7,053	7,053	7,053	0	7,053
100	SHIP DEPOT MAINTENANCE	71,858	71,858	71,858	0	71,858
110	SHIP DEPOT OPERATIONS SUPPORT	2,652	2,652	2,652	0	2,652
	RESERVE COMBAT OPERATIONS SUPPORT					

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
120	COMBAT SUPPORT FORCES	37,579	37,579	37,579	0	37,579
	RESERVE WEAPONS SUPPORT					
130	WEAPONS MAINTENANCE	5,531	5,531	5,531	0	5,531
	BASE SUPPORT					
140	FACILITIES SUST, REST & MOD	51,102	51,102	51,102	0	51,102
150	BASE SUPPORT	148,046	148,046	148,046	0	148,046
	TOTAL, BUDGET ACTIVITY 1:	912,367	912,367	912,367	0	912,367
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
160	ADMINISTRATION	11,131	11,131	11,131	0	11,131
170	CIVILIAN MANPOWER & PERSONNEL	1,934	1,934	1,934	0	1,934
180	MILITARY MANPOWER & PERSONNEL	34,625	34,625	34,625	0	34,625
190	SERVICEWIDE COMMUNICATIONS	37,355	37,355	37,355	0	37,355
200	COMBAT/WEAPONS SYSTEM	5,606	5,606	5,606	0	5,606
210	OTHER SERVICEWIDE SUPPORT	672	672	672	0	672
	CANCELLED ACCOUNTS					
220	CANCELLED ACCOUNTS	0	0	0	0	0
	TOTAL, BUDGET ACTIVITY 4:	91,323	91,323	91,323	0	91,323
	NAVY-MARINE CORPS INTRANET		0	-3,321	-3,640	3,640
	Total Operation and Maintenance, Navy Reserve	1,003,690	1,003,690	1,000,369	-3,640	1,000,050

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Marine Corps Reserve					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	MISSION FORCES					
10	OPERATING FORCES	50,898	50,898	50,898	0	50,898
20	DEPOT MAINTENANCE	7,784	7,784	7,784	0	7,784
30	BASE SUPPORT	25,610	25,610	25,610	0	25,610
40	TRAINING SUPPORT	18,144	18,144	18,144	0	18,144
50	FACILITIES SUST, REST & MOD	10,027	10,027	10,027	0	10,027
	TOTAL, BUDGET ACTIVITY 1:	112,463	112,463	112,463	0	112,463
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
60	SPECIAL SUPPORT	8,596	8,596	8,596	0	8,596
70	SERVICEWIDE TRANSPORTATION	491	491	491	0	491
80	ADMINISTRATION	8,632	8,632	8,632	0	8,632
90	BASE SUPPORT	5,719	5,719	5,719	0	5,719
100	RECRUITING AND ADVERTISING	8,122	8,122	8,122	0	8,122
	TOTAL, BUDGET ACTIVITY 4:	31,560	31,560	31,560	0	31,560
	NAVY MARINE CORPS INTRANET		0	1,067	-1,170	-1,170
	Total Operation and Maint, Marine Corps Reserve	144,023	144,023	142,956	-1,170	142,853
	Operation and Maintenance, Air Force Reserve					

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 01: OPERATING FORCES					
	AIR OPERATIONS					
10	PRIMARY COMBAT FORCES	1,266,511	1,266,511	1,266,511	0	1,266,511
20	MISSION SUPPORT OPERATIONS	61,637	61,637	61,637	0	61,637
30	DEPOT MAINTENANCE	322,507	322,507	322,507	0	322,507
40	BASE SUPPORT	245,126	38,521	38,521	0	38,521
50	FACILITIES SUST, REST & MOD	38,521	245,126	245,126	0	245,126
	TOTAL, BUDGET ACTIVITY 1:	1,934,302	1,934,302	1,934,302	0	1,934,302
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
60	ADMINISTRATION	52,083	52,083	52,083	0	52,083
70	MILITARY MANPOWER AND PERSONNEL MNGMNT	11,848	11,848	11,848	0	11,848
80	RECRUITING AND ADVERTISING	24,466	24,466	24,466	0	24,466
90	OTHER PERSONNEL SUPPORT	6,547	6,547	6,547	0	6,547
100	AUDIOVISUAL	620	620	620	0	620
	TOTAL, BUDGET ACTIVITY 4:	95,564	95,564	95,564	0	95,564
	RESERVE MILITARY PERSONNEL UNDEREXECUTION SUPPORT		-12,000	0	0	0
	Total Operation and Maintenance, Air Force Reserve	**2,029,866**	**2,017,866**	**2,029,866**	**0**	**2,029,866**

Operation and Maintenance, Army National Guard

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 01: OPERATING FORCES					
	LAND FORCES					
10	DIVISIONS	472,117	472,117	472,117	0	472,117
10a	ECWCS/MSS		6,000	4,000	4,000	4,000
20	CORPS COMBAT FORCES	565,861	565,861	565,861	0	565,861
30	CORPS SUPPORT FORCES	280,054	280,054	280,054	0	280,054
40	ECHELON ABOVE CORPS FORCES	476,828	476,828	476,828	0	476,828
50	LAND FORCES OPERATIONS SUPPORT	22,333	22,333	22,333	0	22,333
	LAND FORCES READINESS					
60	FORCE READINESS OPERATIONS SUPPORT	19,354	19,354	19,354	0	19,354
60a	M Gator		0	3,100	0	0
70	LAND FORCES SYSTEMS READINESS	95,719	95,719	95,719	0	95,719
80	LAND FORCES DEPOT MAINTENANCE	193,414	193,414	193,414	0	193,414
	LAND FORCES READINESS SUPPORT					
90	BASE OPERATIONS SUPPORT	538,487	538,487	538,487	0	538,487
100	FACILITIES SUST, REST & MOD	351,768	351,768	351,768	0	351,768
110	MANAGEMENT & OPERATIONAL HEADQUARTERS	399,117	399,117	399,117	0	399,117
120	MISCELLANEOUS ACTIVITIES	38,415	38,415	38,415	0	38,415
	Special Training		2,000	0	2,000	2,000
	TOTAL, BUDGET ACTIVITY 1:	3,453,467	3,461,467	3,460,567	6,000	3,459,467
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
130	STAFF MANAGEMENT	84,106	84,106	84,106	0	84,106
140	INFORMATION MANAGEMENT	21,070	21,070	21,070	0	21,070
150	PERSONNEL ADMINISTRATION	35,902	35,902	35,902	0	35,902
160	RECRUITING AND ADVERTISING	82,814	82,814	82,814	0	82,814
	TOTAL, BUDGET ACTIVITY 4:	223,892	223,892	223,892	0	223,892
	FULL TIME SUPPORT		0	13,200	13,200	13,200
	MILITARY TECHNICIANS (DUAL STATUS)		20,000	0	0	0
	Total Operation and Maintenance, Army National Guard	3,677,359	3,705,359	3,697,659	19,200	3,696,559
	Operation and Maintenance, Air National Guard					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	AIR OPERATIONS					
10	AIRCRAFT OPERATIONS	2,545,143	2,545,143	2,545,143	0	2,545,143
10a	B-1B		100,000	164,800	100,000	100,000
20	MISSION SUPPORT OPERATIONS	348,442	348,442	348,442	0	348,442
30	BASE SUPPORT	377,859	377,859	377,859	0	377,859
40	FACILITIES SUST, REST & MOD	92,092	92,092	92,092	0	92,092
50	DEPOT MAINTENANCE	490,912	490,912	490,912	0	490,912
	TOTAL, BUDGET ACTIVITY 1:	3,854,448	3,954,448	4,019,248	100,000	3,954,448
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	SERVICEWIDE ACTIVITIES					

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
60	ADMINISTRATION	2,935	2,935	2,935	0	2,935
70	RECRUITING AND ADVERTISING	9,978	9,978	9,978	0	9,978
	TOTAL, BUDGET ACTIVITY 4:	12,913	12,913	12,913	0	12,913
	ECWCS/MSS		0	5,000	0	0
	Total Operation and Maintenance, Air National Guard	3,867,361	3,967,361	4,037,161	100,000	3,967,361
	TRANSFER ACCOUNTS					
10	ENVIRONMENTAL RESTORATION, ARMY	389,800	389,800	389,800	0	389,800
20	ENVIRONMENTAL RESTORATION, NAVY	257,517	257,517	257,517	0	257,517
30	ENVIRONMENTAL RESTORATION, AIR FORCE	385,437	385,437	385,437	0	385,437
40	ENVIRONMENTAL RESTORATION, DEFENSE-WIDE	23,492	23,492	23,492	0	23,492
50	ENV REST, FORMERLY USED DEFENSE SITES	190,255	190,255	230,255	40,000	230,255
60	DRUG INTERDICTION & CNTER DRUG ACTIVITIES	820,381	820,381	860,381	0	820,381
70	OVERSEAS CONTINGENCIES	2,844,226	2,844,226	2,844,226	0	2,844,226
80	PENTAGON RENOVATION	0	0	0	0	0
	TOTAL, O&M, TRANSFER ACCOUNTS	4,911,108	4,911,108	4,991,108	40,000	4,951,108
	MISCELLANEOUS					
90	OFFICE OF THE INSPECTOR GENERAL	150,221	152,021	149,221	-1,000	149,221
100	RIFLE PRACTICE,-ARMY	0	0	0	0	0
110	U.S. COURT OF APPEALS FOR THE ARMED FORCES	9,096	9,096	9,096	0	9,096
120	SUPPORT OF INTERNTL SPORTING COMPETITIONS	15,800	15,800	15,800	0	15,800
130	OVRSEAS HMNITRIAN, DISASTER & CIVIC AFFAIRS	49,700	49,700	49,700	0	49,700
140	PAYMENT TO KAHO'OLAWE ISLAND	25,000	25,000	60,000	15,000	40,000
150	EMERGENCY RESPONSE FUND, DEFENSE	0	0	0	0	0
160	DEFENSE HEALTH PROGRAM	17,565,750	17,565,750	17,546,750	0	17,570,750

Title III - Operation & Maintenance

(Dollars in Thousands)

Line	Activity/Subactivity	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
160a	TVI EXPENSES FOR GRDIAN OF MINOR CHILD	0	5,000	[5000]	5,000	
170	FORMER SOVIET UNION THREAT REDUCTION	403,000	403,000	403,000	0	403,000
180	DEFENSE EXPORT LOAN GUARANTEE PROGRAM	0	0	0	0	0
190	QUALITY OF LIFE ENHANCEMENTS	0	0	0	0	0
	UTILITIES ADJUSTMENT		0	0	-125,000	-125,000
	GENERAL REDUCTION		0	-40,000	0	0
	TOTAL, MISCELLANEOUS	18,218,567	18,225,367	18,193,567	-106,000	18,112,567
	TOTAL OPERATION AND MAINTENANCE TITLE:	125,349,997	123,792,869	125,346,298	-2,090,070	123,259,927

Management reform initiatives

The conferees agree to reduce operations and maintenance accounts by $1.07 billion to reflect savings from management reform initiatives, as discussed in Title VIII.

Combating terrorism initiative

The budget request included $5.6 billion to continue improving the ability of U.S. forces to deter and defend against the growing terrorist threat.

The House amendment would authorize the requested amount.

The Senate bill would authorize the $5.6 billion request, but included an additional $217.2 million to further improve U.S. capabilities to combat terrorism. Of this increase, $108.0 million was added to operation and maintenance accounts. This included: $77.7 million to address force protection vulnerabilities on Army installations; $14.3 million for enhanced counterterrorism training for U.S. Special Operations Forces; $10.0 million for the combating terrorism readiness initiatives fund for combatant commands; and $6.0 million to purchase hand-held explosive detectors for seagoing Navy vessels.

The conferees note that many of the vulnerabilities to terrorist attacks have become high priorities for the Department of Defense. This is reflected in the fact that a significant portion of the additional funds included in the Senate bill have already been funded in the fiscal year 2001 emergency supplemental appropriations act. Specifically, the conferees understand that, as of the end of September 2001, the Army had received $257.0 million in supplemental funding for force protection improvements at its installations, and the Special Operations Command had received $151.0 million for combating terrorism, including immediate counterterrorism training needs. The conferees agree, therefore, to authorize an additional $10.0 million for the combatant commands' Combating Terrorism Readiness Initiatives Fund, and $3.0 million to purchase hand-held explosive detectors for the Navy.

Commercial imagery to support military requirements

The budget request included $30.0 million for purchasing commercial imagery products in support of national needs.

The Senate bill would authorize an increase of $10.0 million to establish prototype contracts that the National Imagery and Mapping Agency (NIMA) would use to establish stronger ties with the private sector to satisfy commercial satellite imagery needs. The Senate report (S. Rept. 107-62) indicated that NIMA officials have suggested that the NIMA might enter into prototype contracts with commercial remote sensing entities to provide commercial satellite imagery for the NIMA.

The conferees understand that, under such an approach, the NIMA would contract with one or more U.S. commercial satellite imagery providers to provide a portion of this imagery directly to a network of geospatial production companies, each of which supports NIMA customers with interests in a particular region.

The House amendment would approve the budget request.

The conferees believe that the United States should prioritize the use of commercial remote sensing as envisioned in Presidential Decision Directive–23. Moreover, the conferees believe that allocating certain satellite imagery requirements to the U.S. commercial remote sensing industry will allow the government to focus its own assets on more demanding intelligence requirements. The conferees continue to support using commercial satellite imagery and geospatial products and services to satisfy the non-time-critical low and medium resolution requirements of the Secretary of Defense, including the regional commanders in chief, and the intelligence community.

The conferees also understand that the administration is developing a commercial imagery strategy to support these requirements and endorses the development and implementation of such a strategy. The conferees believe, however, that the U.S. Government must become a reliable, long-term customer of commercial satellite imagery if the strategy is to be successful. The conferees recognize that there are budgetary and contracting issues, but do not believe these are beyond solution.

Therefore, the conferees direct the Secretary of Defense and the Director of Central Intelligence to plan and carry out a program to purchase a significant portion of their non-time-critical low and medium resolution satellite imagery requirements from the U.S. commercial remote sensing industry by 2005.

The conferees note that substantial resources relating to commercial imagery activities have been included in the Emergency Terrorism Response Supplemental Appropriations Act, 2001. Therefore, the conferees recommend no additional funding above the President's budget request for fiscal year 2002. The conferees expect that the NIMA and the administration will make appropriate use of these funds to implement this commercial imagery strategy.

Legislative Provisions Adopted

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 301–302)

The Senate bill contained provisions (secs. 301–302) that would authorize the recommended fiscal year 2002 funding levels for all operation and maintenance and working capital fund accounts.

The House amendment contained similar provisions (secs. 301-302).

The conference agreement includes these provisions.

Armed Forces Retirement Home (sec. 303)

The Senate bill contained a provision (sec. 303) that would authorize the appropriation of $71.4 million from the Armed Forces Retirement Home Trust Fund for fiscal year 2002 and $22.4 million for the development and construction of a blended use, multicare facility and acquisition of land at the Naval Home.

The House amendment contained a similar provision (sec. 303).

The House recedes with a clarifying amendment.

Transfer from National Defense Stockpile Transaction Fund (sec. 304)

The House amendment contained a provision (sec. 304) that would authorize the transfer of $150.0 million from the National Defense Stockpile Transaction Fund to operation and maintenance accounts of the Army, Navy and Air Force.

The Senate bill contained no similar provision.

The Senate recedes.

Funds for renovation of Department of Veterans Affairs facilities adjacent to Naval Training Center, Great Lakes, Illinois (sec. 305)

The Senate bill contained a provision (sec. 309) that would authorize the Secretary of the Navy to use up to $2.0 million to fund the renovation and relocation of Department of Veterans Affairs facilities in the proximity of the Naval Training Center, Great Lakes, Illinois. The provision would make the authorization contingent on the Secretary of Veterans Affairs and the Secretary of the Navy entering into an agreement to provide 48 acres of Department of Veterans Affairs property for the expansion of the Naval Training Center.

The House amendment contained no similar provision.

The House recedes.

Defense Language Institute Foreign Language Center expanded Arabic language program (sec. 306)

The Senate bill contained a provision (sec. 338) that would authorize $650,000 of the amounts available in the Operation and Maintenance, Army, account for an expanded Arabic language program at the Defense Language Institute.

The House amendment contained no similar provision.

The House recedes.

Subtitle B—Environmental Provisions

Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges) (sec. 311)

The House amendment contained a provision (sec. 311) that would require the Department of Defense to inventory sites that are known or suspected to contain abandoned military munitions.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would: (1) provide that the inventory requirement does not apply to operating storage and manufacturing facilities, operational ranges, or locations outside the United States; (2) clarify the definitions of military munitions, operational ranges, unexploded ordnance and other key terms; (3) require consultation with representatives of States and Tribes in the development of a protocol for site prioritization; (4) clarify that the prioritization of sites does not impair, alter or diminish the Department's obligations under federal or state law; and (5) extend the time period available for the Department to complete the inventory and prioritization of sites.

Establishment of new program element for remediation of unexploded ordnance, discarded military munitions, and munitions constituents (sec. 312)

The Senate bill contained a provision (sec. 311) that would require the Secretary of Defense to establish within each environmental restoration account established for the Department of Defense a sub-account for the remediation of unexploded ordnance and related constituents.

The House amendment contained no similar provision.

The House recedes with an amendment that would: (1) establish program elements, rather than sub-accounts, within each of the environmental restoration accounts; and (2) clarify that the accounts cover discarded munitions as well as unexploded ordnance and related constituents.

Assessment of environmental remediation of unexploded ordnance, discarded military munitions, and munitions constituents (sec. 313)

The Senate bill contained a provision (sec. 312) that would require the Department of Defense to conduct a comprehensive assessment and develop a plan for addressing unexploded ordnance, discarded munitions and related constituents on Department of Defense facilities and installations.

The House amendment contained no similar provision.

The House recedes with an amendment that would: (1) harmonize the terminology and scope of this provision with other provisions related to unexploded ordnance; and (2) delay from calendar year 2002 to calendar year 2003 the due date of the required report. The conference report would require the Department of Defense to provide an interim report containing all available information in calendar year 2002.

Conformity of surety authority under environmental restoration program with surety authority under CERCLA (sec. 314)

The Senate bill contained a provision (sec. 316) that would eliminate the sunset date for the surety provisions in section 2701 of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes with a technical amendment to the title.

Elimination of annual report on contractor reimbursement for costs of environmental response actions (sec. 315)

The House amendment contained a provision (sec. 315) that would remove the requirement for the Department of Defense to report to Congress on contractor reimbursement for costs of environmental response actions for the top 20 defense contractors.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Pilot program for sale of air pollution emission reduction incentives (sec. 316)

The Senate bill contained a provision (sec. 314) that would extend through September 30, 2003, the authority for the Department of Defense to conduct a pilot program for the sale of air pollution emission reduction incentives.

The House amendment contained no similar provision.

The House recedes with an amendment requiring the Secretary of Defense to report to Congress on the use of the program.

Department of Defense energy efficiency program (sec. 317)

The Senate bill contained a provision (sec. 313) that would require the Secretary of Defense to carry out a program to significantly improve the energy efficiency of the Department of Defense over the next 10 years, and require the Department to report to Congress on progress in implementing that program.

The House amendment contained a provision (sec. 1050) expressing the sense of Congress that the Department should work to implement fuel efficiency reforms.

The House recedes with an amendment that would incorporate the sense of Congress into the provision and ensure that the reports to Congress include the same information in the same format as is already generated for executive branch purposes.

Procurement of alternative fueled and hybrid light duty trucks (sec. 318)

The Senate bill contained a provision (sec. 317) that would require the Secretary of Defense to purchase hybrid electric vehicles, to the extent that such vehicles are commercially available and meet the Department of Defense's requirements, for the Department of Defense fleet of light duty trucks that is not already subject to the requirement to purchase alternative fueled vehicles pursuant to the Energy Policy Act of 1992 (42 U.S.C. 13212).

The House amendment contained no similar provision.

The House recedes with an amendment that would expand the coverage of the provision to all types of hybrid vehicles, to ensure that hybrid vehicles other than hybrid-electric vehicles (such as hybrid hydrogen or fuel-cell vehicles) would also be eligible for purchase under the provision.

Reimbursement of Environmental Protection Agency for certain response costs in connection with Hooper Sands site, South Berwick, Maine (sec. 319)

The Senate bill contained a provision (sec. 315) that would authorize the Secretary of Defense to reimburse the Environmental Protection Agency (EPA) for environmental costs incurred by the EPA consistent with the January 2001 agreement between the Navy and the EPA.

The House amendment contained a similar provision (sec. 313).

The House recedes with a technical amendment.

River mitigation studies (sec. 320)

The House amendment contained a provision (sec. 314) that would authorize the Secretary of Defense to conduct mitigation studies in two locations and to work with federal, state, local and private entities to address problems that may be identified.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the studies and require that each study address the extent, if any, to which the Department of Defense (DOD) is responsible for any problems identified. The conference agreement does not authorize the use of DOD funds to address these problems. The conferees understand that any action would be conducted only under existing authority and in accordance with applicable procedures and requirements.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Commissary benefits for new members of the Ready Reserve (sec. 331)

The Senate bill contained a provision (sec. 662) that would grant new members of the Ready Reserve access to commissary stores.

The House amendment contained a similar provision (sec. 321).

The House recedes.

Reimbursement for use of commissary facilities by military departments for purposes other than commissary sales (sec. 332)

The Senate bill contained a provision (sec. 322) that would require service secretaries to reimburse the Defense Commissary Agency for a share of the depreciated value of a commissary facility when a military department uses, for non-commissary related purposes, a facility previously acquired, constructed, or improved with commissary surcharge funds.

The House amendment contained a similar provision (sec. 322).

The House recedes.

Public releases of commercially valuable information of commissary stores (sec. 333)

The Senate bill contained a provision (sec. 323) that would authorize the Secretary of Defense to limit release to the public of commercially valuable commissary store information and to use competitive contracting procedures to sell commissary sales data, customer demographic information, and information pertaining to commissary transactions and operations.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Rebate agreements with producers of foods provided under special supplemental food program (sec. 334)

The Senate bill contained a provision (sec. 321) that would authorize the Secretary of Defense to enter into annual contracts for rebates with producers of food products for the exclusive right to provide food in commissary stores as supplemental food for the Women, Infants, and Children (WIC) Overseas Program.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Civil recovery for nonappropriated fund instrumentality costs related to shoplifting (sec. 335)

The House amendment contained a provision (sec. 323) that would authorize the military exchanges to pursue federal debt collection remedies against shoplifters in the military exchange stores.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle D—Workforce and Depot Issues

Revision of authority to waive limitation on performance of depot-level maintenance (sec. 341)

The Senate bill contained a provision (sec. 335) that would elevate the current authority to waive limitations on performance of depot-level maintenance to the Secretary of Defense. The provision also required the Secretary to submit to the Congress a strategic plan on the operations of public depots.

The House amendment contained no similar provision.

The House recedes with an amendment that would remove the statutory requirement for a report. The conferees are aware, however, that the Air Force is developing a strategic plan for the future operation and use of the Air Logistics Centers. The conferees believe that such a plan is essential, and direct the Secretary of the Air Force to submit this plan to the Committees on Armed Services of the Senate and the House of Representatives not later than January 31, 2002.

Exclusion of certain expenditures from limitation on private sector performance of depot-level maintenance (sec. 342)

The House amendment contained a provision (sec. 335) that would establish a five-year pilot program at three Air Force depots. The program would exclude work performed in a public depot under a public-private partnership from restrictions included in title 10, United States Code relating to private sector work.

The Senate bill contained a similar provision (sec. 332).

The House recedes with an amendment that would expand the program to all Centers of Industrial and Technical Excellence and set the program length at four years.

Protections for purchasers of articles and services manufactured or performed by working-capital funded industrial facilities of the Department of Defense (sec. 343)

The House amendment contained a provision (sec. 336) that would permit a private sector entity that has contracted with the public sector in a working capital-funded activity of the Department of Defense to file a claim if the public sector fails to comply with quality, schedule, or cost performance as required by the contract.

The Senate bill contained no similar provision.

The Senate recedes.

Revision of deadline for annual report on commercial and industrial activities (sec. 344)

The Senate bill contained a provision (sec. 1024) that would change the due date for the Commercial Activities Report to Congress, required by section 2461(g) of title 10, United States Code, from February 1 to June 30 of each year, as requested by the Department of Defense.

The House amendment contained no similar provision.

The House recedes.

Pilot manpower reporting system in Department of the Army (sec. 345)

The House amendment contained a provision (sec. 333) that would require the Department of the Army to report annually on the size of its contractor workforce.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of the Army to provide to Congress an annual report describing the use of non-federal entities that provide services to the Department of the Army during fiscal years 2002 through 2004. The amendment would also clarify that the Secretary of the Army would be required to use existing data collection and reporting systems to compile this report, and would not be permitted to impose any new data requirements on non-federal entities.

The conferees note that a similar provision, applicable to all three military services, was included in section 343 of the National Defense Authorization Act for Fiscal Year 2000. The Navy and the Air Force complied with this provision without establishing any new data collection systems or imposing any new data requirements on contractors. The conferees expect the Army to implement the new provision in a similar manner, without establishing any new data collection systems or imposing any new data requirements on contractors.

Development of Army Workload and Performance System and Wholesale Logistics Modernization Program (sec. 346)

The House amendment contained a provision (sec. 334) that prohibited the Secretary of the Army from expanding the Wholesale Logistics Modernization Program (WLMP) beyond the original legacy systems until those legacy systems have been replaced.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that requires the Secretary of the Army to maintain the functionality and identity of the Army Workload and Performance System (AWPS) as the WLMP moves forward. The Secretary of Army will also ensure that the AWPS continues to be the standard Army-wide manpower system.

The amendment requires an annual report to the Congress on AWPS implementation. The report will be evaluated by the General Accounting Office.

Subtitle E—Defense Dependents Education

Assistance to local educational agencies that benefit dependents of members of the armed forces and Department of Defense civilian employees (sec. 351)

The House amendment contained a provision (sec. 341) that would authorize $30.0 million for educational assistance to local education agencies where the standard for the minimum level of education within the state could not be maintained because of the large number of military connected students, and $1.0 million for payments to local education agencies to assist in adjusting to reductions in military dependent students resulting from the closure or realignment of military installations.

The Senate bill contained a similar provision (sec. 304) that would authorize $35.0 million for impact aid to local education agencies.

The Senate recedes.

Impact aid for children with severe disabilities (sec. 352)

The Senate bill contained a provision (sec. 305) that would authorize $5.0 million for continuation of the Department of Defense assistance program to local educational agencies that benefit dependents with severe disabilities.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Availability of auxiliary services of defense dependents' education system for dependents who are home school students (sec. 353)

The House amendment contained a provision (sec. 342) that would require the Department of Defense (DOD) to provide support for home schooled students who are otherwise eligible to attend DOD schools.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would remove participation in individual academic courses from the services available to dependents who are home schooled and add a requirement that the home schooled students must comply with the standards of conduct applicable to other students using or receiving the same auxiliary services.

Comptroller General study of adequacy of compensation provided for teachers in the Department of Defense overseas dependents' schools (sec. 354)

The Senate bill contained a provision (sec. 1122) that would require the Comptroller General to conduct a study and report on whether compensation for teachers in the defense dependents' education program is adequate for recruiting and retaining high quality teachers, and whether changes in the methodology for computing teacher pay are necessary.

The House amendment contained a similar provision (sec. 343) that would require the Secretary of Defense to conduct the study.

The House recedes with an amendment that would change the date to May 1, 2002, that the Comptroller General must report to Congress on the results of the study.

Subtitle F—Other Matters

Availability of excess defense personal property to support Department of Veterans Affairs initiative to assist homeless veterans (sec. 361)

The House amendment contained a provision (sec. 351) that would permit the Secretary of Defense to make excess clothing, shoes, sleeping bags, and related non-lethal excess supplies available, without reimbursement, to the Secretary of Veterans Affairs for distribution to homeless veterans and programs assisting homeless veterans.

The Senate bill contained no similar provision.

The Senate recedes.

The conferees direct the Secretary of Defense to ensure that adequate safeguards are in place to prevent procurement of those items and declaring them excess and available for distribution shortly after receipt.

Incremental implementation of Navy-Marine Corps Intranet contract (sec. 362)

The House amendment contained a provision (sec. 352) that permanently excluded the Marine Corps from the Navy-Marine Corps Intranet (NMCI) program, and extended exclusions for naval aviation depots and shipyards through fiscal year 2002.

The Senate bill contained a provision (sec. 334) that codified the Department of Defense's plan to rephase the implementation of the NMCI program, based on achievement of specified testing and performance milestones.

The House recedes with an amendment that more fully describes additional phase-in authority for the NMCI. The amendment allows the Secretary of the Navy to contract for an additional 100,000 work stations (the "second increment"), pending joint approval by the Under Secretary of Defense (Acquisition, Technology, and Logistics) and the Department of Defense (DOD) Chief Information Officer (CIO). This approval is dependent on successful completion of a three-phase customer test and evaluation (known as CT&E3), as detailed in the Master Test Plan maintained by the NMCI contractor. Tests shall be conducted on a representative, statistically-significant sample population of NMCI work stations. The validity of the results will be independently evaluated and confirmed by the Institute for Defense Analyses.

The amendment permits the Secretary of the Navy to order a third increment of an additional 150,000 work stations, pending successful performance of at least 20,000 work stations operating on the NMCI network. Certification of this performance must be made by the Navy CIO to the Secretary of the Navy and the DOD CIO. The amendment further restricts the NMCI contractor from assuming responsibility for more than half of the work stations allowed to be ordered in the third increment until the Navy CIO certifies to the Secretary of the Navy and the DOD CIO that the work stations for the full headquarters at the Naval Air Systems Command (NAVAIR) are meeting applicable service-level agreements.

The amendment also requires the Secretary of the Navy to submit to Congress a report on the scope and status of testing and implementation of the NMCI network at the point at which the second and third increments of work stations are ordered. The same information shall be submitted when the performance requirements for NAVAIR headquarters have been met and authority for the NMCI contractor to assume responsibility for the remaining 75,000 seats in the third increment is granted. The conferees intend for these reports to be complete but succinct, and to the extent possible to draw upon information already reported within the Department of Defense.

The amendment also requires the General Accounting Office to conduct a study of the impact of NMCI implementation on the rate structure of naval shipyards and depots. Finally, the amendment requires the Secretary of the Navy to identify a single individual whose sole responsibility will be to direct and oversee the NMCI program.

The conferees are concerned that schedule delays have limited the amount of empirical information about the viability and performance of the NMCI. The slowdowns in the NMCI program have resulted in a difficult situation. Continuing the program requires additional orders of work stations, but so few work stations have been converted to the network that it is not yet clear whether the program will operate as intended. Despite some lingering concerns, the conferees have adopted a plan, based on continued demonstrations of successful testing and performance capabilities, that is intended to allow the program to move forward in a prudent manner. The conferees expect that the Navy, in a departure from past practice, will be fully and readily forthcoming with information about and explanations for any future delays or performance concerns. The conferees' designation of a single NMCI manager is intended to facilitate such communication with the Congress, which is of particular importance given the size and operational impact of the NMCI program.

Comptroller General Study and Report of National Guard Distributive Training Technology Project (sec. 363)

The Senate bill contained a provision (sec. 1027) that directed the Comptroller General to conduct a study of the interconnectivity between the voice, data, and video networks of the National Guard Distributive Training Technology Project (DTTP) and other Department of Defense, federal, state and private networks.

The purpose of the study was to identify existing capabilities and future networking requirements for operational support of disaster response, homeland defense, command and control of premobilization forces, training of military personnel, training of first responders and shared use of the DTTP networks by government and members of the networks. The Comptroller General was also directed to identify appropriate connections between DTTP networks and those networks at the federal and state level responsible for disaster response and to identify requirements for, impediments to, and means of improving connectivity between DTTP and the other networks. The Comptroller General was required to submit a report on the study to the Armed Services Committees of the Senate and the House of Representatives no more than 180 days after the date of enactment of the Act.

The House amendment contained no similar provision.

The House recedes with an amendment that clarifies the need for the Army National Guard to establish the current and future requirements associated with the DTTP. In order for the Comptroller General to conduct a proper review and analysis, the Army National Guard must first clearly articulate these requirements. Under the conference agreement the Comptroller General shall submit its report to the Armed Services Committees of the Senate and the House of Representatives within 270 days after the date of enactment of this Act.

Reauthorization of warranty claims recovery pilot program (sec. 364)

The Senate bill contained a provision (sec. 336) that would reauthorize a pilot program allowing the Secretary of Defense to use commercial services to improve the collection of Department of Defense claims for aircraft engine warranties.

The House amendment contained no similar provision.

The House recedes.

Evaluation of current demonstration programs to improve quality of personal property shipments of members (sec. 365)

The House amendment contained a provision (sec. 353) that would require the Department of Defense to complete all demonstration programs to improve the movement on household goods for members of the Armed Forces. The provision also required the Secretary of Defense to submit to the Congress an evaluation of these programs no later than August 31, 2002.

The Senate bill contained no similar provision.

The conferees understand that the Department of Defense has cancelled the remaining pilot program that would have been continued under the House provision. The conferees maintain that reengineering the household goods moving process continues to be an important quality of life initiative, and that termination of the Full Service Moving Project does not relieve the Department of Defense of its responsibilities to improve the moving process. The Senate therefore recedes with an amendment that would require the Secretary of Defense to complete an evaluation of all ongoing test programs for household goods moves. No later than March 31, 2002, the Secretary shall submit to the Congress a report on the findings of this evaluation, recommendations for policy improvements, and an estimate of associated costs.

Sense of Congress regarding security to be provided at 2002 Winter Olympic Games (sec. 366)

The House amendment contained a provision (sec. 355) that would express the sense of Congress that the Secretary of Defense should provide public safety support for the 2002 Winter Olympic Games in Salt Lake City, Utah.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment that notes the need for the certification of the Attorney General pursuant to section 2564(a) of title 10, United States Code.

LEGISLATIVE PROVISIONS NOT ADOPTED

Applicability of core logistics capability requirements to nuclear aircraft carriers

The House amendment contained a provision (sec. 332) that would exclude refueling of nuclear aircraft carriers, rather than all maintenance work on such ships, from the core logistics capabilities that the Department of Defense maintains.

The Senate bill contained no similar provision.

The House recedes.

Authorization of additional funds

The Senate bill contained a provision (sec. 308) that would authorize the use of $2.0 million of operation and maintenance funds for Defense-Wide accounts to refurbish and replace air handlers and related control systems at Air Force medical centers.

The House amendment contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize $2.0 million of the funds available for Operation and Maintenance, Defense-Wide, for Air Force air handlers.

Consequence management training

The Senate bill contained a provision (sec. 339) that would authorize the use of $5.0 million of operation and maintenance funds for Defense-Wide activities to provide training for members of the armed forces (including reserve component personnel) in managing the consequences of an incident involving the use or threat of use of a weapon of mass destruction.

The House amendment contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize $5.0 million of the funds available for Operation and Maintenance, Defense-Wide, for consequence management training for both active and reserve component military personnel.

Critical infrastructure protection initiative of the Navy

The Senate bill contained a provision (sec. 340) that would authorize the use of $6.0 million of operation and maintenance funds for the Navy for the critical infrastructure protection initiative.

The House amendment contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize $6.0 million of the funds available for Operation and Maintenance, Navy, for the critical infrastructure protection initiative.

Environmental restoration, Formerly Used Defense Sites

The Senate bill contained a provision (sec. 307) that would increase the authorized funding for the environmental restoration of Formerly Used Defense Sites (FUDS) by $40.0 million.

The House amendment contained no similar provision.

The Senate recedes.

The conferees agree to increase funding for environmental restoration of FUDS by $40.0 million.

The conferees note that there are over 9,000 properties identified for inclusion in the FUDS program, hundreds of which could be categorized as former ranges. Historically, the FUDS program has experienced significant funding shortfalls, making it difficult to execute much needed remediation projects at these sites. In an effort to address this problem, Congress included additional funds for FUDS remediation in fiscal years 2000 and 2001. These funding increases merely helped to address some, not all of the funding shortfalls. The fiscal year 2002 budget request again failed to adequately address this funding problem.

The conferees direct the Secretary of Defense to comprehensively resolve this issue within the Department of Defense with a special emphasis on the Department of the Army. The conferees expect the Secretary of Defense to ensure that the fiscal year 2003 budget request reflects progress in this area. In addition, the conferees direct the Secretary of Defense to submit a report in conjunction with the fiscal year 2003 budget request that provides a future years plan for resolution of the FUDS funding shortfalls.

Expansion of entities eligible for loan, gift, and exchange of documents, historical artifacts, and obsolete combat materiel

The House amendment contained a provision (sec. 354) that would expand the list of entities eligible to receive certain materials from the Department of Defense.

The Senate bill contained no similar provision.

The House recedes. The text of the House provision is incorporated into a separate provision addressing Department of Defense gift authorities (sec. 1043).

Funding for land forces information operations sustainment

The Senate bill contained a provision (sec. 337) that would authorize the use of $5.0 million of operation and maintenance funds for the Army Reserve for information operations sustainment.

The House amendment contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize $5.0 million of the funds available for Operation and

Maintenance, Army Reserve, for information operations sustainment.

Improvements in instrumentation and targets at Army live-fire training ranges

The Senate bill contained a provision (sec. 306) that would increase funding for improvements in Army live-fire ranges by $11.9 million, offset by reductions in the fuel accounts of the Defense Working Capital Fund.

The House amendment contained no similar provision.

The Senate recedes on the provision, and the conferees agree to authorize additional funds.

Limitation on workforce reviews

The House amendment contained a provision (sec. 331) that would: (1) limit the number of workforce reviews that could be performed by the Department of Defense until certain conditions were met; and (2) prohibit the conversion of Department of Defense functions to private sector performance unless the cost savings from doing so would be at least 10 percent.

The Senate bill contained no similar provision.

The House recedes.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Active Forces

End strengths for active forces (sec. 401)

The Senate bill contained a provision (sec. 401) that would authorize active duty end strengths for fiscal year 2002, as shown below:

	2001 Authorization	Fiscal year—	
		2002 request	2002 recommendation
Army	480,000	480,000	480,000
Navy	372,642	376,000	376,000
Marine Corps	172,600	172,600	172,600
Air Force	357,000	358,800	358,800

The House amendment contained an identical provision (sec. 401).

The conference agreement includes this provision.

Revision in permanent end strength minimum levels (sec. 402)

The House amendment contained a provision (sec. 402) that would establish end strength floors for the active forces at the end strengths contained in the budget request.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Increase in senior enlisted active duty grade limit for Navy, Marine Corps, and Air Force (sec. 403)

The House amendment contained a provision (sec. 504) that would increase the limitation on the authorized daily average number of enlisted members serving on active duty within an armed force in the pay grade of E-8 from two percent to two and one half percent of the total number of enlisted members of that armed force on active duty on the first day of that fiscal year.

The Senate bill contained a similar provision (sec. 402).

The Senate recedes with a clarifying amendment.

Subtitle B—Reserve Forces

End strengths for Selected Reserve (sec. 411)

The Senate bill contained a provision (sec. 411) that would authorize Selected Reserve end strengths for fiscal year 2002, as shown below:

	2001 authorization	Fiscal year—	
		2002 request	2002 recommendation
The Army National Guard of the United States	350,526	350,000	350,000
The Army Reserve	205,300	205,000	205,000
The Navy Reserve	88,900	87,000	87,000
The Marine Corps Reserve	39,558	39,558	39,558
The Air National Guard of the United States	108,022	108,400	108,400
The Air Force Reserve	74,358	74,700	74,700
The Coast Guard Reserve	8,000	8,000	8,000

The House amendment contained an identical provision (sec. 411).

The conference agreement includes this provision.

End strengths for reserves on active duty in support of the reserves (sec. 412)

The Senate bill contained a provision (sec. 412) that would authorize the full-time support end strengths for fiscal year 2002, as shown below:

	2001 authorization	Fiscal year—	
		2002 request	2002 recommendation
The Army National Guard of the United States	22,974	22,974	23,698
The Army Reserve	13,106	13,108	13,406
The Navy Reserve	14,649	14,811	14,811
The Marine Corps Reserve	2,261	2,261	2,261
The Air National Guard of the United States	11,170	11,591	11,591
The Air Force Reserve	1,336	1,437	1,437

The House amendment contained a similar provision (sec. 412).

The House recedes.

End strengths for military technicians (dual status) (sec. 413)

The Senate bill contained a provision (sec. 413) that would authorize the minimum level of dual status technician end strengths for fiscal year 2002, as shown below:

	2001 authorization	Fiscal year—	
		2002 request	2002 recommendation
The Army Reserve	5,921	5,999	6,249
The Army National Guard of the United States	23,128	23,128	23,615
The Air Force Reserve	9,785	9,818	9,818
The Air National Guard of the United States	22,247	22,422	22,422

The House amendment contained a provision (sec. 413) that would authorize the following end strengths for military technicians (dual status) as of September 30, 2002:

	2001 authorization	Fiscal year—	
		2002 request	2002 recommendation
The Army Reserve	5,921	5,999	5,999
The Army National Guard of the United States	23,128	23,128	23,128
The Air Force Reserve	9,785	9,818	9,818
The Air National Guard of the United States	22,247	22,422	22,422

The House recedes.

Fiscal year 2002 limitation on non-dual status technicians (sec. 414)

The House amendment contained a provision (sec. 414) that would establish the following limits on the numbers of non-dual status technicians as of September 30, 2002:

	2001 limit	Fiscal year—	
		2002 request	2002 recommendation
The Army Reserve	1,195	1,095	1,095
The Army National Guard of the United States	1,600	1,600	1,600
The Air Force Reserve	10	0	90
The Air National Guard of the United States	326	350	350

The Senate bill contained a similar provision (sec. 414). The Senate recedes.

Limitations on numbers of reserve personnel serving on active duty or full-time National Guard duty in certain grades for administration of reserve components (sec. 415)

The House amendment contained a provision (sec. 415) that would authorize new grade tables for all reserve components of the military departments to limit the number of officers and senior enlisted members serving on active duty or full-time National Guard Duty in the pay grades of 0-6, 0-5, 0-4, E-9, and E-8.

The Senate bill contained a similar provision (sec. 415).

The Senate recedes with a clarifying amendment.

Subtitle C—Other Matters Relating to Personnel Strengths

Administration of end strengths (sec. 421)

The House amendment contained a provision (sec. 421) that would authorize the Secretary of Defense to increase the active duty end strength of a military service up to two percent above the authorized end strengths for that service.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the President to waive any statutory end strength at the end of any fiscal year during which there is in effect a war or national emergency.

Active duty end strength exemption for National Guard and reserve personnel performing funeral honors functions (sec. 422)

The House amendment contained a provision (sec. 422) that would permit members of the reserve components on active duty and members on full-time National Guard duty to prepare for and perform funeral honors functions without counting against the active duty end strengths of the armed forces.

The Senate bill contained a similar provision (sec. 561).

The Senate recedes.

Subtitle D—Authorization of Appropriations

Authorization of appropriations for military personnel (sec. 431)

The Senate bill contained a provision (sec. 421) that would authorize a total of $82,396.9 million to be appropriated to the Department of Defense for military personnel.

The House amendment contained a provision (sec. 431) that would authorize $82,279.1 million to be appropriated to the Department of Defense for military personnel.

The House recedes with an amendment that would authorize $82,307.3 million to be appropriated to the Department of Defense for military personnel.

The conferees provide the following itemization of the increases and decreases from the budget request related to the military personnel accounts:

MILITARY PERSONNEL ACCOUNTS

[Additions in millions]

	Conference agreement
Officer Uniform Allowances	4.0

	Conference agreement
Authorize TLE for Officer First Duty Station	6.0
Increase TLE to $180 per day	39.0
Pet Quarantine Reimbursement	1.0
Additional Army Guard AGR End Strength	24.7
Additional Army Reserve AGR End Strength	8.3
Transferability of MGIB Benefits	30.0
DLA for Members w/Dependents at First Duty Station	36.0
Education Savings Bonds	20.0
	169.0

MILITARY PERSONNEL ACCOUNTS

[Reductions in millions]

	Conference agreement
Savings from Installment Payments for 15-year Career Status Bonus	30.0
Air Force End Strength and Grade Underexecution	129.0
Savings from DOD Proposals Not Enacted	10.0
	169.0

LEGISLATIVE PROVISIONS NOT ADOPTED

Increase in authorized strengths for Air Force officers on active duty in the grade of major

The House amendment contained a provision (sec. 423) that would authorize a seven percent increase in the maximum number of officers serving on active duty in the grade of major.

The Senate bill contained no similar provision.

The House recedes.

Strength and grade limitation accounting for reserve component members on active duty in support of a contingency operation

The Senate bill contained a provision (sec. 416) that would authorize the Secretary of Defense to increase the limit on active duty end strengths of members of the reserve components in pay grades E–8, E–9, 0–4, 0–5, 0–6, and general and flag officers by the number in those pay grades serving on active duty, with their consent, in support of a contingency operation.

The House amendment contained no similar provision.

The Senate recedes.

TITLE V—MILITARY PERSONNEL POLICY

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Officer Personnel Policy

Enhanced flexibility for management of senior general and flag officer positions (sec. 501)

The Senate bill contained a provision (sec. 501) that would increase the grade of the Vice Chief of the National Guard Bureau to lieutenant general, the grades of the heads of the Nurse Corps for the Army and the Air Force to major general and of the Navy to rear admiral (upper half), and the grade of the Chief of Army Veterinary Corps to brigadier general. The provision would also authorize one additional Marine general above the grade of major general and exclude an officer serving as the Senior Military Assistant to the Secretary of Defense in the grade of general or lieutenant general, or admiral or vice admiral, from the limit on officers serving in that grade for his or her service, and would repeal the limit on the number of officers on active duty in the grades of general or admiral.

The House amendment contained a provision (sec. 501) that would repeal the limit on the number of officers on active duty in the grades of general or admiral.

The House recedes with an amendment that would repeal the limit on the number of officers on active duty in the grades of general or admiral.

The conferees are concerned about the various proposals received each year for authorizing new general or flag officer positions, increasing the total number of general and flag officers, and exempting general and flag officers from current grade limits. The conferees are also aware that changes made as a result of the Defense Strategy Review and the Quadrennial Defense Review may result in changes in requirements for general and flag officers.

Rather than addressing individual proposals piecemeal, the conferees direct the Secretary of Defense, using current data and requirements, to conduct a comprehensive review, as delineated by section 1213 of the National Defense Authorization Act for Fiscal Year 1997, of the existing statutory reserve and active general and flag officer authorizations. The Secretary should report the results of the review to Congress no later than six months after the date of enactment of this Act, together with any recommendations for revisions to those authorizations.

Certifications of satisfactory performance for retirement of officers in grades above major general and rear admiral (sec. 502)

The Senate bill contained a provision (sec. 507) that would authorize the Secretary of Defense to delegate to the Under Secretary of Defense for Personnel and Readiness or the Deputy Under Secretary of Defense for Personnel and Readiness the authority to certify to the President and to Congress that certain officers have served satisfactorily in the grade of general, admiral, lieutenant general, or vice admiral before authorizing retirement in that grade. The provision would require the Secretary of Defense to act personally on cases where there is potentially adverse information that has not previously been reported to the Senate in connection with a previous appointment.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Review of actions of selection boards (sec. 503)

The Senate bill contained a provision (sec. 585) that would provide that service members or former service members challenging the results of selection boards or promotion boards are not entitled to relief in a judicial proceeding unless the matter was first considered by a special board or a special selection board, or the secretary concerned denied such consideration.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

The conferees do not intend, by this provision, to change the existing authority of the federal courts to determine the validity of any statute, regulation or policy relating to selection boards in any applicable form of action, including, when authorized by law or by the rules of the court, a class action.

Temporary reduction of time-in-grade requirement for eligibility for promotion for certain active-duty list officers in grades of first lieutenant and lieutenant (junior grade) (sec. 504)

The Senate bill contained a provision (sec. 502) that would reduce the minimum time-in-grade for promotion of lieutenants and lieutenants (junior grade) from two years to 18 months.

The House amendment contained a similar provision (sec. 503).

The House recedes with an amendment that would limit this provision to officers with 18 months time-in-grade as first lieutenants and lieutenants (junior grade) before October 1, 2005.

Authority for promotion without selection board consideration for all fully qualified officers in grade of first lieutenant or lieutenant (junior grade) in the Navy (sec. 505)

The Senate bill contained a provision (sec. 503) that would authorize the promotion of officers on the active-duty list and on the reserve active-status list to captain in the Army, Air Force, or Marine Corps, or to the grade of lieutenant in the Navy without selection board action when the secretary concerned determines that all fully qualified officers eligible for consideration for promotion are needed in the next higher grade to accomplish mission objectives. The recommended provision would provide that an officer who is not promoted because the secretary concerned determines that the officer is not fully qualified for promotion would be treated as having failed of selection for promotion.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Authority to adjust date of rank of certain promotions delayed by reason of unusual circumstances (sec. 506)

The Senate bill contained a provision (sec. 504) that would authorize the service secretaries to adjust dates of rank of officers in grades 0–6 and below when the officers' promotions are delayed because of unusual circumstances causing an unintended delay in the processing or approval of a report of a selection board or promotion list.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Authority for limited extension of medical deferment of mandatory retirement or separation (sec. 507)

The House amendment contained a provision (sec. 505) that would authorize the secretaries of the military departments to extend for an additional 30 days the deferment of mandatory retirement or separation for medical reasons to provide a member additional time to prepare for retirement or separation.

The Senate bill contained a similar provision (sec. 505).

The Senate recedes.

Authority for limited extension on active duty of members subject to mandatory retirement or separation (sec. 508)

The House amendment contained a provision (sec. 506) that would authorize the secretaries of the military departments to extend for an additional 90 days the deferment of mandatory retirement or separation due to the implementation of stop loss authority to provide the military member additional time to prepare for retirement or separation.

The Senate bill contained a similar provision (sec. 508).

The Senate recedes with a clarifying amendment.

Exemption from certain administrative limitations for retired officers ordered to active duty as defense or service attachés (sec. 509)

The Senate bill contained a provision (sec. 506) that would exclude retired members recalled to active duty for service as defense or service attachés from the limitations on the number of retired members who can be recalled to active duty and from the time limit on the period of a recall to active duty.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

The Secretary of Defense has repeatedly sought additional exceptions to the limitations on retired members recalled to active duty. The conferees believe that the Secretary of Defense should have more flexibility to recall retired members without seeking legislative authority to do so. Accordingly, the conferees direct the Secretary of Defense to report, not later than March 31, 2002, to the Committees on Armed Services of the Senate and the House of Representatives on an appropriate limit on the number of retirees in pay grade 0–6 and below who could serve on active duty at any one time if the exceptions contained in sections 688(e)(2) and 690(b)(2) of title 10, United States Code, were eliminated.

Officer in charge of United States Navy Band (sec. 510)

The House amendment contained a provision (sec. 508) that would permit a Navy limited duty officer who holds the rank of at least lieutenant commander to be detailed to serve in the rank of captain while holding the position of officer in charge of the United States Navy Band.

The Senate bill contained a similar provision (sec. 509).

The Senate recedes with a clarifying amendment.

Subtitle B—Reserve Component Personnel Policy

Placement on active-duty list of certain reserve officers on active duty for a period of three years or less (sec. 511)

The House amendment contained a provision (sec. 511) that would require members recalled to active duty for three years or less to be placed on the active-duty list unless the service secretary specifies in the service member's orders that the member will be retained on the reserve active-status list.

The Senate bill contained a similar provision (sec. 512).

The Senate recedes.

Exception to baccalaureate degree requirement for appointment of reserve officers to grades above first lieutenant (sec. 512)

The Senate bill contained a provision (sec. 511) that would extend by three years, to September 30, 2003, the authority of the Secretary of the Army to waive, on a case by case basis, the requirement for reserve officers commissioned through the Army Officer Candidate School to have been awarded a baccalaureate degree before being promoted to the grade of captain.

The House amendment contained a similar provision (sec. 513).

The House recedes with an amendment that would also authorize the Secretary of the Navy to waive, on a case by case basis, the requirement for a baccalaureate degree in the case of reserve officers whose original appointment as a reserve officer in the Marine Corps was through the Marine Corps meritorious commissioning program.

The conferees intend that the service secretaries grant waivers only to those officers who have demonstrated substantial progress toward achieving the goal of earning a baccalaureate degree.

Improved disability benefits for certain reserve component members (sec. 513)

The House amendment contained a provision (sec. 514) that would remove the requirement that reservists must be performing inactive-duty for training at a site that is outside normal commuting distance before being eligible for disability benefits and programs if they incur or aggravate an injury, illness, or disease in the line of duty when remaining overnight at training locations before or between inactive-duty training periods.

The Senate bill contained a similar provision (sec. 515).

The Senate recedes with a clarifying amendment.

Time-in-grade requirement for reserve component officers retired with a nonservice-connected disability (sec. 514)

The House amendment contained a provision (sec. 515) that would authorize retirement eligible reserve officers with non-service-connected physical disabilities that disqualify the officer from continued service to be retired in the highest grade held by the officer for six months, regardless of other time-in-grade requirements.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would limit application of this provision to members whose nonservice-connected disabilities are incurred in the line of duty.

Equal treatment of reserves and full-time active duty members for purposes of managing personnel deployments (sec. 515)

The Senate bill contained a provision (sec. 513) that would amend the definition of deployment for reservists to include performance of duty that makes it impossible or infeasible to spend off-duty time in the housing that the member usually occupies during off-duty time when on garrison duty.

The House amendment contained a similar provision (sec. 516).

The House recedes with a clarifying amendment.

Modification of physical examination requirements for members of the Individual Ready Reserve (sec. 516)

The Senate bill contained a provision (sec. 514) that would eliminate the requirement that members of the Individual Ready Reserve receive a physical examination every five years and would require a physical examination as necessary to determine the member's physical fitness for military duty or for promotion, attendance at an armed forces' school, or other action related to career progression.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Retirement of reserve members without requirement for formal application or request (sec. 517)

The Senate bill contained a provision (sec. 516) that would authorize the service secretaries to transfer to the Retired Reserve officers who are required to be removed from active status because of failure of selection for promotion, length of service or age, and warrant officers and enlisted members who are required to be discharged or removed from active status because of years of service or age, unless the member requests not to be transferred to the Retired Reserve.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Space-required travel by reserves on military aircraft (sec. 518)

The Senate bill contained a provision (sec. 517) that would correct an impairment to authorized travel with allowances for reservists performing annual training duty.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Payment of Federal Employee Health Benefit Program premiums for certain reservists called to active duty in support of contingency operations (sec. 519)

The House amendment contained a provision (sec. 588) that would authorize federal agencies to pay both the employee and government contributions to the Federal Employee Health Benefit Program for federal employees who are members of a reserve component who are called to active duty for more than 30 days in support of a contingency operation.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle C—Joint Specialty Officers and Joint Professional Military Education

Nominations and promotions for joint specialty officers (sec. 521)

The House amendment contained a provision (sec. 521) that would provide for the automatic nomination of any officer who, before or after the enactment of this provision, meets the statutory education and service requirements for nomination as a joint specialty officer (JSO).

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide that, during the three-year period following enactment, officers with a joint specialty are expected, as a group, to be promoted at a rate not less than the rate for officers of the same armed force in the same grade and competitive category.

The conferees intend that JSOs must remain highly qualified and competitive for promotion within their services. Following an assessment of recommendations made by an independent study of joint officer management and joint professional military education reforms, Congress will reassess the promotion standard.

Joint duty credit (sec. 522)

The House amendment contained a provision (sec. 522) that would prescribe standards and requirements for the Secretary of Defense to award joint duty credit to officers serving in temporary joint task force headquarters that are not engaged in combat or near combat operations.

The Senate bill contained no similar provision.

The Senate recedes.

Retroactive joint service credit for duty in certain joint task forces (sec. 523)

The House amendment contained a provision (sec. 523) that would authorize the Secretary of Defense, after a case-by-case review, to award joint service credit to an officer who served in the headquarters of a temporary joint task force employed by the United States during one or more of nine specific joint operations that began during the period August 1, 1992, and June 11, 1999.

The Senate bill contained no similar provision.

The Senate recedes.

Revision to annual report on joint officer management (sec. 524)

The House amendment contained a provision (sec. 524) that would change some annual reporting requirements to reflect the committee's recommended amendments to the joint officer management system.

The Senate bill contained no similar provision.

The Senate recedes.

Requirement for selection for joint specialty before promotion to general or flag officer grade (sec. 525)

The House amendment contained a provision (sec. 525) that would require that after September 20, 2007, officers promoted to brigadier general or rear admiral (lower half) must be selected as a joint specialty officer (JSO) prior to their promotion.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would permit waiver of the requirement that officers must be selected as a JSO as a condition for promotion to flag or general officer under certain circumstances.

The conferees note that the Goldwater-Nichols Defense Reorganization Act provided that both joint professional military education and completion of one full tour of joint duty, or, in certain circumstances, completion of two full tours of duty in a joint duty assignment, were required to qualify an officer as a JSO. In addition, the Goldwater-Nichols Act required not only that all future senior leaders of joint forces be joint specialty officers as a condition of assignment as commander of a unified or specified command, but also established that future Vice Chairmen of the Joint Chiefs of Staff would also come from the ranks of JSOs. However, as a precondition for promotion to brigadier general, or rear admiral (lower half) the Goldwater-Nichols Act established a less demanding standard, requiring only the completion of one "full tour" of joint duty, and not requiring Joint Professional Military Education (JPME). Fifteen years after the enactment of the Goldwater-Nichols Act, the conferees believe that it is appropriate to require that officers selected for general and flag officer rank should be drawn from the ranks of JSOs.

The conferees believe that persons promoted to flag and general officer should be held at least to the same standard as other officers qualifying as JSOs. The conferees also believe that it is not unreasonable to expect the services to include completion of JPME and a joint duty tour in the career paths of officers who are ultimately selected for promotion to general and flag officer rank. To that end, the conferees desire that the serving-in waiver be eliminated, if possible, through creative approaches to career management, such as extending mandatory retirement dates upon completion of JPME and/or designation as a JSO; and require that the independent study required elsewhere in this report specifically address the feasibility and implications of eliminating the serving-in waiver.

Independent study of joint officer management and joint professional military education reforms (sec. 526)

The House amendment contained a provision (sec. 526) that would require that the Secretary of Defense commission an independent study of issues related to joint officer management, joint professional military education, and the roles of the Secretary and the Chairman of the Joint Chiefs of Staff in managing and educating joint officers.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require that the entity conducting the study submit a report on the study to Congress not later than one year after the date of enactment of this Act.

Professional development education (sec. 527)

The House amendment contained a provision (sec. 527) that would make the Secretary of Defense the executive agent for funding professional development education operations at the National Defense University beginning in fiscal year 2003.

The Senate bill contained no similar provision.

The Senate recedes.

Authority for National Defense University to enroll certain private sector civilians (sec. 528)

The House amendment contained a provision (sec. 528) that would permit up to 10 private sector employees of organizations relevant to national security to receive instruction at the National Defense University.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Continuation of reserve component professional military education test (sec. 529)

The House amendment contained a provision (sec. 529) that would require the Secretary of Defense to continue the concept validation test of the Joint Professional Military Education (JPME) course for reserve component officers in fiscal year 2002, and would authorize a broader pilot program in fiscal year 2003 for reserve component JPME, if the Secretary determines that the results of the concept validation test merit it.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle D—Military Education and Training

Defense Language Institute Foreign Language Center (sec. 531)

The House amendment contained a provision (sec. 531) that would authorize the commandant of the Defense Language Institute to award an associate of arts degree in a foreign language to graduates of the Institute's Foreign Language Center who meet the requirements for the degree.

The Senate bill contained a similar provision (sec. 534).

The Senate recedes.

Authority for the Marine Corps University to award degree of master of strategic studies (sec. 532)

The House amendment contained a provision (sec. 532) that would authorize the president of the Marine Corps University to confer the degree of master of strategic studies upon graduates of the Marine Corps War College who meet the requirements for that degree.

The Senate bill contained a similar provision (sec. 535).

The Senate recedes.

Foreign students attending the service academies (sec. 533)

The Senate bill contained a provision (sec. 536) that would authorize the service secretaries to permit 60 persons from foreign countries to attend the service's academy at any one time and would authorize the Secretary of Defense to waive, in whole or in part, the requirement for reimbursement of the cost of providing instruction to a foreign cadet or midshipman.

The conferees expect the Department of Defense to exercise its authority to waive reimbursement in a fiscally prudent manner, recognizing the extraordinary value of a service academy education. The Department should give full consideration to all the factors concerning the ability of the foreign country to provide partial or complete reimbursement. The conferees direct the Secretary of Defense to include in the justification materials submitted with the annual budget request an exhibit describing the number of waivers granted and the rationale for approving the waivers in each service.

The House amendment contained a similar provision (sec. 533).

The House recedes with a clarifying amendment.

Increase in maximum age for appointment as a cadet or midshipman in Senior Reserve Officers' Training Corps scholarship programs (sec. 534)

The House amendment contained a provision (sec. 534) that would increase the maximum allowable age for the Senior Reserve Officers' Training Corps scholarship program from age 27 on June 30 of the year in which the officer candidate is expected to be commissioned to age 35 on December 31 of the year in which the officer candidate is expected to be commissioned.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would increase the age to 31 years of age on December 31 of the year in which the officer candidate is expected to be commissioned.

Participation of regular enlisted members of the armed forces in Senior Reserve Officers' Training Corps program (sec. 535)

The Senate bill contained a provision (sec. 540) that would authorize active duty enlisted members to participate in the Senior Reserve Officers' Training Corps program.

The House amendment contained a similar provision (sec. 535).

The House recedes with a clarifying amendment.

Authority to modify the service obligation of certain ROTC cadets in military junior colleges receiving financial assistance (sec. 536)

The House amendment contained a provision (sec. 536) that would authorize the Secretary of the Army to permit military junior college cadets who sign future Guaranteed Reserve Forces Duty contracts to satisfy their service obligation through either active duty service or reserve service in a troop program unit.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Repeal of limitation on number of Junior Reserve Officers' Training Corps units (sec. 537)

The Senate bill contained a provision (sec. 532) that would repeal the limitation on the number of Junior Reserve Officers Training Corps units.

The House amendment contained an identical provision (sec. 538).

The conference agreement includes this provision.

Modification of nurse officer candidate accession program restriction on students attending educational institutions with Senior Reserve Officers' Training programs (sec. 538)

The House amendment contained a provision (sec. 537) that would remove the restriction on nurse officer candidates receiving financial assistance while training to be nurses at institutions with Reserve Officer Training Corps programs.

The Senate bill contained a similar provision (sec. 620).

The Senate recedes.

Reserve health professionals stipend program expansion (sec. 539)

The House amendment contained a provision (sec. 539) that would expand the stipend program for reserve health professionals by authorizing medical and dental school students to receive stipends and by authorizing continuing compensation for medical and dental school graduates participating in residency programs involving critical wartime specialties.

The Senate bill contained a similar provision (sec. 537).

The Senate recedes with a clarifying amendment.

Housing allowance for the chaplain for the Corps of Cadets at the United States Military Academy (sec. 540)

The House amendment contained a provision (sec. 540) that would authorize a housing allowance for the chaplain for the Corps of Cadets at the United States Military Academy.

The Senate bill contained a similar provision (sec. 1121).

The Senate recedes with a clarifying amendment.

Subtitle E—Recruiting and Accession Programs

18-month enlistment pilot program (sec. 541)

The House amendment contained a provision (sec. 589) that would authorize, during the period beginning on October 1, 2003 and ending on December 31, 2007, an 18-month enlistment pilot program to increase the participation of prior service persons in the Selected Reserve and increase the pool of participants in the Individual Ready Reserve.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize members who enlist under this program the option of reenlisting for continued service on active duty.

Improved benefits under the Army College First program (sec. 542)

The Senate bill contained a provision (sec. 531) that would modify the Army College First program by extending the period of delayed entry from two years to 30 months and increasing the monthly allowance to the higher of $250 or the amount of subsistence allowance for members of the Senior Reserve Officers' Training Corps.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment that would change the amount of the subsistence allowance to be the same as the amount of the subsistence allowance provided to members of the Senior Officers' Training Corps with the corresponding number of years of participation.

Correction and extension of certain Army recruiting pilot program authorities (sec. 543)

The Senate bill contained a provision (sec. 582) that would extend certain Army recruiting pilot programs and, for the pilot program involving contract recruiting initiatives, require replacement of Army Reserve recruiters and remove the requirement that contract recruiters operate under the military recruiter chain of command.

The House amendment contained no similar provision.

The House recedes.

Military recruiter access to secondary school students (sec. 544)

The House amendment contained a provision (sec. 584) that would specify that secondary schools shall provide directory information to recruiters in the same way that such information is provided to institutions of higher education when the student has indicated a desire or intent to enroll in that institution.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require local educational agencies receiving assistance under the Elementary and Secondary Education Act of 1965 to provide to military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers and, upon request by military recruiters, access to secondary school student names, addresses, and telephone listings unless the parent or student has submitted a request that this information not be released without prior written parental consent.

Permanent authority for use of military recruiting funds for certain expenses at Department of Defense recruiting functions (sec. 545)

The House amendment contained a provision (sec. 583) that would make permanent the authority for the secretaries of the military departments to conduct social functions involving recruit candidates and recruits awaiting active duty entry, and other persons known to influence the career decisions of recruitment-age youth.

The Senate bill contained no similar provision.

The Senate recedes.

Report on health and disability benefits for pre-accession training and education programs (sec. 546)

The Senate bill contained a provision (sec. 589) that would require the Secretary of Defense to conduct a review of and report on the health and disability benefits available to recruits and officer candidates engaged in training, education, or other types of programs while not yet on active duty and to cadets and midshipmen attending the service academies.

The House amendment contained a similar provision (sec. 592).

The House recedes with an amendment that would require that the Secretary of Defense include in his report an analysis of health and disability benefits administered by the Department of Veterans Affairs and the Department of Labor available to persons injured in training or education.

Subtitle F—Decorations, Awards, and Posthumous Commissions

Authority for award of the Medal of Honor to Humbert R. Versace, Jon E. Swanson, and Ben L. Salomon for valor (sec. 551)

The Senate bill contained a provision (sec. 551) that would waive statutory time limits and authorize the President to award the Medal of Honor to Humbert R. Versace for valor during the Vietnam War.

The House amendment contained a similar provision (sec. 541).

The House recedes with an amendment that would also waive statutory time limits and authorize the President to award the Medal of Honor to Jon E. Swanson for valor during the Vietnam War and Ben L. Salomon for valor during World War II.

Review regarding award of Medal of Honor to certain Jewish American and Hispanic American war veterans (sec. 552)

The House amendment contained a provision (sec. 542) that would require the secretaries of the military departments to review the service records of certain Jewish and Hispanic veterans from World War II and later periods to determine if the award of the Medal of Honor is appropriate and would waive the statutory time limitations for award where the secretaries determine that service records support the award of Medals of Honor.

The Senate bill contained a similar provision requiring review of the service records of Jewish American war veterans (sec. 552).

The Senate recedes with a clarifying amendment.

Authority to issue duplicate Medals of Honor and to replace stolen military decorations (sec. 553)

The House amendment contained a provision (sec. 543) that would authorize the service secretaries to issue one duplicate Medal of Honor to recipients for display purposes, and a provision (sec. 544) that would clarify that the service secretaries are authorized to replace stolen decorations.

The Senate bill contained a similar provision (sec. 553).

The Senate recedes with an amendment that would combine the provisions.

Retroactive Medal of Honor special pension (sec. 554)

The Senate bill contained a provision (sec. 556) that would entitle Robert R. Ingram to retroactive payment of the Medal of Honor special pension.

The House amendment contained no similar provision.

The House recedes.

Waiver of time limitations for award of certain decorations to certain persons (sec. 555)

The Senate bill contained a provision (sec. 554) that would waive the statutory time limits for award of military decorations to certain individuals who have been recommended by the service secretaries for these awards.

The House amendment contained a similar provision (sec. 545).

The House recedes.

Sense of Congress on issuance of certain medals (sec. 556)

The Senate bill contained a provision (sec. 555) that would express the sense of the Senate that the Secretary of Defense should consider authorizing the issuance of the Korea Defense Service Medal to persons who served in the armed forces in or adjacent to the Republic of Korea between July 28, 1954, and a date determined by the Secretary.

The House amendment contained a provision (sec. 546) that would require the secretaries of the military departments to issue the Korea Defense Service Medal.

The House amendment also contained a provision (sec. 547) that would require the secretaries of the military departments to issue a Cold War Service Medal to persons who served honorably on active duty in the armed forces during the period beginning on September 2, 1945, and ending on December 26, 1991.

The House amendment also contained a provision (sec. 548) that would authorize participants in Operation Frequent Wind to return the award of the Armed Forces Expeditionary Medal and to receive the Vietnam Service Medal in its place.

The House recedes with an amendment that would consolidate these provisions to express the sense of the Congress that the Secretary of Defense should consider authorizing the award of the Korea Defense Service Medal, the Cold War Service Medal, and the Vietnam Service Medal to persons in the categories described above.

The conferees believe that the decision of whether or not to award campaign medals should be the prerogative of the Secretary of Defense.

Sense of Congress on development of a more comprehensive, uniform policy for the award of decorations to military and civilian personnel of the Department of Defense (sec. 557)

The House amendment contained a provision (sec. 549) that would commend the decision by the Department of Defense to create a new award, a medal for the defense of freedom, to be awarded to Department of Defense civilians who are killed or wounded as a result of hostile action.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Posthumous Army commission in the grade of captain in the Chaplains Corps to Ella E. Gibson for service as chaplain of the First Wisconsin Heavy Artillery Regiment during the Civil War (sec. 558)

The House amendment contained a provision (sec. 586) that would authorize and request the President to posthumously appoint Ella E. Gibson to the grade of captain for her service as a chaplain in the First Wisconsin Heavy Artillery Regiment during the Civil War.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle G—Funeral Honors Duty

Participation of military retirees in funeral honors details (sec. 561)

The Senate bill contained a provision (sec. 562) that would authorize military retirees to serve as members of funeral honors details.

The House amendment contained a similar provision (sec. 651).

The House recedes with a clarifying amendment.

Funeral honors duty performed by reserve and guard members to be treated as inactive-duty training for certain purposes (sec. 562)

The House amendment contained a provision (sec. 517) that would authorize reserve and National Guard members performing funeral honors duty the same rights, benefits, and protections that would be provided members performing inactive-duty training.

The Senate bill contained a similar provision (sec. 563).

The Senate recedes.

Use of military leave for funeral honors duty by reserve members and National Guardsmen (sec. 563)

The House amendment contained a provision (sec. 519) that would authorize federal employees who are members of the reserve components to use military leave to perform funeral honors duty.

The Senate bill contained a similar provision (sec. 564).

The Senate recedes.

Authority to provide appropriate articles of clothing as a civilian uniform for civilians participating in funeral honor details (sec. 564)

The House amendment contained a provision (sec. 593) that would require the secretary of a military department to provide, upon a showing of financial need, articles of clothing as a civilian uniform for civilians participating in funeral honor details for veterans.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the secretaries to provide the articles of clothing.

The conferees are aware of the challenges the services face in providing funeral honors details for all veterans' funerals where a funeral honors detail is requested. The conferees encourage the services to work closely with and provide support to veterans organizations to increase their participation in funeral honors details.

Subtitle H—Military Spouses and Family Members

Improved financial and other assistance to military spouses for job training and education (sec. 571)

The House amendment contained a provision (sec. 561) that would require the Secretary of Defense to examine existing Department of Defense and other federal, state and non-governmental programs with the objective of improving retention of military personnel by increasing the employability of military spouses and helping those spouses gain access to financial and other assistance for training and education.

The Senate bill contained no similar provision.

The Senate recedes.

Persons authorized to be included in surveys of military families regarding federal programs (sec. 572)

The Senate bill contained a provision (sec. 581) that would authorize the Secretary of Defense to add family members of retirees and surviving spouses to those who may be surveyed to determine the effectiveness of federal programs relating to military families and the need for new programs.

The House amendment contained a similar provision (sec. 562).

The House recedes with a clarifying amendment.

Clarification of treatment of classified information concerning persons in a missing status (sec. 573)

The House amendment contained a provision (sec. 563) that would amend section 1506 of title 10, United States Code, to require the Secretary of Defense to maintain a separate file available for review by next-of-kin that would provide notice of the existence of classified information which may pertain to one or more missing persons.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Transportation to annual meeting of next-of-kin of persons unaccounted for from conflicts after World War II (sec. 574)

The House amendment contained a provision (sec. 564) that would authorize the Secretary of Defense to provide transportation for the next-of-kin of persons who are unaccounted for from the Korean War, the Cold War, the Vietnam War, and the Persian Gulf Conflict to an annual meeting concerning ongoing efforts to resolve the fate of their missing family member.

The Senate bill contained a similar provision (sec. 588).

The Senate recedes with a clarifying amendment.

Amendments to charter of Defense Task Force on Domestic Violence (sec. 575)

The House amendment contained a provision (sec. 565) that would extend the original three-year authorization of the Defense Task Force on Domestic Violence from October, 2002, to April 24, 2003 and authorize reimbursement to be paid to task force members who are not Department of Defense or federal civilian employees.

The Senate bill contained a similar provision (sec. 587).

The Senate recedes.

Subtitle I—Military Justice and Legal Assistance Matters

Blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel (sec. 581)

The Senate bill contained a provision (sec. 583) that would amend Article 111 of the Uniform Code of Military Justice (10 U.S.C. 911) to lower the blood alcohol concentration necessary to establish drunken operation of a motor vehicle, aircraft, or vessel from 0.1 to 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 per 210 liters of breath.

The House amendment contained no similar provision.

The House recedes with an amendment that would establish the blood alcohol content limit as the limit under the law of the state in which the conduct occurred. Where the military installation is in more than one state, the Secretary would select the blood alcohol limit of one of the states if the states have different limits.

Requirement that courts-martial consist of not less than 12 members in capital cases (sec. 582)

The House amendment contained a provision (sec. 571) that would amend chapter 47 of title 10, United States Code, to increase the minimum number of required court-martial members to 12 in cases in which the death penalty may be adjudged as a sentence.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make this provision effective for offenses committed after December 31, 2002.

The conferees understand that a similar proposal is currently being reviewed by the Joint Service Committee on Military Justice. The conferees expect the Secretary of Defense to provide any comments the Secretary may have on such a proposal to the Committees on Armed Services of the Senate and the House of Representatives no later than March 1, 2002.

Acceptance of voluntary legal assistance for the civil affairs of members and former members of the uniformed services and their dependents (sec. 583)

The Senate bill contained a provision (sec. 586) that would authorize the service secretaries to accept voluntary legal services. The recommended provision would treat a volunteer providing legal services the same as an attorney on the legal staff within the Department of Defense for defense of legal malpractice.

The House amendment contained a similar provision (sec. 574).

The House recedes.

Subtitle J—Other Matters

Congressional review period for change in ground combat exclusion policy (sec. 591)

The House amendment contained a provision (sec. 591) that would change to 60 days of continuous session of Congress the congressional notification period required of the Secretary of Defense before implementing revised policies concerning the assignment of women to ground combat units or positions.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would change the notification period to 30 days of continuous session of Congress.

Per diem allowance for lengthy or numerous deployments (sec. 592)

The House amendment contained a provision (sec. 590) that would expand the scope of the report by the Secretary of Defense on the management of individual member deployments and would require that high-deployment per diem be paid from operations and maintenance accounts.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees note that the Secretary of Defense, using the authority under section 991(d) of title 10, United States Code, recently suspended the requirement for general or flag officers to manage the deployment of certain members and the accumulation of deployment days by individual members. This suspension was justified, and, by delaying the actual payment of high-deployment per diem to individual members, provides additional time for the services to analyze its impact on personnel and assignment policies. To ensure a smooth transition upon termination of this suspension, the conferees urge the Secretary of Defense to afford the services sufficient time to initiate any necessary policy changes to optimize the efficient deployment of military personnel.

The conferees are pleased that effective tracking systems for individual tempo of operations are being developed in all the services and that a robust dialogue within the Department of Defense about the policy, based on facts, is in progress. The Commandant of the Marine Corps and the Chief of Naval Operations, in particular, have expressed concern about potential adverse impact on sailors and Marines who volunteer for extended sea duty and operational deployments. The Secretary's timely report on the administration of section 991 of title 10, United States Code, due on March 31, 2002, will be a key factor in determining the future course of the management of deployments of service members.

Clarification of disability severance pay computation (sec. 593)

The House amendment contained a provision (sec. 507) that would authorize disability severance pay to be computed based on the grade to which a member would be promoted regardless of the purpose of the physical examination that identifies the disqualifying physical disability.

The Senate bill contained no similar provision.

The Senate recedes.

Transportation or storage of privately owned vehicles on change of permanent station (sec. 594)

The Senate bill contained a provision (sec. 638) that would authorize advance payment of vehicle storage costs in commercial facilities and payment for shipping privately owned vehicles between permanent duty stations in the continental United States when it is more advantageous and cost effective for the government.

The House amendment contained similar provisions (sec. 581 and 582).

The House recedes with a clarifying amendment.

Repeal of requirement for final Comptroller General report relating to Army end strength allocations (sec. 595)

The House amendment contained a provision (sec. 585) that would repeal the requirement for the final report by the Comptroller General of the United States on the Total Army Analysis process.

The Senate bill contained no similar provision.

The Senate recedes.

Continued Department of Defense administration of National Guard Challenge Program and Department of Defense STARBASE Program (sec. 596)

The House amendment contained a provision (sec. 587) that, effective October 1, 2002, would eliminate the $62.5 million statutory limit on Department of Defense spending for the National Guard Youth Challenge Program, and revise the Department of Defense cost share for each state's program from 60 percent to 75 percent.

The Senate bill contained a provision (sec. 1061) that would require the Secretary of Defense to conduct the National Guard Challenge Program and the STARBASE Program.

The House recedes with an amendment that would eliminate the $62.5 million statutory limit on Department of Defense spending for the National Guard Youth Challenge Program, and provide that the Secretary of Defense would remain the executive agent to carry out the National Guard Challenge Program and the STARBASE Program regardless of the source of funds for the programs or any transfer of jurisdiction over the programs within the Executive Branch.

The conferees believe that both the Challenge and STARBASE programs are being effectively administered by the Department of Defense, and do not mean to suggest by the recommended amendments that either program should be transferred from the DOD to another department of the Executive Branch. Furthermore, the conferees believe that to effect such a transfer would require amendments to current law. If such a transfer were to be proposed and subsequently approved by Congress, the conferees believe that the continuing involvement of the Secretary of Defense would be essential to the long-term effectiveness of both programs. The conferees intend to ensure that the Department of Defense remains closely involved in the conduct of both the STARBASE and Challenge programs.

Report on Defense Science Board recommendation on original appointments in regular grades for academy graduates and certain other new officers (sec. 597)

The House amendment contained a provision (sec. 502) that would require that graduates of the service academies, Reserve Officer Training Corps distinguished graduates, and distinguished graduates of other officer commissioning programs, such as officer candidate schools, be given an initial appointment as an officer in the Regular Army, Navy, Marine Corps and Air Force, as long as they meet the criteria for such appointment.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to submit, within six months of enactment of this Act, a report to the Committees on Armed Services of the Senate and the House of Representatives on the legislative and policy changes required to implement the recommendation of the Defense Science Board that all officers be given initial regular commissions.

Sense of Congress regarding the selection of officers for recommendation for appointment as Commander, United States Transportation Command (sec. 598)

The Senate bill contained a provision (sec. 903) that would have expressed the sense of Congress that the Secretary of Defense should give careful consideration to recommending an officer from the Army or Marine Corps to serve as Commander, U.S. Transportation Command.

The House amendment contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that, when deciding on the next officer to be recommended for appointment as Commander, U.S. Transportation Command, the Secretary of Defense should not rely upon one service which has traditionally provided officers to fill that position, but should select for such recommendation the best qualified officer of the Army, Navy, Air Force, or Marine Corps.

Legislative Provisions Not Adopted

Acceptance of fellowships, scholarships, or grants for legal education of officers participating in the Funded Legal Education Program

The Senate bill contained a provision (sec. 533) that would authorize an officer attending law school under the Funded Legal Education Program to accept a scholarship from the law school or other entity.

The House amendment contained no similar provision.

The Senate recedes.

Codification of requirement for regulations for delivery of military personnel to civil authorities when charged with certain offenses

The House amendment contained a provision (sec. 573) that would codify the requirement for the Secretary of Defense to prescribe regulations to provide for the delivery of a member accused by a civil authority of parental kidnapping or a similar offense to the appropriate civil authority for trial.

The Senate bill contained no similar provision.

The House recedes.

Expanded application of reserve special selection board

The House amendment contained a provision (sec. 512) that would authorize the reserve special selection boards to consider officers from below the promotion zone who were either not considered for promotion because of administrative error, or were considered but not selected for promotion because of material error.

The Senate bill contained no similar provision.

The House recedes.

Members of the National Guard performing funeral honors duty while in non-federal status

The House amendment contained a provision (sec. 518) that would specify that National Guard members when serving on funeral honors details shall be considered members of the armed forces for the purpose of meeting requirements for the minimum number of service members and service affiliation on a funeral honors detail.

The Senate bill contained no similar provision.

The House recedes.

The conferees note that section 1491(b)(2) of title 10, United States Code, requires that a funeral honors detail for a deceased veteran include at least two members of the armed forces, at least one of whom is a member of the veteran's armed force. Members of the Army National Guard of the United States and the Air National Guard of the United States are members of the armed forces even when performing in a state status. They can participate in a funeral honors detail in either a state or federal status, and should be considered as one of the required members of the armed forces.

One-year extension of expiration date for certain force management authorities

The House amendment contained a provision (sec. 509) that would extend through December 31, 2002, certain force drawdown transition authorities.

The Senate bill contained no similar provision.

The House recedes.

Preparation for, participation in, and conduct of athletic competitions by the National Guard and members of the National Guard

The House amendment contained a provision (sec. 520) that would authorize members and units of the National Guard to conduct and compete in qualifying athletic competitions and small arms competitions, and to use appropriated funds and National Guard facilities and equipment in connection with the conduct of or participation in these competitions.

The Senate bill contained no similar provision.

The House recedes.

Right of convicted accused to request sentencing by military judge

The House amendment contained a provision (sec. 572) that would permit an accused who had been convicted by a court-martial with service members to elect to have the sentencing phase of the trial conducted by the military judge sitting alone, rather than by the members.

The Senate bill contained no similar provision.

The House recedes.

The conferees are aware that this issue has been submitted to the Joint Service Committee on Military Justice for review. The conferees direct that the Secretary of Defense report the results of this review to the Committees on Armed Services of the Senate and the House of Representatives no later than March 1, 2002.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

ITEMS OF SPECIAL INTEREST

Personal and family financial management programs

The conferees are concerned that the secretaries of the military departments are not providing service members sufficient training on the management of personal and family finances, including matters relating to the purchase and financing of automobiles and the use of payday-lender services. The conferees are also concerned that when personal financial problems do occur, the secretaries are not providing adequate supervision to ensure that service members and their families regain financial security.

Accordingly, the conferees direct the secretaries of the military departments to conduct a comprehensive examination of the personal financial management programs operated within their respective departments. The examination shall include, at a minimum: an assessment of the severity and type of personal financial challenges confronting service members; the magnitude of personal debt accumulated by service members; the adequacy of training and assistance programs available to service members; and the merits of other programs recommended to meet the needs of service members.

The conferees further direct the Secretary of Defense to consolidate and review the examinations conducted by the secretaries of the military departments, identify the best practices from each examination, and assess the need to improve and standardize the programs operated by the secretaries of the military departments. The conferees direct the Secretary of Defense to report the findings of his review to the Committees on Armed Services of the Senate and the House of Representatives by March 31, 2002.

LEGISLATIVE PROVISIONS ADOPTED

SUBTITLE A—PAY AND ALLOWANCES

Increase in basic pay for fiscal year 2002 (sec. 601)

The Senate bill contained a provision (sec. 601) that would provide a targeted pay raise ranging from five percent to 10 percent, effective January 1, 2002.

The House amendment contained an identical provision (sec. 601).

The conference agreement includes this provision.

Basic pay rate for certain reserve commissioned officers with prior service as an enlisted member or warrant officer (sec. 602)

The Senate bill contained a provision (sec. 602) that would authorize payment at the 0–1E, 0–2E or 0–3E rate to reserve component commissioned officers in the pay grade of 0–1, 0–2, or 0–3, who are not on active duty, but have accumulated the equivalent of four years of active duty as a warrant officer or enlisted member.

The House amendment contained a similar provision (sec. 602).

The House recedes with an amendment that would make this provision effective on the date of enactment of this Act.

Reserve component compensation for distributed learning activities performed as inactive-duty training (sec. 603)

The Senate bill contained a provision (sec. 603) that would authorize compensation for members in grades EB6 and below for distributed learning activities performed as inactive-duty training.

The House amendment contained no similar provision.

The House recedes with an amendment that would authorize compensation for members of the Selected Reserve upon successful completion of a course of instruction using electronic-based distributed learning technologies to accomplish training requirements related to unit readiness or mobilization.

Subsistence allowances (sec. 604)

The Senate bill contained provisions (sec. 604 and 606) that would define the baseline for determining future rates for basic allowance for subsistence and clarify that only members with dependents are entitled to payment of the supplemental subsistence allowance.

The House amendment contained a similar provision (sec. 603).

The House recedes with a clarifying amendment.

Eligibility for temporary housing allowance while in travel or leave status between permanent duty stations (sec. 605)

The House amendment contained a provision (sec. 604) that would require the secretaries of the military departments to pay members of the uniformed services in pay grades below E–4 (with less than 4 years of service) a temporary housing allowance while on travel or leave status between permanent duty stations.

The Senate bill contained a similar provision (sec. 631).

The Senate recedes with a clarifying amendment.

Uniform allowance for officers (sec. 606)

The House amendment contained a provision (sec. 605) that would clarify that an additional allowance of $200 for uniforms may be paid to an officer so long as any previous allowance received did not exceed $400.

The Senate bill contained a similar provision (sec. 607).

The Senate recedes.

Family separation allowance for members electing unaccompanied tour by reason of health limitations of dependents (sec. 607)

The House amendment contained a provision (sec. 606) that would require the secretaries of the military departments to pay family separation allowance to members of the uniformed services who elect to serve unaccompanied tours of duty because the movement of dependents of the member to the permanent duty station is denied for certified medical reasons.

The Senate bill contained a similar provision (sec. 636).

The Senate recedes with a clarifying amendment.

Subtitle B—Bonuses and Special Incentive Pays

One-year extension of certain bonus and special pay authorities for reserve forces (sec. 611)

The House amendment contained a provision (sec. 611) that would extend, until December 31, 2002, the authority to pay the special pay for critically short wartime health care specialists in the Selected Reserve, the Selected Reserve re-enlistment bonus, the Selected Reserve enlistment bonus, the special pay for enlisted members assigned to certain high priority units in the Selected Reserve, the Selected Reserve affiliation bonus, the Ready Reserve enlistment and reenlistment bonus, and the prior service enlistment bonus, and would extend, until January 1, 2003, the authority for the repayment of education loans for certain health professionals who serve in the Selected Reserve.

The Senate bill contained a similar provision (sec. 611).

The Senate recedes.

One-year extension of certain bonus and special pay authorities for nurse officer candidates, registered nurses, and nurse anesthetists (sec. 612)

The House amendment contained a provision (sec. 612) that would extend the authority for the nurse officer candidate accession program, the accession bonus for registered nurses, and the incentive special pay for nurse anesthetists until December 31, 2002.

The Senate bill contained a similar provision (sec. 612).

The Senate recedes.

One-year extension of special pay and bonus authorities (sec. 613–614)

The Senate bill contained two provisions that would extend until December 31, 2002 certain bonus and special pay authorities. The first provision (sec. 613) would extend the authority for special pay for nuclear-qualified officers extending their period of active service, the nuclear career accession bonus, and the nuclear career annual incentive bonus. The second provision (sec. 614) would extend the authority to pay the aviation officer retention bonus, the reenlistment bonus for active members, the bonus for enlistment for two or more years, and the retention bonus for members with critical skills.

The House amendment contained a similar provision (sec. 613).

The House recedes with a clarifying amendment.

Hazardous duty pay for members of maritime visit, board, search, and seizure teams (sec. 615)

The House amendment contained a provision (sec. 615) that would authorize members of the uniformed services to be paid hazardous duty incentive pay for duties involving regular participation as a member of a team conducting visit, board, search, and seizure aboard vessels in support of maritime interdiction operations.

The Senate bill contained a similar provision (sec. 615).

The Senate recedes with a clarifying amendment.

Eligibility for certain career continuation bonuses for early commitment to remain on active duty (sec. 616)

The Senate bill contained a provision (sec. 621) that would extend authority for payment of aviation career pay and surface warfare continuation pay to eligible officers who, when within one year of completing a service commitment, sign a written agreement to remain on active duty.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Secretarial discretion in prescribing submarine duty incentive pay rates (sec. 617)

The House amendment contained a provision (sec. 617) that would authorize the Secretary of the Navy to prescribe the amount of submarine duty incentive pay by grade and years of service within a maximum of $1,000 per month.

The Senate bill contained a similar provision (sec. 616).

The Senate recedes with a clarifying amendment.

Conforming accession bonus for dental officers authority with authorities for other special pay and bonuses (sec. 618)

The House amendment contained a provision (sec. 614) that would extend the authority to pay accession bonuses to dental officers until December 31, 2002.

The Senate bill contained no similar provision.

The Senate recedes.

Modification of eligibility requirements for Individual Ready Reserve bonus for reenlistment, enlistment, or extension of enlistment (sec. 619)

The Senate bill contained a provision (sec. 618) that would modify existing provisions to authorize payment of a bonus to individuals who possess a skill that is designated as critically short to meet wartime requirements and who agree to enlist, reenlist or voluntarily extend an enlistment in the Individual Ready Reserve.

The House amendment contained a similar provision (sec. 618).

The House recedes with a clarifying amendment.

Installment payment authority for 15-year career status bonus (sec. 620)

The House amendment contained a provision (sec. 619) that would authorize members of the uniformed services to elect to be paid the 15-year career status bonus in a lump sum or in annual installments.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Accession bonus for new officers in critical skills (sec. 621)

The House amendment contained a provision (sec. 620) that would authorize the service secretaries to pay an accession bonus of up to $100,000 to officer candidates who enter into written service agreements to accept commissions as officers.

The Senate bill contained a similar provision (sec. 619).

The Senate recedes with a clarifying amendment that would limit the maximum amount of the bonus to $60,000.

Education savings plan to encourage reenlistments and extensions of service in critical specialities (sec. 622)

The Senate bill contained a provision (sec. 661) that would authorize the Secretary of Defense to purchase U.S. savings bonds with a face value of up to $30,000 for military personnel who have completed specified periods of active duty and enter into a commitment to perform at least six additional years of active duty service in a specialty designated as critical by the Secretary.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Continuation of payment of special and incentive pay at unreduced rates during stop loss periods (sec. 623)

The conference agreement includes a provision that would authorize the service secretaries to permit service members involuntarily retained on active duty under stop loss authority to continue to receive special and incentive pays at unreduced rates.

Retroactive authorization for imminent danger pay for service in connection with Operation Enduring Freedom (sec. 624)

The conference agreement includes a provision that would authorize the Secretary of Defense to provide for retroactive payment of imminent danger pay to service members who served in specified areas in connection with Operation Enduring Freedom for duty performed between September 19, 2001 and October 31, 2001.

Subtitle C—Travel and Transportation Allowances

Minimum per diem rate for travel and transportation allowance for travel performed upon a change of permanent station and certain other travel (sec. 631)

The House amendment contained a provision (sec. 631) that would equate per diem rates for military members for travel performed in connection with a change of permanent station and per diem rates for official travel within the continental United States of federal civilian employees and their dependents.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Eligibility for payment of subsistence expenses associated with occupancy of temporary lodging incident to reporting to first permanent duty station (sec. 632)

The House amendment contained a provision (sec. 632) that would authorize payment of subsistence expenses to officers making their first permanent change of station and would increase from $110 to $180 per day the maximum amount that may be paid to members of the uniformed services as reimbursement for temporary lodging and subsistence expenses incurred in the United States as a result of a permanent change of station.

The Senate bill contained a similar provision (sec. 632).

The Senate recedes with a clarifying amendment.

Reimbursement of members for mandatory pet quarantine fees for household pets (sec. 633)

The House amendment contained a provision (sec. 634) that would authorize an increase in the amount of reimbursement for pet quarantine fees from $275 to $675 per change of station.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would increase the amount to $550 per change of station.

Increased weight allowance for transportation of baggage and household effects for junior enlisted members (sec. 634)

The House amendment contained a provision (sec. 633) that would increase the maximum weight allowance for shipment of household effects for enlisted military members in grades E-4 and below.

The Senate bill contained no similar provision.

The Senate recedes.

Eligibility of additional members for dislocation allowance (sec. 635)

The Senate bill contained a provision (sec. 633) that would authorize payment of a dislocation allowance to a member when the member's dependents make an authorized move in connection with the member's move to the first duty station. The provision would also authorize payment of a single dislocation allowance to married service members, where both husband and wife are members without dependents, when both move to a new duty station and occupy government family quarters.

The House amendment contained similar provisions (sec. 635 and 636).

The House recedes with a clarifying amendment.

Partial dislocation allowance authorized for housing moves ordered for government convenience (sec. 636)

The House amendment contained a provision (sec. 637) that would authorize the service secretaries to pay a $500 partial dislocation allowance to members of the uniformed services who are ordered to occupy or vacate government family housing to permit privatization or renovation, or for another reason unrelated to changes in permanent station.

The Senate bill contained a similar provision (sec. 634).

The Senate recedes with an amendment that would make this provision effective for moves for which the order to move is issued on or after the date of enactment of this Act.

Allowances for travel performed in connection with members taking authorized leave between consecutive overseas tours (sec. 637)

The House amendment contained a provision (sec. 638) that would authorize the service secretaries to designate the locations to which members of the uniformed services may travel at government expense while on leave between consecutive overseas tours.

The Senate bill contained no similar provision.

The Senate recedes.

Travel and transportation allowances for family members to attend burial of a deceased member of the uniformed services (sec. 638)

The Senate bill contained a provision (sec. 635) that would authorize allowances for family members and others to attend burial ceremonies of deceased members of the uniformed forces who die while on active duty or inactive duty.

The House amendment contained no similar provision.

The House recedes with an amendment that would grandfather the benefit level authorized for surviving families of service members who died during the Vietnam era.

Funded student travel for foreign study under an education program approved by a United States school (sec. 639)

The Senate bill contained a provision (sec. 637) that would extend the authority to pay funded student travel to certain dependents of members who are stationed outside the continental United States.

The House amendment contained a similar provision (sec. 639).

The House recedes with a clarifying amendment.

Subtitle D—Retirement and Survivor Benefit Matters

Contingent authority for concurrent receipt of military retired pay and veterans' disability compensation and enhancement of special compensation authority (sec. 641)

The House amendment contained a provision (sec. 641) that would authorize members of the uniformed services who are qualified for retirement to receive Department of Veterans Affairs disability compensation without a reduction in retired pay if the President proposes and the Congress enacts legislation that would offset the "PayGo" costs of this initiative.

The Senate bill contained a provision (sec. 651) that would authorize retired members of the armed forces who have a service-connected-disability to receive military retired pay concurrently with veterans' disability compensation.

The Senate recedes with an amendment that would: authorize payment of special compensation for retirees with service-connected-disabilities rated at 60 percent in fiscal year 2002; increase the amount of special compensation for retirees with disabilities rated at 80 percent or higher in fiscal year 2003; and increase the amount of special compensation for retirees with disabilities rated at 70 percent or higher in fiscal year 2005.

Survivor Benefit Plan annuities for surviving spouses of members who die while on active duty and not eligible for retirement (sec. 642)

The Senate bill contained a provision (sec. 652) that would authorize Survivor Benefit Plan (SPB) benefits for surviving spouses of service members who are not eligible for retirement and who die in the line of duty while on active duty.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

The conferees are concerned about the current inconsistent practice involving expedited approval of physical disability retirement when death of a service member is imminent and the service member is unable to elect SBP options. In many cases, the services authorize benefits greater than those chosen by most retirees who elect to participate in the Survivor Benefit Plan. The conferees direct the Secretary of Defense to issue regulations by July 1, 2002, governing imminent death retirements.

Subtitle E—Other Matters

Payment for unused leave in excess of 60 days accrued by members of reserve components on active duty for one year or less (sec. 651)

The Senate bill contained a provision (sec. 608) that would authorize payment for accrued leave in excess of the current limit of 60 days to certain members of the reserve components.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Additional authority to provide assistance for families of members of the armed forces (sec. 652)

The Senate bill contained two provisions regarding assistance to families of members of the armed forces. One provision (sec. 681) would authorize the Secretary of Defense to provide assistance to families of members of the armed forces serving on active duty during fiscal year 2002 in order to ensure that the children of such families obtain needed child care and youth services. Another provision (sec. 682) would authorize the Secretary of Defense to provide family education and support services to families of members of the armed services to the same extent that these services were provided during the Persian Gulf War.

The House amendment contained no similar provision.

The House recedes with an amendment that would combine these provisions.

The conferees' intent is to ensure that the Secretary of Defense has authority to provide the types of family support services provided during the Persian Gulf War.

The conferees recognize that families of deployed members may need expanded family support services, such as crisis intervention, family counseling, family support groups, respite care, and transportation assistance. The conferees encourage the Secretary to expand family support programs associated with military installations and to establish family support centers in other communities that have large populations of families of deployed members. In overseas areas, the Secretary is encouraged to take all reasonable precautions to ensure the safety of children during transportation to and from Department of Defense schools. The conferees also encourage the Secretary to accelerate the completion and dissemination of the High Stress Parenting Materials currently under development through an agreement with the Department of Agriculture.

The conferees are particularly concerned that families of National Guard and Reserve members who are geographically separated from military installations have services comparable to those provided at active duty installations. These services should be available at rates comparable to rates paid by families using military child care and youth programs. Providing affordable child care and youth services to these families may require cooperative agreements between the military and other government or community-based organizations, as well as non-governmental organizations.

Authorization of transitional compensation and commissary and exchange benefits for dependents of commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration who are separated for dependent abuse (sec. 653)

The Senate bill contained a provision (sec. 663) that would authorize transitional benefits for the dependents of commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration separated for dependent abuse.

The House amendment contained no similar provision.

The House recedes.

Transfer of entitlement to educational assistance under Montgomery GI Bill by members of the Armed Forces with critical military skills (sec. 654)

The Senate bill contained a provision (sec. 539) that would authorize the service secretaries to permit certain service members with critical military skills to transfer up to 18 months of unused basic Montgomery GI Bill benefits to family members.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Career sea pay

The Senate bill contained a provision (sec. 617) that would ensure receipt of career sea pay by all military members, regardless of rank, pay grade, or accrued time in service, if they are assigned to qualifying sea duty.

The House amendment contained no similar provision.

The Senate recedes.

The conferees are pleased that the Navy has recently approved new enhanced sea pay rates and prescribed career sea pay to all sailors on sea duty, including those in pay grades EB–1, EB–2, and EB–3. The conferees expect advance notice of any change in policy that would exclude members of any pay grade from receiving career sea pay who are otherwise eligible.

Equal treatment of reservists performing inactive-duty training for receipt of aviation career incentive pay

The House amendment contained a provision (sec. 616) that would entitle qualified reserve aviators to be paid the full amount of monthly Aviation Career Incentive Pay in the same amount as paid to active duty aviators with the same number of years of aviation service.

The Senate bill contained no similar provision.

The House recedes.

Increase in basic allowance for housing in the United States

The Senate bill contained a provision (sec. 605) that would accelerate the current five-year plan to eliminate out-of-pocket housing expenses by two years, increasing the Basic Allowance for Housing so that, after September 30, 2002, it would not be less than the median cost of adequate housing for members in that grade and dependency status in that area.

The House amendment contained no similar provision.

The Senate recedes.

The conferees believe that service members should not be required to pay out-of-pocket a percentage of their housing costs when they are unable to live in government quarters. The conferees support the plan to eliminate these out-of-pocket expenses and strongly encourage the Secretary of Defense to accelerate this plan.

TITLE VII—HEALTH CARE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Tricare Program Improvements

Sub-acute and long-term care program reform (sec. 701)

The House amendment contained a provision (sec. 704) that would reform the Department of Defense Program for care provided in skilled nursing facilities or at home.

The Senate bill contained several similar provisions (sec. 701–705).

The Senate recedes with an amendment that would increase the limit of the government's share of the cost for certain covered benefits from $1000 to $2500 and require the use of public facilities in some circumstances.

Prosthetics and hearing aids (sec. 702)

The Senate bill contained a provision (sec. 706) that would authorize providing prosthetics and hearing aids to military dependents.

The House amendment contained no similar provision.

The House recedes.

Durable medical equipment (sec. 703)

The Senate bill contained a provision (sec. 707) that would expand the kinds of durable medical equipment that can be provided to military dependents.

The House amendment contained no similar provision.

The House recedes.

Rehabilitative therapy (sec. 704)

The Senate bill contained a provision (sec. 708) that would authorize providing rehabilitative therapy to military dependents to improve, restore, or maintain function, or to minimize or prevent deterioration of function, of a patient when prescribed by a physician.

The House amendment contained no similar provision.

The House recedes.

Report on mental health benefits (sec. 705)

The Senate bill contained a provision (sec. 709) that would require the Secretary of Defense to conduct a study to determine the adequacy of the scope and availability of outpatient mental health benefits provided for members of the armed forces and covered beneficiaries under the TRICARE program.

The House amendment contained no similar provision.

The House recedes.

Clarification of eligibility for reimbursement of travel expenses of adult accompanying patient in travel for specialty care (sec. 706)

The Senate bill contained a provision (sec. 712) that would clarify the eligibility for coverage of travel expenses by a parent, guardian or family member while accompanying a covered beneficiary referred for specialty care to be received more than 100 miles from the location of primary care.

The House amendment contained a similar provision (sec. 705).

The House recedes.

TRICARE program limitations on payment rates for institutional health care providers and on balance billing by institutional and non-institutional health care providers (sec. 707)

The Senate bill contained a provision (sec. 713) that would reinforce and expedite reform of TRICARE payment methods. The recommended provision would expedite adoption of Medicare's prospective payments rates for nursing home care, outpatient services, and durable medical equipment.

The House amendment contained a similar provision (sec. 701).

The House recedes with an amendment that would make the effective date 90 days after the date of enactment.

Improvements in administration of the TRICARE program (sec. 708)

The House amendment contained a provision (sec. 703) that would authorize the Secretary of Defense to enter into new contracts for support of delivery of health care under TRICARE by providing flexibility in the choice of contract vehicle and to reduce the nine-month contract start-up time for certain managed care support contractors.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment that would authorize the flexibility in the choice for contract vehicle during the one-year period after the date of enactment of this Act.

The current legislative restrictions pertaining to health care contracting were the result of considerable review and oversight of the Defense Health Program by Congress. This provision will provide the Department of Defense the ability to employ the best contracting practices to improve TRICARE contracts. The conferees wish to allow for review of any proposed changes and careful evaluation prior to permanent modification of legislation pertaining to the program, given the significant impact on beneficiaries and potential cost implications. It is the conferees' intent that any new contacting practices employed by the Department under this provision ensure a smooth transition for beneficiaries and strengthen the integration of health care delivery.

Subtitle B—Senior Health Care

Clarifications and improvements regarding the Department of Defense Medicare-Eligible Retiree Health Care Fund (sec. 711)

The House amendment contained a provision (sec. 715) that would: authorize all uniformed services to participate in TRICARE for Life; clarify that funding for the accrual fund must come from funds available for the health care programs of the participating uniformed services; clarify that Military Treatment Facilities may receive payments from the accrual fund; and limit the Department of Defense's annual cost contribution to the accrual fund to an amount not to exceed expected payments from the fund in a given year.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize all uniformed services to participate in TRICARE for Life, clarify that funding for the accrual fund must come from funds available for the health care programs of the participating uniformed services, and clarify that Military Treatment Facilities may receive payments from the accrual fund.

Subtitle C—Studies and Reports

Comptroller General study of health care coverage of members of the reserve components of the Armed Forces and the National Guard (sec. 721)

The Senate bill contained a provision (sec. 715) that would require the Comptroller General of the United States to conduct a study of the health care coverage of members of the Selected Reserve and to report on cost effective options for providing health care benefits to members of the Selected Reserve and their families.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Comptroller General study of adequacy and quality of health care provided to women under the Defense Health Program (sec. 722)

The Senate bill contained a provision (sec. 716) that would require the Comptroller General of the United States to conduct a study of the adequacy and quality of the health care provided to women under the Defense Health Program.

The House amendment contained no similar provision.

The House recedes with an amendment that would change the date to May 1, 2002, by which the Comptroller General must report the results of the study to Congress.

Repeal of obsolete report requirement (sec. 723)

The House amendment contained a provision (sec. 714) that would repeal a reporting requirement in the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 1074g note) by striking subsection 701(d).

The Senate bill contained no similar provision.

The Senate recedes.

Comptroller General report on requirement to provide screenings, physical examinations, and other care for certain members (sec. 724)

The Senate bill contained a provision (sec. 711) that would repeal the requirement to provide certain medical and dental services to members of the Selected Reserve of the Army scheduled for deployment within 75 days after mobilization.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Comptroller General to report on the advisability, need, and cost effectiveness of providing these services.

Subtitle D—Other Matters

Prohibition against requiring military retirees to receive health care solely through the Department of Defense (sec. 731)

The House amendment contained a provision (sec. 711) that would prohibit the Secretary of Defense from implementing a policy of forced choice enrollment by military retirees who are eligible for care in the health care facilities and programs of both the Department of Defense and the Department of Veterans Affairs.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Fees for trauma and other medical care provided to civilians (sec. 732)

The House amendment contained a provision (sec. 712) that would direct the Secretary of Defense to conduct a pilot program under which the Brooke Army Medical Center and the Wilford Hall Air Force Medical Center in San Antonio, Texas, may charge civilians, who are not covered TRICARE beneficiaries, fees representing the actual costs of trauma and other medical care provided.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to implement procedures throughout the military health care system to charge civilians who are not covered TRICARE beneficiaries, or their insurers, fees representing the costs of trauma and other medical care provided to those civilians.

Enhancement of medical product development (sec. 733)

The House amendment contained a provision (sec. 713) that would authorize the Secretary of Defense to waive the prohibition against the use of human subjects in research in order to advance research into the treatment of combat casualties.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the research project to directly benefit the subject and to comply with all other applicable laws and regulations.

The conferees intend that the Secretary of Defense would be authorized to waive the requirement for informed consent for research on human subjects only when: (1) the subjects are in a life threatening situation; (2) obtaining informed consent is not feasible; and (3) the research holds out the prospect of direct benefit to the health of the subject. Furthermore, the conferees intend that the research project and the waiver of informed consent must comply with all other statutes and implementing regulations governing human subjects' protection.

Pilot program providing for Department of Veterans Affairs support in the performance of separation physical examinations (sec. 734)

The Senate bill contained a provision (sec. 717) that would authorize the Secretary of Defense and the Secretary of Veterans Affairs to carry out a pilot program in which the Veterans Health Administration would conduct physical examinations of members separating from the uniformed services.

The House amendment contained no similar provision.

The House recedes.

The conferees are aware that the Department of Veterans Affairs is currently conducting a congressionally mandated pilot program for the performance of the physical examinations required in connection with the separation of members of the uniformed services, as well as other disability evaluations.

Several software tools have been developed and implemented and incorporated into the ongoing pilot program. These software tools have resulted in a more streamlined, efficient and accurate disability evaluation process. The software creates the information needed by the Department of Defense for the separating service member and concurrently provides the Department of Veterans Affairs with the information required to determine compensation benefits. This eliminates the need for a second exam and standardizes a "one exam" process while automatically providing the specific information required by the Department of Defense and the Department of Veterans Affairs on their own unique forms.

The conferees direct that, in order to insure consistency in both pilot programs, the Department of Veterans Affairs conduct the separation exams for the Department of Defense utilizing the software developed and implemented in the ongoing pilot program.

Modification of prohibition on requirement of nonavailability statement or preauthorization (sec. 735)

The Senate bill contained a provision (sec. 718) that would authorize the Secretary of Defense to waive the prohibition against requiring statements of nonavailability for authorized health care services, other than mental health services, if certain conditions are met and both beneficiary and congressional notification occurs, with a waiting period prior to implementation. The nonavailability requirement applies to those beneficiaries receiving care under TRICARE Standard.

The House amendment contained a similar provision (sec. 702).

The House recedes with a clarifying amendment that would preclude the Secretary of Defense from waiving the prohibition against requiring nonavailability statements for maternity care.

Transitional health care for members separated from active duty (sec. 736)

The Senate bill contained a provision (sec. 719) that would make permanent the authority for transitional health care benefits for members who are involuntarily separated from active duty, members of reserve components who are separated from active duty of more than 30 days in support of a contingency operation, and members separated from active duty when involuntarily retained on active duty under section 12305 of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes.

Two-year extension of health care management demonstration program (sec. 737)

The Senate bill contained a provision (sec. 714) that would extend, until December 31, 2003, the demonstration program of simulation modeling to improve health care delivery in the Defense Health Program authorized in section 733 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

The House amendment contained no similar provision.

The House recedes.

Joint DOD-VA pilot program for providing graduate medical education and training for physicians (sec. 738)

The Senate bill contained a provision (sec. 538) that would authorize the Secretary of Defense and the Secretary of Veterans Affairs to jointly carry out a pilot program of graduate medical education and training for medical personnel of the armed forces in Department of Veterans Affairs' medical centers.

The House amendment contained no similar provision.

The House recedes with an amendment that would include the authority to provide graduate medical education and training of physician employees of the Department of Veterans Affairs as part of the pilot program.

Legislative Provisions Not Adopted

Effective date

The Senate bill contained a provision (sec. 710) that would make the TRICARE Benefits Modernization provisions effective on October 1, 2001.

The House amendment contained no similar provision.

The Senate recedes.

Title VIII—Acquisition Policy, Acquisition Management, and Related Matters

Items of Special Interest

Management reform initiatives

The Secretary of Defense has testified that the Department of Defense (DOD) should be able to achieve five percent savings throughout the Department through management improvements. These savings goals are consistent with analysis presented in numerous governmental and advisory commission reports in past years. For example, in November 2000 the General Accounting Office (GAO) reported that "[m]ost DOD contracting officers included in our review did not follow the General Services Administration's established procedures intended to ensure fair and reasonable prices when using the Federal Supply Schedule." The GAO also found, in its January 2001 assessment of performance and accountability in the DOD, that "a number of the Department's key business processes are inefficient and ineffective," including acquisition processes that are "still too slow and costly" and systems deficiencies that "significantly contribute to improper payments." In addition, the DOD Inspector General, in an August 2001 report, stated that the DOD is "not obtaining the benefits of sustained competition and reduced costs" that are permitted under current law. The Business Executives for National Security (BENS) Tail-to-Tooth Commission also stated in its October 1997 report that "billions continue to be wasted on inefficient business practices." Based on these and other reports, and the Secretary's commitment to improvements in this area, the conferees believe that the Department should be able to achieve significant savings in fiscal year 2002 through more efficient management; reform of business processes; improved processes for the procurement of property and services; and increased use of best business practices adopted from the private sector.

Titles I, II and III of the conference report include reductions totaling $1.3 billion, to be achieved through management reform initiatives. The conferees expect the Department of Defense to achieve these savings by implementing the requirements of Title VIII, and by pursuing other management efficiencies developed by the Department's Business Initiative Council. The conferees expect the Department to distribute these reductions across budget activities and programs within the relevant appropriations accounts, based on the dollar value of contracts within those budget activities and programs to which improvements may be appropriately applied.

Legislative Provisions Adopted

Subtitle A—Procurement Management and Administration

Management of procurement of services (sec. 801)

The Senate bill contained a provision (sec. 801) that would improve the Department of Defense's management of the acquisition of services by requiring the Department to: (1) establish a management structure for purchases of services; (2) collect and analyze data on purchases of services; and (3) establish a program review process for major purchases of services.

The House amendment contained no similar provision.

The House recedes with an amendment that would: (1) ensure that the management structure for the procurement of services shall be comparable to the management structure already in place for the procurement of products; (2) clarify that officials designated to exercise responsibility for the management of the procurement of services may delegate their authority in accordance with criteria established by the Department; and (3) delete redundant requirements and streamline the reporting requirements in the provision.

Savings goals for procurements of services (sec. 802)

The Senate bill contained a provision (sec. 802) that would establish savings goals for the Department of Defense to achieve through the use of improved management practices for procurements of services, including performance-based services contracting; competition for task orders under services contracts; and program review, spending analyses, and other best practices commonly used in the commercial sector.

The House amendment contained no similar provision.

The House recedes with an amendment deleting the requirement for a report by the Comptroller General. The conferees note that this provision directs the Department to achieve savings through improved management practices. It is not intended to require the Department to reduce needed support services provided by contractors.

Competition requirement for purchase of services pursuant to multiple award contracts (sec. 803)

The Senate bill contained a provision (sec. 803) that would require that purchases of products and services in excess of $50,000 awarded under a multiple award contract shall be made on a competitive basis, subject to limited exceptions.

The House amendment contained no similar provision.

The House recedes with an amendment that would: (1) apply the competition requirement only to purchases of services; (2)

raise the threshold for the competition requirement to $100,000; (3) require that notice to offerors include a description of the work to be performed and the basis on which the selection will be made; and (4) clarify the manner in which the provision would apply to purchases pursuant to the multiple award schedules administered by the Administrator for General Services (GSA schedules). Under the conference agreement, notice could be provided to fewer than all contractors under the GSA schedules, provided that: (1) notice is provided to as many contractors as practicable; and (2) offers are received from at least three qualified contractors or a contracting officer of the Department of Defense determines in writing that he or she was unable to identify additional qualified contractors despite making a reasonable effort to do so.

Reports on maturity of technology at initiation of Major Defense Acquisition Programs (sec. 804)

The Senate bill contained a provision (sec. 804) that would require that critical technologies be successfully demonstrated in a relevant environment before they may be incorporated into a major defense acquisition program.

The House amendment contained no similar provision.

The House recedes with an amendment that would substitute an annual report, in calendar years 2003 through 2006, on the compliance of the Department of Defense (DOD) with the technological maturity requirement established in DOD Instruction 5000.2. Paragraph 4.7.3.2.2.2 of that Instruction states in relevant part:

> "Technology must have been demonstrated in a relevant environment . . . or, preferably, in an operational environment . . . to be considered mature enough to use for product development in systems integration. If technology is not mature, the DOD Component shall use alternative technology that is mature and that can meet the user's needs."

The report required by the conference agreement would identify and explain any circumstance in which the DOD fails to comply with this requirement with regard to a Major Defense Acquisition Program.

Subtitle B—Use of Preferred Sources

Applicability of competition requirements to purchases from a required source (sec. 811)

The Senate bill contained a provision (sec. 821) that would require Federal Prison Industries (FPI) to compete for future Department of Defense contracts.

The House amendment contained no similar provision.

The House recedes. Under this provision, the Department of Defense, not Federal Prison Industries, will be responsible for determining whether Federal Prison Industries can best meet the Department's needs in terms of price, quality, and time of delivery. If the Department determines that the FPI product is not the best available in terms of price, quality, and time of delivery, the Department is directed to purchase the product on a competitive basis.

Extension of mentor-protege program (sec. 812)

The Senate bill contained a provision (sec. 823) that would codify the pilot mentor-protege program of the Department of Defense and authorize the program in permanent law.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the program for three years, through September 30, 2005.

Increase of assistance limitation regarding Procurement Technical Assistance Program (sec. 813)

The House amendment contained a provision (sec. 806) that would increase the assistance limitation for the Procurement Technical Assistance Program under section 2414 of title 10, United States Code from $300,000 to $600,000.

The Senate bill contained no similar provision.

The Senate recedes. The conferees believe that the Procurement Technical Assistance Program provides valuable support to both state-wide and local centers across the country. The conferees expect the Department of Defense to continue to implement the program in a broad-based manner that supports a variety of both state-wide and local centers.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Related Matters

Amendments to conform with administrative changes in acquisition phase and milestone terminology and to make related adjustments in certain requirements applicable at milestone transition points (sec. 821)

The Senate bill contained a provision (sec. 831) that would make a series of modifications to title 10, United States Code, and related statutes, to substitute references to the acquisition milestones established by revised Department of Defense Instruction 5000.2 for obsolete references currently contained in those statutes.

The House amendment contained a similar provision (sec. 801).

The House recedes with a technical amendment.

Follow-on production contracts for products developed pursuant to prototype projects (sec. 822)

The Senate bill contained a provision (sec. 805) that would authorize the Department of Defense to enter follow-on production contracts for a limited number of items developed pursuant to transactions (other than contracts, grants, or cooperative agreements) on a sole-source basis.

The House amendment contained no similar provision.

The House recedes.

One-year extension of program applying simplified procedures to certain commercial items (sec. 823)

The House amendment contained a provision (sec. 803) that would extend the test program authorized by section 4202 of the Clinger-Cohen Act of 1996 (Divisions D and E of Public Law 104–106; 110 Stat 654) until January 1, 2004.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would extend the program until January 1, 2003.

Acquisition workforce qualifications (sec. 824)

The Senate bill contained a provision (sec. 813) that would clarify the applicability of the acquisition workforce qualifications in section 1724 of title 10, United States Code and authorize the Secretary of Defense to establish a contracting workforce to deploy in support of contingency operations.

The House amendment contained a similar provision (sec. 802) that would also authorize the Secretary to establish a developmental workforce.

The Senate recedes with an amendment that would clarify that individuals serving in developmental positions may be separated from the civil service if, after a three-year probationary period, they do not meet the qualification requirements established in section 1724 for members of the acquisition workforce.

Report on implementation of recommendations of the Acquisition 2005 Task Force (sec. 825)

The Senate bill contained a provision (sec. 811) that would require the Secretary of Defense to report on the implementation of the recommendations of the Department of Defense Acquisition 2005 Task Force included in the report entitled "Shaping the Civilian Acquisition Workforce of the Future."

The House amendment contained no similar provision.

The House recedes.

Subtitle D—Other Matters

Identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid (sec. 831)

The House amendment contained a series of provisions (sec. 811–819) that would require executive agencies to conduct a program to recover erroneously made payments.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would modify the recovery audit provisions to: (1) modify requirements for the disposition of recovered funds; (2) delete funding requirements for the management improvement program; and (3) delete a provision relating to liability for violation of privacy requirements.

Codification and modification of provision of law known as the "Berry Amendment" (sec. 832)

The House amendment contained a provision (sec. 805) that would codify the requirements of the "Berry Amendment" enacted as section 9005 of the Department of Defense Appropriations Act, 1993 (P.L. 102–396), and modify those requirements to: (1) require advance congressional notification of all waivers; (2) specifically include parachutes on the list of items covered; and (3) clarify that non-appropriated fund entities are not covered.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would codify the requirements of the "Berry Amendment" and clarify that non-appropriated fund entities are not covered. The conferees expect the Department to comply with a reasonable notification request from the Armed Services Committee of the Senate or the House of Representatives. The conferees also expect the Department to ensure that no United States manufacturer can provide the required item in a sufficient quality or quantity before granting a waiver.

Personal services contracts to be performed by individuals or organizations abroad (sec. 833)

The Senate bill contained a provision (sec. 1218) that would amend section 2669 of title 22, United States Code, to authorize the Secretary of State, upon the request of the Secretary of Defense or the head of any other department or agency of the United States, to enter into personal service contracts with individuals to perform services in support of the Department of Defense or such other department or agency.

The House amendment contained a provision (sec. 804) that would authorize the Secretary of Defense to contract with individuals or organizations to perform services in countries with which the United States has no Status of Forces Agreement.

The House recedes.

Requirements regarding insensitive munitions (sec. 834)

The Senate bill contained a provision (sec. 833) that would require the Secretary of Defense to have a program ensuring that munitions are resistant to unplanned stimuli. The provision also required a report to Congress, submitted with the annual budget request. The report would identify all waivers, and the reasons for such decisions, granted under insensitive munitions regulations, as well as all funding for insensitive munitions programs in the current budget request.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify the requirement for the Secretary of Defense to ensure that munitions are made as insensitive as possible to unplanned stimuli. It limits the report on waivers granted under insensitive munitions regulations and on associated funding to three years, from fiscal year 2003–2005.

Inapplicability of limitation to small purchases of miniature or instrument ball or roller bearings under certain circumstances (sec. 835)

The Senate bill contained a provision (sec. 832) that would provide certain exceptions to the requirement in section 2534 of title 10, United States Code, to purchase ball and roller bearings from domestic sources.

The House amendment contained no similar provision.

The House recedes with an amendment that would authorize the Department of Defense (DOD) to make purchases of ball and roller bearings from other than domestic sources without obtaining a waiver under section 2534, provided that: (1) no such purchase exceeds the micropurchase threshold of $2,500; and (2) the cumulative total of such purchases does not exceed $200,000 in any fiscal year. The DOD would be required to keep track of such purchases to the extent necessary to ensure that it remains in compliance with the annual limitation.

Temporary emergency procurement authority to facilitate the defense against terrorism or biological or chemical attack (sec. 836)

The conference agreement includes a provision that would provide temporary emergency procurement authority to assist the Department of Defense in the defense against terrorism and biological or chemical attack. The provision would provide the following authorities in fiscal years 2002 and 2003: (1) an increase of the micro-purchase threshold to $15,000 for purchases of property and services that would facilitate the defense against terrorism or biological or chemical attack against the United States; (2) an increase of the simplified acquisition threshold to $250,000 (inside the United States) and to $500,000 (outside the United States) for contracts awarded in support of a contingency operation or a humanitarian or peacekeeping operation; and (3) authority to treat as commercial items any biotechnology goods and services purchased to facilitate the defense against terrorism or biological or chemical attack. In addition, the provision would require the Secretary of Defense to recommend any additional emergency procurement authority that the Secretary determines is necessary to support operations carried out to combat terrorism.

Legislative Provisions Not Adopted

Consolidation of defense contracts

The Senate bill contained a provision (sec. 822) that would prohibit the consolidation of contract requirements in excess of $5.0 million absent a written determination that the benefits of the acquisition strategy, including the consolidated contract requirements, substantially exceed the benefits of alternative contracting approaches that would involve a lesser degree of consolidation.

The House amendment contained a provision (sec. 807) that would require the Secretary of Defense to track consolidations of contract requirements.

The conference report does not include either provision.

The conferees note that Section 15(p) of the Small Business Act (15 U.S.C. Section 644(p)) requires the Small Business Administration (SBA) to maintain certain data and provide certain reports regarding bundled contracts. This provision also states that the head of a contracting agency shall assist the SBA by providing "procurement information collected through existing agency data collection sources."

There is no requirement in Section 15(p) for the Secretary of Defense to modify existing data collection systems. The conferees direct the Secretary of Defense, when complying with this provision, to ensure that the Department of Defense does not modify existing data collection systems, create new data collection systems, or collect information not available in existing data collection systems to collect data on the consolidation or bundling of contract requirements.

HUBzone small business concerns

The Senate bill contained a provision (sec. 824) that would modify requirements relating to HUBZone small business concerns.

The House amendment contained no similar provision.

The Senate recedes.

Small business procurement competition

The Senate bill contained a provision (sec. 1068) that would address teaming arrangements among small businesses.

The House amendment contained no similar provision.

The Senate recedes.

Title IX—Department of Defense Organization and Management

Items of Special Interest

Organizational changes to the Office of the Secretary of Defense

The conferees considered a number of legislative proposals made by the Secretary of Defense to change the organizational structure of the Office of the Secretary of Defense (OSD) to deal with terrorism, homeland defense, and intelligence matters.

While the conferees acknowledge the importance of aligning appropriate organizational resources to address these matters, the conferees decided not to act at this time because of the lack of specificity of the legislative requests and supporting materials, including the insufficient explanation as to how the proposed changes would fit into the existing statutory structure. The conferees believe that any further changes to the organizational structure of OSD must be made within the context of a unified and consistent framework addressing all elements within the Office.

To that end, the conferees urge the Secretary of Defense to submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive plan that would address the following issues related to the organization of the office of the Secretary of Defense: the number and roles of the under secretaries; the appropriate uses of deputy under secretary and principal deputy under secretary positions; the appropriate number and uses of assistant secretaries and their relationship to other positions within the OSD; the consistency of the requirement for Senate confirmation across positions; and the most beneficial organizational structures for increasingly important functions such as combating terrorism, homeland security, and intelligence.

Legislative Provisions Adopted

Subtitle A—Duties and Functions of Department of Defense Officers

Deputy Under Secretary of Defense for Personnel and Readiness (sec. 901)

The Senate bill contained a provision (sec. 901) that would establish a new position requiring Senate confirmation within the Office of the Secretary of Defense (OSD) known as the Deputy Under Secretary of Defense for Personnel and Readiness. The provision would also reduce the number of assistant secretaries of defense from nine to eight.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

The conferees note that the creation of a Deputy Under-Secretary for Personnel and Readiness will bring the number of deputy under secretaries within the OSD to nine, only four of which require Senate confirmation. Further, there is no consistent organizational approach to the responsibilities and authorities of deputy under secretaries, assistant secretaries, and directors of programmatic offices throughout the four under secretariats within the OSD. The conferees are concerned with this arrangement and have urged the Secretary of Defense elsewhere in this report to submit a comprehensive plan to the Committees on Armed Services of the Senate and the House of Representatives on the optimal organizational structure for the OSD.

Sense of Congress on functions of new Office of Force Transformation in the Office of the Secretary of Defense (sec. 902)

The House amendment contained a provision (sec. 902) that would express the sense of Congress that the Secretary of Defense should consider the establishment of an Office of Transformation within the Office of the Secretary of Defense to advise the Secretary on the various aspects of force transformation and would further express the sense of Congress that the Secretary should consider providing funding adequate for sponsoring selective prototyping efforts, wargames, and studies and analysis and for appropriate staffing, as recommended by the director of such an Office of Transformation.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that reflects the latest developments in the Department of Defense, including the decision by the Secretary of Defense to establish an Office of Transformation.

Suspension of reorganization of engineering and technical authority policy within the Naval Sea Systems Command pending report to congressional committees (sec. 903)

The Senate bill contained a provision (sec. 906) that would delay the implementation of a Naval Sea Systems Command (NAVSEA) reorganization of engineering and technical authority policy until 60 days after the Secretary of the Navy provides a report on the Navy's plans and justification for the proposed realignment.

The House amendment contained no similar provision.

The House recedes with an amendment that would prohibit the Secretary of the Navy from granting final approval for the reorganization of engineering and technical authority policy within NAVSEA until 45 days after the Secretary submits to the congressional defense committees a report on the details of the reorganization.

Subtitle B—Space Activities

Space Activities (secs. 911-915)

The Senate bill contained a series of provisions (sec. 911-916) that would address concerns about the Department of Defense (DOD) management structure for space activities. The provisions would provide the Secretary of Defense discretionary authority to establish a new position of Under Secretary of Defense for Space, Intelligence and Information; would establish the duties of the position, including serving as the Director of the National Reconnaissance Office; and would require a report from the Secretary on the proposed organization of that office. Upon establishment of the new Under Secretary, the provisions would establish an additional Assistant Secretary of Defense and require that two of the total number of assistant secretaries would have as their principle duties supervision of activities relating to space, intelligence, and information. Both would report to the Under Secretary of Defense for Space, Intelligence, and Information. If the Secretary of Defense failed to exercise the authority to establish the new Under Secretary position, he would be required to submit a report describing the actions he had taken to address the problems in the management and organization of the Department of Defense for space activities that were identified by the Commission to Assess United States National Security Space Management and Organization (Space Commission). The provisions would also require the Comptroller General to assess the progress of the DOD in implementing the recommendations of the Space Commission; designate the Air Force as the executive agent for space; require the Secretary of Defense to designate space as a major force program; require that the officer commanding the Air Force Space Command have the grade of general; establish a separate space career field; and prohibit the commander of Air Force Space Command from serving simultaneously as the Commander-in-Chief, U.S. Space Command and the commander of the North American Air Defense Command.

The House amendment contained a series of similar provisions (secs. 1401-1408) that would provide discretionary authority for the Secretary of Defense to take the following actions: establish a new position of Under Secretary of Defense for Space Information and Intelligence; establish two new Assistant Secretaries of Defense to serve under the new Under Secretary of Defense; assign the Secretary of the Air Force to be the executive agent of the Department of Defense for planning and execution of space acquisition programs, projects and activities; establish a major force program for the space programs of the Department of Defense; and require that the officer serving as the commander of Air Force Space Command not serve simultaneously as the commander of the North American Air Defense Command or the Commander-in-Chief, U. S. Space Command. The House amendment also included provisions that: would provide discretionary authority to the Secretary of the Air Force to establish a separate space career field and to designate the Under Secretary of the Air Force as the acquisition executive of the Air Force for Department of Defense space programs; and would require an assessment by the Comptroller General of the actions taken by the Secretary of Defense to implement the recommendations contained in the report of the Commission to Assess United States National Security Space Management and Organization. The House amendment also included a provision to clarify that nothing in the foregoing provisions changed the responsibilities of the Director of Central Intelligence.

The conferees recognize that the importance of space programs, projects and activities in support of military activities continues to grow. In the interest of improving the efficiency and effectiveness of U.S. military operations, the conferees agree to a provision (sec. 912) that would require the Secretary of the Air Force to establish and implement policies and procedures to develop a space career field.

The conferees agree to a provision (sec. 913) that would require the Secretary of Defense to submit a report on steps taken to improve management, organization and oversight of space programs, space activities, and funding and personnel resources.

The conferees agree to a provision (sec. 911) that would require the Secretary of Defense to take appropriate actions to ensure that space development and acquisition programs are carried out through joint program offices and, to the maximum extent practicable, ensure that officers of the Army, Navy, Marine Corps, and Air Force are assigned to and hold leadership positions in such joint program offices. This section would also direct the Secretary to designate positions in the Office of the National Security Space Architect as joint duty assignments as appropriate.

The conferees have also included a provision (sec. 914) that requires the Comptroller General to assess the actions taken by the Secretary of Defense to implement the recommendations contained in the Space Commission report.

The conferees also express their view in section 902 that the best qualified officer from any service should be appointed as Commander-in-Chief, U.S. Space Command, and that the appointee be a four-star general or flag officer position.

Both the House and Senate provisions were motivated by a desire to encourage the implementation of the recommendations of the Space Commission, which concluded that the Department of Defense is not adequately organized or focused to meet U.S. national security space needs.

One of the central reforms recommended by the Space Commission was the establishment of a new Under Secretary of Defense for Space, Intelligence, and Information to provide high-level attention and guidance to space programs. This recommendation is not included in the provisions in this conference report primarily because the Secretary of Defense has indicated that he is in the process of implementing the recommendations of the Space Commission and that such a provision would interfere with his freedom to manage the DOD. The conferees, however, do not agree that these provisions would reduce the Secretary's freedom to manage the Department, as the provisions were intended to provide him additional flexibility. The conferees understand, however, that the Secretary has stated his intent not to exercise this authority if it is provided to him.

The conferees also note that the Secretary has stated his intent to designate the Secretary of the Air Force as the executive agent for DOD space programs. The conferees remain concerned that the continuing absence of a coherent, senior-level focus for space programs within the Office of the Secretary of Defense and the concentration of authority and resources for space programs in the Air Force may not be sufficient to resolve the space management and organizational challenges identified by the Space Commission and may inadvertently be a source of new problems. The conferees will carefully review the reports required in sections 913 and 914 and will consider whether there is a need in the future for additional organization and management reforms.

Noting that the Space Commission also concluded that the depth of experience and technical expertise in space operations and technology has suffered over the past decade, the conferees believe establishing a space career field in the Air Force that includes development and operation of space systems and development of space doctrine and operational concepts is key to sustaining U.S. leadership in space. The Chief of Staff of the Air Force recently stated that "space * * * is a separate culture * * * different than what airmen experience in the air * * * We have to respect that, and we have to grow and nurture that culture until it matures."

The conferees are encouraged by the progress made by the Air Force in this direction to date, but believe that the detailed planning and implementation of a space career field must be carefully monitored. The conferees recognize that the commander of Air Force Space Command will be provided the resources and assigned responsibility to organize, train, and equip for Air Force space development, acquisition and operations. Furthermore, consistent with the implementation guidance issued by the Secretary of Defense on October 18, 2001, the conferees expect that the commander of Air Force Space Command will be assigned appropriate responsibility for managing the space career field.

The conferees further understand that the Secretary of Defense has stated his intent to establish a "virtual major force program" to provide better visibility and insight into DOD funding for space programs and activities. The conferees note that senior DOD officials have contended that establishing a major force program (MFP) for space programs might have serious unintended consequences, although no such consequences have ever been described. The conferees recognize, however, that a virtual MFPC—the designation of funding for space programs and activities without formally creating a space MFP—could represent a more flexible approach. Therefore, the conferees expect the virtual MFP for space to be included in the Future Years Defense Program submitted with the 2003 fiscal year budget request.

The conferees, in section 912 of this bill, provided sufficient flexibility in general officer limits to ensure that the commander of Air Force Space Command will serve in the grade of general. The conferees also believe that the officer in this position should not serve concurrently as commander of the North American Air Defense Command or as Commander-in-Chief, U.S. Space Command. The conferees understand that the Secretary intends to implement these Space Commission recommendations and will continue to monitor the Department's actions in these matters.

Subtitle C—Reports

Revised requirement for Chairman of the Joint Chiefs of Staff to advise Secretary of Defense on the assignment of roles and missions to the armed forces (sec. 921)

The House amendment contained a provision (sec. 904) that would repeal the requirement contained in section 153(b) of title 10, United States Code, for the Chairman of the Joint Chiefs of Staff to submit a review of the assignment of roles and missions of the armed forces to the Secretary of Defense every three years. The provision would also amend section 118 of title 10, United States Code, to require the Chairman to conduct such a review as part of the Quadrennial Defense Review (QDR) process and that the results of that review be included in the Chairman's assessment of the QDR that is submitted to Congress.

The Senate bill contained a similar provision (sec. 1023).

The Senate recedes with an amendment that also requires the Chairman of the Joint Chiefs of Staff to submit to Congress no later than one year after the date of the enactment of this Act a separate assessment of the assignment of roles and missions of the armed forces based upon the findings in the 2001 QDR issued by the Secretary of Defense on September 30, 2001.

Revised requirements for content of annual report on joint warfighting experimentation (sec. 922)

The Senate bill contained a provision (sec. 905) that would amend section 485 of title 10, United States Code, to clarify some of the contents of the annual joint warfighting report and require the inclusion of a specific assessment of whether there is a need for a major force program, or some other resource mechanism, for funding joint experimentation and for funding the rapid development and acquisition of uniquely joint warfighting technologies that have been empirically demonstrated through such experimentation.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Repeal of requirement for one of three remaining required reports on activities of Joint Requirements Oversight Council (sec. 923)

The House amendment contained a provision (sec. 905) that would repeal section 916 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that requires the Chairman of the Joint Chiefs of Staff to submit a semi-annual report to the Committees on Armed Services of the Senate and House of Representatives on specific activities of the Joint Requirements Oversight Council through March 1, 2003.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that repeals the requirement for one of the three remaining reports and provides for the March 1, 2003 report to cover all of the preceding fiscal year.

Revised joint report on establishment of national collaborative information analysis capability (sec. 924)

The House amendment contained a provision (sec. 903) that would require the Secretary of Defense and the Director of Central Intelligence to submit a revised report assessing alternatives for the establishment of a national collaborative information analysis capability. The provision would direct that the revised report focus on only the range of architecture alternatives that would involve the participation of all federal agencies involved in the collection of intelligence.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require that the report identify legislative or regulatory changes that would be needed in order to implement the preferred architecture in the report.

The conferees note that the original provision in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 included direction that the architectures contemplated for the original report, and, by reference, this revised report, should be consistent with requirements of the Privacy Act of 1974, as amended.

Subtitle D—Other Matters

Conforming amendments relating to change of name of Military Airlift Command to Air Mobility Command (sec. 931)

The Senate bill contained a provision (sec. 907) that would change references in the United States Code to the former Military Airlift Command to refer to the command by its current designation as the Air Mobility Command.

The House amendment contained a similar provision (sec. 906).

The House recedes with an amendment that would clarify that the changes would be made to current references to the Military Airlift Command.

Organizational realignment for Navy Director for Expeditionary Warfare (sec. 932)

The House amendment contained a provision (sec. 907) that would amend section 5038(a) of title 10, United States Code, with respect to the specific office of the Deputy Chief of Naval Operations within which the Director for Expeditionary Warfare shall be located.

The Senate bill contained a similar provision (sec. 904).

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Reductions in acquisition and support workforce

The Senate bill contained a provision (sec. 812) that would establish a moratorium on further cuts in the acquisition workforce for three years.

The House amendment contained a provision (sec. 901) that would mandate a reduction of 13,000 in the acquisition workforce in fiscal year 2002.

The conference agreement does not include either provision.

Responsibility of the Under Secretary of the Air Force for acquisition of space launch vehicles and space launch services

The Senate bill contained a provision (sec. 902) that would assign responsibility for the acquisition of space launch vehicles and space launch services for the Department of Defense and the National Reconnaissance Office (NRO) to the Under Secretary of the Air Force.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that the Air Force has managed and contracted for the acquisition of space launch vehicles and services for both the Air Force and the NRO. This arrangement has allowed the Air Force to achieve cost savings and efficiencies of scale for both organizations. The conferees continue to oppose proposals that would require the NRO to manage and contract for its own launch vehicles and services.

TITLE X—GENERAL PROVISIONS

Counter-Drug Activities

The budget request for drug interdiction and other counter-drug activities of the Department of Defense (DOD) for fiscal year 2002 totaled approximately $1.0 billion: $820.4 million in the central transfer account; $166.8 million in the operating budgets of the military services for authorized counter-drug operations; and $12.5 million in the military construction account for infrastructure improvements at the forward operating locations.

The conferees recommend the following fiscal year 2002 budget for the Department's central transfer account.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, CENTRAL TRANSFER ACCOUNT

[In millions of dollars; may not add due to rounding]

Fiscal Year 2002 Counter-drug Request		$820.381
Increases:		
National Guard Support	16.0	
Operation Caper Focus	4.0	
Southwest Border Fence	5.0	
Decreases:		
AWACs Tactical Operations Support	2.5	
Counter-drug Tanker Operations Support	1.0	
E-2 Support	1.0	
Peru Riverine Program	5.0	
Tracker Aircraft	2.0	
Research, Development, Test & Evaluation	4.0	
Patrol Coastals	1.5	
Tethered Aerostat Radar System	8.0	
Fiscal Year 2002 Counter-drug Funding		820.381

National Guard counter-drug activities

The conferees agree to authorize an additional $16.0 million for the counter-drug activities of the National Guard, including National Guard State Plans and the National Guard Counter-drug Schools.

Operation Caper Focus

The conferees also agree to authorize an additional $4.0 million for Operation Caper Focus, an important initiative to disrupt narcotics trafficking in the Eastern Pacific. To the extent that assets become available, the conferees expect the Secretary of Defense to make them available for Operation Caper Focus.

Tethered Aerostat Radar System

The conferees direct that a higher priority be given to operational availability of the Tethered Aerostat Radar System than to its modernization.

ITEMS OF SPECIAL INTEREST

Automobile Safety Program

The conferees are concerned with the number of deaths and serious injuries to military service members and Department of Defense civilian employees due to automobile collisions and strongly support innovative safety programs designed to eliminate these accidents. The conferees understand that an automobile safety program recently conducted at Fort Polk, Louisiana is proving to be a sound and successful attempt at accident reduction. The conferees recommend that the Secretary of Defense consider an expansion of the program to assist in achieving the Department's safe driving goals.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Financial Matters

Transfer authority (sec. 1001)

The Senate bill contained a provision (sec. 1001) that would provide the reprogramming authority for the transfer of authorized funds made available in Division A of this Act.

The House amendment contained an identical provision.

The conference agreement includes this provision.

Incorporation of classified annex (sec. 1002)

The House amendment contained a provision (sec. 1002) that would incorporate the classified annex prepared by the Committee on Armed Services into this Act.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would provide that the classified annex prepared by the committee of conference be incorporated into this Act.

Authorization of supplemental appropriations for fiscal year 2001 (sec. 1003)

The Senate bill contained a provision (sec. 1003) that would authorize the supplemental appropriations enacted in the Supplemental Appropriations Act, 2001 (Public Law 107–20) which provided supplemental funding for Department of Defense programs including increased health care costs, operating expenses, and utility costs.

The House amendment contained no similar provision.

The House recedes.

United States contribution to NATO common-funded budgets in fiscal year 2002 (sec. 1004)

The Senate bill contained a provision (sec. 1004) that would authorize the U.S. contribution to NATO common-funded budgets for fiscal year 2002, including the use of unexpended balances. The resolution of ratification for the Protocol to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary and the Czech Republic contained a provision (section 3(2)(c)(ii)) requiring a specific authorization for U.S. payments to the common-funded budgets of NATO for each fiscal year, beginning in fiscal year 1989, that payments exceed the fiscal year 1998 total.

The House amendment contained no similar provision.

The House recedes.

Limitation on funds for Bosnia and Kosovo Peacekeeping Operations for fiscal year 2002 (sec. 1005)

The House amendment contained a provision (sec. 1003) that would limit the amount of funds authorized to be appropriated for incremental costs of the armed forces for peacekeeping operations in Bosnia and Kosovo in fiscal year 2002 to the amounts contained in the budget request: $1,315.6 million for Bosnia and $1,528.6 million for Kosovo. The provision would authorize the President to waive the limitation after submitting to Congress: (1) a written certification that the waiver is necessary in the national security interests of the United States and that the exercise of the waiver will not adversely affect the readiness of U.S. military forces; (2) a report setting forth the reasons for the waiver, to include a discussion of the impact of U.S. military involvement in Balkan peacekeeping operations on U.S. military readiness; and (3) a supplemental appropriations request for the Department of Defense for the additional fiscal year 2002 costs associated with U.S. military participation in or support for peacekeeping operations in Bosnia and Kosovo.

The Senate bill contained no similar provision.

The Senate recedes.

Maximum amount for National Foreign Intelligence Program (sec. 1006)

The conferees agree to include a provision that would establish a ceiling for authorization for the National Foreign Intelligence Program (NFIP) equal to the amounts requested by the President in the budget request for fiscal year 2002. The provision would allow this ceiling to be increased by any amounts provided for the NFIP in the Emergency Terrorism Response Supplemental Appropriations Act, 2001, and any fiscal year 2002 supplemental appropriations bills.

Clarification of applicability of interest penalties for late payment of interim payments due under contracts for services (sec. 1007)

The Senate bill contained a provision (sec. 1005) that would clarify the effective date of section 1010 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

The House amendment contained no similar provision.

The House recedes.

Reliability of Department of Defense financial statements (sec. 1008)

The Senate bill contained a provision (sec. 1006) that would direct the Department of Defense (DOD) to identify in advance financial statements that will be unreliable because of the Department's flawed finance and accounting systems, and to minimize the resources that are used to prepare and audit these statements.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that the Comptroller of the Department of Defense is authorized to make the determination which statements will be unreliable, and adjust the deadline for making such a determination.

Financial Management Modernization Executive Committee and financial feeder systems compliance process (sec. 1009)

The Senate bill contained a provision (sec. 1007) that would require the Department of Defense to establish an oversight council and a management process for implementing changes identified in the congressionally-mandated financial management improvement plans.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Authorization of funds for ballistic missile defense programs or combating terrorism programs of the Department of Defense (sec. 1010)

The Senate bill contained a provision (sec. 1009) that would authorize $1.3 billion, the amount by which the Senate bill reduced funding for ballistic missile defense programs, for whichever of the following purposes the President determines to be in the national security interests of the United States:

(1) research, development, test and evaluation of ballistic missile defense programs; and

(2) activities for combating terrorism.

The House amendment contained a comparable provision (sec. 1501) that would increase by $400.0 million the funding for the following activities to combat terrorism: intelligence programs, anti-terrorism initiatives, counter-terrorism initiatives, and consequence management activities. The provision included transfer authority and provided offsetting reductions of $265.0 million for ballistic missile defense activities, and $135.0 million for consulting services in the Defense-Wide operation and maintenance account.

The House amendment also contained a provision (sec. 1502) that would require that funds transferred under the authority of section 1501 be merged with and available for the same period of time as the appropriations to which transferred.

The House recedes with an amendment that would authorize the $1.3 billion for whichever of the following purposes the President determines to be in the national security interests of the United States:

(1) research, development, test and evaluation of ballistic missile defense programs of the Ballistic Missile Defense Organization; and

(2) activities of the Department of Defense for combating terrorism.

The amendment would also require the Secretary of Defense to report to the congressional defense committees on the allocation of the funds pursuant to the President's determination.

Subtitle B—Naval Vessels and Shipyards

Authority to transfer naval vessels to certain foreign countries (sec. 1011)

The Senate bill contained a provision (sec. 1216) that would transfer to various countries:

(1) on a grant basis, one *Oliver Hazard Perry*-class frigate and six *Knox*-class frigates; and

(2) on a sale basis, four *Kidd*-class destroyers and two *Oliver Hazard Perry*-class frigates.

The provision would direct that, to the maximum extent practicable, the President shall require, as a condition of transfer, that repair and refurbishment associated with the transfer be accomplished in a shipyard located in the United States.

The authority under this provision would expire at the end of the two-year period that begins on the date of enactment of the National Defense Authorization Act for Fiscal Year 2002.

The House amendment contained no similar provision.

The House recedes with an amendment that would provide authority for the President to waive lease payments for up to one year for vessel transfers that:

(1) would be converted, under the provisions of this Act, from a lease to a grant; and

(2) are among the grant transfers approved in this Act.

Sale of Glomar Explorer to the lessee (sec. 1012)

The Senate bill and the House amendment did not contain any provision relating to the current lease arrangement for the vessel Glomar Explorer.

The conferees agree to include a provision that would authorize the Secretary of the Navy, at his discretion, to sell the Glomar Explorer (AG–193) to the current lessee. Any such sale would have to be based on a price that represents a fair and reasonable amount, as determined by the Secretary.

Leasing of Navy ships for University National Oceanographic Laboratory System (sec. 1013)

The Senate bill contained a provision (sec. 1067) that would modify section 2667, title 10, United States Code to allow the Navy to renew the five-year leases for certain Navy research vessels without recompeting them, as long as the initial lease was awarded competitively.

The House amendment contained a similar provision (sec. 1047).

The conference agreement includes this provision.

Increase in limitations on administrative authority of the Navy to settle admiralty claims (sec. 1014)

The House amendment contained a provision (sec. 1004) that would increase the administrative authority of the Navy to settle admiralty claims.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle C—Counter-Drug Activities

Extension and restatement of authority to provide Department of Defense support for counter-drug activities of other governmental agencies (sec. 1021)

The Senate bill contained a provision (sec. 331) that would codify section 1004 of the National Defense Authorization Act for Fiscal Year 1991, as amended, in title 10, United States Code.

The House amendment contained no similar provision.

The House recedes with an amendment that restates section 1004 but does not codify it, makes it effective during fiscal years 2002 through 2006, and makes several technical changes.

Extension of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities (sec. 1022)

The House amendment contained a provision (sec. 1021) that would extend for an additional year the requirement in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that the Secretary of Defense report to the congressional defense committees detailing the expenditure of funds in direct or indirect support of the counter-drug activities of foreign governments.

The Senate bill contained no similar provisions.

The Senate recedes.

Authority to transfer Tracker aircraft currently used by Armed Forces for counter-drug purposes (sec. 1023)

The House amendment contained a provision (sec. 1022) that would authorize the Secretary of Defense to transfer all Tracker aircraft in the inventory of the Department of Defense to the administrative jurisdiction and operational control of another federal agency. The provision also provided that any Tracker aircraft remaining in the inventory of the Department of Defense after September 30, 2002 may not be used by the armed forces for counter-drug purposes after that date.

The Senate bill contained no similar provision.

The Senate recedes.

Limitation on use of funds for operation of Tethered Aerostat Radar System pending submission of required report (sec. 1024)

The House amendment contained a provision (sec. 1023) that would authorize the Secretary of Defense to transfer to the administrative jurisdiction and operational control of another federal agency the Tethered Aerostat Radar System (TARS) currently used by the armed forces in counter-drug detection and monitoring. The provision also provided that if the TARS is not transferred by September 30, 2002, it may not be used by the armed forces for counter-drug purposes after that date.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that provides that not more than 50 percent of the funds available for fiscal year 2002 for operation of the TARS may be obligated or expended until such time as the Secretary of Defense submits to Congress the report on the status of the TARS required to be submitted by the Secretary, in consultation with the Secretary of the Treasury, by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The conferees direct that the report contain a new review of the requirements of the Department of Defense and the Department of the Treasury, including the U.S. Customs Service, and a new assessment of the value of the TARS in the conduct of counter-drug detection and monitoring and border security and air sovereignty operations in light of the changed circumstances in the aftermath of the September 11, 2001 terrorist attacks.

Subtitle D—Strategic Forces

Repeal of limitation on retirement or dismantlement of strategic nuclear delivery systems (sec. 1031)

The Senate bill contained a provision (sec. 1011) that would repeal section 1302 of the National Defense Authorization Act for Fiscal Year 1998, which prohibits the obligation or expenditure of funds to retire or prepare to retire certain strategic nuclear delivery systems until the START II Treaty enters into force.

The House amendment contained a similar provision (sec. 1043) that would amend section 1302 to allow the retirement of Peacekeeper Intercontinental Ballistic Missiles.

The House recedes.

Air Force bomber force structure (sec. 1032)

The Senate bill contained a provision (sec. 1012) that would prevent the Department of Defense from retiring or dismantling any of the 93 B–1B Lancer bombers in the Air National Guard, or from transferring or reassigning any of those aircraft, until 30 days after delivery of a series of reports to the Armed Services Committees of the Senate and House of Representatives, including: (1) the national security strategy; (2) the Quadrennial Defense Review; (3) a report detailing the analysis for any consolidation and force structure reduction, along with Department plans for the National Guard units currently flying B–1B bombers; and (4) the revised Nuclear Posture Review. The provision would also require the Comptroller General to conduct a study and submit a Government Accounting Office (GAO) report on the proposed consolidation and force structure reduction by January 31, 2002.

The House amendment contained a similar provision (sec. 1045) that would differ from the Senate position only in that the GAO report would not be due until 180 days after the Department's report of analysis of the consolidation and force structure reduction.

The conferees agree to a provision that would greatly streamline the reporting requirements. The provision would prevent the obligation of funds for retiring, dismantling, transferring, or reassigning any of the 93 B–1B bombers until 15 days after the Secretary of the Air Force submits a report that provides details of the proposed consolidation, force structure reduction, and plans for affected National Guard units. This provision is not intended in any way to prevent the initiation of planning activities for the execution of this plan.

Additional element for revised nuclear posture review (sec. 1033)

The Senate bill contained a provision (sec. 1013) that would amend section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 by adding a new element to the nuclear posture review. The new element would direct the Secretary of Defense to look at the possibility of deactivating or dealerting nuclear warheads or delivery systems.

The House amendment contained no similar provision.

The House recedes.

The conferees are aware that the concepts of dealerting and early deactivation of nuclear weapons and systems have been the subject of debate and discussion, and that there are a range of views with respect to these critical issues. By adding this additional requirement to the Nuclear Posture Review (NPR), the conferees wish to have the benefit of a careful and thorough review of these concepts in the broader context of the NPR. Inclusion of this additional element is not intended by the conferees to presuppose the outcome of this review.

Report on options for modernization and enhancement of missile wing helicopter support (sec. 1034)

The Senate bill contained a provision (sec. 1073) that would require the Secretary of Defense to submit a report, with submission of the fiscal year 2003 budget request, that would provide information on the Secretary's preferred option for furnishing helicopter support for the Air Force intercontinental ballistic missile wings. The provision included certain options that should be considered, allowed additional options to be considered, and included factors that should be considered in the review process.

The House amendment contained no similar provision.

The House recedes with an amendment that would specify that the report must be submitted not later than the date of the submission of the fiscal year 2003 budget request.

Subtitle E—Other Department of Defense Provisions

Secretary of Defense recommendation on need for Department of Defense review of proposed federal agency actions to consider possible impact on national defense (sec. 1041)

The House amendment contained a provision (sec. 312) that would require the Secretary of Defense to include a national security impact statement in each environmental impact statement or environmental assessment prepared in connection with a Department of Defense action.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to submit to the President the Secretary's recommendation as to whether there should be established within the Executive Branch a defense impact review process and to submit a copy of that recommendation to Congress. For the purposes of this section, a defense impact review process means a process that provides for review of certain proposed actions of other federal agencies to identify any reasonably foreseeable significant adverse impact of such a proposed action on national defense.

Department of Defense reports to Congress to be accompanied by electronic version upon request (sec. 1042)

The House amendment contained a provision (sec. 1031) that would require that the Department of Defense submit copies of reports to Congress in an electronic medium.

The Senate bill contained no similar provision.

The Senate recedes with an amendment providing that the Department must provide electronic reports only upon request.

Department of Defense gift authorities (sec. 1043)

The House amendment contained a provision (sec. 1041) that would clarify items that may be loaned or given under section 7545 of title 10, United States Code. The House amendment also contained a provision (sec. 354) addressing the entities to which such items may be loaned or given.

The Senate bill contained no similar provision.

The Senate recedes with an amendment combining the two provisions.

Acceleration of research, development, and production of medical countermeasures for defense against biological warfare agents (sec. 1044)

The Senate bill contained a provision (sec. 1025) that would authorize the Secretary of Defense, subject to the availability of authorized and appropriated funds for such purpose, to design, construct and operate on an installation of the Department of Defense a government-owned, contractor-operated (GOCO) vaccine production facility. The provision would also require the Secretary of Defense to develop a long-range plan for the production and acquisition of vaccines to defend against biological warfare agents, including an evaluation of vaccine production options, and to report to the congressional defense committees on that plan by February 1, 2002.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to carry out an accelerated program of research, development and production of medical countermeasures to defend against the highest threat biological warfare agents. In order to accomplish this objective, the conferees believe that the Department of Defense should invest in multiple new technologies for the prevention and treatment of anthrax and should take advantage of ideas and candidate technologies from the bio-tech industry. The conferees believe that the Department should consider the following approaches in this effort: understanding the germination process of anthrax spores and the means to inhibit this process; identifying the molecular behavior of the anthrax toxin and the means to intervene against it at the cellular level; investigating recombinant protein antigens and formulating new vaccines, including multivalent vaccines that may be effective against multiple strains of pathogens; investigating technologies to be used as an adjunct to antibiotic treatment that may be more effective in clearing pathogens from circulation; and determining potential means for optimizing and extending immunity in humans.

The amendment would also require a study by the National Research Council and the Institute of Medicine of the review and approval process for such medical countermeasures. Finally, the amendment would provide discretion for the Defense Department to use up to $10.0 million of available research and development funds for the accelerated program.

The conferees note the importance to the Department of Defense of producing and acquiring products needed to prevent or mitigate the physiological effects of exposure to biological warfare agents, including vaccines, decontamination capabilities and therapeutic treatments. The Department of Defense has made significant progress in this area, as indicated in the July 2001 Annual Report to Congress on the Department of Defense Chemical and Biological Defense Program.

However, the conferees believe that more needs to be done to ensure the development and acquisition of needed products, including the transition of developmental items through the review and approval process, particularly vaccines and drugs. The conferees urge the Department to expand its efforts to acquire new technologies and products to defend against biological warfare agents.

Chemical and biological protective equipment for military personnel and civilian employees of the Department of Defense (sec. 1045)

The Senate bill contained a provision (sec. 1069) that would require a report on the requirements of the Department of Defense regarding chemical and biological protective equipment for military personnel and civilian employees of the Department. The provision would also express the sense of Congress on possible sources of funding for such equipment.

The House amendment contained no similar provision.

The House recedes with an amendment that would include an assessment of an appropriate level of protection for civilian employees of the Department of Defense against chemical and biological attack, and would eliminate the proposed sense of Congress.

Sale of goods and services by Naval Magazine, Indian Island, Alaska (sec. 1046)

The Senate bill contained a provision (sec. 1070) that would allow the Secretary of the Navy to sell, on a reimbursable basis, goods and services from Naval Magazine, Indian Island, that are not available from other commercial sources.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Report on procedures and guidelines for embarkation of civilian guests on naval vessels for public affairs purposes (sec. 1047)

The Senate bill contained a provision (sec. 1072) that would require the Secretary of the Navy to submit a plan to Congress to ensure that the embarkation of civilian guests for the purpose of furthering public awareness of the Navy and its mission does not interfere with the operational readiness and safe operation of Navy vessels. The plan would cover a number of specific areas.

The House amendment contained no similar provision.

The House recedes with an amendment that requires the Secretary of the Navy to submit a report to the Committees on Armed Services of the Senate and the House of Representatives setting forth the procedures and guidelines of the Navy for the embarkation of civilian guests on naval vessels for public affairs purposes and that modifies the specific areas to be covered in the report.

Technical and clerical amendments (sec. 1048)

The House amendment contained a provision (sec. 1046) making technical and clerical amendments to title 10, United States Code, and related statutes.

The Senate bill contained no similar provision.

The Senate recedes.

Termination of referendum requirement regarding continuation of military training on the island of Vieques, Puerto Rico, and imposition of additional conditions on closure of training range (sec. 1049)

The House amendment contained a provision (sec. 1042) that would repeal the provisions contained in Title XV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that would require a referendum on the continuation of military training on Vieques and authorize additional economic assistance for Vieques in the event continued training was approved by such referendum. The House amendment would specify that the Secretary of the Navy could close the Vieques range only if the Chief of Naval Operations and the Commandant of the Marine Corps jointly certified that an alternative training facility was available that provided an equivalent or superior level of training at a single location.

The House amendment would also revise the provisions of that Act transferring jurisdiction of the training range and other lands on the eastern end of Vieques to the Secretary of the Interior if training operations on Vieques were terminated, and would instead require that the land be retained by the Secretary of the Navy.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would give the Secretary of the Navy the authority to close the Vieques Naval Training Range if the Secretary certifies to the President and Congress that an alternative training facility or facilities that provide equivalent or superior training exist and are available. The Secretary's certification would take into account the views and recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps. If the Secretary terminates training operations on Vieques, the lands on the eastern end of the island would be transferred to the jurisdiction of the Secretary of the Interior.

The conferees note the views of the administration on this matter, as stated in a letter from the Deputy Secretary of Defense on November 29, 2001:

> Consistent with the commitments made by both the President and Secretary England, the Navy remains committed to identifying a suitable alternative and is planning to discontinue training operations on the island of Vieques in May of 2003, contingent upon the identification and establishment of a suitable alternative. However, until a suitable alternative is established, Vieques remains an important element in the training of our forces deploying to fight the war.

Subtitle F—Other Matters

Assistance for firefighters (sec. 1061)

The Senate bill contained a provision (sec. 1071) that would increase the authorization of appropriations for federal grants to state or local firefighters in section 33 of the Federal Fire Prevention and Control Act of 1974, as added by title XVII of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, from $300.0 million to $600.0 million in fiscal year 2002, and would extend and increase the authorizations to $800.0 million in fiscal year 2003 and $1.0 billion in fiscal year 2004.

The House amendment contained a provision (sec. 1049) that would name the program after the late Floyd D. Spence and would state the sense of Congress that the grant program should be reauthorized at increased funding levels.

The House recedes with an amendment that would increase the authorization of appropriations for these grants to $900.0 million per year for fiscal years 2002, 2003 and 2004, clarify that grants under this program would be available for training and equipment to respond to terrorism or the use of weapons of mass destruction, and specify that up to three percent of the funds authorized for these grants could be used for administration of the grant program by the Federal Emergency Management Agency.

Extension of times for Commission on the Future of the United States Aerospace Industry to report and to terminate (sec. 1062)

The Senate bill contained a provision (sec. 1026) that would ensure that the Commission on the Future of the United States Aerospace Industry has a full year to carry out its work and to allow the commission 60 rather than 30 days to archive documents and complete other activities after the submission of its final report.

The House amendment contained a similar provision (sec. 1054).

The Senate recedes with a technical amendment.

Appropriations to Radiation Exposure Compensation Trust Fund (sec. 1063)

The Senate bill contained a provision (sec. 1066) that would amend the Radiation Exposure Compensation Act to make mandatory appropriations for fiscal years 2002 through 2011.

The House amendment contained no similar provision.

The House recedes.

Waiver of vehicle weight limits during periods of national emergency (sec. 1064)

The Senate bill contained a provision (sec. 1076) that would authorize the Secretary of Transportation, in consultation with the Secretary of Defense, to waive certain vehicle weight limits on specified portions of the Interstate highway system during a period of national emergency.

The House amendment contained no similar provision.

The House recedes.

Repair, restoration, and preservation of Lafayette Escadrille Memorial, Marnes-la-Coquette, France (sec. 1065)

The Senate bill contained a provision (sec. 333) that would authorize the Secretary of the Air Force to make a grant to the Lafayette Escadrille Memorial Foundation, Inc. of up to $2.0 million for repair, restoration, and preservation of the Lafayette Escadrille Memorial.

The House amendment contained a similar provision (sec. 1048) that contained findings regarding the volunteer aviators who fought with the Lafayette Escadrille during World War I and the state of the memorial, and that would express the sense of Congress that funds should be provided to restore the memorial.

The House recedes with an amendment that would authorize the Secretary of the Air Force to make the grant after he submits a report on the contributions to the restoration made by the government of France. The conferees also agree to require an annual report on the use of the grant funds, to require that the Foundation make their records available for audit by the Air Force and the General Accounting Office, and to require an engineering analysis of and report on the cost of fully restoring the memorial. The additional cost of the engineering analysis is not intended to reduce the amount of the grant to the Foundation. The cost of both the grant and the engineering analysis would be funded from the operation and maintenance account of the Air Force.

The conferees do not intend this provision to establish a precedent for federal funding of privately operated memorials.

Legislative Provisions Not Adopted

Action to promote national defense features program

The House amendment contained a provision (sec. 1053) that would direct the Secretary of Defense to certify to the Federal Maritime Commission restrictive trade practices for cases in which vessels built, or to be built, under the National Defense Features (NDF) program are involved.

The Senate bill contained no similar provision.

The House recedes.

The conferees agree the NDF program has the potential to provide incentive for construction of commercial ships in the U.S.

The strategic sealift NDF program provides compensation for commercial ships that have Defense Department unique alterations required for carrying defense cargo. The program was intended to reduce the requirement for government-owned ships by supplementing them, when required, with commercial shipping capable of carrying Defense Department unique cargo such as tanks, heavy vehicles, and ammunition.

The NDF program can only be successful if commercial ship owners decide to build ships in U.S. shipyards based on the potential for successful operations when not involved in defense department operations.

Although it is not the responsibility of the Secretary of Defense to monitor commercial shipping trade issues, it is within the purview of the Secretary to assess and report to Congress on the Defense Department's ability to provide the required strategic sealift.

Thus, the Secretary is directed to notify Congress when he determines that a strategic sealift deficiency exists, and measures to correct such a deficiency are not being undertaken because of the unwillingness of commercial ship owners to participate in the NDF program.

Assignment of members to assist border patrol and control

The House amendment contained a provision (sec. 1024) that would authorize the use of military personnel to assist the Immigration and Naturalization Service and the Customs Service in preventing the entry of terrorists, drug traffickers, weapons of mass destruction, illegal narcotics and related items into the United States.

The Senate bill contained no similar provision.

The House recedes.

In the wake of the events of September 11, the conferees believe that a full review of the strategy, roles and responsibilities of the Department of Defense in combating terrorism is warranted. Therefore, the conferees direct elsewhere in this report that the Secretary of Defense conduct a study of the appropriate role of the Department with respect to homeland security and report to Congress on such matters.

Authority to pay gratuity to members of the armed forces and civilian employees of the United States for slave labor performed for Japan during World War II

The Senate bill contained a provision (sec. 1064) that would authorize the Secretary of Veterans Affairs to pay a $20,000 gratuity to a veteran or civilian internee who: (1) served in or with United States combat forces during World War II; (2) was captured and held as a prisoner of war by Japan; and (3) was required to perform slave labor for Japan.

The House amendment contained no similar provision.

The Senate recedes.

Contingent authorization of appropriations

The Senate bill contained a title (title XIII) making the authorization of certain funds contingent upon future action by the Congress.

The House amendment contained no similar provision.

The Senate recedes.

Demilitarization of significant military equipment

The Senate bill contained a provision (sec. 1062) that would provide authority to ensure demilitarization of significant military equipment formerly owned by the Department of Defense (DOD).

The House amendment contained no similar provision.

The Senate recedes.

Information and recommendations on congressional reporting requirements applicable to the Department of Defense

The Senate bill contained a provision (sec. 1021) that would require the Secretary of Defense to identify recurring reporting requirements in the Department of Defense (DOD) that the Secretary believes to be unnecessary.

The House amendment contained no similar provision.

The Senate recedes.

Reductions in authorizations of appropriations for Department of Defense for management efficiencies

The Senate bill contained a provision (sec. 1002) that would have reduced the amounts authorized to be appropriated to the Department of Defense for fiscal year 2002 by $1.6 billion to reflect savings to be achieved through the implementation of the provisions of title VIII of the Senate bill and other management efficiencies.

The House amendment contained no similar provision.

The Senate recedes.

The conferees agreed to reductions of $1.3 billion for management reform initiatives. These reductions are included in titles I, II and III of this Act.

Release of restriction on use of certain vessels previously authorized to be sold

The Senate bill contained a provision (sec. 1220) that would relax certain restrictions placed on the sale of two vessels authorized by section 3603(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

The House amendment contained no similar provision.

The Senate recedes.

Revision in types of excess naval vessels for which approval by law is required for disposal to foreign nations

The House amendment contained a provision (sec. 1011) that would amend subsection (a) of section 7307 of title 10 to change the requirement for specific congressional approval of disposal of vessels to foreign nations from "naval vessels" to "combatant naval vessels."

The Senate bill contained no similar provision.

The House recedes.

Revision of annual report to Congress on National Guard and reserve component equipment

The House amendment contained a provision (sec. 1033) that would revise the annual report to Congress on National Guard and reserve component equipment.

The Senate bill contained no similar provision.

The House recedes.

Sense of the Senate that the Secretary of the Treasury should immediately issue savings bonds, to be designated as "Unity Bonds"

The Senate bill contained a provision (sec. 1074) that would express the sense of the Senate that the Secretary of the Treasury should immediately issue savings bonds, to be designated as "Unity Bonds," in response to the terrorist attacks against the United States on September 11, 2001.

The House amendment contained no similar provision.

The Senate recedes.

The decision not to include this provision in this conference report does not reflect any change in the strong support for the issuance of savings bonds in both Houses of Congress, as expressed by the Senate when it approved this provision and by the House of Representatives when it approved H.R. 2899, the "Freedom Bonds Act of 2001".

Transfer of Vietnam-era F-4 to non-profit museum

The House amendment contained a provision (sec. 1044) that would authorize the Secretary of the Air Force to convey a surplus F-4 aircraft to the National Aviation Museum and Foundation of Oklahoma.

The Senate bill contained no similar provision.

The House recedes.

TITLE XI—CIVILIAN PERSONNEL

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Department of Defense Civilian Personnel

Personnel pay and qualifications authority for Department of Defense Pentagon Reservation civilian law enforcement and security force (sec. 1101)

The Senate bill contained a provision (sec. 1075) that would authorize the Secretary of Defense to establish pay rates for Pentagon civilian law enforcement and security personnel that are comparable to other federal law enforcement and security organizations within the vicinity of the Pentagon.

The House amendment contained no similar provision.

The House recedes.

Pilot program for payment of retraining expenses (sec. 1102)

The House amendment contained a provision (sec. 1102) that would authorize the Department of Defense (DOD) to establish a pilot program to pay retraining expenses for DOD employees scheduled for involuntary separation.

The Senate bill contained a similar provision (sec. 1123).

The Senate recedes with a clarifying amendment.

Authority of civilian employees to act as notaries (sec. 1103)

The Senate bill contained a provision (sec. 584) that would clarify the authority of civilian attorneys in military legal assistance offices and certain civilian employees to perform notarial acts.

The House amendment contained a similar provision (sec. 1109).

The House recedes.

Authority to appoint certain health care professionals in the excepted service (sec. 1104)

The Senate bill contained a provision (sec. 1125) that would authorize the Secretary of Defense to exempt certain health care professionals from examination for appointment in the competitive civil service.

The House amendment contained no similar provision.

The House recedes with an amendment that would authorize the Secretary of Defense to appoint certain health care professionals in the excepted service without regard to certain provisions of chapter 33 of title 5, United States Code regarding examination, certification, and appointment in the civil service.

Subtitle B—Civilian Personnel Management Generally

Authority to provide hostile fire pay (sec. 1111)

The Senate bill contained a provision (sec. 622) that would authorize hostile fire or imminent danger pay for civilians.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment that removes limitations to duty in the United States and duty in specified areas of the Pentagon.

Payment of expenses to obtain professional credentials (sec. 1112)

The House amendment contained a provision (sec. 1103) that would authorize federal agencies to pay for employee credentials, professional licenses, and professional certification.

The Senate bill contained a similar provision (sec. 1126).

The Senate recedes.

Parity in establishment of wage schedules and rates for prevailing rate employees (sec. 1113)

The House amendment contained a provision (sec. 1110) that would require the Department of Defense, when establishing wage schedules and rates for prevailing wage employees, to consider rates paid for comparable positions in private industry in the nearest wage area that is most similar to the wage area for which wage rates are being established when there are insufficient positions in the local industry upon which to establish wage schedules and rates.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment that would make this provision effective on the first normal effective date of the applicable wage survey adjustment occurring after the enactment of this Act.

Modification of limitation on premium pay (sec. 1114)

The House amendment contained a provision (sec. 1107) that would amend section 5547 of title 5, United States Code, to change the period used for limiting the amount of overtime pay an employee may earn from a biweekly to an annual basis, permitting more flexibility in scheduling overtime across the Federal Government.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would give heads of agencies discretionary authority to use the calendar year as the period for limiting the amount of overtime pay for employees performing work that is critical to the mission of the agency.

Participation of personnel in technical standards development activities (sec. 1115)

The Senate bill contained a provision (sec. 1124) that would authorize the use of appropriated funds for Department of Defense personnel to participate in meetings to set technical standards for products, manufacturing processes, and management practices.

The House amendment contained no similar provision.

The House recedes.

Retention of travel promotional items (sec. 1116)

The Senate bill contained a provision (sec. 1065) that would authorize federal employees of the Executive Branch, members of the foreign service, military members, and their family members to retain for personal use promotional items received as a result of using travel or transportation services paid for by the Executive Branch.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the benefit to employees of the Judicial Branch and certain employees of the Legislative Branch.

Applicability of certain laws to certain individuals assigned to work in the Federal Government (sec. 1117)

The House amendment contained a provision (sec. 1106) that would clarify that state and local government officials detailed to work in federal agencies are subject to the same standards of official conduct that apply to other federal employees.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Subtitle C—Intelligence Civilian Personnel

Authority to increase maximum number of positions in the Defense Intelligence Senior Executive Service (sec. 1121)

The Senate bill contained a provision (sec. 1101) that would authorize the Secretary of Defense to increase the number of Defense Intelligence Senior Executive Service positions by the number of Senior Intelligence Service positions eliminated from the Central Intelligence Agency.

The House amendment contained no similar provision.

The House recedes with an amendment that would increase the maximum number of positions in the Defense Intelligence Senior Executive Service from 517 to 544.

The conferees intend that the increase of 27 Defense Intelligence Senior Executive Service positions is to meet the increased senior level requirements of the National Imagery and Mapping Agency (NIMA) resulting from the transfer of responsibilities from the Central Intelligence Agency to NIMA.

Subtitle D—Matters Relating to Retirement

Improved portability of retirement coverage for employees moving between civil service employment and employment by nonappropriated fund instrumentalities (sec. 1131)

The Senate bill contained a provision (sec. 1112) that would remove the requirement that employees who transfer between nonappropriated and appropriated fund employment systems have five or more years of service in a system to elect to continue in the Civil Service Retirement System, Federal Employees Retirement System, or Nonappropriated Fund Retirement System, as applicable.

The House amendment contained a similar provision (sec. 1104).

The House recedes.

Federal employment retirement credit for nonappropriated fund instrumentality service (sec. 1132)

The Senate bill contained a provision (sec. 1111) that would authorize federal employees the opportunity to elect to receive either Civil Service Retirement System or Federal Employees Retirement System credit for prior nonappropriated fund service.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Modification of limitations on exercise of voluntary separation incentive pay authority and voluntary early retirement authority (sec. 1133)

The Senate bill contained a provision (sec. 1113) that would authorize the Secretary of Defense, during fiscal year 2003, to use voluntary separation incentives and voluntary early retirement authority for workforce restructuring to meet mission needs, achieve strength reductions, correct skill imbalances or reduce the number of high-grade, managerial, or supervisory positions.

The House amendment contained no similar provision.

The House recedes with an amendment that would establish a limit of 2000 employees in fiscal year 2002 and 6000 employees in fiscal year 2003 who could be separated under this provision, and would provide that this provision may be superceded by another provision of law taking effect after the effective date of this Act.

LEGISLATIVE PROVISIONS NOT ADOPTED

Continued applicability of certain civil service protections for employees integrated into the National Imagery and Mapping Agency from the Defense Mapping Agency

The Senate bill contained a provision (sec. 1102) that would clarify that former Defense Mapping Agency personnel transferred into the National Imagery and Mapping Agency pursuant to the National Defense Authorization Act for Fiscal Year 1997 retain certain civil service protections for as long as they remain Department of Defense employees employed without a break in service in the National Imagery and Mapping Agency.

The House amendment contained no similar provision.

The Senate recedes.

Removal of requirement that granting civil service compensatory time be based on amount of irregular or occasional overtime work

The House amendment contained a provision (sec. 1105) that would repeal the requirement that compensatory time only be granted to federal employees if the overtime performed is irregular or occasional.

The Senate bill contained no similar provision.

The House recedes.

Undergraduate training program for employees of the National Imagery and Mapping Agency

The House amendment contained a provision (sec. 1101) that would authorize the National Imagery and Mapping Agency to establish an undergraduate training program to recruit employees with critical skills.

The Senate bill contained no similar provision.

The House recedes.

Use of common occupational and health standards as a basis for differential payments made as a consequence of exposure to asbestos

The House amendment contained a provision (sec. 1108) that would establish a common standard for payment of hazardous duty differential pay for reason of exposure to asbestos for prevailing rate and general schedule federal employees.

The Senate bill contained no similar provision.

The House recedes.

The conferees direct the Secretary of Defense to coordinate with interested parties to develop an appropriate standard for exposure to asbestos for prevailing rate and general schedule federal employees, taking into account the nature of the work and the increased likelihood of exposure to asbestos of prevailing rate and general schedule federal employees.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Matters Related to Arms Control and Monitoring

Clarification of authority to furnish nuclear test monitoring equipment to foreign governments (sec. 1201)

The Senate bill contained a provision (sec. 1214) that would amend section 1203 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 to clarify that the Department of Defense has the authority to transfer title of existing nuclear test monitoring equipment to foreign host nation governments, and to inspect and maintain such equipment to ensure that it continues to provide the data needed to satisfy United States nuclear test monitoring requirements. The provision would also redesignate the existing authority as section 2565 of title 10, United States Code.

The House amendment contained a similar provision.

The House recedes with a technical amendment.

Limitation on funding for Joint Data Exchange Center in Moscow (sec. 1202)

The House amendment contained a provision (sec. 1204) that would prohibit the Secretary of Defense from obligating or expending any fiscal year 2002 funds for the Joint Data Exchange Center (JDEC) in Moscow until 30 days after the Secretary of Defense submits to the congressional defense committees an agreement between the United States and Russia to share the costs of the JDEC and to exempt U.S. government personnel from liability under Russian laws for activities associated with the JDEC.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would prohibit 50 percent of the funds available for the JDEC from being obligated or expended until the agreement is submitted to the congressional defense committees.

The conferees believe that the JDEC is an important element of the increased cooperation between the United States and Russia and urge the Secretary to complete the necessary negotiations as quickly as possible.

Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities (sec. 1203)

The House amendment contained a provision (sec. 1205) that would extend the authority under section 1505 of the Weapons of Mass Destruction Act of 1992 (section 5859a of title 22, United States Code) for the Department of Defense to expend up to $15.0 million in fiscal year 2002 in support of United Nations-sponsored inspection and monitoring efforts in Iraq. The provision would also change the requirement for quarterly reports by the Department of Defense to an annual report.

The Senate bill contained a provision (sec. 1211) that would similarly extend the authority to expend $15.0 million in support of the United Nations-sponsored inspection and monitoring effort but did not change the requirement for quarterly reports.

The House recedes.

Authority for employees of Federal Government contractors to accompany chemical weapons inspection teams at government-owned facilities (sec. 1204)

The Senate bill contained a provision (sec. 1215) that would amend section 303(b)(2) and section 304(c) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6723(b)(2) and 6724(c)) to permit Federal Government contractor personnel to participate in inspections of United States Government-owned facilities conducted under that Act if led by a Federal Government employee.

The House amendment contained a similar provision.

The Senate recedes with a technical amendment.

Plan for securing nuclear weapons, material, and expertise of the states of the former Soviet Union (sec. 1205)

The House amendment contained a provision (sec. 1051) that would direct the President to submit to Congress a plan for cooperation with Russia to dispose of excess nuclear materials and nuclear weapons, and to prevent the outflow of Russian scientific expertise in the area of weapons of mass destruction. The provision included specific plan elements and required the President to consult with Russia and Congress in developing the plan.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The amendment expands the scope of the plan to include the other states of the former Soviet Union and adds the requirement that the plan include programs to assist Russia in downsizing its nuclear weapons research and production complex. In addition, the amendment requires the President to consider establishing an interagency committee to coordinate and monitor the nonproliferation efforts of the United States, to recommend policy and budget options for the U.S. nonproliferation program, and to encourage increased coordination with and greater participation of international partners, including efforts to increase international contributions for such programs.

The conferees note that the administration has been reviewing the current nonproliferation programs. The conferees urge the administration to bring this review to a close, decide on a path forward for these important programs, and implement a coordinated government-wide nonproliferation strategy as soon as possible. As President Bush stated in his November 13, 2001 joint statement with Russian President Putin: "Our highest priority is to keep terrorists from acquiring weapons of mass destruction. Today we agreed that Russian and American experts will work together to share information and expertise to counter the threat from bioterrorism. We agreed that it is urgent that we improve the physical protection and accounting on nuclear materials and prevent illicit nuclear trafficking."

Subtitle B—Matters Relating to Allies and Friendly Foreign Nations

Acquisition of logistical support for security forces (sec. 1211)

The House amendment contained a provision (sec. 1202) that would amend the Multinational Force and Observers (MFO) Participation Resolution (Public Law 97-132) to authorize the President to approve contracting out the logistical and aviation support for the MFO mission currently performed by U.S. soldiers. The provision would also provide that U.S. sponsored contract support could be provided to the MFO mission without reimbursement if the President determines that such action enhances or supports the national security of the United States.

The Senate bill contained an identical provision (sec. 1217).

The conference agreement includes this provision.

Extension of authority for international cooperative research and development projects (sec. 1212)

The Senate bill contained a provision (sec 1212) that would amend section 2350 of title 10, United States Code, to expand the entities, to include friendly foreign countries, with which the Department of Defense is authorized to enter into cooperative research and development agreements.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment and an amendment that requires the Secretary of Defense to submit a report to Congress 30 days prior to implementation of any proposed memorandum of understanding (or other formal agreement) for cooperative research and development with a country that is not a NATO member nation or a major non-NATO ally.

Cooperative agreements with foreign countries and international organizations for reciprocal use of test facilities (sec. 1213)

The Senate bill contained a provision (sec. 1213) that would authorize the Secretary of Defense, with the concurrence of the Secretary of State, to enter into a memorandum of understanding with a foreign country or international organization to provide for the testing, on a reciprocal basis, of defense equipment. The provision would require the charging of direct costs and would authorize the charging of indirect costs, but only to the extent specified in the memorandum or other agreement.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Sense of Congress on allied defense burdensharing (sec. 1214)

The Senate bill contained a provision (sec. 1219) that would express the sense of the Senate that the efforts of the President to increase burdensharing by allied and friendly nations deserve strong support. The provision also expressed the sense of the Senate that host nation support agreements with those nations in which U.S. military personnel are permanently assigned should be negotiated consistent with section 1221(a)(1) of the National Defense Authorization Act for Fiscal Year 1998, which sets forth a goal of obtaining financial contributions from such host nations that amount to 75 percent of the nonpersonnel costs.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment and an amendment that makes the provision a sense of Congress.

Subtitle C—Reports

Report on significant sales and transfers of military hardware, expertise, and technology to the People's Republic of China (sec. 1221)

The House amendment contained a provision (sec. 1203) that would amend section 1202 of the National Defense Authorization Act for Fiscal Year 2000. This amendment would require the Secretary of Defense to submit, as part of the existing report requirement, a one-time report to the Congress no later than March 1, 2002 on the transfer of equipment, expertise, and technology from the former Soviet states to the People's Republic of China.

The Senate bill contained no such provision.

The Senate recedes with an amendment that would require the Secretary of Defense to report to Congress on significant transfers of equipment, expertise and technology to the People's Republic of China. The amendment would remove the reference to the former states of the Soviet Union, and modifies the reporting requirement.

Repeal of requirement for reporting to Congress on military deployments to Haiti (sec. 1222)

The House amendment contained a provision (sec. 1206) that would repeal the report required by section 1232 of the National Defense Authorization Act for Fiscal Year 2000 concerning military deployments to Haiti.

The Senate bill contained no similar provision.

The Senate recedes.

Report by Comptroller General on provision of defense articles, services, and military education and training to foreign countries and international organizations (sec. 1223)

The House amendment contained a provision (sec. 1207) that would require the Comptroller General of the United States to study the benefits, costs, and readiness impact to the U.S. Armed Forces with regard to defense articles, services, or military education and training provided under the authority of the Foreign Assistance Act of 1961 (Public Law 87-195 as amended) or any similar provision of law. The provision would require the Comptroller General to submit to Congress an interim report no later than April 15, 2002, and a final report by August 1, 2002, on the findings of the study.

The Senate bill contained no similar provision.

The Senate recedes.

Legislative Provisions Not Adopted

Limitation on number of military personnel in Colombia

The House amendment contained a provision (sec. 1208) that would limit to 500 the number of U.S. military personnel authorized to be on duty in the Republic of Colombia at any time. The limit would not apply to military personnel deployed to Colombia for the purpose of rescuing or retrieving U.S. Government personnel, military personnel attached to the U.S. Embassy, military personnel engaged in relief operations, or nonoperational transient military personnel.

The Senate bill contained no similar provision.

The House recedes.

Title XIII—Cooperative Threat Reduction With States of the Former Soviet Union

Legislative Provisions Adopted

Specification of Cooperative Threat Reduction programs and funds (sec. 1301)

The Senate bill contained a.provision (sec. 1201) that would define the Cooperative Threat Reduction (CTR) program, define the CTR funds as those authorized to be appropriated in section 301 of this conference report, and authorize the CTR funds to be available for obligation for three fiscal years.

The House amendment contained an identical provision (sec. 1301).

The conference agreement includes this provision.

Funding allocations (sec. 1302)

The Senate bill contained a provision (sec. 1202) that would authorize $403.0 million, the amount included in the budget request, for the Cooperative Threat Reduction (CTR) programs. The provision would also establish the funding levels for each of the program elements in the CTR program and provide limited authority to vary the amounts for specific program elements.

The House amendment contained a similar provision (sec. 1302).

The Senate recedes with a technical amendment.

The conferees include a provision that would authorize $403.0 million for the CTR programs, specify the funding levels for the component parts of the program, and provide limited authority to vary the amounts for specific program elements. The provision combines the amounts provided for chemical weapons destruction activity in Russia into a single category. The conferees have excluded nuclear weapons transportation security from the funding limitation. The provision would also remove the funding limitation for nuclear weapons transportation security contained in section 1302 (c)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Limitation on use of funds until submission of reports (sec. 1303)

The House amendment contained a provision (sec. 1303) that would prohibit the obligation or expenditure of fiscal year 2002 Cooperative Threat Reduction (CTR) program funds until 30 days after submission of the reports required by section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would prohibit the Secretary of Defense from spending more than 50 percent of the funds available for the CTR program for fiscal year 2002 until the Secretary submits the reports required by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Requirement to consider use of revenue generated by activities carried out under Cooperative Threat Reduction programs (sec. 1304)

The House amendment contained a provision (sec. 1304) that would require the Secretary of Defense to submit a report describing plans to monitor the use of revenue generated by Cooperative Threat Reduction (CTR) program activities in Russia and Ukraine.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of Defense to consider the revenue generated by CTR program-related activities in Russia when carrying out the CTR program.

Prohibition against use of funds for second wing of fissile material storage facility (sec. 1305)

The House amendment contained a provision (sec. 1305) that would prohibit the use of all Cooperative Threat Reduction (CTR) program funds for construction of a second wing for the fissile material storage facility in Mayak, Russia. The provision would also cap the amount of funds spent on the first wing of the facility at $412.6 million.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would prohibit fiscal year 2002 CTR funds, and CTR funds previously authorized and appropriated, from being used to construct a second wing of the storage facility for fissile material storage in Mayak, Russia. The conferees believe that if the Department of Defense should decide in the future that a second wing of the facility is needed, the Secretary should specifically request funds for this purpose. The provisions would also clarify that the spending cap on the Mayak facility would not apply to any expenditures related to security.

Prohibition against use of funds for certain construction activities (sec. 1306)

The House amendment contained a provision (sec. 1306) that would prohibit the use of Cooperative Threat Reduction (CTR) program funds from being used for construction or refurbishment of fossil fuel energy plants in Russia.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would prohibit the use of fiscal year 2002 funds from being used for construction activities associated with the program with the Russian government to eliminate the production of weapons grade plutonium. The conferees direct the Secretary of Defense to use the funds authorized in section 1302 to identify a workable cooperative program and plan that would allow these reactors to be shut down or to stop producing plutonium as quickly and as inexpensively as possible. The plan should include specific milestones and budgetary information for all construction, manufacturing, and operational costs associated with the plan. In formulating the approach, the Secretary should take into consideration the ability of the Russian government and the international community to contribute to this effort. The conferees continue to support the goal of eliminating plutonium production and urge the Secretary to request funds in the future for this effort to support an agreed-upon program plan. The conferees note that this program has been delayed by the lack of an agreed-upon program plan for several years.

Reports on activities and assistance under Cooperative Threat Reduction programs (sec. 1307)

The House amendment contained a provision (sec. 1307) that would amend section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 to modify the report on activities and assistance under Cooperative Threat Reduction (CTR) programs.

The Senate bill contained no similar provision.

The Senate recedes.

Chemical weapons destruction (sec. 1308)

The Senate bill contained a provision (sec. 1203) that would amend section 1305 of the National Defense Authorization Act for Fiscal Year 2000 to establish a certification process by the Secretary of Defense that must be completed before any funds could be spent for construction of a chemical weapons destruction facility at Shchuch'ye, Russia. The provision would also provide authority for the President to waive the prerequisite dealing with information provided by Russia about its stockpile of chemical munitions. The provision also required a commitment on the part of others to assist with the costs related to the facility.

The House amendment contained a similar provision (sec. 1309) that would require preconditions but did not provide authority to waive the one prerequisite and did not contain the requirement for a commitment by others to assist with the costs.

The Senate recedes with an amendment that would include the requirement on cost contributions by others and would clarify the requirements of the certification with respect to the Russian disclosure of its chemical weapons. This clarification will allow the certification to be made as soon as the United States assesses that the disclosure by Russia is accurate. The conferees believe that the certification, as clarified, can be made promptly, and thus believe that the waiver authority is not required. The conferees support this important program and urge the Secretary to implement this program as soon as possible.

Additional matter in annual report on activities and assistance under Cooperative Threat Reduction programs (sec. 1309)

The Senate bill contained a provision (sec. 1205) that would amend the annual report to include a new section describing the amount of the annual commitment from the international community and from Russia for the chemical weapons destruction facility at Shchuch'ye.

The House amendment contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Report on responsibility for carrying out Cooperative Threat Reduction programs

The House amendment contained a provision (sec. 1308) that would require the Secretary of Defense to submit a report containing an assessment of Cooperative Threat Reduction (CTR) projects currently under the auspices of the Department of Defense (DOD) and describing options for transferring responsibility for CTR projects to other agencies, as appropriate.

The Senate bill contained a related provision (sec. 1204) that would require the CTR program to continue to be financed, managed, and implemented by the DOD.

The House recedes and the Senate recedes.

The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (NDAA) directed the Secretary to submit a report similar to that requested in the House provision. The Secretary has not submitted this report, which was due in January, 2001. The conferees are aware that the report is complete. The conferees urge the Secretary to submit the required report and other required reports on the CTR program, which are also late, as quickly as possible. The conferees note that in spite of statutory changes made in the NDAA to the reporting requirements to accommodate DOD concerns, the DOD still has not submitted the reports required by law.

TITLE XIV—ARMED FORCES RETIREMENT HOME

LEGISLATIVE PROVISIONS ADOPTED

Amendment of Armed Forces Retirement Home Act of 1991 (sec. 1401)

The Senate bill contained a provision (sec. 1041) that would revise the Armed Forces Retirement Home Act of 1991 to implement changes resulting from a Department of Defense review of the management structure of the Armed Forces Retirement Home.

The House amendment contained no similar provision.

The House recedes.

The conferees note that the organizational and operational changes reflected in Title XIV reflect the collective judgment and recommendations of the Assistant Secretary of Defense (Force Management Policy), the Vice Chief of Staff of the Army, the Vice Chief of Naval Operations, the Vice Chief of Staff of the Air Force, and the Assistant Commandant of the Marine Corps. The conferees compliment the determined efforts of all involved in reaching a consensus on initiatives to be taken. The commitment of the Department of Defense and the services to the operational efficiency and fiscal well-being of the Armed Forces Retirement Homes is an essential precondition for success.

The conferees anticipate that the legislative changes in Title XIV will be complemented by additional departmental and service initiatives (e.g., implementation of a fifty cent increase in the active duty military payroll deduction and recapitalization of facilities). To this end, the conferees urge the Committees on Armed Services of the Senate and the House of Representatives to provide maximum opportunities during the second session of the 107th Congress for interested individuals and groups to provide information and recommendations for additional improvements needed in the management and organization of the Armed Forces Retirement Homes.

Definitions (sec. 1402)

The Senate bill contained a provision (sec. 1042) that would define the terms Retirement Home, Local Board, Armed Forces Retirement Home Trust Fund, and Fund.

The House amendment contained no similar provision.

The House recedes.

Revision of authority establishing the Armed Forces Retirement Home (sec. 1403)

The Senate bill contained a provision (sec. 1043) that would establish the Armed Forces Retirement Home as an independent establishment of the Executive Branch to provide residences and related services for certain retired and former members of the armed forces.

The House amendment contained no similar provision.

The House recedes.

Chief Operating Officer (sec. 1404)

The Senate bill contained a provision (sec. 1044) that would authorize the Secretary of Defense to appoint a Chief Operating Officer for the Retirement Home who would be responsible for the overall direction, operation, and management of the Armed Forces Retirement Home and who would report to the Secretary of Defense.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Residents of Retirement Home (sec. 1405)

The Senate bill contained a provision (sec. 1045) that would repeal the requirement for a resident to reapply for acceptance as a resident when absent from the home for more than 45 consecutive days and establish fees to be paid by residents.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Local boards of trustees (sec. 1406)

The Senate bill contained a provision (sec. 1046) that would require the Secretary of Defense to appoint a local board of trustees for each facility of the Armed Forces Retirement Home to serve in an advisory capacity to the Director of the facility and to the Chief Operating Officer.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Directors, Deputy Directors, Associate Directors, and staff of facilities (sec. 1407)

The Senate bill contained a provision (sec. 1047) that would require the Secretary of Defense to appoint a Director and a Deputy Director for each facility of the Armed Forces Retirement Home.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment that would also require appointment of an Associate Director to serve as an ombudsman for the residents and to perform other duties assigned by the Director.

Disposition of effects of deceased persons and unclaimed property (sec. 1408)

The Senate bill contained a provision (sec. 1048) that would authorize the Director of a facility of the Armed Forces Retirement Home to designate an attorney who is a full-time officer or employee of the United States or a member of the armed forces on active duty to serve as attorney or agent for the facility in certain probate proceedings.

The House amendment contained no similar provision.

The House recedes.

Transitional provisions (sec. 1409)

The Senate bill contained a transitional provision (sec. 1049) that would authorize the Armed Forces Retirement Home Board to continue to serve and perform the duties of the Chief Operating Officer until the Secretary of Defense appoints the first Chief Operating Officer, and for the temporary continuation of the Director of the Armed Forces Retirement Home—Washington and the incumbent Deputy Directors.

The House amendment contained no similar provision.

The House recedes.

Conforming and clerical amendments and repeals of obsolete provisions (sec. 1410)

The Senate bill contained a provision (sec. 1050) that would make conforming technical amendments to title 24, United States Code.

The House amendment contained no similar provision.

The House recedes.

Legislative Provisions Not Adopted

Amendments of other laws

The Senate bill contained a provision (sec. 1051) that would amend section 4301(2) of title 5, United States Code, to exclude the Chief Operating Officer and the Deputy Directors of the Armed Forces Retirement Home from the definition of employee for purposes of performance appraisals under chapter 43 of title 5, United States Code.

The House amendment contained no similar provision.

The Senate recedes.

Title XV—Activities Relating To Combating Terrorism

Legislative Provisions Adopted

Subtitle A—Increased Funding for Combating Terrorism

Authorization of emergency appropriations under the 2001 Emergency Supplemental Appropriations Act for Recovering From and Response to Terrorist Attacks on the United States (secs. 1501–1506)

The Senate bill contained a provision (sec. 1010) that would authorize the supplemental appropriations for the Department of Defense enacted in the Emergency Terrorist Response Supplemental Appropriations Act, 2001 (Public Law 107–38), which provided supplemental funding for Department of Defense programs in response to terrorist attacks against the United States. The Senate bill would also require quarterly reports by the Secretary of Defense to the Committees on Armed Services of the Senate and the House of Representatives on the use of funds made available to the Department of Defense, as well as reports on the allocation of funds under that Act that are made available to the Department of Defense subject to the 15-day notification requirement.

The House amendment contained no similar provision.

The House recedes with an amendment that would: authorize supplemental appropriations for the Department of Defense and the national security activities of the Department of Energy, including the National Nuclear Security Administration, for combating terrorism for fiscal year 2001 and 2002, including the use of such appropriations to carry out military construction projects; and clarify the reporting requirement. The conferees expect the information provided by the Department of Defense and the Department of Energy on the use of funds appropriated in this supplemental, regardless of whether the funds were available immediately, subject to 15-day notification, or required subsequent appropriation by Congress, to be consistent with the level of detail provided for previous supplementals, including a description of the accounts and programs for which the funds were used for each service.

Subtitle B—Policy Matters Relating To Combating Terrorism

Study and report on the role of the Department of Defense with respect to homeland security (sec. 1511)

The Senate bill contained a provision (sec. 1022) that directed the Secretary of Defense to submit a report to Congress on the Department of Defense (DOD) policies, plans and procedures for combating terrorism. The intent of the provision was to achieve a clear description of the structure, strategy, roles, relationships and responsibilities of the various DOD entities with responsibilities relating to combating terrorism. The report was to serve as the means for the single designated civilian in the DOD to address the various issues pertaining to combating terrorism.

The House amendment contained four provisions related to the Department's role in homeland security or combating terrorism. One provision (sec. 1032) required the Secretary of Defense to submit to Congress a report on the appropriate role of the DOD in homeland security matters. A second House provision (sec. 1511) required the Secretary of Defense to submit to Congress and the President a report containing an assessment of the Department's ability to provide support for the consequence management activities of other federal, state, and local agencies, taking into account the terrorist attacks on the United States on September 11, 2001. A third House provision (sec. 1512) directed the Secretary of Defense to report on the ability of the DOD to protect the United States from airborne threats, including those originating from within U.S. borders. A fourth House provision (sec. 1514) directed the Secretary of Defense to seek an agreement with the Directors of the Federal Bureau of Investigation and Federal Emergency Management Agency that clarifies the roles and missions of the DOD Weapons of Mass Destruction-Civil Support Teams (WMD-CSTs) relative to those agencies in crisis response and consequence management efforts.

The conferees agreed to merge the four House amendment provisions into the Senate bill provision. The conferees direct the Secretary of Defense to conduct a study on the appropriate role for the Department of Defense with respect to homeland security. The study would include a description of the plans, policies, and procedures of the Department of Defense for combating terrorism. It would also identify how the DOD will interact with the Office of Homeland Security, and how intelligence-sharing efforts of the Department will be coordinated relative to other federal, state and local entities. In addition, the report would address the ability of the DOD to protect the United States from airborne attacks, and the manner in which the WMD-CSTs interact with lead federal agencies during crisis response or consequence management situations. The report will also discuss improvements that could be made to enhance homeland security and recommended actions and programs aimed at addressing vulnerabilities.

Combating Terrorism Readiness Initiatives Fund for combatant commands (sec. 1512)

The Senate bill contained a provision (sec. 1008) that would codify in title 10, United States Code, the authority and specific activities to be funded under the Combating Terrorism Readiness Initiative Fund.

The House amendment contained no similar provision.

The House recedes.

Conveyances of equipment and related materials loaned to state and local governments as assistance for emergency response to a use or threatened use of a weapon of mass destruction (sec. 1513)

The Senate bill contained a provision (sec. 1063) that would require the Department of Defense (DOD) to transfer to state and local authorities training equipment it has loaned to them as part of the Domestic Preparedness Program, which was established in accordance with the Defense Against Weapons of Mass Destruction Act of 1996 (otherwise known as the Nunn-Lugar-Domenici Act) (Title XIV of the National Defense Authorization Act for Fiscal Year 1997).

The equipment was purchased by the Department on behalf of cities participating in the Domestic Preparedness Program. That equipment has been permanently retained and maintained on loan due to the legal prohibition against transferring DOD property directly to non-Federal Government agencies. As a result, the Department has been required to inventory, and to hold some liability for, this equipment. In addition, local authorities have incurred the additional task of maintaining records to DOD standards. This one-time transfer was intended to eliminate the financial cost, labor and liabilities associated with this equipment so long as it remains DOD property.

The House amendment contained no similar provision.

The House recedes.

The conferees agree that this is a one-time transfer and will not set any precedent.

Two-year extension of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (sec. 1514)

The House amendment contained a provision (sec. 1052) that would amend section 1405 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 to extend the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (WMD) by two additional years. The life of the panel would thereby be extended until 2003.

The Senate bill contained no such provision.

The Senate recedes with an amendment to provide compensation to the members of the panel for the days that they serve from the enactment of this Act until they complete their work in 2003.

The conferees recognize that the panel can continue to provide valuable assessments and recommendations to the Federal Government in its efforts to improve federal homeland security efforts. The conferees expect that the panel will study not only WMD, but also conventional and cyber terrorist threats.

LEGISLATIVE PROVISIONS NOT ADOPTED

Establishment of combating terrorism as a national security mission

The House amendment contained a provision (sec. 1513) that would amend section 108(b)(2) of the National Security Act of 1947 to establish that acts of terrorism are included in the term "aggression."

The Senate bill contained no similar provision.

The House recedes.

The conferees note that there is general agreement that acts of terrorism are included in the term "aggression."

TITLE XVI—UNIFORMED SERVICES VOTING

LEGISLATIVE PROVISIONS ADOPTED

Sense of Congress regarding the importance of voting (sec. 1601)

The Senate bill contained a provision (sec. 571) that would express the sense of the Senate that each administrator of a federal, state, or local election should be aware of the importance of the ability of each uniformed services voter to exercise the right to vote; that the administrators should perform their duties with the intent to ensure that each uniformed services voter receives the utmost consideration and cooperation when voting; that each valid ballot cast by such a voter is duly counted; and that all eligible American voters should have an equal opportunity to cast a vote and to have that vote counted.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment that would express a sense of the Congress.

Voting assistance programs (sec. 1602)

The Senate bill contained a provision (sec. 578) that would require the Secretary of Defense to promulgate regulations to ensure that each service complies with directives implementing the Federal Voting Assistance Program (FVAP) and require the Inspector General of each service to conduct an annual review of compliance with the FVAP and report the results to the Department of Defense Inspector General, who would report annually to Congress.

The House amendment contained a similar provision (sec. 551) that would also establish certain requirements for voting assistance officers, and require polling of units and ships at sea regarding the availability of voting materials prior to congressional elections.

The House recedes with an amendment that would combine elements of the two provisions.

Guarantee of residency for military personnel (sec. 1603)

The Senate bill contained a provision (sec. 573) that would provide that for purposes of voting in any federal, state or local election, a person absent from a state pursuant to military orders would not, solely by reason of that absence, be deemed to have: (1) lost a residence or domicile in that state; (2) acquired a residence or domicile in another state; or (3) become a resident in or of any other state.

The House amendment contained no similar provision.

The House recedes.

Electronic voting demonstration project (sec. 1604)

The Senate bill contained a provision (sec. 577) that would require the Department of Defense to conduct an electronic voting demonstration for absent military voters in the November, 2002, federal elections.

The House amendment contained a similar provision (sec. 552).

The House recedes with a clarifying amendment.

The conferees are aware of the Department's concern about having sufficient lead time to prepare for a meaningful demonstration project in 2002. The conferees encourage the Department to consider use of commercially available, off-the-shelf, electronic voting products to expedite preparation for the 2002 demonstration.

Governors' reports on implementation of recommendations for changes in state law made under Federal Voting Assistance Program (sec. 1605)

The Senate bill contained a provision (sec. 580) that would require the chief executive officer of a state to report on the implementation of a uniformed services voting assistance legislative recommendation within 90 days of receipt of that recommendation.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Simplification of voter registration and absentee ballot application procedures for absent uniformed services and overseas voters (sec. 1606)

The Senate bill contained a provision (sec. 575) that would require states to accept and process the official postcard form as a simultaneous absentee voter register application and absentee ballot application. The Senate bill also contained a provision (sec. 576) that would require states to accept and process a single absentee ballot application from an absent uniformed services voter or overseas voter for all general, special, primary, and runoff federal elections occurring during a year if the application is received not less than 30 days before the first federal election occurring that year.

The House amendment contained no similar provision.

The House recedes with an amendment that would combine the two provisions and require states to provide absentee ballots for each subsequent federal election during a year only if the voter requests that the application be considered an application for each subsequent federal election.

Use of certain Department of Defense facilities as polling places (sec. 1607)

The House amendment contained a provision (sec. 2813) that would authorize the service secretaries to make buildings located on military installations and reserve component facilities available for use as polling places for federal, state, and local elections.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would permit use of Department of Defense facilities as polling places if the facilities were designated as of December 31, 2000, or have been used since January 1, 1996, as official polling places, unless local security conditions preclude such use.

LEGISLATIVE PROVISIONS NOT ADOPTED

Extension of registration and balloting rights for absent uniformed services voters to state and local elections

The Senate bill contained a provision (sec. 574) that would require states to permit uniformed services voters to use absentee procedures to register and vote in state and local elections.

The House amendment contained no similar provision.

The Senate recedes.

Maximization of access of recently separated uniformed service voters to the polls

The Senate bill contained a provision (sec. 579) that would require states to accept absentee registration applications by military personnel before they separate from the military and that would allow them, after they leave the military, to vote in any election for which they are properly registered.

The House amendment contained no similar provision.

The Senate recedes.

Standard for invalidation of ballots cast by absent uniformed services voters in federal elections

The Senate bill contained a provision (sec. 572) that would prescribe standards for invalidation of ballots cast by absent uniformed services voters in federal elections.

The House amendment contained no similar provision.

The Senate recedes.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Overview

The budget request for fiscal year 2002 requested authorization of appropriations of $9.971.3 million for the military construction and family housing construction and operation accounts of the Department of Defense.

The Senate bill would authorize $10,430.5 million for military construction and family housing.

The House amendment would authorize $10,324.7 million for these accounts.

The conferees recommend authorization of appropriations of $10,681.3 million for the military construction and family housing accounts of the Department of Defense for fiscal year 2002. Including the impact of reductions in the authorization of appropriations for military construction for prior years made in this Act, and of the rescission of military construction appropriations for prior years for foreign currency savings and for a Forward Operating Location in Aruba contained in the Military Construction Appropriations Act, 2002 (Public Law 107-64), the conference agreement is consistent with a budget authority level of $10,500.0 million for military construction and family housing.

The following tables list the amounts authorized to be appropriated for the military construction and family housing accounts, and for each military construction and family housing project.

Summary of
NATIONAL DEFENSE AUTHORIZATION FOR FY 2002
(In Thousands of Dollars)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Military Construction					
Military Construction, Army	1,760,541	1,686,601	1,635,341	(17,381)	1,743,160
Military Construction, Navy	1,071,408	1,159,654	1,146,948	53,459	1,124,867
Military Construction, Air Force	1,068,250	1,171,504	1,176,289	109,454	1,177,704
Military Construction, Defense-Wide	694,558	838,957	859,744	107,925	802,483
Military Construction, Army National Guard	267,389	301,915	360,240	125,861	393,251
Military Construction, Air National Guard	149,072	197,472	232,232	104,780	253,852
Military Construction, Army Reserve	111,404	173,017	111,404	57,565	168,969
Military Construction, Naval/MC Reserve	33,641	53,291	33,641	19,255	52,896
Military Construction, Air Force Reserve	53,732	79,132	53,732	19,300	73,032
Base Realignment and Closure IV	532,200	532,200	592,200	100,513	632,713
NATO Security Investment Program	162,600	162,600	162,600	-	162,600
Total Military Construction	5,904,795	6,359,343	6,364,371	680,734	6,585,529
Family Housing					
Family Housing Construction, Army	291,542	294,042	313,852	21,200	312,742
Family Housing Operations & Debt, Army	1,108,991	1,027,315	1,108,991	(19,418)	1,089,573
Family Housing Construction, Navy	304,400	333,180	312,591	27,380	331,780
Family Housing Operations & Debt, Navy	918,095	900,171	918,095	(8,000)	910,095
Family Housing Construction, Air Force	518,237	536,237	542,381	32,466	550,703
Family Housing Operations & Debt, Air Force	869,121	818,293	869,121	(24,406)	844,715
Family Housing Construction, Defense Wide	250	250	250	-	250
Family Housing Operations & Debt, Defense	43,762	43,762	43,762	-	43,762
Family Housing Improvement Fund	2,000	2,000	2,000	-	2,000
Homeowners Assistance Fund	10,119	10,119	10,119	-	10,119
Total Family Housing	4,066,517	3,965,369	4,121,162	29,222	4,095,739
Total FY2002 Authorization	9,971,312	10,324,712	10,485,533	709,956	10,681,268
Recission: Foreign Currency (PL 107-64)				(60,000)	(60,000)
Prior Year Savings: NMD (sec. 2404)			(55,000)	(55,030)	(55,030)
Prior Year Savings: Classified (sec. 2106)				(36,400)	(36,400)
Prior Year Savings: Navy P&D (sec. 2205)				(19,588)	(19,588)
Recission: Aruba FOL (PL 107-64)				(10,250)	(10,250)
Total Budget Authority Implication	9,971,312	10,324,712	10,430,533	528,688	10,500,000

Fiscal Year 2002 Authorization of Appropriations for Military Construction

(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Alabama	Army	Anniston AD	Component Maintenance Fac	2,300	2,300	2,300		2,300
Alabama	Army	Anniston AD	Rebuild Shop And Fac	2,850	2,850	2,850		2,850
Alabama	Army	Fort Rucker	Comanche Simulator Training Fac	11,400	11,400	11,400		11,400
Alabama	Army	Fort Rucker	Aircrafts Parts Warehouse		6,800		6,800	6,800
Alabama	Army	Redstone Arsenal	Dining Fac	7,200	7,200	7,200		7,200
Alabama	Army	Redstone Arsenal	Patriot Unit training Equipment Site		8,700			
Alabama	Army	Redstone Arsenal	Ammunition Surveillance Fac				2,700	2,700
Alabama	Air Force	Maxwell AFB	Add/Alter SOS Academic Fac	9,000	9,000	9,000		9,000
Alabama	Air Force	Maxwell AFB	Replace OTS Dormitory (120 Rm)	11,800	11,800	11,800		11,800
Alabama	Air Force	Maxwell AFB	Squadron Officer School Dormitory	13,600	13,600	13,600		13,600
Alabama	Army National Guard	Huntsville	Unit Training Equipment Site (UTES)	7,498	7,498	7,498		7,498
Alabama	Army National Guard	Mobile	Readiness Center, Addition And Alteration	5,333	5,333	5,333		5,333
Alabama	Air National Guard	Dothan AGS	280th Combat Comm Sqd Complex			11,000	11,000	11,000
Alabama	Air Force Reserve	Maxwell AFB	Replace Fuel Cell Maintenance Fac	7,300	7,300	7,300		7,300
Alabama	Air Force Reserve	Maxwell AFB	Replace Maintenance Hangar	9,900	9,900	9,900		9,900
Alaska	Army	Fort Richardson	Barracks Complex D Street (Ph I)	45,000	45,000	45,000		45,000
Alaska	Army	Fort Richardson	MOUT College Training Fac			18,000	18,000	18,000
Alaska	Army	Fort Wainwright	Assembly Building	4,200	4,200	4,200		4,200
Alaska	Army	Fort Wainwright	Power Plant Cooling Tower	23,000	23,000	23,000		23,000
Alaska	Air Force	Eareckson AFB	Upgrade Wastewater System	4,600	4,600	4,600		4,600
Alaska	Air Force	Elmendorf AFB	Add/Alter Aircraft Fuel System Maintenance Hangar	12,200	12,200	12,200		12,200
Alaska	Air Force	Elmendorf AFB	Dormitory	20,000	20,000	20,000		20,000
Alaska	DLA	Eielson AFB	Replace Bulk Fuel Storage Tanks	8,800	8,800	8,800		8,800
Alaska	TMA	Fort Wainwright	Hospital Replacement (Ph III)	18,500	18,500		(18,500)	
Alaska	Army National Guard	Juneau	Readiness Center			7,568	7,568	7,568
Alaska	Air National Guard	Elmendorf AFB	Upgrade 206th Combat Comm Facilities	5,000	5,000	5,000		5,000
Arizona	Army	Fort Huachuca	Effluent Reuse System	6,100	6,100	6,100		6,100
Arizona	Army	Yuma Proving Ground	Range Improvements		3,100		3,100	3,100
Arizona	Navy	MCAS Yuma	Air Traffic Control Tower	6,750	6,750	6,750		6,750
Arizona	Navy	MCAS Yuma	Land Acquisition	8,660	8,660	8,660		8,660
Arizona	Navy	MCAS Yuma	Station Ordnance Area	7,160	7,160	7,160		7,160
Arizona	Air Force	Davis Monthan AFB	Dormitory	8,700	8,700	8,700		8,700
Arizona	Air Force	Davis Monthan AFB	Replace Aircraft Reclamation/Parts Process Complex	8,600	8,600	8,600		8,600
Arizona	Air Force	Davis Monthan AFB	Child Development Center		6,200		6,200	6,200
Arizona	Air Force	Luke AFB	Add/Alter Child Development Center		4,500		4,500	4,500

Fiscal Year 2002 Authorization of Appropriations for Military Construction

(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Arizona	Army National Guard	Marana	Aviation Maintenance Hangar	14,358	14,358	14,358		14,358
Arizona	Army National Guard	Papago Park Mil Reservation	Aviation Armory Addition		1,104			
Arizona	Army Reserve	Mesa	USAR Center/Organizational Maint Shop	10,900	10,900	10,900		10,900
Arizona	Air Force Reserve	Luke AFB	Add/Alter Squadron Operations Build 976		1,400		1,400	1,400
Arkansas	Army	Pine Bluff Arsenal	Ammunition Demilitarization Fac (Ph VI)	26,000	-		(26,000)	
Arkansas	Air Force	Little Rock AFB	C-130J Flight Simulator Fac	10,600	10,600	10,600		10,600
Arkansas	Air Force	Little Rock AFB	Base Fire Station			7,500	7,500	7,500
Arkansas	Chem Demil	Pine Bluff Arsenal	Ammunition Demilitarization Fac (Ph VI)		26,000	26,000	26,000	26,000
Arkansas	Army Reserve	Conway	Reserve Center/Organizational Maint Shop		5,625		5,625	5,625
California	Army	Defense Language Institute	Barracks		5,900	-	5,900	5,900
California	Army	Fort Irwin	Maneuver Area Training Equipment Site		21,000		21,000	21,000
California	Navy	MAGTFTC Twentynine Palms	Academic Instruction Bldg	9,860	9,860	9,860		9,860
California	Navy	MAGTFTC Twentynine Palms	Ammunition Storage Facilities	9,540	9,540	9,540		9,540
California	Navy	MAGTFTC Twentynine Palms	BEQ	29,675	29,675	29,675		29,675
California	Navy	MAGTFTC Twentynine Palms	Enlisted Dining Fac	11,930	11,930	11,930		11,930
California	Navy	MAGTFTC Twentynine Palms	Reserve Support Facilities	8,760	8,760	8,760		8,760
California	Navy	MAGTFTC Twentynine Palms	Vehicle Wash Station	5,360	5,360	5,360		5,360
California	Navy	MCAS Camp Pendleton	Aircraft Hangar Improvement	4,470	4,470	4,470		4,470
California	Navy	MCAS Camp Miramar	Missile Magazine		3,680			
California	Navy	MCB Camp Pendleton	BEQ	21,600	21,600	21,600		21,600
California	Navy	MCB Camp Pendleton	BEQ Marine E1/E4	21,200	21,200	21,200		21,200
California	Navy	MCB Camp Pendleton	Boat Maintenance Fac	11,980	11,980	11,980		11,980
California	Navy	MCB Camp Pendleton	Helo Outlying Landing Field	3,910	3,910	3,910		3,910
California	Navy	MCB Camp Pendleton	Indoor Physical Fitness Fac	13,460	13,460	13,460		13,460
California	Navy	MCB Camp Pendleton	Iron/Manganese Plant (Ph II)	11,180	11,180	11,180		11,180
California	Navy	MCB Camp Pendleton	Regimental Maintenance Complex	13,160	13,160	13,160		13,160
California	Navy	NAB Coronado	Training Fac	8,610	8,610	8,610		8,610
California	Navy	NAF El Centro	Transient Student BEQ	23,520	23,520	23,520		23,520
California	Navy	NAS Lemoore	BEQ	10,010	10,010	10,010		10,010
California	Navy	Island	Supply Pier	13,730	13,730	13,730		13,730
California	Navy	NAWC China Lake	Combined Propulsion and Explosives Lab I		10,100		10,100	10,100
California	Navy	NCTC Port Hueneme	Auto Vehicle Maintenance Noncombat	3,780	3,780	3,780		3,780
California	Navy	NCBC Port Hueneme	Port Improvements	12,400	12,400	12,400		12,400
California	Navy	NS San Diego	BEQ	47,240	47,240	47,240		47,240
California	Navy	NS San Diego	Replace Pier 10/11 (Incr I)	17,500	17,500	17,500		17,500

Fiscal Year 2002 Authorization of Appropriations for Military Construction

(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
California	Air Force	Edwards AFB	ADAL Terminal Area Control Fac	4,600	4,600	4,600		4,600
California	Air Force	Edwards AFB	Consolidated Support Fac	11,700	11,700	11,700		11,700
California	Air Force	Edwards AFB	Base Operations Fac		5,000			-
California	Air Force	Los Angeles AFB	Consolidated Base Support Complex	23,000	23,000	23,000		23,000
California	Air Force	Travis AFB	Replace Support Fac	6,800	6,800	6,800		6,800
California	Air Force	Travis AFB	C-5 Squadron Operations		-	9,600		
California	Air Force	Travis AFB	Radar Approach Control Center		3,300		3,300	3,300
California	Air Force	Vandenberg AFB	Missile Transport Bridge	11,800	11,800	11,800		11,800
California	Air Force	Beale AFB	Communications Operations Center		7,900		7,900	7,900
California	DLA	Def Dist Dep Tracy	Replace General Purpose Warehouse	30,000	30,000	30,000		30,000
California	SOCOM	NS San Diego	SOF Seal Team Five Building	13,650	13,650	13,650		13,650
California	TMA	MCB Camp Pendleton	FHOTC Support Facilities	3,150	3,150	3,150		3,150
California	TMA	MCB Camp Pendleton	Medical/Dental Clinic Replacement (Horno)	4,300	4,300	4,300		4,300
California	TMA	MCB Camp Pendleton	Medical/Dental Clinic Replacement (Las Flores)	3,800	3,800	3,800		3,800
California	TMA	MCB Camp Pendleton	Medical/Dental Clinic Replacement (Las Pulgas)	4,050	4,050	4,050		4,050
California	TMA	NAVHOSP Twentynine Palms	Hospital LDRP Conversion	1,600	1,600	1,600		1,600
California	Army National Guard	Fort Irwin	Maneuver Area Training Equipment Site	21,953	21,953	21,953		21,953
California	Army National Guard	Lancaster	Readiness Center (ADRS)	4,530	4,530	4,530		4,530
California	Army National Guard	Azuza	Readiness Center (ADRS)		-	15,281	14,011	14,011
California	Navy Reserve	NSWSES Port Hueneme	Vehicle Maintenance Fac	1,000	1,000	1,000		1,000
California	Air Force Reserve	March AFB	Fire/Crash Rescue Station		7,200		7,200	7,200
Colorado	Army	Fort Carson	Barracks Complex - Nelson Blvd (Ph I)	25,000	25,000	25,000		25,000
Colorado	Army	Pueblo Depot Activity	Ammunition Demilitarization Fac (Ph III)	11,000	-	-	(11,000)	-
Colorado	Air Force	Air Force Academy	ADAL Athletic Facilities (Ph II)	11,400	11,400	11,400		11,400
Colorado	Air Force	Air Force Academy	Install Air Conditioning - Enlisted Dorm	1,300	1,300	1,300		1,300
Colorado	Air Force	Air Force Academy	Replace Control Tower	6,400	6,400	6,400		6,400
Colorado	Air Force	Air Force Academy	Upgrade Potable Water System - Cadet Area	6,400	6,400	6,400		6,400
Colorado	Air Force	Buckley AFB	Dormitory	11,200	11,200	11,200		11,200
Colorado	Air Force	Buckley AFB	Fitness Center	12,000	12,000	12,000		12,000
Colorado	Air Force	Schriever AFB	SBIRS Mission Control Station Backup	19,000	19,000	19,000		19,000
Colorado	Air Force	Schriever AFB	Secure Area Logistics Fac		11,400		11,400	11,400
Colorado	ChemDemil	Pueblo Depot Activity	Ammunition Demilitarization Fac (Ph III)		11,000	11,000	11,000	11,000
Colorado	TMA	Schriever AFB	Hospital Addition/Clinic Alteration	4,000	4,000	4,000		4,000
Colorado	Air National Guard	Buckley AFB	Control Tower		-	5,800		
Colorado	Army Reserve	Fort Carson	Alter AFR Center/New USARC	9,394	9,394	9,394		9,394

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Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Connecticut	Air National Guard	Orange ANG Station	Replace Air Control Squadron Complex	12,000	12,000	12,000		12,000
District of Columbia	Army	Fort McNair	Physical Fitness Training Center	11,600	11,600	11,600		11,600
District of Columbia	Navy	NAF Washington	BEQ Replacement	9,810	9,810	9,810		9,810
District of Columbia	Air Force	Bolling AFB	Add/Alter Chapel Center	2,900	2,900	2,900		2,900
Delaware	Air Force	Dover AFB	Fire Station		-	7,300	7,300	7,300
Florida	Navy	NAS Key West	Air Traffic Center/Operations Bldg	11,400	11,400	11,400		11,400
Florida	Navy	NAS Whiting Field	Airfield Approach Lighting	2,140	2,140	2,140		2,140
Florida	Navy	NS Mayport	Bachelor Enlisted Quarters	16,420	16,420	16,420		16,420
Florida	Navy	NAS Pensacola	Consolidated Fire Station		3,700	3,700	3,700	3,700
Florida	Air Force	Cape Canaveral AFS	Replace Fire/Crash Rescue Station	7,800	7,800	7,800		7,800
Florida	Air Force	Eglin AFB	Command And Control (C2) Test Operations Ctr	11,400	11,400	11,400		11,400
Florida	Air Force	Hurlburt Field	Consolidated Communication Fac	4,000	4,000	4,000		4,000
Florida	Air Force	Hurlburt Field	Dining Fac/Fitness Center	6,400	6,400	6,400		6,400
Florida	Air Force	MacDill AFB	Mission Planning Center (Ph I)	10,000	10,000	10,000	(10,000)	-
Florida	Air Force	Tyndall AFB	F 22 Fuels System Maintenance Hanger	3,050	3,050	3,050		3,050
Florida	Air Force	Tyndall AFB	F 22 Squad Ops/AMU and Hanger	12,000	12,000	12,000		12,000
Florida	Air Force	Tyndall AFB	Communications Management Fac		5,300		5,300	5,300
Florida	TMA	Hurlburt Field	Medical Clinic Addition/Alteration	8,800	8,800	8,800		8,800
Florida	TMA	NS Mayport	Medical/Dental Clinic Replacement	24,000	24,000	24,000		24,000
Florida	SOCOM	Hurlburt Field	SOF CV 22 Training Device Support Fac	10,200	10,200	10,200		10,200
Florida	SOCOM	Hurlburt Field	SOF Readiness Supply Package Fac	3,200	3,200	3,200		3,200
Florida	SOCOM	MacDill AFB	SOF Public Access Building	2,500	2,500	2,500		2,500
Florida	SOCOM	MacDill AFB	SOF Renovate Command And Control Fac	9,500	9,500	9,500		9,500
Florida	Air National Guard	Camp Blanding	Replace Weather Training Complex	6,900	6,900	6,900		6,900
Florida	Army Reserve	St Petersburg	Armed Services Reserve Center (Ph II)		34,056		34,056	34,056
Florida	Navy Reserve	NAR Jacksonville	Maintenance Hangar Overhead Space	3,744	3,744	3,744		3,744
Florida	Navy Reserve	NR Jacksonville	Readiness Support Site (Blount Island)	2,500	2,500	2,500		2,500
Florida	Navy Reserve	Jacksonville	Marine Corps Reserve Center		8,650			
Florida	Air Force Reserve	Homestead AFB	Communications Fac		2,000		2,000	2,000
Georgia	Army	Fort Benning	Passenger Processing Fac	17,000	17,000	17,000		17,000
Georgia	Army	Fort Benning	Runway Extension	6,900	6,900	6,900		6,900
Georgia	Army	Fort Gillem	Criminal Investigation Forensic Lab	29,000	29,000	29,000		29,000
Georgia	Army	Fort Gillem	Explosive Ordnance Det Ops Bldg	5,600	5,600	5,600		5,600
Georgia	Army	Fort Gordon	Information Systems Fac	11,000	11,000	11,000		11,000
Georgia	Army	Fort Gordon	Vehicle Maintenance Fac	23,000	23,000	23,000		23,000

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Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Georgia	Army	Fort Stewart/Hunter AAF	Education Center	16,000	16,000	16,000		16,000
Georgia	Army	Fort Stewart/Hunter AAF	Soldier Service Center	10,200	10,200	10,200		10,200
Georgia	Army	Fort Stewart/Hunter AAF	Vehicle Maintenance Fac	13,600	13,600	13,600		13,600
Georgia	Air Force	Robins AFB	Fire Training Facility	3,800	3,800	3,800		3,800
Georgia	Air Force	Robins AFB	Large Item Aircraft Support Equip Paint Fac	3,050	3,050	3,050		3,050
Georgia	Air Force	Robins AFB	Replace KC-135 Squadron Operations	7,800	7,800	7,800		7,800
Georgia	Air Force	Moody AFB	Physical Fitness Center		-	8,600	8,600	8,600
Georgia	Air Force	Moody AFB	C-130 Maintenance Hanges		4,900			-
Georgia	SOCOM	Fort Benning	SOF Tactical Equipment Complex	5,100	5,100	5,100		5,100
Georgia	TMA	Fort Stewart/Hunter AAF	Consolidated Troop Medical Clinic	11,000	11,000	11,000		11,000
Georgia	TMA	MCLB Albany	Medical/Dental Clinic Replacement	5,800	5,800	5,800		5,800
Georgia	Air National Guard	Robins AFB	Replace Ops And Training Fac	6,100	6,100	6,100		6,100
Georgia	Air Force Reserve	Robins AFB	Add/Alter AFRC HQ (Ph II)	2,000	2,000	2,000		2,000
Hawaii	Army	NPWC Pearl Harbor	Shipping Operations Building	11,800	11,800	11,800		11,800
Hawaii	Army	Pohakuloa	Command And Range Control Building	5,100	5,100	5,100		5,100
Hawaii	Army	Pohakuloa	Parker Ranch Land Acquisition		-	1,500	1,500	1,500
Hawaii	Army	Kahuku Windmill Site	Land Acquisition				900	900
Hawaii	Army	Schofield Barracks	Barracks Complex - Wilson Street (Ph I C)	23,000	23,000	23,000		23,000
Hawaii	Army	Wheeler AAF	Barracks Complex - Aviation (Ph VI a)	50,000	50,000	50,000		50,000
Hawaii	Navy	Camp Smith	CINCPAC HQ (Incr III)	37,580	37,580	37,580		37,580
Hawaii	Navy	MCB Kaneohe	BFQ	24,920	24,920	24,920		24,920
Hawaii	Navy	NAVMAG Lualualei	Ammo Wharf Shore-Power	6,000	6,000	6,000		6,000
Hawaii	Navy	NPWC Pearl Harbor	Sewer Force Main	16,900	16,900	16,900		16,900
Hawaii	Navy	NS Pearl Harbor	BEQ Modernization	17,300	17,300	17,300		17,300
Hawaii	Navy	NS Pearl Harbor	BEQ Modernization	21,300	21,300	21,300		21,300
Hawaii	Navy	NS Pearl Harbor	Water Line Replacement Ford Island		-	14,100	14,100	14,100
Hawaii	Navy	NSY Pearl Harbor	Drydock Support Fac	7,900	7,900	7,900		7,900
Hawaii	Navy	NSY Pearl Harbor	Electric Distribution System Improvements	12,100	12,100	12,100		12,100
Hawaii	DLA	Hickam AFB	Replace Hydrant Fuel System	29,200	29,200	29,200		29,200
Idaho	Air Force	Mountain Home AFB	Replace Aircraft Parking Apron	14,600	14,600	14,600		14,600
Idaho	Army National Guard	Gowen Field	Readiness Center (Ph I)	8,117	8,117	8,117		8,117
Illinois	Army	Rock Island Arsenal	Construct New Child Dev Center		-	3,500	3,500	3,500
Illinois	Navy	NTC Great Lakes	Recruit Barracks	41,130	41,130	41,130		41,130
Illinois	Navy	NTC Great Lakes	Recruit Barracks	41,130	41,130	41,130		41,130
Illinois	Navy Reserve	MCRC Great Lakes	Reserve Center Renovation	4,426	4,426	4,426		4,426

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Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Indiana	Army	Newport AD	Ammunition Demilitarization Fac (Ph IV)	66,000	-	-	(66,000)	
Indiana	Navy	NSWC Crane	Special Warfare Munitions Engineering Fac	5,820	5,820	5,820		5,820
Indiana	Navy	NSWC Crane	Microwave Devices Engineering Fac		9,110		9,110	9,110
Indiana	ChemDemil	Newport AD	Ammunition Demilitarization Fac (Ph IV)		66,000	66,000	66,000	66,000
Indiana	Army National Guard	Camp Atterbury	Battle Simulation Center		-	4,947		-
Indiana	Air National Guard	Fort Wayne IAP	Parking Apron		8,500		8,500	8,500
Indiana	Air Force Reserve	Grissom ARB	Replace Service Complex (Ph III)	13,200	13,200	13,200		13,200
Iowa	Army National Guard	Estherville	Readiness Center	2,713	2,713	2,713		2,713
Iowa	Air National Guard	Sioux City	KC-135 Aircraft Prk Apron/Hydrant Refueling Sys	14,400	14,400	14,400		14,400
Iowa	Air National Guard	Sioux City	KC-135 Construct Fuel Cell/Corrosion Control	8,300	8,300	8,300-		8,300
Iowa	Air National Guard	Sioux City	Sioux Upgrade Expand Taxiway	4,300	4,300	4,300		4,300
Kansas	Army	Fort Riley	Child Development Center	6,800	6,800	6,800		6,800
Kansas	Army	Fort Riley	Modified Record Fire Range	4,100	4,100	4,100		4,100
Kansas	Army National Guard	Fort Riley	Organization Maintenance Shop	645	645	645		645
Kansas	Air Force	McConnell AFB	Health and Wellness Center		5,100		5,100	5,100
Kentucky	Army	Blue Grass AD	Ammunition Demilitarization Fac (Ph II)	3,000		-	(3,000)	-
Kentucky	Army	Fort Campbell	Barracks Complex - Market Garden Rd (Ph III)	47,000	47,000	47,000		47,000
Kentucky	Army	Fort Campbell	Deployment Staging Complex	3,300	3,300	3,300		3,300
Kentucky	Army	Fort Campbell	Deployment Staging Complex/Air	3,300	3,300	3,300		3,300
Kentucky	Army	Fort Campbell	Deployment Staging Complex/Rail	3,300	3,300	3,300		3,300
Kentucky	Army	Fort Campbell	Electrical Substation	10,000	10,000	10,000		10,000
Kentucky	Army	Fort Campbell	Expand Keyhole Hardstand Area	10,600	10,600	10,600		10,600
Kentucky	Army	Fort Campbell	Passenger Processing Fac	11,400	11,400	11,400		11,400
Kentucky	Army	Fort Knox	Wilcox Multi Purpose Digital Training Range (Ph IV)		-	11,600	12,000	12,000
Kentucky	Army Reserve	Fort Knox	USAR Center	14,846	14,846	14,846		14,846
Kentucky	ChemDemil	Blue Grass AD	Ammunition Demilitarization Fac (Ph II)	-	3,000	3,000	3,000	3,000
Louisiana	Army	Fort Polk	Education Center	10,800	10,800	10,800		10,800
Louisiana	Army	Fort Polk	Readiness And Operations Fac	10,400	10,400	10,400		10,400
Louisiana	Air Force	Barksdale	Control Tower		-	5,000	5,000	5,000
Louisiana	Army National Guard	Camp Beauregard	Readiness Center	5,392	5,392	5,392		5,392
Louisiana	Army National Guard	Carville	Readiness Center	5,677	5,677	5,677		5,677
Louisiana	Air National Guard	JRB New Orleans	Repl Veh Maint/Asc Shop		-	5,500		-
Louisiana	Navy Reserve	MCRC Lafayette	Marine Reserve Training Center	5,200	5,200	5,200		5,200
Louisiana	Navy Reserve	NAS JRB New Orleans	GSE Complex	2,270	2,270	2,270		2,270
Louisiana	Navy Reserve	NAS JRB New Orleans	Refueler Maint Fac	650	650	650		650

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Louisiana	Navy Reserve	NAS JRB New Orleans	Replace Bridges	1,300	1,300	1,300		1,300
Louisiana	Navy Reserve	NAS JRB New Orleans	Armed Forces Reserve Center (Ph II)		10,000		10,000	10,000
Maine	Navy	NAS Brunswick	Bachelor Enlisted Quarters	22,630	22,630	22,610		22,610
Maine	Navy	NAS Brunswick	Aircraft Maintenance Hangar	41,665	41,665	41,665		41,665
Maine	Navy	NAS Brunswick	P-3 Support Fac	3,100	3,100	3,100		3,100
Maine	Navy	NSY Portsmouth	Bachelor Enlisted Quarters		-	14,620	14,620	14,620
Maine	Army National Guard	Bangor IAP	Army Aviation Support Fac (Ph I)	11,618	11,618	11,618		11,618
Maryland	Army	Aberdeen Proving Ground	Ammunition Demilitarization Fac (Ph IV)	66,500	-		(66,500)	-
Maryland	Army	Aberdeen Proving Ground	Ammunition Surveillance Fac	5,300	5,300	5,300		5,300
Maryland	Army	Aberdeen Proving Ground	Climatic Test Fac	9,000	9,000	9,000		9,000
Maryland	Army	Aberdeen Proving Ground	Chemistry Laboratory Edgewood	44,000	44,000	44,000		44,000
Maryland	Army	Fort Meade	Child Development Center	5,800	5,800	5,800		5,800
Maryland	Army	Fort Meade	Operations Fac (55th Signal Company)				5,400	5,400
Maryland	Navy	NAWC Patuxent River	Advanced Systems Integration Fac (Ph VI)	10,770	10,770	10,770		10,770
Maryland	Navy	NAWC Patuxent River	Range Operations Support Fac	2,260	2,260	2,260		2,260
Maryland	Navy	NAWC St. Inigoes	Comm Requirements Integration Fac		5,100		5,100	5,100
Maryland	Navy	NEODTC Indian Head	Joint Service EOD Equip Mag Eval	1,250	1,250	1,250		1,250
Maryland	Air Force	Andrews AFB	Consolidate Squadron Operations Fac	10,070	10,070	10,070		10,070
Maryland	Air Force	Andrews AFB	Repair East Runway	7,600	7,600	7,600		7,600
Maryland	Air Force	Andrews AFB	Upgrade Fire Training Fac	1,750	1,750	1,750		1,750
Maryland	ChemDemil	Aberdeen Proving Ground	Ammunition Demilitarization Fac (Ph IV)	-	66,500	66,500	66,500	66,500
Maryland	SOCOM	Aberdeen Proving Ground	SOF Training Fac	3,200	3,200	3,200		3,200
Maryland	TMA	Andrews AFB	Medical Clinic Addition/Alteration	7,300	7,300	7,300		7,300
Maryland	TMA	Andrews AFB	NAF Wash, Branch Med/Dental Clinic Relocation	2,950	2,950	2,950		2,950
Maryland	Army National Guard	Salisbury	Organizational Maintenance Shop Add/Alt	2,314	2,314	2,314		2,314
Massachusetts	Air Force	Hanscom AFB	Renovate Acquisition Management Fac (Ph III)	9,400	9,400	9,400		9,400
Massachusetts	Army National Guard	Framingham	Organizational Maintenance Shop	8,347	8,347	8,347		8,347
Massachusetts	Air National Guard	Barnes Municipal AP	Upgrade Support Facilities		5,200		5,200	5,200
Michigan	Army National Guard	Lansing	Combined Support Maintenance Shop (Ph II)	5,809	5,809	5,809		5,809
Michigan	Army National Guard	Augusta	TASS Instruction/Administrative Barracks/Mess Hall		-	13,118	13,118	13,118
Michigan	Army National Guard	Camp Grayling	Headquarters Building		5,680	-		
Michigan	Air National Guard	Selfridge ANGB	Runway Clear Zone Land Acquisition	2,000	2,000	2,000		2,000
Michigan	Air National Guard	Kellogg Airport/Battle Creek	Munitions Maint/Storage Complex		-	9,500	9,500	9,500
Michigan	Navy Reserve	MCRC Selfridge ANGB	Auto Vehicle Maint Fac	1,490	1,490	1,490		1,490
Minnesota	Air National Guard	Duluth	Composite Aircraft Main Complex			10,000	10,000	10,000

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Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Minnesota	Navy Reserve	NRC Duluth	Reserve Center Addition	2,980	2,980	2,980		2,980
Minnesota	Air Force Reserve	Minneapolis St. Paul	Consolidated Lodging Fac (Ph III)		13,300		8,400	8,400
Mississippi	Navy	NCBC Gulfport	BEQ Replacement	14,300	14,300	14,300		14,300
Mississippi	Navy	NCBC Gulfport	Mobilization Ops Fac	7,360	7,360	7,360		7,360
Mississippi	Navy	NS Pascagoula	Fleet Operations Center			4,680	4,680	4,680
Mississippi	Navy	NAS Meridian	T-45 Support Facilities		3,400	3,370	3,370	3,370
Mississippi	Air Force	Keesler AFB	Replace Technical Training Fac (Ph II a)	28,600	28,600	28,600		28,600
Mississippi	Air Force	Columbus AFB	Rapcon		-	5,000	5,000	5,000
Mississippi	Army National Guard	Camp Shelby	Military Education Center (Ph II)	11,444	11,444	11,444		11,444
Mississippi	Army National Guard	Gulfport	Readiness Center	9,145	9,145	9,145		9,145
Mississippi	Army National Guard	Batesville	Readiness Center				3,055	3,055
Mississippi	Air National Guard	Jackson IAP	Jackson C-17 Fac Conversion	16,500	16,500	16,500		16,500
Mississippi	Air National Guard	Jackson IAP	Upgrade Corrosion Control Fac	5,700	5,700	5,700		5,700
Mississippi	Air National Guard	Jackson IAP	C-17 Maintenance Training Facility		4,100			
Mississippi	Army Reserve	NCBC Gulfport	Controlled Humidity Storage Warehouse I		12,184		12,184	12,184
Mississippi	Air Force Reserve	Keesler AFB	C130J-30 Two Bay Maintenance	12,000	12,000	12,000		12,000
Missouri	Army	Fort Leonard Wood	Basic Combat Training Complex (Ph II)	27,000	27,000	27,000		27,000
Missouri	Army	Fort Leonard Wood	Night Fire Range	4,300	4,300	4,300		4,300
Missouri	Army	Fort Leonard Wood	Record Fire Range	3,550	3,550	3,550		3,550
Missouri	Navy	MCSA Kansas City	BEQ	9,010	9,010	9,010		9,010
Montana	Air Force	Malmstrom AFB	Child Development Center			4,650	4,650	4,650
Montana	Army National Guard	Kalispell	Readiness Center (ADRS)	822	822	822		822
Nebraska	Air Force	Offutt AFB	Fire Station		-	10,100		
Nevada	Navy	NAS Fallon	Water Treatment Capital Improvements Contribution			6,150	6,150	6,150
Nevada	Air Force	Nellis AFB	AFC2TIG Dynamic Battle Control Center	12,600	12,600	12,600		12,600
Nevada	Air Force	Nellis AFB	Land Acquisition Live Ordnance Departure Area		-	19,000	19,000	19,000
Nevada	Air National Guard	Reno-Tahoe IAP	Replace Base Supply Warehouse Complex	8,500	8,500	8,500		8,500
New Hampshire	Army National Guard	Concord	Army Aviation Support Fac	27,185	27,185	27,185		27,185
New Hampshire	Army National Guard	Concord	Readiness Center	1,868	1,868	1,868		1,868
New Hampshire	Air National Guard	Pease	Regional KC-135/CATS Simulator Training Fac	2,200	2,200	2,200		2,200
New Hampshire	Army Reserve	Rochester	USAR Center/Organizational Maintenance Shop/Stg	9,122	9,122	9,122		9,122
New Jersey	Army	Fort Monmouth	Barracks	20,000	20,000	20,000		20,000
New Jersey	Army	Picatinny Arsenal	High Energy Propellant Formulation Fac		10,200		10,200	10,200
New Jersey	Navy	NWS Earle	Explosive Truck Holding Area			4,370	4,370	4,370
New Jersey	Air Force	McGuire AFB	Air Freight Term/Base Sply Complex (Ph II)		12,600		12,600	12,600

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Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
New Jersey	Air Force	McGuire AFB	C-17 ADAL Fuel Cell	1,050	1,050	1,050		1,050
New Jersey	Air Force	McGuire AFB	C-17 Communications Support	1,400	1,400	1,400		1,400
New Jersey	Air Force	McGuire AFB	C-17 Flight Simulator Fac	4,900	4,900	4,900		4,900
New Jersey	Air Force	McGuire AFB	C-17 Maintenance Hangar	27,700	27,700	27,700		27,700
New Jersey	Air Force	McGuire AFB	C-17 Three Bay Hangar	1,500	1,500	1,500		1,500
New Jersey	DLA	McGuire AFB	Bulk Fuel Storage Tank	4,400	4,400	4,400		4,400
New Jersey	Air National Guard	Atlantic City IAP (ANG)	Comm/Security Forces Complex	6,300	6,300	6,300		6,300
New Jersey	Air National Guard	McGuire AFB	Joint Medical Training Fac	4,900	4,900	4,900		4,900
New Jersey	Army Reserve	Fort Dix	Barracks Modernization	12,000	12,000	12,000		12,000
New Mexico	Army	White Sands Missile Range	Professional Development Center		7,600	7,600	7,600	7,600
New Mexico	Air Force	Cannon AFB	Replace Fire/Crash Rescue Station	9,400	9,400	9,400		9,400
New Mexico	Air Force	Kirtland AFB	Telescope/Atmosphere Compensation Laboratory	15,500	15,500	15,500		15,500
New Mexico	Air Force	Kirtland AFB	Upgrade Small Arms Range Support Fac		4,300		4,300	4,300
New Mexico	TMA	Holloman AFB	Medical Clinic Alteration	5,700	5,700	5,700		5,700
New York	Army	Fort Drum	Battle Simulation Center (Ph II)	9,000	9,000	9,000		9,000
New York	Army	Fort Drum	Field Operations Fac	2,150	2,150	2,150		2,150
New York	Army	Fort Drum	Hazardous Materials Storage Fac	4,700	4,700	4,700		4,700
New York	Army	Fort Drum	Tactical Equipment Shops	11,000	11,000	11,000		11,000
New York	Army	Fort Drum	Training Area Access Road		18,500		18,500	18,500
New York	Army	USMA West Point	Cadet Physical Development Center (Ph III)	37,900	37,900	37,900		37,900
New York	Army National Guard	Fort Drum	Maneuver Area Training And Equipment Site	17,000	17,000	17,000		17,000
New York	Air National Guard	Gabreski Airport	Gabreski Composite Support Complex	19,000	19,000	19,000		19,000
New York	Air National Guard	Niagara Falls IAP	Fuel Cell & Corrosion Cntl Hanger Addition			2,800	2,800	2,800
New York	Air National Guard	Hancock Field	Civil Engineer Pavements and Grounds Fac		1,500		1,500	1,500
New York	Air National Guard	Hancock Field	Composite Readiness Support Fac		2,500		2,500	2,500
North Carolina	Army	Fort Bragg	Barracks Complex - Butner Road (Ph II)	49,000	49,000	49,000		49,000
North Carolina	Army	Fort Bragg	Barracks Complex - Longstreet Road (Ph II)	27,000	27,000	27,000		27,000
North Carolina	Army	Fort Bragg	Barracks Complex - Tagaytay Road (Ph II C)	17,500	17,500	17,500		17,500
North Carolina	Army	Fort Bragg	Parachute Team General Purpose Building	7,700	7,700	7,700		7,700
North Carolina	Army	Fort Bragg	Vehicle Maintenance Fac	13,600	13,600	13,600		13,600
North Carolina	Army	Sunny Point (MOTSU)	Deployment Staging Area	2,000	2,000	2,000		2,000
North Carolina	Army	Sunny Point (MOTSU)	Fire Station	2,750	2,750	2,750		2,750
North Carolina	Army	Sunny Point (MOTSU)	Open Storage Area	2,050	2,050	2,050		2,050
North Carolina	Army	Sunny Point (MOTSU)	Road Improvements And Truck Pad	4,600	4,600	4,600		4,600
North Carolina	Navy	MCAS New River	Property Control Fac	2,490	2,490	2,490		2,490

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Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
North Carolina	Navy	MCAS New River	Property Control Fac	1,560	1,560	1,560		1,560
North Carolina	Navy	MCB Camp Lejeune	Academic Building	15,860	15,860	15,860		15,860
North Carolina	Navy	MCB Camp Lejeune	Ammunition Storage Magazine	5,880	5,880	5,880		5,880
North Carolina	Navy	MCB Camp Lejeune	BEQ Marine E1/E4	13,550	13,550	13,550		13,550
North Carolina	Navy	MCB Camp Lejeune	BEQ Marine E1/E4	16,530	16,530	16,530		16,530
North Carolina	Navy	MCB Camp Lejeune	Engr Equip Maint Shop	6,960	6,960	6,960		6,960
North Carolina	Navy	MCB Camp Lejeune	Landfill Cell	8,290	8,290	8,290		8,290
North Carolina	Air Force	Pope AFB	Consolidate C-130 Corrosion Control Fac	17,800	17,800	17,800		17,800
North Carolina	DLA	Pope AFB	Bulk Fuel Storage Tank	3,400	3,400	3,400		3,400
North Carolina	DODEA	MCB Camp Lejeune	Replace Tarawa Terrace I Elementary School	8,857	8,857	8,857		8,857
North Carolina	SOCOM	Fort Bragg	SOF Battalion Ops & Vehicle Maintenance Fac	8,500	8,500	8,500		8,500
North Carolina	SOCOM	Fort Bragg	SOF Imagery And Analysis Fac	3,150	3,150	3,150		3,150
North Carolina	SOCOM	Fort Bragg	SOF Language Sustainment Training Fac	2,100	2,100	2,100		2,100
North Carolina	SOCOM	Fort Bragg	SOF Repair Training Fac	1,812	1,812	1,812		1,812
North Carolina	SOCOM	Fort Bragg	SOF Team Operations And Information Automation Fac	5,800	5,800	5,800		5,800
North Carolina	SOCOM	Fort Bragg	SOF Training Fac	5,000	5,000	5,000		5,000
North Carolina	SOCOM	Fort Bragg	SOF Training Range	2,600	2,600	2,600		2,600
North Carolina	SOCOM	Fort Bragg	SOF Vehicle Maintenance Complex	3,600	3,600	3,600		3,600
North Carolina	SOCOM	Fort Bragg	SOF Weather Operations Fac	1,000	1,000	1,000		1,000
North Carolina	Army National Guard	Fort Bragg	Military Education Fac (Ph II)		8,290		8,290	8,290
North Dakota	Air Force	Grand Forks AFB	KC-135 Sq Ops/AMU	7,800	7,800	7,800		7,800
North Dakota	DLA	Grand Forks AFB	Hydrant Fuel System	9,110	9,110	9,110		9,110
North Dakota	DLA	Minot AFB	Hydrant Fuel System	14,000	14,000	14,000		14,000
North Dakota	Air National Guard	Hector International Airport	Weapons Rel Shop and Mission Sup			5,000	5,000	5,000
Ohio	Air Force	Wright Patterson AFB	ADAL Special Operations Intelligence Fac	3,450	3,450	3,450		3,450
Ohio	Air Force	Wright Patterson AFB	Consolidate Acq Management Complex (Ph IV b)	21,400	21,400	21,400		21,400
Ohio	Air Force	Wright Patterson AFB	Security Gate, Base Entrance				3,400	3,400
Ohio	Army National Guard	DFSP Cincinnati	Readiness Center	9,780	9,780	9,780		9,780
Ohio	Army National Guard	Bowling Green	Readiness Center		3,200		3,200	3,200
Ohio	Army National Guard	Coshocton	Readiness Center		2,612		2,612	2,612
Ohio	Air National Guard	Mansfield Lahm Airport	Replace Vehicle Maintenance Complex		3,500			
Ohio	Air National Guard	Springfield Beckley IAP	Parking Apron		10,600		10,600	10,600
Ohio	Army Reserve	Cleveland	Land Acquisition	1,200	1,200	1,200		1,200
Oklahoma	Army	Fort Sill	Deployment Staging Complex	5,100	5,100	5,100		5,100
Oklahoma	Army	Fort Sill	Consolidated Logistics Maintenance Complex Phase I			11,500		

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Oklahoma	Air Force	Altus AFB	Repair Airfield Pavements (Ph I)	20,200	20,200	20,200		20,200
Oklahoma	Air Force	Tinker AFB	Dormitory	10,200	10,200	10,200		10,200
Oklahoma	Air Force	Tinker AFB	Alter Depot Plating Shop		-	11,200	11,200	11,200
Oklahoma	Air Force	Tinker AFB	Consolidate Integration Support Fac		7,500			-
Oklahoma	Air Force	Vance AFB	Repair Elam Road		-	4,800		
Oklahoma	Army National Guard	Oklahoma City	Readiness Center		9,120		9,120	9,120
Oregon	Army National Guard	Eugene	Armed Forces Reserve Center Complex		-	7,407	8,300	8,300
Pennsylvania	Navy	Philadelphia NF	Machine Shop Modernization		14,800		14,800	14,800
Pennsylvania	DLA	DDSP New Cumberland	Special Purpose Warehouse	19,900	19,900	19,900		19,900
Pennsylvania	DLA	Philadelphia	Consolidate Indoor Fitness Facilities	2,429	2,429	2,429		2,429
Pennsylvania	Army Reserve	Johnstown	Transient Quarters		3,000		3,000	3,000
Pennsylvania	Air National Guard	Pittsburgh IAP	Replace Vehicle Maintenance Complex	3,200	3,200	3,200		3,200
Pennsylvania	Air National Guard	Pittsburgh IAP	ADAL Sqd and Support Fac		-	7,200		
Pennsylvania	Navy Reserve	NAS JRB Willow Grove	Hangar Fire Protection Upgrades	3,715	3,715	3,715		3,715
Rhode Island	Navy	NS Newport	SWOS Applied Instr Bldg	15,290	15,290	15,290		15,290
Rhode Island	Navy	NUWC Newport	Unmanned Undersea Combat Vehicle Lab		-	9,170	9,170	9,170
Rhode Island	Air National Guard	Quonset State AP	C-130J Replace Composite Maint Shops	9,600	9,600	9,600		9,600
South Carolina	Army	Fort Jackson	Basic Combat Trainee Complex (Ph I)	26,000	26,000	26,000		26,000
South Carolina	Army	Fort Jackson	Central Energy Plant		3,650		3,650	3,650
South Carolina	Navy	MCAS Beaufort	AWSE Warehouse	1,960	1,960	1,960		1,960
South Carolina	Navy	MCAS Beaufort	Child Development Center	6,060	6,060	6,060		6,060
South Carolina	Navy	NH Beaufort	Bachelor Enlisted Quarters		7,600			
South Carolina	Navy	MCRD Parris Island	Military Police Station	5,410	5,410	5,410		5,410
South Carolina	Air Force	Shaw AFB	Education Center		5,800	5,800	5,800	5,800
South Carolina	DODEA	Laurel Bay	Replace Laurel Bay ES	12,850	12,850	12,850		12,850
South Dakota	Air Force	Ellsworth AFB	Live Ordnance Loading Fac		-	12,200	12,200	12,200
South Dakota	Army National Guard	Mitchell	Combined Support Maintenance Shop	14,228	14,228	14,228		14,228
South Dakota	Air National Guard	Joe Foss Fld	Rwy/Taxiway Improvements		-	6,500	6,500	6,500
Tennessee	Navy	NSA Millington	Elevated Water Tank	3,900	3,900	3,900		3,900
Tennessee	Air Force	Arnold AFB	Convert To Hypersonic Plant	10,400	10,400	10,400		10,400
Tennessee	Air Force	Arnold AFB	Upgrade Jet Engine Air Induction System (Ph IV)	14,000	14,000	14,000		14,000
Tennessee	Army National Guard	Alcoa	Readiness Center	8,203	8,203	8,203		8,203
Tennessee	Army National Guard	Henderson	Operational Maintenance Fac	2,012	2,012	2,012		2,012
Tennessee	Air National Guard	Nashville IAP	Replace Composite Aircraft Maintenance Complex		11,000		11,000	11,000
Texas	Army	Corpus Christi Army Depot	Engine Disassembly & Cleaning Fac		10,400		10,400	10,400

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Texas	Army	Fort Bliss	Replace Elevated Water Tanks		5,000		5,000	5,000
Texas	Army	Fort Hood	Barracks Complex	41,000	41,000	41,000		41,000
Texas	Army	Fort Hood	Command And Control Fac (Ph II)	10,000	10,000	10,000		10,000
Texas	Army	Fort Hood	Multi Purpose Digital Training Range (Ph II)	13,000	13,000	13,000		13,000
Texas	Army	Fort Hood	Vehicle Maintenance Fac	21,000	21,000	21,000		21,000
Texas	Army	Fort Hood	Vehicle Maintenance Fac	12,200	12,200	12,200		12,200
Texas	Army	Fort Hood	Gray Army Airfield Deployment Upgrade		18,000		18,000	18,000
Texas	Army	Fort Sam Houston	General Instruction Building	2,250	2,250	2,250		2,250
Texas	Army	Fort Sam Houston	Physical Fitness Center		7,400			-
Texas	Navy	NAS Kingsville	Airfield Lighting		-	6,160		-
Texas	Navy Reserve	NAS, JRB Fort Worth	Upgrade Enlisted Barracks		9,060	-	9,060	9,060
Texas	Air Force	Lackland AFB	Consolidate Joint Advanced Lang Trng Ctr	4,200	4,200	4,200		4,200
Texas	Air Force	Lackland AFB	Dormitory	8,600	8,600	8,600		8,600
Texas	Air Force	Laughlin AFB	Add/Alter Fitness Center	12,000	12,000	12,000		12,000
Texas	Air Force	Laughlin AFB	Security Forces Complex		3,600		3,600	3,600
Texas	Air Force	Sheppard AFB	Replace Student Dormitory/Dining Fac (140 Rm)	16,000	16,000	16,000		16,000
Texas	Air Force	Sheppard AFB	Student Dormitory/Dining Fac	21,000	21,000	21,000		21,000
Texas	Air Force	Sheppard AFB	Fitness Center/Health and Wellness Center		8,200		8,200	8,200
Texas	Air Force	Dyess AFB	C-130 Squadron Operations Fac				16,800	16,800
Texas	TMA	Dyess AFB	Medical Treatment Fac Alteration	3,300	3,300	3,300		3,300
Texas	TMA	Fort Hood	Hospital Addition/Alteration	12,200	12,200	12,200		12,200
Texas	Army National Guard	Austin	Army Aviation Support Fac	25,659	25,659	25,659		25,659
Texas	Air National Guard	Camp Mabry	Replace Weather Flight	900	900	900		900
Texas	Army Reserve	Red River Army Depot	Acc/Sng	1,862	1,862	1,862		1,862
Utah	Air Force	Hill AFB	Consolidate Hydraulic/Pneudraulic Repair Fac	14,000	14,000	14,000		14,000
Utah	Air Force	Hill AFB	Maintenance Depot Hanger (Ph I)		18,000		18,000	18,000
Vermont	Air National Guard	Burlington IAP	Replace Vehicle Maintenance Complex		-	5,600	5,600	5,600
Virginia	Army	Fort Belvoir	Chapel	4,950	4,950	4,950		4,950
Virginia	Army	Fort Belvoir	Operations Building	31,000	31,000	31,000		31,000
Virginia	Army	Fort Eustis	Field Operations Fac	1,750	1,750	1,750		1,750
Virginia	Army	Fort Eustis	Defense Access Road		-	9,900	9,900	9,900
Virginia	Army	Fort Eustis	Main Pier	23,000	23,000	23,000		23,000
Virginia	Army	Fort Lee	Airborne Training Fac	17,500	17,500	17,500		17,500
Virginia	Army	Fort Lee	Military Entrance Processing Station	6,400	6,400	6,400		6,400
Virginia	Navy	MCAF Quantico	Aircraft Fire And Rescue Station	3,790	3,790	3,790		3,790

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Virginia	Navy	MCCDC Quantico	BEQ Marine E6-E9	9,390	9,390	9,390		9,390
Virginia	Navy	NS Norfolk	Aircraft Maint Hangar	11,300	11,300	11,300		11,300
Virginia	Navy	NS Norfolk	Aircraft Maintenance Hangar Replacement	14,100	14,100	14,100		14,100
Virginia	Navy	NS Norfolk	Airfield Pavement Recap	6,360	6,360	6,360		6,360
Virginia	Navy	NS Norfolk	BEQ Modernization	14,730	14,730	14,730		14,730
Virginia	Navy	NS Norfolk	Depermimg Pier Replacement	2,810	2,810	2,810		2,810
Virginia	Navy	NS Norfolk	Pier Replacement (Inc I)	28,210	28,210	28,210		28,210
Virginia	Navy	NS Norfolk	Waterfront Elec Upgrade	12,900	12,900	12,900		12,900
Virginia	Navy	NS Norfolk	Waterfront Elec Upgrade	15,620	15,620	15,620		15,620
Virginia	Navy	Little Creek NAB	Personnel Support Fac		9,090		9,090	9,090
Virginia	Air Force	Langley AFB	Dormitory	8,300	8,300	8,300		8,300
Virginia	Air Force	Langley AFB	F-22 Low Observ. Restoration & Comp Repair Fac	16,000	16,000	16,000		16,000
Virginia	Air Force	Langley AFB	F-22 Operation And Maintenance Fac	19,000	19,000	19,000		19,000
Virginia	Air Force	Langley AFB	F-22 Upgrade Flightline Infrastructure	4,000	4,000	4,000		4,000
Virginia	DLA	Fort Belvoir	Additional Chiller Unit	900	900	900		900
Virginia	TMA	NS Norfolk	Branch Medical Clinic Add/Alt (Sewells Point)	21,000	21,000	21,000		21,000
Virginia	Washington Hqdrs Svcs	Pentagon Reservation	Pentagon Physical Fitness & Readiness Fac	25,000	25,000	25,000		25,000
Virginia	Army National Guard	Fort Pickett	Man & Training Equip Site (Ph I)			10,700	10,700	10,700
Virginia	Navy Reserve	NFI SF Williamsburg	Headquarters Building	2,130	2,130	2,130		2,130
Washington	Army	Fort Lewis	Ammunition Supply Point Expansion	17,000	17,000	17,000		17,000
Washington	Army	Fort Lewis	Barracks Complex - 17th & B Street (Ph I)	48,000	48,000	48,000		48,000
Washington	Army	Fort Lewis	Combat Vehicle Trail	7,300	7,300	7,300		7,300
Washington	Army	Fort Lewis	Deployment Staging Complex	15,500	15,500	15,500		15,500
Washington	Army	Fort Lewis	Deployment Staging Complex/Rail	16,500	16,500	16,500		16,500
Washington	Army	Fort Lewis	Pallet Handing Fac	13,200	13,200	13,200		13,200
Washington	Army	Fort Lewis	Vehicle Maintenance Fac	9,100	9,100	9,100		9,100
Washington	Army	Fort Lewis	Vehicle Maintenance Fac	9,600	9,600	9,600		9,600
Washington	Navy	NAS Whidbey Island	P-3 Support Fac	3,470	3,470	3,470		3,470
Washington	Navy	NAS Whidbey Island	Control Tower			3,900	3,900	3,900
Washington	Navy	NS Bremerton	Pier Delta Replacement (Inc II)	24,460	24,460	24,460		24,460
Washington	Navy	NS Everett	Shore Inter Maint Fac	6,820	6,820	6,820		6,820
Washington	Navy	SWFPAC Bangor	Utilities & Site Improvement	3,900	3,900	3,900		3,900
Washington	Navy	NSY Puget Sound	Industrial Skills Center (Ph II)		14,000		14,000	14,000
Washington	Air Force	Fairchild AFB	Replace Munitions Maint Admin Fac	2,800	2,800	2,800		2,800
Washington	Air Force	McChord AFB	ADAL Mission Support Center (Ph I)	15,800	15,800	15,800		15,800

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Washington	Air Force	McChord AFB	C-17 Extend Nose Docks	4,900	4,900	4,900		4,900
Washington	SOCOM	Fort Lewis	SOF Tactical Equipment Complex	5,800	5,800	5,800		5,800
Washington	SOCOM	Fort Lewis	SOF Language Sustainment Training Fac	1,100	1,100	1,100		1,100
Washington	TMA	NAS Whidbey Island	Aircrew Water Survival Training Fac	6,600	6,600	6,600		6,600
Washington	Army National Guard	Richland	Chemical Defense Training Fac		2,800			
Washington	Army Reserve	Fort Lewis	USAR Center/Organizational Maintenance Shop/Avn Spt Fac/Stg	21,978	21,978	21,978		21,978
West Virginia	Army National Guard	Glen Jean	Readiness Center, OMS, MEPS			21,389	21,389	21,389
West Virginia	Army National Guard	Williamstown	Readiness Center			6,550	6,433	6,433
West Virginia	Air National Guard	Yeager Airport	Base Civil Engineer Maintenance Complex			4,100	4,100	4,100
Wisconsin	Army National Guard	Oshkosh	Organizational Maintenance Shop	5,274	5,274	5,274		5,274
Wisconsin	Air National Guard	Volk Field	Control Tower			5,700	5,700	5,700
Wyoming	Air Force	F E Warren AFB	Fitness Center	10,200	10,200	10,200		10,200
Wyoming	TMA	F E Warren AFB	Medical Clinic Alteration	2,700	2,700	2,700		2,700
Wyoming	Navy Reserve	NRC Cheyenne IAP	Reserve Center Addition	1,060	1,060	1,060		1,060
CONUS Classified	SOCOM	Classified Location	SOF Aviation And Maintenance Fac	2,400	2,400	2,400		2,400
American Samoa	Army Reserve	American Samoa	USAR Center/Org Mnt Shop/Unhtd Stg/Lnd	19,703	19,703	19,703		19,703
El Salvador	OSD	Comalapa	CENTAM FOL	12,577	12,577	12,577		12,577
Germany	Army	ASG Bamberg	Barracks Complex - Warner's	20,000	20,000	20,000		20,000
Germany	Army	ASG Bamberg	Physical Fitness Training Center	16,000	16,000	16,000		16,000
Germany	Army	ASG Darmstadt	Barracks Complex - Cambrai Fritsch	6,700	6,700	6,700		6,700
Germany	Army	ASG Darmstadt	Barracks Complex - Kelley	6,800	6,800	6,800		6,800
Germany	Army	Baumholder	Vehicle Maintenance Fac	9,000	9,000	9,000		9,000
Germany	Army	Hanau	Barracks Complex - Pioneer	7,200	7,200	7,200		7,200
Germany	Army	Heidelberg	Barracks Complex - Patton	6,800	6,800	6,800		6,800
Germany	Army	Heidelberg	Barracks Complex - Tompkins	8,500	8,500	8,500		8,500
Germany	Army	Mannheim	Vehicle Maintenance Fac	16,000	16,000	16,000		16,000
Germany	Army	Wiesbaden AB	Child Development Center	6,800	6,800	6,800		6,800
Germany	Army	Wiesbaden AB	Physical Fitness Training Center	19,500	19,500	19,500		19,500
Germany	Air Force	Ramstein AB	Consolidate 1st Combat Comm Squadron Complex (Ph I)	15,000	15,000	15,000		15,000
Germany	Air Force	Ramstein AB	Dormitory	11,000	11,000	11,000		11,000
Germany	Air Force	Ramstein AB	Freight Terminal & Defense Courier Service	9,400	9,400	9,400		9,400
Germany	Air Force	Ramstein AB	Strategic Lift Area Expansion	4,600	4,600	4,600		4,600
Germany	Air Force	Ramstein AB	Upgrade Utility Infrastructure	2,900	2,900	2,900		2,900
Germany	Air Force	Spangdahlem AB	New Infrastructure Expansion	6,200	6,200	6,200		6,200
Germany	Air Force	Spangdahlem AB	Refueler Vehicle Maintenance	2,500	2,500	2,500		2,500

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Germany	DODEA	Geilenkirchen	Geilenkirchen ES Multi Purpose Room	1,733	1,733	1,733		1,733
Germany	DODEA	Heidelberg	Patrick Henry ES Classroom Addition/Renovation	3,312	3,312	3,312		3,312
Germany	DODEA	Kaiserslautern	Kaiserslautern ES Classroom Addition	1,439	1,439	1,439		1,439
Germany	DODEA	Kitzingen	Kitzingen ES Classroom Addition	1,394	1,394	1,394		1,394
Germany	DODEA	Landstuhl	Landstuhl E/MS Classroom Addition	1,444	1,444	1,444		1,444
Germany	DODEA	Ramstein AFB	Ramstein HS Classroom Addition	2,814	2,814	2,814		2,814
Germany	DODEA	Vogelweh Annex	Vogelweh ES Classroom Addition/Renovation	1,558	1,558	1,558		1,558
Germany	DODEA	Wiesbaden AB	Hainerberg ES Classroom Addition	1,378	1,378	1,378		1,378
Germany	DODEA	Wuerzburg	Wuerzburg ES Classroom And Gymnasium Addition	2,684	2,684	2,684		2,684
Germany	TMA	Heidelberg	Medical/Dental Clinic	28,000	28,000	28,000		28,000
Greece	Navy	NSA DHC Larissa	BEQ	12,240	12,240	12,240		12,240
Greece	Navy	NSA Souda Bay	Sewage Treatment Plant Addition	3,210	3,210	3,210		3,210
Greenland	Air Force	Thule AB	Replace Taxiways/Aprons	19,000	19,000		(19,000)	
Greenland	TMA	Thule AB	Composite Medical Fac Replacement	10,800	10,800	10,800		10,800
Guam	Navy	NPWC Guam	Waterfront Utilities Improvements	14,800	14,800	14,800		14,800
Guam	Navy	NS Guam	BEQ Modernization	9,300	9,300	9,300		9,300
Guam	Air Force	Andersen AFB	AEF Bomber FOL War Reserve Material Fac	4,550	4,550	4,550		4,550
Guam	Air Force	Andersen AFB	Replace Security Forces Operations	5,600	5,600	5,600		5,600
Guam	DLA	Andersen AFB	Replace Hydrant Fuel System	20,000	20,000	20,000		20,000
Guam	Air National Guard	Andersen AFB	Operations and Training Fac	4,300	4,300	4,300		4,300
Guam	Army National Guard	Barrigada	Readiness Center (Ph II)		7,748		7,748	7,748
Iceland	Navy	NAS Keflavik	Solid Waste Disp Conn Chg	2,820	2,820	2,820		2,820
Italy	Navy	NAS Sigonella	P-3 Support Fac	3,060	3,060	3,060		3,060
Italy	Air Force	Aviano AB	Dormitory	8,200	8,200	8,200		8,200
Italy	Air Force	Aviano AB	Indoor Firing Range	3,600	3,600	3,600		3,600
Italy	DODEA	Aviano AB	Aviano ES Classroom Addition	3,647	3,647	3,647		3,647
Japan	Army	Camp Schwab	Special Forces Training Range				3,800	3,800
Japan	DLA	Yokota AB	Bulk Fuel Storage Tank	13,000	13,000	13,000		13,000
Korea	Army	Camp Carroll	Electrical Distribution System	8,000	8,000	8,000		8,000
Korea	Army	Camp Carroll	Physical Fitness Training Center	8,593	8,593	8,593		8,593
Korea	Army	Camp Casey	Vehicle Maintenance Fac	8,500	8,500	8,500		8,500
Korea	Army	Camp Hovey	Barracks Complex	33,000	33,000	33,000		33,000
Korea	Army	Camp Hovey	Sanitary Sewer System	2,750	2,750	2,750		2,750
Korea	Army	Camp Humphreys	Barracks Complex - Camp Humphreys	14,500	14,500	14,500		14,500
Korea	Army	Camp Jackson	General Instruction Building	6,100	6,100	6,100		6,100

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Korea	Army	Camp Stanley	Barracks Complex - Camp Stanley	28,000	28,000	28,000		28,000
Korea	Army	Yongsan	Barracks Complex				12,800	12,800
Korea	Air Force	Kunsan AB	Add/Alter Fitness Center	12,000	12,000	12,000		12,000
Korea	Air Force	Osan AB	Dormitory	14,400	14,400	14,400		14,400
Korea	Air Force	Osan AB	Dormitory (156 Rm)	15,800	15,800	15,800		15,800
Korea	Air Force	Osan AB	Officer Dormitory	9,700	9,700	9,700		9,700
Korea	Air Force	Osan AB	Replace Base Civil Engineer Complex	36,000	36,000	36,000	(24,000)	12,000
Korea	Air Force	Osan AB	Replace Traffic Management Fac	5,925	5,925	5,925		5,925
Korea	Air Force	Osan AB	Replace Vehicle Ops Control/Admin Fac	2,000	2,000	2,000		2,000
Korea	Air Force	Osan AB	Vehicle Maintenance Fac	17,317	17,317	17,317		17,317
Korea	DLA	Camp Casey	Replace Fuel Storage Fac	5,500	5,500	5,500		5,500
Kwajalein	Army	Kwajalein	Cold Storage Warehouse	11,000	11,000	11,000		11,000
Oman	Air Force	Masirah Island	Airfield Repairs (Ph II)			8,000	8,000	8,000
Portugal	TMA	Lajes Field, Azores	Dental Clinic Replacement	3,750	3,750	3,750		3,750
Spain	Navy	NS Rota	Aircraft Fire & Rescue Addition	2,240	2,240	2,240		2,240
Spain	DLA	NS Rota	Marine Loading Arms	3,000	3,000	3,000		3,000
Turkey	Air Force	Eskisehir	Dormitory/Mission Support Fac (32 Rm)	4,000	4,000	4,000		4,000
Turkey	Air Force	Incirlik AB	Base Supply Warehouse				5,500	5,500
United Kingdom	Air Force	RAF Lakenheath	Replace Supply Material Control	11,300	11,300	11,300		11,300
United Kingdom	Air Force	RAF Mildenhall	Avionics Maintenance Complex (Ph II)	10,800	10,800	10,800		10,800
United Kingdom	Air Force	RAF Mildenhall	Fitness Center	11,600	11,600	11,600		11,600
United Kingdom	DODEA	RAF Feltwell	Lakenheath MS-New School	22,132	22,132	22,132		22,132
Wake Island	Air Force	Wake Island	Repair Airfield Pavement (Ph I)	25,000	25,000	25,000	(15,300)	9,700
Worldwide Classified	Army	Classified Location	Classified Project	4,000	4,000	4,000		4,000
Worldwide Unspecified	Air Force	Classified Location	Tactical Unit Detachment Fac	4,458	4,458	4,458		4,458
Worldwide Unspecified	Army	Host Nation Support	Host Nation Support	23,100	23,100	23,100		23,100
Worldwide Unspecified	Army	Unspecified Worldwide	Planning And Design	134,098	140,576	119,098	2,313	136,411
Worldwide Unspecified	Army	Unspecified Worldwide	Unspecified Minor Construction	18,000	18,000	18,000		18,000
Worldwide Unspecified	Army	Unspecified Worldwide	Foreign Currency Savings		(36,168)	(1,300)		
Worldwide Unspecified	Army	Unspecified Worldwide	Prior Year Reduction Classified Project				(36,400)	(36,400)
Worldwide	Army	Unspecified Worldwide	General Reduction				(29,866)	(29,866)
Worldwide Unspecified	Navy	Unspecified Worldwide	Planning And Design	29,932	35,192	35,752	9,625	39,557
Worldwide Unspecified	Navy	Unspecified Worldwide	Unspecified Minor Construction	10,546	10,546	10,546		10,546
Worldwide Unspecified	Navy	Unspecified Worldwide	Foreign Currency Savings		(6,854)	(700)		
Worldwide Unspecified	Navy	Unspecified Worldwide	Prior Year Reduction Planning and Design [BRAC]				(19,588)	(19,588)

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(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Worldwide Unspecified	Navy	Unspecified Worldwide	General Reduction BRAC offset				(60,000)	(60,000)
Worldwide Unspecified	Navy	Unspecified Worldwide	General Reduction				(22,626)	(22,626)
Worldwide Unspecified	Air Force	Unspecified Worldwide	Planning And Design	79,130	84,630	90,419	15,840	94,970
Worldwide Unspecified	Air Force	Unspecified Worldwide	Unspecified Minor Construction	11,250	11,250	11,250	-	11,250
Worldwide Unspecified	Air Force	Unspecified Worldwide	Foreign Currency Savings		(15,846)	(3,300)		-
Worldwide Unspecified	Air Force	Unspecified Worldwide	General Reduction BRAC offset				(20,000)	(20,000)
Worldwide Unspecified	Air Force	Unspecified Worldwide	General Reduction [Oman offset]				(4,000)	(4,000)
Worldwide Unspecified	Air Force	Unspecified Worldwide	General Reduction				(24,436)	(24,436)
Worldwide Unspecified	Defense Wide	Unspecified Worldwide	Prior Year Reduction National Missile Defense		-	(55,000)	(55,030)	(55,030)
Worldwide Unspecified	Defense Wide	Unspecified Worldwide	Rescission Aruba FOL [PL 107 64]				(10,250)	(10,250)
Worldwide Unspecified	Defense Wide	Unspecified Worldwide	General Reduction [Oman offset]				(4,000)	(4,000)
Worldwide Unspecified	Defense Wide	Unspecified Worldwide	General Reduction				(13,575)	(13,575)
Worldwide Unspecified	BMDO	Unspecified Worldwide	Planning And Design	6,290	6,290	6,290		6,290
Worldwide Unspecified	BMDO	Unspecified Worldwide	Unspecified Minor Construction	2,009	2,009	2,009		2,009
Worldwide Unspecified	DIA	Unspecified Worldwide	Planning And Design	6,516	6,516	6,516		6,516
Worldwide Unspecified	DLA	Unspecified Worldwide	Planning And Design	3,500	3,500	3,500		3,500
Worldwide Unspecified	SOCOM	Unspecified Worldwide	Unspecified Minor Construction	1,903	1,903	1,903		1,903
Worldwide Unspecified	SOCOM	Unspecified Worldwide	Planning And Design	6,861	6,861	6,861		6,861
Worldwide Unspecified	OSD Contingencies	Unspecified Worldwide	Contingency Constuction	10,000	10,000	10,000		10,000
Worldwide Unspecified	OSD Minor Construction	Unspecified Worldwide	Unspecified Minor Construction	3,000	3,000	3,000		3,000
Worldwide Unspecified	OSD Planning & Design	Unspecified Worldwide	Planning And Design	20,000	20,000	20,000	(10,000)	10,000
Worldwide Unspecified	OSD	Unspecified Worldwide	Foreign Currency Savings		-	(1,700)		-
Worldwide Unspecified	Defense Agencies	Unspecified Worldwide	Foreign Currency Fluctuation		(17,851)			-
Worldwide Unspecified	Defense Agencies	Unspecified Worldwide	General Reduction		(10,250)			
Worldwide Unspecified	DFAS	Unspecified Worldwide	Unspecified Minor Construction	1,500	1,500	1,500		1,500
Worldwide Unspecified	Joint Chiefs of Staff	Unspecified Worldwide	Unspecified Minor Construction	6,305	6,305	6,305		6,305
Worldwide Unspecified	DODEA	Unspecified Worldwide	Planning And Design	1,929	1,929	1,929		1,929
Worldwide Unspecified	DODEA	Unspecified Worldwide	Unspecified Minor Construction	4,249	4,249	4,249		4,249
Worldwide Unspecified	DTRA	Unspecified Worldwide	Planning And Design	2,400	2,400	2,400		2,400
Worldwide Unspecified	TMA	Unspecified Worldwide	Planning And Design	26,300	26,300	26,300		26,300
Worldwide Unspecified	TMA	Unspecified Worldwide	Unspecified Minor Construction	5,526	5,526	5,526		5,526
Worldwide Unspecified	Chem Bio Activity	Unspecified Worldwide	Vaccine Production Fac, Plan & Design	700	700	700		700
Worldwide Unspecified	ChemDemil	Unspecified Worldwide	Planning And Design		-	12,886	(10,000)	(10,000)
Worldwide Unspecified	Army National Guard	Unspecified Worldwide	Planning And Design	25,794	27,294	31,481	9,900	35,694
Worldwide Unspecified	Army National Guard	Unspecified Worldwide	Unspecified Minor Construction	4,671	4,671	4,671		4,671

Fiscal Year 2002 Authorization of Appropriations for Military Construction

(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Worldwide Unspecified	Air National Guard	Unspecified Worldwide	Planning And Design	3,972	5,472	7,912	5,280	9,252
Worldwide Unspecified	Air National Guard	Unspecified Worldwide	Unspecified Minor Construction	5,000	5,000	5,000		5,000
Worldwide Unspecified	Army Reserve	Unspecified Worldwide	Planning And Design	8,024	10,024	8,024	2,700	10,724
Worldwide Unspecified	Army Reserve	Unspecified Worldwide	Unspecified Minor Construction	2,375	2,375	2,375		2,375
Worldwide Unspecified	Navy Reserve	Unspecified Worldwide	Planning And Design	1,176	2,176	1,176	1,120	2,296
Worldwide Unspecified	Navy Reserve	Unspecified Worldwide	General Reduction Planning and Design [BRAC]				(925)	(925)
Worldwide Unspecified	Air Force Reserve	Unspecified Worldwide	Unspecified Minor Construction	4,996	4,996	4,996		4,996
Worldwide Unspecified	Air Force Reserve	Unspecified Worldwide	Planning And Design	4,336	5,036	4,336	300	4,636
Worldwide Unspecified	Base Closure IV	BRAC IV	Base Realignment and Closure IV	532,200	532,200	592,200	100,511	632,711
Worldwide Unspecified	Energy Cons Impt Prgm	Unspecified Worldwide	Energy Conservation Improvement Program	35,600	35,600	35,600	(8,500)	27,100
Worldwide Unspecified	NATO Sec Invest Prgm	Unspecified Worldwide	NATO Security Investment Program	162,600	162,600	162,600		162,600
Alaska	Army	Fort Wainwright	Replacement Construction (32 units)	12,000	12,000	12,000		12,000
Arizona	Army	Fort Huachuca	Replacement Construction (72 units)	10,800	10,800	10,800		10,800
Arizona	Navy	MCAS Yuma	Replacement Construction (Ph II) (51 Units)	9,017	9,017	9,017		9,017
Arizona	Air Force	Luke AFB	Replace Family Housing (Ph I) (120 Units)	15,712	15,712	15,712		15,712
California	Navy	MAGTFTC Twentynine Palms	New Construction (74 Units)	16,250	16,250	16,250		16,250
California	Air Force	Travis AFB	Replace Family Housing (Ph I) (118 Units)	18,150	18,150	18,150		18,150
Colorado	Air Force	Buckley AFB	New Construction (55 units)	11,400	11,400	11,400		11,400
Delaware	Air Force	Dover AFB	Replace Family Housing (Ph I) (120 Units)	18,145	18,145	18,145		18,145
District of Columbia	Air Force	Bolling AFB	Replace Family Housing (136 Units)	16,926	16,926	16,926		16,926
Georgia	Army	Fort Stewart	Housing Acquisition (160 Units)		2,500			
Hawaii	Navy	MCB Kaneohe	Replace Housing (212 Units)	46,996	46,996	55,187		46,996
Hawaii	Navy	NS Pearl Harbor	Replacement Construction Oahu, HI (70 Units)	16,827	16,827	16,827		16,827
Hawaii	Air Force	Hickam AFB	Replace Family Housing (Ph I) (102 Units)	25,017	25,017	25,017		25,017
Idaho	Air Force	Mountain Home AFB	Replace Family Housing (56 Units)				10,000	10,000
Kansas	Army	Fort Leavenworth	Replacement Construction (80 units)	10,000	[illegible]	20,000	10,000	20,000
Louisiana	Air Force	Barksdale AFB	Replace Family Housing (56 Units)	7,300	7,300	7,300		7,300
Mississippi	Navy	NCBC Gulfport	New Construction (160 Units)	23,354	23,354	23,354		23,354
South Dakota	Air Force	Ellsworth AFB	Replacement Construction (78 units)	13,700	13,700	13,700		13,700
Texas	Army	Fort Bliss	Replacement Construction (76 units)	13,600	13,600	13,600		13,600
Texas	Army	Fort Sam Houston	Repl Family Housing (80 Units)			11,200	11,200	11,200
Virginia	Air Force	Langley AFB	Replace Family Housing (4 Units)	1,200	1,200	1,200		1,200
Virginia	Navy	MCCDC Quantico	Replace Family Housing (60 Units)		10,000		7,000	7,000

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(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Italy	Navy	NAS Sigonella	Replacement Construction (10 Units)	2,403	2,403	2,403		2,403
Korea	Army	Camp Humphreys	New Construction (54 units)	12,800	12,800	12,800		12,800
Portugal	Air Force	Lajes Field, Azores	Replace Family Housing (Ph II) (64 Units)	13,230	13,230	13,230		13,230
Worldwide Unspecified	Army	Unspecified Worldwide	Construction Improvements	220,750	220,750	220,750		220,750
Worldwide Unspecified	Army	Unspecified Worldwide	Planning And Design	11,592	11,592	12,702		11,592
Worldwide Unspecified	Army	Unspecified Worldwide	Furnishings Account	45,546	44,374	45,546		45,546
Worldwide Unspecified	Army	Unspecified Worldwide	Housing Privatization Support Cost	27,918	27,918	27,918	(7,918)	20,000
Worldwide Unspecified	Army	Unspecified Worldwide	Leasing	196,956	196,956	196,956		196,956
Worldwide Unspecified	Army	Unspecified Worldwide	Maintenance Account	446,806	446,806	446,806	(500)	446,306
Worldwide Unspecified	Army	Unspecified Worldwide	Management Account	82,177	82,177	82,177		82,177
Worldwide Unspecified	Army	Unspecified Worldwide	Miscellaneous Account	1,277	855	1,277		1,277
Worldwide Unspecified	Army	Unspecified Worldwide	Servicemen's Mortgage Insurance Premium	1	1	1		1
Worldwide Unspecified	Army	Unspecified Worldwide	Services Account	49,520	44,855	49,520		49,520
Worldwide Unspecified	Army	Unspecified Worldwide	Utilities Account	258,790	258,790	258,790	(11,000)	247,790
Worldwide Unspecified	Army	Unspecified Worldwide	Foreign Currency Fluctuation		(56,529)	-		-
Worldwide Unspecified	Army	Unspecified Worldwide	Foreign Currency Fluctuation		(18,888)	-		-
Worldwide Unspecified	Navy	Unspecified Worldwide	Construction Improvements	183,054	201,834	183,054	20,380	203,434
Worldwide Unspecified	Navy	Unspecified Worldwide	Planning And Design	6,499	6,499	6,499		6,499
Worldwide Unspecified	Navy	Unspecified Worldwide	Furnishings Account	32,701	30,884	32,701		32,701
Worldwide Unspecified	Navy	Unspecified Worldwide	Housing Privatization Support Cost	4,100	4,100	4,100		4,100
Worldwide Unspecified	Navy	Unspecified Worldwide	Leasing Account	123,965	123,965	123,965		123,965
Worldwide Unspecified	Navy	Unspecified Worldwide	Maintenance Account	409,567	409,567	409,567		409,567
Worldwide Unspecified	Navy	Unspecified Worldwide	Management Account	85,535	84,914	85,535		85,535
Worldwide Unspecified	Navy	Unspecified Worldwide	Miscellaneous Account	1,200	1,200	1,200		1,200
Worldwide Unspecified	Navy	Unspecified Worldwide	Servicemen's Mortgage Insurance Premium	68	68	68		68
Worldwide Unspecified	Navy	Unspecified Worldwide	Services Account	65,787	63,951	65,787		65,787
Worldwide Unspecified	Navy	Unspecified Worldwide	Utilities Account	195,172	195,172	195,172	(8,000)	187,172
Worldwide Unspecified	Navy	Unspecified Worldwide	Foreign Currency Fluctuation		(13,238)			-
Worldwide Unspecified	Navy	Unspecified Worldwide	Foreign Currency Fluctuation		(414)			-
Worldwide Unspecified	Air Force	Unspecified Worldwide	Construction Improvements	352,879	370,879	375,345	22,466	375,345
Worldwide Unspecified	Air Force	Unspecified Worldwide	Planning and Design	24,558	24,558	26,236		24,558
Worldwide Unspecified	Air Force	Unspecified Worldwide	Furnishings Account	36,619	36,619	36,619		36,619
Worldwide Unspecified	Air Force	Unspecified Worldwide	Housing Privatization Support Cost	35,406	35,406	35,406	(13,406)	22,000
Worldwide Unspecified	Air Force	Unspecified Worldwide	Leasing	102,919	102,919	102,919		102,919
Worldwide Unspecified	Air Force	Unspecified Worldwide	Maintenance	436,526	436,526	436,526		436,526

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(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Worldwide Unspecified	Air Force	Unspecified Worldwide	Management Account	58,224	55,685	58,224		58,224
Worldwide Unspecified	Air Force	Unspecified Worldwide	Miscellaneous	2,184	2,332	2,184		2,384
Worldwide Unspecified	Air Force	Unspecified Worldwide	Servicemen's Mortgage Insurance Premium	35	35	35		35
Worldwide Unspecified	Air Force	Unspecified Worldwide	Services Account	28,356	27,997	28,356		28,356
Worldwide Unspecified	Air Force	Unspecified Worldwide	Utilities Account	168,652	168,652	168,652	(11,000)	157,652
Worldwide Unspecified	Air Force	Unspecified Worldwide	Foreign Currency Fluctuation		(21,151)			
Worldwide Unspecified	Air Force	Unspecified Worldwide	Foreign Currency Fluctuation		(24,725)			
Worldwide Unspecified	DIA	Unspecified Worldwide	Furnishings Account	3,630	3,630	3,630		3,630
Worldwide Unspecified	DIA	Unspecified Worldwide	Leasing	25,600	25,600	25,600		25,600
Worldwide Unspecified	DLA	Unspecified Worldwide	Construction Improvements	250	250	250		250
Worldwide Unspecified	DLA	Unspecified Worldwide	Furnishings	30	30	30		30
Worldwide Unspecified	DLA	Unspecified Worldwide	Maintenance Account	359	339	359		359
Worldwide Unspecified	DLA	Unspecified Worldwide	Management Account	292	292	292		292
Worldwide Unspecified	DLA	Unspecified Worldwide	Services Account	78	78	78		78
Worldwide Unspecified	DLA	Unspecified Worldwide	Utilities Account	428	428	428		428
Worldwide Unspecified	NSA	Unspecified Worldwide	Furnishings Account	129	129	129		129
Worldwide Unspecified	NSA	Unspecified Worldwide	Leasing	11,698	11,698	11,698		11,698
Worldwide Unspecified	NSA	Unspecified Worldwide	Maintenance Account	658	658	658		658
Worldwide Unspecified	NSA	Unspecified Worldwide	Management Account	15	15	15		15
Worldwide Unspecified	NSA	Unspecified Worldwide	Miscellaneous Account	57	57	57		57
Worldwide Unspecified	NSA	Unspecified Worldwide	Services Account	374	374	374		374
Worldwide Unspecified	NSA	Unspecified Worldwide	Utilities Account	414	414	414		414
Worldwide Unspecified	Family Hsg Impr Fund	Unspecified Worldwide	Family Housing Improvement Fund	2,000	2,000	2,000		2,000
Worldwide Unspecified	Homeowners' Assist Prgm	Unspecified Worldwide	Homeowners Assistance Program	10,119	10,119	10,119		10,119
Worldwide Unspecified	General Provisions	Unspecified Worldwide	Rescission—Foreign Currency [PL 107-64]				(60,000)	(60,000)
Worldwide Unspecified	General Provisions	Unspecified Worldwide	General Reduction					
			Total Military Construction	5,904,795	6,359,343	6,309,371	559,466	6,461,261
			Total Family Housing	4,066,517	3,965,369	4,171,162	29,222	4,095,739
			Total Foreign Currency/General Reduction				(60,000)	(60,000)
			Total Milcon/Family Housing/Gen Reductions	9,971,312	10,324,712	10,430,533	528,688	10,500,000

Short title; definition (sec. 2001)

The Senate bill contained a provision (sec. 2001) that would cite Division B of this Act as the Military Construction Authorization Act for Fiscal Year 2002.

The House amendment contained a similar provision (sec. 2001) that would also define all references in division B to the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

The Senate recedes.

TITLE XXI—ARMY

Overview

The Senate bill would authorize $3,068.3 million for Army military construction and family housing programs for fiscal year 2002.

The House amendment would authorize $3,018.1 million for this purpose.

The conferees recommend authorization of appropriations of $3,155.6 million for Army military construction and family housing for fiscal year 2002.

The conferees agree to general reductions of $29.9 million in the Army military construction and military family housing accounts. The reductions are to be achieved through savings from favorable bids, reduced overhead costs, and cancellations due to force structure changes. The general reductions shall not cancel any military construction authorized by Title XXI of this Act.

The conference agreement provides the planning and design funds needed to execute the construction projects authorized by this Act as well as any planning and design specifically directed in the House report (H. Rept. 107-194) or the Senate report (S. Rept. 107-62).

ITEMS OF SPECIAL INTEREST

Renovation of Womack Army Medical Center, Fort Bragg, North Carolina

The conferees understand that the Army intends to renovate the old Womack Army Medical Center at Fort Bragg, North Carolina, for use as a soldier support center. The soldier support center would not only provide a convenient one-stop processing center for soldiers, it would also allow for the demolition of 87 World War II-era wooden buildings, resulting in considerable savings in maintenance and utilities. While the conferees endorse this creative initiative, the conferees are disappointed that the Secretary of the Army does not intend to request funding for the project until fiscal year 2007. The conferees urge the Secretary of the Army to accelerate this important project and upon completion consider naming the facility for the recently retired former Chairman of the Joint Chiefs of Staff, General Hugh Shelton.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Army construction and land acquisition projects (sec. 2101)

The Senate bill contained a provision (sec. 2101) that would authorize Army construction projects for fiscal year 2002. The authorized amounts are listed on an installation-by-installation basis.

The House amendment contained a similar provision (sec. 2101).

The conference agreement includes this provision.

The authorized amounts are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Family housing (sec. 2102)

The Senate bill included a provision (sec. 2102) that would authorize new construction and planning and design of family housing units for the Army for fiscal year 2002. The authorized amounts are listed on an installation-by-installation basis.

The House amendment contained a similar provision (sec. 2102).

The conference agreement includes this provision.

The authorized amounts are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Improvements to military family housing units (sec. 2103)

The Senate bill contained a provision (sec. 2103) that would authorize improvements to existing units of family housing for fiscal year 2002.

The House amendment contained a similar provision (sec. 2103).

The conference agreement includes this provision.

Authorization of appropriations, Army (sec. 2104)

The Senate bill contained a provision (sec. 2104) that would authorize specific appropriations for each line item contained in the Army's budget for fiscal year 2002. This section would also provide an overall limit on the amount the Army may spend on military construction projects.

The House amendment contained a similar provision (sec. 2104).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2001 projects (sec. 2105)

The Senate bill contained a provision (sec. 2105) that would amend the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; Public Law 106-398) to increase the total project authorizations for the following projects by the following amounts: $4.4 million for a basic training barracks project at Fort Leonard Wood, Missouri; $3.0 million for a battle simulation center at Fort Drum, New York; and $3.0 million for a digital training range at Fort Hood, Texas.

The House amendment contained a similar provision.

The House recedes with a technical amendment.

Modification of authority to carry out certain fiscal year 2000 projects (sec. 2106)

The conferees agreed to a provision that would amend the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65) to cancel the authorization of appropriations of $36.4 million in section 2014 of that Act for a project for which the appropriated funds were rescinded by the Military Construction Appropriations Act, 2002 (Public Law 107-64). This reduction is made without prejudice. The conferees understand that funds may be requested for this project in the future and have agreed to retain the authorization for this project contained in section 2101 of that Act.

TITLE XXII—NAVY

Overview

The Senate bill would authorize $2,377.6 million for Navy military construction and family housing programs for fiscal year 2002.

The House amendment would authorize $2,393.0 million for this purpose.

The conferees recommend authorization of appropriations of $2,366.7 million for Navy military construction and family housing for fiscal year 2002.

The conferees agree to general reductions of $82.6 million in the Navy military construction and military family housing accounts. The reductions are to be achieved through savings from favorable bids, reduction in overhead costs, and cancellation of projects due to force structure changes. The general reductions shall not cancel any military construction authorized by Title XXII of this Act.

The conference agreement provides the planning and design funds needed to execute the construction projects authorized by this Act as well as any planning and design specifically directed in the House report (H. Rept. 107-194) or the Senate report (S. Rept. 107-62).

LEGISLATIVE PROVISIONS ADOPTED

Authorized Navy construction and land acquisition projects (sec. 2201)

The Senate bill contained a provision (sec. 2201) that would authorize Navy construction projects for fiscal year 2002. The authorized amounts are listed on an installation-by-installation basis.

The House amendment contained a similar provision (sec. 2201).

The conference agreement includes this provision.

The authorized amounts are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Family housing (sec. 2202)

The Senate bill contained a provision (sec. 2202) that would authorize new construction and planning and design of family housing units for the Navy for fiscal year 2002. The authorized amounts are listed on an installation-by-installation basis.

The House amendment contained a similar provision (sec. 2202).

The conference agreement includes this provision.

The authorized amounts are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Improvements to military family housing units (sec. 2203)

The Senate bill contained a provision (sec. 2203) that would authorize improvements to existing units of family housing for fiscal year 2002.

The House amendment contained a similar provision (sec. 2203).

The conference agreement includes this provision and includes funding for the additional housing improvements contained in the House amendment.

Authorization of appropriations, Navy (sec. 2204)

The Senate bill contained a provision (sec. 2204) that would authorize specific appropriations for each line item in the Navy's budget for fiscal year 2002. This section would also provide an overall limit on the amount the Navy may spend on military construction projects.

The House amendment contained a similar provision (sec. 2204).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2001 projects (sec. 2205)

The Senate bill contained a provision (sec. 2205) that would amend section 2201(a) of the Military Construction Act for Fiscal Year 2001 (division B of Public Law 106-398; 114 Stat. 1654A-395) to correct the funding authorization for the Naval Shipyard, Bremerton, Puget Sound, Washington, from

$100,740,000 to $102,460,000, and for Naval Station, Bremerton, Washington, from $11,930,000 to $1,930,000. The provision would also correct the total funding authorized for construction projects inside the United States from $811,497,000 to $803,217,000.

The House amendment contained no similar provision.

The House recedes with an amendment that would increase the authorization for Industrial Skills Center, Puget Sound Naval Shipyard from $20,280,000 to $24,000,000. The amendment would also reduce the fiscal year 2001 authorization of appropriations for planning and design by $19.6 million to reflect the rescission of unobligated balances of this amount in the Military Construction Appropriations Act, 2002 (Public Law 107–64), and would make certain conforming changes.

Modification of authority to carry out certain fiscal year 2000 project (sec. 2206)

The Senate bill contained a provision (sec. 2206) that would amend the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65) to increase the total project authorization for the headquarters facility for the Commander in Chief of the Pacific Fleet at Camp Smith, Hawaii by $3.0 million.

The House amendment contained a similar provision.

The House recedes.

Title XXIII—Air Force

Overview

The Senate bill would authorize $2,587.8 million for Air Force military construction and family housing programs for fiscal year 2002.

The House amendment would authorize $2,526.0 million for this purpose.

The conferees recommend authorization of appropriations of $2,573.1 million for Air Force military construction and family housing for fiscal year 2002.

The conferees agree to general reductions of $48.4 million in the Air Force military construction and military family housing accounts. The reductions are to be achieved through savings from favorable bids, reduction in overhead costs, and cancellation of projects due to force structure changes. The general reductions shall not cancel any military construction authorized by Title XXIII of this Act.

The conference agreement provides the planning and design funds needed to execute the construction projects authorized by this Act as well as any planning and design specifically directed in the House report (H. Rept. 107–194) or the Senate report (S. Rept. 107–62).

Legislative Provisions Adopted

Authorized Air Force construction and land acquisition projects (sec. 2301)

The Senate bill contained a provision (sec. 2301) that would authorize Air Force construction projects for fiscal year 2002. The authorized amounts are listed on an installation-by-installation basis.

The House amendment contained a similar provision (sec. 2301).

The conference agreement includes this provision.

The authorized amounts are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Family housing (sec. 2302)

The Senate bill included a provision (sec. 2302) that would authorize new construction and planning and design of family housing units for the Air Force for fiscal year 2002. The authorized amounts are listed on an installation-by-installation basis.

The House amendment contained a similar provision (sec. 2302).

The conference agreement includes this provision.

The authorized amounts are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Improvements to military family housing units (sec. 2303)

The Senate bill contained a provision (sec. 2303) that would authorize improvements to existing units of family housing for fiscal year 2002.

The House amendment contained a similar provision (sec. 2303).

The conference agreement includes this provision and includes funding for the additional housing improvements contained in the Senate bill and the House amendment.

Authorization of appropriations, Air Force (sec. 2304)

The Senate bill contained a provision (sec. 2304) that would authorize specific appropriations for each line item in the Air Force budget for fiscal year 2002. This section would also provide an overall limit on the amount the Air Force may spend on military construction projects.

The House amendment contained a similar provision (sec. 2304).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2001 projects (sec. 2305)

The Senate bill contained a provision (sec. 2305) that would amend section 2302(a) of the Military Construction Act for Fiscal Year 2001 (division B of Public Law 106–398; 114 Stat. 1654A–400) to correct the number of family housing units authorized for construction at Mountain Home Air Force Base, Idaho, from 119 units to 46 units.

The House amendment contained a provision (sec. 2305) that would amend the table in section 2301 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of Public Law 106–398) to provide for an increase in the amounts authorized for military construction at McGuire Air Force Base, New Jersey.

The House recedes to the Senate provision. The Senate recedes to the House provision.

Title XXIV—Defense Agencies

Overview

The Senate bill would authorize $905.8 million for Defense Agencies military construction and family housing programs for fiscal year 2002, and an additional $592.2 million for base closure activities.

The House amendment would authorize $885.0 million for Defense Agencies military construction and family housing programs and $532.2 million for base closure activities.

The conferees recommend authorization of appropriations of $848.5 million for Defense Agencies military construction and family housing for fiscal year 2002. The conferees also recommend authorization of appropriations of $632.7 million for base closure activities.

The conferees agree to a general reduction of $17.6 million in the authorization of appropriations for the Defense Agencies military construction account. The general reduction is to be achieved through savings from favorable bids and reductions in overhead costs. The conferees further agree to a general reduction of $10.0 million in the authorization of appropriations for planning and design for the chemical demilitarization program. The reduction to the entire chemical demilitarization program is based on unobligated prior year funds. The conferees do not intend this reduction to interfere with timely compliance with the Chemical Weapons Convention. The general reductions shall not cancel any military construction projects authorized by Title XXIV of this Act.

The conference agreement provides the planning and design funds needed to execute the construction projects authorized by this Act as well as any planning and design specifically directed in the House report (H. Rept. 107–194) or the Senate report (S. Rept. 107–62).

Legislative Provisions Adopted

Authorized Defense Agencies construction and land acquisition projects (sec. 2401)

The Senate bill contained a provision (sec. 2401) that would authorize Defense Agencies construction projects for fiscal year 2002. The authorized amounts are listed on an installation-by-installation basis.

The House amendment contained a similar provision (sec. 2401).

The conference agreement includes this provision.

The authorized amounts are listed on an installation-by-installation basis. The state list contained in this report is intended to be the binding list of the specific projects authorized at each location.

Energy conservation projects (sec. 2402)

The Senate bill contained a provision (sec. 2402) that would authorize the Secretary of Defense to carry out energy conservation projects.

The House amendment contained a similar provision.

The Senate recedes with a technical amendment.

Authorization of appropriations, Defense Agencies (sec. 2403)

The Senate bill contained a provision (sec. 2403) that would authorize specific appropriations for each line item in the Defense Agencies' budgets for fiscal year 2002. This section would also provide an overall limit on the amount the Defense Agencies may spend on military construction projects.

The House amendment contained a similar provision (sec. 2403).

The conference agreement includes this provision.

Cancellation of authority to carry out certain fiscal year 2001 projects (sec. 2404)

The Senate bill contained a provision (sec. 2404) that would amend the Military Construction Authorization Act for Fiscal Year 2001 (division B of Public Law 106–398) to cancel the project authorizations for four TRICARE Management Agency medical/dental clinic and support facility projects at Camp Pendleton, California since the funds authorized in fiscal year 2001 were used for payment of a claim related to the construction of the Portsmouth Naval Hospital, Virginia. These projects would be authorized for fiscal year 2002 in section 2403 of this Act.

The House amendment contained a provision (sec. 2404) that would amend the table in section 2401 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of Public Law 106–398) to provide for an increase in the amounts authorized for construction at Marine Corps Base, Camp Pendleton, California.

The House recedes with an amendment that would reduce the fiscal year 2001 project authorization and the authorization of appropriations for military construction for a national missile defense system by $55.0 million to reflect the administration's proposal in the fiscal year 2002 budget to build any facilities related to ballistic missile defenses with research and development funds rather than military construction funds.

Modification of authority to carry out certain fiscal year 2000 projects (sec. 2405)

The Senate bill contained a provision (sec. 2406) that would amend the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65) to increase the project authorization for a chemical demilitarization facility at Blue Grass Army Depot, Kentucky by $47.2 million and the authorization for a hospital at Fort Wainwright, Alaska by $82.0 million.

The provision would also cancel the project authorization for an aircrew water survival training facility at Whidbey Island Naval Air Station, Washington since the funds authorized in fiscal year 2000 were used for payment of a claim related to the construction of the Portsmouth Naval Hospital, Virginia. This project would be authorized for fiscal year 2002 in section 2403 of this Act.

The House amendment contained a provision (sec. 2405) that would amend the table in section 2401 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65) to provide for an increase in the amounts authorized for construction at Naval Air Station, Whidbey Island, Washington and Blue Grass Army Depot, Kentucky.

The House recedes with a technical amendment.

Modification of authority to carry out certain fiscal year 1999 project (sec. 2406)

The Senate bill contained a provision (sec. 2407) that would amend the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261) to increase the project authorization for a chemical demilitarization facility at Aberdeen Proving Ground, Maryland by $37.6 million.

The House amendment contained a similar provision.

The Senate recedes.

Modification of authority to carry out certain fiscal year 1995 project (sec. 2407)

The Senate bill contained a provision (sec. 2408) that would amend the table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended, to increase the funding for Chemical Weapons and Munitions Destruction facilities at Pine Bluff, Arkansas, by $23.0 million.

The House amendment contained an identical provision.

The conference agreement includes this provision.

Procedures for the Department of Defense

The conferees agree to authorize a round of base realignment and closure for the Department of Defense in 2005. The conference agreement modifies the procedures used in the 1991, 1993 and 1995 rounds as described below.

Recommendations by the Secretary

With respect to the recommendations of the Secretary of Defense, the conferees have modified the process used in prior rounds as follows.

The force structure plan submitted by the Secretary of Defense with the fiscal year 2005 budget would include detailed information on probable end-strength and force levels for the military services, including major ground combat units, combatant vessels and air wings. The Secretary would be required to review every type of installation and to take into account the anticipated need for and availability of overseas installations in the future.

The Secretary would be permitted to submit a revised force structure plan with the fiscal year 2006 budget.

The Secretary would be required to include with the force structure plan: an inventory of military installations; a description of the categories of excess infrastructure; and an economic analysis of the options for eliminating or reducing that excess infrastructure, including potential efficiencies from joint use and tenancy of military installations by more than one service.

The Secretary would be required to certify, when the force structure plan and infrastructure inventory are submitted, whether the need exists for closure or realignment of additional military installations and, if such need exists, that a round of such closures and realignments in 2005 would produce annual net savings within six years. If the Secretary failed to provide this certification, the process for closure or realignment of installations under the provisions of this Act for 2005 would be terminated.

The conferees have specified factors that must be evaluated and incorporated in the Secretary's final list of criteria, including the military value of installations for both the preservation of land for traditional warfighting missions and the preservation of installations for homeland defense. However, the Secretary is not limited to the criteria contained in this Act. Any selection criteria relating to the cost or savings of proposed closures would have to take into account the impact of the closure on other federal agency operations on that installation.

The General Accounting Office would be required to submit to Congress an evaluation of the force structure plan, the installation inventory and the selection criteria.

Consideration of the Secretary's proposal by the commission

With respect to the proceedings of the commission, the conferees agree to the following changes.

The number of commissioners for the 2005 round would be increased from eight to nine.

The commission would have 48 hours rather than 24 hours to provide information received from certain individuals of the Department of Defense to the Congress.

The Secretary of Defense would be given an opportunity to testify before the commission on changes proposed by the commission to the Secretary's recommendations.

Prior to any decision to add an installation not proposed to be closed or realigned by the Secretary to the list of installations to be considered for closure or realignment by the commission, the commission would be required to give the Secretary 15 days to submit an explanation of why the Secretary did not propose that installation for closure or realignment. A decision to add that installation to the list of installations being considered would then have to be supported by at least seven commissioners.

Privatization in place of closed or realigned facilities would be prohibited unless it was specifically recommended by the commission and determined to be the most cost-effective option.

Disposal of property

With respect to the disposal of property from closed or realigned facilities, the conferees have modified the process as follows.

The conference agreement would require the Secretary of Defense to obtain fair market value for economic development conveyances in most cases, unless the Secretary determines the circumstances warrant a below-cost or no-cost conveyance.

The conferees agree to allow the Secretary to recommend that an installation be placed in an inactive or caretaker status if the Secretary determines that the installation may be needed in the future for national security purposes, but is not needed at the present time, or that retention of the installation by the Department of Defense is otherwise in the interests of the United States.

The conferees agree to allow payment to a local redevelopment authority for services provided on property leased back by the United States.

The DOD would be authorized to pay to the recipient of the former DOD property the amount by which the estimated cost to the recipient to clean up a BRAC site exceeds the value of the property.

A Department of Defense Closure Account 2005 would be created to fund the costs of implementing any closures or realignments from the 2005 round.

Procedures for the Department of Energy

The conferees agree to authorize the Secretary of Energy to propose facilities of the nuclear weapons complex for closure or realignment in the 2005 BRAC round. The recommendations of the Secretary for closure or realignment of facilities of the nuclear weapons complex, if any, would be considered by the same commission that would also consider any recommendations of the Secretary of Defense. The conferees urge the President to nominate some individuals with knowledge of the operations of the nuclear weapons complex to serve on the commission.

The procedures for evaluating facilities of the nuclear weapons complex by the Secretary and the commission would generally follow those used for Department of Defense facilities. However, the conferees have modified those procedures, where appropriate, to reflect the differing missions, types of facilities, and property disposal practices of the respective Departments.

The Secretary would be required to provide an organizational plan for the nuclear weapons complex sufficient to support the nuclear weapons stockpile, the Naval Reactor Program and the non-proliferation and national security activities. In preparing the plan, the Secretary would take into consideration the Department of Defense Nuclear Posture Review, the efficiencies and security benefits of consolidation and the necessity to have a residual production capacity.

The Secretary would be required to certify, when the plan is submitted, whether the need exists for closure or realignment of facilities of the nuclear weapons complex and that, if such need exists, a round of such closures and realignments in 2005 would produce annual net savings within six years. If the Secretary failed to provide this certification, the process for closure or realignment of installations for the Department of Energy under the provisions of this Act for 2005 would be terminated.

Property at facilities of the nuclear weapons complex recommended for closure by the commission would be disposed of under current statutes providing for the disposal of property of the Department of Energy and would not be subject to section 2905 of the Defense Base Closure and Realignment Act of 1990.

A Nuclear Weapons Complex Closure Account 2005 would be created to fund the costs of implementing any closures or realignments of facilities of the nuclear weapons complex.

Prohibition on expenditures to develop forward operating location on Aruba (sec. 2408)

The House amendment contained a provision (sec. 2408) that would prohibit funds appropriated in chapter 3 of title II of the Emergency Supplemental Appropriations Act, 2000 (Public Law 106–246) to be used by the Secretary of Defense to develop any forward operating location of the island of Aruba.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Legislative Provisions Not Adopted

Cancellation of authority to carry out additional fiscal year 2001 project

The Senate bill contained a provision (sec. 2405) that would reduce the fiscal year 2001 project authorization and the authorization of appropriations for military construction for a national missile defense system by $55.0 million to reflect the administration's proposal in the fiscal year 2002 budget to build any facilities related to ballistic missile defenses with research and development funds rather than military construction funds.

The House amendment contained no similar provision.

The Senate recedes.

The conferees agree to include this reduction in another provision in this title.

Title XXV—North Atlantic Treaty Organization Security Investment Program

Overview

The Senate bill, the House amendment, and the conference agreement would all authorize $162.6 million for the U.S. contribution to the North Atlantic Treaty Organization (NATO) Security Investment Program for fiscal year 2002.

Legislative Provisions Adopted

Authorized NATO construction and land acquisition projects (sec. 2501)

The Senate bill contained a provision (sec. 2501) that would authorize the Secretary of Defense to make contributions to the North Atlantic Treaty Organization Security Investment program in an amount equal to the sum of the amount specifically authorized in section 2502 of the Senate bill and the amount of recoupment due to the United States for construction previously financed by the United States.

The House amendment contained an identical provision.

The conference agreement includes this provision.

Authorization of appropriations, NATO (sec. 2502)

The Senate bill contained a provision (sec. 2502) that would authorize appropriations of $162,600,000 as the United States contribution to the North Atlantic Treaty Organization (NATO) Security Investment Program.

The House amendment contained an identical provision.

The conference agreement includes this provision.

Title XXVI—Guard and Reserve Facilities

Overview

The Senate bill would authorize $791.2 million for military construction and land acquisition for fiscal year 2002 for the Guard and Reserve components.

The House amendment would authorize $807.8 million for this purpose.

The conferees recommend authorization of appropriations of $942.0 million for military construction and land acquisition for fiscal year 2002. Funds are authorized for the Guard and Reserve Components as follows:

Army National Guard	$393,253,000
Air National Guard	253,852,000
Army Reserve	168,969,000
Naval and Marine Corps Reserve	52,896,000
Air Force Reserve	73,032,000
Total	942,002,000

The conference agreement provides the planning and design funds needed to execute the construction projects authorized by this Act, as well as any planning and design specifically directed in the House report (H. Rept. 107–194) or the Senate report (S. Rept. 107–62).

Items of Special Interest

Improvement of National Guard infrastructure

The conferees are aware of the pressing problems facing state National Guard facilities and the general need to improve aging infrastructure, in particular deteriorated and unsafe roofs. The conferees note the efforts in certain states, in particular those of the Oklahoma National Guard, to develop plans to address this problem. The conferees direct the Director of the National Guard Bureau to make every effort to identify the necessary funding sources for roof replacement and other critical infrastructure improvements to state guard facilities.

Planning and design, Army National Guard

The report accompanying the House amendment, H.R. 2586, contained a recommendation that within the amounts authorized for planning and design for the Air National Guard, the Secretary of the Air Force execute the following project: $1,331,000 for a joint headquarters building at McEntire Air National Guard Base, South Carolina.

The conferees have been notified that the Army National Guard would be the appropriate lead agency for the construction of the joint headquarters. Therefore, the conferees agreed to revise the recommendation of the House report and recommend that the Secretary of the Army, within authorized amounts for planning and design, execute the following project: $1,331,000 for a joint headquarters building at McEntire Air National Guard, Base, South Carolina.

Legislative Provisions Adopted

Authorized guard and reserve construction and land acquisition projects (sec. 2601)

The Senate bill contained a provision (sec. 2601) that would authorize appropriations for military construction for the Guard and Reserve by service component for fiscal year 2002.

The House amendment contained a similar provision (sec. 2601).

The conference agreement includes this provision. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Title XXVII—Expiration and Extension of Authorizations

Legislative Provisions Adopted

Expiration of authorizations and amounts required to be specified by law (sec. 2701)

The Senate bill contained a provision (sec. 2701) that would provide that authorizations for military construction projects, repair of real property, land acquisition, family housing projects and facilities, contributions to the North Atlantic Treaty Organization Security Investment Program, and guard and reserve projects will expire on October 1, 2004, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later. This expiration would not apply to authorizations for which appropriated funds have been obligated before October 1, 2004, or the date of enactment of an Act authorizing funds for these projects, whichever is later.

The House amendment contained an identical provision.

The conference agreement includes this provision.

Extension of authorizations of certain fiscal year 1999 projects (sec. 2702)

The Senate bill contained a provision (sec. 2702) that would extend the authorization for certain fiscal year 1999 military construction projects until October 1, 2002, or the date of the enactment of the Act authorizing funds for military construction for fiscal year 2003, whichever is later.

The House amendment contained a similar provision.

The House recedes.

Extension of authorizations of certain fiscal year 1998 projects (sec. 2703)

The Senate bill contained a provision (sec. 2703) that would extend the authorization for certain fiscal year 1998 military construction projects until October 1, 2002, or the date of the enactment of the Act authorizing funds for military construction for fiscal year 2003, whichever is later.

The House amendment contained a similar provision.

The Senate recedes with a technical amendment.

Effective date (sec. 2704)

The Senate bill contained a provision (sec. 2704) that would provide that Titles XXI, XXII, XXIII, XXIV, XV, and XXVI of this bill shall take effect on October 1, 2001, or the date of the enactment of this Act, whichever is later.

The House amendment contained an identical provision.

The conference agreement includes this provision.

Title XXVIII—General Provisions

Items of Special Interest

Remediation of former Fort Ord, California

The conferees are aware that two parcels of land at the former Fort Ord, California, will be transferred at no cost to the City of Seaside, California, for the purpose of providing recreational opportunities for disadvantaged youth, once environmental remediation of the land is complete. The conferees understand that the priority has been to transfer the cleanest parcels on the former Fort Ord first, deferring to the future the transfer of land possibly contaminated with unexploded ordnance. Nevertheless, the conferees observe that Fort Ord was selected for closure more than ten years ago and are disappointed that parcels such as these, though encumbered with greater cleanup challenges, are still pending remediation and transfer. The conferees endorse the intended use of these parcels and urge the Secretary of the Army to speed the environmental remediation.

Legislative Provisions Adopted

Subtitle A—Military Construction Program and Military Family Housing Changes

Increase in thresholds for certain unspecified minor military construction projects (sec. 2801)

The Senate bill contained a provision (sec. 2801) that would amend section 2805 of title 10, United States Code to increase from $500,000 to $750,000 the cost threshold for an unspecified minor construction project requiring approval by the service secretary concerned. The provision would further amend section 2805 to increase the amount the secretary concerned may spend from appropriated operation and maintenance amounts for projects intended to correct deficiencies that are a threat to life, health, or safety from $1.0 million to $1.5 million and for other unspecified minor construction projects from $500,000 to $750,000.

The House amendment contained a similar provision.

The House recedes.

Exclusion of unforseen environmental hazard remediation from limitation on authorized cost variations (sec. 2802)

The Senate bill contained a provision (sec. 2802) that would amend section 2853 of title 10, United States Code, to exclude the cost associated with unforseen environmental hazard remediation from the limitation on cost increases in military construction projects. Costs that could be excluded would include asbestos removal, radon abatement, lead-based paint removal or abatement, and any other environmental hazard remediation required by law that could not be reasonably anticipated at the time the funding for the project was approved by the Congress.

The House amendment contained a similar provision.

The Senate recedes with a technical amendment.

Repeal of annual reporting requirement on military construction and military family housing activities (sec. 2803)

The Senate bill contained a provision (sec. 2803) that would repeal a statutory requirement for an annual report to Congress on the status of military construction and family housing projects and trends in the funding for various aspects of military construction.

The House amendment contained a similar provision.

The Senate recedes.

Funds for housing allowances of members assigned to military family housing under alternative authority for acquisition and improvement of military housing (sec. 2804)

The Senate bill contained a provision (sec. 2805) that would authorize the Secretary of Defense, to the extent provided in advance in appropriations acts, during the year in which a contract is awarded for a family housing privatization project, to reimburse the Military Personnel appropriations account from the Family Housing Maintenance and Operations appropriations the amounts necessary to offset the additional cost of housing allowances that would be paid as a result of a housing privatization project. The provision would also make certain technical changes.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Extension of alternative authority for acquisition and improvement of military housing (sec. 2805)

The House amendment contained a provision (sec. 2804) that would amend section 2885 of title 10, United States Code, to make permanent the authorities contained in subchapter 169 of title 10, United States Code.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would extend the authorities contained in subchapter 169 of title 10, United States Code through December 31, 2012.

Treatment of financing costs as allowable expenses under contracts for utility services from utility systems conveyed under privatization initiative (sec. 2806)

The Senate bill contained a provision (sec. 2806) that would require the Secretary of Defense to determine, within 90 days, whether or not modifying the Federal Acquisition Regulation (FAR) is advisable so that a contract for utility services may include terms and conditions that recognize financing costs as an allowable expense when incurred in the process of acquiring, operating, renovating, replacing, upgrading, repairing and expanding the installation utility system. If within 180 days, the Federal Acquisition Regulatory Council has not modified the FAR, the Secretary would be required to submit a report justifying such action.

The House amendment contained no similar provision.

The House recedes with an amendment that would direct the Secretary of Defense, if he determines that modifying the Federal Acquisition Regulation is advisable, to request that the Federal Acquisition Regulatory Council make the appropriate changes.

Subtitle B—Real Property and Facilities Administration

Use of military installations for certain recreational activities (sec. 2811)

The House amendment contained a provision (sec. 2811) that would amend section 2671 of title 10, United States Code, to allow the Secretary of Defense to waive state or territory fish and game laws to permit hunting, fishing, or trapping on military installations to promote public safety or morale, welfare and recreation activities.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary of Defense to waive state or territory fish and game laws relating to hunting, fishing or trapping if such a waiver is required for health or safety reasons at military installations and that would require the Secretary of Defense to notify state officials 30 days prior to implementing any such waiver.

Availability of proceeds of sales of Department of Defense property from certain closed military installations (sec. 2812)

The Senate bill contained a provision (sec. 2811) that would increase from 50 percent to 100 percent the share of the proceeds from the sale of surplus Department of Defense property at closed installations that may be used for infrastructure maintenance and environmental restoration at other installations within the service that operated the closed installation.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that this provision applies to proceeds of property that is disposed of other than through the base realignment and closure statutes.

Pilot program to provide additional tools for efficient operation of military installations (sec. 2813)

The Senate bill contained a provision (sec. 2812) that would authorize the Secretary of Defense to carry out a pilot program to determine the potential for increasing the efficiency and effectiveness of the operation of military installations. The pilot program would terminate four years after the date of enactment of this Act.

The provision would permit the Secretary to designate up to two installations in each military department as participants in the efficient facilities initiative. The Secretary would be required to develop a management plan to carry out the initiative at each designated installation and submit that plan to the Congress. The Secretary would be required to identify any statutes or regulations he proposes to waive under this authority. Such waivers would have to be enacted into law in subsequent legislation before they would take effect.

Funds received by the military departments pursuant to this authority would be deposited in an Installation Efficiency Project Fund, which could be used to manage capital assets and provide support services at installations participating in the initiative.

The House amendment contained no similar provision.

The House recedes with a technical amendment. The conferees agree that the provisions of section 2461 of title 10, United States Code would apply to any changes to Office of Management and Budget Circular A–76 that would be proposed under this authority.

Demonstration program on reduction in long-term facility maintenance costs (sec. 2814)

The Senate bill contained a provision (sec. 2813) that would authorize the Secretary of the Army to enter into no more than three contracts in any fiscal year that would require the contractor to maintain a facility constructed for the Army for up to the first five years of operation of that facility and would include any costs for the performance of such maintenance in the cost of construction of the project. The demonstration program would be authorized for fiscal years 2002 through 2006.

The House amendment contained no similar provision.

The House recedes with an amendment that would direct the Secretary of the Army to submit a report to the congressional defense committees not later than January 31, 2005.

Base efficiency project at Brooks Air Force Base, Texas (sec. 2815)

The House amendment contained a provision (sec. 2812) that would amend section 136 of the Military Construction Appropriations Act, 2001 (division A of Public Law 106–246) to authorize the Secretary of the Air Force to provide environmental indemnification to the San Antonio community and other persons for personal injury or property damage resulting from environmental contamination resulting from Department of Defense activities at Brooks Air Force Base. No indemnification would be provided unless the person or entity making the claim provided the required documentation. This section would authorize the Secretary to settle or defend a claim for cases where the Secretary determines that the Department of Defense may be required to make indemnification payments.

The House amendment would also amend section 136(m)(9) of the Military Construction Appropriations Act, 2001, to allow the Secretary of the Air Force to delegate his authorities to officials in the Air Force that have not been confirmed by the Senate.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would allow the Secretary of the Air Force to further delegate his authorities and would direct the Secretary of Defense to evaluate the base efficiency project at Brooks Air Force Base, Texas, and report to the Congress on whether the effective implementation of this project requires additional authority for the Secretary of the Air Force to indemnify the recipients of the property against claims arising out of Department of Defense activities on the property prior to disposal. The report would be submitted not later than March 1, 2002. If the Secretary of Defense determines that indemnification is appropriate, the report would include a recommendation on the nature and extent of additional indemnification the Secretary of Defense recommends be provided.

Subtitle C—Implementation of Defense Base Closures and Realignments

Lease Back of Base Closure Property (sec. 2821)

The House amendment contained a provision (sec. 2821) that would amend the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; section 2687 of title 10, United States Code), which governs the 1988 round of base closures and the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) which governs the 1991, 1993 and 1995 rounds of base closures, to authorize the secretary concerned to transfer real property at a closed or realigned military installation to the redevelopment authority for the installation if the redevelopment authority agrees, directly upon transfer, to lease one or more portions of the property transferred to the secretary or to the head of another department or agency of the Federal Government.

Such leases could not exceed 50 years and may not require rental payments by the United States. This section would permit the use of the leased property by the same or another department or agency of the Federal Government if the original department concerned ceases requiring the use of the lease.

The Senate bill contained a provision (sec. 2911) that would amend the 1988 base closure authorities to allow payment to a local redevelopment authority for services provided on property leased back by the United States. Section 2903 of the Senate bill contained similar language modifying the 1990 base closure authorities.

The Senate recedes with an amendment that would authorize the department and agency concerned to obtain facility services for the leased property, and common area maintenance for the redevelopment authority or the redevelopment authority's assignees, as a provision of the lease, but would require that contracts for such services be awarded in compliance with Chapter 137 of title 10, United States Code.

Subtitle D—Land Conveyances

Part I—Army Conveyances

Lease authority, Fort DeRussy, Hawaii (sec. 2832)

The Senate bill contained a provision (sec. 2844) that would permit the Secretary of the Army to authorize the Army Morale, Welfare and Recreation Fund to enter into an agreement for the construction of a parking garage at Fort DeRussy, Hawaii. The agreement could be in the form of a non-appropriated fund contract, conditional gift, or other agreement determined by the fund to be appropriate for the construction of the garage. The agreement may permit use of the garage by the general public if the fund determines that it will be advantageous to the fund. Amounts received by the fund would be treated as non-appropriated funds, and would accrue to the benefit of the fund or its component funds.

The House amendment contained a provision (sec. 2833) that would authorize the Secretary of the Army to enter into a lease with the City of Honolulu, Hawaii for the purpose of making available to the City a parcel of real property for the construction and operation of a parking facility.

The Senate recedes with an amendment that would authorize the Secretary of the Army to enter into a lease with the City and County of Honolulu to allow the City and County to construct and operate a parking facility. The amendment would also direct that any lease under this section would not be subject to section 2667 of title 10, United States Code and that all money rentals from the lease be retained by the Secretary and credited to an account that supports the operation and maintenance of Army facilities including Fort DeRussy. The conferees expect the Secretary to ensure that an appropriate share of the revenues is applied to support the activities and facilities at Fort DeRussy.

Modification of land exchange, Rock Island Arsenal, Illinois (sec. 2833)

The House amendment contained a provision (sec. 2831) that would amend section 2832 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of Public Law 106–398) by authorizing the Secretary of the Army to transfer a parcel of real property of approximately .513 acres to the City of Moline, Illinois. As consideration for the transfer, the City would convey to the Secretary a parcel of real property of approximately .063 acres to construct a new access ramp for the Rock Island Arsenal, Illinois.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Land conveyance, Fort Des Moines, Iowa (sec. 2834)

The Senate bill contained a provision (sec. 2829) that would authorize the Secretary of the Army to convey to Fort Des Moines Memorial Park, Inc. approximately 4.6 acres located at the Fort Des Moines United States Army Reserve Center. The conveyance would be for the purpose of establishing the Fort Des Moines Memorial Park and Education Center and would require the recipient to reimburse the Secretary for any costs associated with the conveyance.

The House amendment contained no similar provision.

The House recedes with an amendment that would make technical corrections and would clarify that the recipient of the property would be required to reimburse the Secretary for any excess costs that result from a request by the recipient for any environmental assessments or other activities that result in additional costs to the Army beyond those considered reasonable and necessary by the Secretary to convey the property in compliance with existing law.

Modification of land conveyances, Fort Dix, New Jersey (sec. 2835)

The House amendment contained a provision (sec. 2832) that would amend section 2835 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85) to authorize the exchange between the Borough of Wrightstown and the New Hanover Board of Education, without the consent of the Secretary of the Army, of all or any portion of the property conveyed so long as the property continues to be used for economic or educational purposes.

The Senate bill contained no similar provision.

The Senate recedes.

Land conveyance, Engineer Proving Ground, Fort Belvoir, Virginia (sec. 2836)

The Senate bill contained a provision (sec. 2821) that would authorize the Secretary of the Army to convey to the Commonwealth of Virginia 11.45 acres located at the Engineer Proving Ground, Fort Belvoir, Virginia for the purpose of constructing a portion of Interstate Highway 95 through the Engineer Proving Ground, and 170 acres for the purpose of constructing a portion of the Fairfax County Parkway through the Engineer Proving Ground. The Commonwealth of Virginia would agree to design and construct that portion of the Fairfax County Parkway through the Engineer Proving Ground; design, for eventual construction, the necessary access into the Engineer Proving Ground; provide utility permits; and provide funding to replace an existing building located on the property to be conveyed.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Land exchange and consolidation, Fort Lewis, Washington (sec. 2837)

The House amendment contained a provision (sec. 2834) that would authorize the Secretary of the Army to convey two parcels of real property, with improvements, consisting of approximately 138 acres at Fort Lewis, Washington, to the Nisqually Tribe. As consideration for the exchange, the Tribe shall acquire from Thurston County, Washington several parcels of real property consisting of approximately 416 acres and convey fee title to the Secretary. This section would authorize the Secretary to convey to the Bonneville Power Administration a right-of-way to permit the Administration to use the real property at Fort Lewis as a route for the Grand Coulee-Olympia and Olympia-White River electrical transmission lines. The cost of any survey would be borne by the recipient of the property.

The Senate bill contained no similar provision.

The Senate recedes.

Land conveyance, Army Reserve Center, Kewaunee, Wisconsin (sec. 2838)

The Senate bill contained a provision (sec. 2832) that would authorize the Administrator of the General Services Administration to convey the former Army Reserve Center in Kewaunee, Wisconsin, to the City of Kewaunee for public use. The provision includes a 20-year reversionary clause and directs that, in the event of a reversion of the property, the property shall be disposed of by public sale.

The House amendment contained no similar provision.

The House recedes with an amendment that would direct that proceeds received by the United States from the public sale of the property, in the event that the property reverts to the United States, would be deposited into the Land and Water Conservation Fund.

Part II—Navy Conveyances

Transfer of jurisdiction, Centerville Beach Naval Station, Humbolt County, California (sec. 2841)

The House amendment contained a provision (sec. 2841) that would authorize the Secretary of the Navy to transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior the real property with improvements consisting of the closed Centerville Beach Naval Station in Humboldt County, California, for the purpose of permitting the Secretary of the Interior to manage the real property as open space or for other public purposes.

The Senate bill contained no similar provision.

The Senate recedes.

Land conveyance, Port of Long Beach, California (sec. 2842)

The conferees agree to include a provision that would authorize the Secretary of the Navy to convey to the City of Long Beach, California, up to 11 acres of real property, including any improvements, comprising part of the Navy Mole pier at the former Long Beach Naval Complex, Long Beach, California. In exchange, the City would convey to the Secretary a parcel of real property of equal size at the same pier that is acceptable to the Secretary, and would construct suitable replacement fuel transfer and storage facilities on the conveyed property as determined necessary by the Secretary. The Secretary would not be authorized to make the conveyance until he determines that the City has constructed suitable replacement facilities and that they are ready for use. The provision would authorize the Secretary to convey the parcel of real property and improvements at no cost if he determines prior to the conveyance that the Department of the Navy does not require replacement fuel transfer and storage facilities.

Conveyance of Pier, Naval Base, San Diego, California (sec. 2843)

The conferees agree to include a provision that would authorize the Secretary of the Navy to convey, without consideration, Pier 11A and associated structures and interests in underlying land located at Naval Base, San Diego to the San Diego Aircraft Carrier Museum or its designee. The conveyance would be contingent upon the recipient obtaining permission from the State of California or the appropriate political subdivision to use the property to berth a vessel and operate a museum for the general public. The recipient of the property would be required to reimburse the Secretary for any excess costs that result from a request by the recipient for any environmental assessments or other activities that result in additional costs to the Navy beyond those considered reasonable and necessary by the Secretary to convey the property in compliance with existing law. Any funds collected by the Secretary as reimbursement for administrative expenses of the conveyance would be credited to the appropriation, fund, or account from which the expenses were paid and would be available for the same purpose and subject to the same limitation.

The provision would require that the recipient accept any liability pertaining to the property's physical condition and hold the Federal Government harmless from such liability.

Modification of authority for conveyance of Naval Computer and Telecommunications Station, Cutler, Maine (sec. 2844)

The Senate bill contained a provision (sec. 2822) that would make certain technical corrections to section 2853(a) of the Military Construction Act for Fiscal Year 2001 (division B of Public Law 106–398; 114 Stat. 1654A) to clarify that all or part of the specified property may be conveyed.

The House amendment contained an identical provision.

The conference agreement includes this provision.

Land transfer and conveyance, Naval Security Group Activity, Winter Harbor, Maine (sec. 2845)

The Senate bill contained a provision (sec. 2823) that would authorize the Secretary of the Navy to transfer administrative jurisdiction of a parcel of real property consisting of approximately 26 acres located at the former facilities of the Naval Security Group Activity in Winter Harbor, Maine to the Secretary of the Interior. The transfer would be concurrent with the reversion of administrative jurisdiction of approximately 71 acres from the Secretary of Navy to the Secretary of Interior.

The provision would also authorize the Secretary of the Navy to convey for public benefit purposes to the State of Maine, any political subdivision of the State of Maine, or any tax-supported agency in the State of Maine a parcel of real property and associated personal property consisting of approximately 485 acres comprising the facilities of the former Naval Security Group Activity at Winter Harbor. Prior to the conveyance of the property, the Secretary of the Navy would be authorized to lease all or part of the property. The Secretary would credit any amount received for a lease of real property to the appropriate account providing funds for the operation and maintenance of the property or for procurement of utilities.

The House amendment contained a similar provision (sec. 2845).

The House recedes with an amendment that would make technical corrections and would require that the proceeds from any lease be distributed under current law. The amendment would also clarify that the recipient of the property would be required to reimburse the Secretary for any excess costs that result from a request by the recipient for any environmental assessments or other activities that result in additional costs to the Navy beyond those considered reasonable and necessary by the Secretary to convey the property in compliance with existing law.

Land acquisition, Perquimans County, North Carolina (sec. 2846)

The Senate bill contained a provision (sec. 2831) that would authorize the Secretary of the Navy to acquire approximately 240 acres in Perquimans County, North Carolina. The purpose of the acquisition would be to provide a buffer zone for the Harvey Point Defense Testing Activity, Hertford, North Carolina.

The House amendment contained no similar provision.

The House recedes.

Land conveyance, Naval Weapons Industrial Reserve Plant, Toledo, Ohio (sec. 2847)

The Senate bill contained a provision (sec. 2826) that would authorize the Secretary of the Navy to convey, without consideration, to the Toledo-Lucas County Port Authority, Ohio a parcel of real property consisting of approximately 29 acres comprising the Naval Industrial Reserve Plant in Toledo, Ohio. The Secretary would be authorized to convey such facilities, equipment, fixtures and other personal property located or based on the parcel that the Secretary considers excess to the Navy.

The provision would also permit the Secretary to lease the property to the Port Authority before the conveyance takes place and would require as conditions of the conveyance that the Port Authority accept all property in its current condition at the time of conveyance or lease, and that the property be used for economic development. The Port Authority would be authorized to sublease the facility with the prior approval of the Secretary.

The House amendment contained a similar provision (sec. 2842).

The House recedes with an amendment that would clarify that the recipient of the property would be required to reimburse the Secretary for any excess costs that result from a request by the recipient for any environmental assessments or other activities that result in additional costs to the Navy beyond those considered reasonable and necessary by the Secretary to convey the property in compliance with existing law.

Modification of land conveyance, former United States Marine Corps Air Station, Eagle Mountain Lake, Texas (sec. 2848)

The House amendment contained a provision (sec. 2844) that would amend section 5 of Public Law 85–258, to permit the Texas Military Facilities Commission to use funds acquired through the leasing of Eagle Mountain Lake National Guard Training Site for other Texas National Guard facilities.

The Senate bill contained no similar provision.

The Senate recedes.

Part III—Air Force Conveyances

Conveyance of avigation easements, former Norton Air Force Base, California (sec. 2851)

The House amendment contained a provision (sec. 2867) that would direct the Administrator of General Services to convey to the Inland Valley Development Agency the avigation easements APN 289–231–08 and APN 289–232–08.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct, as a condition of conveyance, that if the Inland Valley Development Agency sells one or both easements within 10 years of conveyance, the Agency shall pay the United States an amount equal to the lesser of the sale price of the easement or the fair market value of the easement.

Reexamination of land conveyance, Lowry Air Force Base, Colorado (sec. 2852)

The House amendment contained a provision (sec. 2852) that would direct the Secretary of the Air Force to reevaluate the terms and conditions of the pending negotiated sale agreement at Lowry Air Force Base, Colorado with the Lowry Redevelopment Authority for certain real property in light of changed circumstances regarding the property. The reexamination shall determine whether changed circumstances warrant a reduction in the amount of consideration otherwise required under the agreement or other modifications to the agreement.

The Senate bill contained no similar provision.

The Senate recedes.

Water rights conveyance, Andersen Air Force Base, Guam (sec. 2853)

The House amendment contained a provision (sec. 2851) that would authorize the Secretary of the Air Force to convey water rights related to the Air Force properties Andy South, also known as the Andersen Administrative Annex; Marianas Bonis Base Command; and Andersen Water Supply Annex, also known as the Tumon Water Well or the Tumon Maui Well, located on Guam. The Secretary may exercise authority under certain specified conditions. This section would authorize the Secretary, if he determines that it is in the best interest of the United States to transfer title to the water rights and utility system before a replacement water system is in place, to require that the United States have the primary right to all water produced from Andy South and Andersen Water Supply Annex. The Secretary may authorize the conveyee of the water system to sell to public or private entities such water from Andersen Air Force Base as the Secretary determines to be excess to the needs of the United States.

The Senate bill contained no similar provision.

The Senate recedes.

The conferees expect the Secretary of the Air Force to follow the reporting requirements of section 2688 of title 10, United States Code with respect to this conveyance.

Conveyance of segment of Loring Petroleum Pipeline, Maine, and related easements (sec. 2854)

The Senate bill contained a provision (sec. 2824) that would authorize the Secretary of the Air Force to convey to the Loring Development Authority, Maine, a segment of approximately 27 miles of the Loring Petroleum Pipeline, along with related easements. The provision would require the Loring Development Authority to reimburse the Secretary for any environmental assessment, study, analysis or other expenses incurred for the conveyance.

The House amendment contained no similar provision.

The House recedes with an amendment that would make technical corrections and would clarify that the recipient of the property would be required to reimburse the Secretary for any excess costs that result from a request by the recipient for any environmental assessments or other activities that result in additional costs to the Air Force beyond those considered reasonable and necessary by the Secretary to convey the property in compliance with existing law.

Land conveyance, petroleum terminal serving former Loring Air Force Base and Bangor Air National Guard Base, Maine (sec. 2855)

The Senate bill contained a provision (sec. 2825) that would authorize the Secretary of the Air Force to convey to the Maine Port Authority of the State of Maine the petroleum terminal at Mack Point in Searsport, Maine for the purpose of economic development. The conveyance may include a parcel of real property consisting of approximately 20 acres and comprising a portion of the petroleum terminal and any additional fuel tanks, other improvements, and equipment located at the 43-acre parcel located adjacent to the petroleum terminal and currently leased by the Secretary. The Secretary could not convey the 43 acres until the lease expires and until the Secretary completes any environmental remediation required by law.

As consideration for the conveyance, the Authority would lease to the Air Force, at no cost for a period of no more than 25 years, approximately one acre that constitutes the Aerospace Fuels Laboratory. As part of the lease, the Authority would maintain around the real property a zone free of improvements or encumbrances. The provision would also require the Authority to reimburse the Secretary for the costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other expense incurred by the Secretary for the conveyance.

The House amendment contained no similar provision.

The House recedes with an amendment that would make technical corrections and would clarify that the recipient of the property would be required to reimburse the Secretary for any excess costs that result from a request by the recipient for any environmental assessments or other activities that result in additional costs to the Air Force beyond those considered reasonable and necessary by the Secretary to convey the property in compliance with existing law.

Land conveyances, certain former Minuteman III ICBM facilities in North Dakota (sec. 2856)

The Senate bill contained a provision (sec. 2830) that would authorize the Secretary of the Air Force to convey to the State Historical Society of North Dakota the launch facility designated "November 33" and the missile alert facility and launch control center designated "Oscar O" located at Grand Forks Air Force Base, North Dakota. The purpose of the conveyance would be to establish an historical site. The provision would direct the Secretary of the Air Force to consult with the Secretary of Defense and the Secretary of State to ensure that the conveyance of the site is accomplished in accordance with applicable treaties.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Land conveyances, Charleston Air Force Base, South Carolina (sec. 2857)

The Senate bill contained a provision (sec. 2828) that would authorize the Secretary of the Air Force to convey approximately 24 acres at Charleston Air Force Base known as the Air Force Military Family Housing Annex to the City of North Charleston and the State of South Carolina. The conveyances would be for the purpose of road construction and for municipal use.

The House amendment contained no similar provision.

The House recedes.

Transfer of jurisdiction, Mukilteo Tank Farm, Everett, Washington (sec. 2858)

The Senate bill contained a provision (sec. 2827) that would modify section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 to direct the Secretary of the Air Force to transfer approximately 1.1 acres at the Mukilteo Tank Farm to the administrative jurisdiction of the Secretary of Commerce for a research center for the National Marine Fisheries Service. The provision would also make certain technical corrections and provide certain authorities to the Secretary of Commerce to exchange the property and would require the Secretary of Commerce to convey the property to the Port of Everett after 12 years if it is no longer required.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Subtitle E—Other Matters

Management of the Presidio of San Francisco (sec. 2861)

The House amendment contained a provision (sec. 2863) that would amend title I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333) to authorize the Trust to make available to lease certain housing units to persons designated by the Secretary of the Army, within the Presidio of San Francisco, California. The monthly amount charged by the Trust for the lease of a housing unit, including utilities and municipal services, shall not exceed the monthly rate of the basic allowance for housing. This section would also increase the borrowing authority in section 104 of title I of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333) from $50.0 million to $150.0 million.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Transfer of jurisdiction for development of Air Force morale, welfare, and recreation facility, Park City, Utah (sec. 2862)

The House amendment contained a provision (sec. 2861) that would direct the Secretary of the Interior to transfer, without reimbursement, administrative jurisdiction of a parcel of real property, including improvements, consisting of approximately 35 acres located in Park City, Utah to the Secretary of the Air Force. The transfer would be completed not later than one year after the date of the enactment of this Act.

The House amendment would authorize the Secretary of the Air Force to use the real property as the location for an armed forces recreation facility to be developed using non-appropriated funds. In lieu of developing the recreation facility on this site, the Secretary of the Air Force could convey or lease the property to other entities in exchange for other property that would be used as the site for the recreation facility, and could lease the property selected as the site for the recreation facility to another entity or enter into a contract with another entity for the construction and operation of the recreation facility as a mixed military and commercial facility.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize, rather than require, the Secretary of the Interior to transfer the property, that would exclude lands south of state Highway 248 that may be contaminated from the transfer, and would also provide that the property be transferred to allow for the development of an Air Force morale, welfare and recreation facility rather than an armed forces recreation facility.

The conferees direct the Secretary of the Air Force to ensure that any morale, welfare and recreation facility constructed under the authority of this section be operated primarily for the benefit of military personnel and their families.

Alternative site for United States Air Force Memorial, preservation of open space on Arlington Ridge Tract, and related land transfer at Arlington National Cemetery, Virginia (sec. 2863)

The House amendment contained a provision (sec. 2862) that would require the Secretary of Defense to offer to the Air Force Memorial Foundation an option to use, without reimbursement, up to three acres of the Arlington Naval Annex as the site for the construction of the Air Force Memorial. Within 90 days after the date on which the Secretary of Defense makes the offer, the Foundation would provide written notice to the Secretary of the decision of the Foundation to accept or decline the offer. If the Foundation accepted the offer, the Foundation would relinquish all claims to the previously approved site for the memorial on Arlington Ridge. If the Foundation declined the offer, the Foundation could resume its efforts to construct the memorial on the Arlington Ridge tract. Not later than two years after the date on which the Foundation accepted the offer, and had made sufficient funds available to construct the memorial, the Secretary, in coordination with the Foundation, would remove all structures and prepare the Arlington Naval Annex site for construction of the memorial. Upon removal of structures and preparation of the property for use, the Secretary of Defense would permit the Foundation to commence construction.

The House amendment would direct the Secretary of the Interior to transfer, without reimbursement, to the Secretary of the Army administrative jurisdiction over: most of an approximately 24-acre parcel of land within the boundaries of Arlington National Cemetery known as Section 29 for the purpose of providing additional land for burial sites; and the Arlington Ridge tract in order to make up to 15 acres of additional land available for burial sites. The amendment would also amend section 2902 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65) to prohibit consideration of the Arlington Naval Annex property as a possible site for a national military museum.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of Defense to make available to the Air Force Memorial Foundation up to three acres of the Naval Annex property for use as the location for the Air Force Memorial. The three acres would be in lieu of the Arlington Ridge tract and shall be the site of the memorial unless the Secretary of Defense determines that constructing the Air Force Memorial on the Naval Annex property is impracticable due to geological conditions at the site. In the event construction at the Naval Annex site is impracticable, the location of the memorial would revert to the Arlington Ridge tract location. If the Foundation fails to commence construction of the memorial within five years of the date of enactment of this Act, the Secretary of Defense may revoke the authority to use the Naval Annex property for the Air Force Memorial.

The amendment would require, upon notification by the Foundation that it had accumulated sufficient funds to begin construction, the Secretary of Defense to demolish and remove Wing 8 of the Naval Annex and associated facilities and carry out environmental remediation and such site preparation as the Secretary agreed to undertake, within two years. The amendment would also designate the Department of the Army as the executive agent for finding replacement facilities for the Ballistic Missile Defense Organization, which currently occupies the facilities on this site.

The amendment would direct the Secretary of the Interior to transfer to the administrative jurisdiction of the Secretary of the Army 12 acres, known as the interment zone, as depicted in Map VI–4 on page VI–23 of the Concept Utilization Plan for Arlington National Cemetery dated October 2000. The transferred property would be used by Arlington National Cemetery for additional burial sites. The Secretary of the Interior would be required to preserve in perpetuity the remaining acreage of Section 29, including the portion known as the preservation zone, as an appropriate backdrop and aesthetic setting for Arlington House, The Robert E. Lee Memorial.

The amendment would also prohibit any new structures on the Arlington Ridge tract and would specify that the only other land use to be contemplated in the future for this site would be as additional burial space for Arlington National Cemetery.

The amendment would also amend section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65) to direct the Secretary of Defense to reserve no more than four acres of the Naval Annex property, south of Columbia Pike, as a site for memorials or museums that the Secretary of Defense considers compatible with Arlington Cemetery and the Air Force Memorial.

The conferees direct the Secretary of Defense to provide a report to Congress, prior to the date on which he transfers the three-acre parcel on the Naval Annex site to the Secretary of the Army, providing his determination as to whether construction of the Air Force Memorial on this site, together with the public access required for the Memorial, is consistent with the security requirements of the Pentagon and the Naval Annex. If the Secretary determines this location is not fully consistent with such security requirements, the Secretary shall include in his recommendations the steps that should be taken to address any security concerns.

Establishment of memorial to victims of terrorist attack on Pentagon Reservation and authority to accept monetary contributions for memorial and repair of Pentagon (sec. 2864)

The Senate bill contained a provision (sec. 2845) that would authorize the Secretary of Defense to accept monetary contributions made for the purpose of establishing a memorial or assisting in repair and reconstruction of the Pentagon Reservation following the terrorist attack that occurred on September 11, 2001. The funds would be deposited in the Pentagon Reservation Maintenance Revolving Fund.

The House amendment contained a provision (sec. 1055) that would authorize the Secretary of Defense to accept monetary contributions to finance the repair and reconstruction of the Pentagon Reservation following the terrorist attack that occurred on September 11, 2001. The funds would be deposited in the Pentagon Reservation Maintenance Revolving Fund.

The House recedes with an amendment that would authorize the Secretary of Defense to establish the memorial and would direct that contributions received could be used only for establishing a memorial or to repair the damage to the Pentagon Reservation caused by the terrorist attack.

Repeal of limitation on cost of renovation of Pentagon Reservation (sec. 2865)

The Senate bill contained a provision (sec. 2842) that would repeal section 2864 of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–210;110 Stat. 2806) limiting the cost of renovating the Pentagon Reservation to $1.1 billion.

The House amendment contained no similar provision.

The House recedes.

Development of United States Army Heritage and Education Center at Carlisle Barracks, Pennsylvania (sec. 2866)

The Senate bill contained a provision (sec. 2841) that would authorize the Secretary of the Army to enter into a partnership with the Military Heritage Foundation for the design, construction and operation of a U.S. Army Heritage and Education Center at Carlisle Barracks, Pennsylvania. The facility would provide research facilities, classrooms, offices and associated activities for the study and storage of artifacts. The Secretary would be authorized to accept funds from the Heritage Foundation for the design and construction of the U.S. Army Heritage and Education Center or to permit the Military Heritage Foundation to contract for the design and construction of the facility. The facility would become the property of the Department of the Army upon the satisfaction of any and all financial obligations incurred by the Military Heritage Foundation. The provision would also authorize the Commandant of the U.S. Army War College, under regulations prescribed by the Secretary, to accept gifts for the benefit of the United States Army Heritage and Education Center.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that the design of the facility must be approved by the Secretary whether the facility is constructed by the Army or by the Foundation.

Effect of limitation on construction of roads or highways, Marine Corps Base, Camp Pendleton, California (sec. 2867)

The House amendment contained a provision (sec. 2864) that would amend section 2851 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261), as amended, by authorizing limitations of State law enacted after January 1, 2001 that directly or indirectly prohibit or restrict the construction or approval of a road or highway within the easements granted under this section at Marine Corps Base, Camp Pendleton, California.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Establishment of World War II Memorial at additional location on Guam (sec. 2868)

The House amendment contained a provision (sec. 2865) that would amend section 2886 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of Public Law 106–398) by authorizing the establishment of an additional World War II Memorial on federal lands near Yigo, Guam.

The Senate bill contained no similar provision.

The Senate recedes.

The conferees expect that in establishing the additional memorial, the Secretary of Defense shall apply the same minimal maintenance criteria as required in the previous authorization.

Demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies (sec. 2869)

The House amendment contained a provision (sec. 2866) that would amend section 816 of the National Defense Authorization Act for Fiscal Year 1995, as amended by section 2873 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, to extend the authority for the purchase of services from local government agencies at Monterey, California authorized under this project, other than fire-fighting and police services, through fiscal year 2003.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would extend the authority for the purchase of fire-fighting and police services through January 31, 2002, and would extend the authority for the purchase of other services, including utilities and public works, through fiscal year 2003.

Report on future land needs of United States Military Academy, New York, and adjacent community (sec. 2870)

The House amendment contained a provision (sec. 2868) that would direct the Secretary of the Army to submit to the Congress not later than February 1, 2002, a report evaluating various options by which the Secretary may promote economic development in the Village of Highland Falls, New York.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of the Army to assess the land requirements of the United States Military Academy and determine if any excess real property is available for either transfer or lease to the Village of Highland Falls. The Secretary would be required to report his findings to the Congress by February 1, 2002.

Naming of Patricia C. Lamar Army National Guard Readiness Center, Oxford, Mississippi (sec. 2871)

The Senate bill contained a provision (sec. 2843) that would name the Oxford Army National Guard Readiness Center as the Patricia C. Lamar Army National Guard Readiness Center.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority available for lease of property and facilities under alternative authority for acquisition and improvement of military housing

The Senate bill contained a provision (sec. 2804) that would amend the authorities for lease or conveyance of property in connection with military family housing privatization to allow the military departments to use the authorities contained in section 2667 of title 10, United States Code. This provision would provide additional flexibility for the military departments to make use of the value of assets at one installation for use at privatization projects at other installations.

The House amendment contained no similar provision.

The Senate recedes.

The conferees urge the Secretary of Defense to explore innovative approaches to maximize the Department's fiscal and real property resources in executing the housing privatization projects.

Land conveyance, Defense Fuel Support Point, Lynn Haven, Florida

The House amendment contained a provision (sec. 2853) that would authorize the Secretary of the Air Force to convey to Florida State University approximately 200 acres located at the Defense Fuel Support Point, Lynn Haven, Florida. The purpose of the conveyance would be to establish a National Coastal Research Center.

The Senate bill contained no similar provision.

The House recedes.

Payment for certain services provided by redevelopment authorities for property leased back by the United States

The Senate bill contained a provision (sec. 2911) that would amend the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; section 2687 of title 10, United States Code) that governs the 1988 round of base closures to authorize the secretary concerned to transfer real property at a closed or realigned military installation to the redevelopment authority for the installation, if the redevelopment authority agrees, directly upon transfer, to lease one or more portions of the property transferred to the secretary concerned or to the head of another department or agency of the Federal Government. The provision would also allow the United States to pay the redevelopment authority for facility services and common area maintenance.

The House amendment contained a similar provision (sec. 2821) that would amend both the Defense Authorization Amendments and Base Closure and Realignment Act and the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) that governs the 1991, 1993 and 1995 rounds of base closures to provide these authorities.

The Senate recedes.

The conferees agreed to include the amendments to both the 1998 and 1990 base closure laws in a single provision elsewhere in this Act.

Treatment of amounts received

The Senate bill contained a provision (sec. 2833) that would require any proceeds received from the sale of a former Army Reserve Center in Kewaunee, Wisconsin that would be authorized to be conveyed by section 2832 of the Senate bill to be deposited into the Land and Water Conservation Fund in the event the property reverted to the United States.

The House amendment contained no similar provision.

The Senate recedes. The conferees agreed to include this condition in the provision authorizing the conveyance of the property in Kewaunee, Wisconsin that is included in title XXVIII of this Act.

TITLE XXIX—FORT IRWIN MILITARY LAND WITHDRAWAL

The House amendment contained a series of provisions (secs. 2901–2913) that would provide for the withdrawal of 110,000 acres to support the expansion of the National Training Center (NTC) at Fort Irwin, California.

The Senate bill contained no similar provision.

The Senate recedes with an amendment to the provision regarding environmental compliance agreements (sec. 2906) as described below.

Short title (sec. 2901)

This provision would designate title XXIX of this Act as the "Fort Irwin Military Land Withdrawal Act of 2001."

Withdrawal and reservation of lands for National Training Center (sec. 2902)

This provision would withdraw approximately 110,000 acres of public lands in San Bernardino County, California from general land laws and would transfer jurisdiction of these lands to the Secretary of the Army for military testing, training, and other defense-related purposes at the NTC.

Map and legal description (sec. 2903)

This provision would require the Secretary of the Interior to publish in the Federal Register the legal description of the lands withdrawn and reserved by this title and to file a map and legal description of such lands with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. These documents would also be available for public inspection. The Secretary of the Army would be required to reimburse the Secretary of the Interior for costs related to the implementation of this provision.

Management of withdrawn and reserved lands (sec. 2904)

This provision would require the Secretary of the Army, during the period of the withdrawal and reservation, to manage such lands for the training and testing purposes specified in section 2902. However, military use of the lands that result in ground disturbances would be prohibited until the Secretary of the Army and the Secretary of the Interior certify to Congress that there has been full compliance with this title, the Endangered Species Act of 1973 (16 U.S.C 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable laws. The Secretary of the Army would be authorized to restrict public access on the withdrawn lands. The provision would also require the Secretary of the Army to prepare and implement an integrated natural resource management plan for the withdrawn lands, in accordance with the Sikes Act (16 U.S.C. 670 et seq.), and to consult with the National Aeronautics and Space Administration (NASA) regarding potential disruptions to NASA operations.

Water rights (sec. 2905)

This provision would clarify that this title does not create any water rights for the United States on the withdrawn lands. The provision would not affect any water rights acquired or reserved by the United States before the date of enactment of this Act.

Environmental compliance and environmental response requirements (sec. 2906)

The conferees agreed to a provision that would require, rather than permit, the Secretary of the Army and the Secretary of the Interior to enter into such agreements as are necessary, appropriate, and in the public interest to carry out the purposes of this title. Such agreements should provide that the Secretary of the Army consult with the Secretary of the Interior with respect to proposed and final response actions. Such agreements should also provide that the Secretary of the Army reimburse the Secretary of the Interior for any costs incurred by the Secretary of the Interior as a result of the Army's activities on the withdrawn and reserved lands.

West Mojave Coordinated Management Plan (sec. 2907)

This provision would urge the Secretary of the Interior to complete the West Mojave Coordinated Management Plan not later than two years after the date of enactment of this Act. The Secretary of the Interior would ensure that this plan considers the impacts of this title. The provision would also require the Secretary of the Interior to consult with the Secretary of the Army and the Administrator of the National Aeronautics and Space Administration on the development of the plan.

Release of wilderness study areas (sec. 2908)

This provision would determine that the public lands withdrawn under this title have been adequately studied for wilderness designation.

Training activity separation from utility corridors (sec. 2909)

This provision would require that all military ground activity training conducted on withdrawn lands remain at least 500 meters from any existing utility system.

Duration of withdrawal and reservation (sec. 2910)

Under this provision, the withdrawal and reservation made by this title would terminate 25 years after the date of the enactment of this Act, unless otherwise extended, postponed, or affected by a delay in the Secretary of the Interior in accepting jurisdiction.

Extension of initial withdrawal and reservation (sec. 2911)

This provision would require the Secretary of the Army, no later than three years before the termination of the 25-year withdrawal, to notify Congress and the Secretary of the Interior whether the Army has a continuing military need for the withdrawn lands. If the Secretary of the Army determines there is a continuing military need, the Secretary of the Army shall consult with the Secretary of the Interior regarding any adjustments in the allocation of land management responsibility and file an application for an extension of the withdrawal and reservation with the Secretary of the Interior. The provision would also authorize the Secretary of the Army and the Secretary of the Interior to submit a legislative proposal to Congress on the extension of the land withdrawal. The legislative proposal would be accompanied by an analysis of the environmental impacts, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Termination and relinquishment (sec. 2912)

Under this provision, if the Secretary of the Army determines that there is no continuing military need for any withdrawn lands during the first 22 years of the withdrawal period, the Secretary of the Army shall notify the Secretary of the Interior of the intent to relinquish jurisdiction over such lands. If the Secretary of the Interior accepts jurisdiction, the Secretary shall publish in the Federal Register an appropriate order terminating the withdrawal.

Delegation of Authority (sec. 2913)

This provision would authorize the Secretary of the Army and the Secretary of the Interior to delegate the functions necessary to implement this title.

TITLE XXX—REALIGNMENT AND CLOSURE OF MILITARY INSTALLATIONS AND PREPARATION OF INFRASTRUCTURE PLAN FOR THE NUCLEAR WEAPONS COMPLEX

Title XXIX of the Senate bill contained a series of provisions (secs. 2901–2904) that would extend the authorities of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, as amended) and authorize a new base realignment and closure (BRAC) round in 2003.

Section 2901 of the Senate bill would extend the authorities of the 1990 Act, which expired after the 1995 BRAC round, to authorize a new BRAC round in 2003 for the Department of Defense (DOD).

Section 2902 of the Senate bill would establish a separate account to track the costs and savings of the 2003 round.

Section 2903 of the Senate bill would make substantive changes in the 1990 Act that would apply to the 2003 round. This provision would: increase the number of commissioners from eight to nine; require that the selection criteria emphasize the military value of installations; require that any selection criteria relating to the cost or savings of proposed closures take into account the impact of the closure on other federal agency operations on that installation; require the Secretary of Defense to review every type of installation and to take into account the anticipated need for and availability of overseas installations in the future; and require the Secretary to consider any notice from a local government that the government would approve of the closure of a neighboring installation.

This section would also: give the commission an additional 24 hours to provide information received from certain individuals to the Congress; require that the Secretary of Defense be given an opportunity to testify before the commission on changes made by the commission to the Secretary's recommendations; prohibit privatization in place of closed or realigned facilities unless it was specifically recommended by the base closure commission and determined to be the most cost-effective option; allow payment to a local redevelopment authority for services provided on property leased back by the United States; and allow the DOD to pay the difference to the recipient if the estimated cost to the recipient to clean up a BRAC site exceeds the value of the property.

Section 2904 of the Senate bill would make technical and clarifying changes to the 1990 Act.

The House amendment contained no similar provisions.

The House recedes with an amendment that would authorize an additional BRAC round in 2005 rather than 2003 and make additional changes to the process authorized under the 1990 Act for the 2005 round.

Unless specifically changed by the provisions of this Act, the 2005 BRAC round would operate under the authorities and requirements of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, as amended).

Procedures for the Department of Defense (secs. 3001–3007)

The conferees agree to authorize a round of base realignment and closure for the Department of Defense in 2005. The conference agreement modifies the procedures used in the 1991, 1993 and 1995 rounds as described below.

Recommendations by the Secretary

With respect to the recommendations of the Secretary of Defense, the conferees have modified the process used in prior rounds as follows.

The force structure plan submitted by the Secretary of Defense with the fiscal year 2005 budget would include detailed information on probable end-strength and force levels for the military services, including major ground combat units, combatant vessels and air wings. The Secretary would be required to review every type of installation and to take into account the anticipated need for and availability of overseas installations in the future.

The Secretary would be permitted to submit a revised force structure plan with the fiscal year 2006 budget.

The Secretary would be required to include with the force structure plan: an inventory of military installations; a description of the categories of excess infrastructure; and an economic analysis of the options for eliminating or reducing that excess infrastructure, including potential efficiencies from joint use and tenancy of military installations by more than one service.

The Secretary would be required to certify, when the force structure plan and infrastructure inventory are submitted, whether the need exists for closure or realignment of additional military installations and, if such need exists, that a round of such closures and realignments in 2005 would produce annual net savings within six years. If the Secretary failed to provide this certification, the process for closure or realignment of installations under the provisions of this Act for 2005 would be terminated.

The conferees have specified factors that must be evaluated and incorporated in the Secretary's final list of criteria, including the military value of installations for both the preservation of training areas for traditional warfighting missions and the preservation of installations for homeland defense. However, the Secretary is not limited to the criteria contained in this Act. Any selection criteria relating to the cost or savings of proposed closures would have to take into account the impact of the closure on other federal agency operations on that installation.

The General Accounting Office would be required to submit to Congress an evaluation of the force structure plan, the installation inventory and the selection criteria.

Consideration of the Secretary's proposal by the commission

With respect to the proceedings of the commission, the conferees agree to the following changes.

The number of commissioners for the 2005 round would be increased from eight to nine.

The commission would have 48 hours rather than 24 hours to provide information received from certain individuals of the Department of Defense to the Congress.

Prior to any decision to add an installation not proposed to be closed or realigned by the Secretary to the list of installations to be considered for closure or realignment by the commission, the commission would be required to give the Secretary 15 days to submit an explanation of why the Secretary did not propose that installation for closure or realignment. A decision to add that installation to the list of installations being considered would then have to be supported by at least seven commissioners.

The Secretary of Defense would be given an opportunity to testify before the commission on changes proposed by the commission to the Secretary's recommendations.

Privatization in place of closed or realigned facilities would be prohibited unless it was specifically recommended by the commission and determined to be the most cost-effective option.

Disposal of property

With respect to the disposal of property from closed or realigned facilities, the conferees have modified the process as follows.

The conference agreement would require the Secretary of Defense to obtain fair market value for economic development conveyances in most cases, unless the Secretary determines the circumstances warrant a below-cost or no-cost conveyance.

The conferees agree to allow the Secretary to recommend that an installation be placed in an inactive or caretaker status if the Secretary determines that the installation may be needed in the future for national security purposes, but is not needed at the present time, or that retention of the installation by the Department of Defense is otherwise in the interests of the United States.

The DOD would be authorized to pay to the recipient of the former DOD property the amount by which the estimated cost to the recipient to clean up a BRAC site exceeds the value of the property.

A Department of Defense Closure Account 2005 would be created to fund the costs of implementing any closures or realignments from the 2005 round.

Preparation of infrastructure plan for the nuclear weapons complex (sec. 3008)

The conferees agree to a provision that would require the Secretary of Energy to develop an infrastructure plan for the nuclear weapons complex adequate to support the nuclear weapons stockpile, the Naval Reactor Program and the non-proliferation and national security activities. In preparing the plan, the Secretary would take into consideration the Department of Defense Nuclear Posture Review, any efficiencies and security benefits of consolidation, and the necessity to have a residual nuclear weapons production capacity. The provision would require the Secretary to submit the plan to Congress, along with any implementing recommendations the Secretary considers appropriate, including whether to establish a formal process by which a round of closures and realignments should take place. Finally, the Secretary would also be required to submit a legislative proposal if the Secretary determines the need for additional legislative authority to implement the Secretary's recommendations.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Overview

Title XXXI authorizes appropriations for the atomic energy defense activities of the Department of Energy (DOE) for fiscal year 2002, including: the purchase, construction, and acquisition of plant and capital equipment; research and development; nuclear weapons; naval nuclear propulsion; environmental restoration and waste management; operating expenses; and other expenses necessary to carry out the purposes of the Department of Energy Organization Act (Public Law 95-91). The title would authorize appropriations in six categories: national nuclear security administration; defense environmental restoration and waste management; defense facilities closure projects; defense environmental management privatization; other defense activities; and defense nuclear waste disposal.

The budget request for atomic energy defense activities at the Department of Energy totaled $13.4 billion, a 1.2 percent decrease from the adjusted fiscal year 2001 level. Of the total amount requested: $5.3 billion would be for weapons activities; $773.7 million would be for defense nuclear nonproliferation activities; $688.0 million would be for naval reactors; $4.5 billion would be for defense environmental restoration and waste management activities; $1.1 billion would be for defense facilities closure projects; $141.5 million would be for defense environmental management privatization; $527.6 million would be for other defense activities; and $310.0 million would be for defense nuclear waste disposal.

The conferees agree to authorize $14.1 billion for atomic energy defense activities at the Department of Energy, an increase of $721.5 million to the budget request. The conferees agree to authorize $7.1 billion for the National Nuclear Security Administration (NNSA), an increase of $344.3 million. Of the amount authorized for the NNSA: $5.3 billion would be for weapons activities, an increase of $43.5 million; $688.0 million would be for naval reactors, the same as the budget request; and $776.9 million would be for defense nuclear nonproliferation, a $3.2 million increase to the budget request. The conferees agree to authorize $6.2 billion for defense environmental management activities, an increase of $435.2 million. The amount authorized for defense environmental management would be: $4.9 billion for defense environmental restoration and waste management, an increase of $393.2 million; $1.1 billion for defense facilities closure projects, an increase of $30.0 million; $959.7 million for site and project completion, an increase of $47.7 million; $3.3 billion for post 2006 completion, an increase of $345.0 million; $216.0 million for science and technology development, an increase of $20.0 million; $1.3 million for excess facilities, the amount of the request; $355.8 million for program direction, the amount of the request; and $153.5 million for defense environmental management privatization, an increase of $12.0 million. The conferees agree to authorize $499.7 million for other defense activities, a decrease of $28.0 million. The amount authorized for other defense activities would include: $250.4 million for security and emergency operations, a decrease of $18.8 million; $40.8 million for the office of intelligence, the amount of the request; $46.0 million for counterintelligence, a decrease of $0.4 million; $14.9 million for independent oversight, the amount of the request; $113.3 million for environmental safety and health, a decrease of $1.3 million; $20.0 million for worker and community transition, a decrease of $4.4 million; $22.0 million for national security program administration support, a decrease of $3.0 million; and $2.9 million for the office of hearings and appeals, the amount of the request. The conferees agree to authorize $280.0 million for defense nuclear waste disposal, a decrease of $30.0 million.

The following table summarizes the budget request and the conferees recommendations:

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2002

(In Thousands of Dollars)

DIVISION C -- ATOMIC ENERGY DEFENSE ACTIVITIES (053)	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
National Nuclear Security Administration					
Weapons Activities	5,300,025	5,369,488	5,452,810	43,542	5,343,567
Defense Nuclear Nonproliferation	773,700	783,700	830,500	3,186	776,886
Naval Reactors	688,045	688,045	688,045	0	688,045
Defense Nuclear Counterintelligence		13,662	0	0	0
Office of the Administrator	15,000	15,000	380,366	297,596	312,596
Total National Nuclear Security Adminstration	**6,776,770**	**6,869,895**	**7,351,721**	**344,324**	**7,121,094**
Defense Environmental Restoration & Waste Management	4,548,708	4,646,427	4,924,918	393,169	4,941,877
Defense Facilities Closure Projects	1,050,538	1,050,538	1,080,538	30,000	1,080,538
Defense Environmental Management Privatization	141,537	126,208	157,537	12,000	153,537
Other Defense Activities	527,614	502,099	501,483	(27,951)	499,663
Defense Nuclear Waste Disposal	310,000	310,000	250,000	(30,000)	280,000
Total DOE/NNSA Discretionary Authorizations	**13,355,167**	**13,505,167**	**14,266,197**	**721,542**	**14,076,709**
Energy Employees Compensation Admin Expenses	0	0	0	0	0
Energy Employees Illness Compensation	0				
Radiation Exposure Compensation	0	0	0	0	0
Radiation Exposure - Proposed Legislation					
Total Department of Energy/NNSA	**13,355,167**	**13,505,167**	**14,266,197**	**721,542**	**14,076,709**
Defense Nuclear Facilities Safety Board	18,500	18,500	18,500	0	18,500
Formerly Used Sites Remedial Action Program	0			0	
Total Atomic Energy Defense Activities (053)	**13,373,667**	**13,523,667**	**14,284,697**	**721,542**	**14,095,209**

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
National Nuclear Security Administration:					
Weapons Activities					
Directed stockpile work					
Stockpile research and development	305,460	305,460	305,460	—	305,460
Stockpile maintenance	362,493	362,493	362,493	-12,493	350,000
Stockpile evaluation	180,834	180,834	178,589	-2,334	178,500
Dismantlement/disposal	35,414	35,414	29,066	-8,414	27,000
Production support	152,890	152,890	134,896	-17,994	134,896
Field engineering, training and manuals	6,700	6,700	6,418	-282	6,418
Total, Directed stockpile work	1,043,791	1,043,791	1,016,922	-41,517	1,002,274
Campaigns					
Primary certification	55,530	55,530	52,661	-3,030	52,500
Dynamic materials properties	97,810	97,810	93,644	-10,410	87,400
Advanced radiography		—	—	—	—
Operations and maintenance	60,510	60,510	60,510	—	60,510
Construction:		—	—	—	—
97-D-102 Dual-axis radiographic hydrotest		—	—	—	—
facility, LANL, Los Alamos, NM	—	—	—	—	—
Total, Advanced radiography	60,510	60,510	60,510	—	60,510
Secondary certification and nuclear systems margins	47,270	47,270	44,524	-3,270	44,000
Enhanced surety	34,797	34,797	34,797	—	34,797
Weapons system engineering certification	24,043	24,043	24,043	—	24,043
Nuclear survivability	19,050	19,050	19,050	—	19,050
Enhanced surveillance	82,333	82,333	82,333	—	82,333
Advanced design and production technologies	75,533	75,533	75,533	—	75,533

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Inertial confinement fusion and high yield					
Operations and maintenance	222,943	232,943	247,443	24,500	247,443
Construction:					
96-D-111 National ignition facility (NIF), LLNL, Livermore, CA	245,000	245,000	245,000	—	245,000
Total, Inertial confinement fusion and high yield	467,943	477,943	492,443	24,500	492,443
Advanced simulation and computing					
Operations and maintenance	711,185	711,185	711,185	-36,185	675,000
Construction:					
01-D-101 Distributed information systems laboratory, SNL, Livermore, CA	5,400	5,400	5,400	—	5,400
00-D-103, Terascale simulation facility, LLNL, Livermore, CA	5,000	20,000	22,000	17,000	22,000
00-D-105, Strategic computing complex, LANL, Los Alamos, NM	11,070	11,070	11,070	—	11,070
00-D-107 Joint computational engineering laboratory, SNL, Albuquerque, NM	5,377	5,377	5,377	—	5,377
Total, Construction	26,847	41,847	43,847	17,000	43,847
Total, Advanced simulation and computing	738,032	753,032	755,032	-19,185	718,847
Pit manufacturing and certification	128,545	128,545	237,713	90,455	219,000
Secondary readiness	23,169	23,169	23,169	—	23,169
High explosives manufacturing and weapons assembly/disassembly readiness	3,960	3,960	3,960		3,960

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Nonnuclear readiness	12,204	12,204	12,204	——	12,204
Materials readiness	1,209	1,209	1,209	——	1,209
Tritium readiness					
Operations and maintenance	43,350	43,350	43,350	-1,000	42,350
Construction:					
98-D-125 Tritium extraction facility, Savannah River plant, Aiken, SC	81,125	81,125	81,125	——	81,125
98-D-126 Accelerator production of tritium (APT), various locations	——	15,000	——	——	——
Total, Construction	81,125	96,125	81,125	——	81,125
Total, Tritium readiness	124,475	139,475	124,475	-1,000	123,475
Total, Campaigns	1,996,413	2,036,413	2,137,300	78,060	2,074,473
Readiness in technical base and facilities					
Operations of facilities	830,427	830,427	900,427	67,373	897,800
Program readiness	188,126	188,126	197,220	3,874	192,000
Special projects	64,493	64,493	60,385	-4,108	60,385
Material recycle and recovery	101,311	101,311	90,310	-11,001	90,310
Containers	8,199	8,199	8,199	——	8,199
Storage	10,643	10,643	10,643	——	10,643
Nuclear weapons incident response	89,125	89,125	88,923	-202	88,923
Subtotal, Readiness in technical base and facilities	1,292,324	1,292,324	1,356,107	55,936	1,348,260

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Construction:					
02-D-103 Project engineering and design, various locations	9,180	9,180	31,130	13,650	22,830
02-D-105 Engineering technology complex upgrade, LLNL, Livermore, CA				4,750	4,750
02-D-107 Electrical power systems safety communications and bus upgrades, NV	3,507	3,507	3,507	—	3,507
01-D-101 Microsystem and engineering science applications (MESA), SNL	2,000	2,000	39,000	37,000	39,000
01-D-103 Preliminary project design and engineering, various locations	45,379	45,379	16,379	-29,000	16,379
01-D-107 Atlas relocation, Neveda test site Las Vegas, NV	—	—	—	3,300	3,300
01-D-124 HEU storage facility, Y-12 plant, Oak Ridge, TN	9,500	9,500	—	-9,500	—
01-D-126 Weapons evaluation test laboratory Pantex Plant, Amarillo, TX	7,700	7,700	7,700	—	7,700
01-D-800 Sensitive compartmented information facility, LLNL	12,993	12,993	12,993	—	12,993

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
99-D-103 Isotope sciences facilities, LLNL, Livermore, CA	4,400	4,400	4,400	——	4,400
99-D-104 Protection of real property (roof reconstruction -- Phase II), LLNL, Livermore, CA	2,800	2,800	2,800	——	2,800
99-D-106 Model validation & system certification center, SNL, Albuquerque, NM	4,955	4,955	4,955	——	4,955
99-D-108 Renovate existing roadways, Nevada Test Site, NV	——	——	2,000	2,000	2,000
99-D-125 Replace boilers & controls, Kansas City plant, Kansas City, MO	300	300	300	——	300
99-D-127 Stockpile management restructuring initiative, Kansas City plant, Kansas City, MO	22,200	22,200	22,200	——	22,200
99-D-128 Stockpile management restructuring initiative, Pantex Plant, Amarillo, TX	3,300	3,300	3,300	——	3,300
98-D-123 Stockpile management restructuring initiative, Tritium facility modernization and consolidation, Savannah River plant, Aiken, SC	13,700	13,700	13,700	——	13,700
98-D-124 Stockpile management restructuring initiative, Y-12 consolidation, Oak Ridge, TN	6,850	6,850	6,850	——	6,850

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
97-D-123 Structural upgrades, Kansas City plant, Kansas City, KS	3,000	3,000	3,000	---	3,000
96-D-102 Stockpile stewardship facilities revitalization, Phase VI, various locations	2,900	2,900	2,900	---	2,900
96-D-104 Processing and environmental technology laboratory, SNL, Albuquerque, NM	---	---	---	---	---
95-D-102 Chemistry and metallurgy research (CMR) upgrades project, LANL, Los Alamos, NM	---	---	---	---	---
Total, Construction	154,664	154,664	177,114	22,200	176,864
Total, Readiness in technical base and facilities	1,446,988	1,446,988	1,533,221	78,136	1,525,124
Total, Stewardship operation and maintenance	4,487,192	4,527,192	4,687,443	114,679	4,601,871
Secure transportation asset					
Operations and equipment	77,571	77,571	77,571	---	77,571
Program direction	44,229	44,229	---	---	44,229
Total, Secure transportation asset	121,800	121,800	77,571	---	121,800
Safeguards and security					
Operations and maintenance	439,281	439,281	439,281	---	439,281
Construction:					
99-D-132 SMRI nuclear material safeguards and security upgrade project, LANL, Los Alamos, NM	9,600	9,600	9,600	---	9,600
88-D-123 Security enhancements, Pantex Plant, Amarillo, TX	---	---	---	---	---
Total, Construction	9,600	9,600	9,600	---	9,600

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Total, Safeguards and security	448,881	448,881	448,881	—	448,881
Program direction	271,137	250,000	—	-271,137	—
Facilities and Infrastructure	—	50,600	267,900	200,000	200,000
Subtotal, Weapons Activities	5,329,010	5,398,473	5,481,795	43,542	5,372,552
Adjustments					
Use of prior year balances/reduction	—	—	—	—	—
Less security charge for reimbursable work	-28,985	-28,985	-28,985	—	-28,985
Total, Adjustments	-28,985	-28,985	-28,985	—	-28,985
Total, Weapons Activities	**5,300,025**	**5,369,488**	**5,452,810**	**43,542**	**5,343,567**

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Defense Nuclear Nonproliferation					
Nonproliferation and national security					
Nonproliferation and verification R&D					
Operation and maintenance	170,296	180,296	222,355	38,204	208,500
Construction:					
00-D-192 Nonproliferation and international security center (NISC), LANL	35,806	35,806	35,806		35,806
Total, Nonproliferation & verification R&D	206,102	216,102	258,161	38,204	244,306
Arms control and Russian Transition Initiative	101,500	101,500	138,000	16,241	117,741
International materials protection, control, and accounting	138,800	138,800	143,800	5,000	143,800
HEU transparency implementation	13,950	13,950	13,950	—	13,950
International nuclear safety	13,800	10,800	19,500	-3,800	10,000
Soviet design reactor safety program	—	—	—	—	—
Total, Nonproliferation and national security	474,152	481,152	573,411	55,645	529,797
Fissile materials disposition					
U S surplus materials disposition	130,089	130,089	130,089	—	130,089
Russian surplus materials disposition	57,000	57,000	66,000	4,000	61,000
Construction:					
01-D-407 Highly enriched uranium (HEU) blend down, Savannah River, SC	24,000	24,000	24,000	—	24,000
01-D-142, Immobilization and associated processing facility, SRS	—	3,000	—	—	—

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
99-D-141 Pit disassembly and conversion facility, Savannah River site	16,000	16,000	16,000	-5,000	11,000
99-D-143 Mixed oxide fuel fabrication facility, Savannah River site	63,000	63,000	63,000	——	63,000
Total, Construction	103,000	106,000	103,000	-5,000	98,000
Total, Fissile materials disposition	290,089	293,089	299,089	-1,000	289,089
Program direction	51,459	51,459	——	-51,459	——
Subtotal, Defense Nuclear Nonproliferation	815,700	825,700	872,500	3,186	818,886
Use of prior year balances	-42,000	-42,000	-42,000	——	-42,000
Total, Defense Nuclear Nonproliferation	773,700	783,700	830,500	3,186	776,886
Naval Reactors					
Naval reactors development					
Operation and maintenance	652,245	652,245	652,245	——	652,245
Construction:					
01-D-200 Major office replacement building, Schenectady, NY	9,000	9,000	9,000	——	9,000
90-N-102 Expended core facility dry cell project, Naval Reactors Facility, ID	4,200	4,200	4,200	——	4,200
Total, Construction	13,200	13,200	13,200	——	13,200
Total, Naval reactors development	665,445	665,445	665,445	——	665,445
Program direction	22,600	22,600	22,600	——	22,600
Total, Naval Reactors	688,045	688,045	688,045	——	688,045
Defense Nuclear Counterintelligence	——	13,662	——		

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Office of the Administrator	15,000	15,000	380,366	297,596	312,596
Total, National Nuclear Security Administration	6,776,770	6,869,895	7,351,721	344,324	7,121,094

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Defense Environmental Restoration and Waste Management					
Site/project completion					
Operation and maintenance	872,030	872,030	919,030	47,000	919,030
Construction:					
02-D-402 Intec cathodic protection system expansion project, INEEL, Idaho Falls, ID	3,256	3,256	3,256	—	3,256
02-D-420 Plutonium packaging and stabilization project, Savannah River, SC	—	20,000	—	20,000	20,000
01-D-414 Preliminary project, engineering and design (PE&D), various locations	6,254	10,254	6,254	-3,500	2,754
99-D-402 Tank farm support services, F&H area, Savannah River Site, Aiken, SC	5,040	5,040	5,040	—	5,040
99-D-404 Health physics instrumentation laboratory, INEEL, ID	2,700	2,700	2,700	—	2,700
98-D-453 Plutonium stabiliza ion and handling system for PFP, Richland, WA	1,910	1,910	1,910	—	1,910
97-D-470 Regulatory monitoring and bioassay laboratory, Savannah River Site, Aiken, SC	—	—	—	—	—
96-D-471 CFC HVAC/chiller retrofit, Savannah River Site, Aiken, SC	4,244	4,244	4,244	—	4,244

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
92-D-140 F&H canyon exhaust upgrades, Savannah River, SC	15,790	—	—	-15,790	—
86-D-103 Decontamination and waste treatment facility, LLNL, Livermore, CA	762	762	762	—	762
Total, Construction	39,956	48,166	24,166	710	40,666
Total, Site/project completion	911,986	920,196	943,196	47,710	959,696
Post 2006 completion					
Operation and maintenance	1,680,979	1,761,979	1,955,979	275,000	1,955,979
Uranium enrichment D&D fund contribution	420,000	420,000	420,000	—	420,000
Construction					
93-D-187 High-level waste removal from filled waste tanks, Savannah River, SC	6,754	6,754	6,754	—	6,754
Total, Construction	6,754	6,754	6,754	—	6,754
Office of river protection					
Operation and maintenance	272,151	272,151	322,151	50,000	322,151
Construction					
01-D-416 Waste treatment and immobilization plant, Richland, WA	500,000	520,000	500,000	20,000	520,000
99-D-403 Privatization phase I infrastructure support, Richland, WA	—	—	—	—	—
97-D-402 Tank farm restoration and safe operations, Richland, WA	33,473	33,473	33,473	—	33,473

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
94-D-407 Initial tank retrieval systems, Richland, WA	6,844	6,844	6,844	----	6,844
Total, Construction	540,317	560,317	540,317	20,000	560,317
Total, Office of river protection	812,468	832,468	862,468	70,000	882,468
Total, Post 2006 completion	2,920,201	3,021,201	3,245,201	345,000	3,265,201
Science and technology	196,000	196,000	216,000	20,000	216,000
Excess facilities	1,300	1,300	1,300	----	1,300
Safeguards and security	205,621	205,621	205,621	----	205,621
Program direction	355,761	355,761	355,761	----	355,761
Subtotal, Defense environmental restoration and waste management	4,590,869	4,700,079	4,967,079	412,710	5,003,579
Use of prior year balances/reduction	-36,770	-48,261	-36,770	-19,541	-56,311
Pension refund	----	----	----	----	----
Less security charge for reimbursable work	-5,391	-5,391	-5,391	----	-5,391
Total, Defense Environmental Restoration and Waste Management	**4,548,708**	**4,646,427**	**4,924,918**	**393,169**	**4,941,877**
Defense Facilities Closure Projects					
Site closure	1,004,636	1,004,636	1,034,636	30,000	1,034,636
Safeguards and security	45,902	45,902	45,902	----	45,902
Total, Defense Facilities Closure Projects	**1,050,538**	**1,050,538**	**1,080,538**	**30,000**	**1,080,538**
Defense Environmental Management Privatization					
Privatization initiatives, various locations	141,537	126,208	157,537	12,000	153,537
Use of prior year balances	----	----	----	----	----
Rescission	----	----	----	----	----
Total, Defense Environmental Management Privatization	**141,537**	**126,208**	**157,537**	**12,000**	**153,537**
Total, Defense Environmental Management	**5,740,783**	**5,823,173**	**6,162,993**	**435,169**	**6,175,952**

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Other Defense Activities					
Security and emergency operations					
Nuclear safeguards and security	121,188	121,188	121,188	-4,688	116,500
Security investigations	44,927	44,927	44,927	——	44,927
Corporate management information program	20,000	20,000	——	-10,000	10,000
Emergency management	——	——	——	——	——
Program direction	83,135	83,135	81,450	-4,135	79,000
Total, Security and emergency operations	269,250	269,250	247,565	-18,823	250,427
Intelligence	40,844	40,844	40,844	——	40,844
Counterintelligence	46,389	32,727	46,389	-389	46,000
Advanced accelerator applications	——	——	——	——	——
Independent oversight and performance assurance					
Independent oversight and performance assurance	——	——	——	——	——
Program direction	14,904	14,904	14,904	——	14,904
Total, Independent oversight and performance assurance	14,904	14,904	14,904	——	14,904
Environment, safety and health					
Office of Environment, safety and health (defense)	91,307	84,500	91,307	——	91,307
Program direction	23,293	20,793	23,293	-1,293	22,000
Total, Environment, safety and health	114,600	105,293	114,600	-1,293	113,307
Worker and community transition					
Worker and community transition	21,246	19,000	18,000	-3,246	18,000
Program direction	3,200	2,900	2,000	-1,200	2,000
Total, Worker and community transition	24,446	21,900	20,000	-4,446	20,000

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2002 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
National security programs administration support	25,000	25,000	25,000	-3,000	22,000
Office of hearings and appeals	2,893	2,893	2,893	—	2,893
Subtotal, Other defense activities	538,326	512,811	512,195	-27,951	510,375
Adjustments					
Use of prior year balances	-10,000	-10,000	-10,000	—	-10,000
Less security charge for reimbursable work	-712	-712	-712	—	-712
Total, Adjustments	-10,712	-10,712	-10,712	—	-10,712
Total, Other Defense Activities	**527,614**	**502,099**	**501,483**	**-27,951**	**499,663**
Defense Nuclear Waste Disposal					
Defense nuclear waste disposal	**310,000**	**310,000**	**250,000**	**-30,000**	**280,000**
Total, Environmental and Other Defense Activities	**6,578,397**	**6,635,272**	**6,914,476**	**377,218**	**6,955,615**
TOTAL, Atomic Energy Defense Activities	**13,355,167**	**13,505,167**	**14,266,197**	**721,542**	**14,076,709**

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—National Security Programs Authorizations

National Nuclear Security Administration (sec. 3101)

The budget request included $6.8 billion for activities of the Department of Energy National Nuclear Security Administration (NNSA), subject to reductions and offsets.

The Senate bill contained a provision (sec. 3101) that would authorize $7.4 billion for the activities of the NNSA, subject to offsets and reductions.

The House amendment contained a similar provision (sec. 3101) that would authorize, after reductions and offsets, $6.9 billion for the activities of the NNSA.

The conferees agree to include a provision that would authorize, after reductions and offsets, $7.1 billion for the activities of the NNSA. The amounts authorized for the individual program lines reflect the full amount authorized for each program line without the reductions and offsets. The offsets and reductions are included in paragraphs(1)(E) and (2)(G) of this provision. The conferees have included the reduced total amount for the NNSA for convenience only. The total amount authorized is the sum total of the individual program lines. The conferees note that each program is authorized at the full amount reflected in the individual program line prior to application of reductions and offsets.

The conferees agree to combine the program direction accounts for weapons activities and nonproliferation and national security with the funds for the Office of the Administrator of the NNSA in order to create a single account reflecting the efforts of the Administrator to have a more unified NNSA. Not included in this account, however, are the program direction accounts for the Naval Reactors activities and the program direction account for the secure transportation asset.

The conferees also agree to include $200.0 million for a new account for facilities and infrastructure improvements at the NNSA sites.

Defense environmental restoration and waste management (sec. 3102)

The budget request included $5.6 billion for environmental management activities, including defense facilities closure projects, subject to reductions and offsets.

The Senate bill contained a provision (sec. 3102) that would authorize, subject to offsets and reductions, $6.0 billion for environmental management activities, including defense facilities closure projects.

The House amendment contained a similar provision (sec. 3102) that would authorize $4.6 billion for defense environmental restoration and waste management activities, after offsets and reductions, but not including closure projects. An additional $1.0 billion was authorized separately for closure projects.

The conferees agree to include a provision that would authorize, after reductions and offsets, $6.0 billion for defense environmental management activities, including defense facilities closure projects. The amounts authorized for individual program lines reflect the full amount authorized for each program line without the reductions and offsets. The offsets and reductions are included in subsection (b) of this provision. The conferees have included the reduced total amount for convenience only. The total amount authorized is the sum total of the individual program lines. The conferees note that each program is authorized at the full amount reflected in the individual program line prior to application of reductions and offsets.

Other defense activities (sec. 3103)

The budget request included $538.3 million for other defense activities, subject to reductions and offsets.

The Senate bill contained a provision (sec. 3103) that would authorize $512.2 million for other defense activities, subject to reductions and offsets.

The House amendment, contained a provision (sec. 3103) that would authorize $502.1 million, after reductions and offsets.

The conferees agree to include a provision that would authorize, after reductions and offsets, $499.7 million for other defense activities. The amounts authorized for individual program lines reflect the full amount authorized for each program line without the reductions and offsets. The offsets and reductions are included in subsection (b) of this provision. The conferees have included the reduced total amount for convenience only. The total amount authorized is the sum total of the individual program lines. The conferees note that each program is authorized at the full amount reflected in the individual program lines prior to application of reductions and offsets.

Defense environmental management privatization (sec. 3104)

The budget request included $141.5 million for defense environmental management privatization projects.

The Senate bill contained a provision (sec. 3104) that would authorize $157.5 million for defense environmental management privatization projects.

The House amendment contained a provision (sec. 3104) that would authorize $126.2 million for defense environmental management privatization projects.

The conferees agree to authorize $153.5 million for defense environmental management privatization accounts.

Defense nuclear waste disposal (sec. 3105)

The budget request included $310.0 million for defense nuclear waste disposal.

The Senate bill contained a provision (sec. 3105) that would authorize $250.0 million for defense nuclear waste disposal.

The House amendment contained a provision (sec. 3105) that would authorize $310.0 million for defense nuclear waste disposal.

The conferees agree to authorize $280.0 million for defense nuclear waste disposal.

Subtitle B—Recurring General Provisions

Reprogramming (sec. 3121)

The House amendment contained a provision (sec. 3121) that would prohibit the reprogramming of funds excess of the amount authorized for the program until the Secretary of Energy has notified the congressional defense committees and a period of 30 days has elapsed after the date on which the notification is received.

The Senate bill contained a similar provision (sec. 3121).

The Senate recedes with a technical amendment.

The conferees note that this provision significantly limits the ability of the Department of Energy (DOE) to reprogram funds and urge the DOE to work with the congressional defense committees to re-establish an internal reprogramming process.

Limits on minor construction projects (sec. 3122)

The Senate bill contained a provision (sec. 3122) that would authorize the Secretary of Energy to carry out minor construction projects using operation and maintenance funds, or facilities and infrastructure funds, if the total estimated cost of the minor construction project does not exceed $5.0 million. In addition, the provision would require the Secretary to submit an annual report identifying each minor construction project undertaken during the previous fiscal year.

The House amendment contained a similar provision (sec. 3122) that maintained the description of minor construction projects as general plant projects and that would require a cost variance report.

The House recedes with an amendment that would require the Secretary of Energy to submit immediately a report to the congressional defense committees when any minor construction project is revised so that the cost of the project exceeds $5.0 million.

The conferees direct the annual report required by this section to be submitted with the budget request. The first report, which would cover fiscal year 2002, should be submitted with the budget request for fiscal year 2004.

Limits on construction projects (sec. 3123)

The Senate bill contained a provision (sec. 3123) that would permit any construction project to be initiated and continued only if the estimated cost for the project does not exceed 125 percent of the higher of the amount authorized for the project or the most recent total estimated cost presented to the Congress as justification for such project. The Secretary of Energy could not exceed such limits until 30 legislative days after the Secretary submits to the congressional defense committees a detailed report setting forth the reasons for the increase. The provision would also specify that the 125 percent limitation would not apply to projects estimated to cost under $5.0 million.

The House amendment contained an identical provision (sec. 3123).

The conference agreement includes this provision.

Fund transfer authority (sec. 3124)

The Senate bill contained a provision (sec. 3124) that would permit funds authorized by this Act to be transferred to other agencies of the Federal Government for performance of work for which funds were authorized and appropriated. The provision would permit the merger of such transferred funds with the authorizations of the agency to which they are transferred. The provision would also limit, to not more than five percent of the account, the amount of funds authorized by the Act that may be transferred between authorization accounts within the Department of Energy.

The House amendment contained an identical provision (sec. 3124).

The conference agreement includes this provision.

Authority for conceptual and construction design (sec. 3125)

The Senate bill contained a provision (sec. 3125) that would limit the Secretary of Energy's authority to request construction funding until the Secretary has completed a conceptual design. This limitation would apply to construction projects with a total estimated cost greater than $5.0 million. If the estimated cost to prepare the construction design exceeds $600,000, the provision would require the Secretary to obtain a specific authorization to obligate such funds. If the estimated cost to prepare a conceptual design exceeds $3.0 million, the provision would further require the Secretary to submit to Congress a report on each conceptual design completed under this provision. The provision would also provide an exception to these requirements in the case of an emergency.

The House amendment contained a similar provision (sec. 3125).

The House recedes with a technical amendment.

Authority for emergency planning, design, and construction activities (sec. 3126)

The Senate bill contained a provision (sec. 3126) that would permit the Secretary of Energy to perform planning and design with funds available to the Department of Energy (DOE) pursuant to sections 3101–3104 of title XXXI, including those funds authorized for advanced planning and construction design, whenever the Secretary determines that the design must proceed expeditiously to protect the public health and safety, to meet the needs of national defense, or to protect property.

The House amendment contained a similar provision that included funds authorized pursuant to sections 3101–3103 of title XXXI (sec. 3126).

The House recedes.

Funds available for all national security programs of the Department of Energy (sec. 3127)

The Senate bill contained a provision (sec. 3127) that would authorize, subject to section 3121 of title XXXI of this Act, amounts appropriated for management and support activities and for general plant projects to be made available for use in connection with all national security programs of the Department of Energy.

The House amendment contained an identical provision (sec. 3127).

The conference agreement includes this provision.

Availability of funds (sec. 3128)

The House amendment contained a provision (sec. 3128) that would authorize amounts appropriated for operating expenses for plant and capital equipment for the Department of Energy to remain available until expended. Program direction funds would remain available until the end of fiscal year 2003.

The Senate bill contained a similar provision but would make program direction funds available until the end of fiscal year 2004.

The Senate recedes.

Transfer of defense environmental management funds (sec. 3129)

The Senate bill contained a provision (sec. 3129) that would provide the manager of each Department of Energy (DOE) field office with limited authority to transfer up to $5.0 million in fiscal year 2002 defense environmental management funds from one program or project. The DOE manager could use this authority to transfer funds outside of the normal reprogramming process three times in a fiscal year.

The House amendment contained a provision (sec. 3129) that would provide the manager of the DOE field office authority to make one transfer per fiscal year.

The House recedes.

The conferees agree that this authority shall not be aggregated and that each transfer shall not exceed $5.0 million.

Transfer of weapons activities funds (sec. 3130)

The Senate bill contained a provision (sec. 3130) that would provide the manager of a Department of Energy/National Nuclear Security Administration (DOE/NNSA) field office with limited authority to transfer up to $5.0 million in fiscal year 2002 weapons activities funds from one program or project to another, outside of the normal reprogramming process. The DOE/NNSA manager could use this authority up to three times per year.

The House amendment contained a similar provision (sec. 3130) that would provide authority to make one transfer per year and provide the authority to the contractor operator of the DOE/NNSA plant or laboratory.

The Senate recedes with an amendment that would provide the authority to the DOE/NNSA manager to make one transfer per year.

Subtitle C—Program Authorizations, Restrictions, and Limitations

Consolidation of Nuclear Cities Initiative program with Initiatives for Proliferation Prevention program (sec. 3131)

The House amendment contained a provision (sec. 3133) that would consolidate the Nuclear Cities Initiative (NCI) program and the Initiatives for Proliferation Prevention (IPP) program under a common management structure by July 1, 2002.

The Senate bill contained no similar provision, but included language in Senate Report No. 107–62, accompanying S. 1416, that directed the Administrator of the National Nuclear Security Administration to consolidate the IPP program and the NCI program under a single management structure.

The Senate recedes with an amendment that would delete the date.

The conferees agree to include a provision that would direct the Administrator of the National Nuclear Security Administration to consolidate the management of the IPP and the NCI programs under a single management division. The conferees believe, however, that these two programs should remain separate, have different funding lines within the division, retain their individual programmatic requirements as established by statute and retain separate program managers. The two managers should report to a single manager. The conferees note that the Administrator has already begun to implement this direction.

In order to maintain the two program identities, the conferees direct the Deputy Administrator for Defense Nuclear Nonproliferation to submit a plan to the congressional defense committees 30 days prior to obligating fiscal year 2002 funds, for each program laying out how each program intends to utilize fiscal year 2002 funds. Further, the conferees direct the Deputy Administrator to submit to the congressional defense committees a program plan for the IPP and the NCI programs that describes how: (1) the programs will be managed under common senior management; (2) they will share administrative support; (3) management improvements will be made for each program; and (4) greater coordination will be established between the programs and with the relevant interagency working groups. This report is due to the congressional defense committees no later than four months after enactment of the National Defense Authorization Act for Fiscal Year 2002.

Nuclear Cities Initiative (sec. 3132)

The Senate bill contained a provision (sec. 3133) that would prohibit the use of funds authorized to be appropriated after fiscal year 2001 for the Nuclear Cities Initiative (NCI) from being obligated or expended to expand the NCI program beyond its current scope until thirty days after the Administrator of the National Nuclear Security Administration (NNSA) submits to Congress an agreement on access signed by the United States and Russia. The provision also requires an annual report on the NCI program's financial and programmatic activities.

The House amendment contained no similar provision.

The House recedes.

Limitation on availability of funds for weapons activities for facilities and infrastructure (sec. 3133)

The Senate bill contained a provision (sec. 3131) that would direct the Administrator of the National Nuclear Security Administration (NNSA) to establish criteria for the facilities and infrastructure projects. The provision would prohibit the Administrator from obligating or expending more than fifty percent of the facilities and infrastructure account funds until he has submitted to the congressional defense committees the criteria and a list of the projects that will be funded based on the criteria.

The House amendment contained no similar provision.

The House recedes.

The conferees support this new effort to address a backlog of deferred maintenance at NNSA sites, but directs the Administrator to include projects in the fund based on the objective criteria established.

Limitation on availability of funds for other defense activities for national security programs administrative support (sec. 3134)

The Senate bill contained a provision (sec. 3132) that would prevent the Secretary of Energy from using more than $5.0 million of the funds authorized to be appropriated for national security programs administrative support pursuant to section 3103(a)(8) of this Act until such time as the Secretary submits the future years nuclear security program required by section 3253 of the National Nuclear Security Act (Title XXXII of Public Law 106–65) and until the Secretary submits a justification document for the national security programs administrative support activities describing the activities to be carried out with the funds provided.

The House amendment contained no similar provision.

The House recedes with an amendment that would add an additional condition to be met by the Secretary before obligating more than $5.0 million of the funds authorized to be appropriated for this activity. The conferees note that the report requested of the Secretary on the feasibility of using an energy savings performance contract mechanism to offset or possibly cover the cost of a new office building for the Albuquerque operations office of the Department of Energy (DOE) has not been submitted. This report was requested in Senate Report 106–50, the report of the Committee on Armed Services of the Senate to accompany S. 1059, the National Defense Authorization Act for Fiscal Year 2000. The amendment would direct the Secretary to submit this report as the third prerequisite to spending more than $5.0 million of the funds authorized.

Termination date of Office of River Protection, Richland, Washington (sec. 3135)

The House amendment contained a provision (sec. 3131) that would extend the statutory termination date of the Office of River Protection from September 30, 2004 to September 30, 2010 or upon determination that continuation of the Office is no longer necessary to carry out the Department Of Energy responsibilities under the Hanford Federal Facility Compliance Agreement, whichever is later.

The Senate bill contained no similar provision.

The Senate recedes.

Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico (sec. 3136)

The Senate bill contained a provision (sec. 3157) that would extend the period of time in which the Department of Energy (DOE) may make contributions to the Los Alamos Education Foundation and authorizes $6.9 million, the amount contained in the budget request, to be paid to the Foundation in fiscal year 2002. In addition, the provision would authorize $8.0 million for the fiscal year 2002 payment to be made from funds available to the DOE to offset cost of living expenses for school teachers at the Los Alamos Public Schools. The provision would also allow the DOE to extend the current contract with the Los Alamos Public Schools, pursuant to which these funds are paid, through fiscal year 2004. The provision would also require the Secretary of Energy to submit a report evaluating and making recommendations for future payments to the Foundation and the schools.

The House amendment contained a similar provision (sec. 3135) that would authorize the Secretary of Energy to pay $5.0 million to the Foundation and $8.0 million to the Los Alamos Public Schools. The provision would allow the DOE to extend the current contract with the schools through fiscal year 2003. The provision would also require a report.

The Senate recedes with an amendment that would authorize a payment of $6.9 million to the Foundation for fiscal year 2002 and that would direct the Secretary to submit the required report by March 1, 2002.

Reports on achievement of milestones for National Ignition Facility (sec. 3137)

The Senate bill contained a provision (sec. 3156) that would direct the Administrator of the National Nuclear Security Administration to notify the congressional defense committees when the National Ignition Facility (NIF) achieves each level one and level two milestone.

The House amendment contained no similar provision.

The House recedes with an amendment that would terminate the notification requirement at the end of fiscal year 2004.

The conferees have designated the end date of the reporting obligation to coincide with the date on which the NIF should achieve first light of the laser.

Subtitle D—Matters Relating to Management of the National Nuclear Security Administration

Establishment of Principal Deputy Administrator of National Nuclear Security Administration (sec. 3141)

The Senate bill contained a provision (sec. 3141) that would establish a Principle Deputy Administrator for nuclear security at the National Nuclear Security Administration (NNSA). The new position would be appointed by the President with the advice and consent of the Senate.

The House amendment contained a similar provision (sec. 3132(a)) that would establish the position and spell out qualifications for the individual to be appointed to that position.

The House recedes with an amendment that would require that the person appointed for the position has extensive background in organizational management and is well-qualified to manage the nuclear weapons programs, nonproliferation, and material disposition programs of the NNSA.

Elimination of requirement that national security laboratories and nuclear weapons production facilities report to Deputy Administrator for Defense Programs (sec. 3142)

The Senate bill contained a provision (sec. 3142) that would amend section 3214 of the National Nuclear Security Administration Act by striking subsection (c), which directs the contractor managers and directors of the National Nuclear Security Administration weapons production plants and national laboratories to report to the Deputy Administrator for Defense Programs.

The House amendment contained an identical provision (sec. 3132(b)).

The conference agreement includes this provision.

Repeal of duplicative provision relating to dual office holding by personnel of National Nuclear Security Administration (sec. 3143)

The House amendment contained a provision (sec. 3132(c)) that would repeal a duplicative statutory prohibition on the ability of non-National Nuclear Security Administration (NNSA) employees of the Department of Energy to serve concurrently in the NNSA.

The Senate bill contained no similar provision.

The Senate recedes.

Report on adequacy of federal pay and hiring authorities to meet personnel requirements of National Nuclear Security Administration (sec. 3144)

The Senate bill contained a provision (sec. 3144) that would amend section 3241 of the National Nuclear Security Administration Act to allow the National Nuclear Security Administration (NNSA) to expand the number of scientific and technical positions from the current 300 positions to 500 positions.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Administrator of the NNSA to prepare a report on what hiring and pay authorities are available to the NNSA, what authorities are being used, and what additional authorities are required.

The conferees believe that the Administrator should work with the Office of Personnel Management to determine the appropriate status of all employees in the NNSA. The conferees are aware that the Administrator would like to convert all federal employees of the NNSA to an excepted service type status. The report required should discuss the Administrator's plans and options for appropriate pay and hiring authorities at the NNSA.

Subtitle E—Other Matters

Improvements to energy employees occupational illness compensation program (sec. 3151)

The Senate bill contained a provision (sec. 3151) that would amend the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA)(title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001). These amendments were designed to create greater parity between certain provisions in the EEOICPA and similar provisions in the Radiation Employees Compensation Act.

The House amendment contained no similar provision.

The House recedes with an amendment.

The conferees have agreed to include language that would amend the EEOICPA in several areas, including: revising the threshold standard for determining if a covered employee has contracted silicosis; clarifying attorney's fees provisions; clarifying who qualifies as survivors and their entitlement to lump-sum benefits not paid to the covered employee; adding a technical amendment dealing with covered Leukemias; clarifying the effect of the EEOICPA on tort actions filed both before and after the EEOICPA date of enactment, and subsequent to the date of enactment of this Act; and directing the director of the National Institute for Occupational Safety and Health to conduct a new study on potential health effects of any residual contamination at certain facilities.

The provision clarifies that Leukemia, other than chronic Lymphocytic Leukemia, is covered if the initial occupational exposure occurred before the age of twenty-one and if the onset of the Leukemia occurred more than two years after such exposure. This amendment makes it clear that occupational exposure received prior to age twenty-one falls within the purview of the EEOICPA.

The provision amends section 3626(b) of the EEOICPA to include employees of an atomic energy weapons employer facility for consideration as a member of the special exposure cohort.

The provision amends section 3627(e)(2)(A) of the EEOICPA to change the threshold criteria for determining if a covered employee has silicosis to a 1/0 reading from a 1/1 reading. This change brings the EEOICPA in line with the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

The provision amends sections 3628(e) and 3630(e) of the EEOICPA to clarify that any compensation payments not made to covered employees prior to their death shall be paid to survivors living at the time payment is to be made and to define who qualifies as survivors for purposes of receiving such payments. The provision ensures that certain surviving minor children will receive the benefit owed to the deceased covered employee. The provision would also repeal paragraph 18 of section 3621 of the EEOICPA, defining survivors.

The provision amends section 3645 of the EEOICPA to clarify the election of remedies under certain circumstances. The amendments were included to address the situation where a tort case for compensation filed prior to October 30, 2000 had been dismissed, but where the dismissal was not a voluntary dismissal sought by the plaintiff. Under such a circumstance, the plaintiff would still be eligible to seek compensation under EEOICPA if the non-voluntary dismissal occurs prior to December 31, 2003. The provision would retain, however, the prohibition that if the tort case has not been involuntarily dismissed prior to December 31, 2003, the plaintiff would not be eligible to seek compensation under the EEOICPA unless the plaintiff voluntarily dismissed the case. The conferees were primarily concerned that a plaintiff in a previously filed case that had been involuntarily dismissed prior to December 31, 2003 would not be eligible to seek compensation under the EEOICPA. Under this provision, this individual would be eligible to file a claim for compensation. The amendment would, however, preclude any individual who had filed a tort case between October 30, 2000 and the date of the enactment of this Act, from being eligible to receive compensation or benefits under the EEOICPA unless the case is dismissed by the individual before the last permissible date. The permissible date is the later of April 30, 2003 or 30 months after discovering that the individual has a covered illness that results from the individual's covered occupational exposure.

In addition, the provision would provide that if the individual files a tort case after the date of enactment of this Act, the individual is not eligible for compensation if there is a final court decision adverse to the plaintiff rendered prior to the last permissible date for a voluntary dismissal. The last permissible date for a voluntary dismissal is the later of April 30, 2003 or 30 months after discovering that the individual has a covered illness that results from the individual's covered occupational exposure.

The provision would amend section 3648 of the EEOICPA to clarify that the two-percent limitation on attorney fees applies to initial claims for lump-sum compensation and that the ten- percent limitation on attorney fees applies to assistance provided with respect to objections to a recommended decision denying payment of a lump-sum compensation. The provision would also clarify that the limitations on attorney fees does not apply to attorney fees for services rendered for matters not pertaining to or in connection with lump-sum claims.

Finally, the provision would require the National Institute for Occupational Safety and Health to conduct a study in coordination with the Department of Energy (DOE) and the Department of Labor to determine whether there is any significant residual contamination at beryllium vendors or atomic weapons employer facilities that could have caused or substantially contributed to the cancer or beryllium illness of a covered employee. An interim report is due 180 days after enactment of this Act, and the final report is due one year after the date of enactment.

The conferees are aware of draft regulations promulgated by the DOE and intended to implement subtitle D of the EEOICPA. The conferees are concerned that the DOE appears to have misinterpreted the intent of Congress in this area. Subtitle D was intended to provide an alternative path to state workers compensation systems that would rely on the independent judgment of a physicians panel as to whether a worker's illness was related to exposure to a toxic substance while working at a DOE facility. In cases where this independent panel finds that the illness was related to occupational exposure, the conferees expect that the DOE will direct its contractors not to contest the worker's claim in the state proceedings. Subtitle D was intended to overcome existing procedural barriers within state, workers compensation systems that prevent workers with occupational illnesses from receiving assistance from these systems. In implementing subtitle D, the DOE should not reimpose the same or similar procedural barriers that subtitle D was designed to remove or overcome.

Department of Energy counterintelligence polygraph program (sec. 3152)

The Senate bill contained a provision (sec. 3152) that would direct the Secretary of Energy to develop a new interim polygraph program, and then establish a new permanent polygraph program. The new permanent program would be established by regulations issued pursuant to the Administrative Procedures Act, after the DOE completes the ongoing Polygraph Review. The provision would also repeal section 3154 of the Department of Energy Facilities Safeguards, Security and Counterintelligence Enhancement Act of 1999 (Title XXXI of the National Defense Authorization Act for Fiscal Year 2000).

The House amendment contained no similar provision.

The House recedes with an amendment that would direct the Secretary of Energy to establish a new permanent polygraph program by regulations issued pursuant to the Administrative Procedures Act. The provision would repeal section 3154 only after the DOE has implemented the final rule and the Secretary submits a certification to the congressional defense committees to that effect.

One-year extension of authority of Department of Energy to pay voluntary separation incentive payments (sec. 3153)

The Senate bill contained a provision (sec. 3153) that would amend section 3161(a) of the National Defense Authorization Act for Fiscal Year 2000 to provide a one-year extension of the Department of Energy (DOE) authority to make voluntary separation incentive payments through January 1, 2004.

The House amendment contained no similar provision.

The House recedes with an amendment stating that the provision may be superceded by an applicable government-wide statute providing voluntary separation incentive payments.

The conferees note that the administration is seeking government-wide authority setting uniform standards to be applied by federal agencies in making voluntary separation incentive payments. In the event that Congress enacts such a law, the conferees anticipate that it would supercede this provision and conform the DOE and Department of Defense authority to that provided to all federal agencies.

Annual assessment and report on vulnerability of Department of Energy facilities to terrorist attack (sec. 3154)

The Senate bill contained a provision (sec. 3159) that would direct the Secretary of Energy to conduct an annual assessment on the vulnerabilities of Department of Energy (DOE) facilities to terrorist attack. The report would be due on January 31 of each year. The first report would be due on January 31, 2003.

The House amendment contained no similar provision.

The House recedes.

Disposition of surplus defense plutonium at Savannah River Site, Aiken, South Carolina (sec. 3155)

The House amendment contained a provision (sec. 3134) that would require the Secretary of Energy to consult with the Governor of South Carolina on any decisions or plans regarding the disposition of surplus defense plutonium at the Savannah River Site and to submit a plan to Congress by February 1, 2002, for the disposal of surplus defense plutonium currently located at the site, as well as for defense plutonium that may be shipped to the site in the future. If the plan is not submitted by February 1, 2002, then no shipments of plutonium could be made to the Savannah River Site.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to provide a notice to the congressional defense committees 30 days before the Secretary shipped any defense plutonium or defense plutonium materials to the Savannah River Site. The conferees note that a similar report is required by the conference report for the Energy and Water Development Appropriations Act for Fiscal Year 2002 (Public Law 107–66).

The provision would also require the Secretary to prepare a comprehensive plan for the long-term disposition of defense plutonium and defense plutonium materials. If the Secretary should decide not to proceed with the immobilization facility or the mixed oxide facility, then the Secretary shall include in the plan required to be submitted on February 1, 2002 a disposition path for the material.

Modification of date of report of Panel to Assess the Reliability, Safety, and Security of the United States Nuclear Stockpile (sec. 3156)

The Senate bill contained a provision (sec. 3155) that would amend section 3159(d) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 by extending the due date for the third report required by that section from October 1, 2001 to February 1, 2002.

The House amendment contained no similar provision.

The House recedes.

Subtitle F—Rocky Flats National Wildlife Refuge

Rocky Flats National Wildlife Refuge (sec. 3171–3182)

The Senate bill contained a series of provisions (sec. 3171–3181) that would transfer the Department of Energy Rocky Flats site to the Department of Interior (DOI) to establish the Rocky Flats National Wildlife Refuge. The transfer would occur after the DOE has completed the environmental cleanup of the site.

The House amendment contained no similar provision.

The House recedes with amendments that would clarify the relationship between the Department of Energy (DOE) and the DOI and remove the requirement for the DOI to conduct any interim management activities prior to the transfer of jurisdiction over Rocky Flats.

This designation will ensure that appropriate land uses are maintained and that an environmentally sound end state will result. As cleanup and closure continues, the committee urges the DOE to consult with the U.S. Fish and Wildlife Service to ensure a smooth transition from the DOE to the DOI.

Through a Memorandum of Understanding (MOU), the DOE and the DOI should address any remaining issues related to the transition, determine how to resolve those issues, and develop the best path forward for transferring the land. The MOU should also address longer term relationships between the DOE and the DOI and address such things as indemnification for any costs that may result after the transfer.

The provisions would also require that any conflicts between the two agencies over cleanup activities on the land retained by the DOE be resolved so that cleanup activities take priority.

The Act provides that prior to the transfer, the Environmental Protection Agency must certify that the site is cleaned up and closed as a DOE facility pursuant to existing laws, regulations, and agreements. The conferees note that the State of Colorado has recently passed a new statute concerning the enforceability of environmental real covenants. Several federal agencies have raised questions about the applicability of this provision to federal lands. The conferees do not attempt to resolve any issues associated with the applicability of this new Colorado statute and do not intend these provisions to be interpreted as either supporting or refuting the applicability of this statute to federal lands, including the wildlife refuge that would be created in this Act.

While it is expected that most structures will be demolished when the property is transferred from the DOE to the Fish and Wildlife Service, any cleanup facilities or structures related to long-term treatment and control of contamination that the DOE must maintain and remain liable for will be excluded from transfer. In addition, the provision also allows the DOI to designate any buildings that it might need for managing the refuge.

The Act also anticipates that wastes and materials will be removed for off-site disposal and that there should not be any need for a long-term storage facility at the site.

The provision clarifies that these provisions shall not be interpreted or construed to reduce the required cleanup levels, and that these levels should reflect a cleanup level that is fully protective of human health and the environment for the long-term.

The provisions also require that the refuge shall be managed in accordance with the National Wildlife Refuge System Administration Act. Accordingly, the Fish and Wildlife Service must consult with local communities and ensure public participation during development of the Rocky Flats Wildlife Refuge plans. This Act also recognizes and preserves the existence of other property rights on the Rocky Flats site, such as mineral rights, water rights, and utility rights-of-way for all relevant parties. The conferees recognize that the DOE's top priority at Rocky Flats is safe cleanup and closure, and strongly support continuation of efforts to achieve the 2006 closure date. The conferees further recognize that the accelerated cleanup at Rocky Flats and creation of the Wildlife Refuge has been achieved through strong support and cooperation from the surrounding communities, the State of Colorado, and the Colorado Congressional delegation. Creation of the Rocky Flats National Wildlife Refuge provides an important path forward for Rocky Flats and a model for other DOE cleanup sites across the nation.

LEGISLATIVE PROVISIONS NOT ADOPTED

Additional objective for Department of Energy defense nuclear facility workforce restructuring plan

The Senate bill contained a provision (sec. 3154) that would amend section 3161(c) of the National Defense Authorization Act for Fiscal Year 1993 by adding a new requirement to the workforce restructuring plan. The new requirement would direct the Secretary of Energy to provide assistance to promote the diversification of the economies of the communities in the vicinity of the Department of Energy (DOE).

The House amendment contained no similar provision.

The Senate recedes.

The conferees believe that the DOE, in its work with the Department of Commerce and the Department of Labor in preparing and carrying out workforce restructuring plans, already looks at economic diversification as an element of the plan. The conferees direct the Secretary to continue to promote diversification of the economies in the vicinity of any DOE defense nuclear facility that may be affected by a workforce restructuring and to include in the plan a description of the steps taken in support of this goal.

Clarification of status within the Department of Energy of Administration and contractor personnel of the National Nuclear Security Administration

The Senate bill contained a provision (sec. 3143) that would amend section 3219 of the National Nuclear Security Administration Act (Title XXXII of the National Defense Act for Fiscal Year 2000) to clarify that when work is performed at National Nuclear Security Administration (NNSA) facilities and sponsored by offices outside of the NNSA, the sponsoring office can supervise the work being performed and that NNSA employees can serve on DOE task forces.

The House amendment contained no similar provision.

The Senate recedes.

The conferees do not include this provision because they do not believe that the existing law prohibits or limits either non-NNSA agencies and offices from providing authority direction and control over programs that they sponsor at NNSA facilities or NNSA employees from serving as full members of any DOE task force.

Construction of Department of Energy operations office complex

The Senate bill contained a provision (sec. 3134) that would authorize the Secretary of Energy to provide for the design and construction of a new operations office complex for the Department of Energy (DOE) in accordance with the feasibility study regarding such operations office complex conducted under the National Defense Authorization Act for Fiscal Year 2000. The provision would provide authority to the Secretary to use one or more energy savings performance (ESP) contracts, entered into under Title VII of the National Energy Policy Conservation Act, 42 U.S.C. 8287 et seq., to design and construct the complex. The provision would require that the construction and operation costs of the complex be paid from the energy savings and ancillary operations and maintenance savings that result from the replacement of a current DOE operations office complex.

The House amendment contained no similar provision.

The Senate recedes.

Improvements to Corral Hollow Road, Livermore, California

The Senate bill contained a provision (sec. 3158) that would authorize up to $0.3 million for safety improvements to Corral Hollow Road, the amount of the budget request.

The House amendment contained no similar provision.

The Senate recedes.

The conferees agree that funds for road improvements that are for roads not on Department of Energy (DOE) sites should be specifically requested in the DOE budget request. The conferees also agree that specific authorization is not required for such road projects unless the total project cost for the project exceeds $5.0 million.

Increased amount for nonproliferation and verification

The House amendment contained a provision (sec. 3106) that would increase the amounts authorized for defense nuclear nonproliferation by $10.0 million for operation and maintenance for nonproliferation and verification research and development.

The Senate bill contained no similar provision.

The House recedes.

The conferees have included funds for the defense nuclear nonproliferation programs in section 3101 of this conference report.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

LEGISLATIVE PROVISIONS ADOPTED

Authorization (sec. 3201)

The Senate bill contained a provision (sec. 3201) that would authorize $18.5 million for the Defense Nuclear Facilities Safety Board (DNFSB).

The House amendment contained an identical provision (sec. 3201).

The conference agreement includes this provision.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

LEGISLATIVE PROVISIONS ADOPTED

Definitions (sec. 3301)

The House amendment contained a provision (sec. 3301) that would provide the definitions used in the title.

The Senate bill contained no similar provision.

The Senate recedes.

Authorized uses of stockpile funds (sec. 3302)

The House amendment contained a provision (sec. 3302) that would authorize $65.2 million from the National Defense Stockpile Transaction Fund for the operation and maintenance of the National Defense Stockpile for fiscal year 2002. The provision would also permit the use of additional funds for extraordinary or emergency conditions 45 days after a notification to the Congress.

The Senate bill contained no similar provision.

The Senate recedes.

Authority to dispose of certain materials in National Defense Stockpile (sec. 3303)

The House amendment contained a provision (sec. 3303) that would authorize the disposal of specific materials in the National Defense Stockpile that are no longer needed.

The Senate bill contained an identical provision (sec. 3301).

The conference agreement includes this provision.

Revision of limitations on required disposals of certain materials in National Defense Stockpile (sec. 3304)

The Senate bill contained a provision (sec. 3302) that would provide the Secretary of Defense with greater flexibility in the disposal of materials from the National Defense Stockpile. The provision would allow the sale of materials over 10 years, based on market conditions, rather than according to a specific timetable limiting quantities that could be disposed of in any given year.

The House amendment contained no similar provision.

The House recedes.

Acceleration of required disposal of cobalt in National Defense Stockpile (sec. 3305)

The House amendment contained a provision (sec. 3304) that would accelerate by one year the disposal of cobalt from the National Defense Stockpile that was authorized for sale in previous authorization acts.

The Senate bill contained a similar provision (sec. 3303).

The House recedes.

Restriction on disposal of manganese ferro (sec. 3306)

The Senate bill contained a provision (sec. 3304) that would prohibit the sale of manganese ferro from the National Defense Stockpile during fiscal year 2002.

The House amendment contained no similar provision.

The House recedes with an amendment that would authorize sales of 25,000 short tons of manganese ferro in fiscal year 2002 (of all grades), 25,000 short tons of high-grade manganese ferro in fiscal year 2003, and 50,000 short tons of high-grade manganese ferro in fiscal years 2004 and 2005.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations (sec. 3401)

The House amendment contained a provision (sec. 3401) that authorized the appropriation of $17.4 million during fiscal year 2002 for activities relating to the naval petroleum reserves.

The Senate bill contained a similar provision (sec. 3401).

The Senate recedes.

TITLE XXXV—MARITIME ADMINISTRATION

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations for fiscal year 2002 (sec. 3501)

The budget request included $103.0 million for the Maritime Administration.

The House amendment contained a provision (sec. 3501) that would authorize an increase of $100.0 million for the Maritime Administration. Of the funds authorized, $89.1 million would be for operations and training programs, $100.0 million would be for the cost as defined in section 402 of the Federal Credit Reform Act of 1990, of loan guarantees authorized by title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271 et seq.), $4.0 million would be for administrative expenses related to providing those loan guarantees, and $10.0 million would be to dispose of obsolete vessels in the National Defense Reserve Fleet.

The Senate bill contained no similar provision.

The Senate recedes.

Define "war risks" to vessels to include confiscation, expropriation, nationalization, and deprivation of the vessels (sec. 3502)

The House amendment contained a provision (sec. 3502) that would clarify and expand the authority of the Maritime Administration to issue war risk insurance coverage for losses from hostile acts including confiscation, expropriation, nationalization, and deprivation.

The Senate bill contained no similar provision.

The Senate recedes.

Holding obligor's cash as collateral under title XI of Merchant Marine Act, 1936 (sec. 3503)

The House amendment contained a provision (sec. 3503) that would amend title XI of the Merchant Marine Act, 1936, as amended, by establishing a new section that would allow the Maritime Administration to hold and invest cash collateral derived from title XI proceeds in the U.S. Treasury.

The Senate bill contained no similar provision.

The Senate recedes.

From the Committee on Armed Services, for consideration of the Senate Bill and the House amendment, and modifications committed to conference:

BOB STUMP,
DUNCAN HUNTER,
JAMES V. HANSEN,
CURT WELDON,
JIM SAXTON,
JOHN M. MCHUGH,
TERRY EVERETT,
ROSCOE G. BARTLETT,
HOWARD "BUCK" MCKEON,
J.C. WATTS, Jr.,
MAC THORNBERRY,
SAXBY CHAMBLISS,
IKE SKELTON,
SOLOMON P. ORTIZ,
LANE EVANS,
NEIL ABERCROMBIE,
MARTIN T. MEEHAN,
ROBERT A. UNDERWOOD,
THOMAS ALLEN,
VIC SNYDER,

From the Committee on Education and the Workforce, for consideration of secs. 304, 305, 1123, 3151, and 3157 of the Senate bill, and secs. 341, 342, 509, and 584 of the House amendment, and modifications committed to conference:

MICHAEL N. CASTLE,
JOHNNY ISAKSON,
GEORGE MILLER,

From the Committee on Government Reform, for consideration of secs. 564, 622, 803, 813, 901, 1044, 1047, 1051, 1065, 1075, 1102, 1111–1113, 1124–1126, 2832, 3141, 3144, and 3153 of the Senate bill, and secs. 333, 519, 588, 802, 803, 811–819, 1101, 1103–1108, 1110, and 3132 of the House amendment, and modifications committed to conference:

DAN BURTON,
DAVE WELDON,
HENRY A. WAXMAN,

Provided that Mr. Tom Davis of Virginia is appointed in lieu of Mr. Weldon of Florida for consideration of secs. 803 and 2832 of the Senate bill, and secs. 333 and 803 of the House amendment, and modifications committed to conference:

TOM DAVIS,

Provided that Mr. Horn is appointed in lieu of Mr. Weldon of Florida for consideration of secs. 811–819 of the House amendment, and modifications committed to conference:

STEPHEN HORN,

From the Committee on House Administration, for consideration of secs. 572, 574–577, and 579 of the Senate bill, and sac. 552 of the House amendment, and modifications committed to conference:

BOB NEY,
JOHN L. MICA,

From the Committee on International Relations, for consideration of secs. 331, 333, 1201–1205, and 1211–1218 of the Senate bill, and secs. 1011, 1201, 1202, 1205, and 1209, title XIII, and sec. 3133 of the House amendment, and modifications committed to conference:

HENRY HYDE,
BEN GILMAN,
TOM LANTOS,

From the Committee on the Judiciary, for consideration of secs. 821, 1066, and 3151 of the Senate bill, and secs. 323 and 818 of the House amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
LAMAR SMITH,

From the Committee on Resources, for consideration of secs. 601, 663, 2823, and 3171–3181 of the Senate bill, and secs. 601, 1042, 2841, 2845, 2861-2863, and 2865 and title XXIX of the House amendment, and modifications committed to conference:

JIM GIBBONS,
GEORGE RADANOVICH;

Provided that Mr. Udall of Colorado is appointed in lieu of Mr. Rahall for consideration of secs. 3171–3181 of the Senate bill, and modifications committed to conference:

MARK UDALL,

From the Committee on Science, for consideration of secs. 1071 and 1124 of the Senate bill, and modifications committed to conference:

SHERWOOD BOEHLERT,
NICK SMITH,
RALPH M. HALL,

Provided that Mr. Ehlers is appointed in lieu of Mr. Smith of Michigan for consideration of sec. 1124 of the Senate bill, and modifications committed to conference:

VERNON J. EHLERS,

From the Committee on Small Business, for consideration of secs. 822–824 and 1068 of the Senate bill, and modifications committed to conference:

DONALD A. MANZULLO,
LARRY COMBEST,

From the Committee on Transportation and Infrastructure, for consideration of secs. 563, 601, and 1076 of the Senate bill, and secs. 543, 544, 601, 1049, and 1053 of the House amendment, and modifications committed to conference:

DON YOUNG,
FRANK A. LOBIONDO,
CORRINE BROWN,

Provided that Mr. Pascrell is appointed in lieu of Ms. Brown of Florida for consideration of sec. 1049 of the House amendment, and modifications committed to conference:

BILL PASCRELL, Jr.,

From the Committee on Veterans' Affairs, for consideration of secs. 538, 539, 573, 651, 717, and 1064 of the Senate bill, and sec. 641 of the House amendment, and modifications committed to conference:

CHRISTOPHER H. SMITH,
(except sec. 641 of House amendment and secs. 539 and 651 of Senate bill),
MIKE BILIRAKIS,
Managers on the Part of the House.

CARL LEVIN,
TED KENNEDY,
JOSEPH LIEBERMAN,
MAX CLELAND,
MARY LANDRIEU,
JACK REED,
DANIEL K. AKAKA,
BILL NELSON,
BEN NELSON,
JEAN CARNAHAN,
MARK DAYTON,
JEFF BINGAMAN,
JOHN WARNER,
STROM THURMOND,
BOB SMITH,
JIM INHOFE,
RICK SANTORUM,
PAT ROBERTS,
WAYNE ALLARD,
TIM HUTCHINSON,
JEFF SESSIONS,
SUSAN COLLINS,
JIM BUNNING,
Managers on the Part of the Senate.

SETTING ASIDE TIME FOR PRAYER OR QUIET REFLECTION ON BEHALF OF OUR NATION DURING THIS TIME OF STRUGGLE AGAINST INTERNATIONAL TERRORISM

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 3, 2001, the gentleman from North Carolina (Mr. JONES) is recognized for 30 minutes as the designee of the majority leader.

Mr. JONES of North Carolina. Mr. Speaker, tonight I would like to take just a few moments simply because on November 13 this House debated a concurrent resolution, House Concurrent Resolution 239, and the House actually passed the resolution on November 15 by a vote of 297 to 125, with one Member voting present.

I would like to read to the House what the resolution said, and then I want to give the reason why I am on the floor tonight for these few minutes.

The resolution said, "Expressing the sense of Congress that schools in the United States should set aside a sufficient period of time to allow children to pray for or quietly reflect on behalf of the Nation during this time of struggle against the forces of internal terrorism."

Mr. Speaker, I was a little bit surprised the night of November 13. I should not say "disappointed," because the House is the people's House, and all of us who serve here have the privilege to our own opinions and we can express those opinions. However, on that night, three Members of the Democratic Party came to speak in opposition of

House Concurrent Resolution 239: the gentleman from California (Mr. GEORGE MILLER), the gentleman from Virginia (Mr. SCOTT), and the gentleman from Texas (Mr. EDWARDS), all three of whom I have great respect for; and I acknowledged that night during the debate that I did have respect for each one as a very fine Member of Congress. We just disagreed on this issue.

Mr. Speaker, this Nation was founded on Judeo-Christian principles. There is absolutely no question about that. That night, the three Members who were opposed to House Concurrent Resolution 239 mentioned seven different groups that were opposed to this resolution, one being the People for the American Way. Well, I was not surprised with that, quite frankly. The National PTA, I was very surprised about, and I want to talk about that in just a moment.

The third group to be opposed to this nonbinding resolution but sense of the Congress that children would have a moment of prayer or a moment of reflection during this period of war with the terrorists was Americans United for Separation of Church and State. Quite frankly, I was not surprised by that one either.

Next was the Interfaith Alliance.

The fifth group opposed to the resolution was the American Jewish Committee of Washington, D.C.

The sixth group in opposition was Religious Action Center of Reform Judaism.

Seventh was the Baptist Joint Committee.

I would say that the one I was really disappointed in was the National PTA, and I am going to read a couple of sentences from their letter of opposition.

The National PTA, the lady's name, I believe she is the President, Shirley Igo, President of the National PTA, she wrote a note in opposition to House Concurrent Resolution 239, to, again, the sense of the Congress encouraging that children during this period of war, and I know a lot of our children, Mr. Speaker, are confused by what is happening with terrorism, the murder of so many American people on September 11, the fact that many of our men and women in uniform over in Afghanistan have children here in this country. So the Congress felt, and, again, it did pass it, that children should be encouraged in the schools to have a moment of prayer or reflection.

But the National PTA, Mrs. Igo, says about the resolution, "Furthermore, because the legislative intent is clearly to endorse religious expression, it does not conform with current constitutional standards."

Mr. Speaker, that is not what it did. What it said was that the children of America should have a moment of prayer or a moment of reflection. But, again, my point is, I am very disappointed in the National PTA, which is supposed to strengthen families, encourage education and encourage families to be together. Why they would take this type of position, I do not know. But, again, I was very surprised and disappointed that they would.

Mr. Speaker, another group that I really should not be surprised about is the Americans United for Separation of Church and State. That is Reverend Barry Lynn, and he and I disagree on a lot of issues, most of the time, quite frankly.

Let me read one or two sentences from his letter in opposition to House Concurrent Resolution 239: "This misguided proposal should not be endorsed by the House of Representatives."

Well, I am pleased to tell Mr. Lynn that it was endorsed by the House of Representatives, 297 to 125.

The second statement he made: "Mandatory time for classroom prayer on a specific topic."

Mr. Speaker, it did not do that. It said that the children should have a moment of prayer, whatever faith they might be, Jewish, Catholic, Protestant, or even Muslim, they should have that moment, which we have seen happen since September 11.

Also he made a couple of other points that I am not going to take the time to make reference on.

The reason I wanted to come down on the floor again tonight was to say "thank you" to the Members of the House. Many Democrats, including the leader of the minority party, the gentleman from Missouri (Mr. GEPHARDT), voted for this resolution.

I want to read for the record a paper from an eighth grader from my district, a young lady named Rose Ormand, who wrote a paper called "In Defense of a Little Prayer." Ms. Ormand is in the eighth grade. She attends E.B. Aycock Middle School in Greenville, North Carolina. I want to read this in its entirety.

"How would the athletes at your school feel if all athletic activities were prohibited based on the fact that not all students are athletic and some students even feel uncomfortable with athletics? Wouldn't you consider that unjust and absurd? Can you imagine baseball, a sport considered as American as mom's apple pie, being removed from schools because a few are offended? Well, as absurd as that might seem, there is an activity which is even more historically valued than baseball that is being prohibited in our public schools today. That activity prohibited today within the walls of our schools is prayer. A student's right to pray in school in any manner should be upheld and encouraged. First of all, our country has definitely been founded upon Christian principles from its very beginning. When we compare the social and moral climate of the schools when prayer was part of a regular school day to that of our present day, there is quite a difference. Finally, if we trace the roots of public education back to its original purpose, it just doesn't make any sense that our public school system today is a contradiction. Prayer in our public schools may very well be an area we need to look at again as it is so much more important than baseball.

"First of all, our country and its government were clearly built on Christian principles. The arrival of the pilgrims in the New World seeking religious freedom was the birth of our great country. In the Bill of Rights, the First Amendment declares that, 'Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.' Every day the United States Senate and House of Representatives begin their Congressional day with prayer, yet in the same nation, public school students are not allowed to have prayer. While the Members of Congress stood on the steps of the Capitol and petitioned God almighty for his help after the attack on America, public school students were not even permitted to join in the National Day of Prayer declared by the President. It seems to me that students and teachers alike have to shed their constitutional right of the free exercise of prayer when they walk through the public school doors.

"Secondly, the social and moral climate when prayer was permitted in school was surprisingly better than now when prayer is prohibited. The Regent's prayer, prayed every morning in the classroom, was 'Almighty God, we acknowledge our dependence upon You, and we beg Your blessings upon us, our parents, our teachers and our country.' On June 25, 1962, the government removed God from public schools and that prayer was never prayed again. The four parts of the Regent's prayer were God's blessings on the students, our parents, our teachers and our country, and they seemed to be the area God's hedge of protections fell. The first area was the students, and since 1962 teenage homicide rose three hundred percent. The second area was the parents, and also since 1962 the divorce rate went up fifty-two percent. The SAT scores plummeted, frustrating the teachers, and the hedge of protection fell from our country as the very next year our President was killed. A coincidence? I don't think so. The only way any of these statistics are going to change will be if prayer is allowed in our school system.

"Some reading this may say that schools are not the place for prayer because they are institutions for learning. Let me refer you to one of the founders of public education within our Nation, Benjamin Rush. He wrote and spoke about educational topics frequently and he believed that education should work along with the principles of democracy. He wrote a prodigious essay entitled, 'Thoughts Upon the Mode of Educational Proper in a Republic.' Rush included in his essay that Christian principles should be taught throughout the student's education.

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"Funny, isn't it, that now God isn't even allowed where once he was the main focus? Or maybe it's not so funny after all.

"In conclusion, should students be allowed to pray as part of every day school life. Since God was the main reason America was founded, doesn't it make sense that the heritage of this country should continue? Also, if we had prayer back in the school system, our schools, homes, and country would be a lot better off. School now is so different than what it was originally intended to be, and the strength and quality the schools had then could return only if God was let back in the school system. If you really believe in the power of prayer, then call your Congressman and ask for prayer to be returned to public schools now!"

Mr. Speaker, I read that again because they are the words of an eighth-grader in my district, and I think she did a great job of expressing herself and the fact that this Nation is a Nation founded on Judeo-Christian principles.

Let me make just a couple of other points. Again, I wanted to come to the floor because I was so disappointed that the National PTA and some of the other groups that I read about earlier that will be in the RECORD were opposed to this nonbinding resolution, the Sense of the Congress, that the Congress would say to the schools throughout this Nation and also say to the students that you may have a moment of prayer or a moment to reflect.

Just a couple of other points and then, Mr. Speaker, I will bring this to a close.

I found it very interesting that William Raspberry recently wrote an editorial and the title was "Good-Faith Arguments for School Prayer." Now, this was in The Washington Post on November 26 of the year 2001, this year. Mr. Raspberry quotes Kevin J. Hasson, President of the Becket Fund for Religious Liberty, I will use these quotes very briefly. They are short and to the point. Hasson is responding to Chancellor Harold O. Levy's decision for New York schools to accommodate the religious exercise of Muslim students during Ramadan. Hasson says, "A public school system that pretends to have a comprehensive education but resolutely says nothing about religion for 12 years is not comprehensive at all. Indeed, it sends a powerful message to our children that religion is at best an optional aspect of their human nature and, in doing so, it lies about who and what we are. When a public school sets aside space for children who wish to pray, it sends the opposite message: that faith is a natural part of life."

"But doesn't Levy's action violate the separation clause of the first amendment? Not as Hasson sees it. The framers of the amendment never intended to hobble religion," he argues, "only to avoid the establishment of a particular religion. The people who wrote the Bill of Rights hired a congressional chaplain," he said. "A few days after writing his famous letter on the wall of separation, Thomas Jefferson attended Sunday churches in the House of Representatives."

Mr. Speaker, I want to include Mr. Raspberry's entire editorial for the RECORD, along with the letter from Rose Ormand.

In Defense of a Little Prayer

(By Rose Ormond, Persuasive Hall 4)

How would the athletes at your school feel if all athletic activities were prohibited based upon the fact that not all students are athletic and some students even feel uncomfortable with athletics? Wouldn't you consider that unjust and absurd? Can you imagine baseball, a sport considered as American as mom's apple pie, being removed from schools because a few are offended? Well as absurd as that may seem, there is an activity which is ever more historically valued than baseball that is being prohibited in our public schools today. That activity prohibited today within the walls of our schools is prayer. A student's right to pray in school, in any manner, should be upheld and encouraged. First of all, our country has definitely been founded upon Christian principles from its very beginning. When we compare the social and moral climate of the schools when prayer was a part of a regular school day to that of our present day, there is quite a difference. Finally, if we trace the roots of public education back to its original purpose, it just doesn't make sense that our public school system today is a contradiction. Prayer in our public schools may very well be an area we need to look at again as it is so more important than baseball!

First of all, our country and its government were clearly built on Christian principles. The arrival of the pilgrims in the New World seeking religious freedom was the birth of our great country. In the Bill of Rights, the First Amendment declares that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .". Everyday the U.S. Senate and the House of Representatives begin their congressional day with prayer yet, in the same nation, public school students are not allowed to have prayer. While the members of Congress stood on the steps of the capital and petitioned God Almighty for His help after the "Attack on America," public school students were not even permitted to join in on the National Day of Prayer declared by the President. It seems to me that students and teachers alike have to shed their constitutional right of the free exercise of prayer when they walk through the public school doors.

Secondly, the social and moral climate when prayer was permitted in schools was surprisingly better than now, when prayer is prohibited. The Regent's prayer, prayed every morning in the classroom was "Almighty God, we acknowledge our dependence upon You, and we beg Your blessings upon us, our parents, our teachers, and our country." On June 25, 1962 the government removed God from public schools and that prayer was never prayed again. The four parts of the Regent's prayer were God's blessings on the students, our parents, our teachers, and our country and they seem to be the areas God's hedge of protections fell. The first area was the students, and since 1962 teenage homicide rose three hundred percent. The second area was the parents, and also since 1962 the divorce rate went up fifty-two percent. The SAT scores plummeted frustrating the teachers, and the hedge of protection fell from our country as the very next year our president was killed. Coincidence? I don't think so! The only way any of these statistics are going to change will be if prayer is allowed in our school system.

Some reading this may say, that schools are not the place for prayer because they are only institutions for learning. Let me refer you to one of the founders of public education within our nation, Benjamin Rush. He wrote and spoke about educational topics frequently, and he believed that education should work along with the principles of democracy. He wrote a prodigious essay entitled, "Thoughts Upon the Mode of Education Proper in a Republic." Rush included in his essay that Christian principles should be taught throughout the student's education. Funny isn't it that now God isn't even allowed where once He was the main focus? Or maybe it's not so funny after all.

In conclusion, students should be allowed to pray as part of everyday school life. Since God was the main reason America was founded, doesn't it make sense that the heritage of this country should continue? Also, if we had prayer back in the school system, our schools, homes, and country would be a lot better off. School now is so different than what it was originally intended to be, and the strength and quality the schools had then could return only if God was let back in the school system. If you really believe in the power of prayer, then call your state Congressman and ask for prayer to be returned to public schools now!

Good-Faith Argument for School Prayer

(By William Raspberry)

One of the arguments against prayer in public schools has been that it opens the door for religious zealots to instill their version of religion into the minds of vulnerable children. So wouldn't it be ironic if the Sept. 11 terrorist attacks launched by the world's most zealous theocrats wound up helping the advocates of school prayer?

It's easy to imagine the possibility. No matter the country's general lukewarmness about things religious, Americans have been praying all over the place since the attacks: in Yankee Stadium, in special prayer rallies organized by members of Congress, in parks and playgrounds and, yes, in public schools. And there's been hardly a peep of objection.

And not only that: The New York City public schools have moved to accommodate the religious exercise of Muslim students during Ramadan. What makes this significant is that no one can argue that Chancellor Harold O. Levy's accommodation amounts to a constitutionally impermissible "establishment of religion."–Is this a watershed in the church-state wars?

Kevin J. Hasson, president of the Becket Fund for Religious Liberty, hopes so. At the very least, he says, it may get us thinking rationally about the place of religion in public life.

"Every culture, our included, has religious elements," he told me last week. "And that's because every culture worthy of the name reflects human nature in all its richness—and does so publicly. We don't live the most significant aspects of our lives in private. We don't smuggle babies home from the maternity ward. We don't usually elope in dead of night or furtively bury our dead. Why should expressions of belief be different?"

But what of the coercive effect of religion in public places—and particularly in public places for children?

The answer, says Hasson, whose organization has defended religious expression on the part of a huge range of faiths, is "not to blanket this facet of our humanity under a layer of secularism but to let a thousand flowers bloom." That's why he likes the New York City accommodation of Muslim students.

"A public school system that pretends to have a comprehensive education but resolutely says nothing about religion for 12 years is not comprehensive at all. Indeed, it sends a powerful message to our children that religion is at best an optional aspect of their human nature—and in doing so, it lies about who and what we are. When a public school sets aside space for children who wish to pray, it sends the opposite message: that faith is a natural part of life. Levy wasn't pushing Islam; he was sending a message of respect."

But doesn't Levy's action violate the separation clause of the First Amendment? Not as Hasson sees it. The Framers of the amendment never intended to hobble religion, he argues—only to avoid the establishment of a particular religion. "The people who wrote the Bill of Rights hired a congressional chaplain," he said. "A few days after writing his famous letter on the wall of separation, Thomas Jefferson attended Sunday church services in the House of Representatives."

But surely Hasson will acknowledge the Taliban stand as incontrovertible evidence of what happens when true believers take over public places. These fundamentalists are so certain they know the will of God that they see themselves as entitled—indeed as compelled—to root out nonbelievers as the enemies of God. And not all the fundamentalists are Muslims or "over there."

It's a matter to which the lawyer obviously has given some though. "The religious fundamentalists and the secular fundamentalists make the same mistake," he says. "They separate truth from freedom. For Osama bin Laden, freedom must be sacrificed for the sake of truth. For our secular fundamentalists, any claims of truth must be abandoned in the interest of freedom.

"Both are wrong, and I think a few more people may be starting to see it."

Mr. JONES of North Carolina. Mr. Speaker, now as I begin my closing in the next couple of minutes, let me say to those groups that were opposed to the resolution that the gentleman from Oklahoma (Mr. ISTOOK) will be offering legislation that will be binding, if it should pass, and I intend to support him. I know many Members on the floor tonight, including the Speaker pro tempore, as well as the gentleman from Georgia (Mr. KINGSTON), who will be speaking shortly, will be supporting the gentleman from Oklahoma (Mr. ISTOOK).

Mr. Speaker, prior to 1962, we had prayer in this Nation. I think the children of this country, and since September 11, I think there have been more adults in the churches, the synagogues, the mosques, than there have been in a long, long time. Again, for these groups that are supposed to help educate our children like the National PTA, I was very disappointed that they would oppose a resolution that was only the sense of the Congress. When governors, when the President, when other leaders of State and local and national government are asking people to pray for America and to pray for our men and women in uniform, I just felt like I needed to come to the floor and say "thank you" to those who voted for this resolution on November 15. Again, it passed with 297, only 125 in opposition. They are the kind of messages, Mr. Speaker, in my opinion, we need to be sending to the American people, because every survey I have seen over the last 2 years, better than 70 percent of the American people, say they would like to see prayer returned to the school systems of America.

So with that, Mr. Speaker, I know the gentleman from Georgia will be speaking shortly and I would like to help him if he would like for me to do so.

Mr. Speaker, let me, if I might, stay on the floor and yield any remaining time I might have. I think I might have had an hour, is that correct?

The SPEAKER pro tempore (Mr. ROGERS of Michigan). The gentleman from North Carolina (Mr. JONES) had 30 minutes, of which he had approximately 13 minutes remaining. The balance of the Majority Leader's hour can be controlled by the gentleman from Georgia (Mr. KINGSTON).

THE TIME IS RIGHT FOR PRAYER IN OUR SCHOOLS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Georgia (Mr. KINGSTON) is recognized for 43 minutes as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for the time.

I wanted to say to the gentleman from North Carolina, I was debating one of the school prayer debates that we have so often here in Washington with a gentleman named Barry Lynn who allegedly is a preacher, but one of these preachers who has no church. He heads a group called Americans for Separation of the Church and State, not exactly a grass-roots organization; I think a top-down Washington elitist kind of organization, and he is against any form of school prayer.

I said, okay, let us go to Columbine, a horrible tragedy, 12 kids are dead in Colorado. Should the kids in that school be allowed to pray for their fellow students who died? And he said, no. I said, well, should they be allowed to pray immediately when the attack was taking place? There was one group of kids who were clustered, I think, in the back of a biology lab with a teacher. At that moment, gun shots were going up and down the halls, people were screaming, everybody was terrified. Should they have been allowed to have a corporate prayer, that group of clustered kids together? And he said, no, absolutely not.

Then, the gentleman from North Carolina may remember, months after the Columbine tragedy, the school was replacing the bullet marks that had popped the concrete cinderblocks that are in the hallways of the school, and they were putting 4-by-4 inch tiles and doing them in memory of the students who had died, and I said, should the families be allowed to quote scripture or allude to scripture? And he said, absolutely not.

The point that I am making is so many of these people who are simply trying to say that they are against school prayer are, in fact, far more beyond that. They are antiChristian, they are theology, they are anti-Semitic. It is not really a matter of: we just want to be fair for everybody and make everybody comfortable. That is not the case at all. They are just very, very mean-spirited, antireligion. So I really appreciate the gentleman from North Carolina for bringing it up.

I want to point out to folks that as the gentleman's father served in Congress, I know that he was here during a period of time when there was a little bit more openness for prayer, so certainly the gentleman brings a perspective of history to the debate.

Mr. JONES of North Carolina. Mr. Speaker, if the gentleman will yield for a moment, I really appreciate his comments. He has been out front on a number of issues that I think are really important to the foundation of this country.

Mr. Speaker, sometimes I do not want to just make my comments about Reverend Barry Lynn or the lady with the PTA, but the children are America's future, and the children have to be given every opportunity. That is the reason I read the paper by the young lady, Ms. Ormand, Rose Ormand from my district, because these are young people. They are America's future leaders. She had those kinds of strong feelings about prayer, and I know that she is just an example of one of millions in this country that feel that they should have the opportunity to have that moment of prayer. So as I said, and then I will yield back, but I am looking forward to the debate next year on the Istook bill, and I know the gentleman from Georgia has been on that bill before. I look forward to joining him.

I was very pleased, I would say to the gentleman from Georgia, when I looked at the vote and about 80-some Democrats voted for the resolution, for which I was pleased, and very pleased that the leader of the minority, the gentleman from Missouri (Mr. GEPHARDT) voted with us on that resolution, so I thought that was progress.

Mr. KINGSTON. Mr. Speaker, I think that is the case. This has broad bipartisan support. It is a mainstream reflection of America. Certainly there are people on the fringe who maybe want to turn schools into theological institutions. I think that the main reason I send my kids to school, and I know the gentleman does too, I want the basics, reading, writing and arithmetic. It is not up to my schoolteachers to make my children more moral or more spiritual. Then there are other people on the other extreme that do not want any pretense to us. If we look behind us, and I only wish the cameras could show it, but the words in the United States Capitol, 10 feet from where I stand, "In God We Trust," right above the American flag, right above the Speaker pro tempore, the gentleman from Michigan (Mr. ROGERS).

What do we do every single morning as Democrats and Republicans and Independents and staff members, Federal Government employees, no less, in this House Chamber, we open and always have opened with a prayer, and we have Christian, we have Jewish, we have Muslim, we have whoever Members invite that day to give the opening prayer. So the hypocrisy and the inconsistency is incredible.

Mr. JONES of North Carolina. Absolutely, Mr. Speaker.

Mr. KINGSTON. Mr. Speaker, I want to say finally, prior to September 11, 70 percent of Americans surveyed said that they pray regularly. After September 11, 97 percent. America has gotten back down on its knees, and I am glad that we have an administration that acknowledges the role of religion and spiritual matters in their decisionmaking.

Mr. JONES of North Carolina. Amen.

Mr. KINGSTON. Mr. Speaker, George Bush has never strayed from that.

In this House since September 11 we have had lots of challenges and the House has moved quickly for a number of reasons to give the President the tools he needs to fight the war and to fight terrorism and to secure the airlines. But the House has consistently done a lot more work than just focusing on the war effort. We support the war effort on a bipartisan basis. We think it is very important to do that. But there are a lot of issues domestically where it is just hard for me to go along with the liberal, big-spending Democrat models that we have seen over the years. I am glad that Speaker HASTERT has been a workhorse. This team in Congress has done a lot of things that unfortunately we cannot get our friends in the other body to do. I will show my colleague a chart of some of the House accomplishments this year.

We passed an energy package. Now what are gas prices doing in North Carolina these days? Are they going down still?

Mr. JONES of North Carolina. Mr. Speaker, they are going down, yes.

Mr. KINGSTON. Mr. Speaker, I am glad to hear that, because when I drive up from Savannah, Georgia, I often have to stop in Lumberton, and they always get about 30 gallons worth for my Suburban. It is very expensive to get gas in North Carolina. In Georgia, it is always a little less. But in Georgia, North Carolina, Washington, D.C., New York City, California, and in Colorado where my mama lives and in Texas where my sister lives, gas prices have come down.

So there are those in the Senate who think, well, okay, we do not need an energy policy anymore, and in California, they have sorted out their situation and they say, let us back off this. But I feel more than ever now that we have got to move towards a comprehensive energy policy.

So we passed on August 2 an energy bill in the House. Where is it now? Well, Mr. DASCHLE does not want to bring it up on the Senate Floor.

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We passed July 19 faith-based initiatives, so that we can have charitable groups who deliver welfare services, welfare-to-work, independence-type services, faith-based groups can participate in that. That is actually just broadening the 1996 welfare reform law signed by President Clinton. We passed it over there, and where is it? It has been sitting there for 141 days.

Mr. JONES of North Carolina. If the gentleman will yield, Mr. Speaker, the two issues the gentleman just mentioned, they were campaign promises by President Bush, as Candidate Bush for the Presidency. He talked about the fact that this country had never developed an energy program plan for America.

As the gentleman made reference, we passed that in the House. That was one of the campaign promises by President George Bush.

Secondly, the faith-based program has met with great excitement in my district in eastern North Carolina, because what Mr. Bush campaigned on was, let us take the assistance, take the service to where the people are, not Washington, D.C., but in Georgia, in North Carolina. Let us let those organizations within the community extend the hand of help. So I just wanted to mention that.

Mr. KINGSTON. Mr. Speaker, I would tell the gentleman, that is exactly the way it works. In Savannah, Georgia, we have St. Paul's A.M.E. Church. Reverend Delaney is the minister there, and he has a tremendous ministry. They feed the poor. They have a school program there for young kids. They have outreach to help people who have drug addiction and alcoholism, and need job training.

They are doing all of this, and they cannot compete for any Federal funds, even though their outcome and the result there shows that Reverend Delaney is effective at this. The reason why is because that recipient, he knows their full name and where they live; he knows their brother, their sister, their mother, their father; he knows their neighborhood; he walks the same streets. He knows them, and he is driven by love for them, not driven by a paycheck.

Yet when he goes to try to get Federal funds to expand his soup kitchen, they say, No, you cannot do that, you are doing too good of a job. You are doing a good job, but you are doing it in the name of religion. We just cannot have that. If faith-based grant programs are driven by results, then what is wrong with letting the Reverend Delaneys of the world take care of the hungry and help, with the Federal Government; not take over it, but help?

Mr. JONES of North Carolina. Mr. Speaker, if the gentleman will yield for another moment, I could not agree more. America's strength is its people; and the gentleman, Reverend Delaney that the gentleman just mentioned, obviously is a caring, compassionate man that understands the Bible, to help the brother who is in trouble.

If anything, over the last 20 years, that is why we reformed welfare when we came in 1997. It was simply that the Federal Government does some things good, but a lot of things it does not do so well. So therefore, go back to the community and the people, as the gentleman said, they know the name of the person they are trying to help. That is how government can partnership with local communities and community leaders to do for those who need help.

Mr. KINGSTON. Mr. Speaker, I think that is so important. The gentleman had mentioned the energy package. There are a whole lot of things that the House has passed that the Senate is sitting on.

I think it is real important to say, hey, we understand that they are now run by the Democrats, and they are going to disagree with the House philosophy. No problem with that. The gentleman came from North Carolina, I came from Georgia, to carry our points of view and our philosophy, and sharpen our ideological swords against opposition, and come up with a better product and a bipartisan product. So we do not expect the Senate to rubber-stamp what the House does, but vote on the things, vote it up or vote it down; have the guts, the integrity, the fortitude to face the American people and say, These are our actions, we are proud of them, and we are right about them.

Now, what is interesting on the energy package, the stumbling block for Mr. DASCHLE happens to be the Alaska National Wildlife Reserve, because he has Democrats who actually want to explore oil there and opportunities, so he does not have the vote to kill the legislation, so he is going to hold the legislation.

We are a funny country. We do not want to park our Suburbans, we all like our sports utility vehicles, but we do not want to drill oil just anywhere, and we are also tired of buying it from the Middle East. But let us have a sober, adult, mature discussion of ANWR for just a minute.

Just to put it in perspective, if Members can look at this chart, the red outline is the State of Alaska. The blue outline is the State of Texas. The gray outline in the middle of Texas is the State of South Carolina, and the little red dot is the size of the potential drilling area. The wildlife reserve is the size of the State of South Carolina. The little red dot is about 2,000 acres, probably the size of the gentleman's airport. Savannah, Georgia, has an airport about 2,000 acres. That is where it is. That is national security.

Do we have a model for this? As a matter of fact, we do. We have Prudhoe Bay. The same people who were telling us the sky was falling if we explored oil in Prudhoe Bay, now they do not mention the fact that the caribou herd has actually increased, for some reason; and it has not hurt the wildlife.

I am a hunter, an outdoorsman. My constituents love the woods. I do not want to harm the environment, but I also know this.

This summer I was driving up to New York City with my wife and four kids in the car, and I did not even know what State we were in at the time, but we were driving our good old Suburban, and there were five lanes of traffic, two on one side, three on the other, all going one way, so it was a ten-lane interstate.

The car in front of us hits the car in front of it. Another car swings into our lane. Before you know it, we are in the middle of a four-car collision. I do not even know what State we were in. It turned out we were in Delaware. I do not know how Delaware folks like people from Georgia. I was a little nervous and thought they might see the Georgia tag and put an-out-of-state surtax on whatever problem it was.

I am sitting in the middle of these cars whizzing back and forth, trying to get over to the shoulder and get my children out of the car waiting for police, and it turns out that out of the four cars in the collision, one of them was untouched, or not damaged at all. It was our car, our Suburban.

The guy behind us who hit us had about $2,000 worth of damage. I am not sure if his car was drivable or if he had it towed. The police came and actually did not even fill out a report on us. They filled out a report, but we did not file for any insurance because not one person out of six in our car was hurt, and there was not a scratch on anything.

The point is, why do I want to drive a big car? It is because my children are more important to me, and I do not want to jeopardize their safety. I want to have that option. Because of that, I think it is important to have an abundant fuel supply.

That is why we Americans, when I drive in the car pools Monday and Friday when I am in town, and all it is Ford Expeditions, Suburbans, and other cars: and it is not because we are all going out in the woods in them; it is because of safety and children.

Mr. JONES of North Carolina. Mr. Speaker, if the gentleman will yield for just a moment, on several points he made, one about the exploration in Alaska, we should remember, and I think the gentleman is a little younger than I am, but we should remember the days of President Jimmy Carter and the lines, and people paying high prices for the gas.

Everybody said then, and I was obviously a much younger person, but everybody was saying then that this country needs to have an energy plan. It needs to have a program, a long-range program. We talked about it and we talked about it, but we never did anything.

So again, I want to go back and give credit to President Bush, because he has taken this on. He said that the American people need to have an energy plan in this country, not just short term but long term. So we did what the President asked us to do and we passed that legislation, as the gentleman said; and it is now languishing over in the Senate. But they will have to deal with that hopefully sooner rather than later. They have waited too long already.

The other point the gentleman was making about his family chose to drive a Suburban. Well, to me, that is what America is about. If I decide I want to drive a small car or a mid-sized car or an SUV, then I should have that right to make that choice and not have the government say, You have to drive a small car. I agree with the gentleman.

Actually, I drive an old 1992 Buick, and I am back and forth every weekend from D.C. to North Carolina and back to D.C. on Monday or Tuesday, whenever we have votes, and that is my choice.

I think if we ever get to a point, and that is why the gentleman and I happen to be Republicans and conservatives, we both are, is that we believe that the American people who pay the taxes, if they decide that they want to drive a car that only gets 15 miles to a gallon, and the gentleman decides he wants to drive a car that gets 28, that is fine. That is what America is about. We should have the choice.

Mr. KINGSTON. It is very important. And I think if the majority leader in the Senate is worried about people actually getting an abundant supply of gasoline, which apparently he is opposed to, then killing this bill still is not the solution, because there are some other things in here that are very important.

I wanted to talk just a little bit about fuel cell opportunities for automobiles. On Monday in Hinesville, Georgia, I had a great opportunity to go for a ribbon-cutting ceremony for a new business called E-Motion, which makes an electric car using fuel cells. It is a very smart idea.

The concept is that in Hinesville, Georgia, they will start manufacturing a smog-free automobile, so when the gentleman flies to, say, New York City or Atlanta, Georgia, or wherever, he will be able to rent an electric car. He will have a smart car. That car will be tied into a GPS operating system. The gentleman will know where he is going in it. He can return it at the end of the day.

Why is this important? Because we are not saying, let us just keeping driving Suburbans forever, let us keep drilling for oil all over the globe. That is not the point at all of the energy package. The energy package is to look at the energy needs from a national security point of view and come up with a combination of what works.

What E-Motion will be doing is using things like fuel cells to help drive automobiles. In California, they have recently passed regulations saying that 22,000 automobiles that are sold that year have to be smog-free. In Europe, they are going to have emission-free zones in certain cities where, unless it is mass transit or a no-smog automobile or an electric car, they will not even be able to drive there.

In Iceland, which is very fossil-fuel dependent on getting fossil fuels in from other countries, they are actually looking at using thermal heat from volcanoes to separate hydrogen from water and use it as an energy source.

So here again, the good old folks in the other body and Mr. DASCHLE are sitting on this technology. That bill, the energy bill that Mr. Bush has pushed, puts millions of dollars into fuel cell research. So this is not just something that is happening in Hinesville, Georgia. This is not something that somebody has to explain. It is something everybody knows, oh, yes, I know what a fuel cell car is. As a matter of fact, I am looking at one right now. They are available in every town.

That is being held up because Mr. DASCHLE is preferring to play up the fears on drilling for oil in Alaska, so he is holding up all these other good things in that energy bill.

Mr. JONES of North Carolina. If the gentleman will yield another time, Mr. Speaker, that is what is really somewhat discouraging, when they have that entrepreneurial spirit they have down there with that business in the gentleman's district, or in Georgia, and there are a multitude of those exciting businesses that could be benefited if we would do our job up here in Washington.

As the gentleman said, the House has done its job; and now it is time for the Senate to move the legislation.

Mr. KINGSTON. The other thing, when we talk about security, obviously we need economic security, we need energy security, we need to have security so our people will be able to spiritually compete in the free enterprise system, but none of it means anything if we do not have a good foreign policy.

I represent Kings Bay, and we have one of the nuclear submarine fleets there. There is a great story of Kika de la Garza, a former Committee on Agriculture chairman. He goes out in the submarine and spends the night. He says to the captain of the sub, How far can you go? And the captain says, As far as we want. He said, When would you turn around? When would you need more gas, more energy for the nuclear generator? He said, We will not. He says, What makes a nuclear sub go back and forth? He said, We run out of food. It is that simple.

Now, in terms of independence and security, what can be more important than an inexpensive, abundant food supply? Yet we passed our farm bill October 5 and the Senate has yet to move on it. And again, hey, agree, disagree, talk to me, let me know how you feel; but nothing has happened.

□ 2030

Mr. JONES of North Carolina. The gentleman is exactly right. Our farmers in eastern North Carolina are like farmers across this Nation. Many of them have been in trouble. The foreign markets have not been what they had hoped they would be, and for a number of reasons the farmers really need this help.

And I want to give the gentleman from Texas (Mr. COMBEST), chairman of the Committee on Agriculture, and all of the Republican and Democrat Members, a lot of credit for the bill they brought to the floor. It was what I thought a very strong, very helpful agricultural farm bill that would help our farmers. And as the gentleman said very well, it has been on the Senate side for quite a few weeks, and now months, and they need to remember that our farmers are waiting for their action.

Mr. KINGSTON. Another thing that ties into the food supply is our trade policy. We have to have a tough trade policy to move our goods around the globe.

A statistic I heard the other day is that in China, if they consumed as much Coca Cola per capita as the country of Australia, Coca Cola could double the size of its company. Now, there are a lot of thirsty Chinese folks over there who would like to have an opportunity to have a Coca Cola, and a lot of other goods that are made in our country, and trade promotion allows the President of the United States to sit at the bargaining table on these multinational trade agreements and come up with the best deal for American producers and American buyers.

We have passed it in the House, but the Senate is nitpicking it to death. Again, vote on it up or down, send it back to us, amend it, but do not just sit on it.

Another issue: Terrorism reinsurance. Like it or not, a lot of businesses have to have terrorist insurance in order to get loans from banks. Small businesses. But after September 11, traditional insurance companies do not want to provide terrorist coverage.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS of Michigan). The gentleman will suspend.

Members are to be reminded to refrain from references to Members of the Senate or to characterizations of Senate action or inaction.

Mr. KINGSTON. What happens, the small businesses, in order to get bank loans, cannot get their insurance because they have a terrorist exclusion in the policy. So what we have done in the House, in a responsible manner, is we have said we will help facilitate a reinsurance fund with the large insurance companies, the Travelers, the Aetnas, the Cignas, the CNAs. What we say is, you provide the first $1 billion in a pool, and then we will set up a reinsurance fund, a buffer above that $1 billion. We will help underwrite it, but you reimburse the taxpayers.

Of course, we have passed it, and one more time the United States' other body has not moved on it whatsoever. Again, this is about job creation. This is for small businesses.

Mr. JONES of North Carolina. If the gentleman will yield for just a moment, I am on the Committee on Financial Services where the legislation came from that the gentleman just made reference to, the insurance issue. In fact, the gentleman sitting in the Chair tonight, who is from Michigan, is also on that committee. The committee worked in a very bipartisan way to come forward with very important legislation that needs to be, and I want to be very careful because of the statement by the Chair, but the Congress as a whole needs to move that legislation soon.

Mr. KINGSTON. Well, I agree with the gentleman. Another issue that the House has passed and the United States' other body has not done anything on, is none other than human cloning. We had a very lively debate in July about that. Now, suddenly, there is a company and they have announced they have the ability to clone human tissue. And everybody gets excited and they say to us, as Members of Congress, what are you guys doing about it? We say, well, we have passed this legislation.

It is our hope that our friends on the other side of the House, on the other side of the United States Capitol, will actually wake up and decide that when they are paid to do a job they will do the job, and that means they will vote and debate legislation on or off the floor. Move it on, vote it up or down, one way or the other. Human cloning might be a good thing.

Mr. JONES of North Carolina. If the gentleman will yield for just a moment. There is no question that we always take great pride in the House of Representatives in saying that we are "the people's House." I think anybody in government, whether they are elected or in a professional position, we need to realize that the people of America pay our salaries. And, therefore, if we are responsible for legislative progress, then those of us who are elected to serve in this beautiful Capitol, we need to remember we have a responsibility to do what is right for those people who are our taxpayers. And that means we should work together and we should move legislation expeditiously when we can.

Mr. KINGSTON. Well, I thank the gentleman.

Yet another example of something that we have done in the House is we passed an education bill back in May. Again, it is over in that deep dark hole over on the other side of the United States capitol. An education bill. That was George Bush's top priority, and we passed it. Again, it has been sitting floundering, waiting. And, hey, no call, no letter, no anything.

The gentleman from Ohio (Mr. BOEHNER) has said we may be able to get the education bill out maybe Thursday, maybe Friday, maybe even next week, and I think that we all want to do that. But we are excited.

A patients' bill of rights, which we passed back in August. Again, it has been sitting over there in the morgue, also known as the other body.

Mr. JONES of North Carolina. Well, I certainly want to be careful, because of the ruling of the Chair, but I often think about the gentleman from Georgia and other of my colleagues, especially those that live much further than that, particularly our colleagues on both sides of the fence that live out west, because I can drive home in 5 hours from Washington. And I think the difference in why we are so responsive is because we see the people we have the privilege to represent just about every weekend. We are here for 2 years and then we run for reelection. As it is set up by the Constitution, the other side of the Capitol, they are there for 6 years.

Now, I am not advocating that they should serve for 2 years, but I am just saying that we are much more in tune with the people we represent than the other body.

Mr. KINGSTON. Well, again, actions by the House on energy bill, faith-based initiatives, farm bill, trade promotion bill, appropriation bills, terrorist reinsurance plan, human cloning, education, and a patients' bill of rights, and we are still waiting for them to come back around.

I do want to talk about the economic security bill, because in my area of Georgia, a big tourist area, tourism is down. Amongst retirees, their stock portfolios, their retirement programs have shrunk considerably. Down the street people are laid off. A friend of mine who has two children was laid off recently. Lots of people are losing their jobs.

We passed an economic security package in October. And I do not know, the Speaker will have to help guide me, because I have this quote here and it says that the leader of the other body, Mr. DASCHLE, said that "It is not as front-burner an issue as other legislation, particularly government spending." And that is from the Associated Press, October 27.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

Members are reminded that remarks in debate may not include personal references to, or quotations of, Members of the Senate.

Mr. KINGSTON. Okay, Mr. Speaker, and I will not use this one again. However, it does show a particular philosophy of a body that wants to spend money rather than a body that wants to preserve and protect jobs.

And I think if maybe there is a real difference between being a Democrat and being a Republican that is reflected in the Republicans running the House and the Democrats running the other body, it is in the economic security bill. Because here we are standing strong with jobs, standing strong with laid-off workers for benefits, for health care benefits and for unemployment checks, and yet this other body, controlled by the other party, is sitting on it and saying we would rather you do spending bills than an economic stimulus package. I think that is egregious and totally irresponsible in today's economy.

Mr. JONES of North Carolina. I really agree with the gentleman. I came to the Congress with Mr. Newt Gingrich in the 1994 election, sworn in in 1995, and we have believed ever since we have been in the majority that the people that worked hard in this country, awfully hard for their money, should keep the majority of their money.

And, in addition, as the gentleman said, those people who have been laid off work, if we can help strengthen business, small, midsize and large, so that they can get some tax breaks so that then they will be willing to expand job opportunities, that is what America is all about. That is our philosophy, to empower the people, empower the businesses so that the economy is moving and the engine is pumping.

Mr. KINGSTON. Well, again, I understand a difference in philosophy. I have a lot of friends in the other party who did not like the economic security bill. Maybe they did not like particular parts of it, maybe they ultimately voted against it. But to their credit they engaged in the debate. They came down on the floor and they voted. Whereas in the other body it appears that the best action is total inaction, and that is tragic. There are too many people who have worked hard on a package to try to jump-start this economy, but we need to have it.

I am not sure, Mr. Speaker, if I can talk about appropriation bills or not.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

Members are reminded to refrain from references to Members of the Senate or to characterizations of Senate action or inaction.

Mr. KINGSTON. I thank the gentleman. I stand corrected. And I want to commend the freshman sitting in the Chair for his very careful and thorough job tonight, and being patient with frustrated Members like me.

We have had a very productive year on the House side of the branch of the legislature, and we just hate to go home, at Christmas time nearly, and do it incompletely when there is an opportunity still to pass so many great pieces of legislation that will help real people in the real world get jobs, get jobs back, get benefits, secure benefits that they have, obtain a good food supply, good energy supply, and an education program that works.

There are just so many things that are within our legislative grasp to do something about, and it is so frustrating to have only part of that done. There is just one area in the legislative branch where there seems to be a gap. We have the executive branch all ready with the ink pen full of ink ready to sign the legislation to get America moving again.

We have worked hard here, Democrats and Republicans alike on the House side. We have had great leadership under the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), and the recently-announced retiree, the gentleman from Texas (Mr. ARMEY), even though that will not be for a year from now. And of course the gentleman from Oklahoma (Mr. WATTS) and the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce.

So many great things. The gentleman from Florida (Mr. YOUNG), chairman of the Committee on Appropriations, who I do not think has been home since August in terms of working overtime to try to get these appropriation bills passed. The gentleman from California (Mr. THOMAS) of the Committee on Ways and Means moving on trade and health care bills and so forth.

Mr. JONES of North Carolina. Well, I know we are getting close to the closing, and I am going to leave in just a second, but I have really enjoyed being with the gentleman, and I think he has done a great service really not only for his district but for the American people.

There is one thing about it, and the gentleman might be somewhat restricted as to his statements tonight, but there is one thing about it, and I am sure the gentleman has, as I have, a lot of speaking opportunities back in his district, and I am proud to tell those people in my district what we in the House have done. And in that forum, you can certainly call names and you can make references to what has or has not happened.

So I want to thank the gentleman. He helped me with my time talking about school prayer. I appreciate the gentleman's friendship, his leadership, and thank him for allowing me to be a small part of this tonight.

□ 2045

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from North Carolina (Mr. JONES).

ANTIBALLISTIC MISSILE TREATY

The SPEAKER pro tempore (Mr. ROGERS of Michigan). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, this evening, there are two subjects I want to focus my attention to. One is especially parochial to the State of Colorado, and especially important to me in regards to the State of Colorado, but it is parochial.

The other issue I want to talk about is of national interest, and it is not parochial. In fact, it is something that is vitally important for every citizen of America. It is a subject of which we will see lots of publicity in the upcoming days. It is a subject of which this House, each and every one of us, needs to stand up and support our President on the position that he is going to take, and that is on missile defense. I want to go through this evening the importance of missile defense, exactly what the anti-ballistic missile treaty is all about, the age of the treaty, and what the extraordinary circumstances are that now threaten the security interests of the United States of America, as well as allies of the United States of America; and I would include within those comments Russia.

Let us begin first of all by saying to all Members exactly what our current defense system is in this Nation. Many Members assume if a missile were launched against the United States of America, that we would very quickly detect it. So the question is if a missile were launched anywhere in the world against the United States of America, do we currently have the capabilities to pick up that missile launch?

The answer to that question is, yes. Actually the location of those facilities is well known throughout the country. The NORAD Space Command Center in Colorado Springs, Colorado, we have extraordinary capabilities to detect a missile launch. We can determine within seconds, in some cases before the launch takes place from the activity on the launch pad; but once that missile is launched, we can determine anywhere in the world exactly what time the missile was launched, the direction of the missile, where the most likely target of the missile is, what the estimated time of arrival of the missile is, what kind of missile it is, what kind of detonation or missile load or explosive load that missile usually carries. So very quickly, within seconds, we can assess if a missile threatens the United States of America.

But what most people do not understand is that once the United States detects that a missile has been launched against it, it has no defense. We have no missile defense, no security blanket to protect the borders of the United States of America.

Tonight as I make my comments, I want to make it especially clear that when I speak of the United States of America, I also speak of our allies, of our friends in the world, who also are subject to a missile attack. When I speak about the need for this country to defend its citizens, I also think that our country has an obligation to help the citizens of our friends across the world. In fact, I firmly believe that a missile defense system could easily avoid what could be a world war.

Let me explain that last comment before I proceed discussing the current status of a security blanket, i.e., a missile defense system in this country, how could it possibly avoid another war. Remember, there are two types of missile launches. One is an intentional missile launch, an attack against the United States of America. The second missile launch would be an accidental missile launch. In other words, by accident a missile is launched against the United States or its interests. Now, some might say that an accidental missile launch against the United States is highly unlikely. I would beg to differ, and I beg to differ in a very strong way.

Mr. Speaker, take a look at what happened shortly after the September 11 tragedy that hit this country. Take a look at what happened in the Black Sea during a military exercise. A missile was accidentally launched against a civilian airliner, and it blew that airliner out of the sky. Remember that missile out of Ukraine? That is exactly what I am talking about. We never thought it would be possible. We never thought about it, that planes would be used as missiles against our buildings, the World Trade Center or the Pentagon. But I think it would be a shortfall of our duty, it would be a dereliction of our duty if we did not look into the future and into the security interest of our homeland, of protecting our borders and our people in this Nation. I think it would be a very serious mistake, a serious dereliction of duty for us not to assume that at some point in the future, and hopefully in the distant future, but at some point in the future a missile will be launched against the United States of America.

I think we owe it to our citizens, colleagues, to assure our citizens that we buy the insurance ahead of time. And the insurance that I am talking about is a missile defense system. Let us say, for example, that a country like Russia that we do not see as an enemy right now, and Russia could be a good ally in the future, but let us say Russia or some other country out there by accident, not intentionally, but by accident launches a missile against the United States. If that missile were a nuclear missile and if that missile were destined to hit a major city, let us say New York City, God Lord, they have suffered enough, but some city in the United States, if we had the capability to shoot that missile down, imagine the kind of chaotic, horrible tragedies that we would have avoided, including the threat of a retaliatory strike against the country that launched against us if we had the capability to stop that missile before it came into the air space of our country.

Mr. Speaker, to me it is a pretty basic defense. Mind you, I use defensive missile system throughout my language. We are not talking about building a brand new offensive missile system. It is a security bubble in the air over the United States. It is not an offensive missile system. It is not designed to be that. It is designed with one purpose in mind, and that purpose is to solely protect the people of the United States against a missile attack.

Well, let us look at the history of the anti-ballistic missile treaty. The anti-ballistic missile treaty was signed by President Nixon and Leonid Brezhnev, the leader of the Soviet Union, May 26, 1972. This is an important date. 1972 in Moscow. It was ratified by the United States Senate in 1972 and entered into force on October 3 of the same year. It is a relatively short treaty consisting of 16 articles that fit single spaced onto five sheets of paper. So colleagues, I know that some of us take a look at the treaty books that we have in our offices, the treaties of the United States, those books are very thick.

Before I first read the anti-ballistic missile treaty, I prepared myself for a long treatise, a long document, many, many changes of very complicated language discussing treaty obligations between the United States and the USSR. Remember that is where the agreement was made. To my surprise, it was six pages. Six pages.

So, colleagues, if Members have not read the anti-ballistic missile treaty, you must read it tomorrow. Why do I say tomorrow? Because the President of the United States rightfully and, frankly, I think it is his responsibility, which he has shouldered very well, but rightfully he intends this week or very shortly to announce that the United States of America under the terms of the treaty, under those six pages, under the agreement contained in those six pages, that the United States of America will withdraw from the treaty.

There will be lots of constituent questions here in the next few days. There will be lots of commentary in the news. There will be lots, maybe not lots but some dissension. I think it would benefit Members to pull out that six-page treaty and read it. But tonight I am going to brief Members. It would take us 4 or 5 minutes to read all six pages, but I would like to highlight key provisions. This treaty was in 1972. We are in 2001. We have 29 years. This treaty is 29 years old. I think we need to go back to the point in time 29 years ago and talk about the treaty and what threats existed 29 years ago when Richard Nixon, as President of the Nation, felt it was in the best interest of the Nation to sign this treaty.

Twenty-nine years ago there were only two nations in the world that really had the capability of delivering a nuclear missile or a ballistic missile across an ocean into the borders of another country. Those two nations were the United States of America and the USSR. There was a lot of academia about how do we avoid an arms race between the USSR and the United States of America; how do we limit how many missiles are going to be out there.

The academia at that time came up with the conclusion that the best way to avoid proliferation of missiles and the best way to avoid a war between the USSR and the United States of America would be an unusual and unique approach, and that unique and unusual approach was that both countries would agree not to defend themselves. Understand what I am saying. The USSR and the United States of America would agree not to defend themselves against a missile attack by the other country. Now to me that sounds insane. Twenty-eight years ago I would not have agreed with the academia any more than I agree with them today.

□ 2100

I would not have agreed that the way to stop or avoid a missile attack against your country is to have a treaty with one country that you cannot build a ballistic missile defense system against any country in the world. But let us go back again to 29 years. The thought was that there are only two nations in the world that have this capability, the USSR and the United States of America. They put together this treaty.

While I disagree with the substance of the treaty or the theory of the treaty, that being that the best way to avoid a missile attack is that you would not be able to defend yourself, so therefore, you would not start a fight with the USSR nor would the USSR start a fight with the United States of America because both countries knew they did not have the capability to stop a retaliatory strike against them. That is the theory. But fortunately the people who put this together, the people that put this treaty together, understood that things change. In the technological world of 29 years ago, they thought change was pretty rapid. So they wanted to include in this treaty a special provision. I think it is very important that we look at the provision in the treaty.

They had the foresight to understand that there could be changes and not simple changes but changes that met a much, much higher standard, substantial changes, extraordinary changes, and that if the world changed sometime in the future, both the USSR and the United States of America wanted within the four corners of that agreement, within the antiballistic missile agreement, both parties wanted the ability to withdraw from the treaty so that they could appropriately address the extraordinary circumstances that might occur.

There are some extraordinary things. The world is extraordinarily different today in regards to missiles, proliferation of missiles, proliferations of nuclear capability, proliferation of attacks of terrorists, as we unfortunately have felt in a very deep and hurtful wound just a couple of months ago.

It is my premise tonight that extraordinary events have occurred. So now I think we should revert back to one of the articles within that six-page treaty and see exactly what it says about withdrawal from the treaty, because the President has put the Nation on notice. He did this in his election. He said that it is an outdated treaty. He is absolutely right. The President and his Cabinet, his Vice President, Condoleezza Rice, Secretary of Defense Rumsfeld, these people have made it a commitment of their responsibility to this Nation to protect the security of the people of this Nation. In order to do that, one of their high priorities is the capability of this Nation to stop a missile from coming in within its borders. So they have looked at the treaty. Tonight I want us to look at the treaty to see whether or not the President will be justified in saying that extraordinary events that threaten our national security interests have occurred, which therefore allow our Nation and this Congress to support our President, that would allow our Nation, as led by our President, to withdraw from that treaty.

The ballistic missile treaty, they call it the ABM treaty. Those are the initials they use for it. This treaty shall be of unlimited duration. Each party shall, and notice the word "shall," shall in exercising its national sovereignty, have the right. Remember, it is a right. There is no breaking the treaty. I have read some of the media reports on this, and I am sure some of the commentary coming up in the next few days are going to talk about how the United States of America broke the Antiballistic Missile Treaty. We are not breaking any treaty. We are not walking away from any responsibilities in any treaty out there, especially the Antiballistic Missile Treaty. In fact, within the four corners, within the corners of this treaty, it is a right to withdraw from this treaty. What the President has correctly said is that the United States of America intends to exercise that right and withdraw from the treaty.

But let us see what it takes. What does it take? Let us see what it does take to be able to exercise that right to pull away from the antiballistic missile treaty and allow your Nation to build a missile defense system to protect its citizens.

Let us repeat the sentence. Each party shall, in exercising its national sovereignty, have the right to withdraw from this treaty if it, not the opinion of other countries, not the opinion of the other party to the treaty, but if it, if our Nation, our Nation decides that it is in the interest of this Nation to withdraw from this treaty, it is a right that we have. The power of that decision does not rest with France or Europe or the USSR. It rests with the United States of America. If it decides that extraordinary, and this is a very important term, extraordinary events related to the subject matter, missiles. Missiles, that is our subject matter.

So we have met that. The subject matter of this treaty have jeopardized its supreme interests. This is the key paragraph. This paragraph is a paragraph which in the next few days we will hear lots of commentary about it. I hope we have good discussion on this House floor, because this is a vital paragraph to the future of America. If we want to provide a security blanket for this Nation, which I think we have a fundamental responsibility to do as Congressmen, if we want to provide a missile defense, we have to be able to utilize this paragraph. We have to be able to justify to our partner, the USSR, which although it does not exist as the USSR, it has kind of melted into Russia, to Russia that we are within our rights to pull out of this treaty. It is in our interests to begin to provide a missile defense system for this country.

Of importance, notification, it shall give notice of its decision to the other party 6 months prior to the withdrawal of the treaty. Such notice shall include a statement of the extraordinary events the notifying party regards as having jeopardized its supreme interests.

So we know it is a 6-month period of time, and what date the President decides to use, I do not know yet, but I am confident that the President will make a firm announcement within the next couple of days that, in fact, the United States intends to withdraw from the treaty under the rights of the treaty and that the United States at that time will give the date of inception for the 6-month notice.

These are important, but the key paragraph is this: Number one, we as a population, we have to figure out, okay, what is extraordinary? In the last 29 years, what has happened that we could properly define under any definition of a dictionary, the term extraordinary events? I want to show you what I think are the extraordinary events. That is question number one, extraordinary events. And, number two, they have to meet a qualifier, and, that is, they have jeopardized our, its, us, the United States, they have jeopardized our interests.

Let me show my colleagues a poster that I think should really get their attention. It is what has happened in the last 29 years. Remember when you look at the last 29 years, you have to figure out the technological rate of growth. As we know, every year that goes by, we see a disproportionate increase in the amount of technological knowledge, in the amount of technological gain. So it is not an even graph. You are not going to have a graph whose line looks like this. You have a graph over 29 years that goes like this and all of a sudden it is increasing at an increasing rate. That is the technological advancement. Let us take a look at what extraordinary events have possibly occurred in the last 29 years that would allow our President and this Nation and my colleagues and I to stand up and say the treaty is outdated, and for the interests of our partner, Russia, and for the interests of the United States, we should exercise this article, this right within the treaty.

Nuclear proliferation. Take a look at what has happened in the last 29 years. It really does not serve as any kind of surprise to my colleagues, because we all know it is happening. These are the countries that now possess nuclear weapons. Remember, it used to be the United States and it used to be the USSR.

Now take a look at what we have got, all the various countries: Britain, India, Russia, China, Israel, France, Pakistan, Iran, Iraq, North Korea, Libya, Turkey. There are some on here that I do not even have listed. There is no question that an extraordinary event has occurred. Not a good event, but nonetheless let us be realistic. The extraordinary event is that we have seen a tremendous amount of nuclear proliferation. If you read today's papers, and I am sure most of my colleagues have, you noticed in there that two nuclear scientists spent an entire day; maybe more than a day advising and talking about nuclear weapons with Osama bin Laden. This is a dangerous situation. At some point, somebody will attempt to use a nuclear weapon against the United States of America.

Would you call that an extraordinary event? I certainly do. I think the insurance is something we better start securing today. The insurance for the future, the insurance we owe not only to our generation, but the insurance we owe for future generations is to provide a security blanket around the United States of America and its allies so that at least we have the capability of preventing a nuclear missile attack against the United States.

That is extraordinary event number one. Let us talk about extraordinary event number two. Look long and hard at this poster. This is ballistic missile proliferation. Remember, 29 years ago, there were only two nations in the world, the United States of America and the USSR, that had the capability of an intercontinental missile, of a ballistic-type missile. Look what has happened in 29 years. This is the map as it looks today. These are countries that now possess ballistic missiles. Take a look at them. Afghanistan, Algeria, Argentina.

I will just skip to Croatia, China, Egypt, France, Iran, India, North Korea, South Korea, Saudi Arabia, Russia, Ukraine, United Kingdom, Vietnam, Taiwan, Syria, South Africa. Take a look at the map. That is what we are trying to get an insurance policy against. That has happened in 29 years. Today it is increasing at an even faster rate. It is not unrealistic at all to imagine that 10 years from now, there will be a lot less white on this map than there is right now. You may have most of the world covered in blue. If we do not prepare today, if our Nation does not exercise its right to protect itself by providing a security blanket for this Nation against the missiles of these parts of the world, remember, today a friend, tomorrow they may not be. Today an enemy, tomorrow they may still be an enemy.

My point is this, and let us go back to our original provision. Just those two events alone, nuclear proliferation and ballistic missile proliferation, qualify in my opinion as an extraordinary event that is related obviously to missile defense that have jeopardized our supreme interests. If my colleagues do not call the proliferation of ballistic missiles or the proliferation of nuclear capability serious jeopardization of our supreme interests, then you are not awake.

□ 2115

The fact is, this country faces a threat; a threat, in my opinion, that could be much more devastating, if we could imagine, much more devastating than the horrible events that took place in this country two months ago.

So my purpose in appearing tonight is to tell you I could go through some other extraordinary events. Look at where terrorism has come from. I mean, look how much more active it has become in this world. The world has realistically become much smaller, and the hatred in this world now is easier to spread through weapons of mass destruction.

This Nation has the capability to protect itself, and that is the next question we want to ask ourselves. You will hear from some of my colleagues, some might say, oh, my gosh, we could never do it. We do not have the technology available.

We do not have it today, because the treaty does not allow us to have it today, but we are well on our way towards overcoming the technological barriers that stand in front of us. Remember, you have a couple of missiles. You have to bring them together at 5,000 miles an hour. We have got to have a satellite system for detection and for laser intercept. There are lots of things that have to happen.

But do not think for one minute that the car you drive today was the car that we originally started with 100 years ago. Do not for one minute think those fighter aircraft that are fighting over Afghanistan protecting our interests, the bombers, or the Jeeps or the vehicles or the weapons or the laser items we are using, was what we started with in the beginning. Obviously we progress.

It is incumbent, and I could not say this strong enough, it is absolutely our responsibility, it is incumbent upon us to push ahead with the technology to protect this Nation, to push ahead with the security blanket that this Nation will some day need.

I do not know how any of my colleagues today could stand up and look their constituents in the eye and say, I am going to oppose building a missile defense system for this Nation. Do not go out there and use as an excuse to your constituents, well, it is a big waste of money. I am telling you something: If we do not build a missile defense system, those are statements that some day will come back to haunt you in such a way you will not even be able to look in the mirror.

I do not mean to overstate my position. Obviously I believe very strongly, and I have a very deep, deep commitment, that this Nation's security is the highest priority, it is the most important part of our job. Sure, there are a lot of important issues. Education is important, health care is important, our transportation system is important, our judiciary system is important. But if you cannot protect yourselves, if you do not have the capability to keep the enemy from entering your garden, you are in big trouble.

I can think of no higher priority for an elected representative of the people than that of protection of the people that he or she represents. That is exactly the question we face, whether we support the President or whether you do not support the President.

The President will this week announce that he intends to give notification that under the provisions of the Antiballistic Missile Treaty the United States of America will exercise its right to withdraw from the treaty and proceed to build a system that will protect this Nation from a missile attack.

Now, I want you to know that many of our allies have expressed support. Italy, for example, Taiwan, Korea, there are a number of other countries out there. What will happen, once we get through this next few weeks, I think you are going to find all of a sudden a lot of other countries saying, hey, do you mind if you share a little of that technology with us?

I think the United States ought to be willing to share the technology, because I think it is a good way to avoid future conflict. I think it is a way to help limit nuclear proliferation. I think it is a way to help limit proliferation of ballistic missiles.

So, Members get a week. This week. Every one of us in this Chamber, every one of us in these Chambers, is going to be asked by our local media whether or not you are going to support the President's move to withdraw from the antiballistic missile treaty? For those Members who have chosen to say no, and, by the way, I hope the media puts you right on the spot, either yes or no, no cloudy area; you either support a ballistic missile defense system for this Nation, or you do not support it. There are no if's. So I hope the media says, wait a minute, do you or do you not? Just yes or no. Do you or do you not? That is the answer, yes are no. The choice is simple.

This week, and I am not saying this to be harsh, I am not saying this to be offensive in any manner, but it is fact, it is reality, this is probably one of the most important questions of our political career. Are you going to support

President Bush in his quest to build a security blanket against missile attack for United States of America? If the answer is yes, then give us your full support. If the answer is no, I hope you really, really think about that answer before you give it, and I hope you think about not only your generation, but your obligations to future generations. Because, if you do, if you think about your generation, our generation, our Nation and our future generations, if you really think about it, I do not understand how you could possibly say no, that the United States should continued to obligate itself to a treaty that says we should not build a system to defend ourselves against either an intentional or an accidental missile launch.

With that, Mr. Speaker, I would like to move on to my second subject. The second subject I want to speak about is totally and completely away from the first part of my comments this evening. I want to speak about a very parochial interest. I want to talk about the State of Colorado and the interests of the State of Colorado.

Obviously there are only six Congressmen from Colorado. There are probably only six Congressmen on this House floor that are going to be interested in my comments in regards to the State of Colorado, and, guess what, the redistricting process.

As we know, every 10 years, based on a census across the Nation, every one of our States redraws their Congressional districts. Now, the easiest States for that decision to be made in are States that only have one Congressman.

Because of the census, because of the population having gone up, but some populations in respective States have gone down, or in other respective States have gone up, there has to be a balancing act. As my colleagues know, some States gain Congressional seats; other States lose Congressional seats. In this particular case, the State of Colorado because it has gained population, moves from six Congressional seats to seven Congressional seats.

Now, to get to that seventh Congressional seat, to give it a geographical area within the borders of the State of Colorado, that means that the other six, obviously, the other six Congressional districts have to give up geographic and populated mass.

Where do you fit that seventh seat in, with the least amount of disruption, the least amount of disruption, to the current voices that the State of Colorado has?

Now, in Colorado, which is where the Republicans, by the way, have a heavier registration advantage than the Democrats, so in Colorado we have, logically, four Republicans and two Democrats. Now, that can vary, but that is pretty representative of what the population base looks like in Colorado.

Mr. Speaker, I am not an expert on the other Congressional districts in Colorado, other than my Congressional district. I say "mine," it is really the one I am privileged to represent, the Third Congressional District of the State of Colorado.

I think it is important that I define it. Some people define it as the western slope of Colorado, but that really does not include all of the Third District of Colorado. The mountains, the western slope of Colorado, really is well-known throughout the Nation primarily for its mountains, but, again, it does not include all the mountains and it does not include all the Third Congressional districts.

Some people say, well, the Third District is the San Luis Valley. That is a very critical part of the Third Congressional District. It is a part of the district that is very compatible with what some people say is the western slope of the district. But the San Luis Valley standing alone is not the Third Congressional District.

What the Third Congressional District really is composed of and the easiest way to think of it is it is primarily almost all of the mountains in the State of Colorado.

Let me give you some statistics about the Third Congressional District. As it stands today, it is the highest district in elevation in the Nation. In other words, there are no higher points in the United States for a district on a mean average. We have 67 mountains in the United States that are over 14,000 feet. Of those, 53 of those mountains are in the Third Congressional District, 53 mountains over 14,000 feet.

So the Third District, really a fair representation of what the Third District looks like or should be described as is the mountain district. When you go to Colorado, or when you go anywhere in the Nation, since the mountains of Colorado are highly popular and highly visited, when you go to people and you say, well, I represent the mountains of Colorado, or you are in the State of Colorado and say I have the mountain district, nobody has to think for more than two seconds exactly what district you represent, because it is unique by geography, it is unique as compared to anywhere else in Colorado, and it is certainly unique as compared to any other district in the Nation.

Now, within the borders of Colorado, the Third District stands out in Colorado for its uniqueness. What are those unique factors in the State of Colorado? Let us go through a few of them.

Let me begin by saying that at the conception of our country many, many years ago, there were purchases made by the United States to expand and to grow our country. The Louisiana Purchase is one that is probably the best known. And most of our population in the United States was heavily concentrated on the East Coast.

So our leaders, our great leaders back then, thought, well, how do we expand our country? We have purchased land, but having a deed, having a deed to a piece of property as we did after we purchased the Louisiana Purchase, having a deed did not mean too much. If you wanted to own land back in those days, you really needed to have a six-shooter strapped on your side and you needed to possess the land. You needed to be on it.

So our Nation has just acquired new lands. Put yourself back in their place. We just bought new lands. Now we have to get people out to those new lands. But the people that we represent are very comfortable in their homes on the Eastern Coast. How do we get them to move in to the center of the United States, into the Rocky Mountains, over to the Pacific Ocean? How do we get them to move to that direction?

You know, every American has a dream, and that dream is to own land. So our leaders decided to use a tool that had been used in the Revolutionary War. It is called land grants, homestead. It actually was used in the Revolutionary War. Our leaders said to soldiers of the British, if you defect, we will give you free land. Come to our new country. We will give you free land. You will own it.

They decided to employ that tool again, the tool of homesteading. In other words, tell people that if they will go out into the Louisiana Purchase, those vast lands, and they farm 160 acres or 320 acres, and they do it for a certain period of time, it is their's, and it is their's forever.

Well, they ran into a problem. In most of the lands in the East, and certainly the lands actually up to the boundaries of about the Third Congressional District in the State of Colorado, you could easily, for example, clear up here in Eastern Colorado, Nebraska, Missouri, any of those States, 160 acres, you could support a family off it. It was very fertile land, and 160 acres was plenty of land to support a family. But when you hit the mountains of Colorado, and it also pertains to the mountains of Wyoming, Montana or New Mexico, when you hit the mountains, 160 acres, that does not even feed a cow. You cannot get by on 160 acres.

So they go back to Washington to our leaders and say, there is a problem. We are getting the population to move out into our new land, to grow our country.

□ 2130

But they are stopping when they get to the Rocky Mountains. They cannot make a living of it. So somebody pops up and says, well, let us give them more land. If it takes 160 acres in eastern Colorado; now, again, I want to be parochial about my discussion tonight and kind of focus in on Colorado, and it takes only 160 acres on the other side of the third district boundary for a family to survive, what does it take on the western side of that boundary, 3,000 acres? Let us give them 3,000 acres.

But what had happened is that this was a period of time where the government, where our leaders were under harsh criticism because the people were saying, you gave too much land away to the railroads. This Intercontinental Railroad that you wanted to build across the Nation, you gave away too much land. There was a scandal. Too much land has been given away by the government to these big railroad corporations. So our leaders were very sensitive, very sensitive about giving any more land away.

So they said, well, what we ought to do is let us just, for the formality, let us let the government keep the title to the land and we will let the people use the land. That is the concept of multiple use. The government owns the land, they are called public lands, but the people are allowed to use them.

Now, remember, when we take a look at a map of the United States, we will see across the Nation that up to the borders, literally, the borders, in Colorado up to the border of the third district, we will see very little public land. Out here in eastern Colorado, take a look at it. This is Bureau of Land Management lands. They are probably the largest holder of government land in the West. Look at how little land they own. Look where it starts. It starts right on that boundary of the third congressional district. The third district of Colorado is the public lands districts, and there are lots of issues with public lands, whether it deals with water, whether it deals with access, whether it deals with the concept of multiple use, whether it deals with wilderness areas.

We do not have wilderness areas out here. Our wilderness areas are focused on the public lands, and in Colorado they are public lands, here, as shown by this diagram to my left, the public lands are the Bureau of Land Management, they rest in the mountain district, the third district, the mountain district. Let us look further.

The U.S. Forest Service, again, another large holder, another large agency, or an agency that has large holdings of government land. U.S. Forest Service lands in Colorado. Look at the black line as depicted on this map to my left, that line is the third congressional district. That is the mountain district of Colorado. These green lands represent land owned by the government. We can see that outside the mountain district, out here in these other 5 congressional districts, there is very little land owned by the government, very little Forest Service land.

In fact, in some of these communities when they talk about public land, we think they are talking about the courthouse, because literally in these counties, that is all the public land there is. So there are fundamental differences between the mountain district and the rest of Colorado when it comes to government lands. I think I have demonstrated that with the Forest Service and the Bureau of Land Management.

However, there are other differences. For example, our national parks. The national parks are primarily located in the mountain district. Most of Rocky Mountain National Park, or a big chunk of it, the Mesa Verde National Park, our national monuments, the Black Canyon National Park, the national parks in Colorado are primarily located in the mountain district. The same thing applies to our monuments. The majority of monuments, national monuments in the State of Colorado are located in the mountain district. The interests of the mountain district, the community of interest revolves around public lands. Public lands is a huge community in the mountain district of Colorado.

Now, it is not a community of interest in eastern Colorado, it is not a community of interest in Denver, Colorado, and it is not a community of interest in anywhere, frankly, other than the mountain district. But we can go on, we can go on from public lands and continue to study the uniqueness of this mountain district. Take a look at the head waters of the State of Colorado.

Now, we will remember earlier in my comments I mentioned that this district, the mountain district, is the highest district in the Nation elevation-wise. That includes the mountains, it includes the mountains of the San Luis Valley, it includes the plateaus of the San Luis Valley, just as much as it includes the plateaus of the Grand Mesa. These plateaus are all high. We get lots of snowfall every year, hopefully we get lots of snowfall every year. A little plug for skiers: we have lots of snowfall this year, but we usually have lots of snowfall.

Now, in the mountain district of Colorado, we get very little rain. I never saw a rainstorm until I got back to the east. Our rains out there maybe last 20, 25 minutes. It is a very cold rain, it usually comes in and moves out very rapidly. Where do we get our water? We depend very heavily on the snowfall for our water. Then, when the snow melts, that is when we are able to store it. If we cannot store water in Colorado, and primarily, that water has to be stored in the mountains of Colorado, if we cannot store water in Colorado, we do not get it, except for about 60 days of the runoff.

So water is a critical factor in the mountain district. It is not a critical factor just to the mountain district, but the mountain district, logically, because it is the highest point in the Nation, has more head waters in it than any other district in the country. It is what they call the mother district of rivers, that mountain district. We have the Colorado River, we have the Rio Grande River, we have the South Platte River, we have the Arkansas River. Take a look. Here is the third district. Take a look at the head waters that it has and the water basins.

Now, let me add that the head waters of the river, that is where the river starts. The head waters of a river have a different community of interest than a user of the river downstream. They are completely different communities. They do have in common that they use water out of that river. But where the river starts is a lot different than the location where the water simply runs through. Both of those communities have differing interests. Both of those communities have differing utilization of those water resources. Both of those communities have differing environmental factors to consider. So water is a critical issue.

In Colorado, there is one spokesman, there is one congressional district that can speak for those head waters. Now, the only way that we could increase, have more than one Congressman for the mountain district is to split the mountain district. But if we split the mountain district of Colorado in an effort to provide land for the seventh district, this seventh seat, if we split this district up, what happens is, let us say we did it like this, to the left, or let us just say we came down here and tried to take out the valley, which is very illogical, because the valley is locked in to these mountain communities. The valley is the mountain community. Just because it is a plateau, it is like the Grand Mesa, we could be on the Grand Mesa and think we are at 13,000 feet.

But my point here is that if we split this district up, that is right, we would have two Congressmen, and I say that generically, we would have two Congressmen instead of one. But because, in order to justify the population, we would have to go east, east of the mountains. We would have to leave the mountains and go out of their community of interest into the flat areas, into the planes, into the large cities of Colorado to get the population that is necessary to justify that congressional seat.

What does that mean? That means when election time comes around, the numbers, the largest percentage of population is not in the mountains; the largest percentage of population is in the cities or in the plains of Colorado. They then determine who is going to represent the interests of the mountains of Colorado.

Now, remember when it comes to water, the mountains in Colorado provide 80 percent of the water. Eighty percent of the water in Colorado is in the mountains. Eighty percent of the population is outside the mountains in Colorado. We have an inherent conflict. We have one portion of Colorado that is rich in resource and another part of Colorado, by far a big part of Colorado, that is rich in need. They need that resource. So there is a constant tug of war. There is nothing more that the people in need of the water would like than to have control of the mountain congressional seat. That is what I am concerned about on this redistricting process.

When we take a look at the mountain district, it is true that we have to give up about 106,000 people. Fortunately, the district, it is almost like it was made for this process, because in this district we have a community called Pueblo, Colorado. It is a strong community. It is a community that has been a leading example across the Nation of economic recovery. But the community has about 130,000, 135,000 in their county.

We can actually go in without any kind of severe disruption. Since we have to find 106,000 people, we really have two choices. We can go into Pueblo, Colorado and pick up out of the city, right there, 106,000 right out of Pueblo. But if we do not take that 106,000 out of a relatively small area and, by the way, it would be about the size of, the head of my pointer would be about the size of the area that we would take out of this district. Let us put up a better graph; it would probably be right here. Right down here would be Pueblo, the gray head of this pointer, right here. That is about the area. If we took that area out, we could satisfy the requirements for the new congressional seat.

But if we do not take it out of Pueblo, Colorado, if we do not move the City of Pueblo, to find 106,000 people in these mountains, we are going to have to take huge chunks of land. We are going to have to interrupt, we are going to disrupt the community of interest in regards to national parks, in regards to water, in regards to national forest land, in regards to Bureau of Land Management land; even in regards to the tribal lands. All of the tribal lands in Colorado are in the mountain district. This district is so unique that there is an obligation, I think, of the legislature and of my colleagues to keep this district intact, to let this district have one voice.

Now, some would say, well, that is kind of interesting, coming from you, because you are the one that is the Congressman. Is this not a little self-serving? Let me tell my colleagues, I will win any race I have out there. The geographical area of my district is not of concern to me for my own political interests. The critical key here is, I am the one that is expected to speak up for this district when this redistricting occurs.

So as the spokesman for the district, I have to look into the future. I have to say into the future, what is important for the interests of the people of the mountain district of Colorado? Is it important, for example, that the heaviest population be outside the mountains, the water consumers, instead of the water suppliers? It would be a disaster for the mountain district. Is it important to keep all forestlands unified as they are right now? You bet it is. Is it important that the public lands in Colorado, to the extent possible, which, by the way, is about 98 percent, is it important that 98 percent of the public lands be in the mountain district where they are located with one unified voice?

The answer is, you bet it is. Is it important that our Forest Service lands right here stay in that district? You bet it is. The community of interest of the third mountain district, the third congressional district is overwhelming. We have a problem. We have too many people. We have to move 106,000 people. I do not want to move anybody. I do not want to lose one single soul, not one single soul out of the mountain district. But look, the law says, hey, the third district, the mountain district, is going to have to give up 106,000 people. Where are you going to come up with them?

So with great regret, the only logical place to find 106,000 people is Pueblo. Now, I think Pueblo should be protected in its own way. Pueblo should be the predominant community in its own district. So Pueblo can be taken care of, and it is very important to me personally and as their Congressman that Pueblo be taken care of. But it is illogical, illogical to come out here and divide the mountain district, by either taking the valley out; which taking the valley out of the mountain district is like taking the heart out of the patient and saying, look, the patient is still pretty whole, we just take the heart out.

We cannot take the valley out of the mountain district. Look at the water issues, the mountain issues, the public lands, the national forest, the Forest Service lands, the agriculture, the timber industry, the mining industry, all of these are unique to this district in Colorado.

☐ 2145

We do not have logging out there in eastern Colorado; we do not have ski areas. We have 26 ski areas in Colorado, and 24 of them are right here. Our major ski areas are right here. We do not see any ski towns in Denver, out here in the eastern plains, for obvious reasons.

The community of interest, there is a huge community of interest in our ski community and our ski towns that have to deal with employee housing, that have to deal with public land issues, that have to deal with wilderness areas, that have to deal with any multitude of management of Federal lands, that is all unique to this district.

The mountain district, in my opinion, is one of the most unique districts in all of the United States. There are 435 districts. It is probably one of the most well-known districts in the United States because of the resorts: Aspen, Vail, Steamboat, the beauty of the San Luis Valley, the mountains. You name it, a lot of people who have traveled, a lot of people who have traveled in our Nation and been fortunate enough to travel have been to the mountain district of Colorado.

It would be a shame, it would be wrong, but it would also be a shame to go into Colorado and divide that mountain district, divide its unified voice, divide its ability to elect its representative from the mountains.

If we divide this district up in any significant way, we are going to shift the political power out of the mountains into the big cities, or out of the mountains into the plains. There is not a community of interest there.

Obviously, we feel very proud of the fact that we are all Coloradans, and we love those Colorado Buffaloes. There are a lot of things on which we feel as a State we are unified. But within the family, some parts of the family have assets and the other parts of the family have different assets. We all bring to the table our own unique strengths.

It would be a mistake within the family to take one of our family member's strengths, and I am speaking of the districts, and to split it up. What we should do is try and maintain the strength of each member of our family. We have six members in our family. We are bringing in a seventh member. What we need to do is, with the least amount of disruption, to provide for the seventh member of the family.

We can do that by protecting the interests of Pueblo, for example, and yet protecting that community of interest which bears out so strongly, so strongly in Colorado.

Again, let me just repeat, and I could go on in much more explicit detail, and I am sure that I will be doing that within the immediate future, but my point is this: the mountain district of Colorado, which includes the headwaters of the rivers of Colorado, which includes the San Luis Valley and the vast mountain ranges of the San Luis Valley and the plateaus, the high plateaus, and the western slope, what some people have called the western slope, that all combines now to make a very well-suited, a very strong and a very commonsense district when we consider the community of interest.

Again, that community of interest is everything from ski areas to tourist traffic, the heaviest tourist communities. People go to Colorado to see the mountains. They go to Colorado primarily to see the mountain district.

Now, sure, they love to go see the Air Force Academy, that is gorgeous, and things like that. But overall, when we speak of Colorado, we think of mountains. That is the mountain district.

So it is not only ski areas, it is not only tourism, it is the water. Remember that I said earlier that the mountain district has 80 percent of the water. The other five districts have 80 percent of the consumers. It is the national forests. By far, the mountain district probably has 98 percent of the national forests. It has probably three and a half of the four national parks. It has almost all the national monuments.

When we take a look at it, and in fact, if we think about it, the sports teams, even the sports teams here, they do not go out of the mountains to play other sports teams, they play within it.

So I urge that we keep the mountain district unified.

H.R. 1, NO CHILD LEFT BEHIND ACT, A GOOD BEGINNING WHICH REQUIRES ADDED RESOURCES TO ASSURE AN EDUCATED POPULACE

The SPEAKER pro tempore (Mr. BOOZMAN). Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, tomorrow or the next day we will have on the floor the long-awaited H.R. 1, Leave No Child Behind Act, an education bill initiated by the President shortly after he was sworn in, inaugurated.

It is a landmark event. It is a history-making event. We should all look forward to it. It is an example of intensive bipartisan cooperation. It does break new ground, and we should see it as a commencement, a second commencement.

Lyndon Johnson began the Federal role in elementary and secondary education more than 40 years ago when he initiated the first Elementary and Secondary Education Assistance Act, primarily designed to help poor school districts, poor children in poor school districts. This is a continuation of that, a reauthorization of it; but I think it has many elements which will move us forward. It has a lot of bipartisan agreement.

We have moved from a situation which existed about 8 years ago where one party was calling for the abolishment of the Department of Education, and I think the Contract with America set forth by Speaker Gingrich called for an end to the Federal role in coordinating education. We had a very intense year of debate on that; and we fought an attempt to cut school lunch programs, we fought an attempt to cut Head Start. It was the depths of bipartisan conflict on education.

Fortunately, the American people let their voices be heard, and they made it clear through the polls and through the focus groups that they considered education to be a high priority, and they wanted more Federal participation in education.

By 1996, in the process of reauthorizing or setting forth a new budget, the end of 1995, actually, the party in power here in the House, the new party in power, the Republican Party, saw the light, and suddenly they began to support the Federal role in education. The appropriation process I think indicated that when we got a big increase, a more than $4 billion increase in education as a result of the majority Republicans responding to the will of the people. It would have been very disastrous if they had not recognized it and stopped the call for the dismantling of the Department of Education.

So we are at a point now where the perception of the public, according to recent polls, is that Republicans and Democrats are pretty much the same in terms of their support for Federal involvement in education, in terms of their support for education. Whether I agree with that perception or not, that is the perception of the public. This bill shows that the two parties can reach agreement about the same thing, and it is a positive achievement. But in my opinion, it ought to be a second commencement.

Now we agree on the basic role, and now we set some basic new directions where I think one of the parties can certainly distinguish itself at this point by recognizing the great need for more resources. I hope it is my party.

I hope we wake up to the fact that all that we have done is important, and nobody should minimize the importance of the bill that will be on the floor, but the great flaw in the bill is that it lacks resources. It does not have the resources to do the job that has to be done.

Let us just stop for a moment and consider some of the activities that are taking place in this first year of the 107th Congress. We have a monumental challenge. September 11 certainly heightened and escalated the nature of the challenge, but we had a challenge already in terms of a faltering economy.

Things have been happening here which require some very difficult decisions to be made. In this democracy of ours, keeping the economy going, reacting to a new kind of threat, waging a new kind of war requires an educated population.

I think governance of any modern industrialized society, that is far more difficult than nuclear physics. The governance of a modern society requires first of all an educated population. The most important resource we can have is an educated population.

So the achievement of Congress, the two parties, in reaching the agreement that has been reached that will be on the floor here is not just a passing matter. Education is not just an ancillary kind of operation, off to the side, ancillary because, after all, the Constitution does specifically say that the Federal Government is not responsible for education, that it is the responsibility of the States and local governments. We have participated sort of as a stimulus and a catalyst to make things happen faster and better, but we are not really responsible. We do not understand it to be a major function of the Federal Government.

I thoroughly disagree with this, and I think that in our new commencement of the Federal effort, commencement number two, in my opinion, that this bill could be, we ought to take hold of the fact that education is at the very heart of our effort to maintain our society and to move to the point where we can master the complexities of a society which is really moving toward kind of a cybercivilization, even if it did not have these threats that are very real, the organized terrorist threat that has clearly stated objectives.

"Mein Kampf" was a statement of Hitler's objectives, and if folks had just taken Hitler more seriously earlier, perhaps things would not have reached the point, the destructive point, it reached, because he clearly said what he wanted to do today and was going to do.

If there was a terrorist power that says that our society is a modern society which is a decadent society which must be destroyed, and our policies with respect to assistance and aid to the democracy in Israel is unacceptable, but that is just only one thing that they find unacceptable, they find it unacceptable that our women do not have to cover themselves up, and we are too modern in allowing women to be equal to men in our decision-making, they do not particularly like democracy because they have kings and sheikhs and other kinds of people who make the decisions, and our whole way of life is threatened, that is very real and we have to rise to meet that threat and understand the seriousness of it when it is also backed by tremendous amounts of wealth, the oil money in the Middle East which finances the whole thing.

So we have a serious challenge, and in this session we should be rising to meet that challenge. September 11 in my home city of New York was a horror that no one could have ever imagined. Yet September 11 shows how vulnerable our society is, how complex it is, and how a strike at one nerve center could have a domino effect and impact on our entire Nation.

The recession was already in place, so we cannot blame September 11 for the continued downturn and the escalation of the economic downturn, but it certainly had a great impact on it. Communications were disrupted, the financial center of the United States and of the entire world was almost brought to its knees, and Wall Street really shut down for a few days.

So it is very real, and as we marshall our resources to meet this threat, let us not put education off to the side as being something that is nice to do, but really is not at the heart of it.

Our previous speaker spoke very eloquently and forcefully and intensively about the need for a ballistic missile system: Are you with us or are you against us? Are you for a ballistic missile system or are you not? That is going to save America, a blanket to protect us.

Well, Mr. Speaker, the terrorist enemies that we are up against, very clever enemies that we are up against, used airline passenger planes as weapons, and some fanatic out there has used envelopes in the mail as weapons.

I am more frightened of the anthrax scare than I am of a repeat of what happened on September 11 in terms of the hijacking of four planes on one day and the ability to use those planes as weapons. I do not think that will ever happen again in America.

But the anthrax threat and the ease with which somebody out there can threaten a whole system, shut down some offices in Congress, bring the postal service to a halt, that is very frightening.

□ 2200

And so we are going to need all the resources we can marshal.

We are going to need a well-educated populace. We should not ever be in a situation again where the anthrax cleanup is so slow because there are not enough specialists around to do it, especially since anthrax has been a concern of ours since the Gulf War. We began to be concerned about anthrax since the Gulf War. We even vaccinated large numbers of American troops to deal with the possibility of an enemy who might use anthrax. So I was surprised when we discovered we had a problem here on Capitol Hill and there were so few people to deal with it rapidly, and they did not know how exactly to deal with it.

There were a number of blunders that were quite obvious from day-to-day on the television set which showed that we were not prepared. I would rather be prepared for that kind of warfare than to put all of our resources into a ballistic missile system and to make that the great test of whether we really care about protecting America or not. A ballistic missile system will cost billions and billions of dollars, and there is a doubt about how effective it would be. And even if it is very effective, and once it is put in place, can be expected to do what it is supposed to do, we are dealing with an enemy which can quickly see that the use of anthrax through the mail or the introduction of smallpox viruses in various ways into our society could accomplish far more havoc than a single missile can accomplish at any time, if it is done in a way which catches us off guard, if we do not have sufficient specialists and experts, and if we do not have sufficiently-staffed medical institutions that can detect and diagnose right away.

There are so many areas where we need more expertise, we need more people who can deal with these problems than we have. So September 11 is a wake-up call, a vary tragic kind of wake-up call, but we need to understand the war effort is just one more example of how this Nation will not survive unless it has a better educated population to deal with all of these problems, many of which cannot be predicted ahead of time.

What have we done here in the 107th Congress? In the first year of the 107th Congress, even with the war threat, I do not think we have rallied to meet the challenges that are before us. Day after day, and Christmas is just around the corner, the holiday season is upon us, and there is talk of us having to be here for the rest of the week and then come back next week just before Christmas. It looks like some kind of heroic effort is going on.

After all, there is a war, and so you can understand how the calendar cannot be followed in the manner it has been followed in previous years, but it is not the war, I assure you. It is the great mismanagement of resources here by the majority party.

We do not need to be here, and it is not a good use of taxpayers' resources to have us here. It is not a good use of our time and energy to have us separated from our constituents so much during this period. Many of the votes that we have taken this year, and I must say this because people are watching every Congressman all the time in relation to his voting record. And the voting record is a statistical thing. They do not really want to look into it very carefully, see the details, or what you were voting on, it is just 95 percent or 96 percent or 100 percent, 90 percent, and that is it. How many times you voted on the Journal is not considered, and how many times you took junk votes.

This majority party that we have in the House of Representatives is a master at a new product called junk votes, I call them. Votes that do not matter. Somebody invented the term "junk bonds" a long time ago. Junk votes are votes that are really not important at all and are distracting. I guess you cannot say that they are that harmful. A resolution to reaffirm that the golden rule is a good rule to follow. That is a resolution that we would all vote for. It is not going to do anybody any harm. A resolution that motherhood is a great thing. Those kinds of resolutions have been coming all the time this year. Our suspension calendar is full of items that are really quite trivial. We could really have been spending more time at home, we could have managed the serious votes in a manner which would allow us to be here just for serious votes and we could have more time on the floor for serious debate.

The most serious issues, the bills which have the most serious content are the ones we give the least amount of time. That is the way the majority operates here.

I am proud to report that finally we got the conference process back operating in a democratic mode again, and the conference process for H.R. 1, Leave No Child Behind, was a model of what this institution should be all about. The Senate and the House conferees met, they met in public, they negotiated, the staff carried the process through, all the Members were involved, and it was like we were back to old-fashioned democracy. Something that has not happened much in the last 6 to 8 years since the Republican majority took over.

I know we are not supposed to talk about the other body that much, and that the Chair gave great liberties to two of my colleagues before finally reminding them of that, but let me praise the Members of the other body who worked with us on a conference committee. I think you can talk about a functioning, productive conference committee. We worked very well together and we produced a good piece of legislation. But, again, I am going to come back to its shortcomings. That legislation should be seen as a good beginning, and where we go from there is what I would like to discuss tonight.

But before I get to that, I just want to talk about the fact that an educated population also is a population that must be able to discern what facts are and combat and counteract the stretching of the truth.

I heard two of my colleagues on the Republican majority side earlier tonight talk about the achievements of this House, and they dared to say that we have taken steps to deal with the serious problem of unemployment, we have steps to take care of the needs of workers in an economy which is in a downturn, and that we have done our work. Where are the facts to support that? Where is there a response to the rapidly increasing unemployment? In none of the legislation that passed in this House will you find it.

In many of the proposals that the Democrats have proposed there was a clear effort to try to deal with the immediate problem of unemployment. We had proposals which stretched the number of weeks that you could receive unemployment payments. We had proposed to increase the amount of unemployment insurance the person could receive. We had proposals even to provide 6 months of health insurance for workers who lost their health insurance as a result of leaving. We had proposals for training. All those were rejected by the majority party, yet they stood here on the floor and said that they had taken care of business related to the intense problems faced by workers in an economy experiencing a downturn.

We need an educated population which can sort out those kinds of facts which are very close to home, and no one should be able to get away with distortions of that kind without being challenged by our constituents. It is a complex world. The complexities of the world demand that we have an educated population.

I think the definition of an adequate education probably in most State constitutions is similar to the definition we find in the New York State constitution. Probably not the same wording, but there is a basic assumption when the States took on the responsibility for education that they were talking about an adequate education. They do not mean providing people with some luxury education that will allow them to speak many languages and have their own set of computers and technology, et cetera. But a basic and adequate education, as defined in the New York State constitution, is an education which will allow students to become productive citizens capable of civic engagement and sustaining competitive employment. Capable of civic engagement and sustaining competitive employment.

That is what a sound basic education is according to the New York State constitution. That is no small item, I assure you. To be able to have students who become productive citizens capable of civic engagement and to be able to sustain competitive employment might have been far simpler 200 years ago, when the constitution of the State of New York was written, but in order to be able to sustain competitive employment, you need to know far more than just to read and write. Why not begin with reading. We have a problem just teaching reading.

But we need to understand that the education that citizens need in our democracy demands that they be able to do far more than that, and that is going to cost money. That is going to require a complex system which is accountable. And the other part of it, a productive citizen capable of civic engagement, our democracy will not survive if we do not have citizens capable of civic engagement, who understand what our decision-making process is all about and what it needs to do.

Now, it is to our credit that sometimes the public is way ahead of us. The public, the constituents out there, with the education that we have offered, we must be doing something right because they consistently insist that education should be a high priority of the government. The people of America, for the last 5 to 6 years, have placed education among the top three priorities. In the last 10 years it has been among the top five priorities. So there is something about our populace which makes them understand what the people they elect are quick to forget.

We trivialize education. We do not make it a high priority except in terms of rhetoric. The highest priority items receive the greatest portion of the budget. There is a correlation between appropriations and priorities in this Congress, and we are not in the same place that the American people are. They would like to have us do far more.

So capacity for civic engagement may be greater than we think and may be greater than we as decision-makers for those same people who are engaging in civic activity deserve. We deserve better action here to reflect that.

On the other hand, they do not understand the complexities of the world in terms of justice and peace and in terms of how our relations with foreign governments are necessary to protect us. Those things get short shrift until we have a September 11, and then we understand that we cannot go it alone; that we have to have coalitions; we have to have some standards; we have to answer the charge that we exploit the rest of the world; we have to answer the charge that our foreign policy is rampant with favoritism toward one nation or another.

Why should not our foreign policy lean in the direction of supporting democracies? There are a number of ways to answer that, but we have to be able to articulate that not just as a government but the people have to understand it too.

We need a population that is educated to understand the best utilization of taxpayer resources. Was it good for us to have voted millions of dollars for the airline bailout, the cash for the bailout and the long-term, low-cost, low-interest loans for the airline industry bailout? Is that industry really that critical in our economy? Well, from the looks of the tourist industry and the repercussions of the lack of airline industry functioning properly, perhaps it is. Those kinds of judgments people need to make.

Some are complaining quite a bit about that. Certainly I think they have a right to complain about the fact that if the airline industry is important, we should have taken steps to take care of the workers in the airline industry at the same time we helped the management and the owners of the airline industry. Those kinds of decisions and analyses of events are necessary.

There is an insurance subsidy we have now voted. Some of the things we have done here are new and monumental. The insurance subsidy is one of them. I think the airline industry bill, the same bill that bailed out the airline industry, had a compensation fund which is also breaking new ground where the Federal Government is going to provide compensation for all the survivors of the victims of the September 11 tragedy. I think it is a great step forward. We broke new ground there. Is that a good idea, really? And what is that really all about? Every citizen ought to be able to clearly understand.

We are not trying to enrich anybody at the expense of taxpayers, but that is the kind of thing that government should be doing. But we ought to really understand that for what it is worth.

Enron might seem like something totally unrelated to education, and why am I bringing up the Enron disaster? Most folks are not aware of the fact that Enron is a major economic disaster. Enron is the largest corporate bankruptcy ever experienced by America.

It reminds me of the savings and loans phenomenon of a couple of decades ago. Anything as big as Enron was deemed, any bank that had that kind of position in the economic structure, was deemed too big to fail.

□ 2215

The whole policy of the Congress was to step in and bail out the banks, and we did. Billions of dollars of taxpayers' money went into bailing out banks. Citizens never quite understood that, and most Members of Congress did not understand how many billions of dollars were spent. It is estimated that the taxpayers spent at least $500 billion bailing out the savings and loan industry.

Is Enron something new that we are going to be confronted with? Are we going to bail out Enron? Will there be other energy companies that are too big to fail that we are going to come up with a set of legislative actions to undergird? Is that kind of swindle going to be perpetrated again?

An article appeared recently in the paper about the Pritzker family bank in Illinois. That bank went under as a result of shenanigans. The savings and loan swindle was basically a swindle where people were encouraged to put their money in, and they were given very high rates for their investment because that would attract deposits. Once their deposits were in, every $100,000 worth of deposits was insured by the Federal Government. So people did not mind going where the highest rate was offered. If a savings and loan offered 15 percent, people moved their money there because they knew if they put $100,000 in, it started out at $10,000, but Franklin Roosevelt and the New Deal, we pushed it up to $100,000. So it became profitable for banks to call in the money. Everybody knew the money would be safe, and then those banks that gathered all of that money misused it in terms of the investments that the banks made. People stole in various ways. In the final analysis, the Federal Government was handed the bill.

Mr. Speaker, are we going to get into another swindle like that with energy companies? We need a very well-educated population to deal with these complexities. The governance of a modern, industrialized society is more difficult than nuclear physics; and education is not an ancillary function on the side, not for the Federal Government or any other branch of government.

I would like to return to the item that is on the agenda now tomorrow or the next day and talk in more detail about the final version of H.R. 1. It has gone through the conference process. I was fortunate enough to serve on the conference committee, and I think we did some useful things there, but my basic premise is that it is just a beginning. It is a good beginning, but it is a beginning. Now we need to go on to resources. To quote from an article that appeared in the Washington Post, many principles underlie the plan that we are going to be voting on were outlined by the President during his first week in office. He called the bill at that time his top domestic priority. It would expand the Federal Government's role in enforcement of educational standards requiring every public school student in the country to take state-administered reading and math tests in grades 3 through 8, and holding schools and educators accountable for the result.

The bill also requires States to establish a minimum level of proficiency on the exams, and to make steady progress in bringing all students up to that level that they establish within 12 years. In addition, the measure would require States to report progress toward the goal by several student subgroups defined by race, ethnicity, socioeconomic status and other factors. A statistically representative sample of students in each State would take the National Assessment of Educational Progress, a highly regarded Federal test, to set a benchmark for the State exams. The school that fails to meet the improvement timetables would be subject to escalating assistance and sanctions, and parents of students attending failing schools would be given new educational options.

In various ways the spotlight would be thrown on the people who have the primary responsibility for education, the State and the local education agencies, a spotlight which is standardized. There would be a spotlight in each State which does not vary from State to State as a way to judge progress, to make each State accountable in accordance with a set of national standards. That is the most important feature of the bill. If it does nothing else but to force out into the open the accountability process whereby States have to let it be known what they are doing, the public will know, and we will see step by step what happens.

The bill would provide nearly $1 billion for a program aimed at having all children reading by the third grade. That is a good feature of the bill, an emphasis on reading. We found that reading is basic to education. You cannot have education without a certain level of reading competence, forget about math and going forward with history and anything else. If a student cannot clear the first hurdle of being able to read adequately, and yet we found in colleges where teachers are trained, there is no specialized training in most colleges as to how to teach reading. Very few people were given special instruction in reading who became teachers of reading.

There are some good features in terms of what we did not do also. The President must be given credit for throwing overboard what had been a major planking in the Republican majority's platform before, insisting that vouchers, that the Federal Government get into the business of providing money to parents so parents can have vouchers to go off and purchase the education from private schools, whether private or parochial. Of course that never was a very sound proposal because the Federal Government would only be able to give the amount of money allocated for title I children which never reached more than $1,400; and no school anywhere in the country is able to function with a tuition of $1,400.

Poor parents would have to make up the difference which sort of was a contradiction. If you are poor, how are you going to raise the difference between $1,400 and $4,000 or $5,000 for tuition. That was taken off the table, and I congratulate the President for doing that.

The President also insisted that we go back to the original purpose of the Elementary and Secondary Education Act, and concentrate the funds that are available on the poorest children. Concentrate the funds available on the children with disabilities. The two functions of the Federal Government which must be given the highest priority for assistance in education are the poor and those who have disabilities and need special education. We are back to where we should have been, and President Bush should be given credit for pushing aside all of the temptations of our majority party in this House certainly to take what education funds were available and try to spread them as much as possible regardless of how much wealth a district had already.

Members wanted to take something home to their district for education, and we had a great deal of pressure to take the title I funds and sort of dismantle them. President Bush has brought a halt to that and deserves credit for refocusing the resources of the Federal Government on the worst problems as the highest priority.

We did have a big discussion about the need for the Federal Government to live up to its commitment which was made 25 years ago to provide 40 percent of the cost of special education funds. We passed a bill more than 25 years ago which said that we would cover 40 percent of the expenditure of each State for special education, which is called IDEA. At this point 25 years later, we are only providing 10 percent of the cost, and we wanted to move and there was a great debate in the conference committee, we wanted to move from the 10 percent to a full 40 percent funding over the next 10 years; and we were unable to get that provision accepted by the Republican majority in the House.

That is still unfinished business, but that is very much consistent with my message for tonight, and that is if we had taken on the responsibility of 40 percent funding for special education, it would be a great jump forward in terms of more resources for each local education agency because it would free up the funds that they are now spending for special education. They are required by the Constitution according to the Supreme Court interpretation to provide an education for all children regardless of their disabilities. So they must spend the money regardless of whether the Federal Government gives them a portion of it or not. If the Federal Government were to meet its promise and give them 40 percent of their expenditure, that is 40 percent that they do not have to budget for in their own budget for that purpose. They could use that for some other education purpose.

The bill increases Federal funding despite the fact that it does not increase the funding for special education; it still increases Federal funding by $3.7 billion. And funding for title I for the poorest children would double over the next 5 years. These are positives, and it is a good beginning and we need more. We need more to deal with the fact that we are not providing the kind of education that our complex civilization requires to enough children, to enough people, to keep pace with the need.

In other words, our cyber-civilization requires a tremendous amount of brain power, and the production of that brain power takes place in our school system. Since we have 83 million children in public school, that is where most of the brain power education is taking place. If we fail to produce the brain power needs of a cyber-civilization, we are going to crumble. We are going to fall. We need enough brain power to fill the positions in our government, in our military, in our technical areas, in our school system. Right through and through there is a demand for more and more and better brain power.

I am going to read some excerpts from a speech I made at the Yale Political Union on Monday, November 26.

Mr. Speaker, I include for the RECORD my speech in its entirety. It is entitled, "Congress Should Spend More to Reform Public Education."

CONGRESS SHOULD SPEND MORE TO REFORM PUBLIC EDUCATION

(By: Congressman Major R. Owens: Yale Political Union—Monday, November 26, 2001)

There are a number of interesting appropriation dollar figures and funding facts which might serve as a useful skeleton for this discussion:

The highest per pupil cost is paid by the American taxpayers supporting a public institution to educate a student at West Point. The per pupil cost is about three times the cost of educating a student at Yale.

There are about sixteen thousand school districts in America. Among the diverse school districts in New York State the cost per pupil ranges from seven thousand to twenty-six thousand dollars.

The gross expenditure for education in America is more than 370 billion dollars; federal dollars are only seven percent of this amount. The national governments of all of the other industrial nations are far more deeply involved.

There are 4,070 higher education institutions in America; 1,688 of these are public institutions. In the year 2001, about 1.2 million higher education students received Bachelor Degrees; the projection for the year 2005 is 1.25 million graduates.

There are 83 million students attending the public schools of America; the total enrollment for four year higher education institutions in 2001 was 9.4 million students.

The new job openings projected by the U.S. Department of Labor for the period between now and the year 2008 for the following occupations are: 1.6 million teachers; 1 million registered nurses and health technicians; 1.3 million police, detective and other law enforcement and security personnel.

Dan Goldin, the retiring Administrator of NASA predicts a "technological sunomi" requiring 2 million additional scientists and engineers over the next 20 years.

H.R. 1, President Bush's high priority education initiative, presently being negotiated by a House-Senate Conference Committee, authorizes increases that, if appropriated, would raise the overall federal share in education expenditures from 7 percent to 8 percent within five years.

This set of relevant and revealing observations could launch us on many diverse and interesting course. However, it would be more profitable if we could focus this brief dialogue on the hypothesis that the survival of the nation is inextricably interwoven with the collective initiative to reform public education. When we contend that "Congress Should Spend More Money to Reform Public Education", we are really insisting that Congress should spend more money on education in order to guarantee the survival of the nation. I am making this assertion at the outset, in order to make it clear that this is not a "mickey-mouse" session about adding a few dollars here or there to get higher public school student test scores.

In addition to providing vital cement for our civic, social and economic infrastructure, our defense, safety, security; basic national physical survival is directly dependent on the amount and levels of the education of our population. If it fails to maintain its brainpower production, its public education system, in syncopation with its enormous brainpower needs, this great American cyber-civilization will fall with a momentum more rapid than the fall of the Roman Empire.

The recent monumental management and communications blunders of the CIA and the FBI; the absence of translators to translate important information gathered through our multi-billion dollar world-wide electronic surveillance system; the failure of the FAA to implement decades-old proposals for the securing of airplane cockpits; the increasing amount of sloveliness or "human error" related to the execution of routine but critical tasks; these are examples of escalating brainpower deficits directly related to our immediate safety and security.

When the most recent super-aircraft carrier was launched, it had dozens of unfilled positions because it could not find within the Navy's ranks, persons who could operate the high-tech equipment being utilized. The National Aeronautical and Space Administrator, Dan Goldin, recently announced that at NASA there are twice as many engineers over sixty than there are under thirty. Goldin predicts that two million additional scientists and engineers will be needed over the next twenty years when we be experiencing a "technological sunomi"

From our routine and less visionary sources such as the U.S. Department of Labor are projected occupational shortages which indicate the deficits will extend far beyond science and technology: The projected number of job openings due to growth and net replacements between now and the year 2008 is 1.6 million teachers; 1 million registered nurses and medical technicans; 1.3 million law enforcement and security personnel. The Information Technology Association estimates that two million information technology professionals will be needed. When you add this same degree of need for more doctors, geneticists, pharmaceutical engineers, lawyers and MBA's; there should be considerable fear aroused among national decision-makers when we consider the fact that the number of college graduates from our 4,000 degree granting institutions will hover at only 1.2 million per year during this seven-year period.

At the mouth of America's great educational funnel from Head Start and kindergarten through elementary and secondary education to our colleges and universities; at this source of our raw material there are 83 million students attending public schools. The challenges of public education reform stated in simple arithmetic is a matter of developing far more than 1.2 million college graduates per year from a base of 83 million. In addition to doubling and tripling the number of college graduates, the public eduation system must prepare millions of better educated technicians, mechanics, craftsmen and operators. The performance of the mechanic servicing an airplane is as critical as the performance of the pilot of the plane. At every occupational level, the pursuit of better quality is as important as the need to produce greater numbers.

Education adds value to all who are engaged. Even the worst student exist from an education experience with some degree of improvement. The system must be designed to add as much value to every pupil as possible. Society requires increasing levels of competence from an increasing number of performers who can be produced only from a more effective "churning" process at the mouth of the funnel. Excellence or even basic competence is guaranteed only when there is a merit driven process continuously pushing new expertise upward to replace the burned out and to challenge smugness or stagnation.

Our inability to more effectively transform the raw material represented by the 83 million public school students has brought us to a critical point where an explosion in need for more brainpower is overwhelming our processes for the production of the necessary brainpower. At other similar pivotal points in its history, sometimes by fortunate accident, and sometimes through the vision of geniuses, this nation has adopted sound practices and innovative initiatives in education. By fortunate accident the majority of the states and localities embraced the concept of public schools. As a result of the vision of Thomas Jefferson, the University of Virginia became a model emphasizing publicly supported higher education beyond the liberal arts to embrace practical science, engineering and agricultural production.

Another genius, Congressman Morrill, inspired by Jefferson's model, initiated federal support for land grant colleges and universities in all of the states. Following World War II, the GI federal education subsidies provided a massive boost in brainpower pools at a time when more sophisticated mechanization and automation were creating demands for new and better brainpower.

Extraordinary federal support for the higher education which qualified participants for immediate professional jobs has provided a great incentive for the expansion and improvement of the elementary and secondary public education system. Preparing students for college is the first priority of most local school districts. A more automated and digitalized commercial and industrial sector with demands for better educated high school graduates has provided an even greater and broader incentive. Despite the present drift into recession, these incentives and rewards for more and better education are firmly in place. Certainly it is possible to move a greater portion of the 83 million public school attendees into education streams that will allow them to meet the mushrooming needs of our cybercivilization.

In this 107th Congress, the critical question is will a great leap forward be taken to funnel 20 or 25 percent (instead of the present 12 percent) of the 83 million upward to higher levels of competence and expertise. The good news is that the Bush proposal presently in conference does propose some small steps forward:

HR 1 will authorize almost one billion dollars for a new reading program.

The bill proposes to double Title I funds from 8 billion dollars to nearly 16 billion dollars over a five year period.

The Senate conferees are insisting that the bill greatly increase funding for children with disabilities.

The bad news is that this is authorization legislation and there are clear indications of resistance to these increases by the appropriators. President Bush is also insisting on a degree of regimentation and testing that poisons the relationship between the federal, state and local education policy makers. We may move from a 7 percent federal share to an 8 percent share; however, the heavy handed oversight offers the appearance of a federal bully instead of a federal partner.

The worst news is that even if a full appropriation is achieved for the amounts authorized, this presidential initiative, which is probably all that we can hope for in the next four years will constitute only an incremental increase in funding at a time when states and localities are being forced to reduce funding for schools:

The critical need for smaller class sizes and more qualified teachers requires increased funding.

The infrastructure of school physical facilities needs about 300 billion dollars nationwide and this problem is not addressed at all.

Computers and other technology which may hold the key to breakthroughs in the education of those most difficult to reach are not encouraged sufficiently.

Appropriations for children with disabilities (IDEA) which moves in DC toward the current already authorized 40 percent of total cost is being proposed by the Senate but opposed by the President. The federal increase would free local funds for greater application toward the needs cited above.

In summary, the Bush initiative, even if improved by current Senate proposals, falls far short of the significant leap forward in federal funding which the present pivotal moment in the nation's development demands. Through four administrations, from Reagan through Bush to Clinton and now another Bush, I have strongly recommended and will continue to recommend that we establish new parameters for federal assistance to education:

In order to re-position the present primitive, almost freakish, insistence that the least amount of federal funding for elementary and secondary education is highly desirable, we must learn from the examples of some of the other industrialized nations. Greater federal support which moves from 7 percent toward 25 percent of the overall national education expenditure would not constitute an over-centralized takeover of education; instead, it would represent a logical mean between the extremes of nationalized education ministries and 16,000 uncoordinated independent school districts in fifty states.

Immediate significant federal funding initiatives should focus on large, non-recurring capital expenditures for physical facilities and equipment. States and localities would not become dependent on Washington for their operating expenses; however, necessary overwhelming one time improvements could be realized.

Priority for federal funding should continue to go to assist in the education of those most difficult to educate—the poor and children with disabilities.

Special federal funding must be made available to validate, certify and promote education innovations that work. The best programs and practices must be assisted in establishing critical masses throughout the nation.

Without bullying states and localities, the Congress should continue to promote higher standards for student achievement and for opportunities-to-learn.

Funding to systematically expand support for Research, Development and Dissemination must be greatly increased. It must be recognized that this is an activity almost totally neglected by states and localities.

My final word is that society's fullest possible support of public education should not be viewed as a noble gesture, or a governmental philanthropic virtue, or the mere provision of a "safety net" for those too poor to pay for their children's education. The far wiser and more productive public policy viewpoint must assume that public education is a necessity vital for the functioning of our very complex cyber-civilization. This nation literally will not be able to survive without an adequate and continually updated public education system.

Mr. Speaker, I am going to comment and read a few excerpts from the speech. I started by saying that there are a number of interesting appropriation dollar figures and a number of interesting funding 'facts that might serve as a useful skeleton for the discussion of a topic that we were faced with. My topic was Congress should spend more to reform public education. There were debaters on the other side who opposed this later on, and it was an interesting evening at Yale University.

Number one, we should look at the following figures and funding facts. The highest per-pupil cost is paid by the American taxpayer when we support the institution which educates the student at West Point. The highest per-pupil cost is paid to educate a West Point student. The per-pupil cost of education at West Point is at least three times the cost of educating a student at Yale or Harvard. I did get the facts about 8 years ago when we had a friendly chairman of the Committee on Armed Services who twisted the arms of the people at West Point, and they got me the facts and figures. At that time the cost per student at West Point was $120,000. That did not include the field training using artillery and all of the capital expenditure for that. Just the kind of academic training that they received was estimated to cost $120,000 per student.

□ 2230

At that time Harvard and Yale were about 30 to $35,000 per student. So we do believe in spending money to educate the best when we think it is necessary. We set a high priority on our military leadership. The very best is supposed to come from West Point so we spend a tremendous amount of money.

Another fact. There are about 16,000 school districts across America. Among the diverse school districts in just one State, New York, the cost per pupil ranges from $7,000 per pupil to $26,000 in an upstate school district and most of the school districts within New York State are spending above $15,000 per pupil. $7,000 is about the lowest in the State, in New York City.

Fact number three. The gross expenditure for education in America is more than $370 billion. But Federal dollars are only 7 percent of this amount. The national governments of all of the other industrialized nations are far more deeply involved in the education of their population. We have a decentralized system which also takes away the responsibility and allows the Federal Government not to be responsible for what is probably the most important task it has, and, that is, maintaining the education of the population. We only put 7 percent into the total expenditure pot for education.

Point number four. H.R. 1, President Bush's high priority education initiative presently being negotiated, which is almost about to come to the floor, if every part is appropriated would maybe take us to 8 percent instead of 7 percent. This is far too little in terms of the Federal share for education expenditures.

We could take quite a bit of time to discuss just those four interesting facts, but it would be more profitable if we could focus this brief dialogue on the hypothesis that the survival of the Nation is inextricably interwoven with the collective initiative to reform public education. When we contend that Congress should spend more money to reform public education, we are really insisting that Congress should spend more money on education in order to guarantee the survival of the Nation. I am making this assertion at the outset in order to make it clear that this is not a Mickey Mouse session about adding a few dollars here or there to get higher public school student test scores. It is more than that.

In addition to providing vital cement for our civic, social and economic infrastructure, our defense, safety, security, our basic national physical survival is directly dependent on the amount and levels of the education of our population. If it fails to maintain its brainpower production, its public education system, in syncopation with its enormous brainpower needs, this great America cybercivilization will fall with a momentum more rapid than the fall of the Roman Empire. Do not be smug. We saw the Soviet empire fall because it turned its back on certain realities. The great American empire can fall, too.

The recent monumental mismanagement and communication blunders of the CIA and the FBI, and I do think some of those blunders led to September 11, the absence of translators to translate important information gathered through our multi-billion-dollar worldwide electronic surveillance system, the failure of the FAA to implement decades-old proposals for the securing of airplane cockpits, the increased amount of slovenliness or human error related to the execution of routine but critical tasks, these are examples of escalating brainpower deficits directly related to our immediate safety and security.

When the most recent super aircraft carrier was launched, less than 2 years ago, it had dozens of unfilled positions because it could not find within the Navy's ranks persons who could operate the high tech equipment being utilized. National Aeronautics and Space Administrator Dan Goldin, who just retired recently, announced that at NASA there are twice as many engineers over 60 than there are under 30.

Goldin predicts that 2 million additional scientists and engineers will be needed over the next 20 years when we will be experiencing what he calls a "technological tsunami." A tsunami is greater than a tidal wave, a hurricane or a tornado all put together.

From more routine and less visionary sources such as the United States Department of Labor, we can find projections of occupational shortages which indicate that the deficits will extend far beyond science and technology. The projected number of job openings due to growth and net replacements between now and the year 2008 is about 1.6 million teachers, 1 million registered nurses and medical technicians and 1.3 million law enforcement and security personnel. The Information Technology Association estimates that 2 million information technology professionals will be needed. When you add this same degree of need for more doctors, geneticists, pharmaceutical engineers, lawyers and MBAs, there should be considerable fear aroused among national decisionmakers when we consider the fact that the number of college graduates, although we have 4,000 degree-granting institutions in America, the number of college students who graduate each year hovers at 1.2 million per year. Over this 7-year period where we project all those needs for new people who are highly trained, we will be graduating only 1.2 million students per year.

At the mouth of America's great educational funnel, if you look at an upward funnel, a funnel where down at the bottom is all these 83 million public school students and as you go through the education process they funnel up into our higher education institutions and sometimes into 2-year colleges or sometimes into technical institutes, et cetera, from the mouth, this source of 83 million students, we should get a better return than 1.2 million graduates from college. We should double that instead. In addition to public education, students who will go to college, we should also understand that there are a great number of people who are needed as educated technicians, mechanics, craftsmen and operators. The performance of the mechanic servicing an airplane is as critical as the performance of the pilot of that same plane. We know that large amounts of money are spent to train pilots, but we should also know that at every occupational level, the pursuit of better quality is as important as the need to produce greater numbers.

Education adds value to all who are engaged in education. Even the worst student exits from an education experience with some degree of improvement. The system must be designed to add as much value to every student as possible. Society requires increasing levels of competence from an increasing number of performers who can be produced only from a more effective education churning process at the mouth of that funnel which funnels them upward.

Our inability to more effectively transform the raw material represented by the 83 million public school students in America has brought us to a critical point where an explosion in need for more brainpower is overwhelming our process for the production of the necessary brainpower. At other similar pivotal points in its history, sometimes by fortunate accident and sometimes through the vision of geniuses, this Nation has adopted sound practices and innovative initiatives in education. By fortunate accident, the majority of the States and localities very early in the history of the Nation embraced the concept of public schools. As a result of the vision of Thomas Jefferson, the University of Virginia became a model emphasizing publicly supported higher education beyond the liberal arts, publicly supported higher education which embraced practical science, engineering and agricultural production.

Another genius following in the footsteps of Thomas Jefferson, Congressman Morrill, after the Civil War, he was inspired by Jefferson's model, he initiated the Federal support for land grant colleges and universities in all the States. Later on following World War II, the GI Federal education subsidies provided a massive boost in the brainpower pools in America at a time when more sophisticated mechanization and automation were creating demands for new and better brainpower. Senator WARNER of Virginia at our last meeting of the House-Senate conference committee made a very moving speech about the fact that he was educated as a result of the GI subsidies. He got 7 years of education subsidized by the Federal Government. That made all the difference in his life.

Extraordinary Federal support for the higher education which qualified participants for immediate professional jobs, the Federal Government did support higher education very early and that started a system which provided incentives for students to go up and there was a clear pattern that if you got a decent education at the lower levels, you could go on to get a professional education in the colleges. Preparing students for college is the first priority that most local school districts see. That is what they are there for. A more automated and digitalized commercial and industrialized sector now demands better educated high school graduates who will not necessarily go to college. They provide incentives for them. You can go into a Microsoft program even if you are not a college graduate and take certain levels of exams and reach a point where you are making a very decent salary with opportunities for advancement as you educate yourself more. This is outside the formal education structure. Despite the present drift into recession, these incentives and rewards for more and better education are firmly in place. Our economy is going to recover. Our cybercivilization is going to continue. It is going to have greater and greater needs. It is possible to move a greater portion of the 83 million base of students that we started with into the education streams which will produce the kind of people we need. We cannot do that unless we have greater resources.

In the 107th Congress, the critical question is will a great leap forward be taken similar to the great leap forward of our forefathers who were wise enough to establish a public education system, again similar to the great leap forward taken by Thomas Jefferson when he created the University of Virginia or the great leap forward that was taken by Morrill when he established the land grant colleges. Or the great leap forward that was taken more recently in the GI education programs. Can we rise to meet the challenge so that instead of getting 12 percent of our students, of the 83 million, to the college graduate level, we can double that to maybe 25 percent. The good news is that the legislation that will be on the floor takes some important steps forward. I have already mentioned that. Those steps are very important.

The bad news is that what our legislation does is authorize. Tomorrow or the next day we will be voting on a bill that authorizes legislation. Each year the appropriation will have to match those authorizations if we are going to really move forward. Authorization has a problem without support from the appropriation. We may move from 7 percent to 8 percent only if the appropriation is full over the next 5 to 10 years. The worst news that we are confronted with is that we do not have the amounts of resources that we really need. The critical need for smaller class sizes has not been met. The critical need for more qualified teachers has not been met. The infrastructure of school physical facilities is totally ignored. We do not have any money that address the problem of the need for more funding for school infrastructure, for the building of buildings, repairing of buildings or the funding of technology, the installation of new technologies, et cetera. Computers and other technology which may hold the key to breakthroughs in the education of those most difficult to reach are not encouraged sufficiently in this legislation. Again, we do not appropriate the additional money which we felt was required for children with disabilities which would have been a great step forward.

Through four administrations, from Reagan through Bush to Clinton, and now another Bush, I have strongly recommended and will continue to recommend that we establish new parameters for Federal assistance to education.

In order to reposition the present primitive, almost freakish insistence that the least amount of Federal funding for elementary and secondary education is highly desirable, we must learn from the examples of some of the other industrialized nations. Greater Federal support which moves from 7 percent toward 25 percent of the overall national educational expenditure would not constitute an overcentralized takeover of education. Instead, it would represent a logical need between the extremes of nationalized education ministries and the present 16,000 uncoordinated independent school districts in 50 States in America. In other words, we are in an extreme position. We are at the lower end of support for our school systems, 7 percent of the total education bill, versus some countries which are at the other extreme where the education is totally run by the national government and they get some bad results as a result of that. But let us not remain at that extreme. We should move toward greater Federal participation.

Immediate significant Federal funding initiatives should focus on large nonrecurring capital expenditures like the ones that I have just mentioned in terms of the physical infrastructure.

□ 2245

Priority Federal funding should continue to go to educate the poor and children with disabilities. Special Federal funding must be made available to validate, certify and promote education innovations that work. The best programs and practices must be assisted in establishing some kind of critical mass throughout the Nation, and Federal money is necessary to allow them to do that.

Without bullying states and localities, Congress should continue to promote higher standards for student achievement and for opportunities to learn. Funding to systematically expand support for research, development and dissemination of information must be greatly increased, because none of the states are engaged in that kind of very important activity.

My final word is that society's fullest possible support of public education should not be viewed as a noble gesture or a governmental philanthropic virtue or the mere provision of a safety net for those too poor to pay for their children's education. The far wiser and more productive public policy viewpoint must assume that public education is a necessity vital for the functioning of our very complex cyber-civilization.

This Nation, our great American Nation, literally will not be able to survive without an adequate and continually updated public education system. Brain power is our best protection for the future.

RECESS

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 7 a.m.

Accordingly (at 10 o'clock and 46 minutes p.m.), the House stood in recess until approximately 7 a.m.

□ 0700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ISAKSON) at 7 a.m.

CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

Mr. BOEHNER submitted the following conference report and statement on the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind:

CONFERENCE REPORT (H. REPT. 107–334)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1), to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, inserting the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "No Child Left Behind Act of 2001".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.
Sec. 4. Transition.
Sec. 5. Effective date.

TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

Sec. 101. Improving the academic achievement of the disadvantaged.

TITLE II—PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS

Sec. 201. Teacher and principal training and recruiting fund.
Sec. 202. Continuation of awards.

TITLE III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

Sec. 301. Language instruction for limited English proficient children and immigrant children and youth.

TITLE IV—21ST CENTURY SCHOOLS

Sec. 401. 21st century schools.

TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

Sec. 501. Innovative programs and parental choice provisions.
Sec. 502. Continuation of awards.

TITLE VI—FLEXIBILITY AND ACCOUNTABILITY

Sec. 601. Flexibility and accountability.
Sec. 602. Amendment to the National Education Statistics Act of 1994.

TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

Sec. 701. Indians.
Sec. 702. Conforming amendments.
Sec. 703. Savings provisions.

TITLE VIII—IMPACT AID PROGRAM

Sec. 801. Payments relating to Federal acquisition of real property.
Sec. 802. Payments for eligible federally connected children.
Sec. 803. Construction.
Sec. 804. State consideration of payments in providing State aid.
Sec. 805. Authorization of appropriations.

TITLE IX—GENERAL PROVISIONS

Sec. 901. General provisions.

TITLE X—REPEALS, REDESIGNATIONS, AND AMENDMENTS TO OTHER STATUTES

PART A—REPEALS

Sec. 1011. Repeals.
Sec. 1012. Conforming clerical and technical amendments.

PART B—REDESIGNATIONS

Sec. 1021. Comprehensive Regional Assistance Centers.
Sec. 1022. National Diffusion Network.
Sec. 1023. Eisenhower Regional Mathematics and Science Education Consortia.
Sec. 1024. Technology-based technical assistance.
Sec. 1025. Conforming amendments.

PART C—HOMELESS EDUCATION

Sec. 1031. Short title.
Sec. 1032. Education for homeless children and youths.
Sec. 1033. Conforming amendment.
Sec. 1034. Technical amendment.

PART D—NATIVE AMERICAN EDUCATION IMPROVEMENT

Sec. 1041. Short title.
Sec. 1042. Amendments to the Education Amendments of 1978.
Sec. 1043. Tribally Controlled Schools Act of 1988.
Sec. 1044. Lease payments by the Ojibwa Indian school.
Sec. 1045. Enrollment and general assistance payments.

PART E—HIGHER EDUCATION ACT OF 1965

Sec. 1051. Preparing tomorrow's teachers to use technology.
Sec. 1052. Continuation of awards.

PART F—GENERAL EDUCATION PROVISIONS ACT

Sec. 1061. Student privacy, parental access to information, and administration of certain physical examinations to minors.
Sec. 1062. Technical corrections.

PART G—MISCELLANEOUS OTHER STATUTES

Sec. 1071. Title 5 of the United States Code.
Sec. 1072. Department of Education Organization Act.
Sec. 1073. Education Flexibility Partnership Act of 1999.

Sec. 1074. Educational Research, Development, Dissemination, and Improvement Act of 1994.
Sec. 1075. National Child Protection Act of 1993.
Sec. 1076. Technical and conforming amendments.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 4. TRANSITION.

(a) MULTI-YEAR AWARDS.—Except as otherwise provided in this Act, the recipient of a multi-year award under the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act, shall continue to receive funds in accordance with the terms of that award, except that no additional funds may be awarded after September 30, 2002.

(b) PLANNING AND TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act, may use funds available to the recipient under that predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure an orderly implementation of programs authorized by this Act, and the amendments made by this Act.

(c) ORDERLY TRANSITION.—The Secretary shall take such steps as are necessary to provide for the orderly transition to, and implementation of, programs authorized by this Act, and by the amendments made by this Act, from programs authorized by the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act, and the amendments made by this Act, shall be effective upon the date of enactment of this Act.

(b) NONCOMPETITIVE PROGRAMS.—With respect to noncompetitive programs under which any funds are allotted by the Secretary of Education to recipients on the basis of a formula, this Act, and the amendments made by this Act, shall take effect on July 1, 2002.

(c) COMPETITIVE PROGRAMS.—With respect to programs that are conducted by the Secretary on a competitive basis, this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under those programs for fiscal year 2002.

(d) IMPACT AID.—With respect to title VIII (Impact Aid), this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under that title for fiscal year 2002.

SEC. 6. TABLE OF CONTENTS OF ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Act is amended—

(1) in the heading of section 1, by striking “**table of contents**” and inserting “**short title**”; and

(2) by adding after section 1 the following new section:

“SEC. 2. TABLE OF CONTENTS.

“The table of contents for this Act is as follows:

“Sec. 1. Short title.
“Sec. 2. Table of contents.

“TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

“Sec. 1001. Statement of purpose.
“Sec. 1002. Authorization of appropriations.
“Sec. 1003. School improvement.
“Sec. 1004. State administration.

“PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

“Subpart 1—Basic Program Requirements

“Sec. 1111. State plans.
“Sec. 1112. Local educational agency plans.
“Sec. 1113. Eligible school attendance areas.
“Sec. 1114. Schoolwide programs.
“Sec. 1115. Targeted assistance schools.
“Sec. 1116. Academic assessment and local educational agency and school improvement.
“Sec. 1117. School support and recognition.
“Sec. 1118. Parental involvement.
“Sec. 1119. Qualifications for teachers and paraprofessionals.
“Sec. 1120. Participation of children enrolled in private schools.
“Sec. 1120A. Fiscal requirements.
“Sec. 1120B. Coordination requirements.

“Subpart 2—Allocations

“Sec. 1121. Grants for the outlying areas and the secretary of the interior.
“Sec. 1122. Allocations to States.
“Sec. 1124. Basic grants to local educational agencies.
“Sec. 1124A. Concentration grants to local educational agencies.
“Sec. 1125. Targeted grants to local educational agencies.
“Sec. 1125AA. Adequacy of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001.
“Sec. 1125A. Education finance incentive grant program.
“Sec. 1126. Special allocation procedures.
“Sec. 1127. Carryover and waiver.

“PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

“Subpart 1—Reading First

“Sec. 1201. Purposes.
“Sec. 1202. Formula grants to State educational agencies.
“Sec. 1203. State formula grant applications.
“Sec. 1204. Targeted assistance grants.
“Sec. 1205. External evaluation.
“Sec. 1206. National activities.
“Sec. 1207. Information dissemination.
“Sec. 1208. Definitions.

“Subpart 2—Early Reading First

“Sec. 1221. Purposes; definitions.
“Sec. 1222. Local early reading first grants.
“Sec. 1223. Federal administration.
“Sec. 1224. Information dissemination.
“Sec. 1225. Reporting requirements.
“Sec. 1226. Evaluation.

“Subpart 3—William F. Goodling Even Start Family Literacy Programs

“Sec. 1231. Statement of purpose.
“Sec. 1232. Program authorized.
“Sec. 1233. State educational agency programs.
“Sec. 1234. Uses of funds.
“Sec. 1235. Program elements.
“Sec. 1236. Eligible participants.
“Sec. 1237. Applications.
“Sec. 1238. Award of subgrants.
“Sec. 1239. Evaluation.
“Sec. 1240. Indicators of program quality.
“Sec. 1241. Research.
“Sec. 1242. Construction.

“Subpart 4—Improving Literacy Through School Libraries

“Sec. 1251. Improving literacy through school libraries.

“PART C—EDUCATION OF MIGRATORY CHILDREN

“Sec. 1301. Program purpose.
“Sec. 1302. Program authorized.
“Sec. 1303. State allocations.
“Sec. 1304. State applications; services.
“Sec. 1305. Secretarial approval; peer review.
“Sec. 1306. Comprehensive needs assessment and service-delivery plan; authorized activities.
“Sec. 1307. Bypass.
“Sec. 1308. Coordination of migrant education activities.
“Sec. 1309. Definitions.

“PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

“Sec. 1401. Purpose and program authorization.
“Sec. 1402. Payments for programs under this part.

“Subpart 1—State Agency Programs

“Sec. 1411. Eligibility.
“Sec. 1412. Allocation of funds.
“Sec. 1413. State reallocation of funds.
“Sec. 1414. State plan and State agency applications.
“Sec. 1415. Use of funds.
“Sec. 1416. Institution-wide projects.
“Sec. 1417. Three-year programs or projects.
“Sec. 1418. Transition services.
“Sec. 1419. Evaluation; technical assistance; annual model program.

“Subpart 2—Local Agency Programs

“Sec. 1421. Purpose.
“Sec. 1422. Programs operated by local educational agencies.
“Sec. 1423. Local educational agency applications.
“Sec. 1424. Uses of funds.
“Sec. 1425. Program requirements for correctional facilities receiving funds under this section.
“Sec. 1426. Accountability.

“Subpart 3—General Provisions

“Sec. 1431. Program evaluations.
“Sec. 1432. Definitions.

“PART E—NATIONAL ASSESSMENT OF TITLE I

“Sec. 1501. Evaluations.
“Sec. 1502. Demonstrations of innovative practices.
“Sec. 1503. Assessment evaluation.
“Sec. 1504. Close up fellowship program.

“PART F—COMPREHENSIVE SCHOOL REFORM

“Sec. 1601. Purpose.
“Sec. 1602. Program authorization.
“Sec. 1603. State applications.
“Sec. 1604. State use of funds.
“Sec. 1605. Local applications.
“Sec. 1606. Local use of funds.
“Sec. 1607. Evaluation and reports.
“Sec. 1608. Quality initiatives.

“PART G—ADVANCED PLACEMENT PROGRAMS

“Sec. 1701. Short title.
“Sec. 1702. Purposes.
“Sec. 1703. Funding distribution rule.
“Sec. 1704. Advanced placement test fee program.
“Sec. 1705. Advanced placement incentive program grants.
“Sec. 1706. Supplement, not supplant.
“Sec. 1707. Definitions.
“Sec. 1708. Authorization of appropriations.

“PART H—SCHOOL DROPOUT PREVENTION

“Sec. 1801. Short title.
“Sec. 1802. Purpose.
“Sec. 1803. Authorization of appropriations.

“Subpart 1—Coordinated National Strategy

“Sec. 1811. National activities.

“Subpart 2—School Dropout Prevention Initiative

“Sec. 1821. Definitions.
“Sec. 1822. Program authorized.
“Sec. 1823. Applications.
“Sec. 1824. State reservation.
“Sec. 1825. Strategies and capacity building.
“Sec. 1826. Selection of local educational agencies for subgrants.
“Sec. 1827. Community based organizations.
“Sec. 1828. Technical assistance.
“Sec. 1829. School dropout rate calculation.
“Sec. 1830. Reporting and accountability.

“PART I—GENERAL PROVISIONS

“Sec. 1901. Federal regulations.
“Sec. 1902. Agreements and records.
“Sec. 1903. State administration.
“Sec. 1904. Local educational agency spending audits.
“Sec. 1905. Prohibition against Federal mandates, direction, or control.
“Sec. 1906. Rule of construction on equalized spending.
“Sec. 1907. State report on dropout data.
“Sec. 1908. Regulations for sections 1111 and 1116.

“TITLE II—PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS

“PART A—TEACHER AND PRINCIPAL TRAINING AND RECRUITING FUND

“Sec. 2101. Purpose.
“Sec. 2102. Definitions.
“Sec. 2103. Authorizations of appropriations.

“Subpart 1—Grants to States

“Sec. 2111. Allotments to States.
“Sec. 2112. State applications.
“Sec. 2113. State use of funds.

“Subpart 2—Subgrants to Local Educational Agencies

“Sec. 2121. Allocations to local educational agencies.
“Sec. 2122. Local applications and needs assessment.
“Sec. 2123. Local use of funds.

“Subpart 3—Subgrants to Eligible Partnerships

“Sec. 2131. Definitions.
“Sec. 2132. Subgrants.
“Sec. 2133. Applications.
“Sec. 2134. Use of funds.

“Subpart 4—Accountability

“Sec. 2141. Technical assistance and accountability.

“Subpart 5—National Activities

“Sec. 2151. National activities of demonstrated effectiveness.

“PART B—MATHEMATICS AND SCIENCE PARTNERSHIPS

“Sec. 2201. Purpose; definitions.
“Sec. 2202. Grants for mathematics and science partnerships.
“Sec. 2203. Authorization of appropriations.

“PART C—INNOVATION FOR TEACHER QUALITY

“Subpart 1—Transitions to Teaching

“CHAPTER A—TROOPS-TO-TEACHERS PROGRAM

“Sec. 2301. Definitions.
“Sec. 2302. Authorization of Troops-to-Teachers Program.
“Sec. 2303. Recruitment and selection of program participants.
“Sec. 2304. Participation agreement and financial assistance.
“Sec. 2305. Participation by States.
“Sec. 2306. Support of innovative preretirement teacher certification programs.
“Sec. 2307. Reporting requirements.

“CHAPTER B—TRANSITION TO TEACHING PROGRAM

“Sec. 2311. Purposes.
“Sec. 2312. Definitions.
“Sec. 2313. Grant program.
“Sec. 2314. Evaluation and accountability for recruiting and retaining teachers.

“CHAPTER C—GENERAL PROVISIONS

“Sec. 2321. Authorization of appropriations.

“Subpart 2—National Writing Project

“Sec. 2331. Purposes.
“Sec. 2332. National Writing Project.

“Subpart 3—Civic Education

“Sec. 2341. Short title.
“Sec. 2342. Purpose.
“Sec. 2343. General authority.
“Sec. 2344. We the People program.
“Sec. 2345. Cooperative civic education and economic education exchange programs.
“Sec. 2346. Authorization of appropriations.

“Subpart 4—Teaching of Traditional American History

“Sec. 2351. Establishment of program.
“Sec. 2352. Authorization of appropriations.

“Subpart 5—Teacher Liability Protection

“Sec. 2361. Short title.
“Sec. 2362. Purpose.
“Sec. 2363. Definitions.
“Sec. 2364. Applicability.
“Sec. 2365. Preemption and election of State nonapplicability.
“Sec. 2366. Limitation on liability for teachers.
“Sec. 2367. Allocation of responsibility for noneconomic loss.
“Sec. 2368. Effective date.

“PART D—ENHANCING EDUCATION THROUGH TECHNOLOGY

“Sec. 2401. Short title.
“Sec. 2402. Purposes and goals.
“Sec. 2403. Definitions.
“Sec. 2404. Authorization of appropriations.

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TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

SEC. 101. IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED.

Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended to read as follows:

"TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

"SEC. 1001. STATEMENT OF PURPOSE.

"The purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments. This purpose can be accomplished by—

"(1) ensuring that high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement;

"(2) meeting the educational needs of low-achieving children in our Nation's highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance;

"(3) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;

"(4) holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education;

"(5) distributing and targeting resources sufficiently to make a difference to local educational agencies and schools where needs are greatest;

"(6) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to ensure that students are meeting challenging State academic achievement and content standards and increasing achievement overall, but especially for the disadvantaged;

"(7) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance;

"(8) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time;

"(9) promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content;

"(10) significantly elevating the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

"(11) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with other agencies providing services to youth, children, and families; and

"(12) affording parents substantial and meaningful opportunities to participate in the education of their children.

"SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

"(a) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part A, there are authorized to be appropriated—

"(1) $13,500,000,000 for fiscal year 2002;
"(2) $16,000,000,000 for fiscal year 2003;
"(3) $18,500,000,000 for fiscal year 2004;
"(4) $20,500,000,000 for fiscal year 2005;
"(5) $22,750,000,000 for fiscal year 2006; and
"(6) $25,000,000,000 for fiscal year 2007.

"(b) READING FIRST.—

"(1) READING FIRST.—For the purpose of carrying out subpart 1 of part B, there are authorized to be appropriated $900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(2) EARLY READING FIRST.—For the purpose of carrying out subpart 2 of part B, there are authorized to be appropriated $75,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(3) EVEN START.—For the purpose of carrying out subpart 3 of part B, there are authorized to be appropriated $260,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(4) IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.—For the purpose of carrying out subpart 4 of part B, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(c) EDUCATION OF MIGRATORY CHILDREN.—For the purpose of carrying out part C, there are authorized to be appropriated $410,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(d) PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK.—For the purpose of carrying out part D, there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(e) FEDERAL ACTIVITIES.—

"(1) SECTIONS 1501 AND 1502.—For the purpose of carrying out sections 1501 and 1502, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

"(2) SECTION 1504.—

"(A) IN GENERAL.—For the purpose of carrying out section 1504, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

"(B) SPECIAL RULE.—Of the funds appropriated pursuant to subparagraph (A), not more than 30 percent may be used for teachers associated with students participating in the programs described in subsections (a)(1), (b)(1), and (c)(1).

"(f) COMPREHENSIVE SCHOOL REFORM.—For the purpose of carrying out part F, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

"(g) ADVANCED PLACEMENT.—For the purposes of carrying out part G, there are authorized to be appropriated such sums for fiscal year 2002 and each 5 succeeding fiscal year.

"(h) SCHOOL DROPOUT PREVENTION.—For the purpose of carrying out part H, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

"(1) up to 10 percent shall be available to carry out subpart 1 of part H for each fiscal year; and

"(2) the remainder shall be available to carry out subpart 2 of part H for each fiscal year.

"(i) SCHOOL IMPROVEMENT.—For the purpose of carrying out section 1003(g), there are authorized to be appropriated $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"SEC. 1003. SCHOOL IMPROVEMENT.

"(a) STATE RESERVATIONS.—Each State shall reserve 2 percent of the amount the State receives under subpart 2 of part A for fiscal years 2002 and 2003, and 4 percent of the amount received under such subpart for fiscal years 2004 through 2007, to carry out subsection (b) and to carry out the State's responsibilities under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.

"(b) USES.—Of the amount reserved under subsection (a) for any fiscal year, the State educational agency—

"(1) shall allocate not less than 95 percent of that amount directly to local educational agencies for schools identified for school improvement, corrective action, and restructuring, for activities under section 1116(b); or

"(2) may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.

"(c) PRIORITY.—The State educational agency, in allocating funds to local educational agencies under this section, shall give priority to local educational agencies that—

"(1) serve the lowest-achieving schools;

"(2) demonstrate the greatest need for such funds; and

"(3) demonstrate the strongest commitment to ensuring that such funds are used to enable the lowest-achieving schools to meet the progress goals in school improvement plans under section 1116 (b)(3)(A)(v).

"(d) UNUSED FUNDS.—If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds reserved to carry out subsection (b) is greater than the amount needed to provide the assistance described in that subsection, the State educational agency shall allocate the excess amount to local educational agencies in accordance with—

"(1) the relative allocations the State educational agency made to those agencies for that fiscal year under subpart 2 of part A; or

"(2) section 1126(c).

"(e) SPECIAL RULE.—Notwithstanding any other provision of this section, the amount of funds reserved by the State educational agency under subsection (a) in any fiscal year shall not decrease the amount of funds each local educational agency receives under subpart 2 below the amount received by such local educational agency under such subpart for the preceding fiscal year.

"(f) REPORTING.—The State educational agency shall make publicly available a list of those schools that have received funds or services pursuant to subsection (b) and the percentage of students from each school from families with incomes below the poverty line.

"(g) ASSISTANCE FOR LOCAL SCHOOL IMPROVEMENT.—

"(1) PROGRAM AUTHORIZED.—The Secretary shall award grants to States to enable the States to provide subgrants to local educational agencies for the purpose of providing assistance for school improvement consistent with section 1116.

"(2) STATE ALLOTMENTS.—Such grants shall be allotted among States, the Bureau of Indian Affairs, and the outlying areas, in proportion to the funds received by the States, the Bureau of Indian Affairs, and the outlying areas, respectively, for the fiscal year under parts A, C, and D of this title. The Secretary shall expeditiously allot a portion of such funds to States for the purpose of assisting local educational agencies and schools that were in school improvement status on the date preceding the date of enactment of the No Child Left Behind Act of 2001.

"(3) REALLOCATIONS.—If a State does not receive funds under this subsection, the Secretary shall reallocate such funds to other States in the same proportion funds are allocated under paragraph (2).

"(4) STATE APPLICATIONS.—Each State educational agency that desires to receive funds under this subsection shall submit an application to the Secretary at such time, and containing such information, as the Secretary shall reasonably require, except that such requirement shall be waived if a State educational agency submitted such information as part of its State plan under this part. Each State application shall describe how the State educational agency will allocate such funds in order to assist the State educational agency and local educational agencies in complying with school improvement, corrective action, and restructuring requirements of section 1116.

"(5) LOCAL EDUCATIONAL AGENCY GRANTS.—A grant to a local educational agency under this subsection shall be—

"(A) of sufficient size and scope to support the activities required under sections 1116 and 1117, but not less than $50,000 and not more than $500,000 for each participating school;

"(B) integrated with other funds awarded by the State under this Act; and

"(C) renewable for 2 additional 1-year periods if schools are meeting the goals in their school improvement plans developed under section 1116.

"(6) PRIORITY.—The State, in awarding such grants, shall give priority to local educational agencies with the lowest-achieving schools that demonstrate—

"(A) the greatest need for such funds; and

"(B) the strongest commitment to ensuring that such funds are used to provide adequate resources to enable the lowest-achieving schools to meet the goals under school and local educational agency improvement, corrective action, and restructuring plans under section 1116.

"(7) ALLOCATION.—A State educational agency that receives a grant under this subsection shall allocate at least 95 percent of the grant funds directly to local educational agencies for schools identified for school improvement, corrective action, or restructuring to carry out activities under section 1116(b), or may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.

"(8) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant award under this subsection may reserve not more than 5 percent of such grant funds for administration, evaluation, and technical assistance expenses.

"(9) LOCAL AWARDS.—Each local educational agency that applies for assistance under this subsection shall describe how it will provide the lowest-achieving schools the resources necessary to meet goals under school and local educational agency improvement, corrective action, and restructuring plans under section 1116.

"SEC. 1004. STATE ADMINISTRATION.

"(a) IN GENERAL.—Except as provided in subsection (b), to carry out administrative duties assigned under parts A, C, and D of this title, each State may reserve the greater of—

"(1) 1 percent of the amounts received under such parts; or

"(2) $400,000 ($50,000 in the case of each outlying area).

"(b) EXCEPTION.—If the sum of the amounts appropriated for parts A, C, and D of this title is equal to or greater than $14,000,000,000, then the reservation described in subsection (a)(1) shall not exceed 1 percent of the amount the State would receive, if $14,000,000,000 were allocated among the States for parts A, C, and D of this title.

"PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Basic Program Requirements

"SEC. 1111. STATE PLANS.

"(a) PLANS REQUIRED.—

"(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary a plan, developed in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators (including administrators of programs described in other parts of this title), other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Head Start Act, the Adult Education and Family Literacy Act, and the McKinney-Vento Homeless Assistance Act.

"(2) CONSOLIDATED PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 9302.

"(b) ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND ACCOUNTABILITY.—

"(1) CHALLENGING ACADEMIC STANDARDS.—

"(A) IN GENERAL.—Each State plan shall demonstrate that the State has adopted challenging academic content standards and challenging student academic achievement standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

"(B) SAME STANDARDS.—The academic standards required by subparagraph (A) shall be the same academic standards that the State applies to all schools and children in the State.

"(C) SUBJECTS.—The State shall have such academic standards for all public elementary school and secondary school children, including children served under this part, in subjects determined by the State, but including at least mathematics, reading or language arts, and (beginning in the 2005–2006 school year) science, which shall include the same knowledge, skills, and levels of achievement expected of all children.

"(D) CHALLENGING ACADEMIC STANDARDS.—Standards under this paragraph shall include—

"(i) challenging academic content standards in academic subjects that—

"(I) specify what children are expected to know and be able to do;

"(II) contain coherent and rigorous content; and

"(III) encourage the teaching of advanced skills; and

"(ii) challenging student academic achievement standards that—

"(I) are aligned with the State's academic content standards;

"(II) describe 2 levels of high achievement (proficient and advanced) that determine how well children are mastering the material in the State academic content standards; and

"(III) describe a third level of achievement (basic) to provide complete information about the progress of the lower-achieving children toward mastering the proficient and advanced levels of achievement.

"(E) INFORMATION.—For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B), and (C) to develop, and has not otherwise developed, such academic standards, the State plan shall describe a strategy for ensuring that students are taught the same knowledge and skills in such subjects and held to the same expectations as are all children.

"(F) EXISTING STANDARDS.—Nothing in this part shall prohibit a State from revising, consistent with this section, any standard adopted under this part before or after the date of enactment of the No Child Left Behind Act of 2001.

"(2) ACCOUNTABILITY.—

"(A) IN GENERAL.—Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph. Each State accountability system shall—

"(i) be based on the academic standards and academic assessments adopted under paragraphs (1) and (3), and other academic indicators consistent with subparagraph (C)(vi) and (vii), and shall take into account the achievement of all public elementary school and secondary school students;

"(ii) be the same accountability system the State uses for all public elementary schools and secondary schools or all local educational agencies in the State, except that public elementary schools, secondary schools, and local educational agencies not participating under this part are not subject to the requirements of section 1116; and

"(iii) include sanctions and rewards, such as bonuses and recognition, the State will use to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State's definition under subparagraphs (B) and (C).

"(B) ADEQUATE YEARLY PROGRESS.—Each State plan shall demonstrate, based on academic assessments described in paragraph (3), and in accordance with this paragraph, what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, toward enabling all public elementary school and secondary school students to meet the State's student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, local educational agencies, and schools.

"(C) DEFINITION.—'Adequate yearly progress' shall be defined by the State in a manner that—

"(i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

"(ii) is statistically valid and reliable;

"(iii) results in continuous and substantial academic improvement for all students;

"(iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments described in paragraph (3);

"(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:

"(I) The achievement of all public elementary school and secondary school students.

"(II) The achievement of—

"(aa) economically disadvantaged students;

"(bb) students from major racial and ethnic groups;

"(cc) students with disabilities; and

"(dd) students with limited English proficiency;

except that disaggregation of data under subclause (II) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

"(vi) in accordance with subparagraph (D), includes graduation rates for public secondary school students and at least 1 other academic indicator, as determined by the State for all public elementary school students; and

"(vii) in accordance with subparagraph (D), at the State's discretion, may also include other academic indicators, as determined by the State for all public school students, measured separately for each group described in clause (v), such as achievement on additional State or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses.

"(D) REQUIREMENTS FOR OTHER INDICATORS.—In carrying out subparagraph (C)(vi) and (vii), the State—

"(i) shall ensure that the indicators described in those provisions are valid and reliable, and are consistent with relevant, nationally recognized professional and technical standards, if any; and

"(ii) except as provided in subparagraph (I)(i), may not use those indicators to reduce the number of, or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if those additional indicators were not used, but may use them to identify additional schools for school improvement or in need of corrective action or restructuring.

"(E) STARTING POINT.—Each State, using data for the 2001–2002 school year, shall establish the starting point for measuring, under subparagraphs (G) and (H), the percentage of students meeting or exceeding the State's proficient level of academic achievement on the State assessments under paragraph (3) and pursuant to the timeline described in subparagraph (F). The starting point shall be, at a minimum, based on the higher of the percentage of students at the proficient level who are in—

"(i) the State's lowest achieving group of students described in subparagraph (C)(v)(II); or

"(ii) the school at the 20th percentile in the State, based on enrollment, among all schools ranked by the percentage of students at the proficient level.

"(F) TIMELINE.—Each State shall establish a timeline for adequate yearly progress. The timeline shall ensure that not later than 12 years after the end of the 2001–2002 school year, all students in each group described in subparagraph (C)(v) will meet or exceed the State's proficient level of academic achievement on the State assessments under paragraph (3).

"(G) MEASURABLE OBJECTIVES.—Each State shall establish statewide annual measurable objectives, pursuant to subparagraph (C)(v), for meeting the requirements of this paragraph, and which—

"(i) shall be set separately for the assessments of mathematics and reading or language arts under subsection (a)(3);

"(ii) shall be the same for all schools and local educational agencies in the State;

"(iii) shall identify a single minimum percentage of students who are required to meet or exceed the proficient level on the academic assessments that applies separately to each group of students described in subparagraph (C)(v);

"(iv) shall ensure that all students will meet or exceed the State's proficient level of academic achievement on the State assessments within the State's timeline under subparagraph (F); and

"(v) may be the same for more than 1 year, subject to the requirements of subparagraph (H).

"(H) INTERMEDIATE GOALS FOR ANNUAL YEARLY PROGRESS.—Each State shall establish intermediate goals for meeting the requirements, including the measurable objectives in subparagraph (G), of this paragraph and that shall—

"(i) increase in equal increments over the period covered by the State's timeline under subparagraph (F);

"(ii) provide for the first increase to occur in not more than two years; and

"(iii) provide for each following increase to occur in not more than three years.

"(I) ANNUAL IMPROVEMENT FOR SCHOOLS.—Each year, for a school to make adequate yearly progress under this paragraph—

"(i) each group of students described in subparagraph (C)(v) must meet or exceed the objectives set by the State under subparagraph (G), except that if any group described in subparagraph (C)(v) does not meet those objectives in any particular year, the school shall be considered to have made adequate yearly progress if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments under paragraph (3) for that year decreased by 10 percent of that percentage from the preceding school year and that group made progress on one or more of the academic indicators described in subparagraph (C)(vi) or (vii); and

"(ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(xi) and with accommodations, guidelines, and alternative assessments provided in the same manner as those provided under section 612(a)(17)(A) of the Individuals with Disabilities Education Act and paragraph (3), on which adequate yearly progress is based (except that the 95 percent requirement described in this clause shall not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).

"(J) UNIFORM AVERAGING PROCEDURE.—For the purpose of determining whether schools are making adequate yearly progress, the State may establish a uniform procedure for averaging data which includes one or more of the following:

"(i) The State may average data from the school year for which the determination is made with data from one or two school years immediately preceding that school year.

"(ii) Until the assessments described in paragraph (3) are administered in such manner and time to allow for the implementation of the uniform procedure for averaging data described in clause (i), the State may use the academic assessments that were required under paragraph (3) as that paragraph was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001, provided that nothing in this clause shall be construed to undermine or delay the determination of adequate yearly progress, the requirements of section 1116, or the implementation of assessments under this section.

"(iii) The State may use data across grades in a school.

"(3) ACADEMIC ASSESSMENTS.—

"(A) IN GENERAL.—Each State plan shall demonstrate that the State, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year.

"(B) USE OF ASSESSMENTS.—Each State may incorporate the data from the assessments under this paragraph into a State-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time.

"(C) REQUIREMENTS.—Such assessments shall—

"(i) be the same academic assessments used to measure the achievement of all children;

"(ii) be aligned with the State's challenging academic content and student academic achievement standards, and provide coherent information about student attainment of such standards;

"(iii) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards;

"(iv) be used only if the State provides to the Secretary evidence from the test publisher or other relevant sources that the assessments used are of adequate technical quality for each purpose required under this Act and are consistent with the requirements of this section, and such evidence is made public by the Secretary upon request;

"(v)(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

"(aa) grades 3 through 5;

"(bb) grades 6 through 9; and

"(cc) grades 10 through 12;

"(II) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—

"(aa) grades 3 through 5;

"(bb) grades 6 through 9; and

"(cc) grades 10 through 12;

"(vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding;

"(vii) beginning not later than school year 2005–2006, measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of the academic assessments by that deadline and that the State will complete implementation within the additional 1-year period;

"(viii) at the discretion of the State, measure the proficiency of students in academic subjects not described in clauses (v), (vi), (vii) in which the State has adopted challenging academic content and academic achievement standards;

"(ix) provide for—

"(I) the participation in such assessments of all students;

"(II) the reasonable adaptations and accommodations for students with disabilities (as defined under section 602(3) of the Individuals with Disabilities Education Act) necessary to measure the academic achievement of such students relative to State academic content and

State student academic achievement standards; and

"(III) the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency as determined under paragraph (7);

"(x) notwithstanding subclause (III), the academic assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for 3 or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed 2 additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;

"(xi) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

"(xii) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

"(xiii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

"(xiv) be consistent with widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information; and

"(xv) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items.

"(D) DEFERRAL.—A State may defer the commencement, or suspend the administration, but not cease the development, of the assessments described in this paragraph, that were not required prior to the date of enactment of the No Child Left Behind Act of 2001, for 1 year for each year for which the amount appropriated for grants under section 6204(c) is less than—

"(i) $370,000,000 for fiscal year 2002;

"(ii) $380,000,000 for fiscal year 2003;

"(iii) $390,000,000 for fiscal year 2004; and

"(iv) $400,000,000 for fiscal years 2005 through 2007.

"(4) SPECIAL RULE.—Academic assessment measures in addition to those in paragraph (3) that do not meet the requirements of such paragraph may be included in the assessment under paragraph (3) as additional measures, but may not be used in lieu of the academic assessments required under paragraph (3). Such additional assessment measures may not be used to reduce the number of or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring except as provided in paragraph (2)(i)(I).

"(5) STATE AUTHORITY.—If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student academic achievement standards, and academic assessments aligned with such academic standards, which will be applicable to all students enrolled in the State's public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by—

"(A) adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or

"(B) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt curriculum content and student academic achievement standards, and academic assessments aligned with such standards, which—

"(i) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and

"(ii) are applicable to all students served by each such local educational agency.

"(6) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student academic assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

"(7) ACADEMIC ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY.—Each State plan shall demonstrate that local educational agencies in the State will, beginning not later than school year 2002–2003, provide for an annual assessment of English proficiency (measuring students' oral language, reading, and writing skills in English) of all students with limited English proficiency in the schools served by the State, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period.

"(8) REQUIREMENT.—Each State plan shall describe—

"(A) how the State educational agency will assist each local educational agency and school affected by the State plan to develop the capacity to comply with each of the requirements of sections 1112(c)(1)(D), 1114(b), and 1115(c) that is applicable to such agency or school;

"(B) how the State educational agency will assist each local educational agency and school affected by the State plan to provide additional educational assistance to individual students assessed as needing help to achieve the State's challenging academic achievement standards;

"(C) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(E), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

"(D) an assurance that the State educational agency will assist local educational agencies in developing or identifying high-quality effective curricula aligned with State academic achievement standards and how the State educational agency will disseminate such curricula to each local educational agency and school within the State; and

"(E) such other factors the State determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging academic content standards adopted by the State.

"(9) FACTORS AFFECTING STUDENT ACHIEVEMENT.—Each State plan shall include an assurance that the State will coordinate and collaborate, to the extent feasible and necessary as determined by the State, with agencies providing services to children, youth, and families, with respect to local educational agencies within the State that are identified under section 1116 and that request assistance with addressing major factors that have significantly affected the academic achievement of students in the local educational agency or schools served by such agency.

"(10) USE OF ACADEMIC ASSESSMENT RESULTS TO IMPROVE STUDENT ACADEMIC ACHIEVEMENT.—Each State plan shall describe how the State will ensure that the results of the State assessments described in paragraph (3)—

"(A) will be promptly provided to local educational agencies, schools, and teachers in a manner that is clear and easy to understand, but not later than before the beginning of the next school year; and

"(B) be used by those local educational agencies, schools, and teachers to improve the educational achievement of individual students.

"(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING.—Each State plan shall contain assurances that—

"(1) the State will meet the requirements of subsection (h)(1) and, beginning with the 2002–2003 school year, will produce the annual State report cards described in such subsection, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the

State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period;

"(2) the State will, beginning in school year 2002–2003, participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 411(b)(2) of the National Education Statistics Act of 1994 if the Secretary pays the costs of administering such assessments;

"(3) the State educational agency, in consultation with the Governor, will include, as a component of the State plan, a plan to carry out the responsibilities of the State under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies;

"(4) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools, including technical assistance in providing professional development under section 1119, technical assistance under section 1117, and technical assistance relating to parental involvement under section 1118;

"(5)(A) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

"(B) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

"(6) the State educational agency will notify local educational agencies and the public of the content and student academic achievement standards and academic assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

"(7) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

"(8) the State educational agency will inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic achievement;

"(9) the State educational agency will encourage schools to consolidate funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

"(10) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources for schoolwide programs under section 1114;

"(11) the State educational agency has involved the committee of practitioners established under section 1903(b) in developing the plan and monitoring its implementation;

"(12) the State educational agency will inform local educational agencies in the State of the local educational agency's authority to transfer funds under title VI, to obtain waivers under part D of title IX, and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;

"(13) the State will coordinate activities funded under this part with other Federal activities as appropriate; and

"(14) the State educational agency will encourage local educational agencies and individual schools participating in a program assisted under this part to offer family literacy services (using funds under this part), if the agency or school determines that a substantial number of students served under this part by the agency or school have parents who do not have a secondary school diploma or its recognized equivalent or who have low levels of literacy.

"(d) PARENTAL INVOLVEMENT.—Each State plan shall describe how the State will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

"(1) be based on the most current research that meets the highest professional and technical standards, on effective parental involvement that fosters achievement to high standards for all children; and

"(2) be geared toward lowering barriers to greater participation by parents in school planning, review, and improvement experienced.

"(e) PEER REVIEW AND SECRETARIAL APPROVAL.—

"(1) SECRETARIAL DUTIES.—The Secretary shall—

"(A) establish a peer-review process to assist in the review of State plans;

"(B) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, the needs of low-performing schools, and other educational needs of students;

"(C) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements of this section;

"(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c), immediately notify the State of such determination and the reasons for such determination;

"(E) not decline to approve a State's plan before—

"(i) offering the State an opportunity to revise its plan;

"(ii) providing technical assistance in order to assist the State to meet the requirements of subsections (a), (b), and (c); and

"(iii) providing a hearing; and

"(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's academic content standards or to use specific academic assessment instruments or items.

"(2) STATE REVISIONS.—A State shall revise its State plan if necessary to satisfy the requirements of this section.

"(f) DURATION OF THE PLAN.—

"(1) IN GENERAL.—Each State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(2) ADDITIONAL INFORMATION.—If the State makes significant changes to its State plan, such as the adoption of new State academic content standards and State student achievement standards, new academic assessments, or a new definition of adequate yearly progress, the State shall submit such information to the Secretary.

"(g) PENALTIES.—

"(1) FAILURE TO MEET DEADLINES ENACTED IN 1994.—

"(A) IN GENERAL.—If a State fails to meet the deadlines established by the Improving America's Schools Act of 1994 (or under any waiver granted by the Secretary or under any compliance agreement with the Secretary) for demonstrating that the State has in place challenging academic content standards and student achievement standards, and a system for measuring and monitoring adequate yearly progress, the Secretary shall withhold 25 percent of the funds that would otherwise be available to the State for State administration and activities under this part in each year until the Secretary determines that the State meets those requirements.

"(B) NO EXTENSION.—Notwithstanding any other provision of law, 90 days after the date of enactment of the No Child Left Behind Act of 2001 the Secretary shall not grant any additional waivers of, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State.

"(2) FAILURE TO MEET REQUIREMENTS ENACTED IN 2001.—If a State fails to meet any of the requirements of this section, other than the requirements described in paragraph (1), then the Secretary may withhold funds for State administration under this part until the Secretary determines that the State has fulfilled those requirements.

"(h) REPORTS.—

"(1) ANNUAL STATE REPORT CARD.—

"(A) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, unless the State has received a 1-year extension pursuant to subsection (c)(1), a State that receives assistance under this part shall prepare and disseminate an annual State report card.

"(B) IMPLEMENTATION.—The State report card shall be—

"(i) concise; and

"(ii) presented in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

"(C) REQUIRED INFORMATION.—The State shall include in its annual State report card—

"(i) information, in the aggregate, on student achievement at each proficiency level on the State academic assessments described in subsection (b)(3) (disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student);

"(ii) information that provides a comparison between the actual achievement levels of each group of students described in subsection (b)(2)(C)(v) and the State's annual measurable objectives for each such group of students on each of the academic assessments required under this part;

"(iii) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

"(iv) the most recent 2-year trend in student achievement in each subject area, and for each grade level, for which assessments under this section are required;

"(v) aggregate information on any other indicators used by the State to determine the adequate yearly progress of students in achieving State academic achievement standards;

"(vi) graduation rates for secondary school students consistent with subsection (b)(2)(B)(vii);

"(vii) information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and names of each school identified for school improvement under section 1116; and

"(viii) the professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which, for the purpose of this clause, means schools in the top quartile of poverty and the bottom quartile of poverty in the State.

"(D) OPTIONAL INFORMATION.—The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and public secondary schools. Such information may include information regarding—

"(i) school attendance rates;

"(ii) average class size in each grade;

"(iii) academic achievement and gains in English proficiency of limited English proficient students;

"(iv) the incidence of school violence, drug abuse, alcohol abuse, student suspensions, and student expulsions;

"(v) the extent and type of parental involvement in the schools;

"(vi) the percentage of students completing advanced placement courses, and the rate of passing of advanced placement tests; and

"(vii) a clear and concise description of the State's accountability system, including a description of the criteria by which the State evaluates school performance, and the criteria that the State has established, consistent with subsection (b)(2), to determine the status of schools regarding school improvement, corrective action, and restructuring.

"(2) ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS.—

"(A) REPORT CARDS.—

"(i) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, a local educational agency that receives assistance under this part shall prepare and disseminate an annual local educational agency report card, except that the State may provide the local educational agency 1 additional year if the local educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, prevented full implementation of this paragraph by that deadline and that the local educational agency will complete implementation within the additional 1-year period.

"(ii) SPECIAL RULE.—If a State has received an extension pursuant to subsection (c)(1), then a local educational agency within that State shall not be required to include the information required under paragraph (1)(C) in such report card during such extension.

"(B) MINIMUM REQUIREMENTS.—The State shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C) as applied to the local educational agency and each school served by the local educational agency, and—

"(i) in the case of a local educational agency—

"(I) the number and percentage of schools identified for school improvement under section 1116(c) and how long the schools have been so identified; and

"(II) information that shows how students served by the local educational agency achieved on the statewide academic assessment compared to students in the State as a whole; and

"(ii) in the case of a school—

"(I) whether the school has been identified for school improvement; and

"(II) information that shows how the school's students achievement on the statewide academic assessments and other indicators of adequate yearly progress compared to students in the local educational agency and the State as a whole.

"(C) OTHER INFORMATION.—A local educational agency may include in its annual local educational agency report card any other appropriate information, whether or not such information is included in the annual State report card.

"(D) DATA.—A local educational agency or school shall only include in its annual local educational agency report card data that are sufficient to yield statistically reliable information, as determined by the State, and that do not reveal personally identifiable information about an individual student.

"(E) PUBLIC DISSEMINATION.—The local educational agency shall, not later than the beginning of the 2002–2003 school year, unless the local educational agency has received a 1-year extension pursuant to subparagraph (A), publicly disseminate the information described in this paragraph to all schools in the school district served by the local educational agency and to all parents of students attending those schools in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand, and make the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

"(3) PREEXISTING REPORT CARDS.—A State educational agency or local educational agency that was providing public report cards on the performance of students, schools, local educational agencies, or the State prior to the enactment of the No Child Left Behind Act of 2001 may use those report cards for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection.

"(4) ANNUAL STATE REPORT TO THE SECRETARY.—Each State receiving assistance under this part shall report annually to the Secretary, and make widely available within the State—

"(A) beginning with school year 2002–2003, information on the State's progress in developing and implementing the academic assessments described in subsection (b)(3);

"(B) beginning not later than school year 2002–2003, information on the achievement of students on the academic assessments required by subsection (b)(3), including the disaggregated results for the categories of students identified in subsection (b)(2)(C)(v);

"(C) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student academic assessments (including disaggregated results) required under this section;

"(D) beginning not later than school year 2002–2003, unless the State has received an extension pursuant to subsection (c)(1), information on the acquisition of English proficiency by children with limited English proficiency;

"(E) the number and names of each school identified for school improvement under section 1116(c), the reason why each school was so identified, and the measures taken to address the achievement problems of such schools;

"(F) the number of students and schools that participated in public school choice and supplemental service programs and activities under this title; and

"(G) beginning not later than the 2002–2003 school year, information on the quality of teachers and the percentage of classes being taught by highly qualified teachers in the State, local educational agency, and school.

"(5) REPORT TO CONGRESS.—The Secretary shall transmit annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that provides national and State-level data on the information collected under paragraph (4).

"(6) PARENTS RIGHT-TO-KNOW.—

"(A) QUALIFICATIONS.—At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

"(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

"(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

"(iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

"(iv) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

"(B) ADDITIONAL INFORMATION.—In addition to the information that parents may request under subparagraph (A), a school that receives funds under this part shall provide to each individual parent—

"(i) information on the level of achievement of the parent's child in each of the State academic assessments as required under this part; and

"(ii) timely notice that the parent's child has been assigned, or has been taught for 4 or more consecutive weeks by, a teacher who is not highly qualified.

"(C) FORMAT.—The notice and information provided to parents under this paragraph shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

"(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

"(j) TECHNICAL ASSISTANCE.—The Secretary shall provide a State educational agency, at the State educational agency's request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in the development of high-quality academic assessments, the setting of State standards, the development of measures of adequate yearly progress that are valid and reliable, and other relevant areas.

"(k) VOLUNTARY PARTNERSHIPS.—A State may enter into a voluntary partnership with another State to develop and implement the academic assessments and standards required under this section.

"(l) CONSTRUCTION.—Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

"(m) SPECIAL RULE WITH RESPECT TO BUREAU-FUNDED SCHOOLS.—In determining the assessments to be used by each operated or funded by BIA school receiving funds under this part, the following shall apply:

"(1) Each such school that is accredited by the State in which it is operating shall use the

assessments the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment as approved by the Secretary of the Interior.

"(2) Each such school that is accredited by a regional accrediting organization shall adopt an appropriate assessment, in consultation with and with the approval of, the Secretary of the Interior and consistent with assessments adopted by other schools in the same State or region, that meets the requirements of this section.

"(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment meets the requirements of this section.

"SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

"(a) PLANS REQUIRED.—

"(1) SUBGRANTS.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the McKinney-Vento Homeless Assistance Act, and other Acts, as appropriate.

"(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 9305.

"(b) PLAN PROVISIONS.—

"(1) IN GENERAL.—In order to help low-achieving children meet challenging achievement academic standards, each local educational agency plan shall include—

"(A) a description of high-quality student academic assessments, if any, that are in addition to the academic assessments described in the State plan under section 1111(b)(3), that the local educational agency and schools served under this part will use—

"(i) to determine the success of children served under this part in meeting the State student academic achievement standards, and to provide information to teachers, parents, and students on the progress being made toward meeting the State student academic achievement standards described in section 1111(b)(1)(D)(ii);

"(ii) to assist in diagnosis, teaching, and learning in the classroom in ways that best enable low-achieving children served under this part to meet State student achievement academic standards and do well in the local curriculum;

"(iii) to determine what revisions are needed to projects under this part so that such children meet the State student academic achievement standards; and

"(iv) to identify effectively students who may be at risk for reading failure or who are having difficulty reading, through the use of screening, diagnostic, and classroom-based instructional reading assessments, as defined under section 1208;

"(B) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the academic indicators described in section 1111 for the uses described in such section;

"(C) a description of how the local educational agency will provide additional educational assistance to individual students assessed as needing help in meeting the State's challenging student academic achievement standards;

"(D) a description of the strategy the local educational agency will use to coordinate programs under this part with programs under title II to provide professional development for teachers and principals, and, if appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with sections 1118 and 1119;

"(E) a description of how the local educational agency will coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as—

"(i) Even Start, Head Start, Reading First, Early Reading First, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs; and

"(ii) services for children with limited English proficiency, children with disabilities, migratory children, neglected or delinquent youth, Indian children served under part A of title VII, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

"(F) an assurance that the local educational agency will participate, if selected, in the State National Assessment of Educational Progress in 4th and 8th grade reading and mathematics carried out under section 411(b)(2) of the National Education Statistics Act of 1994;

"(G) a description of the poverty criteria that will be used to select school attendance areas under section 1113;

"(H) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this part;

"(I) a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, and for neglected and delinquent children in community day school programs;

"(J) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

"(K) if appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in Early Reading First, or in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, or an agency operating an Even Start program, an Early Reading First program, or another comparable public early childhood development program;

"(L) a description of the actions the local educational agency will take to assist its low-achieving schools identified under section 1116 as in need of improvement;

"(M) a description of the actions the local educational agency will take to implement public school choice and supplemental services, consistent with the requirements of section 1116;

"(N) a description of how the local educational agency will meet the requirements of section 1119;

"(O) a description of the services the local educational agency will provide homeless children, including services provided with funds reserved under section 1113(c)(3)(A);

"(P) a description of the strategy the local educational agency will use to implement effective parental involvement under section 1118; and

"(Q) where appropriate, a description of how the local educational agency will use funds under this part to support after school, (including before school and summer school) and school-year extension programs).

"(2) EXCEPTION.—The academic assessments and indicators described in subparagraphs (A) and (B) of paragraph (1) shall not be used—

"(A) in lieu of the academic assessments required under section 1111(b)(3) and other State academic indicators under section 1111(b)(2); or

"(B) to reduce the number of, or change which, schools would otherwise be subject to school improvement, corrective action, or restructuring under section 1116, if such additional assessments or indicators described in such subparagraphs were not used, but such assessments and indicators may be used to identify additional schools for school improvement or in need of corrective action or restructuring.

"(c) ASSURANCES.—

"(1) IN GENERAL.—Each local educational agency plan shall provide assurances that the local educational agency will—

"(A) inform eligible schools and parents of schoolwide program authority and the ability of such schools to consolidate funds from Federal, State, and local sources;

"(B) provide technical assistance and support to schoolwide programs;

"(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State student academic achievement standards;

"(D) fulfill such agency's school improvement responsibilities under section 1116, including taking actions under paragraphs (7) and (8) of section 1116(b);

"(E) provide services to eligible children attending private elementary schools and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;

"(F) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant scientifically based research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part;

"(G) in the case of a local educational agency that chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act;

"(H) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;

"(I) comply with the requirements of section 1119 regarding the qualifications of teachers and paraprofessionals and professional development;

"(J) inform eligible schools of the local educational agency's authority to obtain waivers on the school's behalf under title IX and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;

"(K) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with the State educational agency and other agencies providing services to children, youth, and families with respect to a school in school improvement, corrective action, or restructuring under section 1116 if such a school requests assistance from the local educational agency in addressing major factors that have significantly affected student achievement at the school;

"(L) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;

"(M) use the results of the student academic assessments required under section 1111(b)(3), and other measures or indicators available to the agency, to review annually the progress of each school served by the agency and receiving funds under this part to determine whether all of the schools are making the progress necessary to ensure that all students will meet the State's proficient level of achievement on the State academic assessments described in section 1111(b)(3) within 12 years from the baseline year described in section 1111(b)(2)(E)(ii);

"(N) ensure that the results from the academic assessments required under section 1111(b)(3) will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

"(O) assist each school served by the agency and assisted under this part in developing or identifying examples of high-quality, effective curricula consistent with section 1111(b)(8)(D).

"(2) SPECIAL RULE.—In carrying out subparagraph (G) of paragraph (1), the Secretary—

"(A) shall consult with the Secretary of Health and Human Services and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

"(B) shall disseminate to local educational agencies the Head Start performance standards as in effect under section 641A(a) of the Head Start Act, and such agencies affected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

"(3) INAPPLICABILITY.—Paragraph (1)(G) of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs that are expanded through the use of funds under this part.

"(d) PLAN DEVELOPMENT AND DURATION.—

"(1) CONSULTATION.—Each local educational agency plan shall be developed in consultation with teachers, principals, administrators (including administrators of programs described in other parts of this title), and other appropriate school personnel, and with parents of children in schools served under this part.

"(2) DURATION.—Each such plan shall be submitted for the first year for which this part is in effect following the date of enactment of the No Child Left Behind Act of 2001 and shall remain in effect for the duration of the agency's participation under this part.

"(3) REVIEW.—Each local educational agency shall periodically review and, as necessary, revise its plan.

"(e) STATE APPROVAL.—

"(1) IN GENERAL.—Each local educational agency plan shall be filed according to a schedule established by the State educational agency.

"(2) APPROVAL.—The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan—

"(A) enables schools served under this part to substantially help children served under this part meet the academic standards expected of all children described in section 1111(b)(1); and

"(B) meets the requirements of this section.

"(3) REVIEW.—The State educational agency shall review the local educational agency's plan to determine if such agencies activities are in accordance with sections 1118 and 1119.

"(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

"(g) PARENTAL NOTIFICATION.—

"(1) IN GENERAL.—

"(A) NOTICE.—Each local educational agency using funds under this part to provide a language instruction educational program as determined in part C of title III shall, not later than 30 days after the beginning of the school year, inform a parent or parents of a limited English proficient child identified for participation or participating in, such a program of—

"(i) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

"(ii) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

"(iii) the methods of instruction used in the program in which their child is, or will be participating, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

"(iv) how the program in which their child is, or will be participating, will meet the educational strengths and needs of their child;

"(v) how such program will specifically help their child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;

"(vi) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this part are used for children in secondary schools;

"(vii) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child;

"(viii) information pertaining to parental rights that includes written guidance—

"(I) detailing—

"(aa) the right that parents have to have their child immediately removed from such program upon their request; and

"(bb) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

"(II) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

"(B) SEPARATE NOTIFICATION.—In addition to providing the information required to be provided under paragraph (1), each eligible entity that is using funds provided under this part to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 3122 for any fiscal year for which part A is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

"(2) NOTICE.—The notice and information provided in paragraph (1) to a parent or parents of a child identified for participation in a language instruction educational program for limited English proficient children shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

"(3) SPECIAL RULE APPLICABLE DURING THE SCHOOL YEAR.—For those children who have not been identified as limited English proficient prior to the beginning of the school year the local educational agency shall notify parents within the first 2 weeks of the child being placed in a language instruction educational program consistent with paragraphs (1) and (2).

"(4) PARENTAL PARTICIPATION.—Each local educational agency receiving funds under this part shall implement an effective means of outreach to parents of limited English proficient students to inform the parents regarding how the parents can be involved in the education of their children, and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet challenging State academic achievement standards and State academic content standards expected of all students, including holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this part.

"(5) BASIS FOR ADMISSION OR EXCLUSION.—A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

"SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

"(a) DETERMINATION.—

"(1) IN GENERAL.—A local educational agency shall use funds received under this part only in eligible school attendance areas.

"(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—For the purposes of this part—

"(A) the term 'school attendance area' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

"(B) the term 'eligible school attendance area' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families served by the local educational agency as a whole.

"(3) RANKING ORDER.—If funds allocated in accordance with subsection (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall—

"(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order.

"(4) REMAINING FUNDS.—If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

"(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

"(5) MEASURES.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act, the number of children in families receiving assistance under the State

program funded under part A of title IV of the Social Security Act, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

"(A) to identify eligible school attendance areas;

"(B) to determine the ranking of each area; and

"(C) to determine allocations under subsection (c).

"(6) EXCEPTION.—This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

"(7) WAIVER FOR DESEGREGATION PLANS.—The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered, court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if—

"(A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and

"(B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

"(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(2), a local educational agency may—

"(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

"(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency;

"(C) designate and serve a school attendance area or school that is not eligible under this section, but that was eligible and that was served in the preceding fiscal year, but only for 1 additional fiscal year; and

"(D) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

"(i) the school meets the comparability requirements of section 1120A(c);

"(ii) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 1114 or 1115; and

"(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1)(D), the number of children attending private elementary schools and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

"(c) ALLOCATIONS.—

"(1) IN GENERAL.—A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsections (a) and (b), in rank order, on the basis of the total number of children from low-income families in each area or school.

"(2) SPECIAL RULE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the per-pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per-pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 1112, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

"(B) EXCEPTION.—A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(3) RESERVATION.—A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

"(A) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live;

"(B) children in local institutions for neglected children; and

"(C) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.

"(4) FINANCIAL INCENTIVES AND REWARDS RESERVATION.—A local educational agency may reserve such funds as are necessary from those funds received by the local educational agency under title II, and not more than 5 percent of those funds received by the local educational agency under subpart 2, to provide financial incentives and rewards to teachers who serve in schools eligible under this section and identified for school improvement, corrective action, and restructuring under section 1116(b) for the purpose of attracting and retaining qualified and effective teachers.

"SEC. 1114. SCHOOLWIDE PROGRAMS.

"(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

"(1) IN GENERAL.—A local educational agency may consolidate and use funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families.

"(2) IDENTIFICATION OF STUDENTS NOT REQUIRED.—

"(A) IN GENERAL.—No school participating in a schoolwide program shall be required—

"(i) to identify particular children under this part as eligible to participate in a schoolwide program; or

"(ii) to provide services to such children that are supplementary, as otherwise required by section 1120A(b).

"(B) SUPPLEMENTAL FUNDS.—A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

"(3) EXEMPTION FROM STATUTORY AND REGULATORY REQUIREMENTS.—

"(A) EXEMPTION.—Except as provided in subsection (b), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act, except as provided in section 613(a)(2)(D) of such Act), or any discretionary grant program administered by the Secretary, to support schoolwide programs if the intent and purposes of such other programs are met.

"(B) REQUIREMENTS.—A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State educational agencies or local educational agencies that apply to the receipt of funds from such programs.

"(C) RECORDS.—A school that consolidates and uses funds from different Federal programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program.

"(4) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) in accordance with section 1119 for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

"(b) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

"(1) IN GENERAL.—A schoolwide program shall include the following components:

"(A) A comprehensive needs assessment of the entire school (including taking into account the needs of migratory children as defined in section 1309(2)) that is based on information which includes the achievement of children in relation to the State academic content standards and the State student academic achievement standards described in section 1111(b)(1).

"(B) Schoolwide reform strategies that—

"(i) provide opportunities for all children to meet the State's proficient and advanced levels of student academic achievement described in section 1111(b)(1)(D);

"(ii) use effective methods and instructional strategies that are based on scientifically based research that—

"(I) strengthen the core academic program in the school;

"(II) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

"(III) include strategies for meeting the educational needs of historically underserved populations;

"(iii)(I) include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State student academic achievement standards who are members of the target population of any program that is included in the schoolwide program, which may include—

"(aa) counseling, pupil services, and mentoring services;

"(bb) college and career awareness and preparation, such as college and career guidance, personal finance education, and innovative teaching methods, which may include applied learning and team-teaching strategies; and

"(cc) the integration of vocational and technical education programs; and

"(II) address how the school will determine if such needs have been met; and

"(iv) are consistent with, and are designed to implement, the State and local improvement plans, if any.

"(C) Instruction by highly qualified teachers.

"(D) In accordance with section 1119 and subsection (a)(4), high-quality and ongoing professional development for teachers, principals, and paraprofessionals and, if appropriate, pupil services personnel, parents, and other staff to enable all children in the school to meet the State's student academic achievement standards.

"(E) Strategies to attract high-quality highly qualified teachers to high-need schools.

"(F) Strategies to increase parental involvement in accordance with section 1118, such as family literary services.

"(G) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, Early Reading First, or a State-run preschool program, to local elementary school programs.

"(H) Measures to include teachers in the decisions regarding the use of academic assessments described in section 1111(b)(3) in order to provide information on, and to improve, the achievement of individual students and the overall instructional program.

"(I) Activities to ensure that students who experience difficulty mastering the proficient or advanced levels of academic achievement standards required by section 1111(b)(1) shall be provided with effective, timely additional assistance which shall include measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.

"(J) Coordination and integration of Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

"(2) PLAN.—

"(A) IN GENERAL.—Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence on the day before the date of enactment of the No Child Left Behind Act of 2001), in consultation with the local educational agency and its school support team or other technical assistance provider under section 1117, a comprehensive plan for reforming the total instructional program in the school that—

"(i) describes how the school will implement the components described in paragraph (1);

"(ii) describes how the school will use resources under this part and from other sources to implement those components;

"(iii) includes a list of State educational agency and local educational agency programs and other Federal programs under subsection (a)(3) that will be consolidated in the schoolwide program; and

"(iv) describes how the school will provide individual student academic assessment results in a language the parents can understand, including an interpretation of those results, to the parents of a child who participates in the academic assessments required by section 1111(b)(3).

"(B) PLAN DEVELOPMENT.—The comprehensive plan shall be—

"(i) developed during a one-year period, unless—

"(I) the local educational agency, after considering the recommendation of the technical assistance providers under section 1117, determines that less time is needed to develop and implement the schoolwide program; or

"(II) the school is operating a schoolwide program on the day preceding the date of enactment of the No Child Left Behind Act of 2001, in which case such school may continue to operate such program, but shall develop amendments to its existing plan during the first year of assistance after that date to reflect the provisions of this section;

"(ii) developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, and administrators (including administrators of programs described in other parts of this title), and, if appropriate, pupil services personnel, technical assistance providers, school staff, and, if the plan relates to a secondary school, students from such school;

"(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

"(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

"(v) if appropriate, developed in coordination with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

"(c) PREKINDERGARTEN PROGRAM.—A school that is eligible for a schoolwide program under this section may use funds made available under this part to establish or enhance prekindergarten programs for children below the age of 6, such as Even Start programs or Early Reading First programs.

"SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

"(a) IN GENERAL.—In all schools selected to receive funds under section 1113(c) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency serving such school may use funds received under this part only for programs that provide services to eligible children under subsection (b) identified as having the greatest need for special assistance.

"(b) ELIGIBLE CHILDREN.—

"(1) ELIGIBLE POPULATION.—

"(A) IN GENERAL.—The eligible population for services under this section is—

"(i) children not older than age 21 who are entitled to a free public education through grade 12; and

"(ii) children who are not yet at a grade level at which the local educational agency provides a free public education.

"(B) ELIGIBLE CHILDREN FROM ELIGIBLE POPULATION.—From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student academic achievement standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade 2 shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

"(2) CHILDREN INCLUDED.—

"(A) IN GENERAL.—Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

"(B) HEAD START, EVEN START, OR EARLY READING FIRST CHILDREN.—A child who, at any time in the 2 years preceding the year for which the determination is made, participated in a Head Start, Even Start, or Early Reading First program, or in preschool services under this title, is eligible for services under this part.

"(C) PART C CHILDREN.—A child who, at any time in the 2 years preceding the year for which the determination is made, received services under part C is eligible for services under this part.

"(D) NEGLECTED OR DELINQUENT CHILDREN.—A child in a local institution for neglected or delinquent children and youth or attending a community day program for such children is eligible for services under this part.

"(E) HOMELESS CHILDREN.—A child who is homeless and attending any school served by the local educational agency is eligible for services under this part.

"(3) SPECIAL RULE.—Funds received under this part may not be used to provide services that are otherwise required by law to be made available to children described in paragraph (2) but may be used to coordinate or supplement such services.

"(c) COMPONENTS OF A TARGETED ASSISTANCE SCHOOL PROGRAM.—

"(1) IN GENERAL.—To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's challenging student academic achievement standards in subjects as determined by the State, each targeted assistance program under this section shall—

"(A) use such program's resources under this part to help participating children meet such State's challenging student academic achievement standards expected for all children;

"(B) ensure that planning for students served under this part is incorporated into existing school planning;

"(C) use effective methods and instructional strategies that are based on scientifically based research that strengthens the core academic program of the school and that—

"(i) give primary consideration to providing extended learning time, such as an extended school year, before- and after-school, and summer programs and opportunities;

"(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

"(iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;

"(D) coordinate with and support the regular education program, which may include services to assist preschool children in the transition from early childhood programs such as Head Start, Even Start, Early Reading First or State-run preschool programs to elementary school programs;

"(E) provide instruction by highly qualified teachers;

"(F) in accordance with subsection (e)(3) and section 1119, provide opportunities for professional development with resources provided under this part, and, to the extent practicable, from other sources, for teachers, principals, and paraprofessionals, including, if appropriate, pupil services personnel, parents, and other staff, who work with participating children in programs under this section or in the regular education program;

"(G) provide strategies to increase parental involvement in accordance with section 1118, such as family literacy services; and

"(H) coordinate and integrate Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

"(2) REQUIREMENTS.—Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) to meet the State's proficient and advanced levels of achievement by—

"(A) the coordinating of resources provided under this part with other resources; and

"(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student academic achievement standards, such as an extended school year, before- and after-school, and summer programs and opportunities, training for teachers regarding how to identify students who need additional assistance, and training for teachers regarding how to implement student academic achievement standards in the classroom.

"(d) INTEGRATION OF PROFESSIONAL DEVELOPMENT.—To promote the integration of staff supported with funds under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

"(1) participate in general professional development and school planning activities; and

"(2) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

"(e) SPECIAL RULES.—

"(1) SIMULTANEOUS SERVICE.—Nothing in this section shall be construed to prohibit a school from serving students under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(2) COMPREHENSIVE SERVICES.—If—

"(A) health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers; and

"(B) funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

"(i) the provision of basic medical equipment, such as eyeglasses and hearing aids;

"(ii) compensation of a coordinator; and

"(iii) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

"(3) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to carry out effectively the professional development activities described in subparagraph (F) of subsection (c)(1) in accordance with section 1119 for such fiscal year, and a school may enter into a consortium with another school to carry out such activities.

"SEC. 1116. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

"(a) LOCAL REVIEW.—

"(1) IN GENERAL.—Each local educational agency receiving funds under this part shall—

"(A) use the State academic assessments and other indicators described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2);

"(B) at the local educational agency's discretion, use any academic assessments or any other academic indicators described in the local educational agency's plan under section 1112(b)(1)(A) and (B) to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2), except that the local educational agency may not use such indicators (other than as provided for in section 1111(b)(2)(I)) if the indicators reduce the number or change the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may identify additional schools for school improvement or in need of corrective action or restructuring;

"(C) publicize and disseminate the results of the local annual review described in paragraph (1) to parents, teachers, principals, schools, and the community so that the teachers, principals, other staff, and schools can continually refine, in an instructionally useful manner, the program of instruction to help all children served under this part meet the challenging State student academic achievement standards established under section 1111(b)(1); and

"(D) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this part.

"(2) AVAILABLE RESULTS.—The State educational agency shall ensure that the results of State academic assessments administered in that school year are available to the local educational agency before the beginning of the next school year.

"(b) SCHOOL IMPROVEMENT.—

"(1) GENERAL REQUIREMENTS.—

"(A) IDENTIFICATION.—Subject to subparagraph (C), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State's plan under section 1111(b)(2).

"(B) DEADLINE.—The identification described in subparagraph (A) shall take place before the beginning of the school year following such failure to make adequate yearly progress.

"(C) APPLICATION.—Subparagraph (A) shall not apply to a school if almost every student in each group specified in section 1111(b)(2)(C)(v) enrolled in such school is meeting or exceeding the State's proficient level of academic achievement.

"(D) TARGETED ASSISTANCE SCHOOLS.—To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified for school improvement, corrective action, or restructuring under this section, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

"(E) PUBLIC SCHOOL CHOICE.—

"(i) IN GENERAL.—In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

"(ii) RULE.—In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1).

"(F) TRANSFER.—Students who use the option to transfer under subparagraph (E) and paragraph (5)(A), (7)(C)(i), or (8)(A)(i) or subsection (c)(10)(C)(vii) shall be enrolled in classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.

"(2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT.—

"(A) IDENTIFICATION.—Before identifying an elementary school or a secondary school for school improvement under paragraphs (1) or (5)(A), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

"(B) EVIDENCE.—If the principal of a school proposed for identification under paragraph (1), (5)(A), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

"(C) FINAL DETERMINATION.—Not later than 30 days after a local educational agency provides the school with the opportunity to review such school-level data, the local educational agency shall make public a final determination on the status of the school with respect to the identification.

"(3) SCHOOL PLAN.—

"(A) REVISED PLAN.—After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, and outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and—

"(i) incorporate strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement, and may include a strategy for the implementation of a comprehensive school reform model that includes each of the components described in part F;

"(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 1111(b)(2)(C)(v) and enrolled in the school will meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(3) not later than 12 years after the end of the 2001–2002 school year;

"(iii) provide an assurance that the school will spend not less than 10 percent of the funds made available to the school under section 1113 for each fiscal year that the school is in school improvement status, for the purpose of providing to the school's teachers and principal high-quality professional development that—

"(I) directly addresses the academic achievement problem that caused the school to be identified for school improvement;

"(II) meets the requirements for professional development activities under section 1119; and

"(III) is provided in a manner that affords increased opportunity for participating in that professional development;

"(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

"(v) establish specific annual, measurable objectives for continuous and substantial progress by each group of students specified in section 1111(b)(2)(C)(v) and enrolled in the school that will ensure that all such groups of students will, in accordance with adequate yearly progress as defined in section 1111(b)(2), meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(3) not later than 12 years after the end of the 2001–2002 school year;

"(vi) describe how the school will provide written notice about the identification to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language that the parents can understand;

"(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4) and the local educational agency's responsibilities under section 1120A;

"(viii) include strategies to promote effective parental involvement in the school;

"(ix) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year; and

"(x) incorporate a teacher mentoring program.

"(B) CONDITIONAL APPROVAL.—The local educational agency may condition approval of a school plan under this paragraph on—

"(i) inclusion of one or more of the corrective actions specified in paragraph (7)(C)(iv); or

"(ii) feedback on the school improvement plan from parents and community leaders.

"(C) PLAN IMPLEMENTATION.—Except as provided in subparagraph (D), a school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification under paragraph (1).

"(D) PLAN APPROVED DURING SCHOOL YEAR.—Notwithstanding subparagraph (C), if a plan is not approved prior to the beginning of a school year, such plan shall be implemented immediately upon approval.

"(E) LOCAL EDUCATIONAL AGENCY APPROVAL.—The local educational agency, within 45 days of receiving a school plan, shall—

"(i) establish a peer review process to assist with review of the school plan; and

"(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

"(4) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall ensure the provision of technical assistance as the school develops and implements the school plan under paragraph (3) throughout the plan's duration.

"(B) SPECIFIC ASSISTANCE.—Such technical assistance—

"(i) shall include assistance in analyzing data from the assessments required under section 1111(b)(3), and other examples of student work, to identify and address, problems in instruction and problems, if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan, and to identify and address solutions to such problems;

"(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

"(iii) shall include assistance in analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student academic achievement and to remove the school from school improvement status; and

"(iv) may be provided—

"(I) by the local educational agency, through mechanisms authorized under section 1117; or

"(II) by the State educational agency, an institution of higher education (that is in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement.

"(C) SCIENTIFICALLY BASED RESEARCH.—Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

"(5) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS AFTER IDENTIFICATION.—In the case of any school served under this part that fails to make adequate yearly progress, as defined by the State under section 1111(b)(2), by the end of the first full school year after identification under paragraph (1), the local educational agency serving such school—

"(A) shall continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency in accordance with subparagraphs (E) and (F);

"(B) shall make supplemental educational services available consistent with subsection (e)(1); and

"(C) shall continue to provide technical assistance.

"(6) NOTICE TO PARENTS.—A local educational agency shall promptly provide to a parent or parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a seconddry school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8)—

"(A) an explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the local educational agency and the State educational agency involved;

"(B) the reasons for the identification;

"(C) an explanation of what the school identified for school improvement is doing to address the problem of low achievement;

"(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

"(E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

"(F) an explanation of the parents' option to transfer their child to another public school under paragraphs (1)(E), (5)(A), (7)(C)(i), (8)(A)(i), and subsection (c)(10)(C)(vii) (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, in accordance with subsection (e).

"(7) CORRECTIVE ACTION.—

"(A) IN GENERAL.—In this subsection, the term 'corrective action' means action, consistent with State law, that—

"(i) substantially and directly responds to—

"(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

"(II) any underlying staffing, curriculum, or other problems in the school; and

"(ii) is designed to increase substantially the likelihood that each group of students described in 1111(b)(2)(C) enrolled in the school identified for corrective action will meet or exceed the State's proficient levels of achievement on the State academic assessments described in section 1111(b)(3).

"(B) SYSTEM.—In order to help students served under this part meet challenging State student academic achievement standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (E).

"(C) ROLE OF LOCAL EDUCATIONAL AGENCY.—In the case of any school served by a local educational agency under this part that fails to make adequate yearly progress, as defined by the State under section 1111(b)(2), by the end of the second full school year after the identification under paragraph (1), the local educational agency shall—

"(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

"(ii) continue to provide technical assistance consistent with paragraph (4) while instituting any corrective action under clause (iv);

"(iii) continue to make supplemental educational services available, in accordance with subsection (e), to children who remain in the school; and

"(iv) identify the school for corrective action and take at least one of the following corrective actions:

"(I) Replace the school staff who are relevant to the failure to make adequate yearly progress.

"(II) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make adequate yearly progress.

"(III) Significantly decrease management authority at the school level.

"(IV) Appoint an outside expert to advise the school on its progress toward making adequate yearly progress, based on its school plan under paragraph (3).

"(V) Extend the school year or school day for the school.

"(VI) Restructure the internal organizational structure of the school.

"(D) DELAY.—Notwithstanding any other provision of this paragraph, the local educational agency may delay, for a period not to exceed 1 year, implementation of the requirements under paragraph (5), corrective action under this paragraph, or restructuring under paragraph (8) if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

"(E) PUBLICATION AND DISSEMINATION.—The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school—

"(i) to the public and to the parents of each student enrolled in the school subject to corrective action;

“(ii) in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

“(iii) through such means as the Internet, the media, and public agencies.

“(8) RESTRUCTURING.—

“(A) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS.—If, after 1 full school year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress, then the local educational agency shall—

“(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

“(ii) continue to make supplemental educational services available, in accordance with subsection (e), to children who remain in the school; and

“(iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

“(B) ALTERNATIVE GOVERNANCE.—Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement one of the following alternative governance arrangements for the school consistent with State law:

“(i) Reopening the school as a public charter school.

“(ii) Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make adequate yearly progress.

“(iii) Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.

“(iv) Turning the operation of the school over to the State, if permitted under State law and agreed to by the State.

“(v) Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under section 1111(b)(2). In the case of a rural local educational agency with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this clause.

“(C) PROMPT NOTICE.—The local educational agency shall—

“(i) provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies; and

“(ii) provide the teachers and parents with an adequate opportunity to—

“(I) comment before taking any action under those subparagraphs; and

“(II) participate in developing any plan under subparagraph (A)(iii).

“(9) TRANSPORTATION.—In any case described in paragraph (1)(E) for schools described in paragraphs (1)(A), (5), (7)(C)(i), and (8)(A), and subsection (c)(10)(C)(vii), the local educational agency shall provide, or shall pay for the provision of, transportation for the student to the public school the student attends.

“(10) FUNDS FOR TRANSPORTATION AND SUPPLEMENTAL EDUCATIONAL SERVICES.—

“(A) IN GENERAL.—Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e), a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2, from which the agency shall spend—

“(i) an amount equal to 5 percent of its allocation under subpart 2 to provide, or pay for, transportation under paragraph (9);

“(ii) an amount equal to 5 percent of its allocation under subpart 2 to provide supplemental educational services under subsection (e); and

“(iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 for transportation under paragraph (9), supplemental educational services under subsection (e), or both, as the agency determines.

“(B) TOTAL AMOUNT.—The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e).

“(C) INSUFFICIENT FUNDS.—If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

“(D) PROHIBITION.—A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under section 1113(c) to a school described in paragraph (7)(C) or (8)(A) of subsection (b).

“(11) COOPERATIVE AGREEMENT.—In any case described in paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii) if all public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

“(12) DURATION.—If any school identified for school improvement, corrective action, or restructuring makes adequate yearly progress for 2 consecutive school years, the local educational agency shall no longer subject the school to the requirements of school improvement, corrective action, or restructuring or identify the school for school improvement for the succeeding school year.

“(13) SPECIAL RULE.—A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

“(14) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

“(A) make technical assistance under section 1117 available to schools identified for school improvement, corrective action, or restructuring under this subsection consistent with section 1117(a)(2);

“(B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines to be appropriate and in compliance with State law;

“(C) ensure that academic assessment results under this part are provided to schools before any identification of a school may take place under this subsection; and

“(D) for local educational agencies or schools identified for improvement under this subsection, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 1111(b)(9) that have significantly affected student academic achievement.

“(c) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

“(1) IN GENERAL.—A State shall—

“(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student academic achievement standards and to determine if each local educational agency is carrying out its responsibilities under this section and sections 1117, 1118, and 1119; and

“(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 1111(b)(2).

“(2) REWARDS.—In the case of a local educational agency that, for 2 consecutive years, has exceeded adequate yearly progress as defined in the State plan under section 1111(b)(2), the State may make rewards of the kinds described under section 1117 to the agency.

“(3) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State shall identify for improvement any local educational agency that, for 2 consecutive years, including the period immediately prior to the date of enactment of the No Child Left Behind Act of 2001, failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2).

“(4) TARGETED ASSISTANCE SCHOOLS.—When reviewing targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served, or are eligible for services, under this part.

“(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—

“(A) REVIEW.—Before identifying a local educational agency for improvement under paragraph (3) or corrective action under paragraph (10), a State educational agency shall provide the local educational agency with an opportunity to review the data, including academic assessment data, on which the proposed identification is based.

“(B) EVIDENCE.—If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency, which shall consider the evidence before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

“(6) NOTIFICATION TO PARENTS.—The State educational agency shall promptly provide to the parents (in a format and, to the extent practicable, in a language the parents can understand) of each student enrolled in a school served by a local educational agency identified for improvement, the results of the review under paragraph (1) and, if the agency is identified for improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

“(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—

“(A) PLAN.—Each local educational agency identified under paragraph (3) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan, in

consultation with parents, school staff, and others. Such plan shall—

"(i) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the local educational agency;

"(ii) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards;

"(iii) address the professional development needs of the instructional staff serving the agency by committing to spend not less than 10 percent of the funds received by the local educational agency under subpart 2 for each fiscal year in which the agency is identified for improvement for professional development (including funds reserved for professional development under subsection (b)(3)(A)(iii)), but excluding funds reserved for professional development under section 1119;

"(iv) include specific measurable achievement goals and targets for each of the groups of students identified in the disaggregated data pursuant to section 1111(b)(2)(C)(v), consistent with adequate yearly progress as defined under section 1111(b)(2);

"(v) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-achieving students, including a determination of why the local educational agency's prior plan failed to bring about increased student academic achievement;

"(vi) incorporate, as appropriate, activities before school, after school, during the summer, and during an extension of the school year;

"(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including specifying the technical assistance to be provided by the State educational agency under paragraph (9) and the local educational agency's responsibilities under section 1120A; and

"(viii) include strategies to promote effective parental involvement in the school.

"(B) IMPLEMENTATION.—The local educational agency shall implement the plan (including a revised plan) expeditiously, but not later than the beginning of the next school year after the school year in which the agency was identified for improvement.

"(9) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—

"(A) TECHNICAL OR OTHER ASSISTANCE.—For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance if requested, as authorized under section 1117, to better enable the local educational agency to—

"(i) develop and implement the local educational agency's plan; and

"(ii) work with schools needing improvement.

"(B) METHODS AND STRATEGIES.—Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies based on scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 1118 and the professional development activities described in section 1119.

"(10) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State student academic achievement standards, each State shall implement a system of corrective action in accordance with the following:

"(A) DEFINITION.—As used in this paragraph, the term 'corrective action' means action, consistent with State law, that—

"(i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the agency; and

"(ii) is designed to meet the goal of having all students served under this part achieve at the proficient and advanced student academic achievement levels.

"(B) GENERAL REQUIREMENTS.—After providing technical assistance under paragraph (9) and subject to subparagraph (E), the State—

"(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3);

"(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, by the end of the second full school year after the identification of the agency under paragraph (3); and

"(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

"(C) CERTAIN CORRECTIVE ACTIONS REQUIRED.—In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:

"(i) Deferring programmatic funds or reducing administrative funds.

"(ii) Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.

"(iii) Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.

"(iv) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.

"(v) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

"(vi) Abolishing or restructuring the local educational agency.

"(vii) Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F), and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9), in conjunction with carrying out not less than 1 additional action described under this subparagraph.

"(D) HEARING.—Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

"(E) NOTICE TO PARENTS.—The State educational agency shall publish, and disseminate to parents and the public, information on any corrective action the State educational agency takes under this paragraph through such means as the Internet, the media, and public agencies.

"(F) DELAY.—Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

"(11) SPECIAL RULE.—If a local educational agency makes adequate yearly progress for 2 consecutive school years beginning after the date of identification of the agency under paragraph (3), the State educational agency need no longer subject the local educational agency to corrective action for the succeeding school year.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

"(e) SUPPLEMENTAL EDUCATIONAL SERVICES.—

"(1) SUPPLEMENTAL EDUCATIONAL SERVICES.—In the case of any school described in paragraph (5), (7), or (8) of subsection (b), the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

"(2) LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES.—Each local educational agency subject to this subsection shall—

"(A) provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of—

"(i) the availability of services under this subsection;

"(ii) the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and

"(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

"(B) if requested, assist parents in choosing a provider from the list of approved providers maintained by the State;

"(C) apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all students; and

"(D) not disclose to the public the identity of any student who is eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of the student.

"(3) AGREEMENT.—In the case of the selection of an approved provider by a parent, the local educational agency shall enter into an agreement with such provider. Such agreement shall—

"(A) require the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 614(d) of the Individuals with Disabilities Education Act;

"(B) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

"(C) provide for the termination of such agreement if the provider is unable to meet such goals and timetables;

"(D) contain provisions with respect to the making of payments to the provider by the local educational agency; and

"(E) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of such student.

"(4) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—A State educational agency shall—

"(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

"(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 1111(b)(1);

"(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

"(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

"(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

"(5) CRITERIA FOR PROVIDERS.—In order for a provider to be included on the State list under paragraph (4)(C), a provider shall agree to carry out the following:

"(A) Provide parents of children receiving supplemental educational services under this subsection and the appropriate local educational agency with information on the progress of the children in increasing achievement, in a format and, to the extent practicable, a language that such parents can understand.

"(B) Ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the local educational agency and State, and are aligned with State student academic achievement standards.

"(C) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

"(D) Ensure that all instruction and content under this subsection are secular, neutral, and nonideological.

"(6) AMOUNTS FOR SUPPLEMENTAL EDUCATIONAL SERVICES.—The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection shall be the lesser of—

"(A) the amount of the agency's allocation under subpart 2, divided by the number of children from families below the poverty level counted under section 1124(c)(1)(A); or

"(B) the actual costs of the supplemental educational services received by the child.

"(7) FUNDS PROVIDED BY STATE EDUCATIONAL AGENCY.—Each State educational agency may use funds that the agency reserves under this part, and part A of title V, to assist local educational agencies that do not have sufficient funds to provide services under this subsection for all eligible students requesting such services.

"(8) DURATION.—The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were first received.

"(9) PROHIBITION.—Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

"(10) WAIVER.—

"(A) REQUIREMENT.—At the request of a local educational agency, a State educational agency may waive, in whole or in part, the requirement of this subsection to provide supplemental educational services if the State educational agency determines that—

"(i) none of the providers of those services on the list approved by the State educational agency under paragraph (4)(C) makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and

"(ii) the local educational agency provides evidence that it is not able to provide those services.

"(B) NOTIFICATION.—The State educational agency shall notify the local educational agency, within 30 days of receiving the local educational agency's request for a waiver under subparagraph (A), whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval, in writing.

"(11) SPECIAL RULE.—If State law prohibits a State educational agency from carrying out one or more of its responsibilities under paragraph (4) with respect to those who provide, or seek approval to provide, supplemental educational services, each local educational agency in the State shall carry out those responsibilities with respect to its students who are eligible for those services.

"(12) DEFINITIONS.—In this subsection—

"(A) the term 'eligible child' means a child from a low-income family, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1);

"(B) the term 'provider' means a non-profit entity, a for-profit entity, or a local educational agency that—

"(i) has a demonstrated record of effectiveness in increasing student academic achievement;

"(ii) is capable of providing supplemental educational services that are consistent with the instructional program of the local educational agency and the academic standards described under section 1111; and

"(iii) is financially sound; and

"(C) the term 'supplemental educational services' means tutoring and other supplemental academic enrichment services that are—

"(i) in addition to instruction provided during the school day; and

"(ii) are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 1111 and attain proficiency in meeting the State's academic achievement standards.

"(f) SCHOOLS AND LEAS PREVIOUSLY IDENTIFIED FOR IMPROVEMENT OR CORRECTIVE ACTION.—

"(1) SCHOOLS.—

"(A) SCHOOL IMPROVEMENT.—

"(i) SCHOOLS IN SCHOOL-IMPROVEMENT STATUS BEFORE DATE OF ENACTMENT.—Any school that was in the first year of school improvement status under this section on the day preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school that is in the first year of school improvement status under paragraph (1).

"(ii) SCHOOLS IN SCHOOL-IMPROVEMENT STATUS FOR 2 OR MORE YEARS BEFORE DATE OF ENACTMENT.—Any school that was in school improvement status under this section for 2 or more consecutive school years preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in subsection (b)(5).

"(B) CORRECTIVE ACTION.—Any school that was in corrective action status under this section on the day preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in paragraph (7).

"(2) LEAS.—

"(A) LEA IMPROVEMENT.—A State shall identify for improvement under subsection (c)(3) any local educational agency that was in improvement status under this section as this section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001.

"(B) CORRECTIVE ACTION.—A State shall identify for corrective action under subsection (c)(10) any local educational agency that was in corrective action status under this section as this section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001.

"(C) SPECIAL RULE.—For the schools and other local educational agencies described under paragraphs (1) and (2), as required, the State shall ensure that public school choice in accordance with subparagraphs (b)(1)(E) and (F) and supplemental education services in accordance with subsection (e) are provided not later than the first day of the 2002–2003 school year.

"(D) TRANSITION.—With respect to a determination that a local educational agency has for 2 consecutive years failed to make adequate yearly progress as defined in the State plan under section 1111(b)(2), such determination shall include in such 2-year period any continuous period of time immediately preceding the date of enactment of the No Child Left Behind Act of 2001 during which the agency has failed to make such progress.

"(g) SCHOOLS FUNDED BY THE BUREAU OF INDIAN AFFAIRS.—

"(1) ADEQUATE YEARLY PROGRESS FOR BUREAU FUNDED SCHOOLS.—

"(A) DEVELOPMENT OF DEFINITION.—

"(i) DEFINITION.—The Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, using the process set out in section 1138(b) of the Education Amendments of 1978, shall define adequate yearly progress, consistent with section 1111(b), for the schools funded by the Bureau of Indian Affairs on a regional or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.

"(ii) USE OF DEFINITION.—The Secretary of the Interior, consistent with clause (i), may use the definition of adequate yearly progress that the State in which the school that is funded by the Bureau is located uses consistent with section 1111(b), or in the case of schools that are located in more than 1 State, the Secretary of the Interior may use whichever State definition of adequate yearly progress that best meets the unique circumstances and needs of such school or schools and the students the schools serve.

"(B) WAIVER.—The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the definition of adequate yearly progress established pursuant to paragraph (A) where such definition is determined by such body or school board to be inappropriate. If such definition is waived, the tribal governing body or school board shall, within 60 days thereafter, submit to the Secretary of Interior a proposal for an alternative definition of adequate yearly progress, consistent with section

1111(b), that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, shall approve such alternative definition unless the Secretary determines that the definition does not meet the requirements of section 1111(b), taking into account the unique circumstances and needs of such school or schools and the students served.

"(C) TECHNICAL ASSISTANCE.—The Secretary of Interior shall, in consultation with the Secretary if the Secretary of Interior requests the consultation, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks to develop an alternative definition of adequate yearly progress.

"(2) ACCOUNTABILITY FOR BIA SCHOOLS.—For the purposes of this section, schools funded by the Bureau of Indian Affairs shall be considered schools subject to subsection (b), as specifically provided for in this subsection, except that such schools shall not be subject to subsection (c), or the requirements to provide public school choice and supplemental educational services under subsections (b) and (e).

"(3) SCHOOL IMPROVEMENT FOR BUREAU SCHOOLS.—

"(A) CONTRACT AND GRANT SCHOOLS.—For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(3), and subsection (b)(5), other than subsection (b)(1)(E). The Bureau of Indian Affairs shall be responsible for meeting the requirements of subsection (b)(4) relating to technical assistance.

"(B) BUREAU OPERATED SCHOOLS.—For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(5), other than subsection (b)(1)(E).

"(4) CORRECTIVE ACTION AND RESTRUCTURING FOR BUREAU FUNDED SCHOOLS.—

"(A) CONTRACT AND GRANT SCHOOLS.—For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by such school board under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

"(B) BUREAU OPERATED SCHOOLS.—For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by the Bureau under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

"(5) ANNUAL REPORT.—On an annual basis, the Secretary of the Interior shall report to the Secretary of Education and to the appropriate committees of Congress regarding any schools funded by the Bureau of Indian Affairs which have been identified for school improvement. Such report shall include—

"(A) the identity of each school;

B) a statement from each affected school board regarding the factors that lead to such identification; and

"(C) an analysis by the Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, as to whether sufficient resources were available to enable such school to achieve adequate yearly progress.

"(h) OTHER AGENCIES.—After receiving the notice described in subsection (b)(14)(D), the Secretary may notify, to the extent feasible and necessary as determined by the Secretary, other relevant Federal agencies regarding the major factors that were determined by the State educational agency to have significantly affected student academic achievement.

"SEC. 1117. SCHOOL SUPPORT AND RECOGNITION.

"(a) SYSTEM FOR SUPPORT.—

"(1) IN GENERAL.—Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's academic content standards and student academic achievement standards.

"(2) PRIORITIES.—In carrying out this subsection, a State shall—

"(A) first, provide support and assistance to local educational agencies with schools subject to corrective action under section 1116 and assist those schools, in accordance with section 1116(b)(11), for which a local educational agency has failed to carry out its responsibilities under paragraphs (7) and (8) of section 1116(b);

"(B) second, provide support and assistance to other local educational agencies with schools identified as in need of improvement under section 1116(b); and

"(C) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

"(3) REGIONAL CENTERS.—Such a statewide system shall, to the extent practicable, work with and receive support and assistance from the comprehensive regional technical assistance centers and the regional educational laboratories under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, or other providers of technical assistance.

"(4) STATEWIDE SYSTEM.—

"(A) In order to achieve the purpose described in paragraph (1), the statewide system shall include, at a minimum, the following approaches:

"(i) Establishing school support teams in accordance with subparagraph (C) for assignment to, and working in, schools in the State that are described in paragraph (2).

"(ii) Providing such support as the State educational agency determines necessary and available in order to ensure the effectiveness of such teams.

"(iii) Designating and using distinguished teachers and principals who are chosen from schools served under this part that have been especially successful in improving academic achievement.

"(iv) Devising additional approaches to providing the assistance described in paragraph (1), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance.

"(B) PRIORITY.—The State educational agency shall give priority to the approach described in clause (i) of subparagraph (A).

"(5) SCHOOL SUPPORT TEAMS.—

"(A) COMPOSITION.—Each school support team established under this section shall be composed of persons knowledgeable about scientifically based research and practice on teaching and learning and about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including—

"(i) highly qualified or distinguished teachers and principals;

"(ii) pupil services personnel;

"(iii) parents;

"(iv) representatives of institutions of higher education;

"(v) representatives of regional educational laboratories or comprehensive regional technical assistance centers;

"(vi) representatives of outside consultant groups; or

"(vii) other individuals as the State educational agency, in consultation with the local educational agency, may determine appropriate.

"(B) FUNCTIONS.—Each school support team assigned to a school under this section shall—

"(i) review and analyze all facets of the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performance in that school;

"(ii) collaborate with parents and school staff and the local educational agency serving the school in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to improve student performance and help the school meet its goals for improvement, including adequate yearly progress under section 1111(b)(2)(B);

"(iii) evaluate, at least semiannually, the effectiveness of school personnel assigned to the school, including identifying outstanding teachers and principals, and make findings and recommendations to the school, the local educational agency, and, where appropriate, the State educational agency; and

"(iv) make additional recommendations as the school implements the plan described in clause (ii) to the local educational agency and the State educational agency concerning additional assistance that is needed by the school or the school support team.

"(C) CONTINUATION OF ASSISTANCE.—After 1 school year, from the beginning of the activities, such school support team, in consultation with the local educational agency, may recommend that the school support team continue to provide assistance to the school, or that the local educational agency or the State educational agency, as appropriate, take alternative actions with regard to the school.

"(b) STATE RECOGNITION.—

"(1) ACADEMIC ACHIEVEMENT AWARDS PROGRAM.—

"(A) IN GENERAL.—Each State receiving a grant under this part—

"(i) shall establish a program for making academic achievement awards to recognize schools that meet the criteria described in subparagraph (B); and

"(ii) as appropriate and as funds are available under subsection (c)(2)(A), may financially reward schools served under this part that meet the criteria described in clause (ii).

"(B) CRITERIA.—The criteria referred to in subparagraph (A) are that a school—

"(i) significantly closed the achievement gap between the groups of students described in section 1111(b)(2); or ‘‘(ii) exceeded their adequate yearly progress, consistent with section 1111(b)(2), for 2 or more consecutive years.

‘‘(2) DISTINGUISHED SCHOOLS.—Of those schools meeting the criteria described in paragraph (2), each State shall designate as distinguished schools those schools that have made the greatest gains in closing the achievement gap as described in subparagraph (B)(i) or exceeding adequate yearly progress as described in subparagraph (B)(ii). Such distinguished schools may serve as models for and provide support to other schools, especially schools identified for improvement under section 1116, to assist such schools in meeting the State's academic content standards and student academic achievement standards.

‘‘(3) AWARDS TO TEACHERS.—A State program under paragraph (1) may also recognize and provide financial awards to teachers teaching in a school described in such paragraph that consistently makes significant gains in academic achievement in the areas in which the teacher provides instruction, or to teachers or principals designated as distinguished under subsection (a)(4)(A)(iii).

‘‘(c) FUNDING.—

‘‘(1) IN GENERAL.—Each State—

‘‘(A) shall use funds reserved under section 1003(a) and may use funds made available under section 1003(g) for the approaches described under subsection (a)(4)(A); and

‘‘(B) shall use State administrative funds authorized under section 1004(a) to establish the statewide system of support described under subsection (a).

‘‘(2) RESERVATIONS OF FUNDS BY STATE.—

‘‘(A) AWARDS PROGRAM.—For the purpose of carrying out subsection (b)(1), each State receiving a grant under this part may reserve, from the amount (if any) by which the funds received by the State under subpart 2 for a fiscal year exceed the amount received by the State under that subpart for the preceding fiscal year, not more than 5 percent of such excess amount.

‘‘(B) TEACHER AWARDS.—For the purpose of carrying out subsection (b)(3), a State educational agency may reserve such funds as necessary from funds made available under section 2113.

‘‘(3) USE WITHIN 3 YEARS.—Notwithstanding any other provision of law, the amount reserved under subparagraph (A) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years receipt of funds.

‘‘(4) SPECIAL ALLOCATION RULE FOR SCHOOLS IN HIGH-POVERTY AREAS.—

‘‘(A) IN GENERAL.—Each State shall distribute not less than 75 percent of any amount reserved under paragraph (2)(A) for each fiscal year to schools described in subparagraph (B), or to teachers consistent with subsection (b)(3).

‘‘(B) SCHOOL DESCRIBED.—A school described in subparagraph) (A) is a school whose student population is in the highest quartile of schools statewide in terms of the percentage of children from low income families.

“SEC. 1118. PARENTAL INVOLVEMENT.

‘‘(a) LOCAL EDUCATIONAL AGENCY POLICY.—

‘‘(1) IN GENERAL.—A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with this section. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.

‘‘(2) WRITTEN POLICY.—Each local educational agency that receives funds under this part shall develop jointly with, agree on with, and distribute to, parents of participating children a written parent involvement policy. The policy shall be incorporated into the local educational agency's plan developed under section 1112, establish the agency's expectations for parent involvement, and describe how the agency will—

‘‘(A) involve parents in the joint development of the plan under section 1112, and the process of school review and improvement under section 1116;

‘‘(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement activities to improve student academic achievement and school performance;

‘‘(C) build the schools' and parents' capacity for strong parental involvement as described in subsection (e);

‘‘(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as the Head Start program, Reading First program, Early Reading First program, Even Start program, Parents as Teachers program, and Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

‘‘(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the schools served under this part, including identifying barriers to greater participation by parents in activities authorized by this section (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background), and use the findings of such evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the parental involvement policies described in this section; and

‘‘(F) involve parents in the activities of the schools served under this part.

‘‘(3) RESERVATION.—

‘‘(A) IN GENERAL.—Each local educational agency shall reserve not less than 1 percent of such agency's allocation under subpart 2 of this part to carry out this section, including promoting family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under subpart 2 of this part for the fiscal year for which the determination is made is $5,000 or less.

‘‘(B) PARENTAL INPUT.—Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

‘‘(C) DISTRIBUTION OF FUNDS.—Not less than 95 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this part.

‘‘(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

‘‘(1) IN GENERAL.—Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

‘‘(2) SPECIAL RULE.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

‘‘(3) AMENDMENT.—If the local educational agency involved has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

‘‘(4) PARENTAL COMMENTS.—If the plan under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

‘‘(c) POLICY INVOLVEMENT.—Each school served under this part shall—

‘‘(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain the requirements of this part, and the right of the parents to be involved;

‘‘(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

‘‘(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the planning, review, and improvement of the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b)(2), except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

‘‘(4) provide parents of participating children—

‘‘(A) timely information about programs under this part;

‘‘(B) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet; and

‘‘(C) if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; and

‘‘(5) if the schoolwide program plan under section 1114(b)(2) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT ACADEMIC ACHIEVEMENT.—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student academic achievement standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

(B) frequent reports to parents on their children's progress; and

(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

“(e) Building Capacity for Involvement.—To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted under this part—

“(1) shall provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the State's academic content standards and State student academic achievement standards, State and local academic assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the achievement of their children;

“(2) shall provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology, as appropriate, to foster parental involvement;

“(3) shall educate teachers, pupil services personnel, principals, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;

“(4) shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;

“(5) shall ensure that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in a format and, to the extent practicable, in a language the parents can understand;

“(6) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training;

“(7) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such training;

“(8) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

“(9) may train parents to enhance the involvement of other parents;

“(10) may arrange school meetings at a variety of times, or conduct in-home conferences between teachers or other educators, who work directly with participating children, with parents who are unable to attend such conferences at school, in order to maximize parental involvement and participation;

“(11) may adopt and implement model approaches to improving parental involvement;

“(12) may establish a districtwide parent advisory council to provide advice on all matters related to parental involvement in programs supported under this section;

“(13) may develop appropriate roles for community-based organizations and businesses in parent involvement activities; and

“(14) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

“(f) Accessibility.—In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency, parents with disabilities, and parents of migratory children, including providing information and school reports required under section 1111 in a format and, to the extent practicable, in a language such parents understand.

“(g) Information From Parental Information and Resource Centers.—In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local educational agencies, and schools receiving assistance under this part, each local educational agency or school that receives assistance under this part and is located in the State shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers.

“(h) Review.—The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if the policies and practices meet the requirements of this section.

“SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

“(a) Teacher Qualifications and Measurable Objectives.—

“(1) In general.—Beginning with the first day of the first school year after the date of enactment of the No Child Left Behind Act of 2001, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.

“(2) State plan.—As part of the plan described in section 1111, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005–2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum—

“(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005–2006 school year;

“(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

“(C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.

“(3) Local plan.—As part of the plan described in section 1112, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005–2006 school year.

“(b) Reports.—

“(1) Annual state and local reports.—

“(A) Local reports.—Each State educational agency described in subsection (a)(2) shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002–2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency, in meeting the measurable objectives described in subsection (a)(2).

“(B) State reports.—Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002–2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2).

“(C) Information from other reports.—A State educational agency or local educational agency may submit information from the reports described in section 1111(h) for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 1111(h).

“(2) Annual reports by the Secretary.—Each year, beginning with the 2002–2003 school year, the Secretary shall publicly report the annual progress of State educational agencies, local educational agencies, and schools, in meeting the measurable objectives described in subsection (a)(2).

“(c) New Paraprofessionals.—

“(1) In general.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after the date of enactment of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall have—

“(A) completed at least 2 years of study at an institution of higher education;

“(B) obtained an associate's (or higher) degree; or

“(C) met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment—

“(i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

“(ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

“(2) Clarification.—The receipt of a secondary school diploma (or its recognized equivalent) shall be necessary but not sufficient to satisfy the requirements of paragraph (1)(C).

“(d) Existing Paraprofessionals.—Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before the date of enactment of the No Child Left Behind Act of 2001, and working in a program supported with funds under this part shall, not later than 4 years after the date of enactment satisfy the requirements of subsection (b).

“(e) Exceptions for Translation and Parental Involvement Activities.—Subsections (c) and (d) shall not apply to a paraprofessional—

“(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or

“(2) whose duties consist solely of conducting parental involvement activities consistent with section 1118.

“(f) General Requirement for All Paraprofessionals.—Each local educational agency

receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

"(g) DUTIES OF PARAPROFESSIONALS.—

"(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall ensure that a paraprofessional working in a program supported with funds under this part is not assigned a duty inconsistent with this subsection.

"(2) RESPONSIBILITIES PARAPROFESSIONALS MAY BE ASSIGNED.—A paraprofessional described in paragraph (1) may be assigned—

"(A) to provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

"(B) to assist with classroom management, such as organizing instructional and other materials;

"(C) to provide assistance in a computer laboratory;

"(D) to conduct parental involvement activities;

"(E) to provide support in a library or media center;

"(F) to act as a translator; or

"(G) to provide instructional services to students in accordance with paragraph (3).

"(3) ADDITIONAL LIMITATIONS.—A paraprofessional described in paragraph (1)—

"(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with section 1119; and

"(B) may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

"(h) USE OF FUNDS.—A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

"(i) VERIFICATION OF COMPLIANCE.—

"(1) IN GENERAL.—In verifying compliance with this section, each local educational agency, at a minimum, shall require that the principal of each school operating a program under section 1114 or 1115 attest annually in writing as to whether such school is in compliance with the requirements of this section.

"(2) AVAILABILITY OF INFORMATION.—Copies of attestations under paragraph (1)—

"(A) shall be maintained at each school operating a program under section 1114 or 1115 and at the main office of the local educational agency; and

"(B) shall be available to any member of the general public on request.

"(j) COMBINATIONS OF FUNDS.—Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, other Acts, and other sources.

"(k) SPECIAL RULE.—Except as provided in subsection (l), no State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(c)(3).

"(l) MINIMUM EXPENDITURES.—Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005–2006 school year.

"SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) GENERAL REQUIREMENT.—

"(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to sections 1118 and 1119.

"(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

"(3) EQUITY.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

"(5) PROVISION OF SERVICES.—The local educational agency may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

"(b) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how, where, and by whom the services will be provided;

"(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;

"(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services;

"(F) the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;

"(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers; and

"(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

"(2) TIMING.—Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.

"(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

"(4) DOCUMENTATION.—Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.

"(5) COMPLIANCE.—

"(A) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

"(B) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

"(c) ALLOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS.—

"(1) CALCULATION.—A local educational agency shall have the final authority, consistent with this section, to calculate the number of children; ages 5 through 17, who are from low-income families and attend private schools by—

"(A) using the same measure of low income used to count public school children;

"(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

"(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

"(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

"(2) COMPLAINT PROCESS.—Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 9505.

"(d) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds materials, equipment, and property.

"(2) PROVISION OF SERVICES.—

"(A) PROVIDER.—The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization.

"(B) REQUIREMENT.—In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(e) STANDARDS FOR A BYPASS.—If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling, to provide for such participation, as required by this section, the Secretary shall—

"(1) waive the requirements of this section for such local educational agency;

"(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 9503 and 9504; and

"(3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

"SEC. 1120A. FISCAL REQUIREMENTS.

"(a) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency involved finds that the local educational agency has maintained the agency's fiscal effort in accordance with section 9521.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—

"(1) IN GENERAL.—A State educational agency or local educational agency shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

"(2) SPECIAL RULE.—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

"(c) COMPARABILITY OF SERVICES.—

"(1) IN GENERAL.—

"(A) COMPARABLE SERVICES.—Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

"(B) SUBSTANTIALLY COMPARABLE SERVICES.—If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

"(C) BASIS.—A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

"(2) WRITTEN ASSURANCE.—

"(A) EQUIVALENCE.—A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

"(i) a local educational agency-wide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) DETERMINATIONS.—For the purpose of this subsection, in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

"(C) EXCLUSIONS.—A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

"(3) PROCEDURES AND RECORDS.—Each local educational agency assisted under this part shall—

"(A) develop procedures for compliance with this subsection; and

"(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

"(4) INAPPLICABILITY.—This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

"(5) COMPLIANCE.—For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

"(A) language instruction educational programs; and

"(B) the excess costs of providing services to children with disabilities as determined by the local educational agency.

"(d) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State educational agency or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

"SEC. 1120B. COORDINATION REQUIREMENTS.

"(a) IN GENERAL.—Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) with Head Start agencies and, if feasible, other entities carrying out early childhood development programs such as the Early Reading First program.

"(b) ACTIVITIES.—The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency and, if feasible, other entities carrying out early childhood development programs, such as the Early Reading First program, serving children who will attend the schools of the local educational agency, including—

"(1) developing and implementing a systematic procedure for receiving records regarding such children, transferred with parental consent from a Head Start program or, where applicable, another early childhood development program such as the Early Reading First program;

"(2) establishing channels of communication between school staff and their counterparts (including teachers, social workers, and health staff) in such Head Start agencies or other entities carrying out early childhood development programs such as the Early Reading First program, as appropriate, to facilitate coordination of programs;

"(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs such as the Early Reading First program, to discuss the developmental and other needs of individual children;

"(4) organizing and participating in joint transition-related training of school staff, Head Start program staff, Early Reading First program staff, and, where appropriate, other early childhood development program staff; and

"(5) linking the educational services provided by such local educational agency with the services provided by local Head Start agencies and entities carrying out Early Reading First programs.

"(c) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act.

"Subpart 2—Allocations

"SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

"(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a) and 1125A(f), the Secretary shall reserve a total of 1 percent to provide assistance to—

"(1) the outlying areas in the amount determined in accordance with subsection (b); and

"(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (d).

"(b) ASSISTANCE TO OUTLYING AREAS.—

"(1) FUNDS RESERVED.—From the amount made available for any fiscal year under subsection (a), the Secretary shall award grants to local educational agencies in the outlying areas.

"(2) COMPETITIVE GRANTS.—Until each appropriate outlying area enters into an agreement for extension of United States educational assistance under the Compact of Free Association after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed $5,000,000.

"(3) LIMITATION FOR COMPETITIVE GRANTS.—

"(A) COMPETITIVE GRANTS.—The Secretary shall use funds described in paragraph (2) to award grants to the outlying areas and freely associated States to carry out the purposes of this part.

"(B) AWARD BASIS.—The Secretary shall award grants under subparagraph (A) on a competitive basis, taking into consideration the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(C) USES.—Except as provided in subparagraph (D), grant funds awarded under this paragraph may be used only—

"(i) for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform; and

"(ii) to provide direct educational services that assist all students with meeting challenging State academic content standards.

"(D) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).

"(4) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the freely associated States under this section.

"(c) DEFINITIONS.—For the purpose of subsections (a) and (b)—

"(1) the term "freely associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau; and

"(2) the term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(d) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

"(1) IN GENERAL.—The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

"(A) Indian children on reservations served by elementary schools and secondary schools for Indian children operated or supported by the Department of the Interior; and

"(B) out-of-State Indian children in elementary schools and secondary schools in local educational agencies under special contracts with the Department of the Interior.

"(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, on such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

"(A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or

"(B) 48 percent of such expenditure in the United States.

"SEC. 1122. ALLOCATIONS TO STATES.

"(a) ALLOCATION FORMULA.—Of the amount appropriated under section 1002(a) to carry out this part for each of fiscal years 2002 through 2007 (referred to in this subsection as the current fiscal year)—

"(1) an amount equal to the amount made available to carry out section 1124 for fiscal year 2001 shall be allocated in accordance with section 1124;

"(2) an amount equal to the amount made available to carry out section 1124A for fiscal year 2001 shall be allocated in accordance with section 1124A; and

"(3) an amount equal to 100 percent of the amount, if any, by which the amount made available to carry out sections 1124, 1124A, and 1125 for the current fiscal year for which the determination is made exceeds the amount available to carry out sections 1124 and 1124A for fiscal year 2001 shall be allocated in accordance with section 1125.

"(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

"(1) IN GENERAL.—If the sums available under this subpart for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

"(c) HOLD-HARMLESS AMOUNTS.—

"(1) AMOUNTS FOR SECTIONS 1124, 1124A, AND 1125.—For each fiscal year, the amount made available to each local educational agency under each of sections 1124, 1124A, and 1125 shall be—

"(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

"(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

"(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

"(2) PAYMENTS.—If sufficient funds are appropriated, the amounts described in paragraph (1) shall be paid to all local educational agencies that received grants under section 1124A for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria for that fiscal year described in section 1124A(a)(1)(A) except that a local educational agency that does not meet such minimum eligibility criteria for 4 consecutive years shall no longer be eligible to receive a hold harmless amount referred to in paragraph (1).

"(3) APPLICABILITY.—Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

"(4) POPULATION DATA.—For any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold-harmless percentages in paragraphs (1) and (2) to counties and, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this subsection.

"(d) RATABLE REDUCTIONS.—

"(1) IN GENERAL.—If the sums made available under this subpart for any fiscal year are insufficient to pay the full amounts that local educational agencies in all States are eligible to receive under subsection (c) for such year, the Secretary shall ratably reduce such amounts for such year.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under subsection (c) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.

"(e) DEFINITION.—For the purpose of this section and sections 1124, 1124A, 1125, and 1125A, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—Except as provided in paragraph (4) and in section 1126, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—

"(A) the number of children counted under subsection (c); and

"(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

"(2) CALCULATION OF GRANTS.—

"(A) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—

"(i) the 2 Secretaries shall publicly disclose the reasons for their determination in detail; and

"(ii) paragraph (3) shall apply.

"(B) ALLOCATIONS TO LARGE AND SMALL LOCAL EDUCATIONAL AGENCIES.—

"(i) For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section for each local educational agency.

"(ii) The amount of a grant under this section for each large local educational agency shall be the amount determined under clause (i).

"(iii) For small local educational agencies, the State educational agency may either—

"(I) distribute grants under this section in amounts determined by the Secretary under clause (i); or

"(II) use an alternative method approved by the Secretary to distribute the portion of the State's total grants under this section that is based on those small agencies.

"(iv) An alternative method under clause (iii)(II) shall be based on population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's small local educational agencies that meet the eligibility criteria of subsection (b).

"(v) If a small local educational agency is dissatisfied with the determination of its grant by the State educational agency under clause (iii)(II), it may appeal that determination to the Secretary, who shall respond not later than 45 days after receipt of such appeal.

"(vi) As used in this subparagraph—

"(I) the term "large local educational agency" means a local educational agency serving an area with a total population of 20,000 or more; and

"(II) the term "small local educational agency" means a local educational agency serving an area with a total population of less than 20,000.

"(3) ALLOCATIONS TO COUNTIES.—

"(A) CALCULATION.—For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations issued by the Secretary.

"(B) DIRECT ALLOCATIONS.—In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes it has data that would better target funds than allocating them by county, the State educational agency may apply to the Secretary for authority to make the allocations under this subpart for a particular fiscal year directly to local educational agencies without regard to counties.

"(C) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—If the Secretary approves the State educational agency's application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that such allocations shall be made—

"(i) using precisely the same factors for determining a grant as are used under this subpart; or

"(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

"(D) APPEAL.—The State educational agency shall provide the Secretary an assurance that it will establish a procedure through which a local educational agency that is dissatisfied with its determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

"(4) PUERTO RICO.—

"(A) IN GENERAL.—For each fiscal year, the grant that the Commonwealth of Puerto Rico shall be eligible to receive under this section

shall be the amount determined by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(i) subject to subparagraph (B), the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(ii) 32 percent of the average per-pupil expenditure in the United States.

"(B) MINIMUM PERCENTAGE.—The percentage in subparagraph (A)(i) shall not be less than—

"(i) for fiscal year 2002, 77.5 percent;

"(ii) for fiscal year 2003, 80.0 percent;

"(iii) for fiscal year 2004, 82.5 percent;

"(iv) for fiscal year 2005, 85.0 percent;

"(v) for fiscal year 2006, 92.5 percent; and

"(vi) for fiscal year 2007 and succeeding fiscal years, 100.0 percent.

"(C) LIMITATION.—If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of—

"(i) the percentage in subparagraph (A)(i);

"(ii) the percentage specified in subparagraph (B) for the preceding fiscal year; or

"(iii) the percentage used for the preceding fiscal year.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) for that agency is both—

"(1) 10 or more; and

"(2) more than 2 percent of the total school-age population in the agency's jurisdiction.

"(c) CHILDREN TO BE COUNTED.—

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

"(B) the number of children (determined under paragraph (4) for either the preceding year as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds; and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (4).

"(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains 2 or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

"(3) POPULATION UPDATES.—

"(A) IN GENERAL.—In fiscal year 2002 and each subsequent fiscal year, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that the use of the updated population data would be inappropriate or unreliable. If appropriate and reliable data are not available annually, the Secretary shall use data which are updated every 2 years.

"(B) INAPPROPRIATE OR UNRELIABLE DATA.—If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in subparagraph (A) are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall publicly disclose their reasons.

"(C) CRITERIA OF POVERTY.—In determining the families that are below the poverty level, the Secretary shall use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

"(4) OTHER CHILDREN TO BE COUNTED.—

"(A) For the purpose of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act; and in making such determinations, the Secretary shall use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

"(B) The Secretary shall determine the number of such children and the number of children aged 5 through 17 living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination.

"(C) Except for the data on children living in institutions for neglected or delinquent children, the Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(D) For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(5) ESTIMATE.—When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (1)(A)) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

"(d) STATE MINIMUM.—Notwithstanding section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

"(1) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or

"(2) the average of—

"(A) the amount calculated in paragraph (1), above; and

"(B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

"SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

"(1) IN GENERAL.—(A) Except as otherwise provided in this paragraph, each local educational agency which is eligible for a grant under section 1124 for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 1124(c) in the agency exceeds either—

"(i) 6,500; or

"(ii) 15 percent of the total number of children aged 5 through 17 in the agency.

"(B) Notwithstanding section 1122, no State shall receive less than the lesser of—

"(i) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or

"(ii) the average of—

"(I) the amount calculated under clause (i); and

"(II) the greater of—

"(aa) $340,000; or

"(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

"(2) DETERMINATION.—For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year, the Secretary shall determine the product of—

"(A) the number of children counted under section 1124(c) for that fiscal year; and

"(B) the amount in section 1124(a)(1)(B) for each State except the Commonwealth of Puerto Rico, and the amount in section 1124(a)(4) for the Commonwealth of Puerto Rico.

"(3) AMOUNT.—The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

"(4) LOCAL ALLOCATIONS.—(A) Grant amounts under this section shall be determined in accordance with section 1124(a)(2), (3) and (4).

"(B) For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of its allocation under this section to make grants to local educational agencies that meet the criteria of paragraph (1)(A)(i)

or (ii) and are in ineligible counties that do not meet these criteria.

"(b) Small States.—In any State for which on the date of enactment of the No Child Left Behind Act of 2001 the number of children counted under Section 1124(c) is less than 0.25 percent of the number of those children counted for all States, the State educational agency shall allocate funds under this section among the local educational agencies in the State either—

"(1) in accordance with paragraphs (2) and (4) of subsection (a); or

"(2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

"SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) Eligibility of Local Educational Agencies.—

"(1) In general.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

"(A) the number of children in the local educational agency counted under section 1124(c), before application of the weighted child count described in subsection (c), is at least 10; and

"(B) if the number of children counted for grants under section 1124(c), before application of the weighted child count described in subsection (c), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

"(2) Special rule.—For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

"(b) Grants for Local Educational Agencies, the District of Columbia, and the Commonwealth of Puerto Rico.—

"(1) In general.—The amount of the grant that a local educational agency in a State (other than the Commonwealth of Puerto Rico) is eligible to receive under this section for any fiscal year shall be the product of—

"(A) the weighted child count determined under subsection (c); and

"(B) the amount determined under section 1124(a)(1)(B).

"(2) Puerto rico.—For each fiscal year, the amount of the grant the Commonwealth of Puerto Rico is eligible to receive under this section shall be equal to the number of children counted under subsection (c) for the Commonwealth of Puerto Rico, multiplied by the amount determined in section 1124(a)(4) for the Commonwealth of Puerto Rico.

"(c) Weighted Child Count.—

"(1) Weights for allocations to counties.—

"(A) In general.—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the 2 amounts determined under subparagraphs (B) and (C).

"(B) By percentage of children.—The amount referred to in subparagraph (A) is determined by adding—

"(i) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(ii) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

"(iii) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

"(iv) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

"(v) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

"(C) By number of children.—The amount referred to in subparagraph (A) is determined by adding—

"(i) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(ii) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

"(iii) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

"(iv) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

"(v) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

"(D) Puerto rico.—Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.82.

"(2) Weights for allocations to local educational agencies.—

"(A) In general.—For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the 2 amounts determined under subparagraphs (B) and (C).

"(B) By percentage of children.—The amount referred to in subparagraph (A) is determined by adding—

"(i) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(ii) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

"(iii) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

"(iv) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and

"(v) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

"(C) By number of children.—The amount referred to in subparagraph (A) is determined by adding—

"(i) the number of children determined under section 1124(c) who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(ii) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

"(iii) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;

"(iv) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and

"(v) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

"(D) Puerto rico.—Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.82.

"(d) Calculation of Grant Amounts.—Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 1124(a) (2) and (3).

"(e) State Minimum.—Notwithstanding any other provision of this section or section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

"(1) 0.35 percent of the total amount available to carry out this section; or

"(2) the average of—

"(A) 0.35 percent of the total amount available to carry out this section; and

"(B) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of children described in section 1124(c), without application of a weighting factor.

"SEC. 1125AA. ADEQUACY OF FUNDING OF TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES IN FISCAL YEARS AFTER FISCAL YEAR 2001.

"(a) Findings.—Congress makes the following findings:

"(1) The current Basic Grant Formula for the distribution of funds under this part often does not provide funds for the economically disadvantaged students for which such funds are targeted.

"(2) Any school district in which more than 2 percent of the students live below the poverty level qualifies for funding under the Basic Grant Formula. As a result, 9 out of every 10 school districts in the country receive some form of aid under the Formula.

"(3) 58 percent of all schools receive at least some funding under this part, including many suburban schools with predominantly well-off students.

"(4) 1 out of every 5 schools with concentrations of poor students between 50 and 75 percent receive no funding at all under this part.

"(5) In passing the Improving America's Schools Act in 1994, Congress declared that grants under this part would more sharply target high poverty schools by using the Targeted Grant Formula, but annual appropriation Acts have prevented the use of that Formula.

"(6) The advantage of the Targeted Grant Formula over other funding formulas under this part is that the Targeted Grant Formula provides increased grants per poor child as the percentage of economically disadvantaged children in a school district increases.

"(7) Studies have found that the poverty of a child's family is much more likely to be associated with educational disadvantage if the family lives in an area with large concentrations of poor families.

"(8) States with large populations of high poverty students would receive significantly more funding if more funds under this part were allocated through the Targeted Grant Formula.

"(9) Congress has an obligation to allocate funds under this part so that such funds will positively affect the largest number of economically disadvantaged students.

"(b) Limitation on Allocation of Title I Funds Contingent on Adequate Funding of Targeted Grants.—Pursuant to section 1122, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this part shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for *targeted grants to local educational agencies under section 1125 in the applicable fiscal year meets the requirements of section 1122(a).*

"SEC. 1125A. EDUCATION FINANCE INCENTIVE GRANT PROGRAM.

"(a) Grants.—From funds appropriated under subsection (f) the Secretary is authorized to make grants to States, from allotments under subsection (b), to carry out the programs and activities of this part.

"(b) Distribution Based Upon Fiscal Effort and Equity.—

"(1) In general.—

"(A) In general.—Except as provided in subparagraph (B), funds appropriated pursuant to subsection (f) shall be allotted to each State based upon the number of children counted under section 1124(c) in such State multiplied by the product of—

"(i) the amount in section 1124(a)(1)(B) for all States other than the Commonwealth of Puerto Rico, except that the amount determined under that subparagraph shall not be less that 34 percent or more than 46 percent of the average per pupil expenditure in the United States, and the amount in section 1124(a)(4) for the Commonwealth of Puerto Rico, except that the amount in section 1124(a)(4)(A)(ii) shall be 34 percent of the average per pupil expenditure in the United States; multiplied by

"(ii) such State's effort factor described in paragraph (2); multiplied by

"(iii) 1.30 minus such State's equity factor described in paragraph (3).

"(B) State minimum.—Notwithstanding any other provision of this section or section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

"(i) 0.35 percent of total appropriations; or

"(ii) the average of—

"(I) 0.35 percent of the total amount available to carry out this section; and

"(II) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of children described in section 1124(c), without application of a weighting factor.

"(2) Effort factor.—

"(A) In general.—Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than 0.95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the 3-year average per-pupil expenditure in the State multiplied by the 3-year average per capita income in the United States and the denominator of which is the product of the 3-year average per capita income in such State multiplied by the 3-year average per-pupil expenditure in the United States.

"(B) Commonwealth of Puerto Rico.—The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

"(3) Equity factor.—

"(A) Determination.—

"(i) In general.—Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

"(ii) Computation.—

"(I) In general.—For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), and (IV).

"(II) Variation.—In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils served by the local educational agency.

"(III) Number of pupils.—In determining the number of pupils under this paragraph served by each local educational agency and in each State, the Secretary shall multiply the number of children counted under section 1124(c) by a factor of 1.4.

"(IV) Enrollment requirement.—In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

"(B) Special rule.—The equity factor for a State that meets the disparity standard described in section 222.162 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) or a State with only 1 local educational agency shall be not greater than 0.10.

"(c) Use of Funds; Eligibility of Local Educational Agencies.—All funds awarded to each State under this section shall be allocated to local educational agencies under the following provisions. Within local educational agencies, funds allocated under this section shall be distributed to schools on a basis consistent with section 1113, and may only be used to carry out activities under this part. A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

"(A) the number of children in the local educational agency counted under section 1124(c), before application of the weighted child count described in paragraph (3), is at least 10; and

"(B) if the number of children counted for grants under section 1124(c), before application of the weighted child count described in paragraph (3), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

"For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

"(d) Allocation of Funds to Eligible Local Educational Agencies.—Funds received by States under this section shall be allocated within States to eligible local educational agencies on the basis of weighted child counts calculated in accordance with paragraph (1), (2), or (3), as appropriate for each State.

"(1) States with an equity factor less than .10.—In States with an equity factor less than .10, the weighted child counts referred to in subsection (d) shall be calculated as follows:

"(A) Weights for allocations to counties.—

"(i) In general.—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the 2 amounts determined under clauses (ii) and (iii).

"(ii) By percentage of children.—The amount referred to in clause "(i) is determined by adding—

"(I) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

"(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

"(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

"(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

"(iii) By number of children.—The amount referred to in clause (i) is determined by adding

"(I) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

"(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

"(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

"(V) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

"(B) Weights for allocations to local educational agencies.—

"(i) In general.—For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the 2 amounts determined under clauses (ii) and (iii).

"(ii) By percentage of children.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

"(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

"(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and

"(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

"(iii) By number of children.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

"(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;

"(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and

"(V) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

"(2) States with an equity factor greater than or equal to .10 and less than .20.—In States with an equity factor greater than or equal to .10 and less than .20,the weighted child counts referred to in subsection (d) shall be calculated as follows:

"(A) Weights for allocations to counties.—

"(i) IN GENERAL.—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the 2 amounts determined under clauses (ii) and (iii).

"(ii) BY PERCENTAGE OF CHILDREN.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.5;

"(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 3.0;

"(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 4.5; and

"(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 6.0.

"(iii) BY NUMBER OF CHILDREN.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

"(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.25;

"(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 3.375; and

"(V) the number of such children in excess of 93,811 in such population, multiplied by 4.5.

"(B) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

"(i) IN GENERAL.—For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the 2 amounts determined under clauses (ii) and (iii).

"(ii) BY PERCENTAGE OF CHILDREN.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.5;

"(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 3.0;

"(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 4.5; and

"(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 6.0.

"(iii) BY NUMBER OF CHILDREN.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

"(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.25;

"(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 3.375; and

"(V) the number of such children in excess of 35,514 in such population, multiplied by 4.5.

"(3) STATES WITH AN EQUITY FACTOR GREATER THAN OR EQUAL TO .20.—In States with an equity factor greater than or equal to .20, the weighted child counts referred to in subsection (d) shall be calculated as follows:

"(A) WEIGHTS FOR ALLOCATIONS TO COUNTIES.—

"(i) IN GENERAL.—For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the 2 amounts determined under clauses (ii) and (iii).

"(ii) BY PERCENTAGE OF CHILDREN.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 2.0;

"(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 4.0;

"(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 6.0; and

"(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 8.0.

"(iii) BY NUMBER OF CHILDREN.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 2.0;

"(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 3.0;

"(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 4.5; and

"(V) the number of such children in excess of 93,811 in such population, multiplied by 6.0.

"(B) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

"(i) IN GENERAL.—For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the 2 amounts determined under clauses (ii) and (iii).

"(ii) BY PERCENTAGE OF CHILDREN.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 2.0;

"(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 4.0;

"(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 6.0; and

"(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 8.0.

"(iii) BY NUMBER OF CHILDREN.—The amount referred to in clause (i) is determined by adding—

"(I) the number of children determined under section 1124(c) who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 2.0;

"(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 3.0;

"(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 4.5; and

"(V) the number of such children in excess of 35,514 in such population, multiplied by 6.0.

"(e) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

"(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) WAIVERS.—The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

"(g) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

"(1) IN GENERAL.—If the sums available under this section for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under this section for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to paragraphs (2) and (3).

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under this section for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

"(3) HOLD-HARMLESS AMOUNTS.—For each fiscal year, if sufficient funds are available, the amount made available to each local educational agency under this section shall be

"(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

"(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

"(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

"(4) APPLICABILITY.—Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

"SEC. 1126. SPECIAL ALLOCATION PROCEDURES.

"(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

"(1) IN GENERAL.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in section 1124(c)(1)(B), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, 1125, and 1125A that is attributable to such children.

"(2) SPECIAL RULE.—If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

"(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES.—The State educational agency may allocate the amounts of grants under sections 1124, 1124A, 1125, and 1125A among the affected local educational agencies—

"(1) if 2 or more local educational agencies serve, in whole or in part, the same geographical area;

"(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

"(3) to reflect the merger, creation, or change of boundaries of 1 or more local educational agencies.

"(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, 1125, and 1125A is more than such local educational agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

"SEC. 1127. CARRYOVER AND WAIVER.

"(a) LIMITATION ON CARRYOVER.—Notwithstanding section 421(b) of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for 1 additional fiscal year.

"(b) WAIVER.—A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) if—

"(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

"(2) supplemental appropriations for this subpart become available.

"(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.

"PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

"Subpart 1—Reading First

"SEC. 1201. PURPOSES.

"The purposes of this subpart are as follows:

"(1) To provide assistance to State educational agencies and local educational agencies in establishing reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, to ensure that every student can read at grade level or above not later than the end of grade 3.

"(2) To provide assistance to State educational agencies and local educational agencies in preparing teachers, including special education teachers, through professional development and other support, so the teachers can identify specific reading barriers facing their students and so the teachers have the tools to effectively help their students learn to read.

"(3) To provide assistance to State educational agencies and local educational agencies in selecting or administering screening, diagnostic, and classroom-based instructional reading assessments.

"(4) To provide assistance to State educational agencies and local educational agencies in selecting or developing effective instructional materials (including classroom-based materials to assist teachers in implementing the essential components of reading instruction), programs, learning systems, and strategies to implement methods that have been proven to prevent or remediate reading failure within a State.

"(5) To strengthen coordination among schools, early literacy programs, and family literacy programs to improve reading achievement for all children.

"SEC. 1202. FORMULA GRANTS TO STATE EDUCATIONAL AGENCIES.

"(a) IN GENERAL.—

"(1) AUTHORIZATION TO MAKE GRANTS.—In the case of each State educational agency that in accordance with section 1203 submits to the Secretary an application for a 6-year period, the Secretary, from amounts appropriated under section 1002(b)(1) and subject to the application's approval, shall make a grant to the State educational agency for the uses specified in subsections (c) and (d). For each fiscal year, the funds provided under the grant shall equal the allotment determined for the State educational agency under subsection (b).

"(2) DURATION OF GRANTS.—Subject to subsection (e)(3), a grant under this section shall be awarded for a period of not more than 6 years.

"(b) DETERMINATION OF AMOUNT OF ALLOTMENTS.—

"(1) RESERVATIONS FROM APPROPRIATIONS.—From the total amount made available to carry out this subpart for a fiscal year, the Secretary—

"(A) shall reserve ½ of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this subpart;

"(B) shall reserve ½ of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs;

"(C) may reserve not more than 2½ percent or $25,000,000, whichever is less, to carry out section 1205 (relating to external evaluation) and section 1206 (relating to national activities);

"(D) shall reserve $5,000,000 to carry out sections 1207 and 1224 (relating to information dissemination); and

"(E) for any fiscal year, beginning with fiscal year 2004, for which the amount appropriated to carry out this subpart exceeds the amount appropriated for fiscal year 2003, shall reserve, to carry out section 1204, the lesser of—

"(i) $90,000,000; or

"(ii) 10 percent of such excess amount.

"(2) STATE ALLOTMENTS.—In accordance with paragraph (3), the Secretary shall allot among each of the States the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1).

"(3) DETERMINATION OF STATE ALLOTMENT AMOUNTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall allot the amount made available under paragraph (2) for a fiscal year among the States in proportion to the number of children, aged 5 to 17, who reside within the State and are from families with incomes below the poverty line for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in all such States for that fiscal year.

"(B) EXCEPTIONS.—

"(i) MINIMUM GRANT AMOUNT.—Subject to clause (ii), no State receiving an allotment under subparagraph (A) may receive less than ¼ of 1 percent of the total amount allotted under such subparagraph.

"(ii) PUERTO RICO.—The percentage of the amount allotted under subparagraph (A) that is allotted to the Commonwealth of Puerto Rico for a fiscal year may not exceed the percentage that was received by the Commonwealth of Puerto Rico of the funds allocated to all States under subpart 2 of part A for the preceding fiscal year.

"(4) DISTRIBUTION OF SUBGRANTS.—The Secretary may make a grant to a State educational agency only if the State educational agency agrees to expend at least 80 percent of the amount of the funds provided under the grant for the purpose of making, in accordance with subsection (c), competitive subgrants to eligible local educational agencies.

"(5) REALLOTMENT.—If a State educational agency described in paragraph (2) does not apply for an allotment under this section for any fiscal year, or if the State educational agency's application is not approved, the Secretary shall reallot such amount to the remaining State educational agencies in accordance with paragraph (3).

"(6) DEFINITION OF STATE.—For purposes of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(1) AUTHORIZATION TO MAKE SUBGRANTS.—In accordance with paragraph (2), a State educational agency that receives a grant under this section shall make competitive subgrants to eligible local educational agencies.

"(2) ALLOCATION.—

"(A) MINIMUM SUBGRANT AMOUNT.—In making subgrants under paragraph (1), a State educational agency shall allocate to each eligible local educational agency that receives such a subgrant, at a minimum, an amount that bears the same relation to the funds made available under subsection (b)(4) as the amount the eligible local educational agency received under part A for the preceding fiscal year bears to the amount all the local educational agencies in the State received under part A for the preceding fiscal year.

"(B) PRIORITY.—In making subgrants under paragraph (1), a State educational agency shall give priority to eligible local educational agencies in which at least—

``(i) 15 percent of the children served by the eligible local educational agency are from families with incomes below the poverty line; or

``(ii) 6,500 children served by the eligible local educational agency are from families with incomes below the poverty line.

``(3) NOTICE.—A State educational agency receiving a grant under this section shall provide notice to all eligible local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

``(4) LOCAL APPLICATION.—To be eligible to receive a subgrant under this subsection, an eligible local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

``(5) STATE REQUIREMENT.—In distributing subgrant funds to eligible local educational agencies under this subsection, a State educational agency shall—

``(A) provide funds in sufficient size and scope to enable the eligible local educational agencies to improve reading instruction; and

``(B) provide the funds in amounts related to the number or percentage of students in kindergarten through grade 3 who are reading below grade level.

``(6) LIMITATION TO CERTAIN SCHOOLS.—In distributing subgrant funds under this subsection, an eligible local educational agency shall provide funds only to schools that both—

``(A) are among the schools served by that eligible local educational agency with the highest percentages or numbers of students in kindergarten through grade 3 reading below grade level, based on the most currently available data; and

``(B)(i) are identified for school improvement under section 1116(b); or

``(ii) have the highest percentages or numbers of children counted under section 1124(c).

``(7) LOCAL USES OF FUNDS.—

``(A) REQUIRED USES.—Subject to paragraph (8), an eligible local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

``(i) Selecting and administering screening, diagnostic, and classroom-based instructional reading assessments.

``(ii). Selecting and implementing a learning system or program of reading instruction based on scientifically based reading research that—

``(I) includes the essential components of reading instruction; and

``(II) provides such instruction to the children in kindergarten through grade 3 in the schools served by the eligible local educational agency, including children who—

``(aa) may have reading difficulties;

``(bb) are at risk of being referred to special education based on these difficulties;

``(cc) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of that Act, have not been identified as being a child with a disability (as defined in section 602 of that Act);

``(dd) are being served under such Act primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of that Act) related to reading;

``(ee) are deficient in the essential components of reading skills, as listed in subparagraphs (A) through (E) of section 1208(3); or

``(ff) are identified as having limited English proficiency.

``(iii) Procuring and implementing instructional materials, including education technology such as software and other digital curricula, that are based on scientifically based reading research.

``(iv) Providing professional development for teachers of kindergarten through grade 3, and special education teachers of kindergarten through grade 12, that—

``(I) will prepare these teachers in all of the essential components of reading instruction;

``(II) shall include—

``(aa) information on instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention, classroom reading materials, and remedial programs and approaches; and

``(bb) instruction in the use of screening, diagnostic, and classroom-based instructional reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading;

``(III) shall be provided by eligible professional development providers; and

``(IV) will assist teachers in becoming fully qualified in reading instruction in accordance with the requirements of section 1119.

``(v) Collecting and summarizing data—

``(I) to document the effectiveness of activities carried out under this subpart in individual schools and in the local educational agency as a whole; and

``(II) to stimulate and accelerate improvement by identifying the schools that produce significant gains in reading achievement.

``(vi) Reporting data for all students and categories of students described in section 1111(b)(2)(C)(v)(II).

``(vii) Promoting reading and library programs that provide access to engaging reading material, including coordination with programs funded through grants received under subpart 4, where applicable.

``(B) ADDITIONAL USES.—Subject to paragraph (8), an eligible local educational agency that receives a subgrant under this subsection may use the funds provided under the subgrant to carry out the following activities:

``(i) Humanities-based family literacy, programs (which may be referred to as ``Prime Time Family Reading Time'') that bond families around the acts of reading and using public libraries.

``(ii) Providing training in the essential components of reading instruction to a parent or other individual who volunteers to be a student's reading tutor, to enable such parent or individual to support instructional practices that are based on scientifically based reading research and are being used by the student's teacher.

``(iii) Assisting parents, through the use of materials and reading programs, strategies, and approaches (including family literacy services) that are based on scientifically based reading research, to encourage reading and support their child's reading development. .

``(8) LOCAL PLANNING AND ADMINISTRATION.—An eligible local educational agency that receives a subgrant under this subsection may use not more than 3.5 percent of the funds provided under the subgrant for planning and administration.

``(d) STATE USES OF FUNDS.—

``(1) IN GENERAL.—A State educational agency that receives a grant under this section may expend not more than a total of 20 percent of the grant funds to carry out the activities described in paragraphs (3), (4), and (5).

``(2) PRIORITY.—A State educational agency shall give priority to carrying out the activities described in paragraphs (3), (4), and (5) for schools described in subsection (c)(6).

``(3) PROFESSIONAL INSERVICE AND PRESERVICE DEVELOPMENT AND REVIEW.—A State educational agency may expend not more than 65 percent of the amount of the funds made available under paragraph (1)—

``(A) to develop and implement a program of professional development for teachers, including special education teachers, of kindergarten through grade 3 that—

``(i) will prepare these teachers in all the essential components of reading instruction;

``(ii) shall include—

``(I) information on instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

``(II) instruction in the use of screening, diagnostic, and classroom-based instructional reading assessments and other scientifically based procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

``(iii) shall be provided by eligible professional development providers;

``(B) to strengthen and enhance preservice courses for students preparing, at all public institutions of higher education in the State, to teach kindergarten through grade 3 by—

``(i) reviewing such courses to determine whether the courses' content is consistent with the findings of the most current scientifically based reading research, including findings on the essential components of reading instruction;

``(ii) following up such reviews with recommendations to ensure that such institutions offer courses that meet the highest standards; and

``(iii) preparing a report on the results of such reviews, submitting the report to the reading and literacy partnership for the State established under section 1203(d), and making the report available for public review by means of the Internet; and

``(C) to make recommendations on how the State licensure and certification standards in the area of reading might be improved.

``(4) TECHNICAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES AND SCHOOLS.—A State educational agency may expend not more than 25 percent of the amount of the funds made available under paragraph (1) for 1 or more of the following:

``(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, including—

``(i) selecting and implementing a program or programs of reading instruction based on scientifically based reading research;

``(ii) selecting screening, diagnostic, and classroom-based instructional reading assessments; and

``(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in clauses (i) and (ii).

``(B) Providing expanded opportunities to students in kindergarten through grade 3 who are served by eligible local educational agencies for receiving reading assistance from alternative providers that includes—

``(i) screening, diagnostic, and classroom-based instructional reading assessments; and

``(ii) as need is indicated by the assessments under clause (i), instruction based on scientifically based reading research that includes the essential components of reading instruction.

``(5) PLANNING, ADMINISTRATION, AND REPORTING.—

``(A) EXPENDITURE OF FUNDS.—A State educational agency may expend not more than 10 percent of the amount of funds made available under paragraph (1) for the activities described in this paragraph.

``(B) PLANNING AND ADMINISTRATION.—A State educational agency that receives a grant under this section may expend funds made available under subparagraph (A) for planning and administration relating to the State uses of funds

authorized under this subpart, including the following:

"(i) Administering the distribution of competitive subgrants to eligible local educational agencies under subsection (c) and section 1204(d).

"(ii) Assessing and evaluating, on a regular basis, eligible local educational agency activities assisted under this subpart, with respect to whether they have been effective in increasing the number of children in grades 1, 2, and 3 served under this subpart who can read at or above grade level.

"(C) ANNUAL REPORTING.—

"(i) IN GENERAL.—A State educational agency that receives a grant under this section shall expend funds made available under subparagraph (A) to provide the Secretary annually with a report on the implementation of this subpart.

"(ii) INFORMATION INCLUDED.—Each report under this subparagraph shall include information on the following:

"(I) Evidence that the State educational agency is fulfilling its obligations under this subpart.

"(II) Specific identification of those schools and local educational agencies that report the largest gains in reading achievement.

"(III) The progress the State educational agency and local educational agencies within the State are making in reducing the number of students served under this subpart in grades 1, 2, and 3 who are reading below grade level, as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction.

"(IV) Evidence on whether the State educational agency and local educational agencies within the State have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) who are reading at grade level or above, and successfully implemented this subpart.

"(iii) PRIVACY PROTECTION.—Data in the report shall be reported in a manner that protects the privacy of individuals.

"(iv) CONTRACT.—To the extent practicable, a State educational agency shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will assist the State educational agency in producing the reports required to be submitted under this subparagraph.

"(e) REVIEW.—

"(1) PROGRESS REPORT.—

"(A) SUBMISSION.—Not later than 60 days after the termination of the third year of the grant period, each State educational agency receiving a grant under this section shall submit a progress report to the Secretary.

"(B) INFORMATION INCLUDED.—The progress report shall include information on the progress the State educational agency and local educational agencies within the State are making in reducing the number of students served under this subpart in grades 1, 2, and 3 who are reading below grade level (as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction). The report shall also include evidence from the State educational agency and local educational agencies within the State that the State educational agency and the local educational agencies have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) who are reading at grade level or above, and successfully implemented this subpart.

"(2) PEER REVIEW.—The progress report described in paragraph (1) shall be reviewed by the peer review panel convened under section 1203(c)(2).

"(3) CONSEQUENCES OF INSUFFICIENT PROGRESS.—After submission of the progress report described in paragraph (1), if the Secretary determines that the State educational agency is not making significant progress in meeting the purposes of this subpart, the Secretary may withhold from the State educational agency, in whole or in part, further payments under this section in accordance with section 455 of the General Education Provisions Act or take such other action authorized by law as the Secretary determines necessary, including providing technical assistance upon request of the State educational agency.

"(f) FUNDS NOT USED FOR STATE LEVEL ACTIVITIES.—Any portion of funds described in subsection (d)(1) that a State educational agency does not expend in accordance with subsection (d)(1) shall be expended for the purpose of making subgrants in accordance with subsection (c).

"SEC. 1203. STATE FORMULA GRANT APPLICATIONS.

"(a) APPLICATIONS.—

"(1) IN GENERAL.—A State educational agency that desires to receive a grant under section 1202 shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in subsection (b).

"(2) SPECIAL APPLICATION PROVISIONS.—For those State educational agencies that have received a grant under part C of title II (as such part was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001), the Secretary shall establish a modified set of requirements for an application under this section that takes into account the information already submitted and approved under that program and minimizes the duplication of effort on the part of such State educational agencies.

"(b) CONTENTS.—An application under this section shall contain the following:

"(1) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d), and a description of how such partnership—

"(A) coordinated the development of the application; and

"(B) will assist in the oversight and evaluation of the State educational agency's activities under this subpart.

"(2) A description, if applicable, of the State's strategy to expand, continue, or modify activities authorized under part C of title II (as such part was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001).

"(3) An assurance that the State educational agency, and any local educational agencies receiving a subgrant from that State educational agency under section 1202, will, if requested, participate in the external evaluation under section 1205.

"(4) A State educational agency plan containing a description of the following:

"(A) How the State educational agency will assist local educational agencies in identifying screening, diagnostic, and classroom-based instructional reading assessments.

"(B) How the State educational agency will assist local educational agencies in identifying instructional materials, programs, strategies, and approaches, based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches.

"(C) How the State educational agency will ensure that professional development activities related to reading instruction and provided under section 1202 are—

"(i) coordinated with other Federal, State, and local level funds, and used effectively to improve instructional practices for reading; and

"(ii) based on scientifically based reading research.

"(D) How the activities assisted under section 1202 will address the needs of teachers and other instructional staff in implementing the essential components of reading instruction.

"(E) How subgrants made by the State educational agency under section 1202 will meet the requirements of section 1202, including how the State educational agency will ensure that eligible local educational agencies receiving subgrants under section 1202 will use practices based on scientifically based reading research.

"(F) How the State educational agency will, to the extent practicable, make grants to eligible local educational agencies in both rural and urban areas.

"(G) How the State educational agency will build on, and promote coordination among literacy programs in the State (including federally funded programs such as programs under the Adult Education and Family Literacy Act, the Individuals with Disabilities Education Act, and subpart 2), to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the program.

"(H) How the State educational agency will assess and evaluate, on a regular basis, eligible local educational agency activities assisted under section 1202, with respect to whether the activities have been effective in achieving the purposes of section 1202.

"(I) Any other information that the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATIONS.—

"(1) IN GENERAL.—The Secretary shall approve an application of a State educational agency under this section only if such application meets the requirements of this section.

"(2) PEER REVIEW.—

"(A) IN GENERAL.—The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

"(i) 3 individuals selected by the Secretary;

"(ii) 3 individuals selected by the National Institute for Literacy;

"(iii) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

"(iv) 3 individuals selected by the National Institute of Child Health and Human Development.

"(B) EXPERTS.—The panel shall include—

"(i) experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section;

"(ii) experts who provide professional development to individuals who teach reading to children and adults based on scientifically based reading research;

"(iii) experts who provide professional development to other instructional staff based on scientifically based reading research; and

"(iv) an individual who has expertise in screening, diagnostic, and classroom-based instructional reading assessments.

"(C) RECOMMENDATIONS.—The panel shall recommend grant applications from State educational agencies under this section to the Secretary for funding or for disapproval.

"(d) READING AND LITERACY PARTNERSHIPS.—

"(1) IN GENERAL.—For a State educational agency to receive a grant under section 1202, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership.

"(2) REQUIRED PARTICIPANTS.—The reading and literacy partnership shall include the following participants:

"(A) The Governor of the State.

"(B) The chief State school officer.

"(C) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

"(D) A representative, selected jointly by the Governor and the chief State school officer, of at least 1 eligible local educational agency.

"(E) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using tutors and scientifically based reading research.

"(F) State directors of appropriate Federal or State programs with a strong reading component, selected jointly by the Governor and the chief State school officer.

"(G) A parent of a public or private school student or a parent who educates the parent's child in the parent's home, selected jointly by the Governor and the chief State school officer.

"(H) A teacher, who may be a special education teacher, who successfully teaches reading, and another instructional staff member, selected jointly by the Governor and the chief State school officer.

"(I) A family literacy service provider selected jointly by the Governor and the chief State school officer.

"(3) OPTIONAL PARTICIPANTS.—The reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

"(A) an institution of higher education operating a program of teacher preparation in the State that is based on scientifically based reading research;

"(B) a local educational agency;

"(C) a private nonprofit or for-profit eligible professional development provider providing instruction based on scientifically based reading research;

"(D) an adult education provider;

"(E) a volunteer organization that is involved in reading programs; or

"(F) a school library or a public library that offers reading or literacy programs for children or families.

"(4) PREEXISTING PARTNERSHIP.—If, before the date of enactment of the No Child Left Behind Act of 2001, a State educational agency established a consortium, partnership, or any other similar body that was considered a reading and literacy partnership for purposes of part C of title II of this Act (as such part was in effect on the day before the date of enactment of No Child Left Behind Act of 2001), that consortium, partnership, or body may be considered a reading and literacy partnership for purposes of this subsection consistent with the provisions of this subpart.

"SEC. 1204. TARGETED ASSISTANCE GRANTS.

"(a) ELIGIBILITY CRITERIA FOR AWARDING TARGETED ASSISTANCE GRANTS TO STATES.—Beginning with fiscal year 2004, from funds appropriated under section 1202(b)(1)(E), the Secretary shall make grants, on a competitive basis, to those State educational agencies that—

"(1) for each of 2 consecutive years, demonstrate that an increasing percentage of third graders in each of the groups described in section 1111(b)(2)(C)(v)(II) in the schools served by the local educational agencies receiving funds under section 1202 are reaching the proficient level in reading; and

"(2) for each of the same such consecutive 2 years, demonstrate that schools receiving funds under section 1202 are improving the reading skills of students in grades 1, 2, and 3 based on screening, diagnostic, and classroom-based instructional reading assessments.

"(b) CONTINUATION OF PERFORMANCE AWARDS.—For any State educational agency that receives a competitive grant under this section, the Secretary shall make an award for each of the succeeding years that the State educational agency demonstrates it is continuing to meet the criteria described in subsection (a).

"(c) DISTRIBUTION OF TARGETED ASSISTANCE GRANTS.—

"(1) IN GENERAL.—The Secretary shall make a grant to each State educational agency with an application approved under this section in an amount that bears the same relation to the amount made available to carry out this section for a fiscal year as the number of children counted under section 1124(c) for the State bears to the number of such children so counted for all States with applications approved for that year.

"(2) PEER REVIEW.—The peer review panel convened under section 1203(c)(2) shall review the applications submitted under this subsection. The panel shall recommend such applications to the Secretary for funding or for disapproval.

"(3) APPLICATION CONTENTS.—A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall include the following:

"(A) Evidence that the State educational agency has carried out its obligations under section 1203.

"(B) Evidence that the State educational agency has met the criteria described in subsection (a).

"(C) The amount of funds requested by the State educational agency and a description of the criteria the State educational agency intends to use in distributing subgrants to eligible local educational agencies under this section to continue or expand activities under subsection (d)(5).

"(D) Evidence that the State educational agency has increased significantly the percentage of students reading at grade level or above.

"(E) Any additional evidence that demonstrates success in the implementation of this section.

"(d) SUBGRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—The Secretary may make a grant to a State educational agency under this section only if the State educational agency agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of making competitive subgrants in accordance with this subsection to eligible local educational agencies.

"(2) NOTICE.—A State educational agency receiving a grant under this section shall provide notice to all local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

"(3) APPLICATION.—To be eligible to receive a subgrant under this subsection, an eligible local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

"(4) DISTRIBUTION.—

"(A) IN GENERAL.—A State educational agency shall distribute subgrants under this section through a competitive process based on relative need of eligible local educational agencies and the evidence described in this paragraph.

"(B) EVIDENCE USED IN ALL YEARS.—For all fiscal years, a State educational agency shall distribute subgrants under this section based on evidence that an eligible local educational agency—

"(i) satisfies the requirements of section 1202(c)(4);

"(ii) will carry out its obligations under this subpart;

"(iii) will work with other local educational agencies in the State that have not received a subgrant under this subsection to assist such nonreceiving agencies in increasing the reading achievement of students; and

"(iv) is meeting the criteria described in subsection (a).

"(5) LOCAL USES OF FUNDS.—An eligible local educational agency that receives a subgrant under this subsection—

"(A) shall use the funds provided under the subgrant to carry out the activities described in section 1202(c)(7)(A); and

"(B) may use such funds to carry out the activities described in section 1202(c)(7)(B).

"SEC. 1205. EXTERNAL EVALUATION.

"(a) IN GENERAL.—From funds reserved under section 1202(b)(1)(C), the Secretary shall contract with an independent organization outside of the Department for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

"(b) PROCESS.—The evaluation under subsection (a) shall be conducted by an organization that is capable of designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by State educational agencies and local educational agencies under this subpart on improving reading instruction. Such evaluation shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

"(c) ANALYSIS.—The evaluation under subsection (a) shall include the following:

"(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

"(2) An analysis of whether assessment tools used by State educational agencies and local educational agencies measure the essential components of reading.

"(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

"(4) An analysis of whether the receipt of a targeted assistance grant under section 1204 results in an increase in the number of children who read proficiently.

"(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

"(6) A measurement of the extent to which specific screening, diagnostic, and classroom-based instructional reading assessments assist teachers in identifying specific reading deficiencies.

"(7) A measurement of the extent to which professional development programs implemented by State educational agencies using funds received under this subpart improve reading instruction.

"(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

"(9) An analysis of changes in students' interest in reading and time spent reading outside of school.

"(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

"(d) PROGRAM IMPROVEMENT.—The findings of the evaluation conducted under this section shall be provided to State educational agencies and local educational agencies on a periodic basis for use in program improvement.

"SEC. 1206. NATIONAL ACTIVITIES.

"From funds reserved under section 1202(b)(1)(C), the Secretary—

"(1) may provide technical assistance in achieving the purposes of this subpart to State educational agencies, local educational agencies, and schools requesting such assistance;

"(2) shall, at a minimum, evaluate the impact of services provided to children under this subpart with respect to their referral to, and eligibility for, special education services under the

Individuals with Disabilities Education Act (based on their difficulties learning to read); and

"(3) shall carry out the external evaluation as described in section 1205.

"SEC. 1207. INFORMATION DISSEMINATION.

"(a) IN GENERAL.—From funds reserved under section 1202(b)(1)(D), the National Institute for Literacy, in collaboration with the Secretary of Education, the Secretary of Health and Human Services, and the Director of the National Institute for Child Health and Human Development shall—

"(1) disseminate information on scientifically based reading research pertaining to children, youth, and adults;

"(2) identify and disseminate information about schools, local educational agencies, and State educational agencies that have effectively developed and implemented classroom reading programs that meet the requirements of this subpart, including those State educational agencies, local educational agencies, and schools that have been identified as effective through the evaluation and peer review provisions of this subpart; and

"(3) support the continued identification and dissemination of information on reading programs that contain the essential components of reading instruction as supported by scientifically based reading research, that can lead to improved reading outcomes for children, youth, and adults.

"(b) DISSEMINATION AND COORDINATION.—At a minimum, the National Institute for Literacy shall disseminate the information described in subsection (a) to—

"(1) recipients of Federal financial assistance under this title, title III, the Head Start Act, the Individuals with Disabilities Education Act, and the Adult Education and Family Literacy Act; and

"(2) each Bureau funded school (as defined in section 1141 of the Education Amendments of 1978).

"(c) USE OF EXISTING NETWORKS.—In carrying out this section, the National Institute for Literacy shall, to the extent practicable, use existing information and dissemination networks developed and maintained through other public and private entities including through the Department and the National Center for Family Literacy.

"(d) NATIONAL INSTITUTE FOR LITERACY—For purposes of funds reserved under section 1202(b)(1)(D) to carry out this section, the National Institute for Literacy shall administer such funds in accordance with section 242(b) of Public Law 105–220 (relating to the establishment and administration of the National Institute for Literacy).

"SEC. 1208. DEFINITIONS.

"In this subpart:

"(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'eligible local educational agency' means a local educational agency that—

"(A) is among the local educational agencies in the State with the highest numbers or percentages of students in kindergarten through grade 3 reading below grade level, based on the most currently available data; and

"(B) has—

"(i) jurisdiction over a geographic area that includes an area designated as an empowerment zone, or an enterprise community, under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986;

"(ii) jurisdiction over a significant number or percentage of schools that are identified for school improvement under section 1116(b); or

"(iii) the highest numbers or percentages of children who are counted under section 1124(c), in comparison to other local educational agencies in the State.

"(2) ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.—The term 'eligible professional development provider' means a provider of professional development in reading instruction to teachers, including special education teachers, that is based on scientifically based reading research.

"(3) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' means explicit and systematic instruction in—

"(A) phonemic awareness;

"(B) phonics;

"(C) vocabulary development;

"(D) reading fluency, including oral reading skills; and

"(E) reading comprehension strategies.

"(4) INSTRUCTIONAL STAFF.—The term 'instructional staff'—

"(A) means individuals who have responsibility for teaching children to read; and

"(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

"(5) READING.—The term 'reading' means a complex system of deriving meaning from print that requires all of the following:

"(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.

"(B) The ability to decode unfamiliar words.

"(C) The ability to read fluently.

"(D) Sufficient background information and vocabulary to foster reading comprehension.

"(E) The development of appropriate active strategies to construct meaning from print.

"(F) The development and maintenance of a motivation to read.

"(6) SCIENTIFICALLY BASED READING RESEARCH.—The term 'scientifically based reading research' means research that—

"(A) applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

"(B) includes research that—

"(i) employs systematic, empirical methods that draw on observation or experiment;

"(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

"(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

"(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

"(7) SCREENING, DIAGNOSTIC, AND CLASSROOM-BASED INSTRUCTIONAL READING ASSESSMENTS.—

"(A) IN GENERAL.—The term 'screening, diagnostic, and classroom-based instructional reading assessments' means—

"(i) screening reading assessments;

"(ii) diagnostic reading assessments; and

"(iii) classroom-based instructional reading assessments.

"(B) SCREENING READING ASSESSMENT.—The term 'screening reading assessment' means an assessment that is—

"(i) valid, reliable, and based on scientifically based reading research; and

"(ii) a brief procedure designed as a first step in identifying children who may be at high risk for delayed development or academic failure and in need of further diagnosis of their need for special services or additional reading instruction.

"(C) DIAGNOSTIC READING ASSESSMENT.—The term 'diagnostic reading assessment' means an assessment that is—

"(i) valid, reliable, and based on scientifically based reading research; and

"(ii) used for the purpose of—

"(I) identifying a child's specific areas of strengths and weaknesses so that the child has learned to read by the end of grade 3;

"(II) determining any difficulties that a child may have in learning to read and the potential cause of such difficulties; and

"(III) helping to determine possible reading intervention strategies and related special needs.

"(D) CLASSROOM-BASED INSTRUCTIONAL READING ASSESSMENT.—The term 'classroom-based instructional reading assessment' means an assessment that—

"(i) evaluates children's learning based on systematic observations by teachers of children performing academic tasks that are part of their daily classroom experience; and

"(ii) is used to improve instruction in reading, including classroom instruction.

"Subpart 2—Early Reading First

"SEC. 1221. PURPOSES; DEFINITIONS.

"(a) PURPOSES.—The purposes of this subpart are as follows:

"(1) To support local efforts to enhance the early language, literacy, and prereading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based reading research.

"(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

"(3) To demonstrate language and literacy activities based on scientifically based reading research that supports the age-appropriate development of—

"(A) recognition, leading to automatic recognition, of letters of the alphabet;

"(B) knowledge of letter sounds, the blending of sounds, and the use of increasingly complex vocabulary;

"(C) an understanding that written language is composed of phonemes and letters each representing 1 or more speech sounds that in combination make up syllables, words, and sentences;

"(D) spoken language, including vocabulary and oral comprehension abilities; and

"(E) knowledge of the purposes and conventions of print.

"(4) To use screening assessments to effectively identify preschool age children who may be at risk for reading failure.

"(5) To integrate such scientific reading research-based instructional materials and literacy activities with existing programs of preschools, child care agencies and programs, Head Start centers, and family literacy services.

"(b) DEFINITIONS.—For purposes of this subpart:

"(1) ELIGIBLE APPLICANT.—The term 'eligible applicant' means—

"(A) one or more local educational agencies that are eligible to receive a subgrant under subpart 1;

"(B) one or more public or private organizations or agencies, acting on behalf of 1 or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program), which organizations or agencies shall be located in a community served by a local educational agency described in subparagraph (A); or

"(C) one or more local educational agencies described in subparagraph (A) in collaboration with 1 or more organizations or agencies described in subparagraph (B).'

"(2) SCIENTIFICALLY BASED READING RESEARCH.—The term 'scientifically based reading research' has the same meaning given to that term in section 1208.

"(3) SCREENING READING ASSESSMENT.—The term 'screening reading assessment' has the same meaning given to that term in section 1208.

"SEC. 1222. LOCAL EARLY READING FIRST GRANTS.

"(a) PROGRAM AUTHORIZED.—From amounts appropriated under section 1002(b)(2), the Secretary shall award grants, on a competitive basis, for periods of not more than 6 years, to eligible applicants to enable the eligible applicants to carry out the authorized activities described in subsection (d).

"(b) APPLICATIONS.—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary, which shall include a description of—

"(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the preschool age children enrolled in the programs;

"(2) how the proposed project will enhance the school readiness of preschool age children in high-quality oral language and literature-rich environments;

"(3) how the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, to provide high-quality language, literacy, and prereading activities using scientifically based reading research, for preschool age children;

"(4) how the proposed project will provide services and use instructional materials that are based on scientifically based reading research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

"(5) how the proposed project will help staff in the programs to meet more effectively the diverse needs of preschool age children in the community, including such children with limited English proficiency, disabilities, or other special needs;

"(6) how the proposed project will integrate such instructional materials and literacy activities with existing preschool programs and family literacy services;

"(7) how the proposed project will help children, particularly children experiencing difficulty with spoken language, prereading, and early reading skills, to make the transition from preschool to formal classroom instruction in school;

"(8) if the eligible applicant has received a subgrant under subpart 1, how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 1 at the kindergarten through grade 3 level;

"(9) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language, literacy, and prereading development of preschool age children served by the project; and

"(10) such other information as the Secretary may require.

"(c) APPROVAL OF LOCAL APPLICATIONS.—The Secretary shall select applicants for funding under this subpart based on the quality of the applications and the recommendations of a peer review panel convened under section 1203(c)(2), that includes, at a minimum, 3 individuals, selected from the entities described in clauses (ii), (iii), and (iv) of section 1203(c)(2)(A), who are experts in early reading development and early childhood development.

"(d) AUTHORIZED ACTIVITIES.—An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

"(1) Providing preschool age children with high-quality oral language and literature-rich environments in which to acquire language and prereading skills.

"(2) Providing professional development that is based on scientifically based reading research knowledge of early language and reading development for the staff of the eligible applicant and that will assist in developing the preschool age children's—

"(A) recognition, leading to automatic recognition, of letters of the alphabet, knowledge of letters, sounds, blending of letter sounds, and increasingly complex vocabulary;

"(B) understanding that written language is composed of phonemes and letters each representing 1 or more speech sounds that in combination make up syllables, words, and sentences;

"(C) spoken language, including vocabulary and oral comprehension abilities; and

"(D) knowledge of the purposes and conventions of print.

"(3) Identifying and providing activities and instructional materials that are based on scientifically based reading research for use in developing the skills and abilities described in paragraph (2).

"(4) Acquiring, providing training for, and implementing screening reading assessments or other appropriate measures that are based on scientifically based reading research to determine whether preschool age children are developing the skills described in this subsection.

"(5) Integrating such instructional materials, activities, tools, and measures into the programs offered by the eligible applicant.

"(e) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

"SEC. 1223. FEDERAL ADMINISTRATION.

"The Secretary shall consult with the Secretary of Health and Human Services to coordinate the activities under this subpart with preschool age programs administered by the Department of Health and Human Services.

"SEC. 1224. INFORMATION DISSEMINATION.

"From the funds the National Institute for Literacy receives under section 1202(b)(1)(D), the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

"SEC. 1225. REPORTING REQUIREMENTS.

"Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. Such report shall include, at a minimum, a description of—

"(1) the research-based instruction, materials, and activities being used in the programs funded under the grant;

"(2) the types of programs funded under the grant and the ages of children served by such programs;

"(3) the qualifications of the program staff who provide early literacy instruction under such programs and the type of ongoing professional development provided to such staff; and

"(4) the results of the evaluation described in section 1222(b)(9).

"SEC. 1226. EVALUATION.

"(a) IN GENERAL.—From the total amount made available under section 1002(b)(2) for the period beginning October 1, 2002, and ending September 30, 2006, the Secretary shall reserve not more than $3,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

"(b) REPORTS.—

"(1) INTERIM REPORT.—Not later than October 1, 2004, the Secretary shall submit an interim report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

"(2) FINAL REPORT.—Not later than September 30, 2006, the Secretary shall submit a final report to the committees described in paragraph (1).

"(c) CONTENTS.—The reports submitted under subsection (b) shall include information on the following:

"(1) How the grant recipients under this subpart are improving the prereading skills of preschool children.

"(2) The effectiveness of the professional development program assisted under this subpart.

"(3) How early childhood teachers are being prepared with scientifically based reading research on early reading development.

"(4) What activities and instructional practices are most effective.

"(5) How prereading instructional materials and literacy activities based on scientifically based reading research are being integrated into preschools, child care agencies and programs, programs carried out under the Head Start Act, and family literacy programs.

"(6) Any recommendations on strengthening or modifying this subpart.

"Subpart 3—William F. Goodling Even Start Family Literacy Programs

"SEC. 1231. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to help break the cycle of poverty and illiteracy by—

"(1) improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as 'Even Start'; and

"(2) establishing a program that shall—

"(A) be implemented through cooperative projects that build on high-quality existing community resources to create a new range of services;

"(B) promote the academic achievement of children and adults;

"(C) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student achievement standards; and

"(D) use instructional programs based on scientifically based reading research and addressing the prevention of reading difficulties for children and adults, to the extent such research is available.

"SEC. 1232. PROGRAM AUTHORIZED.

"(a) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section 1002(b)(3) (or, if such appropriated amount exceeds $200,000,000, 6 percent of such amount) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this subpart, and according to their relative needs, for—

"(A) children of migratory workers;

"(B) the outlying areas; and

"(C) Indian tribes and tribal organizations.

"(2) SPECIAL RULE.—After December 21, 2000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

"(3) COORDINATION OF PROGRAMS FOR AMERICAN INDIANS.—The Secretary shall ensure that programs under paragraph (1)(C) are coordinated with family literacy programs operated by the Bureau of Indian Affairs in order to avoid duplication and to encourage the dissemination of information on high-quality family literacy programs serving American Indians.

"(b) Reservation for Federal Activities.—

"(1) Evaluation, technical assistance, program improvement, and replication activities.—Subject to paragraph (2), from amounts appropriated under section 1002(b)(3), the Secretary may reserve not more than 3 percent of such amounts for purposes of—

"(A) carrying out the evaluation required by section 1239; and

"(B) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

"(2) Research.—In any fiscal year, if the amount appropriated under section 1002(b)(3) for such year—

"(A) is equal to or less than the amount appropriated for the preceding fiscal year, the Secretary may reserve from such amount only the amount necessary to continue multi-year activities carried out pursuant to section 1241(b) that began during or prior to the fiscal year preceding the fiscal year for which the determination is made; or

"(B) exceeds the amount appropriated for the preceding fiscal year, then the Secretary shall reserve from such excess amount $2,000,000 or 50 percent, whichever is less, to carry out section 1241(b).

"(c) Reservation for Grants.—

"(1) Grants authorized.—

"(A) In general.—For any fiscal year for which at least 1 State educational agency applies and submits an application that meets the requirements and goals of this subsection and for which the amount appropriated under section 1002(b)(3) exceeds the amount appropriated under that section for the preceding fiscal year, the Secretary shall reserve, from the amount of the excess remaining after the application of subsection (b)(2), the amount of the remainder or $1,000,000, whichever is less, to award grants, on a competitive basis, to State educational agencies to enable them to plan and implement statewide family literacy initiatives to coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources consistent with the purposes of this subpart.

"(B) Coordination and integration.—The coordination and integration described in subparagraph (A) shall include coordination and integration of funds available under the Adult Education and Family Literacy Act, the Head Start Act, this subpart, part A of this title, and part A of title IV of the Social Security Act.

"(C) Restriction.—No State educational agency may receive more than 1 grant under this subsection.

"(2) Consortia.—

"(A) Establishment.—To receive a grant under this subsection, a State educational agency shall establish a consortium of State-level programs under the following provisions of laws:

"(i) This title (other than part D).

"(ii) The Head Start Act.

"(iii) The Adult Education and Family Literacy Act.

"(iv) All other State-funded preschool programs and programs providing literacy services to adults.

"(B) Plan.—To receive a grant under this subsection, the consortium established by a State educational agency shall create a plan to use a portion of the State educational agency's resources, derived from the programs referred to in subparagraph (A), to strengthen and expand family literacy services in the State.

"(C) Coordination with subpart 1.—The consortium shall coordinate its activities under this paragraph with the activities of the reading and literacy partnership for the State educational agency established under section 1203(d), if the State educational agency receives a grant under section 1202.

"(3) Reading instruction.—Statewide family literacy initiatives implemented under this subsection shall base reading instruction on scientifically based reading research.

"(4) Technical assistance.—The Secretary shall provide, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to State educational agencies receiving a grant under this subsection.

"(5) Matching requirement.—The Secretary shall not make a grant to a State educational agency under this subsection unless the State educational agency agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State educational agency will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

"(d) State Educational Agency Allocation.—

"(1) In general.—From amounts appropriated under section 1002(b)(3) and not reserved under subsection (a), (b), or (c), the Secretary shall make grants to State educational agencies from allocations under paragraph (2).

"(2) Allocations.—Except as provided in paragraph (3), from the total amount available under paragraph (1) for allocation to State educational agencies in any fiscal year, each State educational agency shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to the total amount as the amount allocated under part A to that State educational agency bears to the total amount allocated under that part to all State educational agencies.

"(3) Minimum.—No State educational agency shall receive a grant under paragraph (1) in any fiscal year in an amount that is less than $250,000, or ½ of 1 percent of the amount appropriated under section 1002(b)(3) and not reserved under subsections (a), (b), and (c) for such year, whichever is greater.

"(e) Definitions.—For the purpose of this subpart—

"(1) the term 'eligible entity' means a partnership composed of—

"(A) a local educational agency; and

"(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

"(2) the term 'eligible organization' means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

"(3) the terms 'Indian tribe' and 'tribal organization' have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act;

"(4) the term 'scientifically based reading research' has the meaning given that term in section 1208; and

"(5) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1233. STATE EDUCATIONAL AGENCY PROGRAMS.

"(a) State Educational Agency Level Activities.—Each State educational agency that receives a grant under section 1232(d)(1) may use not more than a total of 6 percent of the grant funds for the costs of—

"(1) administration, which amount shall not exceed half of the total;

"(2) providing, through 1 or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b); and

"(3) carrying out sections 1240 and 1234(c).

"(b) Subgrants for Local Programs.—

"(1) In general.—Each State educational agency shall use the grant funds received under section 1232(d)(1) and not reserved under subsection (a) to award subgrants to eligible entities to carry out Even Start programs.

"(2) Minimum subgrant amounts.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), no State educational agency shall award a subgrant under paragraph (1) in an amount less than $75,000.

"(B) Subgrantees in ninth and succeeding years.—No State educational agency shall award a subgrant under paragraph (1) in an amount less than $52,500 to an eligible entity for a fiscal year to carry out an Even Start program that is receiving assistance under this subpart or its predecessor authority for the ninth (or any subsequent) fiscal year.

"(C) Exception for single subgrant.—A State educational agency may award 1 subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for that fiscal year in accordance with subparagraphs (A) and (B), less than $75,000 is available to the State educational agency to award those subgrants.

"SEC. 1234. USES OF FUNDS.

"(a) In General.—In carrying out an Even Start program under this subpart, a recipient of funds under this subpart shall use those funds to pay the Federal share of the cost of providing intensive family literacy services that involve parents and children, from birth through age 7, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) Federal Share Limitation.—

"(1) In general.—

"(A) Federal share.—Except as provided in paragraph (2), the Federal share under this subpart may not exceed—

"(i) 90 percent of the total cost of the program in the first year that the program receives assistance under this subpart or its predecessor authority;

"(ii) 80 percent in the second year;

"(iii) 70 percent in the third year;

"(iv) 60 percent in the fourth year;

"(v) 50 percent in the fifth, sixth, seventh, and eighth such years; and

"(vi) 35 percent in any subsequent year.

"(B) Remaining cost.—The remaining cost of a program assisted under this subpart may be provided in cash or in kind, fairly evaluated, and may be obtained from any source, including other Federal funds under this Act.

"(2) Waiver.—The State educational agency may waive, in whole or in part, the Federal share described in paragraph (1) for an eligible entity if the entity—

"(A) demonstrates that it otherwise would not be able to participate in the program assisted under this subpart; and

"(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

"(3) Prohibition.—Federal funds provided under this subpart may not be used for the indirect costs of a program assisted under this subpart, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 1232(a)(1)(C) demonstrates to the Secretary's satisfaction that the recipient *otherwise would not be able to participate in the program assisted under this subpart.*

“(c) USE OF FUNDS FOR FAMILY LITERACY SERVICES.—

“(1) IN GENERAL.—A State educational agency may use a portion of funds reserved under section 1233(a), to assist eligible entities receiving a subgrant under section 1233(b) in improving the quality of family literacy services provided under Even Start programs under this subpart, except that in no case may a State educational agency's use of funds for this purpose for a fiscal year result in a decrease from the level of activities and services provided to program participants in the preceding year.

“(2) PRIORITY.—In carrying out paragraph (1), a State educational agency shall give priority to programs that were of low quality, as evaluated based on the indicators of program quality developed by the State educational agency under section 1240.

“(3) TECHNICAL ASSISTANCE TO HELP LOCAL PROGRAMS RAISE ADDITIONAL FUNDS.—In carrying out paragraph (1), a State educational agency may use the funds referred to in that paragraph to provide technical assistance to help local programs of demonstrated effectiveness to access and leverage additional funds for the purpose of expanding services and reducing waiting lists, including requesting and applying for non-Federal resources.

“(4) TECHNICAL ASSISTANCE AND TRAINING.—Assistance under paragraph (1) shall be in the form of technical assistance and training, provided by a State educational agency through a grant, contract, or cooperative agreement with an entity that has experience in offering high-quality training and technical assistance to family literacy providers.

“SEC. 1235. PROGRAM ELEMENTS.

“Each program assisted under this subpart shall—

“(1) include the identification and recruitment of families most in need of services provided under this subpart, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators;

“(2) include screening and preparation of parents, including teenage parents, and children to enable those parents and children to participate fully in the activities and services provided under this subpart, including testing, referral to necessary counselling, other developmental and support services, and related services;

“(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when those services are unavailable from other sources, necessary for participation in the activities assisted under this subpart, such as—

“(A) scheduling and locating of services to allow joint participation by parents and children;

“(B) child care for the period that parents are involved in the program provided under this subpart; and

“(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this subpart;

“(4) include high-quality, intensive instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

“(5) with respect to the qualifications of staff the cost of whose salaries are paid, in whole or in part, with Federal funds provided under this subpart, ensure that—

“(A) not later than December 21, 2004—

“(i) a majority of the individuals providing academic instruction—

“(I) shall have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary school or secondary school education, or adult education; and

“(II) if applicable, shall meet qualifications established by the State for early childhood education, elementary school or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

“(ii) the individual responsible for administration of family literacy services under this subpart has received training in the operation of a family literacy program; and

“(iii) paraprofessionals who provide support for academic instruction have a secondary school diploma or its recognized equivalent; and

“(B) all new personnel hired to provide academic instruction—

“(i) have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary school or secondary school education, or adult education; and

“(ii) if applicable, meet qualifications established by the State for early childhood education, elementary school or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

“(6) include special training of staff, including child-care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this subpart;

“(7) provide and monitor integrated instructional services to participating parents and children through home-based programs;

“(8) operate on a year-round basis, including the provision of some program services, including instructional and enrichment services, during the summer months;

“(9) be coordinated with—

“(A) other programs assisted under this Act;

“(B) any relevant programs under the Adult Education and Family Literacy Act, the Individuals with Disabilities Education Act, and title I of the Workforce Investment Act of 1998; and

“(C) the Head Start program, volunteer literacy programs, and other relevant programs;

“(10) use instructional programs based on scientifically based reading research for children and adults, to the extent that research is available;

“(11) encourage participating families to attend regularly and to remain in the program a sufficient time to meet their program goals;

“(12) include reading-readiness activities for preschool children based on scientifically based reading research, to the extent available, to ensure that children enter school ready to learn to read;

“(13) if applicable, promote the continuity of family literacy to ensure that individuals retain and improve their educational outcomes;

“(14) ensure that the programs will serve those families most in need of the activities and services provided by this subpart; and

“(15) provide for an independent evaluation of the program, to be used for program improvement.

“SEC. 1236. ELIGIBLE PARTICIPANTS.

“(a) IN GENERAL.—Except as provided in subsection (b), eligible participants in an Even Start program are—

“(1) a parent or parents—

“(A) who are eligible for participation in adult education and literacy activities under the Adult Education and Family Literacy Act; or

“(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this subpart, or who are attending secondary school; and

“(2) the child or children, from birth through age 7, of any individual described in paragraph (1).

“(b) ELIGIBILITY FOR CERTAIN OTHER PARTICIPANTS.—

“(1) IN GENERAL.—Family members of eligible participants described in subsection (a) may participate in activities and services provided under this subpart, when appropriate to serve the purpose of this subpart.

“(2) SPECIAL RULE.—Any family participating in a program assisted under this subpart that becomes ineligible to participate as a result of 1 or more members of the family becoming ineligible to participate may continue to participate in the program until all members of the family become ineligible to participate, which—

“(A) in the case of a family in which ineligibility was due to the child or children of the family attaining the age of 8, shall be in 2 years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

“(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of the family, shall be when all children in the family attain the age of 8.

“(3) CHILDREN 8 YEARS OF AGE OR OLDER.—If an Even Start program assisted under this subpart collaborates with a program under part A, and funds received under the part A program contribute to paying the cost of providing programs under this subpart to children 8 years of age or older, the Even Start program may, notwithstanding subsection (a)(2), permit the participation of children 8 years of age or older if the focus of the program continues to remain on families with young children.

“SEC. 1237. APPLICATIONS.

“(a) SUBMISSION.—To be eligible to receive a subgrant under this subpart, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

“(b) REQUIRED DOCUMENTATION.—Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

“(1) to develop, administer, and implement an Even Start program under this subpart; and

“(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

“(c) PLAN.—

“(1) IN GENERAL.—The application shall also include a plan of operation and continuous improvement for the program, that includes—

“(A) a description of the program objectives, strategies to meet those objectives, and how those strategies and objectives are consistent with the program indicators established by the State;

“(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 1235;

“(C) a description of the population to be served and an estimate of the number of participants to be served;

“(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

“(E) a statement of the methods that will be used—

"(i) to ensure that the programs will serve families most in need of the activities and services provided by this subpart;

"(ii) to provide services under this subpart to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

"(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose;

"(F) a description of how the plan is integrated with other programs under this Act or other Acts, as appropriate; and

"(G) a description of how the plan provides for rigorous and objective evaluation of progress toward the program objectives described in subparagraph (A) and for continuing use of evaluation data for program improvement.

"(2) DURATION OF THE PLAN.—Each plan submitted under paragraph (1) shall—

"(A) remain in effect for the duration of the eligible entity's participation under this subpart; and

"(B) be periodically reviewed and revised by the eligible entity as necessary.

"(d) CONSOLIDATED APPLICATION.—The plan described in subsection (c)(1)(F) may be submitted as part of a consolidated application under section 9302.

"SEC. 1238. AWARD OF SUBGRANTS.

"(a) SELECTION PROCESS.—

"(1) IN GENERAL.—The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that—

"(A) are most likely to be successful in—

"(i) meeting the purpose of this subpart; and

"(ii) effectively implementing the program elements required under section 1235;

"(B) demonstrate that the area to be served by the program has a high percentage or a large number of children and families who are in need of those services as indicated by high levels of poverty, illiteracy, unemployment, limited English proficiency, or other need-related indicators, such as a high percentage of children to be served by the program who reside in a school attendance area served by a local educational agency eligible for participation in programs under part A, a high number or percentage of parents who have been victims of domestic violence, or a high number or percentage of parents who are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(C) provide services for at least a 3-year age range, which may begin at birth;

"(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(E) include cost-effective budgets, given the scope of the application;

"(F) demonstrate the applicant's ability to provide the non-Federal share required by section 1234(b);

"(G) are representative of urban and rural regions of the State; and

"(H) show the greatest promise for providing models that may be adopted by other family literacy projects and other local educational agencies.

"(2) PRIORITY FOR SUBGRANTS.—The State educational agency shall give priority for subgrants under this subsection to applications that—

"(A) target services primarily to families described in paragraph (1)(B); or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(3) REVIEW PANEL.—A review panel shall consist of at least 3 members, including 1 early childhood professional, 1 adult education professional, and 1 individual with expertise in family literacy programs, and may include other individuals, such as 1 or more of the following:

"(A) A representative of a parent-child education organization.

"(B) A representative of a community-based literacy organization.

"(C) A member of a local board of education.

"(D) A representative of business and industry with a commitment to education.

"(E) An individual who has been involved in the implementation of programs under this title in the State.

"(b) DURATION.—

"(1) IN GENERAL.—Subgrants under this subpart may be awarded for a period not to exceed 4 years.

"(2) STARTUP PERIOD.—The State educational agency may provide subgrant funds to an eligible recipient, at the recipient's request, for a 3- to 6-month start-up period during the first year of the 4-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

"(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this subpart after the first year, the State educational agency shall review the progress of each eligible entity in meeting the objectives of the program referred to in section 1237(c)(1)(A) and shall evaluate the program based on the indicators of program quality developed by the State under section 1240.

"(4) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds to an eligible entity if the agency finds that the eligible entity has not sufficiently improved the performance of the program, as evaluated based on the indicators of program quality developed by the State under section 1240, after—

"(A) providing technical assistance to the eligible entity; and

"(B) affording the eligible entity notice and an opportunity for a hearing.

"(5) GRANT RENEWAL.—(A) An eligible entity that has previously received a subgrant under this subpart may reapply under this subpart for additional subgrants.

"(B) The Federal share of any subgrant renewed under subparagraph (A) shall be limited in accordance with section 1234(b).

"SEC. 1239. EVALUATION.

"From funds reserved under section 1232(b)(1), the Secretary shall provide for an independent evaluation of programs assisted under this subpart—

"(1) to determine the performance and effectiveness of programs assisted under this subpart;

"(2) to identify effective Even Start programs assisted under this subpart that can be duplicated and used in providing technical assistance to Federal, State, and local programs; and

"(3) to provide State educational agencies and eligible entities receiving a subgrant under this subpart, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to ensure that local evaluations undertaken under section 1235(15) provide accurate information on the effectiveness of programs assisted under this subpart.

"SEC. 1240. INDICATORS OF PROGRAM QUALITY.

"Each State educational agency receiving funds under this subpart shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this subpart. The indicators shall be used to monitor, evaluate, and improve those programs within the State. The indicators shall include the following:

"(1) With respect to eligible participants in a program who are adults—

"(A) achievement in the areas of reading, writing, English-language acquisition, problem solving, and numeracy;

"(B) receipt of a secondary school diploma or a general equivalency diploma (GED);

"(C) entry into a postsecondary school, job retraining program, or employment or career advancement, including the military; and

"(D) such other indicators as the State may develop.

"(2) With respect to eligible participants in a program who are children—

"(A) improvement in ability to read on grade level or reading readiness;

"(B) school attendance;

"(C) grade retention and promotion; and

"(D) such other indicators as the State may develop.

"SEC. 1241. RESEARCH.

"(a) IN GENERAL.—The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services, in order to—

"(1) improve the quality of existing programs assisted under this subpart or other family literacy programs carried out under this Act or the Adult Education and Family Literacy Act; and

"(2) develop models for new programs to be carried out under this Act or the Adult Education and Family Literacy Act.

"(b) SCIENTIFICALLY BASED RESEARCH ON FAMILY LITERACY.—

"(1) IN GENERAL.—From amounts reserved under section 1232(b)(2), the National Institute for Literacy, in consultation with the Secretary, shall carry out research that—

"(A) is scientifically based reading research; and

"(B) determines—

"(i) the most effective ways of improving the literacy skills of adults with reading difficulties; and

"(ii) how family literacy services can best provide parents with the knowledge and skills the parents need to support their children's literacy development.

"(2) USE OF EXPERT ENTITY.—The National Institute for Literacy, in consultation with the Secretary, shall carry out the research under paragraph (1) through an entity, including a Federal agency, that has expertise in carrying out longitudinal studies of the development of literacy skills in children and has developed effective interventions to help children with reading difficulties.

"(c) DISSEMINATION.—The National Institute for Literacy shall disseminate, pursuant to section 1207, the results of the research described in subsections (a) and (b) to State educational agencies and recipients of subgrants under this subpart.

"SEC. 1242. CONSTRUCTION.

"Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"Subpart 4—Improving Literacy Through School Libraries

"SEC. 1251. IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.

"(a) PURPOSES.—The purpose of this subpart is to improve literacy skills and academic achievement of students by providing students with increased access to up-to-date school library materials, a well-equipped, technologically advanced school library media center, and well-trained, professionally certified school library media specialists.

"(b) RESERVATION.—From the funds appropriated under section 1002(b)(4) for a fiscal year, the Secretary shall reserve—

"(1) ½ of 1 percent to award assistance under this section to the Bureau of Indian Affairs to carry out activities consistent with the purpose of this subpart; and

"(2) ½ of 1 percent to award assistance under this section to the outlying areas according to their respective needs for assistance under this subpart.

"(c) GRANTS.—

"(1) COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—If the amount of funds appropriated under section 1002(b)(4) for a fiscal year is less than $100,000,000, then the Secretary shall award grants, on a competitive basis, to eligible local educational agencies under subsection (e).

"(2) FORMULA GRANTS TO STATES.—If the amount of funds appropriated under section 1002(b)(4) for a fiscal year equals or exceeds $100,000,000, then the Secretary shall award grants to State educational agencies from allotments under subsection (d).

"(3) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In this section the term 'eligible local educational agency' means—

"(A) in the case of a local educational agency receiving assistance made available under paragraph (1), a local educational agency in which 20 percent of the students served by the local educational agency are from families with incomes below the poverty line; and

"(B) in the case of a local educational agency receiving assistance from State allocations made available under paragraph (2), a local educational agency in which—

"(i) 15 percent of the students who are served by the local educational agency are from such families; or

"(ii) the percentage of students from such families who are served by the local educational agency is greater than the statewide percentage of children from such families.

"(d) STATE GRANTS.—

"(1) ALLOTMENTS.—From funds made available under subsection (c)(2) and not reserved under subsections (b) and (j) for a fiscal year, the Secretary shall allot to each State educational agency having an application approved under subsection (f)(1) an amount that bears the same relation to the funds as the amount the State educational agency received under part A for the preceding fiscal year bears to the amount all such State educational agencies received under part A for the preceding fiscal year, to increase literacy and reading skills by improving school libraries.

"(2) COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving an allotment under paragraph (1) for a fiscal year—

"(A) may reserve not more than 3 percent of the allotted funds to provide technical assistance, disseminate information about school library media programs that are effective and based on scientifically based research, and pay administrative costs related to activities under this section; and

"(B) shall use the allotted funds that remain after making the reservation under subparagraph (A) to award grants, for a period of 1 year, on a competitive basis, to eligible local educational agencies in the State that have an application approved under subsection (f)(2) for activities described in subsection (g).

"(3) REALLOTMENT.—If a State educational agency does not apply for an allotment under this section for any fiscal year, or if the State educational agency's application is not approved, the Secretary shall reallot the amount of the State educational agency's allotment to the remaining State educational agencies in accordance with paragraph (1).

"(e) DIRECT COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—From amounts made available under subsection (c)(1) and not reserved under subsections (b) and (j) for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible local educational agencies that have applications approved under subsection (f)(2) for activities described in subsection (g).

"(2) DURATION.—The Secretary shall award grants under this subsection for a period of 1 year.

"(3) DISTRIBUTION.—The Secretary shall ensure that grants under this subsection are equitably distributed among the different geographic regions of the United States, and among local educational agencies serving urban and rural areas.

"(f) APPLICATIONS.—

"(1) STATE EDUCATIONAL AGENCY.—Each State educational agency desiring assistance under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require. The application shall contain a description of—

"(A) how the State educational agency will assist eligible local educational agencies in meeting the requirements of this section and in using scientifically based research to implement effective school library media programs; and

"(B) the standards and techniques the State educational agency will use to evaluate the quality and impact of activities carried out under this section by eligible local educational agencies to determine the need for technical assistance and whether to continue to provide additional funding to the agencies under this section.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—Each eligible local educational agency desiring assistance under this section shall submit to the Secretary or State educational agency, as appropriate, an application at such time, in such manner, and containing such information as the Secretary or State educational agency, respectively, shall require. The application shall contain a description of—

"(A) a needs assessment relating to the need for school library media improvement, based on the age and condition of school library media resources, including book collections, access of school library media centers to advanced technology, and the availability of well-trained, professionally certified school library media specialists, in schools served by the eligible local educational agency;

"(B) the manner in which the eligible local educational agency will use the funds made available through the grant to carry out the activities described in subsection (g);

"(C) how the eligible local educational agency will extensively involve school library media specialists, teachers, administrators, and parents in the activities assisted under this section, and the manner in which the eligible local educational agency will carry out the activities described in subsection (g) using programs and materials that are grounded in scientifically based research;

"(D) the manner in which the eligible local educational agency will effectively coordinate the funds and activities provided under this section with Federal, State, and local funds and activities under this subpart and other literacy, library, technology, and professional development funds and activities; and

"(E) the manner in which the eligible local educational agency will collect and analyze data on the quality and impact of activities carried out under this section by schools served by the eligible local educational agency.

"(g) LOCAL ACTIVITIES.—Funds under this section may be used to—

"(1) acquire up-to-date school library media resources, including books;

"(2) acquire and use advanced technology, incorporated into the curricula of the school, to develop and enhance the information literacy, information retrieval, and critical thinking skills of students;

"(3) facilitate Internet links and other resource-sharing networks among schools and school library media centers, and public and academic libraries, where possible;

"(4) provide professional development described in section 1222(d)(2) for school library media specialists, and activities that foster increased collaboration between school library media specialists, teachers, and administrators; and

"(5) provide students with access to school libraries during nonschool hours, including the hours before and after school, during weekends, and during summer vacation periods.

"(h) ACCOUNTABILITY AND REPORTING.—

"(1) LOCAL REPORTS.—Each eligible local educational agency that receives funds under this section for a fiscal year shall report to the Secretary or State educational agency, as appropriate, on how the funding was used and the extent to which the availability of, the access to, and the use of, up-to-date school library media resources in the elementary schools and secondary schools served by the eligible local educational agency was increased.

"(2) STATE REPORT.—Each State educational agency that receives funds under this section shall compile the reports received under paragraph (1) and submit the compiled reports to the Secretary.

"(i) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out activities relating to library, technology, or professional development activities.

"(j) NATIONAL ACTIVITIES.—

"(1) EVALUATIONS.—From the funds appropriated under section 1002(b)(4) for each fiscal year, the Secretary shall reserve not more than 1 percent for annual, independent, national evaluations of the activities assisted under this section and their impact on improving the reading skills of students. The evaluations shall be conducted not later than 3 years after the date of enactment of the No Child Left Behind Act of 2001, and biennially thereafter.

"(2) REPORT TO CONGRESS.—The Secretary shall transmit the State reports received under subsection (h)(2) and the evaluations conducted under paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

"PART C—EDUCATION OF MIGRATORY CHILDREN

"SEC. 1301. PROGRAM PURPOSE.

"It is the purpose of this part to assist States to—

"(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

"(2) ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;

"(3) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

"(4) ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;

"(5) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

"(6) ensure that migratory children benefit from State and local systemic reforms.

"SEC. 1302. PROGRAM AUTHORIZED.

"In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

"SEC. 1303. STATE ALLOCATIONS.

"(a) State Allocations.—

"(1) Fiscal Year 2002.—For fiscal year 2002, each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to—

"(A) the sum of the estimated number of migratory children aged 3 through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged 3 through 21 who reside in the State part time, as determined in accordance with subsection (e); multiplied by

"(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

"(2) Subsequent Years.—

"(A) Base Amount.—

"(i) In General.—Except as provided in subsection (b) and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

"(I) the amount that such State received under this part for fiscal year 2002; plus

"(II) the amount allocated to the State under subparagraph (B).

"(ii) Nonparticipating States.—In the case of a State (other than the Commonwealth of Puerto Rico) that did not receive any funds for fiscal year 2002 under this part, the State shall receive, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

"(I) the amount that such State would have received under this part for fiscal year 2002 if its application under section 1304 for the year had been approved; plus

"(II) the amount allocated to the State under subparagraph (B).

"(B) Allocation of Additional Amount.—For fiscal year 2003 and succeeding fiscal years, the amount (if any) by which the funds appropriated to carry out this part for the year exceed such funds for fiscal year 2002 shall be allocated to a State (other than the Commonwealth of Puerto Rico) so that the State receives an amount equal to—

"(i) the sum of—

"(I) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

"(II) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during such year; multiplied by

"(ii) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this clause may not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

"(b) Allocation to Puerto Rico.—

"(1) In General.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1)(A) if such subsection applied to the Commonwealth of Puerto Rico by the product of—

"(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(2) Minimum Percentage.—The percentage in paragraph (1)(A) shall not be less than—

"(A) for fiscal year 2002, 77.5 percent;

"(B) for fiscal year 2003, 80.0 percent;

"(C) for fiscal year 2004, 82.5 percent; and

"(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

"(3) Limitation.—If the application of paragraph (2) for any fiscal year would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of the percentage in paragraph (1)(A) for such fiscal year or the percentage used for the preceding fiscal year.

"(c) Ratable Reductions; Reallocations.—

"(1) In General.—(A) If, after the Secretary reserves funds under section 1308(c), the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

"(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

"(2) Special Rule.—(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1304.

"(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

"(d) Consortium Arrangements.—

"(1) In General.—In the case of a State that receives a grant of $1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

"(2) Proposals.—Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

"(3) Approval.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

"(A) reduce administrative costs or program function costs for State programs; and

"(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

"(e) Determining Numbers of Eligible Children.—In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

"(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

"(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

"(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

"(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

"(B) the additional costs of operating such programs; and

"(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

"SEC. 1304. STATE APPLICATIONS; SERVICES.

"(a) Application Required.—Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(b) Program Information.—Each such application shall include—

"(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through—

"(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

"(B) joint planning among local, State, and Federal educational programs serving migrant children, including language instruction educational programs under part A or B of title III;

"(C) the integration of services available under this part with services provided by those other programs; and

"(D) measurable program goals and outcomes;

"(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children are expected to meet;

"(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

"(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

"(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs;

"(6) such budgetary and other information as the Secretary may require; and

"(7) a description of how the State will encourage programs and projects assisted under this part to offer family literacy services if the program or project serves a substantial number of migratory children who

have parents who do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

"(c) ASSURANCES.—Each such application shall also include assurances, satisfactory to the Secretary, that—

"(1) funds received under this part will be used only—

"(A) for programs and projects, including the acquisition of equipment, in accordance with section 1306; and

"(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

"(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, subsections (b) and (c) of section 1120A, and part I;

"(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parent advisory councils for programs of 1 school year in duration, and that all such programs and projects are carried out—

"(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 1118, unless extraordinary circumstances make such provision impractical; and

"(B) in a format and language understandable to the parents;

"(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

"(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A;

"(6) to the extent feasible, such programs and projects will provide for—

"(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

"(B) professional development programs, including mentoring, for teachers and other program personnel;

"(C) family literacy programs, including such programs that use models developed under Even Start;

"(D) the integration of information technology into educational and related programs; and

"(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

"(7) the State will assist the Secretary in determining the number of migratory children under paragraphs (1)(A) and (2)(B)(i) of section 1303(a), through such procedures as the Secretary may require.

"(d) PRIORITY FOR SERVICES.—In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State academic content standards and challenging State student academic achievement standards, and whose education has been interrupted during the regular school year.

"(e) CONTINUATION OF SERVICES.—Notwithstanding any other provision of this part—

"(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

"(2) a child who is no longer a migratory child may continue to receive services for 1 additional school year, but only if comparable services are not available through other programs; and

"(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

"SEC. 1305. SECRETARIAL APPROVAL; PEER REVIEW.

"(a) SECRETARIAL APPROVAL.—The Secretary shall approve each State application that meets the requirements of this part.

"(b) PEER REVIEW.—The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

"SEC. 1306. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

"(a) COMPREHENSIVE PLAN.—

"(1) IN GENERAL.—Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

"(A) is integrated with other programs under this Act or other Acts, as appropriate;

"(B) may be submitted as a part of consolidated application under section 9302, if—

"(i) the special needs of migratory children are specifically addressed in the comprehensive State plan;

"(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

"(iii) the comprehensive State planning is not used to supplant State efforts regarding, or administrative funding for, this part;

"(C) provides that migratory children will have an opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children are expected to meet;

"(D) specifies measurable program goals and outcomes;

"(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

"(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and language instruction educational programs under part A or B of title III; and

"(G) provides for the integration of services available under this part with services provided by such other programs.

"(2) DURATION OF THE PLAN.—Each such comprehensive State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(b) AUTHORIZED ACTIVITIES.—

"(1) FLEXIBILITY.—In implementing the comprehensive plan described in subsection (a), each State educational agency, where applicable through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this part, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

"(2) UNADDRESSED NEEDS.—Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

"(3) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

"(4) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1), and shall meet the special educational needs of migratory children before using funds under this part for schoolwide programs under section 1114.

"SEC. 1307. BYPASS.

"The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

"(1) the State is unable or unwilling to conduct educational programs for migratory children;

"(2) such arrangements would result in more efficient and economic administration of such programs; or

"(3) such arrangements would add substantially to the welfare or educational attainment of such children.

"SEC. 1308. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

"(a) IMPROVEMENT OF COORDINATION.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

"(2) DURATION.—Grants under this subsection may be awarded for not more than 5 years.

"(b) STUDENT RECORDS.—

"(1) ASSISTANCE.—The Secretary shall assist States in developing effective methods for the electronic transfer of student records and in determining the number of migratory children in each State.

"(2) INFORMATION SYSTEM.—

"(A) IN GENERAL.—The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, the date of enactment of the No Child Left Behind Act of 2001, and shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. Such elements may include—

"(i) immunization records and other health information;

“(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 1111(b);

“(iii) other academic information essential to ensuring that migratory children achieve to high standards; and

“(iv) eligibility for services under the Individuals with Disabilities Education Act.

“(B) NOTICE AND COMMENT.—After consulting with the States under subparagraph (A), the Secretary shall publish a notice in the Federal Register seeking public comment on the proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information. Such publication shall occur not later than 120 days after the date of enactment of the No Child Left Behind Act of 2001.

“(3) NO COST FOR CERTAIN TRANSFERS.—A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

“(4) REPORT TO CONGRESS.—

“(A) IN GENERAL.—Not later than April 30, 2003, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

“(B) REQUIRED CONTENTS.—The Secretary shall include in such report—

“(i) a review of the progress of States in developing and linking electronic records transfer systems;

“(ii) recommendations for the development and linkage of such systems; and

“(iii) recommendations for measures that may be taken to ensure the continuity of services provided for migratory students.

“(c) AVAILABILITY OF FUNDS.—For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $10,000,000 of the amount appropriated to carry out this part for such year.

“(d) INCENTIVE GRANTS.—From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve not more than $3,000,000 to award grants of not more than $250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.

“(e) DATA COLLECTION.—The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

“SEC. 1309. DEFINITIONS.

“As used in this part:

“(1) LOCAL OPERATING AGENCY.—The term ‘local operating agency’ means—

“(A) a local educational agency to which a State educational agency makes a subgrant under this part;

“(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

“(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

“(2) MIGRATORY CHILD.—The term ‘migratory child’ means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

“(A) has moved from one school district to another;

“(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

“(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

“PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

“SEC. 1401. PURPOSE AND PROGRAM AUTHORIZATION.

“(a) PURPOSE.—It is the purpose of this part—

“(1) to improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children in the State are expected to meet;

“(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

“(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

“(b) PROGRAM AUTHORIZED.—In order to carry out the purpose of this part and from amounts appropriated under section 1002(d), the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

“SEC. 1402. PAYMENTS FOR PROGRAMS UNDER THIS PART.

“(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1412, the Secretary shall allocate to each State educational agency an amount necessary to make subgrants to State agencies under subpart 1.

“(b) LOCAL SUBGRANTS.—Each State shall retain, for the purpose of carrying out subpart 2, funds generated throughout the State under part A of this title based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

“Subpart 1—State Agency Programs

“SEC. 1411. ELIGIBILITY.

“A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children and youth—

“(1) in institutions for neglected or delinquent children and youth;

“(2) attending community day programs for neglected or delinquent children and youth; or

“(3) in adult correctional institutions.

“SEC. 1412. ALLOCATION OF FUNDS.

“(a) SUBGRANTS TO STATE AGENCIES.—

“(1) IN GENERAL.—Each State agency described in section 1411 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this subpart, for each fiscal year, in an amount equal to the product of—

“(A) the number of neglected or delinquent children and youth described in section 1411 who—

“(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

“(ii) are enrolled for at least 20 hours per week—

“(I) in education programs in institutions for neglected or delinquent children and youth; or

“(II) in community day programs for neglected or delinquent children and youth; and

“(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

“(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

“(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

“(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

“(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—

“(1) IN GENERAL.—For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

“(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

“(B) 32 percent of the average per-pupil expenditure in the United States.

“(2) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than—

“(A) for fiscal year 2002, 77.5 percent;

“(B) for fiscal year 2003, 80.0 percent;

“(C) for fiscal year 2004, 82.5 percent; and

“(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

“(3) LIMITATION.—If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of—

“(A) the percentage in paragraph (1)(A) for such fiscal year; or

“(B) the percentage used for the preceding fiscal year.

“(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

“SEC. 1413. STATE REALLOCATION OF FUNDS.

“If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this subpart for any fiscal year, the State educational agency may reallocate the amount that will not be needed to

other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

“SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.

“(a) STATE PLAN.—

“(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this subpart shall submit, for approval by the Secretary, a plan—

“(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

“(B) for assisting in the transition of children and youth from correctional facilities to locally operated programs; and

“(C) that is integrated with other programs under this Act or other Acts, as appropriate.

“(2) CONTENTS.—Each such State plan shall—

“(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving the academic, vocational, and technical skills of children in the program;

“(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State; and

“(C) contain an assurance that the State educational agency will—

“(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection;

“(ii) carry out the evaluation requirements of section 1431;

“(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

“(iv) provide such other information as the Secretary may reasonably require.

“(3) DURATION OF THE PLAN.—Each such State plan shall—

“(A) remain in effect for the duration of the State's participation under this part; and

“(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

“(b) SECRETARIAL APPROVAL AND PEER REVIEW.—

“(1) SECRETARIAL APPROVAL.—The Secretary shall approve each State plan that meets the requirements of this subpart.

“(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

“(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this subpart shall submit an application to the State educational agency that—

“(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served under this subpart;

“(2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and youth who are likely to complete incarceration within a 2-year period;

“(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

“(4) describes how the program will meet the goals and objectives of the State plan;

“(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

“(6) describes how the State agency will carry out the evaluation requirements of section 9601 and how the results of the most recent evaluation will be used to plan and improve the program;

“(7) includes data showing that the State agency has maintained the fiscal effort required of a local educational agency, in accordance with section 9521;

“(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of Public Law 105–220, vocational and technical education programs, State and local dropout prevention programs, and special education programs;

“(9) describes how the State agency will encourage correctional facilities receiving funds under this subpart to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program;

“(10) describes how appropriate professional development will be provided to teachers and other staff;

“(11) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues relating to the transition of children and youth from such facility or institution to locally operated programs;

“(12) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

“(13) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

“(14) provides assurances that the State agency will work with parents to secure parents' assistance in improving the educational achievement of their children and youth, and preventing their children's and youth's further involvement in delinquent activities;

“(15) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child's or youth's local school if the child or youth—

“(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

“(B) intends to return to the local school;

“(16) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school once the term of the incarceration is completed or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth, or achieve a secondary school diploma or its recognized equivalent if the child or youth does not intend to return to school;

“(17) provides an assurance that teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;

“(18) describes any additional services to be provided to children and youth, such as career counseling, distance learning, and assistance in securing student loans and grants; and

“(19) provides an assurance that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable.

“SEC. 1415. USE OF FUNDS.

“(a) USES.—

“(1) IN GENERAL.—A State agency shall use funds received under this subpart only for programs and projects that—

“(A) are consistent with the State plan under section 1414(a); and

“(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, vocational or technical training, further education, or employment.

“(2) PROGRAMS AND PROJECTS.—Such programs and projects—

“(A) may include the acquisition of equipment;

“(B) shall be designed to support educational services that—

“(i) except for institution-wide projects under section 1416, are provided to children and youth identified by the State agency as failing, or most at-risk of failing, to meet the State's challenging academic content standards and student academic achievement standards;

“(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

“(iii) afford such children and youth an opportunity to meet challenging State academic achievement standards;

“(C) shall be carried out in a manner consistent with section 1120A and part I (as applied to programs and projects under this part); and

“(D) may include the costs of meeting the evaluation requirements of section 9601.

“(b) SUPPLEMENT, NOT SUPPLANT.—A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 1120A (as applied to this part) without regard to the subject areas in which instruction is given during those hours.

“SEC. 1416. INSTITUTION-WIDE PROJECTS.

“A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children and youth may use funds received under this subpart to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

“(1) provides for a comprehensive assessment of the educational needs of all children and youth in the institution or program serving juveniles;

“(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period;

“(3) describes the steps the State agency has taken, or will take, to provide all children and youth under age 21 with the opportunity to meet challenging State academic content standards and student academic achievement standards in order to improve the likelihood that the children and youth will complete secondary school, attain a secondary diploma or its recognized equivalent, or find employment after leaving the institution;

“(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of

mentors for the children and youth described in paragraph (1);

“(5) specifically describes how such funds will be used;

“(6) describes the measures and procedures that will be used to assess student progress;

“(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and youth, and with personnel from the State educational agency; and

“(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

“SEC. 1417. THREE-YEAR PROGRAMS OR PROJECTS.

“If a State agency operates a program or project under this subpart in which individual children or youth are likely to participate for more than 1 year, the State educational agency may approve the State agency's application for a subgrant under this subpart for a period of not more than 3 years.

“SEC. 1418. TRANSITION SERVICES.

“(a) TRANSITION SERVICES.—Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this subpart for any fiscal year to support—

“(1) projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or

“(2) the successful reentry of youth offenders, who are age 20 or younger and have received a secondary school diploma or its recognized equivalent, into postsecondary education, or vocational and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or vocational and technical training programs, such as—

“(A) preplacement programs that allow adjudicated or incarcerated youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

“(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment; and

“(C) essential support services to ensure the success of the youth, such as—

“(i) personal, vocational and technical, and academic, counseling;

“(ii) placement services designed to place the youth in a university, college, or junior college program;

“(iii) information concerning, and assistance in obtaining, available student financial aid;

“(iv) counseling services; and

“(v) job placement services.

“(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

“(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

“SEC. 1419. EVALUATION; TECHNICAL ASSISTANCE; ANNUAL MODEL PROGRAM.

“The Secretary may reserve not more than 2.5 percent of the amount made available to carry out this subpart for a fiscal year—

“(1) to develop a uniform model to evaluate the effectiveness of programs assisted under this subpart; and

“(2) to provide technical assistance to and support the capacity building of State agency programs assisted under this subpart.

“Subpart 2—Local Agency Programs

“SEC. 1421. PURPOSE.

“The purpose of this subpart is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities—

“(1) to carry out high quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;

“(2) to provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and

“(3) to operate programs in local schools for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

“SEC. 1422. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

“(a) LOCAL SUBGRANTS.—With funds made available under section 1402(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs).

“(b) SPECIAL RULE.—A local educational agency that serves a school operated by a correctional facility is not required to operate a program of support for children and youth returning from such school to a school that is not operated by a correctional agency but served by such local educational agency, if more than 30 percent of the children and youth attending the school operated by the correctional facility will reside outside the boundaries served by the local educational agency after leaving such facility.

“(c) NOTIFICATION.—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

“(d) TRANSITIONAL AND ACADEMIC SERVICES.—Transitional and supportive programs operated in local educational agencies under this subpart shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at-risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.

“SEC. 1423. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

“Each local educational agency desiring assistance under this subpart shall submit an application to the State educational agency that contains such information as the State educational agency may require. Each such application shall include—

“(1) a description of the program to be assisted;

“(2) a description of formal agreements, regarding the program to be assisted, between—

“(A) the local educational agency; and

“(B) correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system;

“(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;

“(4) a description of the program operated by participating schools for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;

“(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other special needs) of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth;

“(6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities, at-risk children or youth, and other participating children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

“(7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students;

“(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

“(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of Public Law 105–220 and vocational and technical education programs serving at-risk children and youth;

“(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

“(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of children and youth returning from correctional facilities;

“(12) a description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child's or youth's existing individualized education program; and

“(13) as appropriate, a description of the steps participating schools will take to find alternative placements for children and youth interested in continuing their education but unable to participate in a regular public school program.

“SEC. 1424. USES OF FUNDS.

“Funds provided to local educational agencies under this subpart may be used, as appropriate, for—

“(1) programs that serve children and youth returning to local schools from correctional facilities, to assist in the transition of such children and youth to the school environment and help them remain in school in order to complete their education;

“(2) dropout prevention programs which serve at-risk children and youth, including pregnant and parenting teens, children and youth who have come in contact with the juvenile justice system, children and youth at least 1 year behind their expected grade level, migrant youth, immigrant youth, students with limited English proficiency, and gang members;

''(3) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;

''(4) special programs to meet the unique academic needs of participating children and youth, including vocational and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education; and

''(5) programs providing mentoring and peer mediation.

"SEC. 1425. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION.

''Each correctional facility entering into an agreement with a local educational agency under section 1423(2) to provide services to children and youth under this subpart shall—

''(1) where feasible, ensure that educational programs in the correctional facility are coordinated with the student's home school, particularly with respect to a student with an individualized education program under part B of the Individuals with Disabilities Education Act;

''(2) if the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the child or youth of such need;

''(3) where feasible, provide transition assistance to help the child or youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

''(4) provide support programs that encourage children and youth who have dropped out of school to reenter school once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a secondary school diploma or its recognized equivalent;

''(5) work to ensure that the correctional facility is staffed with teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;

''(6) ensure that educational programs in the correctional facility are related to assisting students to meet high academic achievement standards;

''(7) to the extent possible, use technology to assist in coordinating educational programs between the correctional facility and the community school;

''(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

''(9) coordinate funds received under this subpart with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of Public Law 105–220, and vocational and technical education funds;

''(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable; and

''(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth.

"SEC. 1426. ACCOUNTABILITY.

''The State educational agency may—

''(1) reduce or terminate funding for projects under this subpart if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

''(2) require correctional facilities or institutions for neglected or delinquent children and youth to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of children and youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such children and youth are released.

"Subpart 3—General Provisions

"SEC. 1431. PROGRAM EVALUATIONS.

''(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under subpart 1 or 2 shall evaluate the program, disaggregating data on participation by gender, race, ethnicity, and age, not less than once every 3 years, to determine the program's impact on the ability of participants—

''(1) to maintain and improve educational achievement;

''(2) to accrue school credits that meet State requirements for grade promotion and secondary school graduation;

''(3) to make the transition to a regular program or other education program operated by a local educational agency;

''(4) to complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the correctional facility or institution for neglected or delinquent children and youth; and

''(5) as appropriate, to participate in postsecondary education and job training programs.

''(b) EXCEPTION.—The disaggregation required under subsection (a) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

''(c) EVALUATION MEASURES.—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use multiple and appropriate measures of student progress.

''(d) EVALUATION RESULTS.—Each State agency and local educational agency shall—

''(1) submit evaluation results to the State educational agency and the Secretary; and

''(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

"SEC. 1432. DEFINITIONS.

''In this part:

''(1) ADULT CORRECTIONAL INSTITUTION.—The term 'adult correctional institution' means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.

''(2) AT-RISK.—The term 'at-risk', when used with respect to a child, youth, or student, means a school aged individual who is at-risk of academic failure, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system in the past, is at least 1 year behind the expected grade level for the age of the individual, has limited English proficiency, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.

''(3) COMMUNITY DAY PROGRAM.—The term 'community day program' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

''(4) INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH.—The term 'institution for neglected or delinquent children and youth' means—

''(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

''(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

"PART E—NATIONAL ASSESSMENT OF TITLE I

"SEC. 1501. EVALUATIONS.

''(a) NATIONAL ASSESSMENT OF TITLE I.—

''(1) IN GENERAL.—The Secretary shall conduct a national assessment of the programs assisted under this title and the impact of this title on States, local educational agencies, schools, and students.

''(2) ISSUES TO BE EXAMINED.—In conducting the assessment under this subsection, the Secretary shall examine, at a minimum, the following:

''(A) The implementation of programs assisted under this title and the impact of such implementation on increasing student academic achievement (particularly in schools with high concentrations of children living in poverty), relative to the goal of all students reaching the proficient level of achievement based on State academic assessments, challenging State academic content standards, and challenging State student academic achievement standards under section 1111.

''(B) The types of programs and services that have demonstrated the greatest likelihood of helping students reach the proficient and advanced levels of achievement based on State student academic achievement standards and State academic content standards.

''(C) The implementation of State academic standards, assessments, and accountability systems developed under this title, including—

''(i) the time and cost required for the development of academic assessments for students in grades 3 through 8;

''(ii) how well such State assessments meet the requirements for assessments described in this title; and

''(iii) the impact of such standards, assessments, and accountability systems on educational programs and instruction at the local level.

''(D) Each State's definition of adequate yearly progress, including—

''(i) the impact of applying this definition to schools, local educational agencies, and the States;

''(ii) the number of schools and local educational agencies not meeting this definition; and

''(iii) the changes in the identification of schools in need of improvement as a result of such definition.

''(E) How schools, local educational agencies, and States have—

''(i) publicized and disseminated the local educational agency report cards required under section 1111(b) to teachers, school staff, students, parents, and the community;

''(ii) used funds made available under this title to provide preschool and family literacy services and the impact of these services on students' school readiness;

''(iii) implemented the provisions of section 1118 and afforded parents meaningful opportunities to be involved in the education of their children;

''(iv) used Federal, State, and local educational agency funds and resources to support schools and provide technical assistance to improve the achievement of students in low-performing schools, including the impact of the technical assistance on such achievement; and

''(v) used State educational agency and local educational agency funds and resources to help schools in which 50 percent or more of the students are from families with incomes below the poverty line meet the requirement described in section 1119 of having all teachers highly qualified not later than the end of the 2005–2006 school year

"(F) The implementation of schoolwide programs and targeted assistance programs under this title and the impact of such programs on improving student academic achievement, including the extent to which schools meet the requirements of such programs.

"(G) The extent to which varying models of comprehensive school reform are funded and implemented under this title, and the effect of the implementation of such models on improving achievement of disadvantaged students.

"(H) The costs as compared to the benefits of the activities assisted under this title.

"(I) The extent to which actions authorized under section 1116 are implemented by State educational agencies and local educational agencies to improve the academic achievement of students in low-performing schools, and the effectiveness of the implementation of such actions, including the following:

"(i) The number of schools identified for school improvement and how many years the schools remain in this status.

"(ii) The types of support provided by the State educational agencies and local educational agencies to schools and local educational agencies respectively identified as in need of improvement, and the impact of such support on student achievement.

"(iii) The number of parents who take advantage of the public school choice provisions of this title, the costs (including transportation costs) associated with implementing these provisions, the implementation of these provisions, and the impact of these provisions (including the impact of attending another school) on student achievement.

"(iv) The number of parents who choose to take advantage of the supplemental services option, the criteria used by the States to determine the quality of providers, the kinds of services that are available and utilized, the costs associated with implementing this option, and the impact of receiving supplemental services on student achievement.

"(v) The implementation and impact of actions that are taken with regard to schools and local educational agencies identified for corrective action and restructuring.

"(J) The extent to which State and local fiscal accounting requirements under this title affect the flexibility of schoolwide programs.

"(K) The implementation and impact of the professional development activities assisted under this title and title II on instruction, student academic achievement, and teacher qualifications.

"(L) The extent to which the assistance made available under this title, including funds under section 1002, is targeted to disadvantaged students, schools, and local educational agencies with the greatest need.

"(M) The effectiveness of Federal administration assistance made available under this title, including monitoring and technical assistance.

"(N) The academic achievement of the groups of students described in section 1111(b)(2)(C)(v)(II).

"(O) Such other issues as the Secretary considers appropriate.

"(3) SOURCES OF INFORMATION.—In conducting the assessment under this subsection, the Secretary shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 411 of the National Education Statistics Act of 1994), State evaluations, and other research studies.

"(4) COORDINATION.—In carrying out this subsection, the Secretary shall—

"(A) coordinate the national assessment under this subsection with the longitudinal study described in subsection (c); and

"(B) ensure that the independent review panel described in subsection (d) participates in conducting the national assessment under this subsection, including planning for and reviewing the assessment.

"(5) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment under this subsection, the Secretary shall use developmentally appropriate measures to assess student academic achievement.

"(6) REPORTS.—

"(A) INTERIM REPORT.—Not later than 3 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall transmit to the President, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate an interim report on the national assessment conducted under this subsection.

"(B) FINAL REPORT.—Not later than 5 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall transmit to the President, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a final report on the national assessment conducted under this subsection.

"(b) STUDIES AND DATA COLLECTION.—

"(1) IN GENERAL.—In addition to other activities described in this section, the Secretary may, directly or through awarding grants to or entering into contracts with appropriate entities—

"(A) assess the implementation and effectiveness of programs under this title;

"(B) collect the data necessary to comply with the Government Performance and Results Act of 1993; and

"(C) provide guidance and technical assistance to State educational agencies and local educational agencies in developing and maintaining management information systems through which such agencies may develop program performance indicators to improve services and performance.

"(2) MINIMUM INFORMATION.—In carrying out this subsection, the Secretary shall collect, at a minimum, trend information on the effect of each program authorized under this title, which shall complement the data collected and reported under subsections (a) and (c).

"(c) NATIONAL LONGITUDINAL STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a longitudinal study of schools receiving assistance under part A.

"(2) ISSUES TO BE EXAMINED.—In carrying out this subsection, the Secretary shall ensure that the study referred to in paragraph (1) provides Congress and educators with each of the following:

"(A) An accurate description and analysis of the short- and long-term effect of the assistance made available under this title on academic achievement.

"(B) Information that can be used to improve the effectiveness of the assistance made available under this title in enabling students to meet challenging academic achievement standards.

"(C) An analysis of educational practices or model programs that are effective in improving the achievement of disadvantaged children.

"(D) An analysis of the costs as compared to the benefits of the assistance made available under this title in improving the achievement of disadvantaged children.

"(E) An analysis of the effects of the availability of school choice options under section 1116 on the academic achievement of disadvantaged students, on schools in school improvement, and on schools from which students have transferred under such options.

"(F) Such other information as the Secretary considers appropriate.

"(3) SCOPE.—In conducting the study referred to in paragraph (1), the Secretary shall ensure that the study—

"(A) bases its analysis on a nationally representative sample of schools participating in programs under this title;

"(B) to the extent practicable, includes in its analysis students who transfer to different schools during the course of the study; and

"(C) analyzes varying models or strategies for delivering school services, including—

"(i) schoolwide and targeted services; and

"(ii) comprehensive school reform models.

"(d) INDEPENDENT REVIEW PANEL.—

"(1) IN GENERAL.—The Secretary shall establish an independent review panel (in this subsection referred to as the 'Review Panel') to advise the Secretary on methodological and other issues that arise in carrying out subsections (a) and (c).

"(2) APPOINTMENT OF MEMBERS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall appoint members of the Review Panel from among qualified individuals who are—

"(i) specialists in statistics, evaluation, research, and assessment;

"(ii) education practitioners, including teachers, principals, and local and State superintendents;

"(iii) parents and members of local school boards or other organizations involved with the implementation and operation of programs under this title; and

"(iv) other individuals with technical expertise who will contribute to the overall rigor and quality of the program evaluation.

"(B) LIMITATIONS.—In appointing members of the Review Panel, the Secretary shall ensure that—

"(i) in order to ensure diversity, the Review Panel includes individuals appointed under subparagraph (A)(i) who represent disciplines or programs outside the field of education; and

"(ii) the total number of the individuals appointed under subparagraph (A)(ii) or (A)(iv) does not exceed ¼ of the total number of the individuals appointed under this paragraph.

"(3) FUNCTIONS.—The Review Panel shall consult with and advise the Secretary—

"(A) to ensure that the assessment conducted under subsection (a) and the study conducted under subsection (c)—

"(i) adhere to the highest possible standards of quality with respect to research design, statistical analysis, and the dissemination of findings; and

"(ii) use valid and reliable measures to document program implementation and impacts; and

"(B) to ensure—

"(i) that the final report described in subsection (a)(6)(B) is reviewed not later than 120 days after its completion by not less than 2 independent experts in program evaluation (who may be from among the members of the Review Panel appointed under paragraph (2));

"(ii) that such experts evaluate and comment on the degree to which the report complies with subsection (a); and

"(iii) that the comments of such experts are transmitted with the report under subsection (a)(6)(B).

"SEC. 1502. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

"(a) IN GENERAL.—From the funds appropriated for any fiscal year under section 1002(e)(1), the Secretary may award grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and *consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this title to meet challenging State academic content standards and challenging State student academic achievement standards.*

“(b) EVALUATION.—The Secretary shall evaluate the demonstration projects supported under this title, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

“(c) PARTNERSHIPS.—From funds appropriated under section 1002(e)(1) for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this title.

“SEC. 1503. ASSESSMENT EVALUATION.

“(a) IN GENERAL.—The Secretary shall conduct an independent study of assessments used for State accountability purposes and for making decisions about the promotion and graduation of students. Such research shall be conducted over a period not to exceed 5 years and shall address the components described in subsection (d).

“(b) CONTRACT AUTHORIZED.—The Secretary is authorized to award a contract, through a peer review process, to an organization or entity capable of conducting rigorous, independent research. The Assistant Secretary of Educational Research and Improvement shall appoint peer reviewers to evaluate the applications for this contract.

“(c) STUDY.—The study shall—

“(1) synthesize and analyze existing research that meets standards of quality and scientific rigor; and

“(2) evaluate academic assessment and accountability systems in State educational agencies, local educational agencies, and schools; and

“(3) make recommendations to the Department and to the Committee on Education and the Workforce of the United States House of Representatives and the Committee on Health, Education, Labor, and Pensions of the United States Senate, based on the findings of the study.

“(d) COMPONENTS OF THE RESEARCH PROGRAM.—The study described in subsection (a) shall examine—

“(1) the effect of the assessment and accountability systems described in section (c) on students, teachers, parents, families, schools, school districts, and States, including correlations between such systems and—

“(A) student academic achievement, progress to the State-defined level of proficiency, and progress toward closing achievement gaps, based on independent measures;

“(B) changes in course offerings, teaching practices, course content, and instructional material;

“(C) changes in turnover rates among teachers, principals, and pupil-services personnel;

“(D) changes in dropout, grade-retention, and graduation rates for students; and

“(E) such other effects as may be appropriate;

“(2) the effect of the academic assessments on students with disabilities;

“(3) the effect of the academic assessments on low, middle, and high socioeconomic status students, limited and nonlimited English proficient students, racial and ethnic minority students, and nonracial or nonethnic minority students;

“(4) guidelines for assessing the validity, reliability, and consistency of those systems using nationally recognized professional and technical standards; and

“(5) the relationship between accountability systems and the inclusion or exclusion of students from the assessment system; and

“(6) such other factors as the Secretary finds appropriate.

“(d) REPORTING.—Not later than 3 years after the contract described in section (b) is awarded, the organization or entity conducting the study shall submit an interim report to the Committee on Education and the Workforce of the United States House of Representatives and the Committee on Health, Education, Labor and Pensions of the United States Senate, Congress, and to the President and the States, and shall make the report widely available to the public. The organization or entity shall submit a final report to the same recipients as soon as possible after the completion of the study. Additional reports may be periodically prepared and released as necessary.

“(e) RESERVATION OF FUNDS.—The Secretary may reserve up to 15 percent of the funds authorized to be appropriated for this part to carry out the study, except such reservation of funds shall not exceed $1,500,000.

“SEC. 1504. CLOSE UP FELLOWSHIP PROGRAM.

“(a) PROGRAM FOR MIDDLE SCHOOL AND SECONDARY SCHOOL STUDENTS.—

“(1) ESTABLISHMENT.—

“(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing civic responsibility and understanding of the Federal Government among middle school and secondary school students.

“(B) USE OF FUNDS.—Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged students who participate in the programs described in subparagraph (A).

“(C) NAME OF FELLOWSHIPS.—Financial assistance received by students pursuant to this subsection shall be known as Close Up fellowships.

“(2) APPLICATIONS.—

“(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

“(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain assurances that—

“(i) Close Up fellowships provided under this subsection shall be made to economically disadvantaged middle school and secondary school students;

“(ii) every effort shall be made to ensure the participation of students from rural, small town, and urban areas;

“(iii) in awarding the fellowships to economically disadvantaged students, special consideration shall be given to the participation of those students with special educational needs, including students with disabilities, ethnic minority students, and students with migrant parents; and

“(iv) the funds received under this subsection shall be properly disbursed.

“(b) PROGRAM FOR MIDDLE SCHOOL AND SECONDARY SCHOOL TEACHERS.—

“(1) ESTABLISHMENT.—

“(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of professional development for middle school and secondary school teachers and its programs to increase civic responsibility and understanding of the Federal Government among the teachers' students.

“(B) USE OF FUNDS.—Grants under this subsection shall be used only to provide financial assistance to teachers who participate in the programs described in subparagraph (A).

“(C) NAME OF FELLOWSHIPS.—Financial assistance received by teachers pursuant to this subsection shall be known as Close Up fellowships.

“(2) APPLICATIONS.—

“(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

“(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain assurances that—

“(i) Close Up fellowships provided under this subsection shall be made only to a teacher who has worked with at least 1 student from such teacher's school who participates in a program described in subsection (a)(1)(A);

“(ii) no teacher shall receive more than 1 such fellowship in any fiscal year; and

“(iii) the funds received under this subsection shall be properly disbursed.

“(c) PROGRAMS FOR NEW AMERICANS.—

“(1) ESTABLISHMENT.—

“(A) GENERAL AUTHORITY.—In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing civic responsibility and understanding of the Federal Government among economically disadvantaged middle school and secondary school recent immigrant students.

“(B) DEFINITION.—In this subsection, the term ‘recent immigrant student’ means a student who is a member of a family that immigrated to the United States within 5 years of the student's participation in such a program.

“(C) USE OF FUNDS.—Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged recent immigrant students and their teachers who participate in the programs described in subparagraph (A).

“(D) NAME OF FELLOWSHIPS.—Financial assistance received by students and teachers pursuant to this subsection shall be known as Close Up Fellowships for New Americans.

“(2) APPLICATIONS.—

“(A) APPLICATION REQUIRED.—No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

“(B) CONTENTS OF APPLICATION.—Each application submitted under this paragraph shall contain assurances that—

“(i) Close Up Fellowships for New Americans shall be made to economically disadvantaged middle school and secondary school recent immigrant students;

“(ii) every effort shall be made to ensure the participation of recent immigrant students from rural, small town, and urban areas;

“(iii) in awarding the fellowships to economically disadvantaged recent immigrant students, special consideration shall be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents, and ethnic minority students;

“(iv) fully describe the activities to be carried out with the proceeds of the grant made under paragraph (1); and

“(v) the funds received under this subsection shall be properly disbursed.

"(d) GENERAL PROVISIONS.—

"(1) ADMINISTRATIVE PROVISIONS.—

"(A) ACCOUNTABILITY.—In consultation with the Secretary, the Close Up Foundation shall devise and implement procedures to measure the efficacy of the programs authorized in subsections (a), (b), and (c) in attaining objectives that include the following:

"(i) Providing young people with an increased understanding of the Federal Government.

"(ii) Heightening a sense of civic responsibility among young people.

"(iii) Enhancing the skills of educators in teaching young people about civic responsibility, the Federal Government, and attaining citizenship competencies.

"(B) GENERAL RULE.—Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments.

"(C) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this section.

"(2) CONTINUATION OF AWARDS.—Notwithstanding any other provision of this Act, any person or entity that was awarded a grant under part G of title X before the date of enactment of the No Child Left Behind Act of 2001 shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

"PART F—COMPREHENSIVE SCHOOL REFORM

"SEC. 1601. PURPOSE.

"The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms, based upon scientifically based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State academic content and academic achievement standards.

"SEC. 1602. PROGRAM AUTHORIZATION.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1601.

"(2) ALLOTMENTS.—

"(A) RESERVATIONS.—Of the amount appropriated under section 1002(f), the Secretary may reserve—

"(i) not more than 1 percent for each fiscal year to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part;

"(ii) not more than 1 percent for each fiscal year to conduct national evaluation activities described in section 1607; and

"(iii) not more than 3 percent of the amount appropriated in fiscal year 2002 to carry out this part, for quality initiatives described in section 1608.

"(B) IN GENERAL.—Of the amount appropriated under section 1002(f) that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for that year.

"(C) REALLOTMENT.—If a State does not apply for funds under this section, the Secretary shall reallot such funds to other States that do apply in proportion to the amount allotted to such other States under subparagraph (B).

"SEC. 1603. STATE APPLICATIONS.

"(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each such application shall describe—

"(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this section;

"(2) how the State educational agency will ensure that funds under this part are limited to comprehensive school reform programs that—

"(A) include each of the components described in section 1606(a);

"(B) have the capacity to improve the academic achievement of all students in core academic subjects within participating schools; and

"(C) are supported by technical assistance providers that have a successful track record, financial stability, and the capacity to deliver high quality materials, professional development for school personnel, and on-site support during the full implementation period of the reforms;

"(3) how the State educational agency will disseminate materials and information on comprehensive school reforms that are based on scientifically based research and effective practices;

"(4) how the State educational agency will evaluate annually the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic achievement; and

"(5) how the State educational agency will provide technical assistance to the local educational agency or consortia of local educational agencies, and to participating schools, in evaluating, developing, and implementing comprehensive school reform.

"SEC. 1604. STATE USE OF FUNDS.

"(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies or consortia of local educational agencies in the State that receive funds under part A, to support comprehensive school reforms in schools that are eligible for funds under part A.

"(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency or consortium shall be—

"(1) of sufficient size and scope to support the initial costs of comprehensive school reforms selected or designed by each school identified in the application of the local educational agency or consortium;

"(2) in an amount not less than $50,000—

"(A) for each participating school; or

"(B) for each participating consortium of small schools (which for purposes of this subparagraph means a consortium of small schools serving a total of not more than 500 students); and

"(3) renewable for 2 additional 1-year subgrant periods after the initial 1-year subgrant is made if the school is or the schools are making substantial progress in the implementation of reforms.

"(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies or consortia that—

"(1) plan to use the funds in schools identified as being in need of improvement or corrective action under section 1116(c); and

"(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

"(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary and secondary students.

"(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

"(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

"(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, a description of the comprehensive school reforms selected and used, and a copy of the State's annual evaluation of the implementation of comprehensive school reforms supported under this part and the student achievement results.

"SEC. 1605. LOCAL APPLICATIONS.

"(a) IN GENERAL.—Each local educational agency or consortium of local educational agencies desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

"(b) CONTENTS.—Each such application shall—

"(1) identify the schools that are eligible for assistance under part A and plan to implement a comprehensive school reform program, including the projected costs of such a program;

"(2) describe the comprehensive school reforms based on scientifically based research and effective practices that such schools will implement;

"(3) describe how the local educational agency or consortium will provide technical assistance and support for the effective implementation of the comprehensive school reforms based on scientifically based research and effective practices selected by such schools; and

"(4) describe how the local educational agency or consortium will evaluate the implementation of such comprehensive school reforms and measure the results achieved in improving student academic achievement.

"SEC. 1606. LOCAL USE OF FUNDS.

"(a) USES OF FUNDS.—A local educational agency or consortium that receives a subgrant under this part shall provide the subgrant funds to schools that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program that—

"(1) employs proven strategies and proven methods for student learning, teaching, and school management that are based on scientifically based research and effective practices and have been replicated successfully in schools;

"(2) integrates a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive school reform plan for schoolwide change designed to enable all

students to meet challenging State content and student academic achievement standards and addresses needs identified through a school needs assessment;

"(3) provides high quality and continuous teacher and staff professional development;

"(4) includes measurable goals for student academic achievement and benchmarks for meeting such goals;

"(5) is supported by teachers, principals, administrators, school personnel staff, and other professional staff;

"(6) provides support for teachers, principals, administrators, and other school staff;

"(7) provides for the meaningful involvement of parents and the local community in planning, implementing, and evaluating school improvement activities consistent with section 1118;

"(8) uses high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

"(9) includes a plan for the annual evaluation of the implementation of school reforms and the student results achieved;

"(10) identifies other resources, including Federal, State, local, and private resources, that shall be used to coordinate services that will support and sustain the comprehensive school reform effort; and

"(11)(A) has been found, through scientifically based research to significantly improve the academic achievement of students participating in such program as compared to students in schools who have not participated in such program; or

"(B) has been found to have strong evidence that such program will significantly improve the academic achievement of participating children.

"(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using nationally available approaches, but may develop the school's own comprehensive school reform program for schoolwide change as described in subsection (a).

"SEC. 1607. EVALUATION AND REPORTS.

"(a) IN GENERAL.—The Secretary shall develop a plan for a national•evaluation of the programs assisted under this part.

"(b) EVALUATION.—The national evaluation shall—

"(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

"(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

"(c) REPORTS.—The Secretary shall submit a report describing the results of the evaluation under subsection (b) for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

"SEC. 1608. QUALITY INITIATIVES.

"The Secretary, through grants or contracts, shall provide funds for—

"(1) a public-private effort, in which funds are matched by private organizations, to assist States, local educational agencies, and schools, in making informed decisions regarding approving or selecting providers of comprehensive school reform, consistent with the requirements described in section 1606(a); and

"(2) activities to foster the development of comprehensive school reform models and to provide effective capacity building for comprehensive school reform providers to expand their work in more schools, assure quality, and promote financial stability.

"PART G—ADVANCED PLACEMENT PROGRAMS

"SEC. 1701. SHORT TITLE.

"This part may be cited as the 'Access to High Standards Act'.

"SEC. 1702. PURPOSES.

The purposes of this part are—

"(1) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

"(2) to encourage more of the 600,000 students who take advanced placement courses each year but do not take advanced placement exams each year, to demonstrate their achievements through taking the exams;

"(3) to build on the many benefits of advanced placement programs for students, which benefits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Test (SAT) scores that are 100 points above the national averages, and the achievement of better grades in secondary school and in college than the grades of students who have not participated in the programs;

"(4) to increase the availability and broaden the range of schools, including middle schools, that have advanced placement and pre-advanced placement programs;

"(5) to demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

"(6) to provide greater access to advanced placement and pre-advanced placement courses and highly trained teachers for low-income and other disadvantaged students;

"(7) to provide access to advanced placement courses for secondary school students at schools that do not offer advanced placement programs, increase the rate at which secondary school students participate in advanced placement courses, and increase the numbers of students who receive advanced placement test scores for which college academic credit is awarded;

"(8) to increase the participation of low-income individuals in taking advanced placement tests through the payment or partial payment of the costs of the advanced placement test fees; and

"(9) to increase the number of individuals that achieve a baccalaureate or advanced degree, and to decrease the amount of time such individuals require to attain such degrees.

"SEC. 1703. FUNDING DISTRIBUTION RULE.

"From amounts appropriated under section 1002(g) for a fiscal year, the Secretary shall give priority to funding activities under section 1704 and shall distribute any remaining funds under section 1705.

"SEC. 1704. ADVANCED PLACEMENT TEST FEE PROGRAM.

"(a) GRANTS AUTHORIZED.—From amounts made available under section 1703 for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under this section to enable the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the low-income individuals—

"(1) are enrolled in an advanced placement course; and

"(2) plan to take an advanced placement test.

"(b) AWARD BASIS.—In determining the amount of the grant awarded to a State educational agency under this section for a fiscal year, the Secretary shall consider the number of children eligible to be counted under section 1124(c) in the State in relation to the number of such children so counted in all the States.

"(c) INFORMATION DISSEMINATION.—A State educational agency awarded a grant under this section shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

"(d) APPLICATIONS.—Each State educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. At a minimum, each State educational agency application shall—

"(1) describe the advanced placement test fees the State educational agency will pay on behalf of low-income individuals in the State from grant funds awarded under this section;

"(2) provide an assurance that any grant funds awarded under this section shall be used only to pay for advanced placement test fees; and

"(3) contain such information as the Secretary may require to demonstrate that the State educational agency will ensure that a student is eligible for payments authorized under this section, including documentation required under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

"(f) REPORT.—

"(1) IN GENERAL.—Each State educational agency awarded a grant under this section shall, with respect to each advanced placement subject, annually report to the Secretary on—

"(A) the number of students in the State who are taking an advanced placement course in that subject;

"(B) the number of advanced placement tests taken by students in the State who have taken an advanced placement course in that subject;

"(C) the number of students in the State scoring at different levels on advanced placement tests in that subject; and

"(D) demographic information regarding individuals in the State taking advanced placement courses and tests in that subject disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

"(2) REPORT TO CONGRESS.—The Secretary shall annually compile the information received from each State educational agency under paragraph (1) and report to the appropriate Committees of Congress regarding the information.

"(g) BIA AS SEA.—For purposes of this section the Bureau of Indian Affairs shall be treated as a State educational agency.

"SEC. 1705. ADVANCED PLACEMENT INCENTIVE PROGRAM GRANTS.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available under section 1703 for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable those entities to carry out the authorized activities described in subsection (d).

"(2) DURATION AND PAYMENTS.—

"(A) DURATION.—The Secretary shall award a grant under this section for a period of not more than 3 years.

"(B) PAYMENTS.—The Secretary shall make grant payments under this section on an annual basis.

"(3) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a State educational agency, local educational agency, or national nonprofit educational entity with expertise in advanced placement services.

"(b) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to an eligible entity that submits an application under subsection (b) that—

“(1) demonstrates a pervasive need for access to advanced placement incentive programs;

“(2) provides for the involvement of business and community organizations in the activities to be assisted;

“(3) assures the availability of matching funds from State, local, or other sources to pay for the cost of activities to be assisted;

“(4) demonstrates a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science;

“(5) demonstrates an intent to carry out activities that target—

“(A) local educational agencies serving schools with a high concentration of low-income students; or

“(B) schools with a high concentration of low-income students; and

“(6) in the case of a local educational agency, assures that the local educational agency serves schools with a high concentration of low-income students; or

“(7) demonstrates an intent to carry out activities to increase the availability of, and participation in, on-line advanced placement courses.

“(d) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), an eligible entity shall use grant funds made available under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

“(A) teacher training;

“(B) pre-advanced placement course development;

“(C) coordination and articulation between grade levels to prepare students for academic achievement in advanced placement courses;

“(D) books and supplies; or

“(E) activities to increase the availability of, and participation in, on-line advanced placement courses; or

“(F) any other activity directly related to expanding access to and participation in advanced placement incentive programs, particularly for low-income individuals.

“(2) STATE EDUCATIONAL AGENCY.—In the case of an eligible entity that is a State educational agency, the entity may use grant funds made available under this section to award subgrants to local educational agencies to enable the local educational agencies to carry out the activities under paragraph (1).

“(e) CONTRACTS.—An eligible entity awarded a grant to provide online advanced placement courses under this part may enter into a contract with a nonprofit or for profit organization to provide the online advanced placement courses, including contracting for necessary support services.

“(f) DATA COLLECTION AND REPORTING.—

“(1) DATA COLLECTION.—Each eligible entity awarded a grant under this section shall, with respect to each advanced placement subject, annually report to the Secretary on—

“(A) the number of students served by the eligible entity who are taking an advanced placement course in that subject;

“(B) the number of advanced placement tests taken by students served by the eligible entity in that subject;

“(C) the number of students served by the eligible entity scoring at different levels on advanced placement tests in that subject; and

“(D) demographic information regarding individuals served by such agency who taking advanced placement courses and tests in that subject disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

“(2) REPORT.—The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to the appropriate Committees of Congress regarding the information.

“SEC. 1706. SUPPLEMENT, NOT SUPPLANT.

Grant funds provided under this part shall supplement, and not supplant, other non-Federal funds that are available to assist low-income individuals to pay for the cost of advanced placement test fees or to expand access to advanced placement and pre-advanced placement courses.

“SEC. 1707. DEFINITIONS.

“In this part:

“(1) ADVANCED PLACEMENT TEST.—The term ‘advanced placement test’ means an advanced placement test administered by the College Board or approved by the Secretary.

“(2) HIGH CONCENTRATION OF LOW-INCOME STUDENTS.—The term ‘high concentration of low-income students’, used with respect to a school, means a school that serves a student population 40 percent or more of whom are low-income individuals.

“(3) LOW-INCOME INDIVIDUAL.—The term ‘low-income individual’ means an individual who is determined by a State educational agency or local educational agency to be a child, ages 5 through 17, from a low-income family, on the basis of data used by the Secretary to determine allocations under section 1124 of this Act, data on children eligible for free or reduced-price lunches under the National School Lunch Act, data on children in families receiving assistance under part A of title IV of the Social Security Act, or data on children eligible to receive medical assistance under the medicaid program under title XIX of the Social Security Act, or through an alternate method that combines or extrapolates from those data.

“PART H—SCHOOL DROPOUT PREVENTION

“SEC. 1801. SHORT TITLE.

“This part may be cited as the ‘Dropout Prevention Act’.

“SEC. 1802. PURPOSE.

“The purpose of this part is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants that—

“(1) challenge all children to attain their highest academic potential; and

“(2) ensure that all students have substantial and ongoing opportunities to attain their highest academic potential through schoolwide programs proven effective in school dropout prevention and reentry.

“SEC. 1803. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

“(1) 10 percent shall be available to carry out subpart 1 for each fiscal year; and

“(2) 90 percent shall be available to carry out subpart 2 for each fiscal year.

“Subpart 1—Coordinated National Strategy

“SEC. 1811. NATIONAL ACTIVITIES.

“(a) IN GENERAL.—The Secretary is authorized—

“(1) to collect systematic data on the effectiveness of the programs assisted under this part in reducing school dropout rates and increasing school reentry and secondary school graduation rates;

“(2) to establish a national clearinghouse of information on effective school dropout prevention and reentry programs that shall disseminate to State educational agencies, local educational agencies, and schools—

“(A) the results of research on school dropout prevention and reentry; and

“(B) information on effective programs, best practices, and Federal resources to—

“(i) reduce annual school dropout rates;

“(ii) increase school reentry; and

“(iii) increase secondary school graduation rates;

“(3) to provide technical assistance to State educational agencies, local educational agencies, and schools in designing and implementing programs and securing resources to implement effective school dropout prevention and reentry programs;

“(4) to establish and consult with an interagency working group that shall—

“(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and reentry, and assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention and reentry;

“(B) describe the ways in which State educational agencies and local educational agencies can implement effective school dropout prevention and reentry programs using funds from a variety of Federal programs, including the programs under this part; and

“(C) examine Federal programs that may have a positive impact on secondary school graduation or school reentry;

“(5) to carry out a national recognition program in accordance with subsection (b) that recognizes schools that have made extraordinary progress in lowering school dropout rates; and

“(6) to use funds made available for this subpart to carry out the evaluation required under section 1830(c).

“(b) RECOGNITION PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall—

“(A) establish a national recognition program; and

“(B) develop uniform national guidelines for the recognition program that shall be used to recognize eligible schools from nominations submitted by State educational agencies.

“(2) RECOGNITION.—The Secretary shall recognize, under the recognition program established under paragraph (1), eligible schools.

“(3) SUPPORT.—The Secretary may make monetary awards to an eligible school recognized under this subsection in amounts determined appropriate by the Secretary that shall be used for dissemination activities within the eligible school district or nationally.

“(4) DEFINITION OF ELIGIBLE SCHOOL.—In this subsection, the term ‘eligible school’ means a public middle school or secondary school, including a charter school, that has implemented comprehensive reforms that have been effective in lowering school dropout rates for all students—

“(A) in that secondary school or charter school; or

“(B) in the case of a middle school, in the secondary school that the middle school feeds students into.

“(c) CAPACITY BUILDING.—

“(1) IN GENERAL.—The Secretary, through a contract with 1 or more non-Federal entities, may conduct a capacity building and design initiative in order to increase the types of proven strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students.

“(2) NUMBER AND DURATION.—

“(A) NUMBER.—The Secretary may award not more than 5 contracts under this subsection.

“(B) DURATION.—The Secretary may award a contract under this subsection for a period of not more than 5 years.

“(d) SUPPORT FOR EXISTING REFORM NETWORKS.—

“(1) IN GENERAL.—The Secretary may provide appropriate support to eligible entities to enable *the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this part.*

"(2) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means an entity that, prior to the date of enactment of the Dropout Prevention Act—

"(A) provided training, technical assistance, and materials related to school dropout prevention or reentry to 100 or more elementary schools or secondary schools; and

"(B) developed and published a specific educational program or design related to school dropout prevention or reentry for use by the schools.

"Subpart 2—School Dropout Prevention Initiative

"SEC. 1821. DEFINITIONS.

"In this subpart:

"(1) LOW-INCOME STUDENT.—The term 'low-income student' means a student who is determined by a local educational agency to be from a low-income family using the measures described in section 1113(c).

"(2) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau.

"SEC. 1822. PROGRAM AUTHORIZED.

"(a) GRANTS TO STATE EDUCATIONAL AGENCIES AND LOCAL EDUCATIONAL AGENCIES.—

"(1) AMOUNT LESS THAN $75,000,000.—

"(A) IN GENERAL.—If the amount appropriated under section 1803 for a fiscal year equals or is less than $75,000,000, then the Secretary shall use such amount to award grants, on a competitive basis, to—

"(i) State educational agencies to support activities—

"(I) in schools that—

"(aa) serve students in grades 6 through 12; and

"(bb) have annual school dropout rates that are above the State average annual school dropout rate; or

"(II) in the middle schools that feed students into the schools described in subclause (I); or

"(ii) local educational agencies that operate—

"(I) schools that—

"(aa) serve students in grades 6 through 12; and

"(bb) have annual school dropout rates that are above the State average annual school dropout rate; or

"(II) middle schools that feed students into the schools described in subclause (I).

"(B) USE OF GRANT FUNDS.—Grant funds awarded under this paragraph shall be used to fund effective, sustainable, and coordinated school dropout prevention and reentry programs that may include the activities described in subsection (b)(2), in—

"(i) schools serving students in grades 6 through 12 that have annual school dropout rates that are above the State average annual school dropout rate; or

"(ii) the middle schools that feed students into the schools described in clause (i).

"(2) AMOUNT LESS THAN $250,000,000 BUT MORE THAN $75,000,000.—If the amount appropriated under section 1803 for a fiscal year is less than $250,000,000 but more than $75,000,000, then the Secretary shall use such amount to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award subgrants under subsection (b).

"(3) AMOUNT EQUAL TO OR EXCEEDS $250,000,000.—If the amount appropriated under section 1803 for a fiscal year equals or exceeds $250,000,000, then the Secretary shall use such amount to award a grant to each State educational agency in an amount that bears the same relation to such appropriated amount as the amount the State educational agency received under part A for the preceding fiscal year bears to the amount received by all State educational agencies under such part for the preceding fiscal year, to enable the State educational agency to award subgrants under subsection (b).

"(b) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—From amounts made available to a State educational agency under paragraph (2) or (3) of subsection (a), the State educational agency shall award subgrants, on a competitive basis, to local educational agencies that operate public schools that serve students in grades 6 through 12 and that have annual school dropout rates that are above the State average annual school dropout rate, to enable those schools, or the middle schools that feed students into those schools, to implement effective, sustainable, and coordinated school dropout prevention and reentry programs that involve activities such as—

"(A) professional development;

"(B) obtaining curricular materials;

"(C) release time for professional staff to obtain professional development;

"(D) planning and research;

"(E) remedial education;

"(F) reduction in pupil-to-teacher ratios;

"(G) efforts to meet State student academic achievement standards;

"(H) counseling and mentoring for at-risk students;

"(I) implementing comprehensive school reform models, such as creating smaller learning communities; and

"(J) school reentry activities.

"(2) AMOUNT.—Subject to paragraph (3), a subgrant under this subpart shall be awarded—

"(A) in the first year that a local educational agency receives a subgrant payment under this subpart, in an amount that is based on factors such as—

"(i) the size of schools operated by the local educational agency;

"(ii) costs of the model or set of prevention and reentry strategies being implemented; and

"(iii) local cost factors such as poverty rates;

"(B) in the second year, in an amount that is not less than 75 percent of the amount the local educational agency received under this subpart in the first such year;

"(C) in the third year, in an amount that is not less than 50 percent of the amount the local educational agency received under this subpart in the first such year; and

"(D) in each succeeding year, in an amount that is not less than 30 percent of the amount the local educational agency received under this subpart in the first year.

"(3) DURATION.—A subgrant under this subpart shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 1830(a), that significant progress has been made in lowering the annual school dropout rate for secondary schools participating in the program assisted under this subpart.

"SEC. 1823. APPLICATIONS.

"(a) IN GENERAL.—To receive—

"(1) a grant under this subpart, a State educational agency or local educational agency shall submit an application and plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require; and

"(2) a subgrant under this subpart, a local educational agency shall submit an application and plan to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require.

"(b) CONTENTS.—

"(1) STATE EDUCATIONAL AGENCY AND LOCAL EDUCATIONAL AGENCY.—Each application and plan submitted under subsection (a) shall—

"(A) include an outline—

"(i) of the State educational agency's or local educational agency's strategy for reducing the State educational agency or local educational agency's annual school dropout rate;

"(ii) for targeting secondary schools, and the middle schools that feed students into those secondary schools, that have the highest annual school dropout rates; and

"(iii) for assessing the effectiveness of the efforts described in the plan;

"(B) contain an identification of the schools in the State or operated by the local educational agency that have annual school dropout rates that are greater than the average annual school dropout rate for the State;

"(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

"(D) describe a budget and timeline for implementing the strategies;

"(E) contain evidence of coordination with existing resources;

"(F) provide an assurance that funds provided under this subpart will supplement, and not supplant, other State and local funds available for school dropout prevention and reentry programs; and

"(G) describe how the activities to be assisted conform with research knowledge about school dropout prevention and reentry.

"(2) LOCAL EDUCATIONAL AGENCY.—Each application and plan submitted under subsection (a) by a local educational agency shall contain, in addition to the requirements of paragraph (1)—

"(A) an assurance that the local educational agency is committed to providing ongoing operational support for such schools to address the problem of school dropouts for a period of 5 years; and

"(B) an assurance that the local educational agency will support the plan, including—

"(i) provision of release time for teacher training;

"(ii) efforts to coordinate activities for secondary schools and the middle schools that feed students into those secondary schools; and

"(iii) encouraging other schools served by the local educational agency to participate in the plan.

"SEC. 1824. STATE RESERVATION.

"A State educational agency that receives a grant under paragraph (2) or (3) of section 1822(a) may reserve not more than 5 percent of the grant funds for administrative costs and State activities related to school dropout prevention and reentry activities, of which not more than 2 percent of the grant funds may be used for administrative costs.

"SEC. 1825. STRATEGIES AND CAPACITY BUILDING.

"Each local educational agency receiving a grant or subgrant under this subpart and each State educational agency receiving a grant under this subpart shall implement scientifically based, sustainable, and widely replicated strategies for school dropout prevention and reentry. The strategies may include—

"(1) specific strategies for targeted purposes, such as—

"(A) effective early intervention programs designed to identify at-risk students;

"(B) effective programs serving at-risk students, including racial and ethnic minorities and pregnant and parenting teenagers, designed

to prevent such students from dropping out of school; and

"(C) effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

"(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, and developing clear linkages to career skills and employment.

"SEC. 1826. SELECTION OF LOCAL EDUCATIONAL AGENCIES FOR SUBGRANTS.

"(a) STATE EDUCATIONAL AGENCY REVIEW AND AWARD.—The State educational agency shall review applications submitted under section 1823(a)(2) and award subgrants to local educational agencies with the assistance and advice of a panel of experts on school dropout prevention and reentry.

"(b) ELIGIBILITY.—A local educational agency is eligible to receive a subgrant under this subpart if the local educational agency operates a public school (including a public alternative school)—

"(1) that is eligible to receive assistance under part A; and

"(2)(A) that serves students 50 percent or more of whom are low-income students; or

"(B) in which a majority of the students come from feeder schools that serve students 50 percent or more of whom are low-income students.

"SEC. 1827. COMMUNITY BASED ORGANIZATIONS.

"A local educational agency that receives a grant or subgrant under this subpart and a State educational agency that receives a grant under this subpart may use the funds to secure necessary services from a community-based organization or other government agency if the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts.

"SEC. 1828. TECHNICAL ASSISTANCE.

"Notwithstanding any other provision of law, each local educational agency that receives funds under this subpart shall use the funds to provide technical assistance to secondary schools served by the agency that have not made progress toward lowering annual school dropout rates after receiving assistance under this subpart for 2 fiscal years.

"SEC. 1829. SCHOOL DROPOUT RATE CALCULATION.

"For purposes of calculating an annual school dropout rate under this subpart, a school shall use the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data.

"SEC. 1830. REPORTING AND ACCOUNTABILITY.

"(a) LOCAL EDUCATIONAL AGENCY REPORTS.—

"(1) IN GENERAL.—To receive funds under this subpart for a fiscal year after the first fiscal year that a local educational agency receives funds under this subpart, the local educational agency shall provide, on an annual basis, a report regarding the status of the implementation of activities funded under this subpart, and the dropout data for students at schools assisted under this subpart, disaggregated by race and ethnicity, to the—

"(A) Secretary, if the local educational agency receives a grant under section 1822(a)(1); or

"(B) State educational agency, if the local educational agency receives a subgrant under paragraph (2) or (3) of section 1822(a).

"(2) DROPOUT DATA.—The dropout data under paragraph (1) shall include annual school dropout rates for each fiscal year, starting with the 2 fiscal years before the local educational agency received funds under this subpart.

"(b) STATE REPORT ON PROGRAM ACTIVITIES.—Each State educational agency receiving funds under this subpart shall provide to the Secretary, at such time and in such format as the Secretary may require, information on the status of the implementation of activities funded under this subpart and outcome data for students in schools assisted under this subpart.

"(c) ACCOUNTABILITY.—The Secretary shall evaluate the effect of the activities assisted under this subpart on school dropout prevention compared, if feasible, to a control group using control procedures. The Secretary may use funds appropriated for subpart 1 to carry out this evaluation.

"PART I—GENERAL PROVISIONS

"SEC. 1901. FEDERAL REGULATIONS.

"(a) IN GENERAL.—The Secretary may issue such regulations as are necessary to reasonably ensure that there is compliance with this title.

"(b) NEGOTIATED RULEMAKING PROCESS.—

"(1) IN GENERAL.—Before publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, paraprofessionals, and members of local school boards and other organizations involved with the implementation and operation of programs under this title.

"(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

"(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and before publishing proposed regulations, the Secretary shall—

"(A) establish a negotiated rulemaking process on, at a minimum, standards and assessments;

"(B) select individuals to participate in such process from among individuals or groups that provided advice and recommendations, including representation from all geographic regions of the United States, in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials; and

"(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days before the first meeting under such process.

"(4) PROCESS.—Such process—

"(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than 1 year after the date of enactment of the No Child Left Behind Act of 2001; and

"(B) shall not be subject to the Federal Advisory Committee Act, but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

"(5) EMERGENCY SITUATION.—In an emergency situation in which regulations to carry out this title must be issued within a very limited time to assist State educational agencies and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and before issuing final regulations, conduct regional meetings to review such proposed regulations.

"(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

"SEC. 1902. AGREEMENTS AND RECORDS.

"(a) AGREEMENTS.—All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 1901 unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from, and not adhere to, such agreements.

"(b) RECORDS.—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

"SEC. 1903. STATE ADMINISTRATION.

"(a) RULEMAKING.—

"(1) IN GENERAL.—Each State that receives funds under this title shall—

"(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners created under subsection (b) for review and comment;

"(B) minimize such rules, regulations, and policies to which the State's local educational agencies and schools are subject;

"(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs; and

"(D) identify any such rule, regulation, or policy as a State-imposed requirement.

"(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State student academic achievement standards.

"(b) COMMITTEE OF PRACTITIONERS.—

"(1) IN GENERAL.—Each State educational agency that receives funds under this title shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

"(2) MEMBERSHIP.—Each such committee shall include—

"(A) as a majority of its members, representatives from local educational agencies;

"(B) administrators, including the administrators of programs described in other parts of this title;

"(C) teachers, including vocational educators;

"(D) parents;

"(E) members of local school boards;

"(F) representatives of private school children; and

"(G) pupil services personnel.

"(3) DUTIES.—The duties of such committee shall include a review, before publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation before issuance in final form.

"SEC. 1904. LOCAL EDUCATIONAL AGENCY SPENDING AUDITS.

"(a) AUDITS.—The Comptroller General of the United States shall conduct audits of not less than 6 local educational agencies that receive funds under part A in each fiscal year to determine more clearly and specifically how local educational agencies are expending such funds. Such audits—

"(1) shall be conducted in 6 local educational agencies that represent the size, ethnic, economic, and geographic diversity of local educational agencies; and

"(2) shall examine the extent to which funds have been expended for academic instruction in the core curriculum and activities unrelated to academic instruction in the core curriculum,

such as the payment of janitorial, utility, and other maintenance services, the purchase and lease of vehicles, and the payment for travel and attendance costs at conferences.

"(b) REPORT.—Not later than 3 months after the completion of the audits under subsection (a) each year, the Comptroller General of the United States shall submit a report on each audit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

"SEC. 1905. PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.

"Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

"SEC. 1906. RULE OF CONSTRUCTION ON EQUALIZED SPENDING.

"Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

"SEC. 1907. STATE REPORT ON DROPOUT DATA.

"Not later than 1 year after a State educational agency receives funds under this title, the agency shall report to the Secretary and statewide, all school district data regarding annual school dropout rates in the State disaggregated by race and ethnicity according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

"SEC. 1908. REGULATIONS FOR SECTIONS 1111 AND 1116.

"The Secretary shall issue regulations for sections 1111 and 1116 not later than 6 months after the date of enactment of the No Child Left Behind Act of 2001.".

TITLE II—PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS

SEC. 201. TEACHER AND PRINCIPAL TRAINING AND RECRUITING FUND.

Title II (20 U.S.C. 6601 et seq.) is amended to read as follows:

"TITLE II—PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS

"PART A—TEACHER AND PRINCIPAL TRAINING AND RECRUITING FUND

"SEC. 2101. PURPOSE.

"The purpose of this part is to provide grants to State educational agencies, local educational agencies, State agencies for higher education, and eligible partnerships in order to—

"(1) increase student academic achievement through strategies such as improving teacher and principal quality and increasing the number of highly qualified teachers in the classroom and highly qualified principals and assistant principals in schools; and

"(2) hold local educational agencies and schools accountable for improvements in student academic achievement.

"SEC. 2102. DEFINITIONS.

"In this part:

"(1) ARTS AND SCIENCES.—The term 'arts and sciences' means—

"(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subjects in which teachers teach; and

"(B) when referring to a specific academic subject, the disciplines or content areas in which an academic major is offered by an organizational unit described in subparagraph (A).

"(2) CHARTER SCHOOL.—The term 'charter school' has the meaning given the term in section 5210.

"(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency—

"(A)(i) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

"(ii) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and

"(B)(i) for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or

"(ii) for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

"(4) HIGHLY QUALIFIED PARAPROFESSIONAL.—The term 'highly qualified paraprofessional' means a paraprofessional who has not less than 2 years of—

"(A) experience in a classroom; and

"(B) postsecondary education or demonstrated competence in a field or academic subject for which there is a significant shortage of qualified teachers.

"(5) OUT-OF-FIELD TEACHER.—The term 'out-of-field teacher' means a teacher who is teaching an academic subject or a grade level for which the teacher is not highly qualified.

"(6) PRINCIPAL.—The term 'principal' includes an assistant principal.

"SEC. 2103. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) GRANTS TO STATES, LOCAL EDUCATIONAL AGENCIES, AND ELIGIBLE PARTNERSHIPS.—There are authorized to be appropriated to carry out this part (other than subpart 5) $3,175,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(b) NATIONAL PROGRAMS.—There are authorized to be appropriated to carry out subpart 5 such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

"Subpart 1—Grants to States

"SEC. 2111. ALLOTMENTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make grants to States with applications approved under section 2112 to pay for the Federal share of the cost of carrying out the activities specified in section 2113. Each grant shall consist of the allotment determined for a State under subsection (b).

"(b) DETERMINATION OF ALLOTMENTS.—

"(1) RESERVATION OF FUNDS.—

"(A) IN GENERAL.—From the total amount appropriated under section 2103(a) for a fiscal year, the Secretary shall reserve—

"(i) 1/2 of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this part; and

"(ii) 1/2 of 1 percent for the Secretary of the Interior for programs under this part in schools operated or funded by the Bureau of Indian Affairs.

"(2) STATE ALLOTMENTS.—

"(A) HOLD HARMLESS.—

"(i) IN GENERAL.—Subject to subparagraph (B), from the funds appropriated under section 2103(a) for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under—

"(I) section 2202(b) of this Act (as in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and

"(II) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

"(ii) RATABLE REDUCTION.—If the funds described in clause (i) are insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce those amounts for the fiscal year.

"(B) ALLOTMENT OF ADDITIONAL FUNDS.—

"(i) IN GENERAL.—Subject to clause (ii), for any fiscal year for which the funds appropriated under section 2103(a) and not reserved under paragraph (1) exceed the total amount required to make allotments under subparagraph (A), the Secretary shall allot to each of the States described in subparagraph (A) the sum of—

"(I) an amount that bears the same relationship to 35 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

"(II) an amount that bears the same relationship to 65 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line, in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

"(ii) EXCEPTION.—No State receiving an allotment under clause (i) may receive less than 1/2 of 1 percent of the total excess amount allotted under such clause for a fiscal year.

"(3) REALLOTMENT.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot the amount of the allotment to the remaining States in accordance with this subsection.

"SEC. 2112. STATE APPLICATIONS.

"(a) IN GENERAL.—For a State to be eligible to receive a grant under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted under this section shall include the following:

"(1) A description of how the activities to be carried out by the State educational agency under this subpart will be based on a review of scientifically based research and an explanation of why the activities are expected to improve student academic achievement.

"(2) A description of how the State educational agency will ensure that a local educational agency receiving a subgrant to carry out subpart 2 will comply with the requirements of such subpart.

"(3) A description of how the State educational agency will ensure that activities assisted under this subpart are aligned with challenging State academic content and student academic achievement standards, State assessments, and State and local curricula.

"(4) A description of how the State educational agency will use funds under this part to improve the quality of the State's teachers and principals.

"(5)(A) A description of how the State educational agency will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs.

"(B) A description of the comprehensive strategy that the State educational agency will use, as part of such coordination effort, to ensure that teachers are trained in the use of technology so that technology and applications of technology are effectively used in the classroom *to improve teaching and learning in all curricula and academic subjects, as appropriate.*

"(6) A description of how the State educational agency will encourage the development of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

"(7)(A) A description of how the State educational agency will ensure compliance with the requirements for professional development activities described in section 9101 and how the activities to be carried out under the grant will be developed collaboratively and based on the input of teachers, principals, parents, administrators, paraprofessionals, and other school personnel.

"(B) In the case of a State in which the State educational agency is not the entity responsible for teacher professional standards, certification, and licensing, an assurance that the State activities carried out under this subpart are carried out in conjunction with the entity responsible for such standards, certification, and licensing under State law.

"(8) A description of how the State educational agency will ensure that the professional development (including teacher mentoring) needs of teachers will be met using funds under this subpart and subpart 2.

"(9) A description of the State educational agency's annual measurable objectives under section 1119(a)(2).

"(10) A description of how the State educational agency will use funds under this part to meet the teacher and paraprofessional requirements of section 1119 and how the State educational agency will hold local educational agencies accountable for meeting the annual measurable objectives described in section 1119(a)(2).

"(11) In the case of a State that has a charter school law that exempts teachers from State certification and licensing requirements, the specific portion of the State law that provides for the exemption.

"(12) An assurance that the State educational agency will comply with section 9501 (regarding participation by private school children and teachers).

"(c) DEEMED APPROVAL.—An application submitted by a State educational agency pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this subpart.

"(d) DISAPPROVAL.—The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

"(e) NOTIFICATION.—If the Secretary finds that the application is not in compliance, in whole or in part, with this subpart, the Secretary shall—

"(1) give the State educational agency notice and an opportunity for a hearing; and

"(2) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

"(A) cite the specific provisions in the application that are not in compliance; and

"(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

"(f) RESPONSE.—If the State educational agency responds to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B), the Secretary shall approve or disapprove such application prior to the later of—

"(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

"(2) the expiration of the 120-day period described in subsection (c).

"(g) FAILURE TO RESPOND.—If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

"SEC. 2113. STATE USE OF FUNDS.

"(a) IN GENERAL.—A State that receives a grant under section 2111 shall—

"(1) reserve 95 percent of the funds made available through the grant to make subgrants to local educational agencies as described in subpart 2;

"(2) reserve 2.5 percent (or, for a fiscal year described in subsection (b), the percentage determined under subsection (b)) of the funds to make subgrants to local partnerships as described in subpart 3; and

"(3) use the remainder of the funds for State activities described in subsection (c).

"(b) SPECIAL RULE.—For any fiscal year for which the total amount that would be reserved by all States under subsection (a)(2), if the States applied a 2.5 percentage rate, exceeds $125,000,000, the Secretary shall determine an alternative percentage that the States shall apply for that fiscal year under subsection (a)(2) so that the total amount reserved by all States under subsection (a)(2) equals $125,000,000.

"(c) STATE ACTIVITIES.—The State educational agency for a State that receives a grant under section 2111 shall use the funds described in subsection (a)(3) to carry out one or more of the following activities, which may be carried out through a grant or contract with a for-profit or nonprofit entity:

"(1) Reforming teacher and principal certification (including recertification) or licensing requirements to ensure that—

"(A)(i) teachers have the necessary subject matter, knowledge and teaching skills in the academic subjects that the teachers teach; and

"(ii) principals have the instructional leadership skills to help teachers teach and students learn;

"(B) teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

"(C) teachers have the subject matter knowledge and teaching skills, including technology literacy, and principals have the instructional leadership skills, necessary to help students meet challenging State student academic achievement standards.

"(2) Carrying out programs that provide support to teachers or principals, including support for teachers and principals new to their profession, such as programs that—

"(A) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development; and

"(B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the requirements for professional development activities described in section 9101.

"(3) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers and principals, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers or principals.

"(4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only—

"(A) if the State educational agency is making progress toward meeting the annual measurable objectives described in section 1119(a)(2); and

"(B) in a manner consistent with mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals.

"(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

"(6) Providing professional development for teachers and principals and, in cases in which a State educational agency determines support to be appropriate, supporting the participation of pupil services personnel in the same type of professional development activities as are made available to teachers and principals.

"(7) Developing systems to measure the effectiveness of specific professional development programs and strategies to document gains in student academic achievement or increases in teacher mastery of the academic subjects the teachers teach.

"(8) Fulfilling the State educational agency's responsibilities concerning proper and efficient administration of the programs carried out under this part, including provision of technical assistance to local educational agencies.

"(9) Funding projects to promote reciprocity of teacher and principal certification or licensing between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

"(10) Developing or assisting local educational agencies in the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

"(11) Encouraging and supporting the training of teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.

"(12) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for teachers in high-need academic subjects such as reading, mathematics, and science and teachers in high-poverty schools and districts.

"(13) Providing assistance to local educational agencies for the development and implementation of professional development programs for principals that enable the principals to be effective school leaders and prepare all students to meet challenging State academic content and student academic achievement standards, and the development and support of school leadership academies to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

‘‘(14) Developing, or assisting local educational agencies in developing, teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

‘‘(15) Providing assistance to teachers to enable them to meet certification, licensing, or other requirements needed to become highly qualified by the end of the fourth year for which the State receives funds under this part (as amended by the No Child Left Behind Act of 2001).

‘‘(16) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement.

‘‘(17) Funding projects and carrying out programs to encourage men to become elementary school teachers.

‘‘(18) Establishing and operating a center that—

‘‘(A) serves as a statewide clearinghouse for the recruitment and placement of kindergarten, elementary school, and secondary school teachers; and

‘‘(B) establishes and carries out programs to improve teacher recruitment and retention within the State.

‘‘(d) ADMINISTRATIVE COSTS.—A State educational agency or State agency for higher education receiving a grant under this part may use not more than 1 percent of the grant funds for planning and administration related to carrying out activities under subsection (c) and subpart 3.

‘‘(e) COORDINATION.—A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section.

‘‘(f) SUPPLEMENT, NOT SUPPLANT.—Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

“Subpart 2—Subgrants to Local Educational Agencies

“SEC. 2121. ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.

‘‘(a) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

‘‘(1) IN GENERAL.—The Secretary may make a grant to a State under subpart 1 only if the State educational agency agrees to distribute the funds described in this subsection as subgrants to local educational agencies under this subpart.

‘‘(2) HOLD HARMLESS.—

‘‘(A) IN GENERAL.—From the funds reserved by a State under section 2113(a)(1), the State educational agency shall allocate to each local educational agency in the State an amount equal to the total amount that such agency received for fiscal year 2001 under—

‘‘(i) section 2203(1)(B) of this Act (as in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and

‘‘(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

‘‘(B) NONPARTICIPATING AGENCIES.—In the case of a local educational agency that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in clauses (i) and (ii) of subparagraph (A), the amount allocated to the agency under such subparagraph shall be the total amount that the agency would have received for fiscal year 2001 if the agency had elected to participate in all of the programs for which the agency was eligible under each of the provisions referred to in those clauses.

‘‘(C) RATABLE REDUCTION.—If the funds described in subparagraph (A) are insufficient to pay the full amounts that all local educational agencies in the State are eligible to receive under subparagraph (A) for any fiscal year, the State educational agency shall ratably reduce such amounts for the fiscal year.

‘‘(3) ALLOCATION OF ADDITIONAL FUNDS.—For any fiscal year for which the funds reserved by a State under section 2113(a)(1) exceed the total amount required to make allocations under paragraph (2), the State educational agency shall allocate to each of the eligible local educational agencies in the State the sum of—

‘‘(A) an amount that bears the same relationship to 20 percent of the excess amount as the number of individuals age 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined; and

‘‘(B) an amount that bears the same relationship to 80 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

“SEC. 2122. LOCAL APPLICATIONS AND NEEDS ASSESSMENT.

‘‘(a) IN GENERAL.—To be eligible to receive a subgrant under this subpart, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

‘‘(b) CONTENTS.—Each application submitted under this section shall be based on the needs assessment required in subsection (c) and shall include the following:

‘‘(1)(A) A description of the activities to be carried out by the local educational agency under this subpart and how these activities will be aligned with—

‘‘(i) challenging State academic content standards and student academic achievement standards, and State assessments; and

‘‘(ii) the curricula and programs tied to the standards described in clause (i).

‘‘(B) A description of how the activities will be based on a review of scientifically based research and an explanation of why the activities are expected to improve student academic achievement.

‘‘(2) A description of how the activities will have a substantial, measurable, and positive impact on student academic achievement and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates low-income and minority students from other students.

‘‘(3) An assurance that the local educational agency will target funds to schools within the jurisdiction of the local educational agency that—

‘‘(A) have the lowest proportion of highly qualified teachers;

‘‘(B) have the largest average class size; or

‘‘(C) are identified for school improvement under section 1116(b).

‘‘(4) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided through other Federal, State, and local programs.

‘‘(5) A description of the professional development activities that will be made available to teachers and principals under this subpart and how the local educational agency will ensure that the professional development (which may include teacher mentoring) needs of teachers and principals will be met using funds under this subpart.

‘‘(6) A description of how the local educational agency will integrate funds under this subpart with funds received under part D that are used for professional development to train teachers to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy.

‘‘(7) A description of how the local educational agency, teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in the planning of activities to be carried out under this subpart and in the preparation of the application.

‘‘(8) A description of the results of the needs assessment described in subsection (c).

‘‘(9) A description of how the local educational agency will provide training to enable teachers to—

‘‘(A) teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;

‘‘(B) improve student behavior in the classroom and identify early and appropriate interventions to help students described in subparagraph (A) learn;

‘‘(C) involve parents in their child's education; and

‘‘(D) understand and use data and assessments to improve classroom practice and student learning.

‘‘(10) A description of how the local educational agency will use funds under this subpart to meet the requirements of section 1119.

‘‘(11) An assurance that the local educational agency will comply with section 9501 (regarding participation by private school children and teachers).

‘‘(c) NEEDS ASSESSMENT.—

‘‘(1) IN GENERAL.—To be eligible to receive a subgrant under this subpart, a local educational agency shall conduct an assessment of local needs for professional development and hiring, as identified by the local educational agency and school staff.

‘‘(2) REQUIREMENTS.—Such needs assessment shall be conducted with the involvement of teachers, including teachers participating in programs under part A of title I, and shall take into account the activities that need to be conducted in order to give teachers the means, including subject matter knowledge and teaching skills, and to give principals the instructional leadership skills to help teachers, to provide students with the opportunity to meet challenging State and local student academic achievement standards.

“SEC. 2123. LOCAL USE OF FUNDS.

‘‘(a) IN GENERAL.—A local educational agency that receives a subgrant under section 2121 shall use the funds made available through the subgrant to carry out one or more of the following activities, including carrying out the activities through a grant or contract with a for-profit or nonprofit entity:

‘‘(1) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only—

‘‘(A) if the local educational agency is making progress toward meeting the annual measurable objectives described in section 1119(a)(2); and

"(B) in a manner consistent with mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals.

"(2) Developing and implementing initiatives to assist in recruiting highly qualified teachers (particularly initiatives that have proven effective in retaining highly qualified teachers), and hiring highly qualified teachers, who will be assigned teaching positions within their fields, including—

"(A) providing scholarships, signing bonuses, or other financial incentives, such as differential pay, for teachers to teach—

"(i) in academic subjects in which there exists a shortage of highly qualified teachers within a school or within the local educational agency; and

"(ii) in schools in which there exists a shortage of highly qualified teachers;

"(B) recruiting and hiring highly qualified teachers to reduce class size, particularly in the early grades; and

"(C) establishing programs that—

"(i) train and hire regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and nondisabled children);

"(ii) train and hire highly qualified teachers of special needs children, as well as teaching specialists in core academic subjects who will provide increased individualized instruction to students;

"(iii) recruit qualified professionals from other fields, including highly qualified paraprofessionals, and provide such professionals with alternative routes to teacher certification, including developing and implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, and using a system of intensive screening designed to hire the most qualified applicants; and

"(iv) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession.

"(3) Providing professional development activities—

"(A) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning—

"(i) one or more of the core academic subjects that the teachers teach; and

"(ii) effective instructional strategies, methods, and skills, and use of challenging State academic content standards and student academic achievement standards, and State assessments, to improve teaching practices and student academic achievement; and

"(B) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices and that—

"(i) involve collaborative groups of teachers and administrators;

"(ii) provide training in how to teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;

"(iii) provide training in methods of—

"(I) improving student behavior in the classroom; and

"(II) identifying early and appropriate interventions to help students described in clause (ii) learn;

"(iv) provide training to enable teachers and principals to involve parents in their child's education, especially parents of limited English proficient and immigrant children; and

"(v) provide training on how to understand and use data and assessments to improve classroom practice and student learning.

"(4) Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly within elementary schools and secondary schools with a high percentage of low-achieving students, including programs that provide—

"(A) teacher mentoring from exemplary teachers, principals, or superintendents;

"(B) induction and support for teachers and principals during their first 3 years of employment as teachers or principals, respectively;

"(C) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic achievement; or

"(D) incentives, including financial incentives, to principals who have a record of improving the academic achievement of all students, but particularly students from economically disadvantaged families, students from racial and ethnic minority groups, and students with disabilities.

"(5) Carrying out programs and activities that are designed to improve the quality of the teacher force, such as—

"(A) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101, and are coordinated with activities carried out under part D;

"(B) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning;

"(C) tenure reform;

"(D) merit pay programs; and

"(E) testing of elementary school and secondary school teachers in the academic subjects that the teachers teach.

"(6) Carrying out professional development activities designed to improve the quality of principals and superintendents, including the development and support of academies to help talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

"(7) Hiring highly qualified teachers, including teachers who become highly qualified through State and local alternative routes to certification, and special education teachers, in order to reduce class size, particularly in the early grades.

"(8) Carrying out teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

"(10) Carrying out programs and activities related to exemplary teachers.

"(b) SUPPLEMENT, NOT SUPPLANT.—Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

"Subpart 3—Subgrants to Eligible Partnerships

"SEC. 2131. DEFINITIONS.

"In this subpart:

"(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means an entity that—

"(A) shall include—

"(i) a private or State institution of higher education and the division of the institution that prepares teachers and principals;

"(ii) a school of arts and sciences; and

"(iii) a high-need local educational agency; and

"(B) may include another local educational agency, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers and principals, a nonprofit cultural organization, an entity carrying out a prekindergarten program, a teacher organization, a principal organization, or a business.

"(2) LOW-PERFORMING SCHOOL.—The term 'low-performing school' means an elementary school or secondary school that is identified under section 1116.

"SEC. 2132. SUBGRANTS.

"(a) IN GENERAL.—The State agency for higher education for a State that receives a grant under section 2111, working in conjunction with the State educational agency (if such agencies are separate), shall use the funds reserved under section 2113(a)(2) to make subgrants, on a competitive basis, to eligible partnerships to enable such partnerships to carry out the activities described in section 2134.

"(b) DISTRIBUTION.—The State agency for higher education shall ensure that—

"(1) such subgrants are equitably distributed by geographic area within a State; or

"(2) eligible partnerships in all geographic areas within the State are served through the subgrants.

"(c) SPECIAL RULE.—No single participant in an eligible partnership may use more than 50 percent of the funds made available to the partnership under this section.

"SEC. 2133. APPLICATIONS.

"To be eligible to receive a subgrant under this subpart, an eligible partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may require.

"SEC. 2134. USE OF FUNDS.

"(a) IN GENERAL.—An eligible partnership that receives a subgrant under section 2132 shall use the subgrant funds for—

"(1) professional development activities in core academic subjects to ensure that—

"(A) teachers and highly qualified paraprofessionals, and, if appropriate, principals have subject matter knowledge in the academic subjects that the teachers teach, including the use of computer related technology to enhance student learning; and

"(B) principals have the instructional leadership skills that will help such principals work most effectively with teachers to help students master core academic subjects; and

"(2) developing and providing assistance to local educational agencies and individuals who are teachers, highly qualified paraprofessionals, or principals of schools served by such agencies, for sustained, high-quality professional development activities that—

"(A) ensure that the individuals are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement;

"(B) may include intensive programs designed to prepare such individuals who will return to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school; and

"(C) may include activities of partnerships between one or more local educational agencies, one or more schools served by such local educational agencies, and one or more institutions of higher education for the purpose of improving teaching and learning at low-performing schools.

"(b) COORDINATION.—An eligible partnership that receives a subgrant to carry out this subpart and a grant under section 203 of the Higher

Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section 203.

“Subpart 4—Accountability

“SEC. 2141. TECHNICAL ASSISTANCE AND ACCOUNTABILITY.

“(a) IMPROVEMENT PLAN.—After the second year of the plan described in section 1119(a)(2), if a State educational agency determines, based on the reports described in section 1119(b)(1), that a local educational agency in the State has failed to make progress toward meeting the annual measurable objectives described in section 1119(a)(2), for 2 consecutive years, such local educational agency shall develop an improvement plan that will enable the agency to meet such annual measurable objectives and that specifically addresses issues that prevented the agency from meeting such annual measurable objectives.

“(b) TECHNICAL ASSISTANCE.—During the development of the improvement plan described in subsection (a) and throughout implementation of the plan, the State educational agency shall—

“(1) provide technical assistance to the local educational agency; and

“(2) provide technical assistance, if applicable, to schools served by the local educational agency that need assistance to enable the local educational agency to meet the annual measurable objectives described in section 1119(a)(2).

“(c) ACCOUNTABILITY.—After the third year of the plan described in section 1119(a)(2), if the State educational agency determines, based on the reports described in section 1119(b)(1), that the local educational agency has failed to make progress toward meeting the annual measurable objectives described in section 1119(a)(2), and has failed to make adequate yearly progress as described under section 1111(b)(2)(B), for 3 consecutive years, the State educational agency shall enter into an agreement with such local educational agency on the use of that agency's funds under this part. As part of this agreement, the State educational agency—

“(1) shall develop, in conjunction with the local educational agency, teachers, and principals, professional development strategies and activities, based on scientifically based research, that the local educational agency will use to meet the annual measurable objectives described in section 1119(a)(2) and require such agency to utilize such strategies and activities; and

“(2)(A) except as provided in subparagraphs (B) and (C), shall prohibit the use of funds received under part A of title I to fund any paraprofessional hired after the date such determination is made;

“(B) shall allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate that the hiring is to fill a vacancy created by the departure of another paraprofessional funded under title I and such new paraprofessional satisfies the requirements of section 1119(c); and

“(C) may allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate—

“(i) that a significant influx of population has substantially increased student enrollment; or

“(ii) that there is an increased need for translators or assistance with parental involvement activities.

“(d) SPECIAL RULE.—During the development of the strategies and activities described in subsection (c)(1), the State educational agency shall, in conjunction with the local educational agency, provide from funds allocated to such local educational agency under subpart 2 directly to one or more schools served by such local educational agency, to enable teachers at the schools to choose, with continuing consultation with the principal involved, professional development activities that—

“(1) meet the requirements for professional development activities described in section 9101; and

“(2) are coordinated with other reform efforts at the schools.

“Subpart 5—National Activities

“SEC. 2151. NATIONAL ACTIVITIES OF DEMONSTRATED EFFECTIVENESS.

“(a) NATIONAL TEACHER RECRUITMENT CAMPAIGN.—The Secretary is authorized to establish and carry out a national teacher recruitment campaign, which may include activities carried out through the National Teacher Recruitment Clearinghouse, to assist high-need local educational agencies in recruiting teachers (particularly those activities that are effective in retaining new teachers) and training teachers and to conduct a national public service campaign concerning the resources for, and the routes to, entering the field of teaching. In carrying out the campaign, the Secretary may promote and link the activities of the campaign to the information and referral activities of the National Teacher Recruitment Clearinghouse. The Secretary shall coordinate activities under this subsection with State and regional recruitment activities.

“(b) SCHOOL LEADERSHIP.—

“(1) IN GENERAL.—The Secretary is authorized to establish and carry out a national principal recruitment program to assist high-need local educational agencies in recruiting and training principals (including assistant principals) through such activities as—

“(A) providing financial incentives to aspiring new principals;

“(B) providing stipends to principals who mentor new principals;

“(C) carrying out professional development programs in instructional leadership and management; and

“(D) providing incentives that are appropriate for teachers or individuals from other fields who want to become principals and that are effective in retaining new principals.

“(2) GRANTS.—If the Secretary uses sums made available under section 2103(b) to carry out paragraph (1), the Secretary shall carry out such paragraph by making grants, on a competitive basis, to—

“(A) high-need local educational agencies;

“(B) consortia of high-need local educational agencies; and

“(C) partnerships of high-need local educational agencies, nonprofit organizations, and institutions of higher education.

“(c) ADVANCED CERTIFICATION OR ADVANCED CREDENTIALING.—

“(1) IN GENERAL.—The Secretary is authorized to support activities to encourage and support teachers seeking advanced certification or advanced credentialing through high quality professional teacher enhancement programs designed to improve teaching and learning.

“(2) IMPLEMENTATION.—In carrying out paragraph (1), the Secretary shall make grants to eligible entities to—

“(A) develop teacher standards that include measures tied to increased student academic achievement; and

“(B) promote outreach, teacher recruitment, teacher subsidy, or teacher support programs, related to teacher certification or credentialing by the National Board for Professional Teaching Standards, the National Council on Teacher Quality, or other nationally recognized certification or credentialing organizations.

“(3) ELIGIBLE ENTITIES.—In this subsection, the term ‘eligible entity’ includes—

“(A) a State educational agency;

“(B) a local educational agency;

“(C) the National Board for Professional Teaching Standards, in partnership with a high-need local educational agency or a State educational agency;

“(D) the National Council on Teacher Quality, in partnership with a high-need local educational agency or a State educational agency; or

“(E) another recognized entity, including another recognized certification or credentialing organization, in partnership with a high-need local educational agency or a State educational agency.

“(d) SPECIAL EDUCATION TEACHER TRAINING.—The Secretary is authorized to award a grant to the University of Northern Colorado to enable such university to provide, to other institutions of higher education, assistance in training special education teachers.

“(e) EARLY CHILDHOOD EDUCATOR PROFESSIONAL DEVELOPMENT.—

“(1) PURPOSE.—The purpose of this subsection is to enhance the school readiness of young children, particularly disadvantaged young children, and to prevent young children from encountering difficulties once the children enter school, by improving the knowledge and skills of early childhood educators who work in communities that have high concentrations of children living in poverty.

“(2) PROGRAM AUTHORIZED.—

“(A) GRANTS TO PARTNERSHIPS.—The Secretary is authorized to carry out the purpose of this subsection by awarding grants, on a competitive basis, to partnerships consisting of—

“(i)(I) one or more institutions of higher education that provide professional development for early childhood educators who work with children from low-income families in high-need communities; or

“(II) another public or private entity that provides such professional development;

“(ii) one or more public agencies (including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), Head Start agencies, or private organizations; and

“(iii) to the extent feasible, an entity with demonstrated experience in providing training to educators in early childhood education programs concerning identifying and preventing behavior problems or working with children identified as or suspected to be victims of abuse.

“(B) DURATION AND NUMBER OF GRANTS.—

“(i) DURATION.—The Secretary shall award grants under this subsection for periods of not more than 4 years.

“(ii) NUMBER.—No partnership may receive more than one grant under this subsection.

“(3) APPLICATIONS.—

“(A) APPLICATIONS REQUIRED.—Any partnership that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(B) CONTENTS.—Each such application shall include—

“(i) a description of the high-need community to be served by the project proposed to be carried out through the grant, including such demographic and socioeconomic information as the Secretary may request;

“(ii) information on the quality of the early childhood educator professional development program currently conducted (as of the date of the submission of the application) by the institution of higher education or another provider in the partnership;

“(iii) the results of a needs assessment that the entities in the partnership have undertaken to determine the most critical professional development needs of the early childhood educators to be served by the partnership and in the

broader community, and a description of how the proposed project will address those needs;

"(iv) a description of how the proposed project will be carried out, including a description of—

"(I) how individuals will be selected to participate;

"(II) the types of professional development activities, based on scientifically based research, that will be carried out;

"(III) how research on effective professional development and on adult learning will be used to design and deliver project activities;

"(IV) how the project will be coordinated with and build on, and will not supplant or duplicate, early childhood education professional development activities in the high-need community;

"(V) how the project will train early childhood educators to provide developmentally appropriate school-readiness services that are based on the best available research on early childhood pedagogy and child development and learning domains;

"(VI) how the project will train early childhood educators to meet the diverse educational needs of children in the community, including children who have limited English proficiency, children with disabilities, or children with other special needs; and

"(VII) how the project will train early childhood educators in identifying and preventing behavioral problems in children or working with children identified as or suspected to be victims of abuse;

"(v) a description of—

"(I) the specific objectives that the partnership will seek to attain through the project, and the methods that the partnership will use to measure progress toward attainment of those objectives; and

"(II) how the objectives and the measurement methods align with the achievement indicators established by the Secretary under paragraph (6)(A);

"(vi) a description of the partnership's plan for continuing the activities carried out under the project after Federal funding ceases;

"(vii) an assurance that, where applicable, the project will provide appropriate professional development to volunteers working directly with young children, as well as to paid staff; and

"(viii) an assurance that, in developing the application and in carrying out the project, the partnership has consulted with, and will consult with, relevant agencies, early childhood educator organizations, and early childhood providers that are not members of the partnership.

"(4) SELECTION OF GRANT RECIPIENTS.—

"(A) CRITERIA.—The Secretary shall select partnerships to receive grants under this subsection on the basis of the degree to which the communities proposed to be served require assistance and the quality of the applications submitted under paragraph (3).

"(B) GEOGRAPHIC DISTRIBUTION.—In selecting partnerships to receive grants under this subsection, the Secretary shall seek to ensure that communities in different regions of the Nation, as well as both urban and rural communities, are served.

"(5) USES OF FUNDS.—

"(A) IN GENERAL.—Each partnership receiving a grant under this subsection shall use the grant funds to carry out activities that will improve the knowledge and skills of early childhood educators who are working in early childhood programs that are located in high-need communities and serve concentrations of children from low-income families.

"(B) ALLOWABLE ACTIVITIES.—Such activities may include—

"(i) professional development for early childhood educators, particularly to familiarize those educators with the application of recent research on child, language, and literacy development and on early childhood pedagogy;

"(ii) professional development for early childhood educators in working with parents, so that the educators and parents can work together to provide and support developmentally appropriate school-readiness services that are based on scientifically based research on early childhood pedagogy and child development and learning domains;

"(iii) professional development for early childhood educators to work with children who have limited English proficiency, children with disabilities, and children with other special needs;

"(iv) professional development to train early childhood educators in identifying and preventing behavioral problems in children or working with children identified as or suspected to be victims of abuse;

"(v) activities that assist and support early childhood educators during their first 3 years in the field;

"(vi) development and implementation of early childhood educator professional development programs that make use of distance learning and other technologies;

"(vii) professional development activities related to the selection and use of screening and diagnostic assessments to improve teaching and learning; and

"(viii) data collection, evaluation, and reporting needed to meet the requirements of paragraph (6) relating to accountability.

"(6) ACCOUNTABILITY.—

"(A) ACHIEVEMENT INDICATORS.—On the date on which the Secretary first issues a notice soliciting applications for grants under this subsection, the Secretary shall announce achievement indicators for this subsection, which shall be designed—

"(i) to measure the quality and accessibility of the professional development provided;

"(ii) to measure the impact of that professional development on the early childhood education provided by the individuals who receive the professional development; and

"(iii) to provide such other measures of program impact as the Secretary determines to be appropriate.

"(B) ANNUAL REPORTS; TERMINATION.—

"(i) ANNUAL REPORTS.—Each partnership receiving a grant under this subsection shall report annually to the Secretary on the partnership's progress toward attaining the achievement indicators.

"(ii) TERMINATION.—The Secretary may terminate a grant under this subsection at any time if the Secretary determines that the partnership receiving the grant is not making satisfactory progress toward attaining the achievement indicators.

"(7) COST-SHARING.—

"(A) IN GENERAL.—Each partnership carrying out a project through a grant awarded under this subsection shall provide, from sources other than the program carried out under this subsection, which may include Federal sources—

"(i) at least 50 percent of the total cost of the project for the grant period; and

"(ii) at least 20 percent of the project cost for each year.

"(B) ACCEPTABLE CONTRIBUTIONS.—A partnership may meet the requirements of subparagraph (A) by providing contributions in cash or in kind, fairly evaluated, including plant, equipment, and services.

"(C) WAIVERS.—The Secretary may waive or modify the requirements of subparagraph (A) for partnerships in cases of demonstrated financial hardship.

"(8) FEDERAL COORDINATION.—The Secretary and the Secretary of Health and Human Services shall coordinate activities carried out through programs under this subsection with activities carried out through other early childhood programs administered by the Secretary or the Secretary of Health and Human Services.

"(9) DEFINITIONS.—In this subsection:

"(A) EARLY CHILDHOOD EDUCATOR.—The term 'early childhood educator' means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

"(B) HIGH-NEED COMMUNITY.—

"(i) IN GENERAL.—The term 'high-need community' means—

"(I) a political subdivision of a State, or a portion of a political subdivision of a State, in which at least 50 percent of the children are from low-income families; or

"(II) a political subdivision of a State that is among the 10 percent of political subdivisions of the State having the greatest numbers of such children.

"(ii) DETERMINATION.—In determining which communities are described in clause (i), the Secretary shall use such data as the Secretary determines are most accurate and appropriate.

"(C) LOW-INCOME FAMILY.—The term 'low-income family' means a family with an income below the poverty line for the most recent fiscal year for which satisfactory data are available.

"(j) TEACHER MOBILITY.—

"(1) ESTABLISHMENT.—The Secretary is authorized to establish a panel to be known as the National Panel on Teacher Mobility (referred to in this subsection as the 'panel').

"(2) MEMBERSHIP.—The panel shall be composed of 12 members appointed by the Secretary. The Secretary shall appoint the members from among practitioners and experts with experience relating to teacher mobility, such as teachers, members of teacher certification or licensing bodies, faculty of institutions of higher education that prepare teachers, and State policymakers with such experience.

"(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the panel. Any vacancy in the panel shall not affect the powers of the panel, but shall be filled in the same manner as the original appointment.

"(4) DUTIES.—

"(A) STUDY.—

"(i) IN GENERAL.—The panel shall study strategies for increasing mobility and employment opportunities for highly qualified teachers, especially for States with teacher shortages and States with school districts or schools that are difficult to staff.

"(ii) DATA AND ANALYSIS.—As part of the study, the panel shall evaluate the desirability and feasibility of State initiatives that support teacher mobility by collecting data and conducting effective analysis concerning—

"(I) teacher supply and demand;

"(II) the development of recruitment and hiring strategies that support teachers; and

"(III) increasing reciprocity of certification and licensing across States.

"(B) REPORT.—Not later than 1 year after the date on which all members of the panel have been appointed, the panel shall submit to the Secretary and to the appropriate committees of Congress a report containing the results of the study.

"(5) POWERS.—

"(A) HEARINGS.—The panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the panel considers advisable to carry out the objectives of this subsection.

"(B) INFORMATION FROM FEDERAL AGENCIES.—The panel may secure directly from any Federal

department or agency such information as the panel considers necessary to carry out the provisions of this subsection. Upon request of a majority of the members of the panel, the head of such department or agency shall furnish such information to the panel.

“(C) POSTAL SERVICES.—The panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(6) PERSONNEL.—

“(A) TRAVEL EXPENSES.—The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the panel.

“(B) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(7) PERMANENT COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel.

“PART B—MATHEMATICS AND SCIENCE PARTNERSHIPS

“SEC. 2201. PURPOSE; DEFINITIONS.

“(a) PURPOSE.—The purpose of this part is to improve the academic achievement of students in the areas of mathematics and science by encouraging State educational agencies, institutions of higher education, local educational agencies, elementary schools, and secondary schools to participate in programs that—

“(1) improve and upgrade the status and stature of mathematics and science teaching by encouraging institutions of higher education to assume greater responsibility for improving mathematics and science teacher education through the establishment of a comprehensive, integrated system of recruiting, training, and advising mathematics and science teachers;

“(2) focus on the education of mathematics and science teachers as a career-long process that continuously stimulates teachers' intellectual growth and upgrades teachers' knowledge and skills;

“(3) bring mathematics and science teachers in elementary schools and secondary schools together with scientists, mathematicians, and engineers to increase the subject matter knowledge of mathematics and science teachers and improve such teachers' teaching skills through the use of sophisticated laboratory equipment and work space, computing facilities, libraries, and other resources that institutions of higher education are better able to provide than the elementary schools and secondary schools;

“(4) develop more rigorous mathematics and science curricula that are aligned with challenging State and local academic content standards and with the standards expected for postsecondary study in engineering, mathematics, and science; and

“(5) improve and expand training of mathematics and science teachers, including training such teachers in the effective integration of technology into curricula and instruction.

“(b) DEFINITIONS.—In this part:

“(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that—

“(A) shall include—

“(i) if grants are awarded under section 2202(a)(1), a State educational agency;

“(ii) an engineering, mathematics, or science department of an institution of higher education; and

“(iii) a high-need local educational agency; and

“(B) may include—

“(i) another engineering, mathematics, science, or teacher training department of an institution of higher education;

“(ii) additional local educational agencies, public charter schools, public or private elementary schools or secondary schools, or a consortium of such schools;

“(iii) a business; or

“(iv) a nonprofit or for-profit organization of demonstrated effectiveness in improving the quality of mathematics and science teachers.

“(2) SUMMER WORKSHOP OR INSTITUTE.—The term 'summer workshop or institute' means a workshop or institute, conducted during the summer, that—

“(A) is conducted for a period of not less than 2 weeks;

“(B) includes, as a component, a program that provides direct interaction between students and faculty; and

“(C) provides for followup training during the academic year that is conducted in the classroom for a period of not less than 3 consecutive or nonconsecutive days, except that—

“(i) if the workshop or institute is conducted during a 2-week period, the followup training shall be conducted for a period of not less than 4 days; and

“(ii) if the followup training is for teachers in rural school districts, the followup training may be conducted through distance learning.

“SEC. 2202. GRANTS FOR MATHEMATICS AND SCIENCE PARTNERSHIPS.

“(a) GRANTS AUTHORIZED.—

“(1) GRANTS TO PARTNERSHIPS.—For any fiscal year for which the funds appropriated under section 2203 are less than $100,000,000, the Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to carry out the authorized activities described in subsection (c).

“(2) GRANTS TO STATE EDUCATIONAL AGENCIES.—

“(A) IN GENERAL.—For any fiscal year for which the funds appropriated under section 2203 equal or exceed $100,000,000—

“(i) if an eligible partnership in the State was previously awarded a grant under paragraph (1), and the grant period has not ended, the Secretary shall reserve funds in a sufficient amount to make payments to the partnership in accordance with the terms of the grant; and

“(ii) the Secretary is authorized to award grants to State educational agencies to enable such agencies to award subgrants, on a competitive basis, to eligible partnerships to carry out the authorized activities described in subsection (c).

“(B) ALLOTMENT.—The Secretary shall allot the amount made available under this part for a fiscal year and not reserved under subparagraph (A)(i) among the State educational agencies in proportion to the number of children, aged 5 to 17, who are from families with incomes below the poverty line and reside in a State for the most recent fiscal year for which satisfactory data are available, as compared to the number of such children who reside in all such States for such year.

“(C) MINIMUM ALLOTMENT.—The amount of any State educational agency's allotment under subparagraph (B) for any fiscal year may not be less than ½ of 1 percent of the amount made available under this part for such year.

“(3) DURATION.—The Secretary shall award grants under this part for a period of 3 years.

“(4) SUPPLEMENT, NOT SUPPLANT.—Funds received under this part shall be used to supplement, and not supplant, funds that would otherwise be used for activities authorized under this part.

“(b) APPLICATION REQUIREMENTS.—

“(1) IN GENERAL.—Each eligible partnership desiring a grant or subgrant under this part shall submit an application—

“(A) in the case of grants awarded pursuant to subsection (a)(1), to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may require; or

“(B) in the case of subgrants awarded pursuant to subsection (a)(2), to the State educational agency, at such time, in such manner, and accompanied by such information as the State educational agency may require.

“(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall include—

“(A) the results of a comprehensive assessment of the teacher quality and professional development needs of any schools, local educational agencies, and State educational agencies that comprise the eligible partnership with respect to the teaching and learning of mathematics and science;

“(B) a description of how the activities to be carried out by the eligible partnership will be aligned with challenging State academic content and student academic achievement standards in mathematics and science and with other educational reform activities that promote student academic achievement in mathematics and science;

“(C) a description of how the activities to be carried out by the eligible partnership will be based on a review of scientifically based research, and an explanation of how the activities are expected to improve student academic achievement and strengthen the quality of mathematics and science instruction;

“(D) a description of—

“(i) how the eligible partnership will carry out the authorized activities described in subsection (c); and

“(ii) the eligible partnership's evaluation and accountability plan described in subsection (e); and

“(E) a description of how the eligible partnership will continue the activities funded under this part after the original grant or subgrant period has expired.

“(c) AUTHORIZED ACTIVITIES.—An eligible partnership shall use funds provided under this part for one or more of the following activities related to elementary schools or secondary schools:

“(1) Creating opportunities for enhanced and ongoing professional development of mathematics and science teachers that improves the subject matter knowledge of such teachers.

“(2) Promoting strong teaching skills for mathematics and science teachers and teacher educators, including integrating reliable scientifically based research teaching methods and technology-based teaching methods into the curriculum.

“(3) Establishing and operating mathematics and science summer workshops or institutes, including followup training, for elementary school and secondary school mathematics and science teachers that—

“(A) shall—

“(i) directly relate to the curriculum and academic areas in which the teacher provides instruction, and focus only secondarily on pedagogy;

“(ii) enhance the ability of the teacher to understand and use the challenging State academic content standards for mathematics and science and to select appropriate curricula; and

“(iii) train teachers to use curricula that are—

“(I) based on scientific research;

“(II) aligned with challenging State academic content standards; and

“(III) object-centered, experiment-oriented, and concept- and content-based; and

“(B) may include—

"(i) programs that provide teachers and prospective teachers with opportunities to work under the guidance of experienced teachers and college faculty;

"(ii) instruction in the use of data and assessments to inform and instruct classroom practice; and

"(iii) professional development activities, including supplemental and followup activities, such as curriculum alignment, distance learning, and activities that train teachers to utilize technology in the classroom.

"(4) Recruiting mathematics, engineering, and science majors to teaching through the use of—

"(A) signing and performance incentives that are linked to activities proven effective in retaining teachers, for individuals with demonstrated professional experience in mathematics, engineering, or science;

"(B) stipends provided to mathematics and science teachers for certification through alternative routes;

"(C) scholarships for teachers to pursue advanced course work in mathematics, engineering, or science; and

"(D) other programs that the State educational agency determines to be effective in recruiting and retaining individuals with strong mathematics, engineering, or science backgrounds.

"(5) Developing or redesigning more rigorous mathematics and science curricula that are aligned with challenging State and local academic content standards and with the standards expected for postsecondary study in mathematics and science.

"(6) Establishing distance learning programs for mathematics and science teachers using curricula that are innovative, content-based, and based on scientifically based research that is current as of the date of the program involved.

"(7) Designing programs to prepare a mathematics or science teacher at a school to provide professional development to other mathematics or science teachers at the school and to assist beginning and other teachers at the school, including (if applicable) a mechanism to integrate the teacher's experiences from a summer workshop or institute into the provision of professional development and assistance.

"(8) Establishing and operating programs to bring mathematics and science teachers into contact with working scientists, mathematicians, and engineers, to expand such teachers' subject matter knowledge of and research in science and mathematics.

"(9) Designing programs to identify and develop exemplary mathematics and science teachers in the kindergarten through grade 8 classrooms.

"(10) Training mathematics and science teachers and developing programs to encourage young women and other underrepresented individuals in mathematics and science careers (including engineering and technology) to pursue postsecondary degrees in majors leading to such careers.

"(d) COORDINATION AND CONSULTATION.—

"(1) PARTNERSHIP GRANTS.—An eligible partnership receiving a grant under section 203 of the Higher Education Act of 1965 shall coordinate the use of such funds with any related activities carried out by such partnership with funds made available under this part.

"(2) NATIONAL SCIENCE FOUNDATION.—In carrying out the activities authorized by this part, the Secretary shall consult and coordinate with the Director of the National Science Foundation, particularly with respect to the appropriate roles for the Department and the Foundation in the conduct of summer workshops, institutes, or partnerships to improve mathematics and science teaching in elementary schools and secondary schools.

"(e) EVALUATION AND ACCOUNTABILITY PLAN.—

"(1) IN GENERAL.—Each eligible partnership receiving a grant or subgrant under this part shall develop an evaluation and accountability plan for activities assisted under this part that includes rigorous objectives that measure the impact of activities funded under this part.

"(2) CONTENTS.—The plan developed pursuant to paragraph (1)—

"(A) shall include measurable objectives to increase the number of mathematics and science teachers who participate in content-based professional development activities;

"(B) shall include measurable objectives for improved student academic achievement on State mathematics and science assessments or, where applicable, an International Mathematics and Science Study assessment; and

"(C) may include objectives and measures for—

"(i) increased participation by students in advanced courses in mathematics and science;

"(ii) increased percentages of elementary school teachers with academic majors or minors, or group majors or minors, in mathematics, engineering, or the sciences; and

"(iii) increased percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics, engineering, and science.

"(f) REPORT.—Each eligible partnership receiving a grant or subgrant under this part shall report annually to the Secretary regarding the eligible partnership's progress in meeting the objectives described in the accountability plan of the partnership under subsection (e).

"SEC. 2203. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $450,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"PART C—INNOVATION FOR TEACHER QUALITY

"Subpart 1—Transitions to Teaching

"CHAPTER A—TROOPS-TO-TEACHERS PROGRAM

"SEC. 2301. DEFINITIONS.

"In this chapter:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

"(2) MEMBER OF THE ARMED FORCES.—The term 'member of the Armed Forces' includes a former member of the Armed Forces.

"(3) PROGRAM.—The term 'Program' means the Troops-to-Teachers Program authorized by this chapter.

"(4) RESERVE COMPONENT.—The term 'reserve component' means—

"(A) the Army National Guard of the United States;

"(B) the Army Reserve;

"(C) the Naval Reserve;

"(D) the Marine Corps Reserve;

"(E) the Air National Guard of the United States;

"(F) the Air Force Reserve; and

"(G) the Coast Guard Reserve.

"(5) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

"(A) the Secretary of the Army, with respect to matters concerning a reserve component of the Army;

"(B) the Secretary of the Navy, with respect to matters concerning reserve components named in subparagraphs (C) and (D) of paragraph (4);

"(C) the Secretary of the Air Force, with respect to matters concerning a reserve component of the Air Force; and

"(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard Reserve.

"SEC. 2302. AUTHORIZATION OF TROOPS-TO-TEACHERS PROGRAM.

"(a) PURPOSE.—The purpose of this section is to authorize a mechanism for the funding and administration of the Troops-to-Teachers Program, which was originally established by the Troops-to-Teachers Program Act of 1999 (title XVII of the National Defense Authorization Act for Fiscal Year 2000) (20 U.S.C. 9301 et seq.).

"(b) PROGRAM AUTHORIZED.—The Secretary may carry out a program (to be known as the 'Troops-to-Teachers Program')—

"(1) to assist eligible members of the Armed Forces described in section 2303 to obtain certification or licensing as elementary school teachers, secondary school teachers, or vocational or technical teachers, and to become highly qualified teachers; and

"(2) to facilitate the employment of such members—

"(A) by local educational agencies or public charter schools that the Secretary identifies as—

"(i) receiving grants under part A of title I as a result of having within their jurisdictions concentrations of children from low-income families; or

"(ii) experiencing a shortage of highly qualified teachers, in particular a shortage of science, mathematics, special education, or vocational or technical teachers; and

"(B) in elementary schools or secondary schools, or as vocational or technical teachers.

"(c) ADMINISTRATION OF PROGRAM.—The Secretary shall enter into a memorandum of agreement with the Secretary of Defense under which the Secretary of Defense, acting through the Defense Activity for Non-Traditional Education Support of the Department of Defense, will perform the actual administration of the Program, other than section 2306. Using funds appropriated to the Secretary to carry out this chapter, the Secretary shall transfer to the Secretary of Defense such amounts as may be necessary to administer the Program pursuant to the memorandum of agreement.

"(d) INFORMATION REGARDING PROGRAM.—The Secretary shall provide to the Secretary of Defense information regarding the Program and applications to participate in the Program, for distribution as part of preseparation counseling provided under section 1142 of title 10, United States Code, to members of the Armed Forces described in section 2303.

"(e) PLACEMENT ASSISTANCE AND REFERRAL SERVICES.—The Secretary may, with the agreement of the Secretary of Defense, provide placement assistance and referral services to members of the Armed Forces who meet the criteria described in section 2303, including meeting education qualification requirements under subsection 2303(c)(2). Such members shall not be eligible for financial assistance under subsections (c) and (d) of section 2304.

"SEC. 2303. RECRUITMENT AND SELECTION OF PROGRAM PARTICIPANTS.

"(a) ELIGIBLE MEMBERS.—The following members of the Armed Forces are eligible for selection to participate in the Program:

"(1) Any member who—

"(A) on or after October 1, 1999, becomes entitled to retired or retainer pay in the manner provided in title 10 or title 14, United States Code;

"(B) has an approved date of retirement that is within 1 year after the date on which the member submits an application to participate in the Program; or

"(C) has been transferred to the Retired Reserve.

"(2) Any member who, on or after the date of enactment of the No Child Left Behind Act of 2001—

"(A)(i) is separated or released from active duty after 6 or more years of continuous active

duty immediately before the separation or release; or

"(ii) has completed a total of at least 10 years of active duty service, 10 years of service computed under section 12732 of title 10, United States Code, or 10 years of any combination of such service; and

"(B) executes a reserve commitment agreement for a period of not less than 3 years under subsection (e)(2).

"(3) Any member who, on or after the date of enactment of the No Child Left Behind Act of 2001, is retired or separated for physical disability under chapter 61 of title 10, United States Code.

"(4) Any member who—

"(A) during the period beginning on October 1, 1990, and ending on September 30, 1999, was involuntarily discharged or released from active duty for purposes of a reduction of force after 6 or more years of continuous active duty immediately before the discharge or release; or

"(B) applied for the teacher placement program administered under section 1151 of title 10, United States Code, before the repeal of that section, and satisfied the eligibility criteria specified in subsection (c) of such section 1151.

"(b) SUBMISSION OF APPLICATIONS.—

"(1) FORM AND SUBMISSION.—Selection of eligible members of the Armed Forces to participate in the Program shall be made on the basis of applications submitted to the Secretary within the time periods specified in paragraph (2). An application shall be in such form and contain such information as the Secretary may require.

"(2) TIME FOR SUBMISSION.—An application shall be considered to be submitted on a timely basis under paragraph (1) if—

"(A) in the case of a member described in paragraph (1)(A), (2), or (3) of subsection (a), the application is submitted not later than 4 years after the date on which the member is retired or separated or released from active duty, whichever applies to the member; or

"(B) in the case of a member described in subsection (a)(4), the application is submitted not later than September 30, 2003.

"(c) SELECTION CRITERIA.—

"(1) ESTABLISHMENT.—Subject to paragraphs (2) and (3), the Secretary shall prescribe the criteria to be used to select eligible members of the Armed Forces to participate in the Program.

"(2) EDUCATIONAL BACKGROUND.—

"(A) ELEMENTARY OR SECONDARY SCHOOL TEACHER.—If a member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a) is applying for assistance for placement as an elementary school or secondary school teacher, the Secretary shall require the member to have received a baccalaureate or advanced degree from an accredited institution of higher education.

"(B) VOCATIONAL OR TECHNICAL TEACHER.—If a member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a) is applying for assistance for placement as a vocational or technical teacher, the Secretary shall require the member—

"(i) to have received the equivalent of 1 year of college from an accredited institution of higher education and have 6 or more years of military experience in a vocational or technical field; or

"(ii) to otherwise meet the certification or licensing requirements for a vocational or technical teacher in the State in which the member seeks assistance for placement under the Program.

"(3) HONORABLE SERVICE.—A member of the Armed Forces is eligible to participate in the Program only if the member's last period of service in the Armed Forces was honorable, as characterized by the Secretary concerned (as defined in section 101(a)(9) of title 10, United States Code). A member selected to participate in the Program before the retirement of the member or the separation or release of the member from active duty may continue to participate in the Program after the retirement, separation, or release only if the member's last period of service is characterized as honorable by the Secretary concerned (as so defined).

"(d) SELECTION PRIORITIES.—In selecting eligible members of the Armed Forces to receive assistance under the Program, the Secretary shall give priority to members who have educational or military experience in science, mathematics, special education, or vocational or technical subjects and agree to seek employment as science, mathematics, or special education teachers in elementary schools or secondary schools or in other schools under the jurisdiction of a local educational agency.

"(e) OTHER CONDITIONS ON SELECTION.—

"(1) SELECTION SUBJECT TO FUNDING.—The Secretary may not select an eligible member of the Armed Forces to participate in the Program under this section and receive financial assistance under section 2304 unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by the United States under section 2304 with respect to the member.

"(2) RESERVE COMMITMENT AGREEMENT.—The Secretary may not select an eligible member of the Armed Forces described in subsection (a)(2)(A) to participate in the Program under this section and receive financial assistance under section 2304 unless—

"(A) the Secretary notifies the Secretary concerned and the member that the Secretary has reserved a full stipend or bonus under section 2304 for the member; and

"(B) the member executes a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of a reserve component of the Armed Forces for a period of not less than 3 years (in addition to any other reserve commitment the member may have).

"SEC. 2304. PARTICIPATION AGREEMENT AND FINANCIAL ASSISTANCE.

"(a) PARTICIPATION AGREEMENT.—

"(1) IN GENERAL.—An eligible member of the Armed Forces selected to participate in the Program under section 2303 and receive financial assistance under this section shall be required to enter into an agreement with the Secretary in which the member agrees—

"(A) within such time as the Secretary may require, to obtain certification or licensing as an elementary school teacher, secondary school teacher, or vocational or technical teacher, and to become a highly qualified teacher; and

"(B) to accept an offer of full-time employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than 3 school years with a high-need local educational agency or public charter school, as such terms are defined in section 2101, to begin the school year after obtaining that certification or licensing.

"(2) WAIVER.—The Secretary may waive the 3-year commitment described in paragraph (1)(B) for a participant if the Secretary determines such waiver to be appropriate. If the Secretary provides the waiver, the participant shall not be considered to be in violation of the agreement and shall not be required to provide reimbursement under subsection (f), for failure to meet the 3-year commitment.

"(b) VIOLATION OF PARTICIPATION AGREEMENT; EXCEPTIONS.—A participant in the Program shall not be considered to be in violation of the participation agreement entered into under subsection (a) during any period in which the participant—

"(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

"(2) is serving on active duty as a member of the Armed Forces;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is a highly qualified teacher who is seeking and unable to find full-time employment as a teacher in an elementary school or secondary school or as a vocational or technical teacher for a single period not to exceed 27 months; or

"(6) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

"(c) STIPEND FOR PARTICIPANTS.—

"(1) STIPEND AUTHORIZED.—Subject to paragraph (2), the Secretary may pay to a participant in the Program selected under section 2303 a stipend in an amount of not more than $5,000.

"(2) LIMITATION.—The total number of stipends that may be paid under paragraph (1) in any fiscal year may not exceed 5,000.

"(d) BONUS FOR PARTICIPANTS.—

"(1) BONUS AUTHORIZED.—Subject to paragraph (2), the Secretary may, in lieu of paying a stipend under subsection (c), pay a bonus of $10,000 to a participant in the Program selected under section 2303 who agrees in the participation agreement under subsection (a) to become a highly qualified teacher and to accept full-time employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than 3 school years in a high-need school.

"(2) LIMITATION.—The total number of bonuses that may be paid under paragraph (1) in any fiscal year may not exceed 3,000.

"(3) HIGH-NEED SCHOOL DEFINED.—In this subsection, the term 'high-need school' means a public elementary school, public secondary school, or public charter school that meets one or more of the following criteria:

"(A) LOW-INCOME CHILDREN.—At least 50 percent of the students enrolled in the school were from low-income families (as described in section 2302(b)(2)(A)(i)).

"(B) CHILDREN WITH DISABILITIES.—The school has a large percentage of students who qualify for assistance under part B of the Individuals with Disabilities Education Act.

"(e) TREATMENT OF STIPEND AND BONUS.—A stipend or bonus paid under this section to a participant in the Program shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965.

"(f) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—

"(1) REIMBURSEMENT REQUIRED.—A participant in the Program who is paid a stipend or bonus under this section shall be required to repay the stipend or bonus under the following circumstances:

"(A) FAILURE TO OBTAIN QUALIFICATIONS OR EMPLOYMENT.—The participant fails to obtain teacher certification or licensing, to become a highly qualified teacher, or to obtain employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher as required by the participation agreement under subsection (a).

"(B) TERMINATION OF EMPLOYMENT.—The participant voluntarily leaves, or is terminated for cause from, employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher during the 3 years of required service in violation of the participation agreement.

"(C) FAILURE TO COMPLETE SERVICE UNDER RESERVE COMMITMENT AGREEMENT.—The participant executed a written agreement with the

Secretary concerned under section 2303(e)(2) to serve as a member of a reserve component of the Armed Forces for a period of 3 years and fails to complete the required term of service.

"(2) AMOUNT OF REIMBURSEMENT.—A participant required to reimburse the Secretary for a stipend or bonus paid to the participant under this section shall pay an amount that bears the same ratio to the amount of the stipend or bonus as the unserved portion of required service bears to the 3 years of required service. Any amount owed by the participant shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the participant is first notified of the amount due.

"(3) TREATMENT OF OBLIGATION.—The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States. A discharge in bankruptcy under title 11, United States Code, shall not release a participant from the obligation to reimburse the Secretary under this subsection.

"(4) EXCEPTIONS TO REIMBURSEMENT REQUIREMENT.—A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive the reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

"(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—The receipt by a participant in the Program of a stipend or bonus under this section shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapter 30 of title 38, United States Code, or chapter 1606 of title 10, United States Code.

"SEC. 2305. PARTICIPATION BY STATES.

"(a) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The Secretary may permit States participating in the Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

"(b) ASSISTANCE TO STATES.—

"(1) GRANTS AUTHORIZED.—Subject to paragraph (2), the Secretary may make grants to States participating in the Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members of the Armed Forces for participation in the Program and facilitating the employment of participants in the Program as elementary school teachers, secondary school teachers, and vocational or technical teachers.

"(2) LIMITATION.—The total amount of grants made under paragraph (1) in any fiscal year may not exceed $5,000,000.

"SEC. 2306. SUPPORT OF INNOVATIVE PRE-RETIREMENT TEACHER CERTIFICATION PROGRAMS.

"(a) PURPOSE.—The purpose of this section is to provide funding to develop, implement, and demonstrate teacher certification programs.

"(b) DEVELOPMENT, IMPLEMENTATION AND DEMONSTRATION.—The Secretary may enter into a memorandum of agreement with a State educational agency, an institution of higher education, or a consortia of State educational agencies or institutions of higher education, to develop, implement, and demonstrate teacher certification programs for members of the Armed Forces described in section 2303(a)(1)(B) for the purpose of assisting such members to consider and prepare for a career as a highly qualified elementary school teacher, secondary school teacher, or vocational or technical teacher upon retirement from the Armed Forces.

"(c) PROGRAM ELEMENTS.—A teacher certification program under subsection (b) shall—

"(1) provide recognition of military experience and training as related to certification or licensing requirements;

"(2) provide courses of instruction that may be conducted on or near a military installation;

"(3) incorporate alternative approaches to achieve teacher certification, such as innovative methods to gaining field-based teaching experiences, and assessment of background and experience as related to skills, knowledge, and abilities required of elementary school teachers, secondary school teachers, or vocational or technical teachers;

"(4) provide for courses to be delivered via distance education methods; and

"(5) address any additional requirements or specifications established by the Secretary.

"(d) APPLICATION PROCEDURES.—

"(1) IN GENERAL.—A State educational agencies or institution of higher education (or a consortium of State educational agencies or institutions of higher education) that desires to enter into a memorandum under subsection (b) shall prepare and submit to the Secretary a proposal, at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the State educational agency, institution, or consortium is operating a program leading to State approved teacher certification.

"(2) PREFERENCE.—The Secretary shall give preference to State educational agencies, institutions, and consortia that submit proposals that provide for cost sharing with respect to the program involved.

"(e) CONTINUATION OF PROGRAMS.—Upon successful completion of the demonstration phase of teacher certification programs funded under this section, the continued operation of the teacher certification programs shall not be the responsibility of the Secretary. A State educational agency, institution, or consortium that desires to continue a program that is funded under this section after such funding is terminated shall use amounts derived from tuition charges to continue such program.

"(f) FUNDING LIMITATION.—The total amount obligated by the Secretary under this section for any fiscal year may not exceed $10,000,000.

"SEC. 2307. REPORTING REQUIREMENTS.

"(a) REPORT REQUIRED.—Not later than March 31, 2006, the Secretary (in consultation with the Secretary of Defense and the Secretary of Transportation) and the Comptroller General of the United States shall submit to Congress a report on the effectiveness of the Program in the recruitment and retention of qualified personnel by local educational agencies and public charter schools.

"(b) ELEMENTS OF REPORT.—The report submitted under subsection (a) shall include information on the following:

"(1) The number of participants in the Program.

"(2) The schools in which the participants are employed.

"(3) The grade levels at which the participants teach.

"(4) The academic subjects taught by the participants.

"(5) The rates of retention of the participants by the local educational agencies and public charter schools employing the participants.

"(6) Such other matters as the Secretary or the Comptroller General of the United States, as the case may be, considers to be appropriate.

"CHAPTER B—TRANSITION TO TEACHING PROGRAM

"SEC. 2311. PURPOSES.

"The purposes of this chapter are—

"(1) to establish a program to recruit and retain highly qualified mid-career professionals (including highly qualified paraprofessionals), and recent graduates of an institution of higher education, as teachers in high-need schools, including recruiting teachers through alternative routes to certification; and

"(2) to encourage the development and expansion of alternative routes to certification under State-approved programs that enable individuals to be eligible for teacher certification within a reduced period of time, relying on the experience, expertise, and academic qualifications of an individual, or other factors in lieu of traditional course work in the field of education.

"SEC. 2312. DEFINITIONS.

"In this chapter:

"(1) ELIGIBLE PARTICIPANT.—The term 'eligible participant' means—

"(A) an individual with substantial, demonstrable career experience, including a highly qualified paraprofessional; or

"(B) an individual who is a graduate of an institution of higher education who—

"(i) has graduated not more than 3 years before applying to an eligible entity to teach under this chapter; and

"(ii) in the case of an individual wishing to teach in a secondary school, has completed an academic major (or courses totaling an equivalent number of credit hours) in the academic subject that the individual will teach.

"(2) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' has the meaning given the term in section 2102.

"(3) HIGH-NEED SCHOOL.—The term 'high-need school' means a school that—

"(A) is located in an area in which the percentage of students from families with incomes below the poverty line is 30 percent or more; or

"(B)(i) is located in an area with a high percentage of out-of-field teachers, as defined in section 2102;

"(ii) is within the top quartile of elementary schools and secondary schools statewide, as ranked by the number of unfilled, available teacher positions at the schools;

"(iii) is located in an area in which there is a high teacher turnover rate; or

"(iv) is located in an area in which there is a high percentage of teachers who are not certified or licensed.

"SEC. 2313. GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary may establish a program to make grants on a competitive basis to eligible entities to develop State and local teacher corps or other programs to establish, expand, or enhance teacher recruitment and retention efforts.

"(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section, an entity shall be—

"(1) a State educational agency;

"(2) a high-need local educational agency;

"(3) a for-profit or nonprofit organization that has a proven record of effectively recruiting and retaining highly qualified teachers, in a partnership with a high-need local educational agency or with a State educational agency;

"(4) an institution of higher education, in a partnership with a high-need local educational agency or with a State educational agency;

"(5) a regional consortium of State educational agencies; or

"(6) a consortium of high-need local educational agencies.

"(c) PRIORITY.—In making such a grant, the Secretary shall give priority to a partnership or consortium that includes a high-need State educational agency or local educational agency.

"(d) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity described in subsection (b) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) Contents.—The application shall describe—

"(A) one or more target recruitment groups on which the applicant will focus its recruitment efforts;

"(B) the characteristics of each such target group that—

"(i) show the knowledge and experience of the group's members; and

"(ii) demonstrate that the members are eligible to achieve the objectives of this section;

"(C) describe how the applicant will use funds received under this section to develop a teacher corps or other program to recruit and retain highly qualified midcareer professionals (which may include highly qualified paraprofessionals), recent college graduates, and recent graduate school graduates, as highly qualified teachers in high-need schools operated by high-need local educational agencies;

"(D) explain how the program carried out under the grant will meet the relevant State laws (including regulations) related to teacher certification or licensing and facilitate the certification or licensing of such teachers;

"(E) describe how the grant will increase the number of highly qualified teachers, in high-need schools operated by high-need local educational agencies (in urban or rural school districts), and in high-need academic subjects, in the jurisdiction served by the applicant; and

"(F) describe how the applicant will collaborate, as needed, with other institutions, agencies, or organizations to recruit (particularly through activities that have proven effective in retaining highly qualified teachers), train, place, support, and provide teacher induction programs to program participants under this chapter, including providing evidence of the commitment of the institutions, agencies, or organizations to the applicant's programs.

"(e) Duration of Grants.—The Secretary may make grants under this section for periods of 5 years. At the end of the 5-year period for such a grant, the grant recipient may apply for an additional grant under this section.

"(f) Equitable Distribution.—To the extent practicable, the Secretary shall ensure an equitable geographic distribution of grants under this section among the regions of the United States.

"(g) Uses of Funds.—

"(1) In general.—An entity that receives a grant under this section shall use the funds made available through the grant to develop a teacher corps or other program in order to establish, expand, or enhance a teacher recruitment and retention program for highly qualified midcareer professionals (including highly qualified paraprofessionals), and recent graduates of an institution of higher education, who are eligible participants, including activities that provide alternative routes to teacher certification.

"(2) Authorized activities.—The entity shall use the funds to carry out a program that includes two or more of the following activities:

"(A) Providing scholarships, stipends, bonuses, and other financial incentives, that are linked to participation in activities that have proven effective in retaining teachers in high-need schools operated by high-need local educational agencies, to all eligible participants, in an amount not to exceed $5,000 per participant.

"(B) Carrying out pre- and post-placement induction or support activities that have proven effective in recruiting and retaining teachers, such as—

"(i) teacher mentoring;

"(ii) providing internships;

"(iii) providing high-quality, preservice coursework; and

"(iv) providing high-quality, sustained inservice professional development.

"(C) Carrying out placement and ongoing activities to ensure that teachers are placed in fields in which the teachers are highly qualified to teach and are placed in high-need schools.

"(D) Making payments to pay for costs associated with accepting teachers recruited under this section from among eligible participants or provide financial incentives to prospective teachers who are eligible participants.

"(E) Collaborating with institutions of higher education in developing and implementing programs to facilitate teacher recruitment (including teacher credentialing) and teacher retention programs.

"(F) Carrying out other programs, projects, and activities that are designed and have proven to be effective in recruiting and retaining teachers, and that the Secretary determines to be appropriate.

"(G) Developing long-term recruitment and retention strategies including developing—

"(i) a statewide or regionwide clearinghouse for the recruitment and placement of teachers;

"(ii) administrative structures to develop and implement programs to provide alternative routes to certification;

"(iii) reciprocity agreements between or among States for the certification or licensing of teachers; or

"(iv) other long-term teacher recruitment and retention strategies.

"(3) Effective programs.—The entity shall use the funds only for programs that have proven to be effective in both recruiting and retaining teachers.

"(h) Requirements.—

"(1) Targeting.—An entity that receives a grant under this section to carry out a program shall ensure that participants in the program recruited with funds made available under this section are placed in high-need schools operated by high-need local educational agencies. In placing the participants in the schools, the entity shall give priority to the schools that are located in areas with the highest percentages of students from families with incomes below the poverty line.

"(2) Supplement, not supplant.—Funds made available under this section shall be used to supplement, and not supplant; State and local public funds expended for teacher recruitment and retention programs, including programs to recruit the teachers through alternative routes to certification.

"(3) Partnerships and consortia of local educational agencies.—In the case of a partnership established by a local educational agency to carry out a program under this chapter, or a consortium of such agencies established to carry out a program under this chapter, the local educational agency or consortium shall not be eligible to receive funds through a State program under this chapter.

"(i) Period of Service.—A program participant in a program under this chapter who receives training through the program shall serve a high-need school operated by a high-need local educational agency for at least 3 years.

"(j) Repayment.—The Secretary shall establish such requirements as the Secretary determines to be appropriate to ensure that program participants who receive a stipend or other financial incentive under subsection (g)(2)(A), but fail to complete their service obligation under subsection (i), repay all or a portion of such stipend or other incentive.

"(k) Administrative Funds.—No entity that receives a grant under this section shall use more than 5 percent of the funds made available through the grant for the administration of a program under this chapter carried out under the grant.

"SEC. 2314. EVALUATION AND ACCOUNTABILITY FOR RECRUITING AND RETAINING TEACHERS.

"(a) Evaluation.—Each entity that receives a grant under this chapter shall conduct—

"(1) an interim evaluation of the program funded under the grant at the end of the third year of the grant period; and

"(2) a final evaluation of the program at the end of the fifth year of the grant period.

"(b) Contents.—In conducting the evaluation, the entity shall describe the extent to which local educational agencies that received funds through the grant have met the goals relating to teacher recruitment and retention described in the application.

"(c) Reports.—The entity shall prepare and submit to the Secretary and to Congress interim and final reports containing the results of the interim and final evaluations, respectively.

"(d) Revocation.—If the Secretary determines that the recipient of a grant under this chapter has not made substantial progress in meeting such goals and the objectives of the grant by the end of the third year of the grant period, the Secretary—

"(1) shall revoke the payment made for the fourth year of the grant period; and

"(2) shall not make a payment for the fifth year of the grant period.

"CHAPTER C—GENERAL PROVISIONS

"SEC. 2321. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out this subpart $150,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(b) Reservation.—From the funds appropriated to carry out this subpart for fiscal year 2002, the Secretary shall reserve not more than $30,000,000 to carry out chapter A.

"Subpart 2—National Writing Project

"SEC. 2331. PURPOSES.

"The purposes of this subpart are—

"(1) to support and promote the expansion of the National Writing Project network of sites so that teachers in every region of the United States will have access to a National Writing Project program;

"(2) to ensure the consistent high quality of the sites through ongoing review, evaluation and technical assistance;

"(3) to support and promote the establishment of programs to disseminate effective practices and research findings about the teaching of writing; and

"(4) to coordinate activities assisted under this subpart with activities assisted under this Act.

"SEC. 2332. NATIONAL WRITING PROJECT.

"(a) Authorization.—The Secretary is authorized to award a grant to the National Writing Project, a nonprofit educational organization that has as its primary purpose the improvement of the quality of student writing and learning (hereafter in this section referred to as the 'grantee') to improve the teaching of writing and the use of writing as a part of the learning process in our Nation's classrooms.

"(b) Requirements of Grant.—The grant shall provide that—

"(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as 'contractors') under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

"(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

"(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

"(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

"(1) be conducted during the school year and during the summer months;

"(2) train teachers who teach grades kindergarten through college;

"(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

"(4) encourage teachers from all disciplines to participate in such teacher training programs.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term 'Federal share' means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

"(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (e) determines, on the basis of financial need, that such waiver is necessary.

"(3) MAXIMUM.—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $100,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least five sites throughout the State.

"(e) NATIONAL ADVISORY BOARD.—

"(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

"(2) COMPOSITION.—The National Advisory Board established pursuant to paragraph (1) shall consist of—

"(A) national educational leaders;

"(B) leaders in the field of writing; and

"(C) such other individuals as the National Writing Project determines necessary.

"(3) DUTIES.—The National Advisory Board established pursuant to paragraph (1) shall—

"(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

"(B) review the activities and programs of the National Writing Project; and

"(C) support the continued development of the National Writing Project.

"(f) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this subpart. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of Congress.

"(2) FUNDING LIMITATION.—The Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (h) for fiscal year 2002 and each of the 5 succeeding fiscal years to conduct the evaluation described in paragraph (1).

"(g) APPLICATION REVIEW.—

"(1) REVIEW BOARD.—The National Writing Project shall establish and operate a National Review Board that shall consist of—

"(A) leaders in the field of research in writing; and

"(B) such other individuals as the National Writing Project deems necessary.

"(2) DUTIES.—The National Review Board shall—

"(A) review all applications for assistance under this subsection; and

"(B) recommend applications for assistance under this subsection for funding by the National Writing Project.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $15,000,000 as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

"Subpart 3—Civic Education

"SEC. 2341. SHORT TITLE.

"This subpart may be cited as the 'Education for Democracy Act'.

"SEC. 2342. PURPOSE.

"It is the purpose of this subpart—

"(1) to improve the quality of civics and government education by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights;

"(2) to foster civic competence and responsibility; and

"(3) to improve the quality of civic education and economic education through cooperative civic education and economic education exchange programs with emerging democracies.

"SEC. 2343. GENERAL AUTHORITY.

"(a) AUTHORITY.—The Secretary is authorized to award grants to, or enter into contracts with—

"(1) the Center for Civic Education, to carry out civic education activities under sections 2344 and 2345;

"(2) the National Council on Economic Education, to carry out economic education activities under section 2345; and

"(3) organizations experienced in the development of curricula and programs in civics and government education and economic education for students in elementary schools and secondary schools in countries other than the United States, to carry out civic education activities under section 2345.

"(b) DISTRIBUTION FOR COOPERATIVE CIVIC EDUCATION AND ECONOMIC EDUCATION EXCHANGE PROGRAMS.—

"(1) LIMITATION.—Not more than 40 percent of the amount appropriated under section 2346 for a fiscal year shall be used to carry out section 2345.

"(2) DISTRIBUTION.—Of the amount used to carry out section 2345 for a fiscal year (consistent with paragraph (1)), the Secretary shall use—

"(A) 37.5 percent for a grant or contract for the Center for Civic Education;

"(B) 37.5 percent for a grant or contract for the National Council on Economic Education; and

"(C) 25 percent for not less than 1, but not more than 3, grants or contracts for organizations described in subsection (a)(3).

"SEC. 2344. WE THE PEOPLE PROGRAM.

"(a) THE CITIZEN AND THE CONSTITUTION.—

"(1) EDUCATIONAL ACTIVITIES.—The Center for Civic Education—

"(A) shall use funds made available under grants or contracts under section 2343(a)(1)—

"(i) to continue and expand the educational activities of the program entitled the 'We the People... The Citizen and the Constitution' program administered by such center;

"(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

"(iii) to provide a course of instruction on the basic principles of the Nation's constitutional democracy and the history of the Constitution of the United States, including the Bill of Rights;

"(iv) to provide, at the request of a participating school, school and community simulated congressional hearings following the course of instruction described in clause (iii); and

"(v) to provide an annual national competition of simulated congressional hearings for secondary school students who wish to participate in such a program; and

"(B) may use funds made available under grants or contracts under section 2343(a)(1)—

"(i) to provide advanced, sustained, and ongoing training of teachers about the Constitution of the United States and the political system of the United States;

"(ii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

"(iii) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

"(2) AVAILABILITY OF PROGRAM.—The education program authorized under this subsection shall be made available to public and private elementary schools and secondary schools, including Bureau funded schools, in the 435 congressional districts, and in the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(b) PROJECT CITIZEN.—

"(1) EDUCATIONAL ACTIVITIES.—The Center for Civic Education—

"(A) shall use funds made available under grants or contracts under section 2343(a)(1)—

"(i) to continue and expand the educational activities of the program entitled the 'We the People... Project Citizen' program administered by the Center;

"(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

"(iii) to provide a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution of the United States; and

"(iv) to provide an annual national showcase or competition; and

"(B) may use funds made available under grants or contracts under section 2343(a)(1)—

"(i) to provide optional school and community simulated State legislative hearings;

"(ii) to provide advanced, sustained, and ongoing training of teachers on the roles of State and local governments in the Federal system established by the Constitution of the United States;

"(iii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

"(iv) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

"(2) AVAILABILITY OF PROGRAM.—The education program authorized under this subsection shall be made available to public and private middle schools, including Bureau funded schools, in the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(c) BUREAU-FUNDED SCHOOL DEFINED.—In this section, the term 'Bureau-funded school'

has the meaning given such term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

“SEC. 2345. COOPERATIVE CIVIC EDUCATION AND ECONOMIC EDUCATION EXCHANGE PROGRAMS.

“(a) COOPERATIVE EDUCATION EXCHANGE PROGRAMS.—The Center for Civic Education, the National Council on Economic Education, and organizations described in section 2343(a)(3) shall use funds made available under grants or contracts under section 2343 to carry out cooperative education exchange programs in accordance with this section.

“(b) PURPOSE.—The purpose of the cooperative education exchange programs carried out under this section shall be—

“(1) to make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education, and economics education, developed in the United States;

“(2) to assist eligible countries in the adaptation, implementation, and institutionalization of such programs;

“(3) to create and implement civics and government education, and economic education, programs for students that draw upon the experiences of the participating eligible countries;

“(4) to provide a means for the exchange of ideas and experiences in civics and government education, and economic education, among political, educational, governmental, and private sector leaders of participating eligible countries; and

“(5) to provide support for—

“(A) independent research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

“(B) effective participation in, and the preservation and improvement of, an efficient market economy.

“(c) ACTIVITIES.—In carrying out the cooperative education exchange programs assisted under this section, the Center for Civic Education, the National Council on Economic Education, and organizations described in section 2343(a)(3) shall—

“(1) provide to the participants from eligible countries—

“(A) seminars on the basic principles of United States constitutional democracy and economic system, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

“(B) visits to school systems, institutions of higher education, and nonprofit organizations conducting exemplary programs in civics and government education, and economic education, in the United States;

“(C) translations and adaptations with respect to United States civics and government education, and economic education, curricular programs for students and teachers, and in the case of training programs for teachers, translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas; and

“(D) independent research and evaluation assistance—

“(i) to determine the effects of the cooperative education exchange programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

“(ii) to identify effective participation in, and the preservation and improvement of, an efficient market economy;

“(2) provide to the participants from the United States—

“(A) seminars on the histories, economies, and systems of government of eligible countries;

“(B) visits to school systems, institutions of higher education, and organizations conducting exemplary programs in civics and government education, and economic education, located in eligible countries;

“(C) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government, and economy of such countries that are useful in United States classrooms;

“(D) opportunities to provide onsite demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

“(E) independent research and evaluation assistance to determine—

“(i) the effects of the cooperative education exchange programs assisted under this section on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

“(ii) effective participation in, and improvement of, an efficient market economy; and

“(3) assist participants from eligible countries and the United States to participate in international conferences on civics and government education, and economic education, for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

“(d) PARTICIPANTS.—The primary participants in the cooperative education exchange programs assisted under this section shall be educational leaders in the areas of civics and government education, and economic education, including teachers, curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, and government and private sector leaders from the United States and eligible countries.

“(e) CONSULTATION.—The Secretary may award a grant to, or enter into a contract with, the entities described in section 2343 to carry out programs assisted under this section only if the Secretary of State concurs with the Secretary that such grant, or contract, respectively, is consistent with the foreign policy of the United States.

“(f) AVOIDANCE OF DUPLICATION.—With the concurrence of the Secretary of State, the Secretary shall ensure that—

“(1) the activities carried out under the programs assisted under this section are not duplicative of other activities conducted in eligible countries; and

“(2) any institutions in eligible countries, with which the Center for Civic Education, the National Council on Economic Education, or organizations described in section 2343(a)(3) may work in conducting such activities, are creditable.

“(g) ELIGIBLE COUNTRY DEFINED.—In this section, the term ‘eligible country’ means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, the independent states of the former Soviet Union as defined in section 3 of the FREEDOM Support Act (22 U.S.C. 5801), the Republic of Ireland, the province of Northern Ireland in the United Kingdom, and any developing country (as such term is defined in section 209(d) of the Education for the Deaf Act) if the Secretary, with the concurrence of the Secretary of State, determines that such developing country has a democratic form of government.

“SEC. 2346. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this subpart $30,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

“Subpart 4—Teaching of Traditional American History

“SEC. 2351. ESTABLISHMENT OF PROGRAM.

“(a) IN GENERAL.—The Secretary may establish and implement a program to be known as the ‘Teaching American History Grant Program’, under which the Secretary shall award grants on a competitive basis to local educational agencies—

“(1) to carry out activities to promote the teaching of traditional American history in elementary schools and secondary schools as a separate academic subject (not as a component of social studies); and

“(2) for the development, implementation, and strengthening of programs to teach traditional American history as a separate academic subject (not as a component of social studies) within elementary school and secondary school curricula, including the implementation of activities—

“(A) to improve the quality of instruction; and

“(B) to provide professional development and teacher education activities with respect to American history.

“(b) REQUIRED PARTNERSHIP.—A local educational agency that receives a grant under subsection (a) shall carry out activities under the grant in partnership with one or more of the following:

“(1) An institution of higher education.

“(2) A nonprofit history or humanities organization.

“(3) A library or museum.

“(c) APPLICATION.—To be eligible to receive an grant under this section, a local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“SEC. 2352. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

“Subpart 5—Teacher Liability Protection

“SEC. 2361. SHORT TITLE.

“This subpart may be cited as the ‘Paul D. Coverdell Teacher Protection Act of 2001’.

“SEC. 2362. PURPOSE.

“The purpose of this subpart is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

“SEC. 2363. DEFINITIONS.

“For purposes of this subpart:

“(1) ECONOMIC LOSS.—The term ‘economic loss’ means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

“(2) HARM.—The term ‘harm’ includes physical, nonphysical, economic, and noneconomic losses.

“(3) NONECONOMIC LOSS.—The term ‘noneconomic loss’ means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society or companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, or any other nonpecuniary loss of any kind or nature.

“(4) SCHOOL.—The term ‘school’ means a public or private kindergarten, a public or private elementary school or secondary school, or a home school.

"(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

"(6) TEACHER.—The term 'teacher' means—

"(A) a teacher, instructor, principal, or administrator;

"(B) another educational professional who works in a school;

"(C) a professional or nonprofessional employee who—

"(i) works in a school; and

"(ii)(I) in the employee's job, maintains discipline or ensures safety; or

"(II) in an emergency, is called on to maintain discipline or ensure safety; or

"(D) an individual member of a school board (as distinct from the board).

"SEC. 2364. APPLICABILITY.

"This subpart shall only apply to States that receive funds under this Act, and shall apply to such a State as a condition of receiving such funds.

"SEC. 2365. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

"(a) PREEMPTION.—This subpart preempts the laws of any State to the extent that such laws are inconsistent with this subpart, except that this subpart shall not preempt any State law that provides additional protection from liability relating to teachers.

"(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This subpart shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation—

"(1) citing the authority of this subsection;

"(2) declaring the election of such State that this subpart shall not apply, as of a date certain, to such civil action in the State; and

"(3) containing no other provisions.

"SEC. 2366. LIMITATION ON LIABILITY FOR TEACHERS.

"(a) LIABILITY PROTECTION FOR TEACHERS.—Except as provided in subsection (b), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

"(1) the teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;

"(2) the actions of the teacher were carried out in conformity with Federal, State, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

"(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

"(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

"(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

"(A) possess an operator's license; or

"(B) maintain insurance.

"(b) EXCEPTIONS TO TEACHER LIABILITY PROTECTION.—If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

"(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

"(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

"(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

"(c) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF TEACHERS.—

"(1) GENERAL RULE.—Punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

"(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

"(d) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

"(1) IN GENERAL.—The limitations on the liability of a teacher under this subpart shall not apply to any misconduct that—

"(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18, United States Code) for which the defendant has been convicted in any court;

"(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

"(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

"(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

"(2) HIRING.—The limitations on the liability of a teacher under this subpart shall not apply to misconduct during background investigations, or during other actions, involved in the hiring of a teacher.

"(e) RULES OF CONSTRUCTION.—

"(1) CONCERNING RESPONSIBILITY OF TEACHERS TO SCHOOLS AND GOVERNMENTAL ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

"(2) CONCERNING CORPORAL PUNISHMENT.—Nothing in this subpart shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

"SEC. 2367. ALLOCATION OF RESPONSIBILITY FOR NONECONOMIC LOSS.

"(a) GENERAL RULE.—In any civil action against a teacher, based on an act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

"(b) AMOUNT OF LIABILITY.—

"(1) IN GENERAL.—

"(A) LIABILITY.—Each defendant who is a teacher shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable.

"(B) SEPARATE JUDGMENT.—The court shall render a separate judgment against each defendant in an amount determined pursuant to subparagraph (A).

"(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt or supersede any Federal or State law that further limits the application of joint liability in a civil action described in subsection (a), beyond the limitations established in this section.

"SEC. 2368. EFFECTIVE DATE.

"(a) IN GENERAL.—This subpart shall take effect 90 days after the date of enactment of the No Child Left Behind Act of 2001.

"(b) APPLICATION.—This subpart applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the No Child Left Behind Act of 2001 without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

"PART D—ENHANCING EDUCATION THROUGH TECHNOLOGY

"SEC. 2401. SHORT TITLE.

"This part may be cited as the 'Enhancing Education Through Technology Act of 2001'.

"SEC. 2402. PURPOSES AND GOALS.

"(a) PURPOSES.—The purposes of this part are the following:

"(1) To provide assistance to States and localities for the implementation and support of a comprehensive system that effectively uses technology in elementary schools and secondary schools to improve student academic achievement.

"(2) To encourage the establishment or expansion of initiatives, including initiatives involving public-private partnerships, designed to increase access to technology, particularly in schools served by high-need local educational agencies.

"(3) To assist States and localities in the acquisition, development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure in a manner that expands access to technology for students (particularly for disadvantaged students) and teachers.

"(4) To promote initiatives that provide school teachers, principals, and administrators with the capacity to integrate technology effectively into curricula and instruction that are aligned with challenging State academic content and student academic achievement standards, through such means as high-quality professional development programs.

"(5) To enhance the ongoing professional development of teachers, principals, and administrators by providing constant access to training and updated research in teaching and learning through electronic means.

"(6) To support the development and utilization of electronic networks and other innovative methods, such as distance learning, of delivering specialized or rigorous academic courses and curricula for students in areas that would *not otherwise have access to such courses and curricula, particularly in geographically isolated regions.*

“(7) To support the rigorous evaluation of programs funded under this part, particularly regarding the impact of such programs on student academic achievement, and ensure that timely information on the results of such evaluations is widely accessible through electronic means.

“(8) To support local efforts using technology to promote parent and family involvement in education and communication among students, parents, teachers, principals, and administrators.

“(b) GOALS.—

“(1) PRIMARY GOAL.—The primary goal of this part is to improve student academic achievement through the use of technology in elementary schools and secondary schools.

“(2) ADDITIONAL GOALS.—The additional goals of this part are the following:

“(A) To assist every student in crossing the digital divide by ensuring that every student is technologically literate by the time the student finishes the eighth grade, regardless of the student's race, ethnicity, gender, family income, geographic location, or disability.

“(B) To encourage the effective integration of technology resources and systems with teacher training and curriculum development to establish research-based instructional methods that can be widely implemented as best practices by State educational agencies and local educational agencies.

“SEC. 2403. DEFINITIONS.

“In this part:

“(1) ELIGIBLE LOCAL ENTITY.—The term ‘eligible local entity’ means—

“(A) a high-need local educational agency; or

“(B) an eligible local partnership.

“(2) ELIGIBLE LOCAL PARTNERSHIP.—The term ‘eligible local partnership’ means a partnership that—

“(A) shall include at least one high-need local educational agency and at least one—

“(i) local educational agency that can demonstrate that teachers in schools served by the agency are effectively integrating technology and proven teaching practices into instruction, based on a review of relevant research, and that the integration results in improvement in—

“(I) classroom instruction in the core academic subjects; and

“(II) the preparation of students to meet challenging State academic content and student academic achievement standards;

“(ii) institution of higher education that is in full compliance with the reporting requirements of section 207(f) of the Higher Education Act of 1965 and that has not been identified by its State as low-performing under section 208 of such Act;

“(iii) for-profit business or organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology in instruction; or

“(iv) public or private nonprofit organization with demonstrated experience in the application of educational technology to instruction; and

“(B) may include other local educational agencies, educational service agencies, libraries, or other educational entities appropriate to provide local programs.

“(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term ‘high-need local educational agency’ means a local educational agency that—

“(A) is among the local educational agencies in a State with the highest numbers or percentages of children from families with incomes below the poverty line; and

“(B)(i) operates one or more schools identified under section 1116; or

“(ii) has a substantial need for assistance in acquiring and using technology.

“SEC. 2404. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out subparts 1 and 2 $1,000,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

“(b) ALLOCATION OF FUNDS BETWEEN STATE AND LOCAL AND NATIONAL INITIATIVES.—The amount of funds made available under subsection (a) for a fiscal year shall be allocated so that—

“(1) not less than 98 percent is made available to carry out subpart 1; and

“(2) not more than 2 percent is made available to carry out subpart 2.

“(c) ALLOCATION OF FUNDS FOR STUDY.—Of the total amount of funds allocated under subsection (b)(2) for fiscal years 2002 through 2007, not more than $15,000,000 may be used to carry out section 2421(a).

“(d) LIMITATION.—Of the amount of funds made available to a recipient of funds under this part for a fiscal year, not more than 5 percent may be used by the recipient for administrative costs or technical assistance, of which not more than 60 percent may be used by the recipient for administrative costs.

“Subpart 1—State and Local Technology Grants

“SEC. 2411. ALLOTMENT AND REALLOTMENT.

“(a) RESERVATIONS AND ALLOTMENT.—From the amount made available to carry out this subpart under section 2404(b)(1) for a fiscal year—

“(1) the Secretary shall reserve—

“(A) ¾ of 1 percent for the Secretary of the Interior for programs under this subpart for schools operated or funded by the Bureau of Indian Affairs;

“(B) ½ of 1 percent to provide assistance under this subpart to the outlying areas; and

“(C) such sums as may be necessary for continuation awards on grants awarded under section 3136 prior to the date of enactment of the No Child Left Behind Act of 2001; and

“(2) from the remainder of such amount and subject to subsection (b), the Secretary shall make grants by allotting to each eligible State educational agency under this subpart an amount that bears the same relationship to such remainder for such year as the amount received under part A of title I for such year by such State educational agency bears to the amount received under such part for such year by all State educational agencies.

“(b) MINIMUM ALLOTMENT.—The amount of any State educational agency's allotment under subsection (a)(2) for any fiscal year may not be less than ½ of 1 percent of the amount made available for allotments to States under this part for such year.

“(c) REALLOTMENT OF UNUSED FUNDS.—If any State educational agency does not apply for an allotment under this subpart for a fiscal year, or does not use its entire allotment under this subpart for that fiscal year, the Secretary shall reallot the amount of the State educational agency's allotment, or the unused portion of the allotment, to the remaining State educational agencies that use their entire allotments under this subpart in accordance with this section.

“(d) STATE EDUCATIONAL AGENCY DEFINED.—In this section, the term ‘State educational agency’ does not include an agency of an outlying area or the Bureau of Indian Affairs.

“SEC. 2412. USE OF ALLOTMENT BY STATE.

“(a) IN GENERAL.—Of the amount provided to a State educational agency (from the agency's allotment under section 2411(a)(2)) for a fiscal year—

“(1) the State educational agency may use not more than 5 percent to carry out activities under section 2415; and

“(2) the State educational agency shall distribute the remainder as follows:

“(A) From 50 percent of the remainder, the State educational agency shall award subgrants by allocating to each eligible local educational agency that has submitted an application to the State educational agency under section 2414, for the activities described in section 2416, an amount that bears the same relationship to 50 percent of the remainder for such year as the amount received under part A of title I for such year by such local educational agency bears to the amount received under such part for such year by all local educational agencies within the State.

“(B) From 50 percent of the remainder and subject to subsection (b), the State educational agency shall award subgrants, through a State-determined competitive process, to eligible local entities that have submitted applications to the State educational agency under section 2414, for the activities described in section 2416.

“(b) SUFFICIENT AMOUNTS.—

“(1) SPECIAL RULE.—In awarding a subgrant under subsection (a)(2)(B), the State educational agency shall—

“(A) determine the local educational agencies that—

“(i) received allocations under subsection (a)(2)(A) that are not of sufficient size to be effective, consistent with the purposes of this part; and

“(ii) are eligible local entities;

“(B) give priority to applications submitted by eligible local educational agencies described in subparagraph (A); and

“(C) determine the minimum amount for awards under subsection (a)(2)(B) to ensure that subgrants awarded under that subsection are of sufficient size to be effective.

“(2) SUFFICIENCY.—In awarding subgrants under subsection (a)(2)(B), each State educational agency shall ensure that each subgrant is of sufficient size and duration, and that the program funded by the subgrant is of sufficient scope and quality, to carry out the purposes of this part effectively.

“(3) DISTRIBUTION.—In awarding subgrants under subsection (a)(2)(B), each State educational agency shall ensure an equitable distribution of assistance under this subpart among urban and rural areas of the State, according to the demonstrated need of those local educational agencies serving the areas.

“(c) FISCAL AGENT.—If an eligible local partnership receives a subgrant under subsection (a)(2)(B), a local educational agency in the partnership shall serve as the fiscal agent for the partnership.

“(d) TECHNICAL ASSISTANCE.—Each State educational agency receiving a grant under section 2411(a) shall—

“(1) identify the local educational agencies served by the State educational agency that—

“(A) have the highest numbers or percentages of children from families with incomes below the poverty line; and

“(B) demonstrate to such State educational agency the greatest need for technical assistance in developing an application under section 2414; and

“(2) offer the technical assistance described in paragraph (1)(B) to those local educational agencies.

“SEC. 2413. STATE APPLICATIONS.

“(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State educational agency shall submit to the Secretary, at such time and in such manner as the Secretary may specify, an application containing a new or updated statewide long-range strategic educational

technology plan (which shall address the educational technology needs of local educational agencies) and such other information as the Secretary may reasonably require.

"(b) CONTENTS.—Each State application submitted under subsection (a) shall include each of the following:

"(1) An outline of the State educational agency's long-term strategies for improving student academic achievement, including technology literacy, through the effective use of technology in classrooms throughout the State, including through improving the capacity of teachers to integrate technology effectively into curricula and instruction.

"(2) A description of the State educational agency's goals for using advanced technology to improve student academic achievement, and how those goals are aligned with challenging State academic content and student academic achievement standards.

"(3) A description of how the State educational agency will take steps to ensure that all students and teachers in the State, particularly students and teachers in districts served by high-need local educational agencies, have increased access to technology.

"(4) A description of the process and accountability measures that the State educational agency will use to evaluate the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction.

"(5) A description of how the State educational agency will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, particularly for those areas of the State that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

"(6) An assurance that financial assistance provided under this subpart will supplement, and not supplant, State and local funds.

"(7) A description of how the plan incorporates teacher education, professional development, and curriculum development, and how the State educational agency will work to ensure that teachers and principals in a State receiving funds under this part are technologically literate.

"(8) A description of—

"(A) how the State educational agency will provide technical assistance to applicants under section 2414, especially to those applicants serving the highest numbers or percentages of children in poverty or with the greatest need for technical assistance; and

"(B) the capacity of the State educational agency to provide such assistance.

"(9) A description of technology resources and systems that the State will provide for the purpose of establishing best practices that can be widely replicated by State educational agencies and local educational agencies in the State and in other States.

"(10) A description of the State's long-term strategies for financing technology to ensure that all students, teachers, and classrooms have access to technology.

"(11) A description of the State's strategies for using technology to increase parental involvement.

"(12) A description of how the State educational agency will ensure that each subgrant awarded under section 2412(a)(2)(B) is of sufficient size and duration, and that the program funded by the subgrant is of sufficient scope and quality, to carry out the purposes of this part effectively.

"(13) A description of how the State educational agency will ensure ongoing integration of technology into school curricula and instructional strategies in all schools in the State, so that technology will be fully integrated into the curricula and instruction of the schools by December 31, 2006.

"(14) A description of how the local educational agencies in the State will provide incentives to teachers who are technologically literate and teaching in rural or urban areas, to encourage such teachers to remain in those areas.

"(15) A description of how public and private entities will participate in the implementation and support of the plan.

"(c) DEEMED APPROVAL.—An application submitted by a State educational agency pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this part.

"(d) DISAPPROVAL.—The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

"(e) NOTIFICATION.—If the Secretary finds that the application is not in compliance, in whole or in part, with this part, the Secretary shall—

"(1) give the State educational agency notice and an opportunity for a hearing; and

"(2) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

"(A) cite the specific provisions in the application that are not in compliance; and

"(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

"(f) RESPONSE.—If the State educational agency responds to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B), the Secretary shall approve or disapprove such application prior to the later of—

"(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

"(2) the expiration of the 120-day period described in subsection (c).

"(g) FAILURE TO RESPOND.—If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

"SEC. 2414. LOCAL APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a subgrant from a State educational agency under this subpart, a local educational agency or eligible local entity shall submit to the State educational agency an application containing a new or updated local long-range strategic educational technology plan that is consistent with the objectives of the statewide educational technology plan described in section 2413(a), and such other information as the State educational agency may reasonably require, at such time and in such manner as the State educational agency may require.

"(b) CONTENTS.—The application shall include each of the following:

"(1) A description of how the applicant will use Federal funds under this subpart to improve the student academic achievement, including technology literacy, of all students attending schools served by the local educational agency and to improve the capacity of all teachers teaching in schools served by the local educational agency to integrate technology effectively into curricula and instruction.

"(2) A description of the applicant's specific goals for using advanced technology to improve student academic achievement, aligned with challenging State academic content and student academic achievement standards.

"(3) A description of the steps the applicant will take to ensure that all students and teachers in schools served by the local educational agency involved have increased access to educational technology, including how the agency would use funds under this subpart (such as combining the funds with funds from other sources), to help ensure that—

"(A) students in high-poverty and high-needs schools, or schools identified under section 1116, have access to technology; and

"(B) teachers are prepared to integrate technology effectively into curricula and instruction.

"(4) A description of how the applicant will—

"(A) identify and promote curricula and teaching strategies that integrate technology effectively into curricula and instruction, based on a review of relevant research, leading to improvements in student academic achievement, as measured by challenging State academic content and student academic achievement standards; and

"(B) provide ongoing, sustained professional development for teachers, principals, administrators, and school library media personnel serving the local educational agency, to further the effective use of technology in the classroom or library media center, including, if applicable, a list of the entities that will be partners with the local educational agency involved in providing the ongoing, sustained professional development.

"(5) A description of the type and costs of technologies to be acquired under this subpart, including services, software, and digital curricula, and including specific provisions for interoperability among components of such technologies.

"(6) A description of how the applicant will coordinate activities carried out with funds provided under this subpart with technology-related activities carried out with funds available from other Federal, State, and local sources.

"(7) A description of how the applicant will integrate technology (including software and other electronically delivered learning materials) into curricula and instruction, and a timeline for such integration.

"(8) A description of how the applicant will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, particularly for those areas that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

"(9) A description of how the applicant will ensure the effective use of technology to promote parental involvement and increase communication with parents, including a description of how parents will be informed of the technology being applied in their child's education so that the parents are able to reinforce at home the instruction their child receives at school.

"(10) A description of how programs will be developed, where applicable, in collaboration with adult literacy service providers, to maximize the use of technology.

"(11) A description of the process and accountability measures that the applicant will use to evaluate the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach,

and enabling students to meet challenging State academic content and student academic achievement standards.

"(12) A description of the supporting resources (such as services, software, other electronically delivered learning materials, and print resources) that will be acquired to ensure successful and effective uses of technology.

"(c) COMBINED APPLICATIONS.—A local educational agency that is an eligible local entity and submits an application to the State educational agency under this section for funds awarded under section 2412(a)(2)(A) may combine the agency's application for funds awarded under that section with an application for funds awarded under section 2412(a)(2)(B).

"(d) SPECIAL RULE.—

"(1) CONSORTIUM APPLICATIONS.—

"(A) IN GENERAL.—For any fiscal year, a local educational agency applying for financial assistance described in section 2412(a)(2)(A) may apply as part of a consortium that includes other local educational agencies, institutions of higher education, educational service agencies, libraries, or other educational entities appropriate to provide local programs.

"(B) FISCAL AGENT.—If a local educational agency applies for and receives financial assistance described in section 2412(a)(2)(A) as part of a consortium, the local educational agency shall serve as the fiscal agent for the consortium.

"(2) STATE EDUCATIONAL AGENCY ASSISTANCE.—At the request of a local educational agency, a State educational agency may assist the local educational agency in the formation of a consortium described in paragraph (1) to provide services for the teachers and students served by the local educational agency.

"SEC. 2415. STATE ACTIVITIES.

"From funds made available under section 2412(a)(1), a State educational agency shall carry out activities and assist local efforts to carry out the purposes of this part, which may include the following activities:

"(1) Developing, or assisting applicants or recipients of funds under this subpart in the development and utilization of, innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, and providing other technical assistance to such applicants or recipients throughout the State, with priority given to high-need local educational agencies.

"(2) Establishing or supporting public-private initiatives (such as interest-free or reduced-cost loans) for the acquisition of educational technology for high-need local educational agencies and students attending schools served by such agencies.

"(3) Assisting recipients of funds under this subpart in providing sustained and intensive, high-quality professional development based on a review of relevant research in the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments, including training in the use of technology to—

"(A) access data and resources to develop curricula and instructional materials;

"(B) enable teachers—

"(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

"(ii) to retrieve Internet-based learning resources; and

"(C) lead to improvements in classroom instruction in the core academic subjects, that effectively prepare students to meet challenging State academic content standards and student academic achievement standards.

"(4) Assisting recipients of funds under this subpart in providing all students (including students with disabilities and students with limited English proficiency) and teachers with access to educational technology.

"(5) Developing performance measurement systems to determine the effectiveness of educational technology programs funded under this subpart, particularly in determining the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

"(6) Collaborating with other State educational agencies on distance learning, including making specialized or rigorous academic courses and curricula available to students in areas that would not otherwise have access to such courses and curricula.

"SEC. 2416. LOCAL ACTIVITIES.

"(a) PROFESSIONAL DEVELOPMENT.—

"(1) IN GENERAL.—A recipient of funds made available under section 2412(a)(2) shall use not less than 25 percent of such funds to provide ongoing, sustained, and intensive, high-quality professional development. The recipient shall provide professional development in the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments, such as professional development in the use of technology—

"(A) to access data and resources to develop curricula and instructional materials;

"(B) to enable teachers—

"(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

"(ii) to retrieve Internet-based learning resources; and

"(C) to lead to improvements in classroom instruction in the core academic subjects, that effectively prepare students to meet challenging State academic content standards, including increasing student technology literacy, and student academic achievement standards.

"(2) WAIVERS.—Paragraph (1) shall not apply to a recipient of funds made available under section 2412(a)(2) that demonstrates, to the satisfaction of the State educational agency involved, that the recipient already provides ongoing, sustained, and intensive, high-quality professional development that is based on a review of relevant research, to all teachers in core academic subjects in the integration of advanced technologies, including emerging technologies, into curricula and instruction.

"(b) OTHER ACTIVITIES.—In addition to the activities described in subsection (a), a recipient of funds made available by a State educational agency under section 2412(a)(2) shall use such funds to carry out other activities consistent with this subpart, which may include the following:

"(1) Establishing or expanding initiatives, particularly initiatives involving public-private partnerships, designed to increase access to technology for students and teachers, with special emphasis on the access of high-need schools to technology.

"(2) Adapting or expanding existing and new applications of technology to enable teachers to increase student academic achievement, including technology literacy—

"(A) through the use of teaching practices that are based on a review of relevant research and are designed to prepare students to meet challenging State academic content and student academic achievement standards; and

"(B) by the development and utilization of innovative distance learning strategies to deliver specialized or rigorous academic courses and curricula to areas that would not otherwise have access to such courses and curricula.

"(3) Acquiring proven and effective courses and curricula that include integrated technology and are designed to help students meet challenging State academic content and student academic achievement standards.

"(4) Utilizing technology to develop or expand efforts to connect schools and teachers with parents and students to promote meaningful parental involvement, to foster increased communication about curricula, assignments, and assessments between students, parents, and teachers, and to assist parents to understand the technology being applied in their child's education, so that parents are able to reinforce at home the instruction their child receives at school.

"(5) Preparing one or more teachers in elementary schools and secondary schools as technology leaders who are provided with the means to serve as experts and train other teachers in the effective use of technology, and providing bonus payments to the technology leaders.

"(6) Acquiring, adapting, expanding, implementing, repairing, and maintaining existing and new applications of technology, to support the school reform effort and to improve student academic achievement, including technology literacy.

"(7) Acquiring connectivity linkages, resources, and services (including the acquisition of hardware and software and other electronically delivered learning materials) for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and college counseling centers, or in school library media centers, in order to improve student academic achievement.

"(8) Using technology to collect, manage, and analyze data to inform and enhance teaching and school improvement efforts.

"(9) Implementing performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

"(10) Developing, enhancing, or implementing information technology courses.

"Subpart 2—National Technology Activities

"SEC. 2421. NATIONAL ACTIVITIES.

"(a) STUDY.—Using funds made available under section 2404(b)(2), the Secretary—

"(1) shall conduct an independent, long-term study, utilizing scientifically based research methods and control groups or control conditions—

"(A) on the conditions and practices under which educational technology is effective in increasing student academic achievement; and

"(B) on the conditions and practices that increase the ability of teachers to integrate technology effectively into curricula and instruction, that enhance the learning environment and opportunities, and that increase student academic achievement, including technology literacy;

"(2) shall establish an independent review panel to advise the Secretary on methodological and other issues that arise in conducting the long-term study;

"(3) shall consult with other interested Federal departments or agencies, State and local educational practitioners and policymakers (including teachers, principals, and superintendents), and experts in technology, regarding the study; and

"(4) shall submit to Congress interim reports, when appropriate, and a final report, to be submitted not later than April 1, 2006, on the findings of the study.

"(b) DISSEMINATION.—Using funds made available under section 2404(b)(2), the Secretary *shall make widely available, including through dissemination on the Internet and to all State educational agencies and other recipients of funds under this part, findings identified through activities carried out under this section regarding the conditions and practices under which educational technology is effective in increasing student academic achievement.*

"(c) Technical Assistance.—Using funds made available under section 2404(b)(2), the Secretary may provide technical assistance (directly or through the competitive award of grants or contracts) to State educational agencies, local educational agencies, and other recipients of funds, particularly in rural areas, under this part, in order to assist such State educational agencies, local educational agencies, and other recipients to achieve the purposes of this part.

"SEC. 2422. NATIONAL EDUCATION TECHNOLOGY PLAN.

"(a) In General.—Based on the Nation's progress and an assessment by the Secretary of the continuing and future needs of the Nation's schools in effectively using technology to provide all students the opportunity to meet challenging State academic content and student academic achievement standards, the Secretary shall update and publish, in a form readily accessible to the public, a national long-range technology plan, by not later than 12 months after the date of enactment of the No Child Left Behind Act of 2001.

"(b) Contents.—The plan referred to in subsection (a) shall include each of the following:

"(1) A description of the manner in which the Secretary will promote—

"(A) higher student academic achievement through the integration of advanced technologies, including emerging technologies, into curricula and instruction;

"(B) increased access to technology for teaching and learning for schools with a high number or percentage of children from families with incomes below the poverty line; and

"(C) the use of technology to assist in the implementation of State systemic reform strategies.

"(2) A description of joint activities of the Department of Education and other Federal departments or agencies that will promote the use of technology in education.

"Subpart 3—Ready-to-Learn Television

"SEC. 2431. READY-TO-LEARN TELEVISION.

"(a) Program Authorized.—

"(1) In general.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, eligible entities described in paragraph (3) to enable such entities—

"(A) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate student academic achievement;

"(B) to facilitate the development, directly or through contracts with producers of children and family educational television programming, of educational programming for preschool and elementary school children, and the accompanying support materials and services that promote the effective use of such programming;

"(C) to facilitate the development of programming and digital content containing Ready-to-Learn-based children's programming and resources for parents and caregivers that is specially designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet;

"(D) to contract with entities (such as public telecommunications entities) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming, and through the use of the most appropriate distribution technologies; and

"(E) to develop and disseminate education and training materials, including interactive programs and programs adaptable to distance learning technologies, that are designed—

"(i) to promote school readiness; and

"(ii) to promote the effective use of materials developed under subparagraphs (B) and (C) among parents, teachers, Head Start providers, Even Start providers, providers of family literacy services, child care providers, early childhood development personnel, elementary school teachers, public libraries, and after-school program personnel caring for preschool and elementary school children.

"(2) Availability.—In awarding grants, contracts, or cooperative agreements under this section, the Secretary shall ensure that eligible entities make programming widely available, with support materials as appropriate, to young children, parents, child care workers, Head Start providers, Even Start providers, and providers of family literacy services to increase the effective use of such programming.

"(3) Eligible entities.—To be eligible to receive a grant, contract, or cooperative agreements under this section, an entity shall be a public telecommunications entity that is able to demonstrate each of the following:

"(A) A capacity for the development and national distribution of educational and instructional television programming of high quality that is accessible by a large majority of disadvantaged preschool and elementary school children.

"(B) A capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality.

"(C) A capacity, consistent with the entity's mission and nonprofit nature, to negotiate such contracts in a manner that returns to the entity an appropriate share of any ancillary income from sales of any program-related products.

"(D) A capacity to localize programming and materials to meet specific State and local needs and to provide educational outreach at the local level.

"(4) Coordination of activities.—An entity receiving a grant, contract, or cooperative agreement under this section shall consult with the Secretary and the Secretary of Health and Human Services—

"(A) to maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) to coordinate activities with Federal programs that have major training components for early childhood development, including programs under the Head Start Act (42 U.S.C. 9831 et seq.) and Even Start, and State training activities funded under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), regarding the availability and utilization of materials developed under paragraph (1)(E) to enhance parent and child care provider skills in early childhood development and education.

"(b) Applications.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(c) Reports and Evaluations.—

"(1) Annual report to the secretary.—An entity receiving a grant, contract, or cooperative agreement under this section shall prepare and submit to the Secretary an annual report that contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under the grant, contract, or cooperative agreement, including each of the following:

"(A) The programming that has been developed, directly or indirectly, by the eligible entity, and the target population of the programs developed.

"(B) The support and training materials that have been developed to accompany the programming, and the method by which the materials are distributed to consumers and users of the programming.

"(C) The means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available, and the geographic distribution achieved through such technologies.

"(D) The initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development, distribution, and broadcast of educational and instructional programming.

"(2) Report to congress.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report that includes the following:

"(A) A summary of the activities assisted under subsection (a).

"(B) A description of the education and training materials made available under subsection (a)(1)(E), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such subsection.

"(d) Administrative Costs.—An entity that receives a grant, contract, or cooperative agreement under this section may use up to 5 percent of the amount received under the grant, contract, or agreement for the normal and customary expenses of administering the grant, contract, or agreement.

"(e) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002, and for each of the 5 succeeding fiscal years.

"(2) Funding rule.—Not less than 60 percent of the amount appropriated under paragraph (1) for each fiscal year shall be used to carry out activities under subparagraphs (B) through (D) of subsection (a)(1).

"Subpart 4—Limitation on Availability of Certain Funds for Schools

"SEC. 2441. INTERNET SAFETY.

"(a) In General.—No funds made available under this part to a local educational agency for an elementary school or secondary school that does not receive services at discount rates under section 254(h)(5) of the Communications Act of 1934 (47 U.S.C. 254(h)(5)) may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such school unless the school, school board, local educational agency, or other authority with responsibility for administration of such school both—

"(1)(A) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(i) obscene;

"(ii) child pornography; or

"(iii) harmful to minors; and

"(B) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

"(2)(A) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

''(i) obscene; or

''(ii) child pornography; and

''(B) is enforcing the operation of such technology protection measure during any use of such computers.

''(b) TIMING AND APPLICABILITY OF IMPLEMENTATION.—

''(1) IN GENERAL.—The local educational agency with responsibility for a school covered by subsection (a) shall certify the compliance of such school with the requirements of subsection (a) as part of the application process for the next program funding year under this Act following December 21, 2000, and for each subsequent program funding year thereafter.

''(2) PROCESS.—

''(A) SCHOOLS WITH INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A local educational agency with responsibility for a school covered by subsection (a) that has in place an Internet safety policy meeting the requirements of subsection (a) shall certify its compliance with subsection (a) during each annual program application cycle under this Act.

''(B) SCHOOLS WITHOUT INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—

''(i) CERTIFICATION.—A local educational agency with responsibility for a school covered by subsection (a) that does not have in place an Internet safety policy meeting the requirements of subsection (a)—

''(I) for the first program year after December 21, 2000, in which the local educational agency is applying for funds for such school under this Act, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

''(II) for the second program year after December 21, 2000, in which the local educational agency is applying for funds for such school under this Act, shall certify that such school is in compliance with such requirements.

''(ii) INELIGIBILITY.—Any school covered by subsection (a) for which the local educational agency concerned is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this part for such second program year and all subsequent program years until such time as such school comes into compliance with such requirements.

''(C) WAIVERS.—Any school subject to a certification under subparagraph (B)(i)(II) for which the local educational agency concerned cannot make the certification otherwise required by that subparagraph may seek a waiver of that subparagraph if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that subparagraph. The local educational agency concerned shall notify the Secretary of the applicability of that subparagraph to the school. Such notice shall certify that the school will be brought into compliance with the requirements in subsection (a) before the start of the third program year after December 21, 2000, in which the school is applying for funds under this part.

''(c) DISABLING DURING CERTAIN USE.—An administrator, supervisor, or person authorized by the responsible authority under subsection (a) may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

''(d) NONCOMPLIANCE.—

''(1) USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.—Whenever the Secretary has reason to believe that any recipient of funds under this part is failing to comply substantially with the requirements of this section, the Secretary may—

''(A) withhold further payments to the recipient under this part;

''(B) issue a complaint to compel compliance of the recipient through a cease and desist order; or

''(C) enter into a compliance agreement with a recipient to bring it into compliance with such requirements,

in same manner as the Secretary is authorized to take such actions under sections 455, 456, and 457, respectively, of the General Education Provisions Act.

''(2) RECOVERY OF FUNDS PROHIBITED.—The actions authorized by paragraph (1) are the exclusive remedies available with respect to the failure of a school to comply substantially with a provision of this section, and the Secretary shall not seek a recovery of funds from the recipient for such failure.

''(3) RECOMMENCEMENT OF PAYMENTS.—Whenever the Secretary determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under paragraph (1)(A) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments to the recipient under that paragraph.

''(e) DEFINITIONS.—In this subpart:

''(1) COMPUTER.—The term 'computer' includes any hardware, software, or other technology attached or connected to, installed in, or otherwise used in connection with a computer.

''(2) ACCESS TO INTERNET.—A computer shall be considered to have access to the Internet if such computer is equipped with a modem or is connected to a computer network that has access to the Internet.

''(3) ACQUISITION OR OPERATION.—An elementary school or secondary school shall be considered to have received funds under this part for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

''(A) to purchase, lease, or otherwise acquire or obtain the use of such computer; or

''(B) to obtain services, supplies, software, or other actions or materials to support, or in connection with, the operation of such computer.

''(4) MINOR.—The term 'minor' means an individual who has not attained the age of 17.

''(5) CHILD PORNOGRAPHY.—The term 'child pornography' has the meaning given that term in section 2256 of title 18, United States Code.

''(6) HARMFUL TO MINORS.—The term 'harmful to minors' means any picture, image, graphic image file, or other visual depiction that—

''(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

''(B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

''(C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

''(7) OBSCENE.—The term 'obscene' has the meaning applicable to that term under section 1460 of title 18, United States Code.

''(8) SEXUAL ACT AND SEXUAL CONTACT.—The terms 'sexual act' and 'sexual contact' have the meanings given those terms in section 2246 of title 18, United States Code.

''(f) SEVERABILITY.—If any provision of this section is held invalid, the remainder of this section shall not be affected thereby.''.

SEC. 202. CONTINUATION OF AWARDS.

Notwithstanding any other provision of this Act or the Elementary and Secondary Education Act of 1965, in the case of—

(1) a person or entity that, prior to the date of enactment of this Act, was awarded funds appropriated under the Department of Education Appropriations Act, 2001 for new teacher recruitment initiatives; or

(2) a person or agency that, prior to the date of enactment of this Act, was awarded a grant or contract under part K of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8331 et seq.),

the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates.

TITLE III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

SEC. 301. LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT CHILDREN AND IMMIGRANT CHILDREN AND YOUTH.

Title III (20 U.S.C. 6801 et seq.) is amended to read as follows:

"TITLE III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

"SEC. 3001. AUTHORIZATIONS OF APPROPRIATIONS; CONDITION ON EFFECTIVENESS OF PARTS.

''(a) AUTHORIZATIONS OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to carry out this title, except for subpart 4 of part B, $750,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

''(2) EMERGENCY IMMIGRANT EDUCATION PROGRAM.—There are authorized to be appropriated to carry out subpart 4 of part B (when such part is in effect) such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

''(b) CONDITIONS ON EFFECTIVENESS OF PARTS A AND B.—

''(1) PART A.—Part A shall be in effect for any fiscal year for which the amount appropriated under paragraphs (1) and (2) of subsection (a) equals or exceeds $650,000,000.

''(2) PART B.—Part B shall be in effect only for a fiscal year for which part A is not in effect.

''(c) REFERENCES.—In any fiscal year for which part A is in effect, references in Federal law (other than this title) to part B shall be considered to be references to part A. In any fiscal year for which part B is in effect, references in Federal law (other than this title) to part A shall be considered to be references to part B.

"PART A—ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

"SEC. 3101. SHORT TITLE.

''This part may be cited as the 'English Language Acquisition, Language Enhancement, and Academic Achievement Act'.

"SEC. 3102. PURPOSES.

''The purposes of this part are—

''(1) to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

''(2) to assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 1111(b)(1);

''(3) to develop high-quality language instruction educational programs designed to assist

State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;

"(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings;

"(5) to assist State educational agencies, local educational agencies, and schools to build their capacity to establish, implement, and sustain language instruction educational programs and programs of English language development for limited English proficient children;

"(6) to promote parental and community participation in language instruction educational programs for the parents and communities of limited English proficient children;

"(7) to streamline language instruction educational programs into a program carried out through formula grants to State educational agencies and local educational agencies to help limited English proficient children, including immigrant children and youth, develop proficiency in English, while meeting challenging State academic content and student academic achievement standards;

"(8) to hold State educational agencies, local educational agencies, and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient children by requiring—

"(A) demonstrated improvements in the English proficiency of limited English proficient children each fiscal year; and

"(B) adequate yearly progress for limited English proficient children, including immigrant children and youth, as described in section 1111(b)(2)(B); and

"(9) to provide State educational agencies and local educational agencies with the flexibility to implement language instruction educational programs, based on scientifically based research on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

"Subpart 1—Grants and Subgrants for English Language Acquisition and Language Enhancement

"SEC. 3111. FORMULA GRANTS TO STATES.

"(a) IN GENERAL.—In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 3113, the Secretary shall make a grant for the year to the agency for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State educational agency under subsection (c).

"(b) USE OF FUNDS.—

"(1) SUBGRANTS TO ELIGIBLE ENTITIES.—The Secretary may make a grant under subsection (a) only if the State educational agency involved agrees to expend at least 95 percent of the State educational agency's allotment under subsection (c) for a fiscal year—

"(A) to award subgrants, from allocations under section 3114, to eligible entities to carry out the activities described in section 3115 (other than subsection (e)); and

"(B) to award subgrants under section 3114(d)(1) to eligible entities that are described in that section to carry out the activities described in section 3115(e).

"(2) STATE ACTIVITIES.—Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) may reserve not more than 5 percent of the agency's allotment under subsection (c) to carry out one or more of the following activities:

"(A) Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing requirements for teaching limited English proficient children.

"(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

"(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in—

"(i) identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;

"(ii) helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

"(iii) identifying or developing, and implementing, measures of English proficiency; and

"(iv) promoting parental and community participation in programs that serve limited English proficient children.

"(D) Providing recognition, which may include providing financial awards, to subgrantees that have exceeded their annual measurable achievement objectives pursuant to section 3122.

"(3) ADMINISTRATIVE EXPENSES.—From the amount reserved under paragraph (2), a State educational agency may use not more than 60 percent of such amount or $175,000, whichever is greater, for the planning and administrative costs of carrying out paragraphs (1) and (2).

"(c) RESERVATIONS AND ALLOTMENTS.—

"(1) RESERVATIONS.—From the amount appropriated under section 3001(a) for each fiscal year, the Secretary shall reserve—

"(A) 0.5 percent or $5,000,000 of such amount, whichever is greater, for payments to eligible entities that are defined under section 3112(a) for activities, approved by the Secretary, consistent with this subpart;

"(B) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, for activities, approved by the Secretary, consistent with this subpart;

"(C) 6.5 percent of such amount for national activities under sections 3131 and 3303, except that not more than 0.5 percent of such amount shall be reserved for evaluation activities conducted by the Secretary and not more than $2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 3303; and

"(D) such sums as may be necessary to make continuation awards under paragraph (2).

"(2) CONTINUATION AWARDS.—

"(A) IN GENERAL.—Before making allotments to State educational agencies under paragraph (3) for any fiscal year, the Secretary shall use the sums reserved under paragraph (1)(D) to make continuation awards to recipients who received grants or fellowships for the fiscal year preceding any fiscal year described in section 3001(b)(1)(A) under—

"(i) subparts 1 and 3 of part A of title VII (as in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); or

"(ii) subparts 1 and 3 of part B of this title.

"(B) USE OF FUNDS.—The Secretary shall make the awards in order to allow such recipients to receive awards for the complete period of their grants or fellowships under the appropriate subparts.

"(3) STATE ALLOTMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amount appropriated under section 3001(a) for each fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 3113(c)—

"(i) an amount that bears the same relationship to 80 percent of the remainder as the number of limited English proficient children in the State bears to the number of such children in all States; and

"(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States.

"(B) MINIMUM ALLOTMENTS.—No State educational agency shall receive an allotment under this paragraph that is less than $500,000.

"(C) REALLOTMENT.—If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this subpart, the Secretary—

"(i) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State to satisfy the requirements of section 3115 (and any additional requirements that the Secretary may impose), consistent with the purposes of such section, and to carry out required and authorized activities under such section; and

"(ii) shall reallot any portion of such allotment remaining after the application of clause (i) to the remaining State educational agencies in accordance with subparagraph (A).

"(D) SPECIAL RULE FOR PUERTO RICO.—The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

"(4) USE OF DATA FOR DETERMINATIONS.—

"(A) IN GENERAL.—In making State allotments under paragraph (3), for the purpose of determining the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, for each fiscal year, the Secretary shall use data that will yield the most accurate, up-to-date numbers of such children and youth.

"(B) SPECIAL RULE.—

"(i) FIRST 2 YEARS.—In making determinations under subparagraph (A) for the 2 fiscal years following the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using data available from the Bureau of Census or submitted by the States to the Secretary.

"(ii) SUBSEQUENT YEARS.—For subsequent fiscal years, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using the more accurate of—

"(I) the data available from the American Community Survey available from the Department of Commerce; or

"(II) the number of children being assessed for English proficiency in a State as required under section 1111(b)(7).

"SEC. 3112. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American children (including Alaska Native children), the following shall be considered to be an eligible entity:

"(1) An Indian tribe.

"(2) A tribally sanctioned educational authority.

"(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

"(4) An elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

"(5) An elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.

"(6) An elementary school or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

"(b) Submission of Applications for Assistance.—Notwithstanding any other provision of this part, an entity that is considered to be an eligible entity under subsection (a), and that desires to receive Federal financial assistance under this subpart, shall submit an application to the Secretary.

"(c) Special Rule.—An eligible entity described in subsection (a) that receives Federal financial assistance pursuant to this section shall not be eligible to receive a subgrant under section 3114.

"SEC. 3113. STATE AND SPECIALLY QUALIFIED AGENCY PLANS.

"(a) Plan Required.—Each State educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(b) Contents.—Each plan submitted under subsection (a) shall—

"(1) describe the process that the agency will use in making subgrants to eligible entities under section 3114(d)(1);

"(2) describe how the agency will establish standards and objectives for raising the level of English proficiency that are derived from the 4 recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student academic achievement standards described in section 1111(b)(1);

"(3) contain an assurance that—

"(A) in the case of a State educational agency, the agency consulted with local educational agencies, education-related community groups and nonprofit organizations, parents, teachers, school administrators, and researchers, in developing the annual measurable achievement objectives described in section 3122;

"(B) in the case of a specially qualified agency, the agency consulted with education-related community groups and nonprofit organizations, parents, teachers, and researchers, in developing the annual measurable achievement objectives described in section 3122;

"(C) the agency will ensure that eligible entities receiving a subgrant under this subpart comply with the requirement in section 1111(b)(7) to annually assess in English children who have been in the United States for 3 or more consecutive years;

"(D) the agency will ensure that eligible entities receiving a subgrant under this subpart annually assess the English proficiency of all limited English proficient children participating in a program funded under this subpart, consistent with section 1111(b)(7);

"(E) in awarding subgrants under section 3114, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

"(F) subgrants to eligible entities under section 3114(d)(1) will be of sufficient size and scope to allow such entities to carry out high-quality language instruction educational programs for limited English proficient children; and

"(G) the agency will require an eligible entity receiving a subgrant under this subpart to use the subgrant in ways that will build such recipient's capacity to continue to offer high-quality language instruction educational programs that assist limited English proficient children in meeting challenging State academic content and student academic achievement standards once assistance under this subpart is no longer available;

"(4) describe how the agency will coordinate its programs and activities under this subpart with its other programs and activities under this Act and other Acts, as appropriate;

"(5) describe how the agency will hold local educational agencies, eligible entities, elementary schools, and secondary schools accountable for—

"(A) meeting all annual measurable achievement objectives described in section 3122;

"(B) making adequate yearly progress for limited English proficient children, as described in section 1111(b)(2)(B); and

"(C) achieving the purposes of this part; and

"(6) describe how eligible entities in the State will be given the flexibility to teach limited English proficient children—

"(A) using a language instruction curriculum that is tied to scientifically based research on teaching limited English proficient children and that has been demonstrated to be effective; and

"(B) in the manner the eligible entities determine to be the most effective.

"(c) Approval.—The Secretary, after using a peer review process, shall approve a plan submitted under subsection (a) if the plan meets the requirements of this section.

"(d) Duration of Plan.—

"(1) In general.—Each plan submitted by a State educational agency or specially qualified agency and approved under subsection (c) shall—

"(A) remain in effect for the duration of the agency's participation under this part; and

"(B) be periodically reviewed and revised by the agency, as necessary, to reflect changes to the agency's strategies and programs carried out under this part.

"(2) Additional information.—

"(A) Amendments.—If the State educational agency or specially qualified agency amends the plan, the agency shall submit such amendment to the Secretary.

"(B) Approval.—The Secretary shall approve such amendment to an approved plan, unless the Secretary determines that the amendment will result in the agency not meeting the requirements, or fulfilling the purposes, of this part.

"(e) Consolidated Plan.—A plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 9302.

"(f) Secretary Assistance.—The Secretary shall provide technical assistance, if requested, in the development of English proficiency standards, objectives, and assessments.

"SEC. 3114. WITHIN-STATE ALLOCATIONS.

"(a) In General.—After making the reservation required under subsection (d)(1), each State educational agency receiving a grant under section 3111(c)(3) shall award subgrants for a fiscal year by allocating to each eligible entity in the State having a plan approved under section 3116 an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of limited English proficient children in schools served by the eligible entity bears to the population of limited English proficient children in schools served by all eligible entities in the State.

"(b) Limitation.—A State educational agency shall not award a subgrant from an allocation made under subsection (a) if the amount of such subgrant would be less than $10,000.

"(c) Reallocation.—Whenever a State educational agency determines that an amount from an allocation made to an eligible entity under subsection (a) for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount, consistent with such subsection, to other eligible entities in the State that the agency determines will use the amount to carry out that purpose.

"(d) Required Reservation.—A State educational agency receiving a grant under this subpart for a fiscal year—

"(1) shall reserve not more than 15 percent of the agency's allotment under section 3111(c)(3) to award subgrants to eligible entities in the State that have experienced a significant increase, as compared to the average of the 2 preceding fiscal years, in the percentage or number of immigrant children and youth, who have enrolled, during the fiscal year preceding the fiscal year for which the subgrant is made, in public and nonpublic elementary schools and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities; and

"(2) in awarding subgrants under paragraph (1)—

"(A) shall equally consider eligible entities that satisfy the requirement of such paragraph but have limited or no experience in serving immigrant children and youth; and

"(B) shall consider the quality of each local plan under section 3116 and ensure that each subgrant is of sufficient size and scope to meet the purposes of this part.

"SEC. 3115. SUBGRANTS TO ELIGIBLE ENTITIES.

"(a) Purposes of Subgrants.—A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children, by assisting the children to learn English and meet challenging State academic content and student academic achievement standards. In carrying out activities with such funds, the entity shall use approaches and methodologies based on scientifically based research on teaching limited English proficient children and immigrant children and youth for the following purposes:

"(1) Developing and implementing new language instruction educational programs and academic content instruction programs for such children, and such children and youth, including programs of early childhood education, elementary school programs, and secondary school programs.

"(2) Carrying out highly focused, innovative, locally designed activities to expand or enhance existing language instruction educational programs and academic content instruction programs for such children, and such children and youth.

"(3) Implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for such children, and such children and youth.

"(4) Implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs, activities, and *operations relating to language instruction educational programs and academic content instruction for such children, and such children and youth.*

“(b) ADMINISTRATIVE EXPENSES.—Each eligible entity receiving funds under section 3114(a) for a fiscal year may use not more than 2 percent of such funds for the cost of administering this subpart.

“(c) REQUIRED SUBGRANTEE ACTIVITIES.—An eligible entity receiving funds under section 3114(a) shall use the funds—

“(1) to increase the English proficiency of limited English proficient children by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing—

“(A) English proficiency; and

“(B) student academic achievement in the core academic subjects; and

“(2) to provide high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel, that is—

“(A) designed to improve the instruction and assessment of limited English proficient children;

“(B) designed to enhance the ability of such teachers to understand and use curricula, assessment measures, and instruction strategies for limited English proficient children;

“(C) based on scientifically based research demonstrating the effectiveness of the professional development in increasing children's English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and

“(D) of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher.

“(d) AUTHORIZED SUBGRANTEE ACTIVITIES.—Subject to subsection (c), an eligible entity receiving funds under section 3114(a) may use the funds to achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities:

“(1) Upgrading program objectives and effective instruction strategies.

“(2) Improving the instruction program for limited English proficient children by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.

“(3) Providing—

“(A) tutorials and academic or vocational education for limited English proficient children; and

“(B) intensified instruction.

“(4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

“(5) Improving the English proficiency and academic achievement of limited English proficient children.

“(6) Providing community participation programs, family literacy services, and parent outreach and training activities to limited English proficient children and their families—

“(A) to improve the English language skills of limited English proficient children; and

“(B) to assist parents in helping their children to improve their academic achievement and becoming active participants in the education of their children.

“(7) Improving the instruction of limited English proficient children by providing for—

“(A) the acquisition or development of educational technology or instructional materials;

“(B) access to, and participation in, electronic networks for materials, training, and communication; and

“(C) incorporation of the resources described in subparagraphs (A) and (B) into curricula and programs, such as those funded under this subpart.

“(8) Carrying out other activities that are consistent with the purposes of this section.

“(e) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH.—

“(1) IN GENERAL.—An eligible entity receiving funds under section 3114(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include—

“(A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

“(B) support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

“(C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;

“(D) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with funds;

“(E) basic instruction services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

“(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

“(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

“(2) DURATION OF SUBGRANTS.—The duration of a subgrant made by a State educational agency under section 3114(d)(1) shall be determined by the agency in its discretion.

“(f) SELECTION OF METHOD OF INSTRUCTION.—

“(1) IN GENERAL.—To receive a subgrant from a State educational agency under this subpart, an eligible entity shall select one or more methods or forms of instruction to be used in the programs and activities undertaken by the entity to assist limited English proficient children to attain English proficiency and meet challenging State academic content and student academic achievement standards.

“(2) CONSISTENCY.—Such selection shall be consistent with sections 3125 through 3127.

“(g) SUPPLEMENT, NOT SUPPLANT.—Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for limited English proficient children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

“SEC. 3116. LOCAL PLANS.

“(a) PLAN REQUIRED.—Each eligible entity desiring a subgrant from the State educational agency under section 3114 shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

“(b) CONTENTS.—Each plan submitted under subsection (a) shall—

“(1) describe the programs and activities proposed to be developed, implemented and administered under the subgrant;

“(2) describe how the eligible entity will use the subgrant funds to meet all annual measurable achievement objectives described in section 3122;

“(3) describe how the eligible entity will hold elementary schools and secondary schools receiving funds under this subpart accountable for—

“(A) meeting the annual measurable achievement objectives described in section 3122;

“(B) making adequate yearly progress for limited English proficient children, as described in section 1111(b)(2)(B); and

“(C) annually measuring the English proficiency of limited English proficient children, so that such children served by the programs carried out under this part develop proficiency in English while meeting State academic content and student academic achievement standards as required by section 1111(b)(1);

“(4) describe how the eligible entity will promote parental and community participation in programs for limited English proficient children;

“(5) contain an assurance that the eligible entity consulted with teachers, researchers, school administrators, and parents, and, if appropriate, with education-related community groups and nonprofit organizations, and institutions of higher education, in developing such plan; and

“(6) describe how language instruction educational programs carried out under the subgrant will ensure that limited English proficient children being served by the programs develop English proficiency.

“(c) TEACHER ENGLISH FLUENCY.—Each eligible entity receiving a subgrant under section 3114 shall include in its plan a certification that all teachers in any language instruction educational program for limited English proficient children that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.

“(d) OTHER REQUIREMENTS FOR APPROVAL.—Each local plan shall also contain assurances that—

“(1) each local educational agency that is included in the eligible entity is complying with section 3302 prior to, and throughout, each school year;

“(2) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this part;

“(3) the eligible entity has based its proposed plan on scientifically based research on teaching limited English proficient children;

“(4) the eligible entity will ensure that the programs will enable children to speak, read, write, and comprehend the English language and meet challenging State academic content and student academic achievement standards; and

“(5) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 3126 and 3127.

“Subpart 2—Accountability and Administration

“SEC. 3121. EVALUATIONS.

“(a) IN GENERAL.—Each eligible entity that receives a subgrant from a State educational

agency under subpart 1 shall provide such agency, at the conclusion of every second fiscal year during which the subgrant is received, with an evaluation, in a form prescribed by the agency, that includes—

“(1) a description of the programs and activities conducted by the entity with funds received under subpart 1 during the 2 immediately preceding fiscal years;

“(2) a description of the progress made by children in learning the English language and meeting challenging State academic content and student academic achievement standards;

“(3) the number and percentage of children in the programs and activities attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency; and

“(4) a description of the progress made by children in meeting challenging State academic content and student academic achievement standards for each of the 2 years after such children are no longer receiving services under this part.

“(b) Use of Evaluation.—An evaluation provided by an eligible entity under subsection (a) shall be used by the entity and the State educational agency—

“(1) for improvement of programs and activities;

“(2) to determine the effectiveness of programs and activities in assisting children who are limited English proficient to attain English proficiency (as measured consistent with subsection (d)) and meet challenging State academic content and student academic achievement standards; and

“(3) in determining whether or not to continue funding for specific programs or activities.

“(c) Evaluation Components.—An evaluation provided by an eligible entity under subsection (a) shall—

“(1) provide an evaluation of children enrolled in a program or activity conducted by the entity using funds under subpart 1 (including the percentage of children) who—

“(A) are making progress in attaining English proficiency, including the percentage of children who have achieved English proficiency;

“(B) have transitioned into classrooms not tailored to limited English proficient children, and have a sufficient level of English proficiency to permit them to achieve in English and transition into classrooms not tailored to limited English proficient children;

“(C) are meeting the same challenging State academic content and student academic achievement standards as all children are expected to meet; and

“(D) are not receiving waivers for the reading or language arts assessments under section 1111(b)(3)(C); and

“(2) include such other information as the State educational agency may require.

“(d) Evaluation Measures.—A State shall approve evaluation measures for use under subsection (c) that are designed to assess—

“(1) the progress of children in attaining English proficiency, including a child's level of comprehension, speaking, listening, reading, and writing skills in English;

“(2) student attainment of challenging State student academic achievement standards on assessments described in section 1111(b)(3); and

“(3) progress in meeting the annual measurable achievement objectives described in section 3122.

“(e) Special Rule for Specially Qualified Agencies.—Each specially qualified agency receiving a grant under this part shall provide the evaluations described in subsection (a) to the Secretary subject to the same requirements as apply to eligible entities providing such evaluations to State educational agencies under such subsection.

“SEC. 3122. ACHIEVEMENT OBJECTIVES AND ACCOUNTABILITY.

“(a) Achievement Objectives.—

“(1) In General.—Each State educational agency or specially qualified agency receiving a grant under subpart 1 shall develop annual measurable achievement objectives for limited English proficient children served under this part that relate to such children's development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards as required by section 1111(b)(1).

“(2) Development of Objectives.—Such annual measurable achievement objectives shall be developed in a manner that—

“(A) reflects the amount of time an individual child has been enrolled in a language instruction educational program; and

“(B) uses consistent methods and measurements to reflect the increases described in subparagraphs (A)(i), (A)(ii), and (B) of paragraph (3).

“(3) Contents.—Such annual measurable achievement objectives—

“(A) shall include—

“(i) at a minimum, annual increases in the number or percentage of children making progress in learning English;

“(ii) at a minimum, annual increases in the number or percentage of children attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency consistent with section 1111(b)(7); and

“(iii) making adequate yearly progress for limited English proficient children as described in section 1111(b)(2)(B); and

“(B) at the discretion of the agency, may include the number or percentage of children not receiving waivers for reading or language arts assessments under section 1111(b)(3)(C), but this achievement objective shall not be applied to an eligible entity that, in a given school year—

“(i) has experienced a large increase in limited English proficient children or immigrant children and youth;

“(ii) enrolls a statistically significant number of immigrant children and youth from countries where such children and youth had little or no access to formal education; or

“(iii) has a statistically significant number of immigrant children and youth who have fled from war or natural disaster.

“(b) Accountability.—

“(1) For States.—Each State educational agency receiving a grant under subpart 1 shall hold eligible entities receiving a subgrant under such subpart accountable for meeting the annual measurable achievement objectives under subsection (a), including making adequate yearly progress for limited English proficient children.

“(2) Improvement Plan.—If a State educational agency determines, based on the annual measurable achievement objectives described in subsection (a), that an eligible entity has failed to make progress toward meeting such objectives for 2 consecutive years, the agency shall require the entity to develop an improvement plan that will ensure that the entity meets such objectives. The improvement plan shall specifically address the factors that prevented the entity from achieving such objectives.

“(3) Technical Assistance.—During the development of the improvement plan described in paragraph (2), and throughout its implementation, the State educational agency shall—

“(A) provide technical assistance to the eligible entity;

“(B) provide technical assistance, if applicable, to schools served by such entity under subpart 1 that need assistance to enable the schools to meet the annual measurable achievement objectives described in subsection (a);

“(C) develop, in consultation with the entity, professional development strategies and activities, based on scientifically based research, that the agency will use to meet such objectives;

“(D) require such entity to utilize such strategies and activities; and

“(E) develop, in consultation with the entity, a plan to incorporate strategies and methodologies, based on scientifically based research, to improve the specific program or method of instruction provided to limited English proficient children.

“(4) Accountability.—If a State educational agency determines that an eligible entity has failed to meet the annual measurable achievement objectives described in subsection (a) for 4 consecutive years, the agency shall—

“(A) require such entity to modify the entity's curriculum, program, and method of instruction; or

“(B)(i) make a determination whether the entity shall continue to receive funds related to the entity's failure to meet such objectives; and

“(ii) require such entity to replace educational personnel relevant to the entity's failure to meet such objectives.

“(c) Special Rule for Specially Qualified Agencies.—The Secretary shall hold specially qualified agencies receiving a grant under this subpart accountable for meeting the annual measurable achievement objectives described in subsection (a) in the same manner as State educational agencies hold eligible entities accountable under subsection (b).

“SEC. 3123. REPORTING REQUIREMENTS.

“(a) States.—Based upon the evaluations provided to a State educational agency under section 3121, each such agency that receives a grant under this part shall prepare and submit every second year to the Secretary a report on programs and activities carried out by the State educational agency under this part and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient.

“(b) Secretary.—Every second year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

“(1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

“(2) on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this part to teach limited English proficient children;

“(3) containing a critical synthesis of data reported by eligible entities to States under section 3121(a);

“(4) containing a description of technical assistance and other assistance provided by State educational agencies under section 3111(b)(2)(C);

“(5) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

“(6) containing the major findings of scientifically based research carried out under this part;

“(7) containing the number of programs or activities, if any, that were terminated because the entities carrying out the programs or activities were not able to reach program goals;

“(8) containing the number of limited English proficient children served by eligible entities receiving funding under this part who were

transitioned out of language instruction educational programs funded under this part into classrooms where instruction is not tailored for limited English proficient children; and

"(9) containing other information gathered from the evaluations from specially qualified agencies and other reports submitted to the Secretary under this title when applicable.

"SEC. 3124. COORDINATION WITH RELATED PROGRAMS.

"In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other entities carrying out programs serving language-minority and limited English proficient children that are administered by the Department and other agencies.

"SEC. 3125. RULES OF CONSTRUCTION.

"Nothing in this part shall be construed—

"(1) to prohibit a local educational agency from serving limited English proficient children simultaneously with children with similar educational needs, in the same educational settings where appropriate;

"(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for limited English proficient children; or

"(3) to limit the preservation or use of Native American languages.

"SEC. 3126. LEGAL AUTHORITY UNDER STATE LAW.

"Nothing in this part shall be construed to negate or supersede State law, or the legal authority under State law of any State agency, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

"SEC. 3127. CIVIL RIGHTS.

"Nothing in this part shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

"SEC. 3128. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

"Notwithstanding any other provision of this part, programs authorized under this part that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

"SEC. 3129. PROHIBITION.

"In carrying out this part, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating limited English proficient children,

"Subpart 3—National Activities

"SEC. 3131. NATIONAL PROFESSIONAL DEVELOPMENT PROJECT.

"The Secretary shall use funds made available under section 3111(c)(1)(C) to award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for limited English proficient children and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve limited English proficient children. Grants awarded under this subsection may be used—

"(1) for preservice professional development programs that will assist local schools and institutions of higher education to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;

"(2) for the development of curricula appropriate to the needs of the consortia participants involved; and

"(3) in conjunction with other Federal need-based student financial assistance programs, for financial assistance, and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or licensing requirements for teachers who work in language instruction educational programs or serve limited English proficient children.

"Subpart 4—Definitions

"SEC. 3141. ELIGIBLE ENTITY.

"In this part, the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency.

"PART B—IMPROVING LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS

"SEC. 3201. SHORT TITLE.

"This part may be cited as the 'Improving Language Instruction Educational Programs For Academic Achievement Act'.

"SEC. 3202. PURPOSE.

"The purpose of this part is to help ensure that limited English proficient children master English and meet the same rigorous standards for academic achievement as all children are expected to meet, including meeting challenging State academic content and student academic achievement standards by—

"(1) promoting systemic improvement and reform of, and developing accountability systems for, educational programs serving limited English proficient children;

"(2) developing language skills and multicultural understanding;

"(3) developing the English proficiency of limited English proficient children and, to the extent possible, the native language skills of such children;

"(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

"(5) developing data collection and dissemination, research, materials, and technical assistance that are focused on school improvement for limited English proficient children; and

"(6) developing programs that strengthen and improve the professional training of educational personnel who work with limited English proficient children.

"SEC. 3203. NATIVE AMERICAN CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American (including Alaska Native) children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency.

"(b) APPLICATION.—Notwithstanding any other provision of this part, each tribe, authority, organization, or school described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the program proposed in the application.

"SEC. 3204. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED STATES.

"For the purpose of carrying out programs under this part in the outlying areas, the term 'local educational agency' includes public institutions or agencies whose mission is the preservation and maintenance of native languages.

"Subpart 1—Program Development and Enhancement

"SEC. 3211. FINANCIAL ASSISTANCE FOR LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS.

"The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 3212 and 3213—

"(1) to develop and enhance their capacity to provide high-quality instruction through language instruction educational programs or special alternative instruction programs to limited English proficient children; and

"(2) to help such children—

"(A) develop English proficiency and, to the extent possible, proficiency in their native language; and

"(B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet under section 1111(b)(1).

"SEC. 3212. PROGRAM ENHANCEMENT ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Secretary is authorized to award grants to eligible entities having applications approved under section 3214 to enable such entities to provide innovative, locally designed, high-quality instruction to limited English proficient children, by expanding, developing, or strengthening language instruction educational programs or special alternative instruction programs.

"(B) PERIOD.—Each grant awarded under this section shall be awarded for a period of 3 years.

"(2) AUTHORIZED ACTIVITIES.—

"(A) MANDATORY ACTIVITIES.—Grants awarded under this section shall be used for—

"(i) developing, implementing, expanding, or enhancing comprehensive preschool, elementary, or secondary education programs for limited English proficient children, that are—

"(I) aligned with State and local academic content and student academic achievement standards, and local school reform efforts; and

"(II) coordinated with related academic services for children;

"(ii) providing high-quality professional development to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of limited English proficient children; and

"(iii) annually assessing the English proficiency of all limited English proficient children served by activities carried out under this section.

"(B) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used for—

"(i) implementing programs to upgrade the reading and other academic skills of limited English proficient children;

"(ii) developing accountability systems to monitor the academic progress of limited English proficient and formerly limited English proficient children;

"(iii) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

''(iv) improving the instruction programs for limited English proficient children by identifying, acquiring, and applying effective curricula, instruction materials (including materials provided through technology), and assessments that are all aligned with State and local standards;

''(v) providing intensified instruction, including tutorials and academic, or vocational and technical, training, for limited English proficient children;

''(vi) adapting best practice models for meeting the needs of limited English proficient children;

''(vii) assisting limited English proficient children with disabilities;

''(viii) implementing applied learning activities such as service learning to enhance and support comprehensive elementary and secondary language instruction educational programs;

''(ix) acquiring or developing education technology or instruction materials for limited English proficient children, including materials in languages other than English;

''(x) participating in electronic networks for materials, training, and communication, and incorporating information derived from such participation in curricula and programs; and

''(xi) carrying out such other activities related to the purpose of this part as the Secretary may approve.

''(b) PRIORITY.—In awarding grants under this section, the Secretary may give priority to an entity that—

''(1) serves a school district—

''(A) that has a total district enrollment that is less than 10,000 students; or

''(B) with a large percentage or number of limited English proficient children; and

''(2) has limited or no experience in serving limited English proficient children.

''(c) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) one or more local educational agencies;

''(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization, or State educational agency; or

''(3) a community-based organization or an institution of higher education that has an application approved by the local educational agency to participate in programs carried out under this subpart by enhancing early childhood education or family education programs or conducting instruction programs that supplement the educational services provided by a local educational agency.

"SEC. 3213. COMPREHENSIVE SCHOOL AND SYSTEMWIDE IMPROVEMENT ACTIVITIES.

''(a) PROGRAM AUTHORIZED.—

''(1) AUTHORITY.—The Secretary is authorized to award grants to eligible entities having applications approved under section 3214 to enable such entities to develop and implement language instruction educational programs, and improve, reform, or upgrade programs or operations that serve significant percentages or numbers of limited English proficient children.

''(2) MANDATORY ACTIVITIES.—Grants awarded under this section shall be used for—

''(A) improving instruction programs for limited English proficient children by acquiring and upgrading curricula and related instruction materials;

''(B) aligning the activities carried out under this section with State and local school reform efforts;

''(C) providing training, aligned with State and local standards, to school personnel and participating community-based organization personnel to improve the instruction and assessment of limited English proficient children;

''(D) developing and implementing plans, coordinated with plans for programs carried out under title II of the Higher Education Act of 1965 (where applicable), and title II of this Act (where applicable), to recruit teachers trained to serve limited English proficient children;

''(E) implementing culturally and linguistically appropriate family education programs, or parent outreach and training activities, that are designed to assist parents of limited English proficient children to become active participants in the education of their children;

''(F) coordinating the activities carried out under this section with other programs, such as programs carried out under this title;

''(G) providing services to meet the full range of the educational needs of limited English proficient children;

''(H) annually assessing the English proficiency of all limited English proficient children served by the activities carried out under this section; and

''(I) developing or improving accountability systems to monitor the academic progress of limited English proficient children.

''(3) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used for—

''(A) implementing programs to upgrade reading and other academic skills of limited English proficient children;

''(B) developing and using educational technology to improve learning, assessments, and accountability to meet the needs of limited English proficient children;

''(C) implementing scientifically based research programs to meet the needs of limited English proficient children;

''(D) providing tutorials and academic, or vocational and technical, training for limited English proficient children;

''(E) developing and implementing State and local academic content and student academic achievement standards for learning English as a second language, as well as for learning other languages;

''(F) developing and implementing programs for limited English proficient children to meet the needs of changing populations of such children;

''(G) implementing policies to ensure that limited English proficient children have access to other education programs (other than programs designed to address limited English proficiency);

''(H) assisting limited English proficient children with disabilities;

''(I) developing and implementing programs to help children become proficient in English and other languages;

''(J) acquiring or developing education technology or instruction materials for limited English proficient children, including materials in languages other than English;

''(K) participating in electronic networks for materials, training, and communication and incorporating information derived from such participation in curricula and programs; and

''(L) carrying out such other activities related to the purpose of this part as the Secretary may approve.

''(4) SPECIAL RULE.—

''(A) PLANNING.—A recipient of a grant under this section, before carrying out activities under this section, shall plan, train personnel, develop curricula, and acquire or develop materials, but shall not use funds made available under this section for planning purposes for more than 45 days.

''(B) COMMENCEMENT OF ACTIVITIES.— The recipient shall commence carrying out activities under this section not later than the later of—

''(i) the beginning of the first school year that begins after the grant is received; or

''(ii) 30 days after the date of receipt of the grant.

''(b) AVAILABILITY OF APPROPRIATIONS.—

''(1) RESERVATION OF FUNDS FOR CONTINUED PAYMENTS.—

''(A) COVERED GRANT.—In this paragraph, the term 'covered grant' means a grant—

''(i) that was awarded under section 7112, 7113, 7114, or 7115 (as such sections were in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and

''(ii) for which the grant period has not ended.

''(B) RESERVATION.—For any fiscal year that is part of the grant period of a covered grant, the Secretary shall reserve funds for the payments described in subparagraph (C) from the amount appropriated for the fiscal year under section 3001(a) and made available for carrying out this section.

''(C) PAYMENTS.—The Secretary shall continue to make grant payments to each entity that received a covered grant, in accordance with the terms of that grant, for the duration of the grant period of the grant, to carry out activities in accordance with the appropriate section described in subparagraph (A)(i).

''(2) AVAILABILITY.—Of the amount appropriated for a fiscal year under section 3001(a) that is made available to carry out this section, and that remains after the Secretary reserves funds for payments under paragraph (1)—

''(A) not less than ⅓ of the remainder shall be used to award grants to eligible entities for activities carried out within an entire school district; and

''(B) not less than ⅔ of the remainder shall be used to award grants to eligible entities for activities carried out within individual schools.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to an applicant that—

''(1) experiences a significant increase in the number or percentage of limited English proficient children enrolled in the applicant's programs and has limited or no experience in serving limited English proficient children;

''(2) is a local educational agency that serves a school district that has a total district enrollment that is less than 10,000 students;

''(3) demonstrates that the applicant has a proven track record of success in helping limited English proficient children learn English and meet high academic standards; or

''(4) serves a school district with a large number or percentage of limited English proficient children.

''(d) ELIGIBLE ENTITIES.—In this section, the term 'eligible entity' means—

''(1) one or more local educational agencies; or

''(2) one or more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency.

"SEC. 3214. APPLICATIONS.

''(a) IN GENERAL.—

''(1) SECRETARY.—To receive a grant under this subpart, an eligible entity described in section 3212 or 3213 shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

''(2) STATE EDUCATIONAL AGENCY.—The eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application submitted by the entity under this section to the State educational agency.

''(b) STATE REVIEW AND COMMENTS.—

''(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and submit the written comments of the agency regarding the application to the Secretary.

''(2) COMMENTS.—

"(A) SUBMISSION OF COMMENTS.—Regarding applications submitted under this subpart, the State educational agency shall—

"(i) submit to the Secretary written comments regarding all such applications; and

"(ii) submit to each eligible entity the comments that pertain to such entity.

"(B) SUBJECT.—For purposes of this subpart, such comments shall address—

"(i) how the activities to be carried out under the grant will further the academic achievement and English proficiency of limited English proficient children served under the grant; and

"(ii) how the grant application is consistent with the State plan required under section 1111.

"(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

"(d) COMMENT CONSIDERATION.—In making grants under this subpart, the Secretary shall take into consideration comments made by State educational agencies.

"(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement specified in subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the program authorized in section 3224, particularly such agency's ability to carry out data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this subpart.

"(f) REQUIRED DOCUMENTATION.—Such application shall include documentation that—

"(1) the applicant has the qualified personnel required to develop, administer, and implement the program proposed in the application; and

"(2) the leadership personnel of each school participating in the program have been involved in the development and planning of the program in the school.

"(g) CONTENTS.—

"(1) IN GENERAL.—An application for a grant under this subpart shall contain the following:

"(A) A description of the need for the proposed program, including—

"(i) data on the number of limited English proficient children in the school or school district to be served;

"(ii) information on the characteristics of the children, including—

"(I) the native languages of the children;

"(II) the proficiency of the children in English and their native language;

"(III) achievement data (current as of the date of submission of the application) for the limited English proficient children in—

"(aa) reading or language arts (in English and in the native language, if applicable); and

"(bb) mathematics;

"(IV) a comparison of that data for the children with that data for the English proficient peers of the children; and

"(V) the previous schooling experiences of the children;

"(iii) the professional development needs of the instruction personnel who will provide services for the limited English proficient children under the proposed program; and

"(iv) how the services provided through the grant will supplement the basic services provided to limited English proficient children.

"(B) A description of the program to be implemented and how such program's design—

"(i) relates to the linguistic and academic needs of the limited English proficient children to be served;

"(ii) will ensure that the services provided through the program will supplement the basic services the applicant provides to limited English proficient children;

"(iii) will ensure that the program is coordinated with other programs under this Act and other Acts;

"(iv) involves the parents of the limited English proficient children to be served;

"(v) ensures accountability in achieving high academic standards; and

"(vi) promotes coordination of services for the limited English proficient children to be served and their families.

"(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local educational agencies or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

"(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for language instruction educational programs or special alternative instruction programs if the applicant receives an award under this subpart.

"(E) An assurance that the applicant will employ teachers in the proposed program who, individually or in combination, are proficient in—

"(i) English, with respect to written, as well as oral, communication skills; and

"(ii) the native language of the majority of the children who the teachers teach, if instruction in the program is in the native language as well as English.

"(F) A budget for the grant funds.

"(2) ADDITIONAL INFORMATION.—Each application for a grant under section 3213 shall—

"(A) describe—

"(i) current services (as of the date of submission of the application) the applicant provides to limited English proficient children;

"(ii) what services limited English proficient children will receive under the grant that such children will not otherwise receive;

"(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve limited English proficient children;

"(iv) specific achievement and school retention goals for the children to be served by the proposed program and how progress toward achieving such goals will be measured; and

"(v) the current family education programs (as of the date of submission of the application) of the eligible entity, if applicable; and

"(B) provide assurances that—

"(i) the program funded with the grant will be integrated with the overall educational program of the children served through the proposed program; and

"(ii) the application has been developed in consultation with parents and other representatives of the children to be served in such program.

"(h) APPROVAL OF APPLICATIONS.—An application for a grant under this subpart may be approved only if the Secretary determines that—

"(1) the program proposed in the application will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

"(2) in designing the program, the eligible entity has, after consultation with appropriate private school officials—

"(A) taken into account the needs of children in nonprofit private elementary schools and secondary schools; and

"(B) in a manner consistent with the number of such children enrolled in such schools in the area to be served, whose educational needs are of the type and whose language, and grade levels are of a similar type to the needs, language, and grade levels that the program is intended to address, provided for the participation of such children on a basis comparable to the basis on which public school children participate;

"(3)(A) student evaluation and assessment procedures in the program are valid and reliable for limited English proficient children; and

"(B) limited English proficient children with disabilities will be identified and served through the program in accordance with the requirements of the Individuals with Disabilities Education Act;

"(4) Federal funds made available for the program will be used to supplement the State and local funds that, in the absence of such Federal funds, would be expended for special programs for children of limited English proficient individuals, and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds made available under this subpart—

"(A) for activities carried out under an order of a Federal or State court respecting services to be provided to such children; or

"(B) to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided to such children;

"(5)(A) the assistance provided through the grant will contribute toward building the capacity of the eligible entity to provide a program on a regular basis, similar to the proposed program, that will be of sufficient size, scope, and quality to promise significant improvement in the education of limited English proficient children; and

"(B) the eligible entity will have the resources and commitment to continue the program of sufficient size, scope, and quality when assistance under this subpart is reduced or no longer available; and

"(6) the eligible entity will use State and national dissemination sources for program design and dissemination of results and products.

"(i) CONSIDERATION.—In determining whether to approve an application under this subpart, the Secretary shall give consideration to—

"(1) the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local educational agency and State educational agency, or businesses; and

"(2) whether the application provides for training for personnel participating in, or preparing to participate in, a program that will assist such personnel in meeting State and local certification requirements.

"SEC. 3215. CAPACITY BUILDING.

"Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality language instruction educational programs and special alternative instruction programs to limited English proficient children after Federal assistance is reduced or eliminated.

"SEC. 3216. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

"Notwithstanding any other provision of this part, programs authorized under this subpart that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

"SEC. 3217. EVALUATIONS.

"(a) EVALUATION.—Each recipient of funds under this subpart for a program shall annually conduct an evaluation of the program and submit to the Secretary a report concerning the

evaluation, in the form prescribed by the Secretary.

"(b) USE OF EVALUATION.—Such evaluation shall be used by the grant recipient—

"(1) for program improvement;

"(2) to further define the program's goals and objectives; and

"(3) to determine program effectiveness.

"(c) EVALUATION REPORT COMPONENTS.—In preparing the evaluation reports, the recipient shall—

"(1) use the data provided in the application submitted by the recipient under section 3214 as baseline data against which to report academic achievement and gains in English proficiency for children in the program;

"(2) disaggregate the results of the evaluation by gender, native languages spoken by children, socioeconomic status, and whether the children have disabilities;

"(3) include data on the progress of the recipient in achieving the objectives of the program, including data demonstrating the extent to which children served by the program are meeting the challenging State academic content and student academic achievement standards, and including data comparing limited English proficient children with English proficient children with regard to school retention and academic achievement concerning—

"(A) reading and language arts;

"(B) English proficiency;

"(C) mathematics; and

"(D) the native language of the children, if the program develops native language proficiency;

"(4) include information on the extent that professional development activities carried out through the program have resulted in improved classroom practices and improved student academic achievement;

"(5) include a description of how the activities carried out through the program are coordinated and integrated with the other Federal, State, or local programs serving limited English proficient children; and

"(6) include such other information as the Secretary may require.

"SEC. 3218. CONSTRUCTION.

"Nothing in this subpart shall be construed to prohibit a local educational agency from serving limited English proficient children simultaneously with children with similar educational needs, in the same educational settings where appropriate.

"Subpart 2—Research, Evaluation, and Dissemination

"SEC. 3221. AUTHORITY.

"(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving language instruction educational programs and special alternative instruction programs for limited English proficient children.

"(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts, and cooperative agreements awarded to institutions of higher education, nonprofit organizations, State educational agencies, and local educational agencies.

"(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

"SEC. 3222. RESEARCH.

"(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

"(b) REQUIREMENTS.—Such research activities—

"(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient children and their families;

"(2) may include research on effective instruction practices for multilingual classes, and on effective instruction strategies to be used by a teacher or other staff member who does not know the native language of a limited English proficient child in the teacher's or staff member's classroom;

"(3) may include establishing (through the National Center for Education Statistics in consultation with experts in second language acquisition and scientifically based research on teaching limited English proficient children) a common definition of 'limited English proficient child' for purposes of national data collection; and

"(4) shall be administered by individuals with expertise in second language acquisition, scientifically based research on teaching limited English proficient children, and the needs of limited English proficient children and their families.

"(c) FIELD-INITIATED RESEARCH.—

"(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by recipients of grants under subpart 1 or this subpart who have received such grants within the previous 5 years. Such research may provide for longitudinal studies of limited English proficient children or teachers who serve such children, monitoring the education of such children from entry into language instruction educational programs through secondary school completion.

"(2) APPLICATIONS.—An applicant for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as the applicant submits another application under subpart 1 or this subpart. The Secretary shall complete a review of such applications on a timely basis to allow the activities carried out under research and program grants to be coordinated when recipients are awarded 2 or more of such grants.

"(d) CONSULTATION.—The Secretary shall consult with agencies, organizations, and individuals that are engaged in research and practice on the education of limited English proficient children, language instruction educational programs, or related research, to identify areas of study and activities to be funded under this section.

"(e) DATA COLLECTION.—The Secretary shall provide for the collection of data on limited English proficient children as part of the data systems operated by the Department.

"SEC. 3223. ACADEMIC EXCELLENCE AWARDS.

"(a) AUTHORITY.—The Secretary may make grants to State educational agencies to assist the agencies in recognizing local educational agencies and other public and nonprofit entities whose programs have—

"(1) demonstrated significant progress in assisting limited English proficient children to learn English according to age appropriate and developmentally appropriate standards; and

"(2) demonstrated significant progress in assisting limited English proficient children to meet, according to age appropriate and developmentally appropriate standards, the same challenging State academic content and student academic achievement standards as all children are expected to meet.

"(b) APPLICATIONS.—A State educational agency desiring a grant under this section shall include an application for such grant in the application submitted by the agency under section 3224(e).

"SEC. 3224. STATE GRANT PROGRAM.

"(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's programs and other Federal education programs, effectively provides for the education of limited English proficient children within the State.

"(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies and entities within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use funds awarded under this section—

"(A) to assist local educational agencies in the State with activities that—

"(i) consist of program design, capacity building, assessment of student academic achievement, program evaluation, and development of data collection and accountability systems for limited English proficient children; and

"(ii) are aligned with State reform efforts; and

"(B) to collect data on the State's limited English proficient populations and document the services available to all such populations.

"(2) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children.

"(3) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

"(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this subpart and other individuals or organizations involved in the development or operation of programs serving limited English proficient children to ensure that such funds are used in a manner consistent with the requirements of this subpart.

"(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(f) SUPPLEMENT, NOT SUPPLANT.—Federal funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the State funds that, in the absence of such Federal funds, would be made available for the purposes described in this section, and in no case to supplant such State funds.

"(g) REPORT TO THE SECRETARY.—A State educational agency receiving an award under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of the funds made available through the award.

"SEC. 3225. INSTRUCTION MATERIALS DEVELOPMENT.

"(a) IN GENERAL.—The Secretary may make grants for the development, publication, and dissemination of high-quality instruction materials—

"(1) in Native American languages (including Native Hawaiian languages and the language of Native American Pacific Islanders), and the language of natives of the outlying areas, for which instruction materials are not readily available; and

"(2) in other low-incidence languages in the United States for which instruction materials are not readily available.

"(b) PRIORITY.—In making the grants, the Secretary shall give priority to applicants for the grants who propose—

"(1) to develop instruction materials in languages indigenous to the United States or the outlying areas; and

"(2) to develop and evaluate materials, in collaboration with entities carrying out activities assisted under subpart 1 and this subpart, that are consistent with challenging State academic content and student academic achievement standards.

"Subpart 3—Professional Development

"SEC. 3231. PROFESSIONAL DEVELOPMENT GRANTS.

"(a) PURPOSE.—The purpose of this section is to provide assistance to prepare educators to improve educational services for limited English proficient children by—

"(1) supporting professional development programs and activities to prepare teachers, pupil service personnel, administrators, and other educational personnel working in language instruction educational programs to provide effective services to limited English proficient children;

"(2) incorporating curricula and resources concerning appropriate and effective instruction and assessment methodologies specific to limited English proficient children into preservice and inservice professional development programs;

"(3) upgrading the qualifications and skills of non-certified educational personnel, including paraprofessionals, to enable such personnel to meet high professional standards for educating limited English proficient children;

"(4) improving the quality of professional development programs in schools or departments of education at institutions of higher education, for educational personnel serving, or preparing to serve, limited English proficient children; and

"(5) supporting the recruitment and training of prospective educational personnel to serve limited English proficient children by providing fellowships for undergraduate, graduate, doctoral, and post-doctoral study related to the instruction of such children.

"(b) AUTHORIZATION.—

"(1) IN GENERAL.—The Secretary is authorized to award grants under this section to—

"(A) State educational agencies;

"(B) local educational agencies;

"(C) institutions of higher education; or

"(D) consortia of one or more local educational agencies, State educational agencies, institutions of higher education, for-profit organizations, or nonprofit organizations.

"(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 4 years.

"(c) AUTHORIZED ACTIVITIES.—Grants awarded under this section shall be used to conduct high-quality professional development programs and effective activities to improve the quality of instruction and services provided to limited English proficient children, including—

"(1) implementing preservice and inservice professional development programs for teachers who serve limited English proficient children, administrators, and other educational personnel who are preparing to provide educational services for limited English proficient children, including professional development programs that assist limited English proficient children to attain English proficiency;

"(2) implementing school-based collaborative efforts among teachers to improve instruction in core academic subjects, especially reading, for limited English proficient children;

"(3) developing and implementing programs to assist beginning teachers who serve limited English proficient children with transitioning to the teaching profession, including programs that provide mentoring and team teaching with trained and experienced teachers;

"(4) implementing programs that support effective teacher use of education technologies to improve instruction and assessment;

"(5) developing curricular materials and assessments for teachers that are appropriate to the needs of limited English proficient children, and that are aligned with challenging State academic content and student academic achievement standards, including materials and assessments that ensure limited English proficient children attain English proficiency;

"(6) integrating and coordinating activities with entities carrying out other programs consistent with the purpose of this section and supported under this Act, or other Acts as appropriate;

"(7) developing and implementing career ladder programs to upgrade the qualifications and skills of non-certified educational personnel working in, or preparing to work in, language instruction educational programs to enable such personnel to meet high professional standards, including standards for certification and licensure as teachers;

"(8) developing and implementing activities to help recruit and train secondary school students as teachers who serve limited English proficient children;

"(9) providing fellowships and assistance for costs related to enrollment in a course of study at an institution of higher education that addresses the instruction of limited English proficient children in such areas as teacher training, program administration, research, evaluation, and curriculum development, and for the support of dissertation research related to such study, except that any person receiving such a fellowship or assistance shall agree to—

"(A) work in an activity related to improving the educational services for limited English proficient children authorized under this subpart, including work as a teacher that serves limited English proficient children, for a period of time equivalent to the period of time during which such person receives assistance under this paragraph; or

"(B) repay such assistance; and

"(10) carrying out such other activities as are consistent with the purpose of this section.

"(d) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) CONTENTS.—Each application shall—

"(A) describe the programs and activities proposed to be developed, implemented, and administered under the award;

"(B) describe how the applicant has consulted with, and assessed the needs of, public and private schools serving limited English proficient children to determine such schools' need for, and the design of, the program for which funds are sought; and

"(C) describe how the programs and activities to be carried out under the award will be used to ensure that limited English proficient children meet challenging State academic content and student academic achievement standards and attain English proficiency.

"(3) SPECIAL RULE.—An eligible entity that proposes to conduct a master's-level or doctoral-level program with funds received under this section shall include in the entity's application an assurance that such program will include a training practicum in a local elementary school or secondary school program serving limited English proficient children.

"(4) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965, and institutions of higher education that are operated or funded by the Bureau of Indian Affairs, to facilitate the participation of such institutions in programs and activities under this section.

"(5) DISTRIBUTION RULE.—In making awards under this section, the Secretary shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in carrying out the programs and activities authorized under this section and that are otherwise qualified.

"(e) PRIORITIES IN AWARDING GRANTS.—

"(1) GRANTS TO AGENCIES.—In awarding grants to State educational agencies and local educational agencies under this section, the Secretary shall give priority to agencies that propose programs and activities designed to implement professional development programs for teachers and educational personnel who are providing or preparing to provide educational services for limited English proficient children, including services provided through language instruction educational programs, that ensure such children attain English proficiency and meet challenging State academic content and student academic achievement standards.

"(2) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—In awarding grants to institutions of higher education under this section, the Secretary shall give priority to institutions that propose programs and activities to recruit and upgrade the qualifications and skills of certified and non-certified educational personnel by offering degree programs that prepare beginning teachers to serve limited English proficient children.

"(f) PROGRAM EVALUATIONS.—Each recipient of an award under this section for a program or activity shall annually conduct an independent evaluation of the program or activity and submit to the Secretary a report containing such evaluation. Such report shall include information on—

"(1) the program or activity conducted by the recipient to provide high-quality professional development to participants in such program or activity;

"(2) the number of participants served through the program or activity, the number of participants who completed the requirements of the program or activity, and the number of participants who took positions in an instruction setting with limited English proficient children;

"(3) the effectiveness of the program or activity in imparting the professional skills necessary for participants to achieve the objectives of the program or activity; and

"(4) the teaching effectiveness of graduates of the program or activity or other participants who have completed the program or activity.

"Subpart 4—Emergency Immigrant Education Program

"SEC. 3241. PURPOSE.

"The purpose of this subpart is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration—

"(1) to provide high-quality instruction to immigrant children and youth; and

"(2) to help such children and youth—

"(A) with their transition into American society; and

"(B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

"SEC. 3242. STATE ADMINISTRATIVE COSTS.

"For any fiscal year, a State educational agency may reserve not more than 1.5 percent (2 percent if the State educational agency distributes funds received under this subpart to local educational agencies on a competitive basis) of the amount allotted to such agency under section 3244 to pay the costs of performing such agency's administrative functions under this subpart.

"SEC. 3243. WITHHOLDING.

"Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to comply with a requirement of any provision of this subpart, the Secretary shall notify that agency that further payments will not be made to the agency under this subpart or, in the discretion of the Secretary, that the State educational agency shall not make further payments under this subpart to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this subpart, or payments by the State educational agency under this subpart shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 3244. STATE ALLOTMENTS.

"(a) Payments.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 2002 through 2008 for the purpose set forth in section 3241.

"(b) Allotments.—

"(1) In general.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this subpart, each State participating in the program assisted under this subpart shall receive an allotment equal to the proportion of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of each local educational agency described in paragraph (2), and in nonpublic elementary schools or secondary schools within the district served by each such local educational agency within such State, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this subpart.

"(2) Eligible local educational agencies.—A local educational agency referred to in paragraph (1) is a local educational agency for which the sum of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of such agency, and in nonpublic elementary schools or secondary schools within the district served by such agency, during the fiscal year for which the payments are to be made under this subpart, is equal to at least—

"(A) 500; or

"(B) 3 percent of the total number of children enrolled in such public or nonpublic schools during such fiscal year,

whichever is less.

"(c) Determinations of Number of Children and Youth.—

"(1) In general.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) Special rule.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allotment under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

"(d) Reallotment.—

"(1) In general.—Whenever the Secretary determines that any amount of a payment made to a State under this subpart for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose.

"(2) Fiscal year.—Any amount made available to a State from any appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subpart, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"(e) Reservation of Funds.—

"(1) In general.—Notwithstanding any other provision of this subpart, if the amount appropriated to carry out this subpart exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this subpart for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

"(A) Agencies with immigrant children and youth.—At least ½ of the funds reserved under this paragraph shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

"(B) Agencies with a sudden influx of children and youth.—Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State that are experiencing a sudden influx of immigrant children and youth and that are otherwise not eligible for assistance under this subpart.

"(2) Use of grant funds.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 3247.

"(3) Information.—Local educational agencies receiving funds under paragraph (1) with the highest number of immigrant children and youth may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children and youth.

"SEC. 3245. STATE APPLICATIONS.

"(a) Submission.—No State educational agency shall receive any payment under this subpart for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this subpart are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this subpart will be used for purposes set forth in sections 3241 and 3247, including a description of how local educational agencies receiving funds under this subpart will use such funds to meet such purposes and will coordinate with entities carrying out other programs and activities assisted under this Act, and other Acts as appropriate;

"(3) provide an assurance that local educational agencies receiving funds under this subpart will coordinate the use of such funds with entities carrying out programs and activities assisted under part A of title I;

"(4) provide assurances that such payments, with the exception of payments reserved under section 3244(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 3244(b)(1);

"(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this subpart without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this subpart;

"(7) provide assurances—

"(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary schools or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

"(B) that the control of funds provided under this subpart for any materials or equipment, or property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purpose provided in this subpart, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary school or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

"(8) provide that funds reserved under section 3244(e) be awarded on a competitive basis based on merit and need in accordance with such section; and

"(9) provide an assurance that the State educational agency and local educational agencies in the State receiving funds under this subpart will comply with the requirements of section 1120(b).

"(b) Application Review.—

"(1) In general.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

"(2) Approval.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

"(3) Disapproval.—The Secretary shall disapprove any application submitted by a State educational agency that does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State educational agency.

"SEC. 3246. ADMINISTRATIVE PROVISIONS.

"(a) Notification of Amount.—The Secretary, not later than June 1 of each year, shall

notify each State educational agency that has an application approved under section 3245 of the amount of such agency's allotment under section 3244 for the succeeding year.

"(b) SERVICES TO IMMIGRANT CHILDREN AND YOUTH ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for immigrant children and youth enrolled in nonpublic elementary schools and secondary schools, as required by section 3245(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of such children and youth enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this subpart, to such children and youth. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

"SEC. 3247. USES OF FUNDS.

"(a) USE OF FUNDS.—Funds awarded under this subpart shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

"(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

"(2) support of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

"(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

"(4) identification and acquisition of curricular materials, educational software, and technologies;

"(5) the provision of basic instruction services that are directly attributable to the presence in the school district of immigrant children and youth, including payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services; and

"(6) such other activities, related to the purpose of this subpart, as the Secretary may authorize.

"(b) CONSORTIA.—A local educational agency that receives a grant under this subpart may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out a program described in an application approved under this subpart.

"(c) SUBGRANTS.—A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with; an institution of higher education, a nonprofit organization, or a consortium of such institutions or organizations to carry out a program described in an application approved under this subpart, including a program to serve out-of-school youth.

"(d) CONSTRUCTION.—Nothing in this subpart shall be construed to prohibit a local educational agency from serving immigrant children and youth simultaneously with children and youth with similar educational needs, in the same educational settings where appropriate.

"SEC. 3248. REPORTS.

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this subpart shall submit, once every 2 years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this subpart. Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit, once every 2 years, a report to the appropriate committees of Congress concerning programs assisted under this subpart.

"Subpart 5—Administration

"SEC. 3251. RELEASE TIME.

"The Secretary shall allow entities carrying out professional development programs funded under this part to use funds provided under this part for professional release time to enable individuals to participate in programs assisted under this part.

"SEC. 3252. NOTIFICATION.

"A State educational agency, and when applicable, the State board for postsecondary education, shall be notified within 3 working days after the date an award under this part is made to an eligible entity within the State.

"SEC. 3253. COORDINATION AND REPORTING REQUIREMENTS.

"(a) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient children that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General, and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient children and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students and relevant programs operated by the Department, including programs under this part and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high-quality educational opportunities to all language-minority and limited English proficient children.

"(b) DATA.—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient children.

"(c) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under this part.

"(d) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

"(1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

"(2) containing a critical synthesis of data reported by States under section 3224, when applicable;

"(3) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

"(4) containing the major findings of scientifically based research carried out under this part; and

"(5) containing other information gathered from the reports submitted to the Secretary under this title when applicable.

"PART C—GENERAL PROVISIONS

"SEC. 3301. DEFINITIONS.

"Except as otherwise provided, in this title:

"(1) CHILD.—The term 'child' means any individual aged 3 through 21.

"(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness, Indian tribe, or tribally sanctioned educational authority, that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

"(3) COMMUNITY COLLEGE.—The term 'community college' means an institution of higher education as defined in section 101 of the Higher Education Act of 1965 that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled College or University Assistance Act of 1978.

"(4) DIRECTOR.—The term 'Director' means the Director of the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students established under section 209 of the Department of Education Organization Act.

"(5) FAMILY EDUCATION PROGRAM.—The term 'family education program' means a language instruction educational program or special alternative instruction program that—

"(A) is designed—

"(i) to help limited English proficient adults and out-of-school youths achieve English proficiency; and

"(ii) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

"(B) when feasible, uses instructional programs based on models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children, the Parents as Teachers Program, and the Home Instruction Program for Preschool Youngsters; and

"(C) gives preference to participation by parents and immediate family members of children attending school.

"(6) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

"(A) are aged 3 through 21;

"(B) were not born in any State; and

"(C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

"(7) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(8) LANGUAGE INSTRUCTION EDUCATIONAL PROGRAM.—The term 'language instruction educational program' means an instruction course—

"(A) in which a limited English proficient child is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic content and student *academic achievement standards, as required by section 1111(b)(1); and*

"(B) that may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

"(9) Native American and native American language.—The terms 'Native American' and 'Native American language' shall have the meanings given such terms in section 103 of the Native American Languages Act.

"(10) Native Hawaiian or native American Pacific Islander native language educational organization.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with—

"(A) a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs; and

"(B) not less than 5 years successful experience in providing educational services in traditional Native American languages.

"(11) Native language.—The term 'native language', when used with reference to an individual of limited English proficiency, means—

"(A) the language normally used by such individual; or

"(B) in the case of a child or youth, the language normally used by the parents of the child or youth.

"(12) Paraprofessional.—The term 'paraprofessional' means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education.

"(13) Specially qualified agency.—The term 'specially qualified agency' means an eligible entity, as defined in section 3141, in a State whose State educational agency—

"(A) does not participate in a program under subpart 1 of part A for a fiscal year; or

"(B) submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of such subpart.

"(14) State.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(15) Tribally sanctioned educational authority.—The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate a school described in section 3112(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

"(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A for individuals served by a school described in section 3112(a).

"SEC. 3302. PARENTAL NOTIFICATION.

"(a) In General.—Each eligible entity using funds provided under this title to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform a parent or the parents of a limited English proficient child identified for participation in, or participating in, such program of—

"(1) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

"(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

"(3) the method of instruction used in the program in which their child is, or will be, participating, and the methods of instruction used in other available programs, including how such programs differ in content, instruction goals, and use of English and a native language in instruction;

"(4) how the program in which their child is, or will be participating will meet the educational strengths and needs of the child;

"(5) how such program will specifically help their child learn English, and meet age appropriate academic achievement standards for grade promotion and graduation;

"(6) the specific exit requirements for such program, the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this title are used for children in secondary schools;

"(7) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and

"(8) information pertaining to parental rights that includes written guidance—

"(A) detailing—

"(i) the right that parents have to have their child immediately removed from such program upon their request; and

"(ii) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

"(B) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

"(b) Separate Notification.—In addition to providing the information required to be provided under subsection (a), each eligible entity that is using funds provided under this title to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 3122 for any fiscal year for which part A is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

"(c) Receipt of Information.—The information required to be provided under subsections (a) and (b) to a parent shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.

"(d) Special Rule Applicable During School Year.—For a child who has not been identified for participation in a language instruction educational program prior to the beginning of the school year, the eligible entity shall carry out subsections (a) through (c) with respect to the parents of the child within 2 weeks of the child being placed in such a program.

"(e) Parental Participation.—

"(1) In General.—Each eligible entity using funds provided under this title to provide a language instruction educational program shall implement an effective means of outreach to parents of limited English proficient children to inform such parents of how they can—

"(A) be involved in the education of their children; and

"(B) be active participants in assisting their children—

"(i) to learn English;

"(ii) to achieve at high levels in core academic subjects; and

"(iii) to meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

"(2) Receipt of recommendations.—The outreach described in paragraph (1) shall include holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents described in such paragraph.

"(f) Basis for Admission or Exclusion.—A child shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

"SEC. 3303. NATIONAL CLEARINGHOUSE.

"The Secretary shall establish and support the operation of a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, which shall collect, analyze, synthesize, and disseminate information about language instruction educational programs for limited English proficient children, and related programs. The National Clearinghouse shall—

"(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Office of Educational Research and Improvement;

"(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

"(3) develop a system for improving the operation and effectiveness of federally funded language instruction educational programs;

"(4) collect and disseminate information on—

"(A) educational research and processes related to the education of limited English proficient children; and

"(B) accountability systems that monitor the academic progress of limited English proficient children in language instruction educational programs, including information on academic content and English proficiency assessments for language instruction educational programs; and

"(5) publish, on an annual basis, a list of grant recipients under this title.

"SEC. 3304. REGULATIONS.

"In developing regulations under this title, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in the education of limited English proficient children.".

TITLE IV—21ST CENTURY SCHOOLS

SEC. 401. 21ST CENTURY SCHOOLS.

Title IV (20 U.S.C. 7101 et seq.) is amended to read as follows:

"TITLE IV—21ST CENTURY SCHOOLS

"PART A—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

"SEC. 4001. SHORT TITLE.

"This part may be cited as the 'Safe and Drug-Free Schools and Communities Act'.

"SEC. 4002. PURPOSE.

"The purpose of this part is to support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and drugs; that involve parents and communities; and that are coordinated with related Federal, State, school, and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement, through the provision of Federal assistance to—

"(1) States for grants to local educational agencies and consortia of such agencies to establish, operate, and improve local programs of

school drug and violence prevention and early intervention;

"(2) States for grants to, and contracts with, community-based organizations and public and private entities for programs of drug and violence prevention and early intervention, including community-wide drug and violence prevention planning and organizing activities;

"(3) States for development, training, technical assistance, and coordination activities; and

"(4) public and private entities to provide technical assistance; conduct training, demonstrations, and evaluation; and to provide supplementary services and community-wide drug and violence prevention planning and organizing activities for the prevention of drug use and violence among students and youth.

"SEC. 4003. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated—

"(1) $650,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years, for State grants under subpart 1; and

"(2) such sums for fiscal year 2002, and for each of the 5 succeeding fiscal years, for national programs under subpart 2.

"Subpart 1—State Grants

"SEC. 4111. RESERVATIONS AND ALLOTMENTS.

"(a) RESERVATIONS.—

"(1) IN GENERAL.—From the amount made available under section 4003(1) to carry out this subpart for each fiscal year, the Secretary—

"(A) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for grants to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs and to carry out programs described in this subpart;

"(B) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for the Secretary of the Interior to carry out programs described in this subpart for Indian youth; and

"(C) shall reserve 0.2 percent of such amount for Native Hawaiians to be used under section 4117 to carry out programs described in this subpart.

"(2) OTHER RESERVATIONS.—From the amount made available under section 4003(2) to carry out subpart 2 for each fiscal year, the Secretary—

"(A) may reserve not more than $2,000,000 for the national impact evaluation required by section 4122(a);

"(B) notwithstanding section 3 of the No Child Left Behind Act of 2001, shall reserve an amount necessary to make continuation grants to grantees under the Safe Schools/Healthy Students initiative (under the same terms and conditions as provided for in the grants involved).

"(b) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allot among the States—

"(A) ½ of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

"(B) ½ of such remainder according to the ratio between the amount each State received under section 1124A for the preceding year and the sum of such amounts received by all the States.

"(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than the greater of—

"(A) ½ of 1 percent of the total amount allotted to all the States under this subsection; or

"(B) the amount such State received for fiscal year 2001 under section 4111 as such section was in effect the day preceding the date of enactment of the No Child Left Behind Act of 2001.

"(3) REALLOTMENT.—

"(A) REALLOTMENT FOR FAILURE TO APPLY.—If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

"(B) REALLOTMENT OF UNUSED FUNDS.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

"(4) DEFINITIONS.—In this section the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(c) LIMITATION.—Amounts appropriated under section 4003(2) for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year unless the amounts appropriated under section 4003(1) for the fiscal year involved are at least 10 percent greater that the amounts appropriated under such section 4003(1) for the previous fiscal year.

"SEC. 4112. RESERVATION OF STATE FUNDS FOR SAFE AND DRUG-FREE SCHOOLS.

"(a) STATE RESERVATION FOR THE CHIEF EXECUTIVE OFFICER OF A STATE.—

"(1) IN GENERAL.—The chief executive officer of a State may reserve not more than 20 percent of the total amount allocated to a State under section 4111(b) for each fiscal year to award competitive grants and contracts to local educational agencies, community-based organizations (including community anti-drug coalitions) other public entities and private organizations, and consortia thereof. Such grants and contracts shall be used to carry out the comprehensive State plan described in section 4113(a) through programs or activities that complement and support activities of local educational agencies described in section 4115(b). Such officer shall award grants based on—

"(A) the quality of the program or activity proposed; and

"(B) how the program or activity meets the principles of effectiveness described in section 4115(a).

"(2) PRIORITY.—In making such grants and contracts under this section, a chief executive officer shall give priority to programs and activities that prevent illegal drug use and violence for—

"(A) children and youth who are not normally served by State educational agencies or local educational agencies; or

"(B) populations that need special services or additional resources (such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

"(3) SPECIAL CONSIDERATION.—In awarding funds under paragraph (1), a chief executive officer shall give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention that includes providing and incorporating mental health services related to drug and violence prevention in their program.

"(4) PEER REVIEW.—Grants or contracts awarded under this section shall be subject to a peer review process.

"(5) USE OF FUNDS.—Grants and contracts under this section shall be used to implement drug and violence prevention activities, including—

"(A) activities that complement and support local educational agency activities under section 4115, including developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

"(B) dissemination of information about drug and violence prevention; and

"(C) development and implementation of community-wide drug and violence prevention planning and organizing.

"(6) ADMINISTRATIVE COSTS.—The chief executive officer of a State may use not more than 3 percent of the amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

"(b) IN STATE DISTRIBUTION.—

"(1) IN GENERAL.—A State educational agency shall distribute not less than 93 percent of the amount made available to the State under section 4111(b), less the amount reserved under subsection (a) of this section, to its local educational agencies.

"(2) STATE ADMINISTRATION COSTS.—

"(A) IN GENERAL.—A State educational agency may use not more than 3 percent of the amount made available to the State under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for State educational agency administrative costs, including the implementation of the uniform management information and reporting system as provided for under subsection (c)(3).

"(B) ADDITIONAL AMOUNTS FOR THE UNIFORM MANAGEMENT INFORMATION SYSTEM.—In the case of fiscal year 2002, a State educational agency may, in addition to amounts provided for in subparagraph (A), use 1 percent of the amount made available to the State educational agency under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for implementation of the uniform management information and reporting system as provided for under subsection (c)(3).

"(c) STATE ACTIVITIES.—

"(1) IN GENERAL.—A State educational agency may use not more than 5 percent of the amount made available to the State under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for activities described in this subsection.

"(2) ACTIVITIES.—A State educational agency shall use the amounts described in paragraph (1), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance and training, evaluation, program improvement services, and coordination activities for local educational agencies, community-based organizations, and other public and private entities. Such uses—

"(A) shall meet the principles of effectiveness described in section 4115(a);

"(B) shall complement and support local uses of funds under section 4115(b);

"(C) shall be in accordance with the purposes of this part; and

"(D) may include, among others activities—

"(i) identification, development, evaluation, and dissemination of drug and violence prevention strategies, programs, activities, and other information;

"(ii) training, technical assistance, and demonstration projects to address violence that is associated with prejudice and intolerance; and

"(iii) financial assistance to enhance drug and violence prevention resources available in areas that serve large numbers of low-income children, are sparsely populated, or have other special needs.

"(3) UNIFORM MANAGEMENT INFORMATION AND REPORTING SYSTEM.—

"(A) INFORMATION AND STATISTICS.—A State shall establish a uniform management information and reporting system.

"(B) USES OF FUNDS.—A State may use funds described in subparagraphs (A) and (B) of subsection (b)(2), either directly or through grants and contracts, to implement the uniform management information and reporting system described in subparagraph (A), for the collection of information on—

"(i) truancy rates;

"(ii) the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary schools and secondary schools in the State;

"(iii) the types of curricula, programs, and services provided by the chief executive officer, the State educational agency, local educational agencies, and other recipients of funds under this subpart; and

"(iv) the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities.

"(C) COMPILATION OF STATISTICS.—In compiling the statistics required for the uniform management information and reporting system, the offenses described in subparagraph (B)(ii) shall be defined pursuant to the State's criminal code, but shall not identify victims of crimes or persons accused of crimes. The collected data shall include incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

"(D) REPORTING.—The information described under subparagraph (B) shall be reported to the public and the data referenced in clauses (i) and (ii) of such subparagraph shall be reported to the State on a school-by-school basis.

"(E) LIMITATION.—Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices with respect to crimes committed on school property or school security.

"SEC. 4113. STATE APPLICATION.

"(a) IN GENERAL.—In order to receive an allotment under section 4111(b) for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

"(1) contains a comprehensive plan for the use of funds by the State educational agency and the chief executive officer of the State to provide safe, orderly, and drug-free schools and communities through programs and activities that complement and support activities of local educational agencies under section 4115(b), that comply with the principles of effectiveness under section 4115(a), and that otherwise are in accordance with the purpose of this part;

"(2) describes how activities funded under this subpart will foster a safe and drug-free learning environment that supports academic achievement;

"(3) provides an assurance that the application was developed in consultation and coordination with appropriate State officials and others, including the chief executive officer, the chief State school officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

"(4) describes how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies and other programs, as appropriate, in accordance with the provisions in section 9306;

"(5) provides an assurance that funds reserved under section 4112(a) will not duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based drug and violence prevention activities and that those funds will be used to serve populations not normally served by the State educational agencies and local educational agencies and populations that need special services, such as school dropouts, suspended and expelled students, youth in detention centers, runaway or homeless children and youth, and pregnant and parenting youth;

"(6) provides an assurance that the State will cooperate with, and assist, the Secretary in conducting data collection as required by section 4122;

"(7) provides an assurance that the local educational agencies in the State will comply with the provisions of section 9501 pertaining to the participation of private school children and teachers in the programs and activities under this subpart;

"(8) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

"(9) contains the results of a needs assessment conducted by the State for drug and violence prevention programs, which shall be based on ongoing State evaluation activities, including data on—

"(A) the incidence and prevalence of illegal drug use and violence among youth in schools and communities, including the age of onset, the perception of health risks, and the perception of social disapproval among such youth;

"(B) the prevalence of risk factors, including high or increasing rates of reported cases of child abuse or domestic violence;

"(C) the prevalence of protective factors, buffers, or assets; and

"(D) other variables in the school and community identified through scientifically based research;

"(10) provides a statement of the State's performance measures for drug and violence prevention programs and activities to be funded under this subpart that will be focused on student behavior and attitudes, derived from the needs assessment described in paragraph (9), and be developed in consultation between the State and local officials, and that consist of—

"(A) performance indicators for drug and violence prevention programs and activities; and

"(B) levels of performance for each performance indicator;

"(11) describes the procedures the State will use for assessing and publicly reporting progress toward meeting the performance measures described in paragraph (10);

"(12) provides an assurance that the State application will be available for public review after submission of the application;

"(13) describes the special outreach activities that will be carried out by the State educational agency and the chief executive officer of the State to maximize the participation of community-based organizations of demonstrated effectiveness that provide services such as mentoring programs in low-income communities;

"(14) describes how funds will be used by the State educational agency and the chief executive officer of the State to support, develop, and implement community-wide comprehensive drug and violence prevention planning and organizing activities;

"(15) describes how input from parents will be sought regarding the use of funds by the State educational agency and the chief executive officer of the State;

"(16) describes how the State educational agency will review applications from local educational agencies, including how the agency will receive input from parents in such review;

"(17) describes how the State educational agency will monitor the implementation of activities under this subpart, and provide technical assistance for local educational agencies, community-based organizations, other public entities, and private organizations;

"(18) describes how the chief executive officer of the State will award funds under section 4112(a) and implement a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds; and

"(19) includes any other information the Secretary may require.

"(b) INTERIM APPLICATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this section, a State may submit for fiscal year 2002 a 1-year interim application and plan for the use of funds under this subpart that is consistent with the requirements of this section and contains such information as the Secretary may specify in regulations.

"(2) PURPOSE.—The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section.

"(3) EXCEPTION.—A State may not receive a grant under this subpart for a fiscal year after fiscal year 2002 unless the Secretary has approved such State's application and comprehensive plan as described in subsection (a).

"(c) APPROVAL PROCESS.—

"(1) DEEMED APPROVAL.—An application submitted by a State pursuant to this section shall undergo peer review by the Secretary and shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this subpart.

"(2) DISAPPROVAL.—The Secretary shall not finally disapprove the application, except after giving the State educational agency and the chief executive officer of the State notice and an opportunity for a hearing.

"(3) NOTIFICATION.—If the Secretary finds that the application is not in compliance, in whole or in part, with this subpart, the Secretary shall—

"(A) give the State educational agency and the chief executive officer of the State notice and an opportunity for a hearing; and

"(B) notify the State educational agency and the chief executive officer of the State of the finding of noncompliance, and in such notification, shall—

"(i) cite the specific provisions in the application that are not in compliance; and

"(ii) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

"(4) RESPONSE.—If the State educational agency and the chief executive officer of the State respond to the Secretary's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, and resubmit the application with the requested information described in paragraph (3)(B)(ii), the Secretary shall approve or disapprove such application prior to the later of—

"(A) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

"(B) the expiration of the 120-day period described in paragraph (1).

"(5) FAILURE TO RESPOND.—If the State educational agency and the chief executive officer of the State do not respond to the Secretary's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

"SEC. 4114. LOCAL EDUCATIONAL AGENCY PROGRAM.

"(a) IN GENERAL.—

"(1) FUNDS TO LOCAL EDUCATIONAL AGENCIES.—A State shall provide the amount

made available to the State under this subpart, less the amounts reserved under section 4112 to local educational agencies for drug and violence prevention and education programs and activities as follows:

"(A) 60 percent of such amount based on the relative amount such agencies received under part A of title I for the preceding fiscal year.

"(B) 40 percent of such amount based on the relative enrollments in public and private nonprofit elementary schools and secondary schools within the boundaries of such agencies.

"(2) ADMINISTRATIVE COSTS.—Of the amount received under paragraph (1), a local educational agency may use not more than 2 percent for the administrative costs of carrying out its responsibilities under this subpart.

"(3) RETURN OF FUNDS TO STATE; REALLOCATION.—

"(A) RETURN.—Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date on which a local educational agency receives its allocation under this subpart—

"(i) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

"(ii) the State educational agency shall reallocate any such amount to local educational agencies that have submitted plans for using such amount for programs or activities on a timely basis.

"(B) CARRYOVER.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

"(i) an amount equal to not more than 25 percent of the allocation it received under this subpart for such fiscal year; or

"(ii) upon a demonstration of good cause by such agency and approval by the State educational agency, an amount that exceeds 25 percent of such allocation.

"(C) REALLOCATION.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (a), or if such agency's application under subsection (d) is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of its other local educational agencies.

"(b) ELIGIBILITY.—To be eligible to receive a subgrant under this subpart, a local educational agency desiring a subgrant shall submit an application to the State educational agency in accordance with subsection (d). Such an application shall be amended, as necessary, to reflect changes in the activities and programs of the local educational agency.

"(c) DEVELOPMENT.—

"(1) CONSULTATION.—

"(A) IN GENERAL.—A local educational agency shall develop its application through timely and meaningful consultation with State and local government representatives, representatives of schools to be served (including private schools), teachers and other staff, parents, students, community-based organizations, and others with relevant and demonstrated expertise in drug and violence prevention activities (such as medical, mental health, and law enforcement professionals).

"(B) CONTINUED CONSULTATION.—On an ongoing basis, the local educational agency shall consult with such representatives and organizations in order to seek advice regarding how best to coordinate such agency's activities under this subpart with other related strategies, programs, and activities being conducted in the community.

"(2) DESIGN AND DEVELOPMENT.—To ensure timely and meaningful consultation under paragraph (1), a local educational agency at the initial stages of design and development of a program or activity shall consult, in accordance with this subsection, with appropriate entities and persons on issues regarding the design and development of the program or activity, including efforts to meet the principles of effectiveness described in section 4115(a).

"(d) CONTENTS OF APPLICATIONS.—An application submitted by a local educational agency under this section shall contain—

"(1) an assurance that the activities or programs to be funded comply with the principles of effectiveness described in section 4115(a) and foster a safe and drug-free learning environment that supports academic achievement;

"(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, including a description of—

"(A) how the plan will be coordinated with programs under this Act, and other Federal, State, and local programs for drug and violence prevention, in accordance with section 9306;

"(B) the local educational agency's performance measures for drug and violence prevention programs and activities, that shall consist of—

"(i) performance indicators for drug and violence prevention programs and activities; including—

"(I) specific reductions in the prevalence of identified risk factors; and

"(II) specific increases in the prevalence of protective factors, buffers, or assets if any have been identified; and

"(ii) levels of performance for each performance indicator;

"(C) how such agency will assess and publicly report progress toward attaining its performance measures;

"(D) the drug and violence prevention activity or program to be funded, including how the activity or program will meet the principles of effectiveness described in section 4115(a), and the means of evaluating such activity or program; and

"(E) how the services will be targeted to schools and students with the greatest need;

"(3) a description for how the results of the evaluations of the effectiveness of the program will be used to refine, improve, and strengthen the program;

"(4) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

"(5) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this subpart;

"(6) an assurance that drug and violence prevention programs supported under this subpart convey a clear and consistent message that acts of violence and the illegal use of drugs are wrong and harmful;

"(7) an assurance that the applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes—

"(A) appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

"(B) security procedures at school and while students are on the way to and from school;

"(C) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments;

"(D) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

"(E) a code of conduct policy for all students that clearly states the responsibilities of students, teachers, and administrators in maintaining a classroom environment that—

"(i) allows a teacher to communicate effectively with all students in the class;

"(ii) allows all students in the class to learn;

"(iii) has consequences that are fair, and developmentally appropriate;

"(iv) considers the student and the circumstances of the situation; and

"(v) is enforced accordingly;

"(8) an assurance that the application and any waiver request under section 4115(a)(3) will be available for public review after submission of the application; and

"(9) such other assurances, goals, and objectives identified through scientifically based research that the State may reasonably require in accordance with the purpose of this part.

"(e) REVIEW OF APPLICATION.—

"(1) IN GENERAL.—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

"(2) CONSIDERATIONS.—In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of application and the extent to which the application meets the principles of effectiveness described in section 4115(a).

"(f) APPROVAL PROCESS.—

"(1) DEEMED APPROVAL.—An application submitted by a local educational agency pursuant to this section shall be deemed to be approved by the State educational agency unless the State educational agency makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the State educational agency received the application, that the application is not in compliance with this subpart.

"(2) DISAPPROVAL.—The State educational agency shall not finally disapprove the application, except after giving the local educational agency notice and opportunity for a hearing.

"(3) NOTIFICATION.—If the State educational agency finds that the application is not in compliance, in whole or in part, with this subpart, the State educational agency shall—

"(A) give the local educational agency notice and an opportunity for a hearing; and

"(B) notify the local educational agency of the finding of noncompliance, and in such notification, shall—

"(i) cite the specific provisions in the application that are not in compliance; and

"(ii) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

"(4) RESPONSE.—If the local educational agency responds to the State educational agency's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in paragraph (3)(B)(ii), the State educational agency shall approve or disapprove such application prior to the later of—

"(A) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

"(B) the expiration of the 120-day period described in paragraph (1).

"(5) FAILURE TO RESPOND.—If the local educational agency does not respond to the State *educational agency's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.*

"SEC. 4115. AUTHORIZED ACTIVITIES.

"(a) PRINCIPLES OF EFFECTIVENESS.—

"(1) IN GENERAL.—For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall—

"(A) be based on an assessment of objective data regarding the incidence of violence and illegal drug use in the elementary schools and secondary schools and communities to be served, including an objective analysis of the current conditions and consequences regarding violence and illegal drug use, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

"(B) be based on an established set of performance measures aimed at ensuring that the elementary schools and secondary schools and communities to be served by the program have a safe, orderly, and drug-free learning environment;

"(C) be based on scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use;

"(D) be based on an analysis of the data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence; protective factors, buffers, assets; or other variables in schools and communities in the State identified through scientifically based research; and

"(E) include meaningful and ongoing consultation with and input from parents in the development of the application and administration of the program or activity.

"(2) PERIODIC EVALUATION.—

"(A) REQUIREMENT.—The program or activity shall undergo a periodic evaluation to assess its progress toward reducing violence and illegal drug use in schools to be served based on performance measures described in section 4114(d)(2)(B).

"(B) USE OF RESULTS.—The results shall be used to refine, improve, and strengthen the program, and to refine the performance measures, and shall also be made available to the public upon request, with public notice of such availability provided.

"(3) WAIVER.—A local educational agency may apply to the State for a waiver of the requirement of subsection (a)(1)(C) to allow innovative activities or programs that demonstrate substantial likelihood of success.

"(b) LOCAL EDUCATIONAL AGENCY ACTIVITIES.—

"(1) PROGRAM REQUIREMENTS.—A local educational agency shall use funds made available under section 4114 to develop, implement, and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall—

"(A) foster a safe and drug-free learning environment that supports academic achievement;

"(B) be consistent with the principles of effectiveness described in subsection (a)(1);

"(C) be designed to—

"(i) prevent or reduce violence; the use, possession and distribution of illegal drugs; and delinquency; and

"(ii) create a well disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts; and

"(D) include activities to—

"(i) promote the involvement of parents in the activity or program;

"(ii) promote coordination with community groups and coalitions, and government agencies; and

"(iii) distribute information about the local educational agency's needs, goals, and programs under this subpart.

"(2) AUTHORIZED ACTIVITIES.—Each local educational agency, or consortium of such agencies, that receives a subgrant under this subpart may use such funds to carry out activities that comply with the principles of effectiveness described in subsection (a), such as the following:

"(A) Age appropriate and developmentally based activities that—

"(i) address the consequences of violence and the illegal use of drugs, as appropriate;

"(ii) promote a sense of individual responsibility;

"(iii) teach students that most people do not illegally use drugs;

"(iv) teach students to recognize social and peer pressure to use drugs illegally and the skills for resisting illegal drug use;

"(v) teach students about the dangers of emerging drugs;

"(vi) engage students in the learning process; and

"(vii) incorporate activities in secondary schools that reinforce prevention activities implemented in elementary schools.

"(B) Activities that involve families, community sectors (which may include appropriately trained seniors), and a variety of drug and violence prevention providers in setting clear expectations against violence and illegal use of drugs and appropriate consequences for violence and illegal use of drugs.

"(C) Dissemination of drug and violence prevention information to schools and the community.

"(D) Professional development and training for, and involvement of, school personnel, pupil services personnel, parents, and interested community members in prevention, education, early identification and intervention, mentoring, or rehabilitation referral, as related to drug and violence prevention.

"(E) Drug and violence prevention activities that may include the following:

"(i) Community-wide planning and organizing activities to reduce violence and illegal drug use, which may include gang activity prevention.

"(ii) Acquiring and installing metal detectors, electronic locks, surveillance cameras, or other related equipment and technologies.

"(iii) Reporting criminal offenses committed on school property.

"(iv) Developing and implementing comprehensive school security plans or obtaining technical assistance concerning such plans, which may include obtaining a security assessment or assistance from the School Security and Technology Resource Center at the Sandia National Laboratory located in Albuquerque, New Mexico.

"(v) Supporting safe zones of passage activities that ensure that students travel safely to and from school, which may include bicycle and pedestrian safety programs.

"(vi) The hiring and mandatory training, based on scientific research, of school security personnel (including school resource officers) who interact with students in support of youth drug and violence prevention activities under this part that are implemented in the school.

"(vii) Expanded and improved school-based mental health services related to illegal drug use and violence, including early identification of violence and illegal drug use, assessment, and direct or group counseling services provided to students, parents, families, and school personnel by qualified school-based mental health service providers.

"(viii) Conflict resolution programs, including peer mediation programs that educate and train peer mediators and a designated faculty supervisor, and youth anti-crime and anti-drug councils and activities.

"(ix) Alternative education programs or services for violent or drug abusing students that reduce the need for suspension or expulsion or that serve students who have been suspended or expelled from the regular educational settings, including programs or services to assist students to make continued progress toward meeting the State academic achievement standards and to reenter the regular education setting.

"(x) Counseling, mentoring, referral services, and other student assistance practices and programs, including assistance provided by qualified school-based mental health services providers and the training of teachers by school-based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs.

"(xi) Programs that encourage students to seek advice from, and to confide in, a trusted adult regarding concerns about violence and illegal drug use.

"(xii) Drug and violence prevention activities designed to reduce truancy.

"(xiii) Age-appropriate, developmentally-based violence prevention and education programs that address victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence.

"(xiv) Consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or the inspecting of a student's locker for weapons or illegal drugs or drug paraphernalia, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect.

"(xv) Emergency intervention services following traumatic crisis events, such as a shooting, major accident, or a drug-related incident that have disrupted the learning environment.

"(xvi) Establishing or implementing a system for transferring suspension and expulsion records, consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), by a local educational agency to any public or private elementary school or secondary school.

"(xvii) Developing and implementing character education programs, as a component of drug and violence prevention programs, that take into account the views of parents of the students for whom the program is intended and such students, such as a program described in subpart 3 of part D of title V.

"(xviii) Establishing and maintaining a school safety hotline.

"(xix) Community service, including community service performed by expelled students, and service-learning projects.

"(xx) Conducting a nationwide background check of each local educational agency employee, regardless of when hired, and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted of a crime that bears upon the employee's fitness—

"(I) to be responsible for the safety or well-being of children;

"(II) to serve in the particular capacity in which the employee or prospective employee is or will be employed; or

"(III) to otherwise be employed by the local educational agency.

"(xxi) Programs to train school personnel to identify warning signs of youth suicide and to create an action plan to help youth at risk of suicide.

"(xxii) Programs that respond to the needs of students who are faced with domestic violence or child abuse.

"(F) The evaluation of any of the activities authorized under this subsection and the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives.

"(c) LIMITATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not more than 40 percent of the funds available to a local educational agency under this subpart may be used to carry out the activities described in clauses (ii) through (vi) of subsection (b)(2)(E), of which not more than 50 percent of such amount may be used to carry out the activities described in clauses (ii) through (v) of such subsection.

"(2) EXCEPTION.—A local educational agency may use funds under this subpart for activities described in clauses (ii) through (v) of subsection (b)(2)(E) only if funding for these activities is not received from other Federal agencies.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the use of funds under this subpart by any local educational agency or school for the establishment or implementation of a school uniform policy if such policy is part of the overall comprehensive drug and violence prevention plan of the State involved and is supported by the State's needs assessment and other scientifically based research information.

"SEC. 4116. REPORTING.

"(a) STATE REPORT.—

"(1) IN GENERAL.—By December 1, 2003, and every 2 years thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

"(A) on the implementation and outcomes of State programs under section 4112(a)(1) and section 4112(c) and local educational agency programs under section 4115(b), as well as an assessment of their effectiveness;

"(B) on the State's progress toward attaining its performance measures for drug and violence prevention under section 4113(a)(10); and

"(C) on the State's efforts to inform parents of, and include parents in, violence and drug prevention efforts.

"(2) SPECIAL RULE.—The report required by this subsection shall be—

"(A) in the form specified by the Secretary;

"(B) based on the State's ongoing evaluation activities, and shall include data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities; and

"(C) made readily available to the public.

"(b) LOCAL EDUCATIONAL AGENCY REPORT.—

"(1) IN GENERAL.—Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information that the State requires to complete the State report required by subsection (a), including a description of how parents were informed of, and participated in, violence and drug prevention efforts.

"(2) AVAILABILITY.—Information under paragraph (1) shall be made readily available to the public.

"(3) PROVISION OF DOCUMENTATION.—Not later than January 1 of each year that a State is required to report under subsection (a), the Secretary shall provide to the State education agency all of the necessary documentation required for compliance with this section.

"SEC. 4117. PROGRAMS FOR NATIVE HAWAIIANS.

"(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 4111(a)(1)(C) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians for the benefit of Native Hawaiians to plan, conduct, and administer programs, or portions thereof, that are authorized by and consistent with the provisions of this subpart.

"(b) DEFINITION OF NATIVE HAWAIIAN.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"Subpart 2—National Programs

"SEC. 4121. FEDERAL ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—From funds made available to carry out this subpart under section 4003(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private entities and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

"(1) the development and demonstration of innovative strategies for the training of school personnel, parents, and members of the community for drug and violence prevention activities based on State and local needs;

"(2) the development, demonstration, scientifically based evaluation, and dissemination of innovative and high quality drug and violence prevention programs and activities, based on State and local needs, which may include—

"(A) alternative education models, either established within a school or separate and apart from an existing school, that are designed to promote drug and violence prevention, reduce disruptive behavior, reduce the need for repeat suspensions and expulsions, enable students to meet challenging State academic standards, and enable students to return to the regular classroom as soon as possible;

"(B) community service and service-learning projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

"(C) video-based projects developed by noncommercial telecommunications entities that provide young people with models for conflict resolution and responsible decisionmaking; and

"(D) child abuse education and prevention programs for elementary and secondary students;

"(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination;

"(4) the provision of information on violence prevention and education and school safety to the Department of Justice for dissemination;

"(5) technical assistance to chief executive officers, State agencies, local educational agencies, and other recipients of funding under this part to build capacity to develop and implement high-quality, effective drug and violence prevention programs consistent with the principles of effectiveness in section 4115(a);

"(6) assistance to school systems that have particularly severe drug and violence problems, including hiring drug prevention and school safety coordinators, or assistance to support appropriate response efforts to crisis situations;

"(7) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes;

"(8) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems; and

"(9) other activities in accordance with the purpose of this part, based on State and local needs.

"(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

"SEC. 4122. IMPACT EVALUATION.

"(a) BIENNIAL EVALUATION.—The Secretary, in consultation with the Safe and Drug-Free Schools and Communities Advisory Committee described in section 4124, shall conduct an independent biennial evaluation of the impact of programs assisted under this subpart and of other recent and new initiatives to combat violence and illegal drug use in schools. The evaluation shall report on whether community and local educational agency programs funded under this subpart—

"(1) comply with the principles of effectiveness described in section 4115(a);

"(2) have appreciably reduced the level of illegal drug, alcohol and tobacco use, and school violence and the illegal presence of weapons at schools; and

"(3) have conducted effective parent involvement and training programs.

"(b) DATA COLLECTION.—The National Center for Education Statistics shall collect data, that is subject to independent review, to determine the incidence and prevalence of illegal drug use and violence in elementary schools and secondary schools in the States. The collected data shall include incident reports by schools officials, anonymous student surveys, and anonymous teacher surveys.

"(c) BIENNIAL REPORT.—Not later than January 1, 2003, and every 2 years thereafter, the Secretary shall submit to the President and Congress a report on the findings of the evaluation conducted under subsection (a) together with the data collected under subsection (b) and data available from other sources on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence in elementary schools and secondary schools in the States. The Secretary shall include data submitted by the States pursuant to subsection 4116(a).

"SEC. 4123. HATE CRIME PREVENTION.

"(a) GRANT AUTHORIZATION.—From funds made available to carry out this subpart under section 4003(2) the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

"(b) USE OF FUNDS.—

"(1) PROGRAM DEVELOPMENT.—Grants under this section may be used to improve elementary and secondary educational efforts, including—

"(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

"(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

"(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

"(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

"(2) APPLICATION.—In order to be eligible to receive a grant under this section for any fiscal *year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the Secretary may reasonably require.*

“(3) REQUIREMENTS.—Each application under paragraph (2) shall include—

“(A) a request for funds for the purpose described in this section;

“(B) a description of the schools and communities to be served by the grants; and

“(C) assurances that Federal funds received under this section shall be used to supplement, and not supplant, non-Federal funds.

“(4) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

“(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

“(B) a description of the program to be developed or augmented by such Federal and matching funds;

“(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

“(D) procedures for the proper and efficient administration of such program; and

“(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

“(c) AWARD OF GRANTS.—

“(1) SELECTION OF RECIPIENTS.—The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

“(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

“(3) DISSEMINATION OF INFORMATION.—The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

“(d) REPORTS.—The Secretary shall submit to Congress a report every 2 years that shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

“SEC. 4124. SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ADVISORY COMMITTEE.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is hereby established an advisory committee to be known as the ‘Safe and Drug Free Schools and Communities Advisory Committee’ (referred to in this section as the ‘Advisory Committee’) to—

“(A) consult with the Secretary under subsection (b);

“(B) coordinate Federal school- and community-based substance abuse and violence prevention programs and reduce duplicative research or services;

“(C) develop core data sets and evaluation protocols for safe and drug-free school- and community-based programs;

“(D) provide technical assistance and training for safe and drug-free school- and community-based programs;

“(E) provide for the diffusion of scientifically based research to safe and drug-free school- and community-based programs; and

“(F) review other regulations and standards developed under this title.

“(2) COMPOSITION.—The Advisory Committee shall be composed of representatives from—

“(A) the Department of Education;

“(B) the Centers for Disease Control and Prevention;

“(C) the National Institute on Drug Abuse;

“(D) the National Institute on Alcoholism and Alcohol Abuse;

“(E) the Center for Substance Abuse Prevention;

“(F) the Center for Mental Health Services;

“(G) the Office of Juvenile Justice and Delinquency Prevention;

“(H) the Office of National Drug Control Policy;

“(I) State and local governments, including education agencies; and

“(J) researchers and expert practitioners.

“(3) CONSULTATION.—In carrying out its duties under this section, the Advisory Committee shall annually consult with interested State and local coordinators of school- and community-based substance abuse and violence prevention programs and other interested groups.

“(b) PROGRAMS.—

“(1) IN GENERAL.—From amounts made available under section 4003(2) to carry out this subpart, the Secretary, in consultation with the Advisory Committee, shall carry out scientifically based research programs to strengthen the accountability and effectiveness of the State, chief executive officer's, and national programs under this part.

“(2) GRANTS, CONTRACTS OR COOPERATIVE AGREEMENTS.—The Secretary shall carry out paragraph (1) directly or through grants, contracts, or cooperative agreements with public and private entities and individuals or through agreements with other Federal agencies.

“(3) COORDINATION.—The Secretary shall coordinate programs under this section with other appropriate Federal activities.

“(4) ACTIVITIES.—Activities that may be carried out under programs funded under this section may include—

“(A) the provision of technical assistance and training, in collaboration with other Federal agencies utilizing their expertise and national and regional training systems, for Governors, State educational agencies and local educational agencies to support high quality, effective programs that—

“(i) provide a thorough assessment of the substance abuse and violence problem;

“(ii) utilize objective data and the knowledge of a wide range of community members;

“(iii) develop measurable goals and objectives; and

“(iv) implement scientifically based research activities that have been shown to be effective and that meet identified needs;

“(B) the provision of technical assistance and training to foster program accountability;

“(C) the diffusion and dissemination of best practices and programs;

“(D) the development of core data sets and evaluation tools;

“(E) program evaluations;

“(F) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act; and

“(G) other activities that meet unmet needs related to the purpose of this part and that are undertaken in consultation with the Advisory Committee.

“SEC. 4125. NATIONAL COORDINATOR PROGRAM.

“(a) IN GENERAL.—From funds made available to carry out this subpart under section 4003(2), the Secretary may provide for the establishment of a National Coordinator Program under which the Secretary shall award grants to local educational agencies for the hiring of drug prevention and school safety program coordinators.

“(b) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used by local educational agencies to recruit, hire, and train individuals to serve as drug prevention and school safety program coordinators in schools with significant drug and school safety problems. Such coordinators shall be responsible for developing, conducting, and analyzing assessments of drug and crime problems at their schools, and administering the safe and drug-free grant program at such schools.

“SEC. 4126. COMMUNITY SERVICE GRANT PROGRAM.

“(a) IN GENERAL.—From funds made available to carry out this subpart under section 4003(2), the Secretary may make grants to States to carry out programs under which students expelled or suspended from school are required to perform community service.

(b) ALLOCATION.—From the amount described in subsection (a), the Secretary shall allocate among the States—

“(1) 1/2 according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

“(2) 1/2 according to the ratio between the amount each State received under section 1124A for the preceding year and the sum of such amounts received by all the States.

“(c) MINIMUM.—For any fiscal year, no State shall be allotted under this section an amount that is less than 1/2 of 1 percent of the total amount allotted to all the States under this section.

“(d) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under subsection (b).

“(e) DEFINITION.—In this section, the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“SEC. 4127. SCHOOL SECURITY TECHNOLOGY AND RESOURCE CENTER.

“(a) CENTER.—From funds made available to carry out this subpart under section 4003(2), the Secretary, the Attorney General, and the Secretary of Energy may enter into an agreement for the establishment at the Sandia National Laboratories, in partnership with the National Law Enforcement and Corrections Technology Center—Southeast and the National Center for Rural Law Enforcement in Little Rock, Arkansas, of a center to be known as the ‘School Security Technology and Resource Center’ (hereinafter in this section ‘the Center’).

“(b) ADMINISTRATION.—The Center established under subsection (a) shall be administered by the Attorney General.

“(c) FUNCTIONS.—The center established under subsection (a) shall be a resource to local educational agencies for school security assessments, security technology development, evaluation and implementation, and technical assistance relating to improving school security. The Center will also conduct and publish school violence research, coalesce data from victim communities, and monitor and report on schools that implement school security strategies.

“SEC. 4128. NATIONAL CENTER FOR SCHOOL AND YOUTH SAFETY.

“(a) ESTABLISHMENT.—From funds made available to carry out this subpart under section 4003(2), the Secretary of Education and the Attorney General may jointly establish a National Center for School and Youth Safety (in this section referred to as the ‘Center’). The Secretary of Education and the Attorney General may establish the Center at an existing facility, if the facility has a history of performing two or more of the duties described in subsection (b). The Secretary of Education and the Attorney General shall jointly appoint a Director of the Center to oversee the operation of the Center.

"(b) DUTIES.—The Center shall carry out emergency response, anonymous student hotline, consultation, and information and outreach activities with respect to elementary and secondary school safety, including the following:

"(1) EMERGENCY RESPONSE.—The staff of the Center, and such temporary contract employees as the Director of the Center shall determine necessary, shall offer emergency assistance to local communities to respond to school safety crises. Such assistance shall include counseling for victims and the community, assistance to law enforcement to address short-term security concerns, and advice on how to enhance school safety, prevent future incidents, and respond to future incidents.

"(2) ANONYMOUS STUDENT HOTLINE.—The Center shall establish a toll-free telephone number for students to report criminal activity, threats of criminal activity, and other high-risk behaviors such as substance abuse, gang or cult affiliation, depression, or other warning signs of potentially violent behavior. The Center shall relay the reports, without attribution, to local law enforcement or appropriate school hotlines. The Director of the Center shall work with the Attorney General to establish guidelines for Center staff to work with law enforcement around the Nation to relay information reported through the hotline.

"(3) CONSULTATION.—The Center shall establish a toll-free number for the public to contact staff of the Center for consultation regarding school safety. The Director of the Center shall hire administrative staff and individuals with expertise in enhancing school safety, including individuals with backgrounds in counseling and psychology, education, law enforcement and criminal justice, and community development to assist in the consultation.

"(4) INFORMATION AND OUTREACH.—The Center shall compile information about the best practices in school violence prevention, intervention, and crisis management, and shall serve as a clearinghouse for model school safety program information. The staff of the Center shall work to ensure local governments, school officials, parents, students, and law enforcement officials and agencies are aware of the resources, grants, and expertise available to enhance school safety and prevent school crime. The staff of the Center shall give special attention to providing outreach to rural and impoverished communities.

"SEC. 4129. GRANTS TO REDUCE ALCOHOL ABUSE.

"(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, may award grants from funds made available to carry out this subpart under section 4003(2), on a competitive basis, to local educational agencies to enable such agencies to develop and implement innovative and effective programs to reduce alcohol abuse in secondary schools.

"(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a local educational agency shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a description of the activities to be carried out under the grant;

"(2) an assurance that such activities will include 1 or more of the proven strategies for reducing underage alcohol abuse as determined by the Substance Abuse and Mental Health Services Administration;

"(3) an explanation of how activities to be carried under the grant that are not described in paragraph (2) will be effective in reducing underage alcohol abuse, including references to the past effectiveness of such activities;

"(4) an assurance that the applicant will submit to the Secretary an annual report concerning the effectiveness of the programs and activities funded under the grant; and

"(5) such other information as the Secretary determines appropriate.

"(c) STREAMLINING OF PROCESS FOR LOW-INCOME AND RURAL LEAs.—The Secretary, in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, shall develop procedures to make the application process for grants under this section more user-friendly, particularly for low-income and rural local educational agencies.

"(d) RESERVATIONS.—

"(1) SAMHSA.—The Secretary may reserve 20 percent of any amount used to carry out this section to enable the Administrator of the Substance Abuse and Mental Health Services Administration to provide alcohol abuse resources and start-up assistance to local educational agencies receiving grants under this section.

"(2) LOW-INCOME AND RURAL AREAS.—The Secretary may reserve 25 percent of any amount used to carry out this section to award grants to low-income and rural local educational agencies.

"SEC. 4130. MENTORING PROGRAMS.

"(a) PURPOSE; DEFINITIONS.—

"(1) PURPOSE.—The purpose of this section is to make assistance available to promote mentoring programs for children with greatest need—

"(A) to assist such children in receiving support and guidance from a mentor;

"(B) to improve the academic achievement of such children;

"(C) to improve interpersonal relationships between such children and their peers, teachers, other adults, and family members;

"(D) to reduce the dropout rate of such children; and

"(E) to reduce juvenile delinquency and involvement in gangs by such children.

"(2) DEFINITIONS.—In this part:

"(A) CHILD WITH GREATEST NEED.—The term 'child with greatest need' means a child who is at risk of educational failure, dropping out of school, or involvement in criminal or delinquent activities, or who lacks strong positive role models.

"(B) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(i) a local educational agency;

"(ii) a nonprofit, community-based organization; or

"(iii) a partnership between a local educational agency and a nonprofit, community-based organization.

"(C) MENTOR.—The term 'mentor' means a responsible adult, a postsecondary school student, or a secondary school student who works with a child—

"(i) to provide a positive role model for the child;

"(ii) to establish a supportive relationship with the child; and

"(iii) to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

"(D) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(b) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may award grants from funds made available to carry out this subpart under section 4003(2) to eligible entities to assist such entities in establishing and supporting mentoring programs and activities for children with greatest need that—

"(A) are designed to link such children (particularly children living in rural areas, high-crime areas, or troubled home environments, or children experiencing educational failure) with mentors who—

"(i) have received training and support in mentoring;

"(ii) have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

"(iii) are interested in working with children with greatest need; and

"(B) are intended to achieve 1 or more of the following goals with respect to children with greatest need:

"(i) Provide general guidance.

"(ii) Promote personal and social responsibility.

"(iii) Increase participation in, and enhance the ability to benefit from, elementary and secondary education.

"(iv) Discourage illegal use of drugs and alcohol, violence, use of dangerous weapons, promiscuous behavior, and other criminal, harmful, or potentially harmful activity.

"(v) Encourage participation in community service and community activities.

"(vi) Encourage setting goals and planning for the future, including encouragement of graduation from secondary school and planning for postsecondary education or training.

"(viii) Discourage involvement in gangs.

"(2) USE OF FUNDS.—

"(A) IN GENERAL.—Each eligible entity awarded a grant under this subsection shall use the grant funds for activities that establish or implement a mentoring program, that may include—

"(i) hiring of mentoring coordinators and support staff;

"(ii) providing for the professional development of mentoring coordinators and support staff;

"(iii) recruitment, screening, and training of mentors;

"(iv) reimbursement to schools, if appropriate, for the use of school materials or supplies in carrying out the mentoring program;

"(v) dissemination of outreach materials;

"(vi) evaluation of the mentoring program using scientifically based methods; and

"(vii) such other activities as the Secretary may reasonably prescribe by rule.

"(B) PROHIBITED USES.—Notwithstanding subparagraph (A), an eligible entity awarded a grant under this section may not use the grant funds—

"(i) to directly compensate mentors;

"(ii) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the eligible entity's operations;

"(iii) to support litigation of any kind; or

"(iv) for any other purpose reasonably prohibited by the Secretary by rule.

"(3) AVAILABILITY OF FUNDS.—Funds made available through a grant under this section shall be available for obligation for a period not to exceed 3 years.

"(4) APPLICATION.—Each eligible entity seeking a grant under this section shall submit to the Secretary an application that includes—

"(A) a description of the plan for the mentoring program the eligible entity proposes to carry out with such grant;

"(B) information on the children expected to be served by the mentoring program for which such grant is sought;

"(C) a description of the mechanism the eligible entity will use to match children with mentors based on the needs of the children;

"(D) an assurance that no mentor will be assigned to mentor so many children that the assignment will undermine the mentor's ability to be an effective mentor or the mentor's ability to

establish a close relationship (a one-to-one relationship, where practicable) with each mentored child;

"(E) an assurance that the mentoring program will provide children with a variety of experiences and support, including—

"(i) emotional support;

"(ii) academic assistance; and

"(iii) exposure to experiences that the children might not otherwise encounter on their own;

"(F) an assurance that the mentoring program will be monitored to ensure that each child assigned a mentor benefits from that assignment and that the child will be assigned a new mentor if the relationship between the original mentor and the child is not beneficial to the child;

"(G) information regarding how mentors and children will be recruited to the mentoring program;

"(H) information regarding how prospective mentors will be screened;

"(I) information on the training that will be provided to mentors; and

"(J) information on the system that the eligible entity will use to manage and monitor information relating to the mentoring program's—

"(i) reference checks;

"(ii) child and domestic abuse record checks;

"(iii) criminal background checks; and

"(iv) procedure for matching children with mentors.

"(5) SELECTION.—

"(A) COMPETITIVE BASIS.—In accordance with this subsection, the Secretary shall award grants to eligible entities on a competitive basis.

"(B) PRIORITY.—In awarding grants under subparagraph (A), the Secretary shall give priority to each eligible entity that—

"(i) serves children with greatest need living in rural areas, high-crime areas, or troubled home environments, or who attend schools with violence problems;

"(ii) provides high quality background screening of mentors, training of mentors, and technical assistance in carrying out mentoring programs; or

"(iii) proposes a school-based mentoring program.

"(C) OTHER CONSIDERATIONS.—In awarding grants under subparagraph (A), the Secretary shall also consider—

"(i) the degree to which the location of the mentoring program proposed by each eligible entity contributes to a fair distribution of mentoring programs with respect to urban and rural locations;

"(ii) the quality of the mentoring program proposed by each eligible entity, including—

"(I) the resources, if any, the eligible entity will dedicate to providing children with opportunities for job training or postsecondary education;

"(II) the degree to which parents, teachers, community-based organizations, and the local community have participated, or will participate, in the design and implementation of the proposed mentoring program;

"(III) the degree to which the eligible entity can ensure that mentors will develop longstanding relationships with the children they mentor;

"(IV) the degree to which the mentoring program will serve children with greatest need in the 4th through 8th grades; and

"(V) the degree to which the mentoring program will continue to serve children from the 9th grade through graduation from secondary school, as needed; and

"(iii) the capability of each eligible entity to effectively implement its mentoring program.

"(D) GRANT TO EACH STATE.—Notwithstanding any other provision of this subsection, in awarding grants under subparagraph (A), the Secretary shall select not less than 1 grant recipient from each State for which there is an eligible entity that submits an application of sufficient quality pursuant to paragraph (4).

"(6) MODEL SCREENING GUIDELINES.—

"(A) IN GENERAL.—Based on model screening guidelines developed by the Office of Juvenile Programs of the Department of Justice, the Secretary shall develop and distribute to each eligible entity awarded a grant under this section specific model guidelines for the screening of mentors who seek to participate in mentoring programs assisted under this section.

"(B) BACKGROUND CHECKS.—The guidelines developed under this subsection shall include, at a minimum, a requirement that potential mentors be subject to reference checks, child and domestic abuse record checks, and criminal background checks.

"Subpart 3—Gun Possession

"SEC. 4141. GUN-FREE REQUIREMENTS.

"(a) SHORT TITLE.—This subpart may be cited as the "Gun-Free Schools Act".

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Each State receiving Federal funds under the No Child Left Behind Act of 2001 shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

"(2) CONSTRUCTION.—Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

"(3) DEFINITION.—For the purpose of this section, the term 'firearm' has the same meaning given such term in section 921(a) of title 18, United States Code.

"(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

"(d) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under the No Child Left Behind Act of 2001 shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the type of firearms concerned.

"(e) REPORTING.—Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

"(f) DEFINITION.—For the purpose of subsection (d), the term 'school' means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

"(g) EXCEPTION.—Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

"(h) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—

"(1) IN GENERAL.—No funds shall be made available under the No Child Left Behind Act of 2001 to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(2) DEFINITIONS.—For the purpose of this subsection, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

"Subpart 4—General Provisions

"SEC. 4151. DEFINITIONS.

"In this part:

"(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' means a drug or other substance identified under Schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

"(2) DRUG.—The term 'drug' includes controlled substances; the illegal use of alcohol and tobacco; and the harmful, abusive, or addictive use of substances, including inhalants and anabolic steroids.

"(3) DRUG AND VIOLENCE PREVENTION.—The term 'drug and violence prevention' means—

"(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of drugs;

"(B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

"(4) HATE CRIME.—The term 'hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

"(5) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(6) PROTECTIVE FACTOR, BUFFER, OR ASSET.—The terms 'protective factor', 'buffer', and 'asset' mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illegal drug use, as well as violent behavior, by youth in the community, and which promote positive youth development.

"(7) RISK FACTOR.—The term 'risk factor' means any one of a number of characteristics of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illegal drug use, as well as violent behavior, by youth in the school and community.

"(8) SCHOOL-AGED POPULATION.—The term 'school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(9) SCHOOL BASED MENTAL HEALTH SERVICES PROVIDER.—The term 'school based mental health services provider' includes a State licensed or State certified school counselor, school psychologist, school social worker, or other

State licensed or certified mental health professional qualified under State law to provide such services to children and adolescents.

"(10) SCHOOL PERSONNEL.—The term 'school personnel' includes teachers, principals, administrators, counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

"(11) SCHOOL RESOURCE OFFICER.—The term 'school resource officer' means a career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department to a local educational agency to work in collaboration with schools and community based organizations to—

"(A) educate students in crime and illegal drug use prevention and safety;

"(B) develop or expand community justice initiatives for students; and

"(C) train students in conflict resolution, restorative justice, and crime and illegal drug use awareness.

"SEC. 4152. MESSAGE AND MATERIALS.

"(a) 'WRONG AND HARMFUL' MESSAGE.—Drug and violence prevention programs supported under this part shall convey a clear and consistent message that the illegal use of drugs and acts of violence are wrong and harmful.

"(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

"SEC. 4153. PARENTAL CONSENT.

"Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this part. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this part, other than classroom instruction.

"SEC. 4154. PROHIBITED USES OF FUNDS.

"No funds under this part may be used for—

"(1) construction (except for minor remodeling needed to accomplish the purposes of this part); or

"(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, crime or who illegally use drugs.

"SEC. 4155. TRANSFER OF SCHOOL DISCIPLINARY RECORDS.

"(a) NONAPPLICATION OF PROVISIONS.—This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

"(b) DISCIPLINARY RECORDS.—In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after the date of enactment of this part, each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.

"PART B—21ST CENTURY COMMUNITY LEARNING CENTERS

"SEC. 4201. PURPOSE; DEFINITIONS.

"(a) PURPOSE.—The purpose of this part is to provide opportunities for communities to establish or expand activities in community learning centers that—

"(1) provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet State and local student academic achievement standards in core academic subjects, such as reading and mathematics;

"(2) offer students a broad array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students; and

"(3) offer families of students served by community learning centers opportunities for literacy and related educational development.

"(b) DEFINITIONS.—In this part:

"(1) COMMUNITY LEARNING CENTER.—The term 'community learning center' means an entity that—

"(A) assists students in meeting State and local academic achievement standards in core academic subjects, such as reading and mathematics, by providing the students with opportunities for academic enrichment activities and a broad array of other activities (such as drug and violence prevention, counseling, art, music, recreation, technology, and character education programs) during nonschool hours or periods when school is not in session (such as before and after school or during summer recess) that reinforce and complement the regular academic programs of the schools attended by the students served; and

"(B) offers families of students served by such center opportunities for literacy and related educational development.

"(2) COVERED PROGRAM.—The term 'covered program' means a program for which—

"(A) the Secretary made a grant under part I of title X (as such part was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and

"(B) the grant period had not ended on that date of enactment.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means a local educational agency, community-based organization, another public or private entity, or a consortium of 2 or more of such agencies, organizations, or entities.

"(4) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 4202. ALLOTMENTS TO STATES.

"(a) RESERVATION.—From the funds appropriated under section 4206 for any fiscal year, the Secretary shall reserve—

"(1) such amount as may be necessary to make continuation awards to grant recipients under covered programs (under the terms of those grants);

"(2) not more than 1 percent for national activities, which the Secretary may carry out directly or through grants and contracts, such as providing technical assistance to eligible entities carrying out programs under this part or conducting a national evaluation; and

"(3) not more than 1 percent for payments to the outlying areas and the Bureau of Indian Affairs, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, to enable the outlying areas and the Bureau to carry out the purpose of this part.

"(b) STATE ALLOTMENTS.—

"(1) DETERMINATION.—From the funds appropriated under section 4206 for any fiscal year and remaining after the Secretary makes reservations under subsection (a), the Secretary shall allot to each State for the fiscal year an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A of title I for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year, except that no State shall receive less than an amount equal to $\frac{1}{2}$ of 1 percent of the total amount made available to all States under this subsection.

"(2) REALLOTMENT OF UNUSED FUNDS.—If a State does not receive an allotment under this part for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

"(c) STATE USE OF FUNDS.—

"(1) IN GENERAL.—Each State that receives an allotment under this part shall reserve not less than 95 percent of the amount allotted to such State under subsection (b), for each fiscal year for awards to eligible entities under section 4204.

"(2) STATE ADMINISTRATION.—A State educational agency may use not more than 2 percent of the amount made available to the State under subsection (b) for—

"(A) the administrative costs of carrying out its responsibilities under this part;

"(B) establishing and implementing a peer review process for grant applications described in section 4204(b) (including consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities); and

"(C) supervising the awarding of funds to eligible entities (in consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities).

"(3) STATE ACTIVITIES.—A State educational agency may use not more than 3 percent of the amount made available to the State under subsection (b) for the following activities:

"(A) Monitoring and evaluation of programs and activities assisted under this part.

"(B) Providing capacity building, training, and technical assistance under this part.

"(C) Comprehensive evaluation (directly, or through a grant or contract) of the effectiveness of programs and activities assisted under this part.

"(D) Providing training and technical assistance to eligible entities who are applicants for or recipients of awards under this part.

"SEC. 4203. STATE APPLICATION.

"(a) IN GENERAL.—In order to receive an allotment under section 4202 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

"(1) designates the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part;

"(2) describes how the State educational agency will use funds received under this part, including funds reserved for State-level activities;

"(3) contains an assurance that the State educational agency will make awards under this part only to eligible entities that propose to serve—

"(A) students who primarily attend—

"(i) schools eligible for schoolwide programs under section 1114; or

"(ii) schools that serve a high percentage of students from low-income families; and

"(B) the families of students described in subparagraph (A);

"(4) describes the procedures and criteria the State educational agency will use for reviewing applications and awarding funds to eligible entities on a competitive basis, which shall include procedures and criteria that take into consideration the likelihood that a proposed community learning center will help participating students meet local content and student academic achievement standards;

"(5) describes how the State educational agency will ensure that awards made under this part are—

"(A) of sufficient size and scope to support high-quality, effective programs that are consistent with the purpose of this part; and

"(B) in amounts that are consistent with section 4204(h);

"(6) describes the steps the State educational agency will take to ensure that programs implement effective strategies, including providing ongoing technical assistance and training, evaluation, and dissemination of promising practices;

"(7) describes how programs under this part will be coordinated with programs under this Act, and other programs as appropriate;

"(8) contains an assurance that the State educational agency—

"(A) will make awards for programs for a period of not less than 3 years and not more than 5 years; and

"(B) will require each eligible entity seeking such an award to submit a plan describing how the community learning center to be funded through the award will continue after funding under this part ends;

"(9) contains an assurance that funds appropriated to carry out this part will be used to supplement, and not supplant, other Federal, State, and local public funds expended to provide programs and activities authorized under this part and other similar programs;

"(10) contains an assurance that the State educational agency will require eligible entities to describe in their applications under section 4204(b) how the transportation needs of participating students will be addressed;

"(11) provides an assurance that the application was developed in consultation and coordination with appropriate State officials, including the chief State school officer, and other State agencies administering before and after school (or summer school) programs, the heads of the State health and mental health agencies or their designees, and representatives of teachers, parents, students, the business community, and community-based organizations;

"(12) describes the results of the State's needs and resources assessment for before and after school activities, which shall be based on the results of on-going State evaluation activities;

"(13) describes how the State educational agency will evaluate the effectiveness of programs and activities carried out under this part, which shall include, at a minimum—

"(A) a description of the performance indicators and performance measures that will be used to evaluate programs and activities; and

"(B) public dissemination of the evaluations of programs and activities carried out under this part; and

"(14) provides for timely public notice of intent to file an application and an assurance that the application will be available for public review after submission.

"(b) Deemed Approval.—An application submitted by a State educational agency pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this part.

"(c) Disapproval.—The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and opportunity for a hearing.

"(d) Notification.—If the Secretary finds that the application is not in compliance, in whole or in part, with this part, the Secretary shall—

"(1) give the State educational agency notice and an opportunity for a hearing; and

"(2) notify the State educational agency of the finding of noncompliance, and, in such notification, shall—

"(A) cite the specific provisions in the application that are not in compliance; and

"(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

"(e) Response.—If the State educational agency responds to the Secretary's notification described in subsection (d)(2) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (d)(2)(B), the Secretary shall approve or disapprove such application prior to the later of—

"(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

"(2) the expiration of the 120-day period described in subsection (b).

"(f) Failure to Respond.—If the State educational agency does not respond to the Secretary's notification described in subsection (d)(2) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

"SEC. 4204. LOCAL COMPETITIVE GRANT PROGRAM.

"(a) In General.—A State that receives funds under this part for a fiscal year shall provide the amount made available under section 4202(c)(1) to eligible entities for community learning centers in accordance with this part.

"(b) Application.—

"(1) In general.—To be eligible to receive an award under this part, an eligible entity shall submit an application to the State educational agency at such time, in such manner, and including such information as the State educational agency may reasonably require.

"(2) Contents.—Each application submitted under paragraph (1) shall include—

"(A) a description of the before and after school or summer recess activities to be funded, including—

"(i) an assurance that the program will take place in a safe and easily accessible facility;

"(ii) a description of how students participating in the program carried out by the community learning center will travel safely to and from the center and home; and

"(iii) a description of how the eligible entity will disseminate information about the community learning center (including its location) to the community in a manner that is understandable and accessible;

"(B) a description of how the activity is expected to improve student academic achievement;

"(C) an identification of Federal, State, and local programs that will be combined or coordinated with the proposed program to make the most effective use of public resources;

"(D) an assurance that the proposed program was developed, and will be carried out, in active collaboration with the schools the students attend;

"(E) a description of how the activities will meet the principles of effectiveness described in section 4205(b);

"(F) an assurance that the program will primarily target students who attend schools eligible for schoolwide programs under section 1114 and the families of such students;

"(G) an assurance that funds under this part will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this part, be made available for programs and activities authorized under this part, and in no case supplant Federal, State, local, or non-Federal funds;

"(H) a description of the partnership between a local educational agency, a community-based organization, and another public entity or private entity, if appropriate;

"(I) an evaluation of the community needs and available resources for the community learning center and a description of how the program proposed to be carried out in the center will address those needs (including the needs of working families);

"(J) a demonstration that the eligible entity has experience, or promise of success, in providing educational and related activities that will complement and enhance the academic performance, achievement, and positive youth development of the students;

"(K) a description of a preliminary plan for how the community learning center will continue after funding under this part ends;

"(L) an assurance that the community will be given notice of an intent to submit an application and that the application and any waiver request will be available for public review after submission of the application;

"(M) if the eligible entity plans to use senior volunteers in activities carried out through the community learning center, a description of how the eligible entity will encourage and use appropriately qualified seniors to serve as the volunteers; and

"(N) such other information and assurances as the State educational agency may reasonably require.

"(c) Approval of Certain Applications.—The State educational agency may approve an application under this part for a program to be located in a facility other than an elementary school or secondary school only if the program will be at least as available and accessible to the students to be served as if the program were located in an elementary school or secondary school.

"(d) Permissive Local Match.—

"(1) In general.—A State educational agency may require an eligible entity to match funds awarded under this part, except that such match may not exceed the amount of the grant award and may not be derived from other Federal or State funds.

"(2) Sliding scale.—The amount of a match under paragraph (1) shall be established based on a sliding fee scale that takes into account—

"(A) the relative poverty of the population to be targeted by the eligible entity; and

"(B) the ability of the eligible entity to obtain such matching funds.

"(3) In-kind contributions.—Each State educational agency that requires an eligible entity to match funds under this subsection shall permit the eligible entity to provide all or any portion of such match in the form of in-kind contributions.

"(4) Consideration.—Notwithstanding this subsection, a State educational agency shall not consider an eligible entity's ability to match funds when determining which eligible entities will receive awards under this part.

"(e) Peer Review.—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

"(f) Geographic Diversity.—To the extent practicable, a State educational agency shall distribute funds under this part equitably among geographic areas within the State, including urban and rural communities.

"(g) Duration of Awards.—Grants under this part may be awarded for a period of not less than 3 years and not more than 5 years.

"(h) Amount of Awards.—A grant awarded under this part may not be made in an amount that is less than $50,000.

"(i) Priority.—

"(1) In general.—In awarding grants under this part, a State educational agency shall give priority to applications—

"(A) proposing to target services to students who attend schools that have been identified as in need of improvement under section 1116; and

"(B) submitted jointly by eligible entities consisting of not less than 1—

"(i) local educational agency receiving funds under part A of title I; and

"(ii) community-based organization or other public or private entity.

"(2) SPECIAL RULE.—The State educational agency shall provide the same priority under paragraph (1) to an application submitted by a local educational agency if the local educational agency demonstrates that it is unable to partner with a community-based organization in reasonable geographic proximity and of sufficient quality to meet the requirements of this part.

"SEC. 4205. LOCAL ACTIVITIES.

"(a) AUTHORIZED ACTIVITIES.—Each eligible entity that receives an award under this part may use the award funds to carry out a broad array of before and after school activities (including during summer recess periods) that advance student academic achievement, including—

"(1) remedial education activities and academic enrichment learning programs, including providing additional assistance to students to allow the students to improve their academic achievement;

"(2) mathematics and science education activities;

"(3) arts and music education activities;

"(4) entrepreneurial education programs;

"(5) tutoring services (including those provided by senior citizen volunteers) and mentoring programs;

"(6) programs that provide after school activities for limited English proficient students that emphasize language skills and academic achievement;

"(7) recreational activities;

"(8) telecommunications and technology education programs;

"(9) expanded library service hours;

"(10) programs that promote parental involvement and family literacy;

"(11) programs that provide assistance to students who have been truant, suspended, or expelled to allow the students to improve their academic achievement; and

"(12) drug and violence prevention programs, counseling programs, and character education programs.

"(b) PRINCIPLES OF EFFECTIVENESS.—

"(1) IN GENERAL.—For a program or activity developed pursuant to this part to meet the principles of effectiveness, such program or activity shall—

"(A) be based upon an assessment of objective data regarding the need for before and after school programs (including during summer recess periods) and activities in the schools and communities;

"(B) be based upon an established set of performance measures aimed at ensuring the availability of high quality academic enrichment opportunities; and

"(C) if appropriate, be based upon scientifically based research that provides evidence that the program or activity will help students meet the State and local student academic achievement standards.

"(2) PERIODIC EVALUATION.—

"(A) IN GENERAL.—The program or activity shall undergo a periodic evaluation to assess its progress toward achieving its goal of providing high quality opportunities for academic enrichment.

"(B) USE OF RESULTS.—The results of evaluations under subparagraph (A) shall be—

"(i) used to refine, improve, and strengthen the program or activity, and to refine the performance measures; and

"(ii) made available to the public upon request, with public notice of such availability provided.

"SEC. 4206. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated—

"(1) $1,250,000,000 for fiscal year 2002;

"(2) $1,500,000,000 for fiscal year 2003;

"(3) $1,750,000,000 for fiscal year 2004;

"(4) $2,000,000,000 for fiscal year 2005;

"(5) $2,250,000,000 for fiscal year 2006; and

"(6) $2,500,000,000 for fiscal year 2007.

"PART C—ENVIRONMENTAL TOBACCO SMOKE

"SEC. 4301. SHORT TITLE.

"This part may be cited as the 'Pro-Children Act of 2001'.

"SEC. 4302. DEFINITIONS.

"As used in this part:

"(1) CHILDREN.—The term 'children' means individuals who have not attained the age of 18.

"(2) CHILDREN'S SERVICES.—The term 'children's services' means the provision on a routine or regular basis of health, day care, education, or library services—

"(A) that are funded, after the date of enactment of the No Child Left Behind Act of 2001, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

"(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act); or

"(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in part 246.2 of title 7, Code of Federal Regulations (or any corresponding similar regulation or ruling)) under section 17(b)(6) of the Child Nutrition Act of 1966; or

"(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate head of a Federal agency in any enforcement action carried out under this part,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966.

"(3) INDOOR FACILITY.—The term 'indoor facility' means a building that is enclosed.

"(4) PERSON.—The term 'person' means any State or local subdivision of a State, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"SEC. 4303. NONSMOKING POLICY FOR CHILDREN'S SERVICES.

"(a) PROHIBITION.—After the date of enactment of the No Child Left Behind Act of 2001, no person shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

"(b) ADDITIONAL PROHIBITION.—

"(1) IN GENERAL.—After the date of enactment of the No Child Left Behind Act of 2001, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood development (Head Start) services.

"(2) EXCEPTION.—Paragraph (1) shall not apply to—

"(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

"(B) any private residence.

"(c) FEDERAL AGENCIES.—

"(1) KINDERGARTEN, ELEMENTARY, OR SECONDARY EDUCATION OR LIBRARY SERVICES.—After the date of enactment of the No Child Left Behind Act of 2001, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

"(2) HEALTH OR DAY CARE OR EARLY CHILDHOOD DEVELOPMENT SERVICES.—

"(A) IN GENERAL.—After the date of enactment of the No Child Left Behind Act of 2001, no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

"(ii) any private residence.

"(3) APPLICATION OF PROVISIONS.—The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

"(d) NOTICE.—The prohibitions in subsections (a) through (c) shall be published in a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after the date of enactment of the No Child Left Behind Act of 2001, whichever occurs first.

"(e) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any failure to comply with a prohibition in this section shall be considered to be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary., Each day a violation continues shall constitute a separate violation. In the case of any civil penalty assessed under this section, the total amount shall not exceed fifty percent of the amount of Federal funds received under the No Child Left Behind Act of 2001 by such person for the fiscal year in which the continuing violation occurred. For the purpose of the prohibition in subsection (c), the term 'person', as used in this paragraph, shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

"(2) ADMINISTRATIVE PROCEEDING.—A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued under paragraph (1), by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before making such assessment or issuing such order, or both, the Secretary shall give written notice of the assessment or order to such person by certified mail with return receipt and provide information in the notice of an opportunity to request in writing, not later than 30 days after the date of receipt of such notice, such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form that may be used to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place

for such hearing, which shall be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

“(3) CIRCUMSTANCES AFFECTING PENALTY OR ORDER.—In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

“(A) the nature, circumstances, extent, and gravity of the violation;

“(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

“(C) such other matters as justice may require.

“(4) MODIFICATION.—The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or the agencies or instrumentalities of the United States owe to the person against whom the penalty is assessed.

“(5) PETITION FOR REVIEW.—Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy of the petition to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

“(6) FAILURE TO COMPLY.—If a person fails to pay an assessment of a civil penalty or comply with an order, after the assessment or order, or both, are final under this section, or after a court has entered a final judgment under paragraph (5) in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at prevailing rates from the day the assessment or order, or both, are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

“SEC. 4304. PREEMPTION.

“Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.”.

TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

SEC. 501. INNOVATIVE PROGRAMS AND PARENTAL CHOICE PROVISIONS.

Title V (20 U.S.C. 7201 et seq.) is amended to read as follows:

“TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

“PART A—INNOVATIVE PROGRAMS

“SEC. 5101. PURPOSES, STATE AND LOCAL RESPONSIBILITY.

“(a) PURPOSES.—The purposes of this part are the following:

“(1) To support local education reform efforts that are consistent with and support statewide education reform efforts.

“(2) To provide funding to enable State educational agencies and local educational agencies to implement promising educational reform programs and school improvement programs based on scientifically based research.

“(3) To provide a continuing source of innovation and educational improvement, including support programs to provide library services and instructional and media materials.

“(4) To meet the educational needs of all students, including at-risk youth.

“(5) To develop and implement education programs to improve school, student, and teacher performance, including professional development activities and class size reduction programs.

“(b) STATE AND LOCAL RESPONSIBILITY.—The State educational agency shall bear the basic responsibility for the administration of funds made available under this part, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this part be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because local educational agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

“Subpart 1—State and Local Programs

“SEC. 5111. ALLOTMENT TO STATES.

“(a) IN GENERAL.—From the sums appropriated to carry out this part for each fiscal year and not reserved under subsection (b), the Secretary shall allot, and make available in accordance with this part, to each State educational agency an amount that bears the same ratio to such sums as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to ½ of 1 percent of such sums.

“(b) RESERVATION.—From the sums appropriated to carry out this part for each fiscal year, the Secretary shall reserve not more than 1 percent for payments to the outlying areas, to be allotted in accordance with their respective needs for assistance under this part.

“SEC. 5112. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

“(a) DISTRIBUTION RULE.—

“(1) ALLOCATION OF BASE AMOUNTS.—From the amount made available to a State educational agency under this part for a fiscal year, the State educational agency shall distribute, to local educational agencies within the State, an amount that is not less than 85 percent of the amount made available to the State educational agency under this part for fiscal year 2002, according to the relative enrollments in public and in private nonprofit schools within the jurisdictions of such local educational agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per-pupil allocations to local educational agencies that have the greatest numbers or percentages of children whose education imposes a higher-than-average cost per child, such as—

“(A) children living in areas with high concentrations of economically disadvantaged families;

“(B) children from economically disadvantaged families; and

“(C) children living in sparsely populated areas.

“(2) ALLOCATION OF INCREASED AMOUNTS.—From the amount made available to a State educational agency under this part for a fiscal year that exceeds the amount made available to the agency under this part for fiscal year 2002, the State educational agency shall distribute 100 percent (or, in the case of a State educational agency receiving a minimum allotment under section 5111(a), not less than 50 percent, notwithstanding subsection (b)) to local educational agencies within the State, on the same basis as the State educational agency distributes amounts under paragraph (1).

“(b) LIMITATIONS AND REQUIREMENTS.—Not more than 15 percent of funds made available under section 5111 for State programs under this part for any fiscal year may be used for State administration under section 5121.

“(c) CALCULATION OF ENROLLMENTS.—

“(1) IN GENERAL.—The calculation of relative enrollments under subsection (a)(1) shall be on the basis of the total of—

“(A) the number of children enrolled in public schools; and

“(B) the number of children enrolled in private nonprofit schools that participated in programs assisted under this part, for the fiscal year preceding the fiscal year for which the determination is made.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall diminish the responsibility of each local educational agency to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

“(3) ADJUSTMENTS.—

“(A) STATE CRITERIA.—Relative enrollments calculated under subsection (a)(1) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per-pupil allocations only to local educational agencies that serve the greatest numbers or percentages of—

“(i) children living in areas with high concentrations of economically disadvantaged families;

“(ii) children from economically disadvantaged families; or

“(iii) children living in sparsely populated areas.

“(B) REVIEW OF CRITERIA.—The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs of the State's local educational agencies based on the factors set forth in subparagraph (A).

“(d) PAYMENT OF ALLOCATIONS.—

“(1) DISTRIBUTION.—From the funds paid to a State educational agency under this subpart for a fiscal year, the State educational agency shall distribute to each eligible local educational agency that has submitted an application as required by section 5133 the amount of such local educational agency's allocation, as determined under subsection (a).

“(2) ADDITIONAL FUNDS.—

“(A) USE.—Additional funds resulting from higher per-pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a)(1) may, in the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public schools and private nonprofit schools in direct

proportion to the number of children described in subsection (a)(1) and enrolled in such schools within the area served by the local educational agency.

"(B) ALLOCATION.—In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the area served by the local educational agency in such manner.

"(C) RULE OF CONSTRUCTION.—Subparagraphs (A) and (B) may not be construed to require any school to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

"Subpart 2—State Programs

"SEC. 5121. STATE USES OF FUNDS.

"A State educational agency may use funds made available for State use under section 5112(b) only for one or more of the following:

"(1) State administration of programs under this part, including—

"(A) allocating funds to local educational agencies;

"(B) planning, supervising, and processing State educational agency funds; and

"(C) monitoring and evaluating programs under this part.

"(2) Support for the planning, design, and initial implementation of charter schools as described in part B.

"(3) Statewide education reform, school improvement programs and technical assistance and direct grants to local educational agencies, which assist such agencies under section 5131.

"(4) Support for the design and implementation of high-quality yearly student assessments.

"(5) Support for implementation of challenging State and local academic achievement standards.

"(6) Support for arrangements that provide for independent analysis to measure and report on school district achievement.

"(7) Support for the program described in section 321 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

"(8) Support for programs to assist in the implementation of the policy described in section 9507 which may include payment of reasonable transportation costs and tuition costs for such students.

"SEC. 5122. STATE APPLICATIONS.

"(a) APPLICATION REQUIREMENTS.—Any State that desires to receive assistance under this part shall submit to the Secretary an application that includes each of the following:

"(1) Designation of the State educational agency as the State agency responsible for administration and supervision of programs assisted under this part.

"(2) Provision for an annual statewide summary of how assistance under this part is contributing toward improving student academic achievement or improving the quality of education for students.

"(3) Information setting forth the allocation of funds required to implement section 5142.

"(4) A provision that the State educational agency will keep such records, and provide such information to the Secretary, as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section).

"(5) An assurance that, apart from providing technical and advisory assistance and monitoring compliance with this part, the State educational agency has not exercised, and will not exercise, any influence in the decisionmaking processes of local educational agencies as to the expenditure made pursuant to an application submitted under section 5133.

"(6) An assurance that there is compliance with the specific requirements of this part.

"(7) Provision for timely public notice and public dissemination of the information provided under paragraph (3).

"(b) STATEWIDE SUMMARY.—The statewide summary referred to in subsection (a)(2) shall be submitted annually to the Secretary and shall be derived from the evaluation information submitted by local educational agencies to the State educational agency under section 5133(b)(8). The State educational agency shall determine the format and content of such summary and may include in the summary statistical measures, such as the number of students served by each type of innovative assistance program described in section 5131 and the number of teachers trained.

"(c) PERIOD OF APPLICATION.—An application submitted by the State educational agency under subsection (a) shall be for a period not to exceed 3 years. The agency may amend the application annually, as may be necessary to reflect changes, without filing a new application.

"(d) AUDIT RULE.—A local educational agency that receives less than an average of $10,000 under this part for any 3 consecutive fiscal years shall not be audited more frequently than once every 5 years.

"Subpart 3—Local Innovative Education Programs

"SEC. 5131. LOCAL USES OF FUNDS.

"(a) INNOVATIVE ASSISTANCE PROGRAMS.—Funds made available to local educational agencies under section 5112 shall be used for innovative assistance programs, which may include any of the following:

"(1) Programs to recruit, train, and hire highly qualified teachers to reduce class size, especially in the early grades, and professional development activities carried out in accordance with title II, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards.

"(2) Technology activities related to the implementation of school-based reform efforts, including professional development to assist teachers and other school personnel (including school library media personnel) regarding how to use technology effectively in the classrooms and the school library media centers involved.

"(3) Programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student academic achievement, and that are part of an overall education reform program.

"(4) Promising education reform projects, including magnet schools.

"(5) Programs to improve the academic achievement of educationally disadvantaged elementary school and secondary school students, including activities to prevent students from dropping out of school.

"(6) Programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs.

"(7) Programs to provide for the educational needs of gifted and talented children.

"(8) The planning, design, and initial implementation of charter schools as described in part B.

"(9) School improvement programs or activities under sections 1116 and 1117.

"(10) Community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage.

"(11) Activities to promote consumer, economic, and personal finance education, such as disseminating information on and encouraging use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved with earning, spending, saving, and investing).

"(12) Activities to promote, implement, or expand public school choice.

"(13) Programs to hire and support school nurses.

"(14) Expansion and improvement of school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school-based mental health services personnel.

"(15) Alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs.

"(16) Programs to establish or enhance prekindergarten programs for children.

"(17) Academic intervention programs that are operated jointly with community-based organizations and that support academic enrichment, and counseling programs conducted during the school day (including during extended school day or extended school year programs), for students most at risk of not meeting challenging State academic achievement standards or not completing secondary school.

"(18) Programs for cardiopulmonary resuscitation (CPR) training in schools.

"(19) Programs to establish smaller learning communities.

"(20) Activities that encourage and expand improvements throughout the area served by the local educational agency that are designed to advance student academic achievement.

"(21) Initiatives to generate, maintain, and strengthen parental and community involvement.

"(22) Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching.

"(23) Programs to provide same-gender schools and classrooms (consistent with applicable law).

"(24) Service learning activities.

"(25) School safety programs, including programs to implement the policy described in section 9507 and which may include payment of reasonable transportation costs and tuition costs for such students.

"(26) Programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels.

"(27) Supplemental educational services, as defined in section 1116(e).

"(b) REQUIREMENTS.—The innovative assistance programs described in subsection (a) shall be—

"(1) tied to promoting challenging academic achievement standards;

"(2) used to improve student academic achievement; and

"(3) part of an overall education reform strategy.

"(c) GUIDELINES.—Not later than 120 days after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall issue

guidelines for local educational agencies seeking funding for programs described in subsection (a)(23).

"SEC. 5132. ADMINISTRATIVE AUTHORITY.

"In order to conduct the programs authorized by this part, each State educational agency or local educational agency may use funds made available under this part to make grants to, and to enter into contracts with, local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

"SEC. 5133. LOCAL APPLICATIONS.

"(a) SUBMISSION OF APPLICATION.—A local educational agency may receive an allocation of funds under this part for any year for which the agency submits an application under this section that the State educational agency certifies under subsection (b).

"(b) CERTIFICATION AND CONTENTS OF APPLICATION.—The State educational agency shall certify each application submitted under subsection (a) that includes each of the following:

"(1) A description of locally identified needs relative to the purposes of this part and to the innovative assistance programs described in section 5131.

"(2) A statement that sets forth the planned allocation of funds, based on the needs identified in subparagraph (A), among innovative assistance programs described in section 5131, a description of the programs that the local educational agency intends to support, and a description of the reasons for the selection of such programs.

"(3) Information setting forth the allocation of such funds required to implement section 5142.

"(4) A description of how assistance under this part will contribute to improving student academic achievement or improving the quality of education for students.

"(5) An assurance that the local educational agency will comply with this part, including the provisions of section 5142 concerning the participation of children enrolled in private nonprofit schools.

"(6) An assurance that the local educational agency will keep such records, and provide such information to the State educational agency, as may be reasonably required for fiscal audit and program evaluation (consistent with the responsibilities of the State educational agency under this part).

"(7) Provision, in the allocation of funds for the assistance authorized by this part and in the planning, design, and implementation of such innovative assistance programs, for systematic consultation with parents of children attending elementary schools and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with such other groups involved in the implementation of this part (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(8) An assurance that—

"(A) programs carried out under this part will be evaluated annually;

"(B) the evaluation will be used to make decisions about appropriate changes in programs for the subsequent year;

"(C) the evaluation will describe how assistance under this part affected student academic achievement and will include, at a minimum, information and data on the use of funds, the types of services furnished, and the students served under this part; and

"(D) the evaluation will be submitted to the State educational agency at the time and in the manner requested by the State educational agency.

"(9) If the local educational agency seeks funds under section 5131(a)(23), a description of how the agency will comply with the guidelines issued by the Secretary regarding same-gender schools and classrooms under section 5131(c).

"(b) PERIOD OF APPLICATION.—An application submitted by a local educational agency under subsection (a) may seek allocations under this part for a period not to exceed 3 fiscal years. The agency may amend the application annually, as may be necessary to reflect changes, without the filing of a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—

"(1) IN GENERAL.—Subject to the limitations and requirements of this part, a local educational agency shall have complete discretion in determining how funds made available to carry out this subpart will be divided among programs described in section 5131.

"(2) LIMITATION.—In exercising the discretion described in paragraph (1), a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this part and are used to meet the educational needs within the schools served by the local educational agency.

"Subpart 4—General Provisions

"SEC. 5141. MAINTENANCE OF EFFORT.

"(a) IN GENERAL.—Except as provided in subsection (b), a State educational agency is entitled to receive its full allotment of funds under this part for any fiscal year only if the Secretary determines that either the combined fiscal effort per student or the aggregate expenditures within the State, with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

"(b) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allotment of funds under this part in any fiscal year in the exact proportion by which the State educational agency fails to meet the requirements of subsection (a) by falling below 90 percent of the fiscal effort per student or aggregate expenditures (using the measure most favorable to the State educational agency), and no such lesser amount shall be used for computing the effort or expenditures required under paragraph (1) for subsequent years.

"(c) WAIVER.—The Secretary may waive, for 1 fiscal year only, the requirements of this section, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

"SEC. 5142. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—

"(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency that is eligible to receive funds under this part, or that serves the area in which a program assisted under this part is located, who are enrolled in private nonprofit elementary schools and secondary schools, or, with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State educational agency use, the local educational agency, after consultation with appropriate private school officials—

"(A) shall provide, as may be necessary, for the benefit of such children in such schools—

"(i) secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs; and

"(ii) the repair, minor remodeling, or construction of public facilities (consistent with subsection (c)); or

"(B) if such services, materials, and equipment are not feasible or necessary in one or more such private schools, as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

"(2) OTHER PROVISIONS FOR SERVICES.—If no program is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in the district are provided with services and materials to the same extent as would have occurred if the local educational agency had received funds under this part.

"(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs carried out under this part by a State educational agency or local educational agency, whether directly or through grants to, or contracts with, other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—

"(1) IN GENERAL.—Expenditures for programs under subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency.

"(2) CONCENTRATED PROGRAMS.—Taking into account the needs of the individual children and other factors that relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this part are used to concentrate programs on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs.

"(c) ADMINISTRATIVE REQUIREMENTS.—

"(1) FUNDS AND PROPERTY.—The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—Services provided under this part shall be provided by employees of a public agency or through contract by such a public agency with a person, association, agency, or corporation that, in the provision of such services, is independent of the private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such a public agency. The funds provided under this part shall not be commingled with State or local funds.

"(d) WAIVER.—

"(1) STATE PROHIBITION.—If a State educational agency or local educational agency is prohibited, by reason of any provision of law, from providing for the participation in programs of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c), the Secretary shall waive such requirements for the agency involved and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

"(2) FAILURE TO COMPLY.—If the Secretary determines that a State educational agency or a local educational agency has substantially failed, or is unwilling, to provide for the participation on an equitable basis of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c), the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

"(e) WITHHOLDING OF ALLOTMENT OR ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2), the Secretary may withhold from the allotment or allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

"(f) DURATION OF DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency or local educational agency to meet the requirements of subsections (a) through (c).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services under subsection (d), the Secretary shall, after consultation with the appropriate public school and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State educational agency under this part.

"(h) REVIEW OF DETERMINATION.—

"(1) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) COURT ACTION.—If a State educational agency or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

"(3) REMAND TO SECRETARY.—The findings of fact by the Secretary with respect to a proceeding under paragraph (1), if supported by substantial evidence, shall be conclusive. The court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive, if supported by substantial evidence.

"(4) COURT REVIEW.—Upon the filing of a petition under paragraph (2), the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title VI (as such title was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) shall, to the extent consistent with the purposes of this part, apply to programs under this part.

"SEC. 5143. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State educational agencies and local educational agencies under this part.

"(b) RULEMAKING.—The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this part.

"(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out programs under this part shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"SEC. 5144. SUPPLEMENT, NOT SUPPLANT.

"Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

"SEC. 5145. DEFINITIONS.

"In this part:

"(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a local educational agency or a consortium of such agencies.

"(2) PUBLIC SCHOOL.—The term 'public school' means a public elementary school or a public secondary school.

"(3) SCHOOL-AGE POPULATION.—The term 'school-age population' means the population aged 5 through 17.

"(4) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 5146. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part—

"(1) $450,000,000 for fiscal year 2002;

"(2) $475,000,000 for fiscal year 2003;

"(3) $500,000,000 for fiscal year 2004;

"(4) $525,000,000 for fiscal year 2005;

"(5) $550,000,000 for fiscal year 2006; and

"(6) $600,000,000 for fiscal year 2007.

"PART B—PUBLIC CHARTER SCHOOLS

"Subpart 1—Charter School Programs

"SEC. 5201. PURPOSE.

"It is the purpose of this subpart to increase national understanding of the charter schools model by—

"(1) providing financial assistance for the planning, program design, and initial implementation of charter schools;

"(2) evaluating the effects of such schools, including the effects on students, student academic achievement, staff, and parents;

"(3) expanding the number of high-quality charter schools available to students across the Nation; and

"(4) encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

"SEC. 5202. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 5203 to enable such agencies to conduct a charter school grant program in accordance with this subpart.

"(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 5203, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 5203(c).

"(c) PROGRAM PERIODS.—

"(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this subpart shall be for a period of not more than 3 years.

"(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this subpart shall be for a period of not more than 3 years, of which the eligible applicant may use—

"(A) not more than 18 months for planning and program design;

"(B) not more than 2 years for the initial implementation of a charter school; and

"(C) not more than 2 years to carry out dissemination activities described in section 5204(f)(6)(B).

"(d) LIMITATION.—A charter school may not receive—

"(1) more than 1 grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

"(2) more than 1 grant for activities under subparagraph (C) of subsection (c)(2).

"(e) PRIORITY TREATMENT.—

"(1) IN GENERAL.—In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 5211 (other than funds reserved to carry out section 5205(b)), the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and 1 or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

"(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the student academic achievement requirements and goals for charter schools as set forth under State law or the school's charter.

"(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

"(A) The State has demonstrated progress, in increasing the number of high-quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this subpart.

"(B) The State—

"(i) provides for 1 authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

"(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

"(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

"(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this subpart to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

"SEC. 5203. APPLICATIONS.

"(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a *grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.*

"(b) Contents of a State Educational Agency Application.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

"(2) describe how the State educational agency—

"(A) will inform each charter school in the State regarding—

"(i) Federal funds that the charter school is eligible to receive; and

"(ii) Federal programs in which the charter school may participate;

"(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

"(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

"(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

"(A) a description of the educational program to be implemented by the proposed charter school, including—

"(i) how the program will enable all students to meet challenging State student academic achievement standards;

"(ii) the grade levels or ages of children to be served; and

"(iii) the curriculum and instructional practices to be used;

"(B) a description of how the charter school will be managed;

"(C) a description of—

"(i) the objectives of the charter school; and

"(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

"(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

"(E) a description of how parents and other members of the community will be involved in the planning, program design, and implementation of the charter school;

"(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

"(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the eligible applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

"(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

"(I) a description of how students in the community will be—

"(i) informed about the charter school; and

"(ii) given an equal opportunity to attend the charter school;

"(J) on assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

"(K) an assurance that the eligible applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this subpart;

"(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

"(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 5202(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

"(N) such other information and assurances as the Secretary and the State educational agency may require.

"(c) Eligible Applicant Application.—Each eligible applicant desiring a grant pursuant to section 5202(b) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(d) Contents of Eligible Applicant Application.—Each application submitted pursuant to subsection (c) shall contain—

"(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking 'and the State educational agency' each place such term appears;

"(2) assurances that the State educational agency—

"(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

"(B) will assist each subgrantee in the State in receiving a waiver under section 5204(e); and

"(3) assurances that the eligible applicant has provided its authorized public chartering authority timely notice, and a copy, of the application, except that the State educational agency (or the Secretary, in the case of an application submitted to the Secretary) may waive the requirement of this paragraph in the case of an application for a precharter planning grant or subgrant if the authorized public chartering authority to which a charter school proposal will be submitted has not been determined at the time the grant or subgrant application is submitted.

"SEC. 5204. ADMINISTRATION.

"(a) Selection Criteria for State Educational Agencies.—The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications submitted under section 5203(b), after taking into consideration such factors as—

"(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students in meeting State academic content standards and State student academic achievement standards;

"(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

"(3) the ambitiousness of the objectives for the State charter school grant program;

"(4) the quality of the strategy for assessing achievement of those objectives;

"(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

"(6) the number of high-quality charter schools created under this subpart in the State; and

"(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under subsection (f)(6)(B), the quality of those activities and the likelihood that those activities will improve student academic achievement.

"(b) Selection Criteria for Eligible Applicants.—The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under section 5203(c), after taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

"(3) the extent of community support for the application;

"(4) the ambitiousness of the objectives for the charter school;

"(5) the quality of the strategy for assessing achievement of those objectives;

"(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

"(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under subsection (f)(6)(B), the quality of those activities and the likelihood that those activities will improve student achievement.

"(c) Peer Review.—The Secretary, and each State educational agency receiving a grant under this subpart, shall use a peer review process to review applications for assistance under this subpart.

"(d) Diversity of Projects.—The Secretary and each State educational agency receiving a grant under this subpart, shall award grants and subgrants under this subpart in a manner that, to the extent possible, ensures that such grants and subgrants—

"(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

"(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

"(e) Waivers.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 5210(1), if—

"(1) the waiver is requested in an approved application under this subpart; and

"(2) the Secretary determines that granting such a waiver will promote the purpose of this subpart.

"(f) Use of Funds.—

"(1) State Educational Agencies.—Each State educational agency receiving a grant under this subpart shall use such grant funds to award subgrants to 1 or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this subpart, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

"(2) Eligible Applicants.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this subpart.

"(3) Allowable Activities.—An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—

(A) post-award planning and design of the educational program, which may include—

"(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

"(ii) professional development of teachers and other staff who will work in the charter school; and

"(B) initial implementation of the charter school, which may include—

"(i) informing the community about the school;

"(ii) acquiring necessary equipment and educational materials and supplies;

"(iii) acquiring or developing curriculum materials; and

"(iv) other initial operational costs that cannot be met from State or local sources.

"(4) ADMINISTRATIVE EXPENSES.—

"(A) STATE EDUCATIONAL AGENCY ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this subpart.

"(B) LOCAL ADMINISTRATIVE EXPENSES.—A local educational agency may not deduct funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant enters voluntarily into a mutually agreed upon arrangement for administrative services with the relevant local educational agency. Absent such approval, the local educational agency shall distribute all such subgrant funds to the eligible applicant without delay.

"(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 10 percent of the grant funds for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this subpart, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of the eligible applicant until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

"(6) DISSEMINATION.—

"(A) IN GENERAL.—A charter school may apply for funds under this subpart, whether or not the charter school has applied for or received funds under this subpart for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

"(i) substantial progress in improving student academic achievement;

"(ii) high levels of parent satisfaction; and

"(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

"(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

"(i) assisting other individuals with the planning and start-up of 1 or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

"(ii) developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

"(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

"(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

"(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this subpart and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

"(1) the eligibility of the school to receive any other Federal, State, or local aid; or

"(2) the amount of such aid.

"SEC. 5205. NATIONAL ACTIVITIES.

"(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

"(1) To provide charter schools, either directly or through State educational agencies, with—

"(A) information regarding—

"(i) Federal funds that charter schools are eligible to receive; and

"(ii) other Federal programs in which charter schools may participate; and

"(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

"(2) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student academic achievement, including information regarding—

"(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

"(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

"(3) To provide—

"(A) information to applicants for assistance under this subpart;

"(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 5203;

"(C) assistance in the planning and startup of charter schools;

"(D) training and technical assistance to existing charter schools; and

"(E) for the dissemination to other public schools of best or promising practices in charter schools.

"(4) To provide (including through the use of 1 or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

"(5) To carry out evaluations of, technical assistance for, and information dissemination regarding, the per-pupil facilities aid programs. In carrying out the evaluations, the Secretary may carry out 1 or more evaluations of State programs assisted under this subsection, which shall, at a minimum, address—

"(A) how, and the extent to which, the programs promote educational equity and excellence; and

"(B) the extent to which charter schools supported through the programs are—

"(i) held accountable to the public;

"(ii) effective in improving public education; and

"(iii) open and accessible to all students.

"(b) PER-PUPIL FACILITIES AID PROGRAMS.—

"(1) DEFINITION OF PER-PUPIL FACILITIES AID PROGRAM.—In this subsection, the term 'per-pupil facilities aid program' means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

"(A) that is dedicated solely for funding charter school facilities; or

"(B) a portion of which is dedicated for funding charter school facilities.

"(2) GRANTS.—

"(A) IN GENERAL.—From the amount made available to carry out this subsection under paragraphs (2) and (3)(B) of section 5211(b) for any fiscal year, the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering per-pupil facilities aid programs.

"(B) PERIOD.—The Secretary shall award grants under this subsection for periods of not more than 5 years.

"(C) FEDERAL SHARE.—The Federal share of the cost described in subparagraph (A) for a per-pupil facilities aid program shall be not more than—

"(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

"(ii) 80 percent in the second such year;

"(iii) 60 percent in the third such year;

"(iv) 40 percent in the fourth such year; and

"(v) 20 percent in the fifth such year.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State.

"(B) EVALUATIONS; TECHNICAL ASSISTANCE; DISSEMINATION.—From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evaluations, to provide technical assistance, and to disseminate information.

"(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this subsection shall be used to supplement, and not supplant, State and local public funds expended to provide per pupil facilities aid programs, operations financing programs, or other programs, for charter schools.

"(4) REQUIREMENTS.—

"(A) VOLUNTARY PARTICIPATION.—No State may be required to participate in a program carried out under this subsection.

"(B) STATE LAW.—To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

"(i) is specified in State law; and

"(ii) provides annual financing, on a per-pupil basis, for charter school facilities.

"(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(6) PRIORITIES.—In making grants under this subsection, the Secretary shall give priority to States that meet the criteria described in paragraph (2), and subparagraphs (A), (B), and (C) of paragraph (3), of section 5202(e).

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

"SEC. 5206. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

"(a) In General.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

"(b) Adjustment and Late Openings.—

"(1) In general.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

"(2) Rule.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

"SEC. 5207. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

"To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act, or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

"SEC. 5208. RECORDS TRANSFER.

"State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

"SEC. 5209. PAPERWORK REDUCTION.

"To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

"SEC. 5210. DEFINITIONS.

"In this subpart:

"(1) Charter school.—The term 'charter school' means a public school that—

"(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

"(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

"(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

"(D) provides a program of elementary or secondary education, or both;

"(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

"(F) does not charge tuition;

"(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

"(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

"(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

"(J) meets all applicable Federal, State, and local health and safety requirements;

"(K) operates in accordance with State law; and

"(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

"(2) Developer.—The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

"(3) Eligible applicant.—The term 'eligible applicant' means a developer that has—

"(A) applied to an authorized public chartering authority to operate a charter school; and

"(B) provided adequate and timely notice to that authority under section 5203(d)(3).

"(4) Authorized public chartering agency.—The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

"SEC. 5211. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out this subpart $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(b) Reservation.—From the amount appropriated under subsection (a) for each fiscal year, the Secretary shall reserve—

"(1) $200,000,000 to carry out this subpart, other than section 5205(b); and

"(2) any funds in excess of $200,000,000, that do not exceed $300,000,000, to carry out section 5205(b); and

"(3)(A) 50 percent of any funds in excess of $300,000,000 to carry out this subpart, other than section 5205(b); and

"(B) 50 percent of any funds in excess of $300,000,000 to carry out section 5205(b).

"Subpart 2—Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation

"SEC. 5221. PURPOSE.

"The purpose of this subpart is to provide grants to eligible entities to permit the eligible entities to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

"SEC. 5222. GRANTS TO ELIGIBLE ENTITIES.

"(a) Grants.—The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than 3 grants to eligible entities that have applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

"(b) Grantee Selection.—

"(1) Evaluation of application.—The Secretary shall evaluate each application submitted under section 5223, and shall determine whether the application is sufficient to merit approval.

"(2) Distribution of grants.—The Secretary shall award at least 1 grant to an eligible entity described in section 5230(2)(A), at least 1 grant to an eligible entity described in section 5230(2)(B), and at least 1 grant to an eligible entity described in section 5230(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

"(c) Grant Characteristics.—Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

"(d) Special Rule.—In the event the Secretary determines that the funds made available under this subpart are insufficient to permit the Secretary to award not less than 3 grants in accordance with subsections (a) through (c), such 3-grant minimum and subsection (b)(2) shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c).

"SEC. 5223. APPLICATIONS.

"(a) In General.—To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

"(b) Contents.—An application submitted under subsection (a) shall contain—

"(1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the eligible entity will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

"(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

"(3) a description of the eligible entity's expertise in capital market financing;

"(4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;

"(5) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

"(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State

receive the funding the charter schools need to have adequate facilities; and

''(7) such other information as the Secretary may reasonably require.

"SEC. 5224. CHARTER SCHOOL OBJECTIVES.

''An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 5225(a) to assist 1 or more charter schools to access private sector capital to accomplish 1 or both of the following objectives:

''(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

''(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

"SEC. 5225. RESERVE ACCOUNT.

''(a) USE OF FUNDS.—To assist charter schools to accomplish the objectives described in section 5224, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 5226) in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account shall be used by the eligible entity for 1 or more of the following purposes:

''(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 5224.

''(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 5224.

''(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

''(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

''(b) INVESTMENT.—Funds received under this subpart and deposited in the reserve account established under subsection (a) shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

''(c) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) and used in accordance with such subsection.

"SEC. 5226. LIMITATION ON ADMINISTRATIVE COSTS.

''An eligible entity may use not more than 0.25 percent of the funds received under this subpart for the administrative costs of carrying out its responsibilities under this subpart.

"SEC. 5227. AUDITS AND REPORTS.

''(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this subpart shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

''(b) REPORTS.—

''(1) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under this subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.

''(2) CONTENTS.—Each annual report submitted under paragraph (1) shall include—

''(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

''(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

''(C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this subpart in leveraging private funds;

''(D) a listing and description of the charter schools served during the reporting period;

''(E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 5224; and

''(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart during the reporting period.

''(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this subpart.

"SEC. 5228. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

''No financial obligation of an eligible entity entered into pursuant to this subpart (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

"SEC. 5229. RECOVERY OF FUNDS.

''(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

''(1) all of the funds in a reserve account established by an eligible entity under section 5225(a) if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under this subpart, that the eligible entity has failed to make substantial progress in carrying out the purposes described in section 5225(a); or

''(2) all or a portion of the funds in a reserve account established by an eligible entity under section 5225(a) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 5225(a).

''(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve 1 or more of the purposes described in section 5225(a).

''(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act shall apply to the recovery of funds under subsection (a).

''(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act.

"SEC. 5230. DEFINITIONS.

''In this subpart:

''(1) CHARTER SCHOOL.—The term 'charter school' has the meaning given such term in section 5210.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) a public entity, such as a State or local governmental entity;

''(B) a private nonprofit entity; or

''(C) a consortium of entities described in subparagraphs (A) and (B).

"SEC. 5231. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subpart, there are authorized to be appropriated $150,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal year 2003.''

"Subpart 3—Voluntary Public School Choice Programs

"SEC. 5241. GRANTS.

''(a) AUTHORIZATION.—From funds made available under section 5248 to carry out this subpart, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the entities to establish or expand a program of public school choice (referred to in this subpart as a 'program') in accordance with this subpart.

''(b) DURATION.—Grants awarded under subsection (a) may be awarded for a period of not more than 5 years.

"SEC. 5242. USES OF FUNDS.

''(a) REQUIRED USE OF FUNDS.—An eligible entity that receives a grant under this subpart shall use the grant funds to provide students selected to participate in the program with transportation services or the cost of transportation to and from the public elementary schools and secondary schools, including charter schools, that the students choose to attend under the program.

''(b) PERMISSIBLE USES OF FUNDS.—An eligible entity that receives a grant under this subpart may use the grant funds for—

''(1) planning or designing a program (for not more than 1 year);

''(2) the cost of making tuition transfer payments to public elementary schools or secondary schools to which students transfer under the program;

''(3) the cost of capacity-enhancing activities that enable high-demand public elementary schools or secondary schools to accommodate transfer requests under the program;

''(4) the cost of carrying out public education campaigns to inform students and parents about the program; and

''(5) other costs reasonably necessary to implement the program.

''(c) NONPERMISSIBLE USES OF FUNDS.—An eligible entity that receives a grant under this subpart may not use the grant funds for school construction.

''(d) ADMINISTRATIVE EXPENSES.—The eligible entity may use not more than 5 percent of the funds made available through the grant for any fiscal year for administrative expenses.

"SEC. 5243. APPLICATIONS.

''(a) SUBMISSION.—An eligible entity that desires a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(b) CONTENTS.—An application submitted under subsection (a) shall include—

''(1) a description of the program for which the eligible entity seeks funds and the goals for such program;

''(2) a description of how and when parents of students will be given the notice required under section 5245(a)(2);

''(3) a description of how students will be selected for the program;

''(4) a description of how the program will be coordinated with, and will complement and enhance, other related Federal and non-Federal projects;

''(5) if the program is to be carried out by a partnership, the name of each partner and a description of the partner's responsibilities; and

''(6) such other information as the Secretary may require.

“SEC. 5244. PRIORITIES.

“In awarding grants under this subpart, the Secretary shall give priority to an eligible entity—

“(1) whose program would provide the widest variety of choices to all students in participating schools;

“(2) whose program would, through various choice options, have the most impact in allowing students in low-performing schools to attend higher-performing schools; and

“(3) that is a partnership that seeks to implement an interdistrict approach to carrying out a program.

“SEC. 5245. REQUIREMENTS AND VOLUNTARY PARTICIPATION.

“(a) PARENT AND COMMUNITY INVOLVEMENT AND NOTICE.—In carrying out a program under this subpart, an eligible entity shall—

“(1) develop the program with—

“(A) the involvement of parents and others in the community to be served; and

“(B) individuals who will carry out the program, including administrators, teachers, principals, and other staff; and

“(2) provide to parents of students in the area to be served by the program with prompt notice of—

“(A) the existence of the program;

“(B) the program's availability; and

“(C) a clear explanation of how the program will operate.

“(b) SELECTION OF STUDENTS.—An eligible entity that receives a grant under this subpart shall select students to participate in a program on the basis of a lottery, if more students apply for admission to the program than can be accommodated.

“(c) VOLUNTARY PARTICIPATION.—Student participation in a program funded under this subpart shall be voluntary.

“SEC. 5246. EVALUATIONS.

“(a) IN GENERAL.—From the amount made available to carry out this subpart for any fiscal year, the Secretary may reserve not more than 5 percent—

“(1) to carry out evaluations;

“(2) to provide technical assistance; and

“(3) to disseminate information.

“(b) EVALUATIONS.—In carrying out the evaluations under subsection (a), the Secretary shall, at a minimum, address—

“(1) how, and the extent to which, the programs promote educational equity and excellence;

“(2) the characteristics of the students participating in the programs; and

“(3) the effect of the programs on the academic achievement of students participating in the programs, particularly students who move from schools identified under section 1116 to schools not so identified, and on the overall quality of participating schools and districts.

“SEC. 5247. DEFINITIONS.

“In this subpart:

“(1) CHARTER SCHOOL.—The term ‘charter school’ has the meaning given such term in section 5210.

“(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) one or more State educational agencies;

“(B) one or more local educational agencies; or

“(C) a partnership of—

“(i) one or more—

“(I) State educational agencies; and

“(II) local educational agencies or other public, for-profit, or nonprofit entities; or

“(ii) one or more—

“(I) local educational agencies; and

“(II) public, for-profit, or nonprofit entities.

“(3) LOW-PERFORMING SCHOOL.—The term ‘low-performing school’ means a public elementary school or secondary school that has failed to make adequate yearly progress, as described in section 1111(b), for 2 or more consecutive years.

“SEC. 5248. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this subpart $100,000,000 for fiscal year 2002 and each of the 5 succeeding fiscal years.

“PART C—MAGNET SCHOOLS ASSISTANCE

“SEC. 5301. FINDINGS AND PURPOSE.

“(a) FINDINGS.—Congress makes the following findings:

“(1) Magnet schools are a significant part of the Nation's effort to achieve voluntary desegregation in our Nation's schools.

“(2) The use of magnet schools has increased dramatically since the inception of the magnet schools assistance program under this Act, with approximately 2,000,000 students nationwide attending such schools, of whom more than 65 percent are non-white.

“(3) Magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts.

“(4) It is in the best interests of the United States—

“(A) to continue the Federal Government's support of local educational agencies that are implementing court-ordered desegregation plans and local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

“(B) to ensure that all students have equitable access to a high quality education that will prepare all students to function well in a technologically oriented and a highly competitive economy comprised of people from many different racial and ethnic backgrounds; and

“(C) to continue to desegregate and diversify schools by supporting magnet schools, recognizing that segregation exists between minority and nonminority students as well as among students of different minority groups.

“(5) Desegregation efforts through magnet school programs are a significant part of our Nation's effort to achieve voluntary desegregation in schools and help to ensure equal educational opportunities for all students.

“(b) PURPOSE.—The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

“(1) the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students, which shall include assisting in the efforts of the United States to achieve voluntary desegregation in public schools;

“(2) the development and implementation of magnet school programs that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State academic content standards and student academic achievement standards;

“(3) the development and design of innovative educational methods and practices that promote diversity and increase choices in public elementary schools and public secondary schools and public educational programs;

“(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the attainment of tangible and marketable vocational, technological, and professional skills of students attending such schools;

“(5) improving the capacity of local educational agencies, including through professional development, to continue operating magnet schools at a high performance level after Federal funding for the magnet schools is terminated; and

“(6) ensuring that all students enrolled in the magnet school programs have equitable access to high quality education that will enable the students to succeed academically and continue with postsecondary education or productive employment.

“SEC. 5302. DEFINITION.

“For the purpose of this part, the term ‘magnet school’ means a public elementary school, public secondary school, public elementary education center, or public secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

“SEC. 5303. PROGRAM AUTHORIZED.

“The Secretary, in accordance with this part, is authorized to award grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

“(1) part of an approved desegregation plan; and

“(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

“SEC. 5304. ELIGIBILITY.

“A local educational agency, or consortium of such agencies where appropriate, is eligible to receive a grant under this part to carry out the purpose of this part if such agency or consortium—

“(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary schools and secondary schools of such agency; or

“(2) without having been required to do so, has adopted and is implementing, or will, if a grant is awarded to such local educational agency, or consortium of such agencies, under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

“SEC. 5305. APPLICATIONS AND REQUIREMENTS.

“(a) APPLICATIONS.—An eligible local educational agency, or consortium of such agencies, desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

“(b) INFORMATION AND ASSURANCES.—Each application submitted under subsection (a) shall include—

“(1) a description of—

“(A) how a grant awarded under this part will be used to promote desegregation, including how the proposed magnet school programs will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

“(B) the manner and extent to which the magnet school program will increase student academic achievement in the instructional area or areas offered by the school;

“(C) how the applicant will continue the magnet school program after assistance under this part is no longer available, and, if applicable, an explanation of why magnet schools established or supported by the applicant with grant funds under this part cannot be continued without the use of grant funds under this part;

“(D) how grant funds under this part will be used—

“(i) to improve student academic achievement for all students attending the magnet school programs; and

“(ii) to implement services and activities that are consistent with other programs under this Act, and other Acts, as appropriate; and

“(E) the criteria to be used in selecting students to attend the proposed magnet school program; and

“(2) assurances that the applicant will—

“(A) use grant funds under this part for the purposes specified in section 5301(b);

“(B) employ highly qualified teachers in the courses of instruction assisted under this part;

“(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

“(i) the hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

“(ii) the assignment of students to schools, or to courses of instruction within the schools, of such applicant, except to carry out the approved plan; and

“(iii) designing or operating extracurricular activities for students;

“(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

“(E) give students residing in the local attendance area of the proposed magnet school program equitable consideration for placement in the program, consistent with desegregation guidelines and the capacity of the applicant to accommodate the students.

“(c) Special Rule.—No grant shall be awarded under this part unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

“SEC. 5306. PRIORITY.

“In awarding grants under this part, the Secretary shall give priority to applicants that—

“(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out approved desegregation plans and the magnet school program for which the grant is sought;

“(2) propose to carry out new magnet school programs, or significantly revise existing magnet school programs; and

“(3) propose to select students to attend magnet school programs by methods such as lottery, rather than through academic examination.

“SEC. 5307. USE OF FUNDS.

“(a) In General.—Grant funds made available under this part may be used by an eligible local educational agency, or consortium of such agencies—

“(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

“(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation of materials, equipment, and computers, necessary to conduct programs in magnet schools;

“(3) for the compensation, or subsidization of the compensation, of elementary school and secondary school teachers who are highly qualified, and instructional staff where applicable, who are necessary to conduct programs in magnet schools;

“(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

“(A) are designed to make available the special curriculum that is offered by the magnet school program to students who are enrolled in the school but who are not enrolled in the magnet school program; and

“(B) further the purpose of this part;

“(5) for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended;

“(6) to enable the local educational agency, or consortium of such agencies, to have more flexibility in the administration of a magnet school program in order to serve students attending a school who are not enrolled in a magnet school program; and

“(7) to enable the local educational agency, or consortium of such agencies, to have flexibility in designing magnet schools for students in all grades.

“(b) Special Rule.—Grant funds under this part may be used for activities described in paragraphs (2) and (3) of subsection (a) only if the activities are directly related to improving student academic achievement based on the State's challenging academic content standards and student academic achievement standards or directly related to improving student reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational, technological, and professional skills.

“SEC. 5308. PROHIBITION.

“Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

“SEC. 5309. LIMITATIONS.

“(a) Duration of Awards.—A grant under this part shall be awarded for a period that shall not exceed 3 fiscal years.

“(b) Limitation on Planning Funds.—A local educational agency, or consortium of such agencies, may expend for planning (professional development shall not be considered to be planning for purposes of this subsection) not more than 50 percent of the grant funds received under this part for the first year of the program and not more than 15 percent of such funds for each of the second and third such years.

“(c) Amount.—No local educational agency, or consortium of such agencies, awarded a grant under this part shall receive more than $4,000,000 under this part for any 1 fiscal year.

“(d) Timing.—To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than July 1 of the applicable fiscal year.

“SEC. 5310. EVALUATIONS.

“(a) Reservation.—The Secretary may reserve not more than 2 percent of the funds appropriated under section 5311(a) for any fiscal year to carry out evaluations, provide technical assistance, and carry out dissemination projects with respect to magnet school programs assisted under this part.

“(b) Contents.—Each evaluation described in subsection (a), at a minimum, shall address—

“(1) how and the extent to which magnet school programs lead to educational quality and improvement;

“(2) the extent to which magnet school programs enhance student access to a high quality education;

“(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students; and

“(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

“(c) Dissemination.—The Secretary shall collect and disseminate to the general public information on successful magnet school programs.

“SEC. 5311. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

“(a) Authorization.—For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

“(b) Availability of Funds for Grants to Agencies Not Previously Assisted.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority in using such amounts in excess of $75,000,000 to awarding grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.

“PART D—FUND FOR THE IMPROVEMENT OF EDUCATION

“SEC. 5401. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part the following amounts:

“(1) $550,000,000 for fiscal year 2002.

“(2) $575,000,000 for fiscal year 2003.

“(3) $600,000,000 for fiscal year 2004.

“(4) $625,000,000 for fiscal year 2005.

“(5) $650,000,000 for fiscal year 2006.

“(6) $675,000,000 for fiscal year 2007.

“Subpart 1—Fund for the Improvement of Education

“SEC. 5411. PROGRAMS AUTHORIZED.

“(a) Authorization.—The Secretary is authorized to support nationally significant programs to improve the quality of elementary and secondary education at the State and local levels and help all children meet challenging State academic content and student academic achievement standards. The Secretary may carry out such programs directly, or through grants to, or contracts with—

“(1) States or local educational agencies;

“(2) institutions of higher education; and

“(3) other public and private agencies, organizations, and institutions.

“(b) Uses of Funds.—Funds made available under section 5401 to carry out this subpart may be used for any of the following programs:

“(1) Activities to promote systemic education reform at the State and local levels, including scientifically based research, development, and evaluation designed to improve—

“(A) student academic achievement at the State and local level; and

“(B) strategies for effective parent and community involvement.

“(2) Programs at the State and local levels that are designed to yield significant results, including programs to explore approaches to public school choice and school-based decisionmaking.

“(3) Recognition programs, which may include financial awards to States, local educational agencies, and schools that have made the greatest progress, based on the Secretary's determination or on a nomination by the State in which the school is located (or in the case of a Bureau funded school, by the Secretary of the Interior) in—

“(A) improving the academic achievement of economically disadvantaged students and students from major racial and ethnic minority groups; and

“(B) in closing the academic achievement gap for those groups of students farthest away from the proficient level on the academic assessments administered by the State under section 1111.

“(4) Scientifically based studies and evaluations of education reform strategies and innovations, and the dissemination of information on the effectiveness of such strategies and innovations.

“(5) Identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools, including programs to evaluate the effectiveness of using the best practices of exemplary or Blue Ribbon Schools to improve academic achievement.

"(6) Activities to support Scholar-Athlete Games programs, including the World Scholar-Athlete Games and the U.S. Scholar-Athlete Games.

"(7) Programs to promote voter participation in American elections through programs, such as the National Student/Parent Mock Election and Kids Voting USA.

"(8) Demonstrations relating to the planning and evaluation of the effectiveness of programs under which local educational agencies or schools contract with private management organizations to reform a school or schools.

"(9) Other programs that meet the purposes of this Act.

"(c) BASIS OF AWARDS.—The Secretary is authorized to—

"(1) make awards under this subpart on the basis of competitions announced by the Secretary; and

"(2) support meritorious unsolicited proposals for awards under this subpart.

"(d) EFFECTIVENESS OF PROGRAMS.—The Secretary shall ensure that programs supported under this subpart are designed so that their effectiveness is readily ascertainable, and shall ensure that such effectiveness is assessed using rigorous, scientifically based research and evaluations.

"SEC. 5412. APPLICATIONS.

"(a) SUBMISSION.—To be eligible for an award under this subpart, an entity shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(b) CONTENTS.—Each application submitted under subsection (a) shall—

"(1) establish clear objectives, which are based on scientifically based research, for the proposed program; and

"(2) describe the activities the applicant will carry out in order to meet the objectives described in paragraph (1).

"(c) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for awards under this subpart and in recognizing States, local educational agencies, and schools under section 5411(b)(3), only if funds are used for such recognition programs. The Secretary may use funds appropriated under this subpart for the cost of such peer review.

"SEC. 5413. PROGRAM REQUIREMENTS.

"(a) EVALUATIONS.—A recipient of an award under this subpart shall—

"(1) evaluate the effectiveness of the program funded under the award in achieving the objectives stated in application submitted under section 5412; and

"(2) report to the Secretary such information as may be required to determine the effectiveness of such program, including evidence of progress toward meeting such objectives.

"(b) DISSEMINATION OF EVALUATION RESULTS.—The Secretary shall provide for the dissemination of the evaluations of programs funded under this subpart by making the evaluations publicly available upon request, and shall provide public notice that the evaluations are so available.

"(c) MATCHING FUNDS.—The Secretary may require recipients of awards under this subpart to provide matching funds from non-Federal sources, and shall permit the recipients to match funds in whole or in part with in-kind contributions.

"(d) SPECIAL RULE FOR RECOGNITION PROGRAMS.—The application requirements of section 5412(b), and the evaluation requirements of subsections (a) and (b) of this section, do not apply to recognition programs under section 5411(b)(3).

"SEC. 5414. STUDIES OF NATIONAL SIGNIFICANCE.

"(a) STUDIES.—The Secretary shall conduct the following studies of national significance:

"(1) UNHEALTHY PUBLIC SCHOOL BUILDINGS.—A study regarding the health and learning impacts of environmentally unhealthy public school buildings on students and teachers. The study shall include the following information:

"(A) The characteristics of those public elementary school and secondary school buildings that contribute to unhealthy school environments.

"(B) The health and learning impacts of environmental unhealthy public school buildings on students that are attending or that have attended such schools.

"(C) Recommendations to Congress on how to assist schools that are out of compliance with Federal or State health and safety codes, and a cost estimate of bringing up environmentally unhealthy public school buildings to minimum Federal health and safety building standards.

"(2) EXPOSURE TO VIOLENT ENTERTAINMENT.—A study regarding how exposure to violent entertainment (such as in movies, music, television, Internet content, video games, and arcade games) affects children's cognitive development and educational achievement.

"(3) SEXUAL ABUSE IN SCHOOLS.—A study regarding the prevalence of sexual abuse in schools, including recommendations and legislative remedies for addressing the problem of sexual abuse in schools.

"(b) COMPLETION DATE.—The studies under subsection (a) shall be completed not later than 18 months after the date of enactment of the No Child Left Behind Act of 2001.

"(c) PUBLIC DISSEMINATION.—The Secretary shall make the study conducted under subsection (a)(1) available to the public through the Educational Resources Information Center National Clearinghouse for Educational Facilities of the Department.

"Subpart 2—Elementary and Secondary School Counseling Programs

"SEC. 5421. ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to local educational agencies to enable such agencies to establish or expand elementary school and secondary school counseling programs that comply with the requirements of subsection (c)(2).

"(2) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

"(A) demonstrate the greatest need for new or additional counseling services among children in the schools served by the local educational agency, in part by providing information on current ratios of students to school counselors, students to school social workers, and students to school psychologists;

"(B) propose the most promising and innovative approaches for initiating or expanding school counseling; and

"(C) show the greatest potential for replication and dissemination.

"(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among local educational agencies located in urban, rural, and suburban areas.

"(4) DURATION.—A grant under this section shall be awarded for a period not to exceed 3 years.

"(5) MAXIMUM GRANT.—A grant awarded under this section shall not exceed $400,000 for any fiscal year.

"(6) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, or local funds used for providing school-based counseling and mental health services to students.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application for a grant under this section shall—

"(A) describe the school population to be targeted by the program, the particular counseling needs of such population, and the current school counseling resources available for meeting such needs;

"(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

"(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

"(D) describe how the local educational agency will involve community groups, social service agencies, and other public and private entities in collaborative efforts to enhance the program and promote school-linked services integration;

"(E) document that the local educational agency has the personnel qualified to develop, implement, and administer the program;

"(F) describe how diverse cultural populations, if applicable, will be served through the program;

"(G) assure that the funds made available under this subpart for any fiscal year will be used to supplement, and not supplant, any other Federal, State, or local funds used for providing school-based counseling and mental health services to students; and

"(H) assure that the applicant will appoint an advisory board composed of interested parties, including parents, teachers, school administrators, counseling services providers described in subsection (c)(2)(D), and community leaders, to advise the local educational agency on the design and implementation of the program.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to local educational agencies to enable the local educational agencies to initiate or expand elementary school or secondary school counseling programs that comply with the requirements of paragraph (2).

"(2) REQUIREMENTS.—Each program funded under this section shall—

"(A) be comprehensive in addressing the counseling and educational needs of all students;

"(B) use a developmental, preventive approach to counseling;

"(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools and secondary schools of the local educational agency;

"(D) expand counseling services through qualified school counselors, school social workers; school psychologists, other qualified psychologists, or child and adolescent psychiatrists;

"(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decisionmaking, or academic and career planning, or to improve peer interaction;

"(F) provide counseling services in settings that meet the range of student needs;

"(G) include in-service training appropriate to the activities funded under this Act for teachers, instructional staff, and appropriate school personnel, including in-service training in appropriate identification and early intervention techniques by school counselors, school social workers, school psychologists, other qualified psychologists, and child and adolescent psychiatrists;

"(H) involve parents of participating students in the design, implementation, and evaluation of the counseling program;

"(I) involve community groups, social service agencies, or other public or private entities in collaborative efforts to enhance the program and promote school-linked integration of services;

"(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

"(K) ensure a team approach to school counseling in the schools served by the local educational agency by working toward ratios recommended by the American School Health Association of 1 school counselor to 250 students, 1 school social worker to 800 students, and 1 school psychologist to 1,000 students; and

"(L) ensure that school counselors, school psychologists, other qualified psychologists, school social workers, or child and adolescent psychiatrists paid from funds made available under this section spend a majority of their time counseling students or in other activities directly related to the counseling process.

"(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 4 percent of the amounts made available under this section for any fiscal year may be used for administrative costs to carry out this section.

"(e) DEFINITIONS.—For the purpose of this section—

"(1) the term 'child and adolescent psychiatrist' means an individual who—

"(A) possesses State medical licensure; and

"(B) has completed residency training programs in both general psychiatry and child and adolescent psychiatry;

"(2) the term 'other qualified psychologist' means an individual who has demonstrated competence in counseling children in a school setting and who—

"(A) is licensed in psychology by the State in which the individual works; and

"(B) practices in the scope of the individual's education, training, and experience with children in school settings;

"(3) the term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

"(A) is licensed by the State or certified by an independent professional regulatory authority;

"(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

"(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

"(4) the term 'school psychologist' means an individual who—

"(A) has completed a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours are in the school setting;

"(B) is licensed or certified in school psychology by the State in which the individual works; or

"(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board; and

"(5) the term 'school social worker' means an individual who—

"(A) holds a master's degree in social work from a program accredited by the Council on Social Work Education; and

"(B)(i) is licensed or certified by the State in which services are provided; or

"(ii) in the absence of such State licensure or certification, possesses a national credential or certification as a school social work specialist granted by an independent professional organization.

"(f) REPORT.—Not later than 2 years after assistance is made available to local educational agencies under subsection (c), the Secretary shall make publicly available a report—

"(1) evaluating the programs assisted pursuant to each grant under this subpart; and

"(2) outlining the information from local educational agencies regarding the ratios of students to—

"(A) school counselors;

"(B) school social workers; and

"(C) school psychologists.

"(g) SPECIAL RULE.—

"(1) AMOUNT EQUALS OR EXCEEDS $40,000,000.—If the amount of funds made available by the Secretary for this subpart equals or exceeds $40,000,000, the Secretary shall award not less than $40,000,000 in grants to local educational agencies to enable the agencies to establish or expand counseling programs in elementary schools.

"(2) AMOUNT LESS THAN $40,000,000.—If the amount of funds made available by the Secretary for this subpart is less than $40,000,000, the Secretary shall award grants to local educational agencies only to establish or expand counseling programs in elementary schools.

"Subpart 3—Partnerships in Character Education

"SEC. 5431. PARTNERSHIPS IN CHARACTER EDUCATION PROGRAM.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to eligible entities for the design and implementation of character education programs that—

"(A) are able to be integrated into classroom instruction and to be consistent with State academic content standards; and

"(B) are able to be carried out in conjunction with other educational reform efforts.

"(2) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(A) a State educational agency in partnership with—

"(i) one or more local educational agencies; or

"(ii) one or more—

"(I) local educational agencies; and

"(II) nonprofit organizations or entities, including an institution of higher education;

"(B) a local educational agency or consortium of local educational agencies; or

"(C) a local educational agency in partnership with one or more nonprofit organizations or entities, including an institution of higher education.

"(3) DURATION.—Each grant under this section shall be awarded for a period not to exceed 5 years, of which the eligible entity may not use more than 1 year for planning and program design.

"(4) AMOUNT OF GRANTS FOR STATE EDUCATIONAL AGENCIES.—Subject to the availability of appropriations, the amount of a grant made by the Secretary to a State educational agency under this section shall not be less than $500,000 if the State educational agency—

"(A) is in a partnership described in paragraph (2)(A); and

"(B) meets such requirements as the Secretary may establish under this section.

"(b) CONTRACTS UNDER PROGRAM.—

"(1) EVALUATION.—Each eligible entity awarded a grant under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for the purposes of—

"(A) evaluating the program for which the assistance is made available;

"(B) measuring the integration of such program into the curriculum and teaching methods of schools where the program is carried out; and

"(C) measuring the success of such program in fostering the elements of character selected by the recipient under subsection (c).

"(2) MATERIALS AND PROGRAM DEVELOPMENT.—Each eligible entity awarded a grant under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for assistance in—

"(A) developing secular curricula, materials, teacher training, and other activities related to character education; and

"(B) integrating secular character education into the curricula and teaching methods of schools where the program is carried out.

"(c) ELEMENTS OF CHARACTER.—

"(1) SELECTION.—

"(A) IN GENERAL.—Each eligible entity awarded a grant under this section may select the elements of character that will be taught under the program for which the grant was awarded.

"(B) CONSIDERATION OF VIEWS.—In selecting elements of character under subparagraph (A), the eligible entity shall consider the views of the parents of the students to be taught under the program and the views of the students.

"(2) EXAMPLE ELEMENTS.—Elements of character selected under this subsection may include any of the following:

"(A) Caring.

"(B) Civic virtue and citizenship.

"(C) Justice and fairness.

"(D) Respect.

"(E) Responsibility.

"(F) Trustworthiness.

"(G) Giving.

"(H) Any other elements deemed appropriate by the eligible entity.

"(d) USE OF FUNDS BY STATE EDUCATIONAL AGENCY RECIPIENTS.—Of the total funds received in any fiscal year under this section by an eligible entity that is a State educational agency—

"(1) not more than 3 percent of such funds may be used for administrative purposes; and

"(2) the remainder of such funds may be used for—

"(A) collaborative initiatives with and between local educational agencies and schools;

"(B) the preparation or purchase of materials, and teacher training;

"(C) providing assistance to local educational agencies, schools, or institutions of higher education; and

"(D) technical assistance and evaluation.

"(e) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(2) REQUIRED INFORMATION.—Each application for a grant under this section shall include (together with any other information that the Secretary may require) information that—

"(A) demonstrates that the program for which the grant is sought has clear objectives that are based on scientifically based research;

"(B) describes any partnerships or collaborative efforts among the organizations and entities of the eligible entity;

"(C) describes the activities that will be carried out with the grant funds and how such activities will meet the objectives described in subparagraph (A), including—

"(i) how parents, students, students with disabilities (including those with mental or physical disabilities), and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program and how the eligible entity will work with the larger community to increase the reach and promise of the program;

"(ii) curriculum and instructional practices that will be used or developed; and *“(iii) methods of teacher training and parent education that will be used or developed;*

“(D) describes how the program for which the grant is sought will be linked to other efforts to improve academic achievement, including—

“(i) broader educational reforms that are being instituted by the eligible entity or its partners; and

“(ii) State academic content standards;

“(E) in the case of an eligible entity that is a State educational agency, describes how the State educational agency—

“(i) will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs; and

“(ii) will assist other interested local educational agencies that are not members of the original partnership in designing and establishing character education programs;

“(F) describes how the eligible entity will evaluate the success of its program—

“(i) based on the objectives described in subparagraph (A); and

“(ii) in cooperation with any national evaluation conducted pursuant to subsection (h)(2)(B)(iii); and

“(G) assures that the eligible entity annually will provide to the Secretary such information as may be required to determine the effectiveness of the program.

“(f) SELECTION OF RECIPIENTS.—

“(1) PEER REVIEW.—

“(A) IN GENERAL.—In selecting eligible entities to receive grants under this section from among the applicants for such grants, the Secretary shall use a peer review process that includes the participation of experts in the field of character education and development.

“(B) USE OF FUNDS.—The Secretary may use funds appropriated under this section for the cost of carrying out peer reviews under this paragraph.

“(2) SELECTION CRITERIA.—Each selection under paragraph (1) shall be made on the basis of the quality of the application submitted, taking into consideration such factors as—

“(A) the extent to which the program fosters character in students and the potential for improved student academic achievement;

“(B) the extent and ongoing nature of parental, student, and community involvement;

“(C) the quality of the plan for measuring and assessing success; and

“(D) the likelihood that the objectives of the program will be achieved.

“(3) EQUITABLE DISTRIBUTION.—In making selections under this subsection, the Secretary shall ensure, to the extent practicable under paragraph (2), that the programs assisted under this section are equitably distributed among the geographic regions of the United States, and among urban, suburban, and rural areas.

“(g) PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.—Each eligible entity that receives a grant under this section shall provide, to the extent feasible and appropriate, for the participation in programs and activities under this section of students and teachers in private elementary schools and secondary schools.

“(h) EVALUATION AND PROGRAM DEVELOPMENT.—

“(1) STATE AND LOCAL REPORTING AND EVALUATION.—Each eligible entity receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this section, including its impact on students, students with disabilities (including those with mental or physical disabilities), teachers, administrators, parents, and others—

“(A) by the end of the second year of the program; and

“(B) not later than 1 year after completion of the grant period.

“(2) NATIONAL RESEARCH, DISSEMINATION, AND EVALUATION.—

“(A) IN GENERAL.—

“(i) AUTHORIZATION.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, State educational agencies or local educational agencies, institutions of higher education, tribal organizations, or other public or private agencies or organizations to carry out research, development, dissemination, technical assistance, and evaluation activities that support or inform State and local character education programs.

“(ii) RESERVATION OF FUNDS.—The Secretary shall reserve not more than 5 percent of the funds made available under this section to carry out this paragraph.

“(B) USES.—Funds made available under subparagraph (A) may be used for the following:

“(i) Conducting research and development activities that focus on matters such as—

“(I) the extent to which schools are undertaking character education initiatives;

“(II) the effectiveness of instructional models for all students, including students with disabilities (including those with mental or physical disabilities);

“(III) materials and curricula for use by programs in character education;

“(IV) models of professional development in character education;

“(V) the development of measures of effectiveness for character education programs (which may include the factors described in paragraph (3)); and

“(VI) the effectiveness of State and local programs receiving funds under this section.

“(ii) Providing technical assistance to State and local programs, particularly on matters of program evaluation.

“(iii) Conducting evaluations of State and local programs receiving funding under this section, that may be conducted through a national clearinghouse under clause (iv).

“(iv) Compiling and disseminating, through a national clearinghouse or other means—

“(I) information on model character education programs;

“(II) information about high quality character education materials and curricula;

“(III) research findings in the area of character education and character development; and

“(IV) any other information that will be useful to character education program participants nationwide, including educators, parents, and administrators.

“(C) PARTNERSHIPS.—In carrying out national activities under this paragraph, the Secretary may enter into partnerships with national nonprofit character education organizations and institutions of higher education with expertise and successful experience in implementing—

“(i) character education programs that had an effective impact on schools, students, students with disabilities (including those with mental or physical disabilities), and teachers; or

“(ii) character education program evaluation and research.

“(D) PARTNERSHIP FOR ACTIVITIES UNDER SUBPARAGRAPH (B)(iv).—In carrying out national activities under subparagraph (B)(iv), the Secretary may enter into a partnership with a national nonprofit character education organization that will disseminate information to educators, parents, administrators, and others nationwide, including information about the range of model character education programs, materials, and curricula.

“(E) REPORT.—Each entity awarded a grant or entering into a contract or cooperative agreement under this paragraph shall submit an annual report to the Secretary that—

“(i) describes the entity's progress in carrying out research, development, dissemination, evaluation, and technical assistance under this paragraph;

“(ii) identifies unmet and future information needs in the field of character education; and

“(iii) if applicable, describes the progress of the entity in carrying out the requirements of subparagraph (B)(iv), including a listing of—

“(I) the number of requests for information received by the entity in the course of carrying out such requirements;

“(II) the types of organizations making such requests; and

“(III) the types of information requested.

“(3) FACTORS.—Factors that may be considered in evaluating the success of programs funded under this section include the following:

“(A) Discipline issues.

“(B) Student academic achievement.

“(C) Participation in extracurricular activities.

“(D) Parental and community involvement.

“(E) Faculty and administration involvement.

“(F) Student and staff morale.

“(G) Overall improvements in school climate for all students, including students with disabilities (including those with mental or physical disabilities).

“(i) PERMISSIVE MATCH.—

“(1) IN GENERAL.—The Secretary may require eligible entities to match funds awarded under this section with non-Federal funds, except that the amount of the match may not exceed the amount of the grant award.

“(2) SLIDING SCALE.—The amount of a match under paragraph (1) shall be established based on a sliding scale that takes into account—

“(A) the poverty of the population to be targeted by the eligible entity; and

“(B) the ability of the eligible entity to obtain funding for the match.

“(3) IN-KIND CONTRIBUTIONS.—The Secretary shall permit eligible entities to match funds in whole or in part with in-kind contributions.

“(4) CONSIDERATION.—Notwithstanding this subsection, the Secretary in making awards under this section shall not consider the ability of an eligible entity to match funds.

“Subpart 4—Smaller Learning Communities

“SEC. 5441. SMALLER LEARNING COMMUNITIES.

“(a) GRANT AUTHORITY.—The Secretary is authorized to award grants to local educational agencies to enable the agencies to create a smaller learning community or communities.

“(b) APPLICATION.—Each local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. The application shall include descriptions of the following:

“(1) Strategies and methods the local educational agency will use to create the smaller learning community or communities.

“(2) Curriculum and instructional practices, including any particular themes or emphases, to be used in the smaller learning environment.

“(3) The extent of involvement of teachers and other school personnel in investigating, designing, implementing, and sustaining the smaller learning community or communities.

“(4) The process to be used for involving students, parents, and other stakeholders in the development and implementation of the smaller learning community or communities.

“(5) Any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities.

“(6) The training and professional development activities that will be offered to teachers and others involved in the activities assisted under this subpart.

“(7) The objectives of the activities assisted under this subpart, including a description of

how such activities will better enable all students to reach challenging State academic content standards and State student academic achievement standards.

"(8) The methods by which the local educational agency will assess progress in meeting the objectives described in paragraph (7).

"(9) If the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the remainder of the school.

"(10) The administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities (including the continuity of student and teacher assignment to a particular learning community).

"(11) How the local educational agency will coordinate or use funds provided under this subpart with other funds provided under this Act or other Federal laws.

"(12) The grade levels or ages of students who will participate in the smaller learning community or communities.

"(13) The method of placing students in the smaller learning community or communities, such that students are not placed according to ability or any other measure, but are placed at random or by their own choice, and not pursuant to testing or other judgments.

"(c) AUTHORIZED ACTIVITIES.—Funds under this section may be used for one or more of the following:

"(1) To study—

"(A) the feasibility of creating the smaller learning community or communities; and

"(B) effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities.

"(2) To research, develop, and implement—

"(A) strategies for creating the smaller learning community or communities; and

"(B) strategies for effective and innovative changes in curriculum and instruction, geared to challenging State academic content standards and State student academic achievement standards.

"(3) To provide professional development for school staff in innovative teaching methods that—

"(A) challenge and engage students; and

"(B) will be used in the smaller learning community or communities.

"(4) To develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities as facilitators of activities that enable teachers to participate in professional development activities and provide links between students and their community.

"Subpart 5—Reading is Fundamental—Inexpensive Book Distribution Program

"SEC. 5451. *INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.*

"(a) PURPOSE.—The purpose of this subpart is to establish and implement a model partnership between a governmental entity and a private entity, to help prepare young children for reading and to motivate older children to read, through the distribution of inexpensive books. Local reading motivation programs assisted under this section shall use such assistance to provide books, training for volunteers, motivational activities, and other essential literacy resources and shall assign the highest priority to serving the youngest and neediest children in the United States.

"(b) AUTHORIZATION.—The Secretary is authorized to enter into a contract with Reading Is Fundamental (RIF) (hereafter in this section referred to as the 'contractor') to support and promote programs, which include the distribution of inexpensive books to young and school-age children, that motivate children to read.

"(c) REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection (b) shall contain each of the following:

"(1) A provision that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift (to the extent feasible) or by loan, to children from birth through secondary school age, including children in family literacy programs.

"(2) A provision that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs.

"(3) A provision that, in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as the following:

"(A) Low-income children, particularly in high-poverty areas.

"(B) Children at risk of school failure.

"(C) Children with disabilities.

"(D) Foster children.

"(E) Homeless children.

"(F) Migrant children.

"(G) Children without access to libraries.

"(H) Institutionalized or incarcerated children.

"(I) Children whose parents are institutionalized or incarcerated.

"(4) A provision that the contractor will provide such training and technical assistance to subcontractors as may be necessary to carry out the purpose of this subpart.

"(5) A provision that the contractor will annually report to the Secretary the number, and a description, of programs funded under paragraph (3).

"(6) Such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

"(d) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(e) SPECIAL RULES FOR CERTAIN SUBCONTRACTORS.—

"(1) FUNDS FROM OTHER FEDERAL SOURCES.—Subcontractors operating programs under this section in low-income communities with a substantial number or percentage of children with special needs, as described in subsection (c)(3), may use funds from other Federal sources to pay the non-Federal share of the cost of the program, if those funds do not comprise more than 50 percent of the non-Federal share of the funds used for the cost of acquiring and distributing books.

"(2) WAIVER AUTHORITY.—Notwithstanding subsection (c), the contractor may waive, in whole or in part, the requirement in subsection (c)(1) for a subcontractor, if the subcontractor demonstrates that it would otherwise not be able to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) shall not apply.

"(f) MULTI-YEAR CONTRACTS.—The contractor may enter into a multi-year subcontract under this section, if—

"(1) the contractor believes that such subcontract will provide the subcontractor with additional leverage in seeking local commitments; and

"(2) the subcontract does not undermine the finances of the national program.

"(g) FEDERAL SHARE DEFINED.—In this section, the term 'Federal share' means, with respect to the cost to a subcontractor of purchasing books to be paid for under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

"Subpart 6—Gifted and Talented Students

"SEC. 5461. SHORT TITLE.

"This subpart may be cited as the 'Jacob K. Javits Gifted and Talented Students Education Act of 2001'.

"SEC. 5462. PURPOSE.

"The purpose of this subpart is to initiate a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary schools and secondary schools nationwide to meet the special educational needs of gifted and talented students.

"SEC. 5463. RULE OF CONSTRUCTION.

Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings, where appropriate.

"SEC. 5464. AUTHORIZED PROGRAMS.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) is authorized to make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, other public agencies, and other private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

"(2) APPLICATION.—Each entity seeking assistance under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

"(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

"(B) the proposed programs can be evaluated.

"(b) USE OF FUNDS.—Programs and projects assisted under this section may include each of the following:

"(1) Conducting—

"(A) scientifically based research on methods and techniques for identifying and teaching gifted and talented students and for using gifted and talented programs and methods to serve all students; and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purpose of this subpart.

"(2) Carrying out professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students.

"(3) Establishing and operating model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs (such as summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education).

"(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning.

"(5) Carrying out programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students.

"(6) Making materials and services available through State regional educational service centers, institutions of higher education, or other entities.

"(7) Providing funds for .challenging, high-level course work, disseminated through technologies (including distance learning), for individual students or groups of students in schools and local educational agencies that would not otherwise have the resources to provide such course work.

"(c) SPECIAL RULE.—To the extent that funds appropriated to carry out this subpart for a fiscal year beginning with fiscal year 2002 exceed such funds appropriated for fiscal year 2001, the Secretary shall use such excess funds to award grants, on a competitive basis, to State educational agencies, local educational agencies, or both, to implement activities described in subsection (b).

"(d) CENTER FOR RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Research Center for the Education of Gifted and Talented Children and Youth through grants to, or contracts with, one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies and other public or private agencies and organizations, for the purpose of carrying out activities described in subsection (b).

"(2) DIRECTOR.—The National Center shall be headed by a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with institutions of higher education, State educational agencies, local educational agencies, or other public or private agencies and organizations.

"(3) FUNDING.—The Secretary may use not more than 30 percent of the funds made available under this subpart for fiscal year 2001 to carry out this subsection.

"(e) COORDINATION.—Scientifically based research activities supported under this subpart—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by such Office; and

"(2) may include collaborative scientifically based research activities which are jointly funded and carried out with such Office.

"SEC. 5465. PROGRAM PRIORITIES.

"(a) GENERAL PRIORITY.—In carrying out this subpart, the Secretary shall give highest priority to programs and projects designed to develop new information that—

"(1) improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students; and

"(2) assists schools in the identification of, and provision of services to, gifted and talented students (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities) who may not be identified and served through traditional assessment methods.

"(b) SERVICE PRIORITY.—The Secretary shall ensure that not less than 50 percent of the applications approved under section 5464(a)(2) in a fiscal year address the priority described in subsection (a)(2).

"SEC. 5466. GENERAL PROVISIONS.

"(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such students.

"(b) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary shall—

"(1) use a peer review process in reviewing applications under this subpart;

"(2) ensure that information on the activities and results of programs and projects funded under this subpart is disseminated to appropriate State educational agencies, local educational agencies, and other appropriate organizations, including nonprofit private organizations; and

"(3) evaluate the effectiveness of programs under this subpart in accordance with section 9601, in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than 2 years after the date of enactment of the No Child Left Behind Act of 2001.

"(c) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

"(1) administer and coordinate the programs authorized under this subpart;

"(2) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs;

"(3) assist the Assistant Secretary for Educational Research and Improvement in identifying research priorities that reflect the needs of gifted and talented students; and

"(4) shall disseminate, and consult on, the information developed under this subpart with other offices within the Department.

"Subpart 7—Star Schools Program

"SEC. 5471. SHORT TITLE.

"This subpart may be cited as the 'Star Schools Act'.

"SEC. 5472. PURPOSES.

"The purposes of this subpart are the following:

"(1) To encourage improved instruction in mathematics, science, and foreign languages as well as other subjects (such as literacy skills and vocational education).

"(2) To serve underserved populations, including disadvantaged, illiterate, limited English proficient populations, and individuals with disabilities through a Star Schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships—

"(A) to develop, construct, acquire, maintain, and operate telecommunications audio and visual facilities and equipment;

"(B) to develop and acquire educational and instructional programming; and

"(C) to obtain technical assistance for the use of such facilities and instructional programming.

"SEC. 5473. GRANT PROGRAM AUTHORIZED.

"(a) AUTHORIZATION.—The Secretary, in conjunction with the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this subpart, to eligible entities to pay the Federal share of the cost of the following:

"(1) Development, construction, acquisition, maintenance, and operation of telecommunications facilities and equipment.

"(2) Development and acquisition of live, interactive instructional programming.

"(3) Development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, and ongoing, in-class instruction.

"(4) Establishment of teleconferencing facilities and resources for making interactive training available to teachers.

"(5) Obtaining technical assistance.

"(6) Coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

"(b) DURATION AND AMOUNT.—

"(1) IN GENERAL.—A grant under this section may not exceed—

"(A) 5 years in duration (subject to subsection (c)); and

"(B) $10,000,000 in any single fiscal year.

"(c) RENEWAL.—

"(1) IN GENERAL.—Grants awarded under subsection (a) may be renewed for a single additional period of 3 years.

"(2) CONTINUING ELIGIBILITY.—In order to be eligible to receive a grant renewal under this subsection, a grant recipient shall demonstrate, to the satisfaction of the Secretary, in an addendum to its application submitted under section 5474, that the grant recipient will—

"(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this subpart for the previous grant period; and

"(B) use all grant funds received under this subpart for the 3 year renewal period to provide expanded services by—

"(i) increasing the number of students, schools, or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

"(ii) providing new courses of instruction; and

"(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

"(3) SUPPLEMENT, NOT SUPPLANT.—Grant funds received under this subsection shall be used to supplement, and not supplant, services *provided by the grant recipient under this subpart in the previous fiscal year.*

"(d) RESERVATIONS.—

"(1) INSTRUCTIONAL PROGRAMMING.—At least 25 percent of the funds made available to the Secretary for any fiscal year under this subpart shall be used for the cost of instructional programming.

"(2) LOCAL EDUCATIONAL AGENCY ASSISTANCE.—At least 50 percent of the funds available in any fiscal year under this subpart shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies that are eligible to receive assistance under part A of title I.

"(e) FEDERAL SHARE.—

"(1) AMOUNT.—The Federal share of the cost of projects funded under this section shall not exceed the following amounts:

"(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this subpart.

"(B) 60 percent for the third and fourth such years.

"(C) 50 percent for the fifth such year.

"(2) REDUCTION OR WAIVER.—The Secretary may reduce or waive the corresponding non-Federal share under paragraph (1) upon a showing of financial hardship.

"(f) REQUIRED LOCAL EDUCATIONAL AGENCY PARTICIPATION.—The Secretary is authorized to make a grant under this section to any eligible entity, if at least one local educational agency is participating in the proposed program.

"(g) ASSISTANCE OBTAINING SATELLITE TIME.—The Secretary may assist recipients of grants made under this section in acquiring satellite time, where appropriate, as economically as possible.

"SEC. 5474. APPLICATIONS.

"(a) SUBMISSION.—Each eligible entity that desires to receive a grant under section 5473 shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—An application submitted under subsection (a) shall include each of the following:

"(1) A description of how the proposed program will assist all students to have an opportunity to meet challenging State academic achievement standards, how such program will assist State and local educational reform efforts, and how such program will contribute to creating a high-quality system of educational development.

"(2) A description of the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

"(A) the design, development, construction, acquisition, maintenance, and operation of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

"(H) the development of educational and related programming for use on a telecommunications network.

"(3) In the case of an application for assistance for instructional programming, a description of the types of programming that will be developed to enhance instruction and training and provide an assurance that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level.

"(4) A description of how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines.

"(5) A description of the professional development policies for teachers and other school personnel to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought.

"(6) A description of the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this subpart.

"(7) A description of how existing telecommunications equipment, facilities, and services, where available, will be used.

"(8) An assurance that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment.

"(9) An assurance that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary schools and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of title I.

"(10) An assurance that the applicant will use the funds provided under this subpart to supplement, and not supplant, funds available for the purposes of this subpart.

"(11) A description of how funds received under this subpart will be coordinated with funds received for educational technology in the classroom.

"(12) A description of the activities or services for which assistance is sought, such as—

"(A) providing facilities, equipment, training services, and technical assistance;

"(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

"(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

"(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

"(E) providing teacher and student support services, including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

"(F) incorporating community resources, such as libraries and museums, into instructional programs;

"(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

"(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

"(I) providing teacher training on proposed or established models of exemplary academic content standards in mathematics and science and other disciplines as such standards are developed; and

"(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process.

"(13) A description of how the proposed program as a whole will be financed and how arrangements for future financing will be developed before the program expires.

"(14) An assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary schools and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of title I.

"(15) An assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this subpart.

"(16) Such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL.—In approving applications submitted under subsection (a) for grants under section 5473, the Secretary shall—

"(1) to the extent feasible, ensure an equitable geographic distribution of services provided under this subpart.

"(2) give priority to applications describing programs that—

"(A) propose high-quality plans, will provide instruction consistent with State academic content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

"(B) will provide services to programs serving adults, especially parents, with low levels of literacy;

"(C) will serve schools with significant numbers of children counted for the purposes of part A of title I;

"(D) ensure that the eligible entity will—

"(i) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, and private industry;

"(ii) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

"(iii) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

"(iv) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;

"(v) provide instruction for students, teachers, and parents;

"(vi) serve a multistate area; and

"(vii) give priority to the provision of equipment and linkages to isolated areas; and

"(E) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in-kind services for telecommunications linkages.

"SEC. 5475. OTHER GRANT ASSISTANCE.

"(a) SPECIAL STATEWIDE NETWORK.—

"(1) IN GENERAL.—The Secretary, in conjunction with the Office of Educational Technology, may provide assistance to a statewide telecommunications network if such network—

"(A) provides 2-way full-motion interactive video and audio communications;

''(B) links together public colleges and universities and secondary schools throughout the State; and

''(C) meets any other requirements determined appropriate by the Secretary.

''(2) MATCHING CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

''(b) SPECIAL LOCAL NETWORK.—

''(1) IN GENERAL.—The Secretary is authorized to provide assistance, on a competitive basis, to a local educational agency, or a consortium of such agencies, to enable such agency or consortium to establish a high-technology demonstration program.

''(2) PROGRAM REQUIREMENTS.—A high-technology demonstration program assisted under paragraph (1) shall—

''(A) include 2-way full-motion interactive video, audio, and text communications;

''(B) link together elementary schools and secondary schools, colleges, and universities;

''(C) provide parent participation and family programs;

''(D) include a staff development program; and

''(E) have a significant contribution and participation from business and industry.

''(3) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

''(c) TELECOMMUNICATIONS PROGRAMS FOR CONTINUING EDUCATION.—

''(1) AUTHORITY.—The Secretary is authorized to award grants, on a competitive basis, to eligible entities to develop and operate one or more programs that provide online access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this subsection shall be designed to advance adult literacy, secondary school completion, and the acquisition of specified competency by the end of the 12th grade.

''(2) APPLICATIONS.—Each eligible entity desiring a grant under this subsection shall submit an application to the Secretary. The application shall include each of the following:

''(A) A demonstration that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice, and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent.

''(B) An assurance that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used.

''(C) To the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded programs.

''(D) An assurance that the applicant has the technological and substantive experience to carry out the program.

''(E) Such additional assurances as the Secretary may reasonably require.

"SEC. 5476. ADMINISTRATIVE PROVISIONS.

''(a) LEADERSHIP, EVALUATION, AND PEER REVIEW.—

''(1) RESERVATION OF FUNDS.—The Secretary may reserve not more than 5 percent of the amount made available to carry out this subpart for a fiscal year for national leadership, evaluation, and peer review activities, which the Secretary may carry out directly or through grants, contracts, and cooperative agreements.

''(2) LEADERSHIP.—Funds reserved for leadership activities under paragraph (1) may be used for—

''(A) disseminating information, including lists and descriptions of services available from grant recipients under this subpart; and

''(B) other activities designed to enhance the quality of distance learning activities nationwide.

''(3) EVALUATION.—Funds reserved for evaluation activities under paragraph (1) may be used to conduct independent evaluations of the activities assisted under this subpart and of distance learning in general, including—

''(A) analyses of distance learning efforts (including such efforts that are, or are not, assisted under this subpart); and

''(B) comparisons of the effects (including student outcomes) of different technologies in distance learning efforts.

''(4) PEER REVIEW.—Funds reserved for peer review activities under paragraph (1) may be used for peer review of—

''(A) applications for grants under this subpart; and

''(B) activities assisted under this subpart.

''(b) COORDINATION.—The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this subpart with the activities of such department or agency relating to a telecommunications network for educational purposes.

''(c) FUNDS FROM OTHER AGENCIES.—The Secretary may accept funds from other Federal departments or agencies to carry out the purposes of this subpart, including funds for the purchase of equipment.

''(d) AVAILABILITY OF FUNDS.—Funds made available to carry out this subpart shall remain available until expended.

''(e) CLOSED CAPTIONING AND DESCRIPTIVE VIDEO.—The Secretary shall encourage each entity receiving funds under this subpart to provide—

''(1) closed captioning of the verbal content of the entity's programming, as appropriate; and

''(2) descriptive video of the visual content of the entity's programming, as appropriate.

"SEC. 5477. DEFINITIONS.

''In this subpart:

''(1) EDUCATIONAL INSTITUTION.—The term 'educational institution' means an institution of higher education, a local educational agency, or a State educational agency.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' includes any of the following that is organized on a Statewide or multistate basis:

''(A) A public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary schools and secondary schools that are eligible to participate in the program under part A of title I.

''(B) A partnership that will provide telecommunications services and that includes three or more of the following entities, at least one of which shall be an agency described in clause (i) or (ii):

''(i) A local educational agency that serves a significant number of elementary schools and secondary schools that are eligible for assistance under part A of title I, or elementary schools and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 1121(d)(1)(A).

''(ii) A State educational agency.

''(iii) An adult and family education program.

''(iv) An institution of higher education or a State higher education agency (as that term is defined in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003)).

''(v) A teacher training center or academy that—

''(I) provides teacher preservice and inservice training; and

''(II) receives Federal financial assistance or has been approved by a State agency;

''(vi)(I) A public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or

''(II) a public broadcasting entity with such experience.

''(vii) A public or private elementary school or secondary school.

''(3) INSTRUCTIONAL PROGRAMMING.—The term 'instructional programming' means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices.

''(4) PUBLIC BROADCASTING ENTITY.—The term 'public broadcasting entity' has the same meaning given such term in section 397 of the Communications Act of 1934 (47 U.S.C. 397).

"Subpart 8—Ready to Teach

"SEC. 5481. GRANTS.

''(a) IN GENERAL.—The Secretary is authorized to award grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based program to improve teaching in core curriculum areas. The program shall be designed to assist elementary school and secondary school teachers in preparing all students to achieve challenging State academic content and student academic achievement standards in core curriculum areas.

''(b) DIGITAL EDUCATIONAL PROGRAMMING.—The Secretary is authorized to award grants, as provided for in section 5484, to eligible entities described in subsection (b) of such section, to enable such entities to develop, produce, and distribute innovative educational and instructional video programming that is designed for use by elementary schools and secondary schools and based on challenging State academic content and student academic achievement standards. In awarding such grants, the Secretary shall ensure that eligible entities enter into multiyear content development collaborative arrangements with State educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies or organizations.

"SEC. 5482. APPLICATION REQUIRED.

''(a) GENERAL APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant under section 5481(a), a nonprofit telecommunications entity, or partnership of such entities shall submit an application to the Secretary. Each such application shall—

''(A) demonstrate that the applicant will use the public broadcasting infrastructure, the Internet, and school digital networks, where available, to deliver video and data in an integrated service to train teachers in the use of materials and learning technologies for achieving challenging State academic content and student academic achievement standards;

''(B) ensure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, and State or local nonprofit public telecommunications entities;

''(C) ensure that a significant portion of the benefits available for elementary schools and

secondary schools from the project for which assistance is sought will be available to schools of local educational agencies that have a high percentage of children counted for the purpose of part A of title I; and

“(D) contain such additional assurances as the Secretary may reasonably require.

“(2) SITES.—In approving applications under paragraph (1), the Secretary shall ensure that the program authorized by section 5481(a) is conducted at elementary school and secondary school sites throughout the United States.

“(b) PROGRAMMING APPLICATION.—To be eligible to receive a grant under section 5481(b), an entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

“SEC. 5483. REPORTS AND EVALUATION.

“An entity receiving a grant under section 5481(a) shall prepare and submit to the Secretary an annual report that contains such information as the Secretary may require. At a minimum, such report shall describe the program activities undertaken with funds received under the grant, including—

“(1) the core curriculum areas for which program activities have been undertaken and the number of teachers using the program in each core curriculum area; and

“(2) the States in which teachers using the program are located.

“SEC. 5484. DIGITAL EDUCATIONAL PROGRAMMING GRANTS.

“(a) GRANTS.—The Secretary is authorized to award grants under section 5481(b) to eligible entities to facilitate the development of educational programming that shall—

“(1) include student assessment tools to provide feedback on student academic achievement;

“(2) include built-in teacher utilization and support components to ensure that teachers understand and can easily use the content of the programming with group instruction or for individual student use;

“(3) be created for, or adaptable to, challenging State academic content standards and student academic achievement standards; and

“(4) be capable of distribution through digital broadcasting and school digital networks.

“(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under section 5481(b), an entity shall be a local public telecommunications entity, as defined in section 397(12) of the Communications Act of 1934, that is able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality.

“(c) COMPETITIVE BASIS.—Grants under section 5481(b) shall be awarded on a competitive basis as determined by the Secretary.

“(d) MATCHING REQUIREMENT.—To be eligible to receive a grant under section 5481(b), an entity shall contribute to the activities assisted under such grant non-Federal matching funds in an amount equal to not less than 100 percent of the amount of the grant. Such matching funds may include funds provided for the transition to digital broadcasting, as well as in-kind contributions.

“(e) DURATION.—A grant under section 5481(b) shall be awarded for a period of 3 years in order to provide a sufficient period of time for the creation of a substantial body of significant content.

“SEC. 5485. ADMINISTRATIVE COSTS.

“An entity that receives a grant under this subpart may not use more than 5 percent of the amount received under the grant for administrative costs.

“Subpart 9—Foreign Language Assistance Program

“SEC. 5491. SHORT TITLE.

“This subpart may be cited as the ‘Foreign Language Assistance Act of 2001’.

“SEC. 5492. PROGRAM AUTHORIZED.

“(a) PROGRAM AUTHORITY.—

“(1) IN GENERAL.—The Secretary is authorized to make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement, or expansion of foreign language study for elementary school and secondary school students.

“(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of 3 years.

“(b) REQUIREMENTS.—

“(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

“(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

“(A) show the promise of being continued beyond the grant period;

“(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

“(C) may include a professional development component.

“(c) FEDERAL SHARE.—

“(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

“(2) WAIVER.—Notwithstanding paragraph (1), the Secretary may determine the Federal share for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this subpart.

“(d) SPECIAL RULE.—Not less than ¾ of the funds made available under section 5401 to carry out this subpart shall be used for the expansion of foreign language learning in the elementary grades.

“(e) RESERVATION.—The Secretary may reserve not more than 5 percent of funds made available under section 5401 to carry out this subpart for a fiscal year to evaluate the efficacy of programs assisted under this subpart.

“SEC. 5493. APPLICATIONS.

“(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

“(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

“(1) include intensive summer foreign language programs for professional development;

“(2) link nonnative English speakers in the community with the schools in order to promote two-way language learning;

“(3) promote the sequential study of a foreign language for students, beginning in elementary schools;

“(4) make effective use of technology, such as computer-assisted instruction, language laboratories, or distance learning, to promote foreign language study;

“(5) promote innovative activities, such as foreign language immersion, partial foreign language immersion, or content-based instruction; and

“(6) are carried out through a consortium comprised of the agency receiving the grant and an elementary school or secondary school.

“SEC. 5494. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

“(a) INCENTIVE PAYMENTS.—From amounts made available under section 5401 to carry out this subpart, the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

“(b) AMOUNT.—The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

“(c) REQUIREMENT.—The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language for not fewer than 4 days per week throughout an academic year.

“Subpart 10—Physical Education

“SEC. 5501. SHORT TITLE.

“This subpart may be cited as the ‘Carol M. White Physical Education Program’.

“SEC. 5502. PURPOSE.

“The purpose of this subpart is to award grants and contracts to initiate, expand, and improve physical education programs for all kindergarten through 12th-grade students.

“SEC. 5503. PROGRAM AUTHORIZED.

“(a) AUTHORIZATION.—The Secretary is authorized to award grants to local educational agencies and community-based organizations (such as Boys and Girls Clubs, Boy Scouts and Girl Scouts, and the Young Men's Christian Organization (YMCA) and Young Women's Christian Organization (YWCA)) to pay the Federal share of the costs of initiating, expanding, and improving physical education programs (including after-school programs) for kindergarten through 12th-grade students by—

“(1) providing equipment and support to enable students to participate actively in physical education activities; and

“(2) providing funds for staff and teacher training and education.

“(b) PROGRAM ELEMENTS.—A physical education program funded under this subpart may provide for one or more of the following:

“(1) Fitness education and assessment to help students understand, improve, or maintain their physical well-being.

“(2) Instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student.

“(3) Development of, and instruction in, cognitive concepts about motor skill and physical fitness that support a lifelong healthy lifestyle.

“(4) Opportunities to develop positive social and cooperative skills through physical activity participation.

“(5) Instruction in healthy eating habits and good nutrition.

“(6) Opportunities for professional development for teachers of physical education to stay abreast of the latest research, issues, and trends in the field of physical education.

“(c) SPECIAL RULE.—For the purpose of this subpart, extracurricular activities, such as team sports and Reserve Officers' Training Corps (ROTC) program activities, shall not be considered as part of the curriculum of a physical education program assisted under this subpart.

“SEC. 5504. APPLICATIONS.

“(a) SUBMISSION.—Each local educational agency or community-based organization desiring a grant or contract under this subpart shall submit to the Secretary an application that contains a plan to initiate, expand, or improve physical education programs in order to make progress toward meeting State standards for physical education.

"(b) PRIVATE SCHOOL AND HOME-SCHOOLED STUDENTS.—An application for funds under this subpart may provide for the participation, in the activities funded under this subpart, of—

"(1) students enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers; or

"(2) home-schooled students, and their parents and teachers.

"SEC. 5505. REQUIREMENTS.

"(a) ANNUAL REPORT TO THE SECRETARY.—In order to continue receiving funding after the first year of a multiyear grant or contract under this subpart, the administrator of the grant or contract for the local educational agency or community-based organization shall submit to the Secretary an annual report that—

"(1) describes the activities conducted during the preceding year; and

"(2) demonstrates that progress has been made toward meeting State standards for physical education.

"(b) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the grant funds made available to a local educational agency or community-based organization under this subpart for any fiscal year may be used for administrative expenses.

"SEC. 5506. ADMINISTRATIVE PROVISIONS.

"(a) FEDERAL SHARE.—The Federal share under this subpart may not exceed—

"(1) 90 percent of the total cost of a program for the first year for which the program receives assistance under this subpart; and

"(2) 75 percent of such cost for the second and each subsequent such year.

"(b) PROPORTIONALITY.—To the extent practicable, the Secretary shall ensure that grants awarded under this subpart shall be equitably distributed among local educational agencies and community-based organizations serving urban and rural areas.

"(c) REPORT TO CONGRESS.—Not later than June 1, 2003, the Secretary shall submit a report to Congress that—

"(1) describes the programs assisted under this subpart;

"(2) documents the success of such programs in improving physical fitness; and

"(3) makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this subpart.

"(d) AVAILABILITY OF FUNDS.—Amounts made available to the Secretary to carry out this subpart shall remain available until expended.

"SEC. 5507. SUPPLEMENT, NOT SUPPLANT.

"Funds made available under this subpart shall be used to supplement, and not supplant, any other Federal, State, or local funds available for physical education activities.

"Subpart 11—Community Technology Centers

"SEC. 5511. PURPOSE AND PROGRAM AUTHORIZATION.

"(a) PURPOSE.—It is the purpose of this subpart to assist eligible applicants—

"(1) to create or expand community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training; and

"(2) to provide technical assistance and support to community technology centers.

"(b) PROGRAM AUTHORIZATION.—The Secretary is authorized, in conjunction with the Office of Educational Technology, to award grants, contracts, or cooperative agreements, on a competitive basis, for a period of not more than 3 years, to eligible applicants in order to assist such applicants in—

"(1) creating or expanding community technology centers; or

"(2) providing technical assistance and support to community technology centers.

"(3) SERVICE OF AMERICORPS PARTICIPANTS.—The Secretary may collaborate with the Chief Executive Officer of the Corporation for National and Community Service on the use in community technology centers of participants in National Service programs carried out under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

"SEC. 5512. ELIGIBILITY AND APPLICATION REQUIREMENTS.

"(a) ELIGIBLE APPLICANTS.—In order to be eligible to receive an award under this subpart, an applicant shall—

"(1) be an entity (such as a foundation, museum, library, for-profit business, public or private nonprofit organization, or community-based organization), an institution of higher education, a State educational agency, a local education agency, or a consortium of such entities, institutions, or agencies; and

"(2) have the capacity to significantly expand access to computers and related services for disadvantaged residents of economically distressed urban and rural communities (who would otherwise be denied such access).

"(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. The application shall include each of the following:

"(1) A description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community.

"(2) A demonstration of—

"(A) the commitment, including the financial commitment, of entities (such as institutions, organizations, business and other groups in the community) that will provide support for the creation, expansion, and continuation of the proposed project; and

"(B) the extent to which the proposed project coordinates with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community.

"(3) A description of how the proposed project would be sustained once the Federal funds awarded under this subpart end.

"(4) A plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

"(c) MATCHING REQUIREMENTS.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. The non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

"SEC. 5513. USES OF FUNDS.

"(a) REQUIRED USES.—A recipient shall use funds under this subpart for—

"(1) creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities; and

"(2) evaluating the effectiveness of the project.

"(b) PERMISSIBLE USES.—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

"(1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships;

"(2) acquiring equipment, networking capabilities, and infrastructure to carry out the project; and

"(3) developing and providing services and activities for community residents that provide access to computers, information technology, and the use of such technology in support of preschool preparation, academic achievement, educational development, and workforce development, such as the following:

"(A) After-school activities in which children and youths use software that provides academic enrichment and assistance with homework, develop their technical skills, explore the Internet, and participate in multimedia activities, including web page design and creation.

"(B) Adult education and family literacy activities through technology and the Internet, including—

"(i) General Education Development, Language Instruction Educational Programs, and adult basic education classes or programs;

"(ii) introduction to computers;

"(iii) intergenerational activities; and

"(iv) educational development opportunities.

"(C) Career development and job preparation activities, such as—

"(i) training in basic and advanced computer skills;

"(ii) resume writing workshops; and

"(iii) access to databases of employment opportunities, career information, and other online materials.

"(D) Small business activities, such as—

"(i) computer-based training for basic entrepreneurial skills and electronic commerce; and

"(ii) access to information on business startup programs that is available online, or from other sources.

"(E) Activities that provide home access to computers and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through low-cost solutions such as networked computers, web-based television devices, and other technology.

"Subpart 12—Educational, Cultural, Apprenticeship, and Exchange Programs for Alaska Natives, Native Hawaiians, and Their Historical Whaling and Trading Partners in Massachusetts

"SEC. 5521. SHORT TITLE.

"This subpart may be cited as the 'Alaska Native and Native Hawaiian Education Through Cultural and Historical Organizations Act'.

"SEC. 5522. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds the following:

"(1) Alaska Natives and Native Hawaiians have been linked for over 200 years to the coastal towns of Salem, Massachusetts, and New Bedford,. Massachusetts, through the China trade from Salem and whaling voyages from New Bedford.

"(2) Nineteenth-century trading ships sailed from Salem, Massachusetts, around Cape Horn of South America, and up the Northwest coast of the United States to Alaska, where their crews traded with Alaska Native people for furs, and then went on to Hawaii to trade for sandalwood with Native Hawaiians before going on to China.

"(3) During the 19th century, over 2,000 whaling voyages sailed out of New Bedford, Massachusetts to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities.

"(4) Many New Bedford whaling voyages continued on to Hawaii, where they joined Native Hawaiians from the neighboring islands.

"(5) From those commercial and whaling voyages, a rich cultural exchange and strong trading relationships developed among the three peoples involved.

"(6) In the past decades, awareness of the historical trading, cultural, and whaling links has faded among Alaska Natives, Native Hawaiians, and the people of the continental United States.

"(7) In 2000, the Alaska Native Heritage Center in Alaska, the Bishop Museum in Hawaii,

and the Peabody-Essex Museum in Massachusetts initiated the New Trade Winds project to use 21st-century technology, including the Internet, to educate students and their parents about historic and contemporary cultural and trading ties that continue to link the diverse cultures of the peoples involved.

"(8) The New Bedford Whaling Museum, in partnership with the New Bedford Whaling National Historical Park, has developed a cultural exchange and educational program with the Inupiat Heritage Center in Barrow, Alaska to bring together the children, parents, and elders from the Arctic region of Alaska with children and families of Massachusetts to learn about their historical ties and about each other's contemporary cultures.

"(9) Within the fast-growing cultural sector, meaningful educational and career opportunities based on traditional relationships exist for Alaska Natives, Native Hawaiians, and low-income youth in Massachusetts.

"(10) Cultural institutions can provide practical, culturally relevant, education-related internship and apprentice programs, such as the Museum Action Corps at the Peabody-Essex Museum and similar programs at the New Bedford Oceanarium and other institutions, to prepare youths and their families for careers in the cultural sector.

"(11) The resources of the institutions described in paragraphs (7) and (8) provide unique opportunities for illustrating and interpreting the contributions of Alaska Natives, Native Hawaiians, the whaling industry, and the China trade to the economic, social, and environmental history of the United States, for educating students and their parents, and for providing opportunities for internships and apprenticeships leading to careers with cultural institutions.

"(b) Purposes.—The purposes of this subpart are the following:

"(1) To authorize and develop innovative culturally-based educational programs and cultural exchanges to assist Alaska Natives, Native Hawaiians, and children and families of Massachusetts linked by history and tradition to Alaska and Hawaii to learn about shared culture and traditions.

"(2) To authorize and develop internship and apprentice programs to assist Alaska Natives, Native Hawaiians, and children and families of Massachusetts linked by history and tradition with Alaska and Hawaii to prepare for careers with cultural institutions.

"(3) To supplement programs and authorities in the area of education to further the objectives of this subpart.

"SEC. 5523. PROGRAM AUTHORIZATION.

"(a) Grants and Contracts.—In order to carry out programs that fulfill the purposes of this subpart, the Secretary is authorized to make grants to, or enter into contracts with, the following:

"(1) The Alaska Native Heritage Center in Anchorage, Alaska.

"(2) The Inupiat Heritage Center in Barrow, Alaska.

"(3) The Bishop Museum in Hawaii.

"(4) The Peabody-Essex Museum in Salem, Massachusetts.

"(5) The New Bedford Whaling Museum and the New Bedford Oceanarium in New Bedford, Massachusetts.

"(6) Other Alaska Native and Native Hawaiian cultural and educational organizations.

"(7) Cultural and educational organizations with experience in developing or operating programs that illustrate and interpret the contributions of Alaska Natives, Native Hawaiians, the whaling industry, and the China trade to the economic, social, and environmental history of the United States.

"(8) Consortia of the organizations and entities described in this subsection.

"(b) Uses of Funds.—Activities provided through programs carried out under this subpart may include one or more of the following:

"(1) Development and implementation of educational programs to increase understanding of cultural diversity and multicultural communication among Alaska Natives, Native Hawaiians, and the people of the continental United States, based on historic patterns of trading and commerce.

"(2) Development and implementation of programs using modern technology, including the Internet, to educate students, their parents, and teachers about historic and contemporary cultural and trading ties that continue to link the diverse cultures of Alaska Natives, Native Hawaiians, and the people of Massachusetts.

"(3) Cultural exchanges of elders, students, parents, and teachers among Alaska Natives, Native Hawaiians, and the people of Massachusetts to increase awareness of diverse cultures among each group.

"(4) Sharing of collections among cultural institutions designed to increase awareness of diverse cultures and links among them.

"(5) Development and implementation of internship and apprentice programs in cultural institutions to train Alaska Natives, Native Hawaiians and low-income students in Massachusetts for careers with cultural institutions.

"(6) Other activities, consistent with the purposes of this subpart, to meet the educational needs of Alaska Natives, Native Hawaiians, and students and their parents in Massachusetts.

"SEC. 5524. ADMINISTRATIVE PROVISIONS.

"(a) Application Required.—No grant may be made under this subpart, and no contract may be entered into under this subpart, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this subpart.

"(b) Local Educational Agency Coordination.—Each applicant for a grant or contract under this subpart shall inform each local educational agency serving students who will participate in the program to be carried out under the grant or contract about the application.

"SEC. 5525. AVAILABILITY OF FUNDS.

"If sufficient funds are made available under section 5401 to carry out this subpart for a fiscal year, the Secretary shall make available, to support activities described in section 5523(b), the following amounts:

"(1) Not less than $2,000,000 each to—

"(A) the New Bedford Whaling Museum, in partnership with the New Bedford Oceanarium, in Massachusetts; and

"(B) the Inupiat Heritage Center in Alaska.

"(2) For the New Trade Winds project, not less than $1,000,000 each to—

"(A) the Alaska Native Heritage Center in Alaska;

"(B) the Bishop Museum in Hawaii; and

"(C) the Peabody-Essex Museum in Massachusetts.

"(3) For internship and apprenticeship programs (including the Museum Action Corps of the Peabody-Essex Museum), not less than $1,000,000 each to—

"(A) the Alaska Native Heritage Center in Alaska;

"(B) the Bishop Museum in Hawaii; and

"(C) the Peabody-Essex Museum in Massachusetts.

"SEC. 5526. DEFINITIONS.

"In this subpart:

"(1) Alaska Native.—The term 'Alaska Native' has the meaning given that term in section 7306.

"(2) Native Hawaiian.—The term 'Native Hawaiian' has the meaning given that term in section 7207.

"Subpart 13—Excellence in Economic Education

"SEC. 5531. SHORT TITLE.

"This subpart may be cited as the 'Excellence in Economic Education Act of 2001'.

"SEC. 5532. PURPOSE AND GOALS.

"(a) Purpose.—The purpose of this subpart is to promote economic and financial literacy among all students in kindergarten through grade 12 by awarding a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics.

"(b) Objectives.—The objectives of this subpart are the following:

"(1) To increase students' knowledge of, and achievement in, economics to enable the students to become more productive and informed citizens.

"(2) To strengthen teachers' understanding of, and competency in, economics to enable the teachers to increase student mastery of economic principles and the practical application of those principles.

"(3) To encourage economic education research and development, to disseminate effective instructional materials, and to promote replication of best practices and exemplary programs that foster economic literacy.

"(4) To assist States in measuring the impact of education in economics.

"(5) To leverage and expand private and public support for economic education partnerships at national, State, and local levels.

"SEC. 5533. GRANT PROGRAM AUTHORIZED.

"(a) Authorization.—The Secretary is authorized to award a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics through effective teaching of economics in the Nation's classrooms (referred to in this subpart as the 'grantee').

"(b) Uses of Funds.—

"(1) Direct Activities.—The grantee shall use 25 percent of the funds made available through the grant for a fiscal year—

"(A) to strengthen and expand the grantee's relationships with State and local personal finance, entrepreneurial, and economic education organizations;

"(B) to support and promote training of teachers who teach a grade from kindergarten through grade 12 regarding economics, including the dissemination of information on effective practices and research findings regarding the teaching of economics;

"(C) to support research on effective teaching practices and the development of assessment instruments to document student understanding of personal finance and economics; and

"(D) to develop and disseminate appropriate materials to foster economic literacy.

"(2) Subgrants.—The grantee shall use 75 percent of the funds made available through the grant for a fiscal year to award subgrants to State educational agencies or local educational agencies, and State or local economic, personal finance, or entrepreneurial education organizations (referred to in this section as the 'recipient'). The grantee shall award such a subgrant to pay for the Federal share of the cost of enabling the recipient to work in partnership with one or more of the entities described in paragraph (3) for one or more of the following purposes:

"(A) Collaboratively establishing and conducting teacher training programs that use effective and innovative approaches to the teaching of economics, personal finance, and entrepreneurship.

"(B) Providing resources to school districts that desire to incorporate economics and personal finance into the curricula of the schools in the districts.

``(C) Conducting evaluations of the impact of economic and financial literacy education on students.

``(D) Conducting economic and financial literacy education research.

``(E) Creating and conducting school-based student activities to promote consumer, economic, and personal finance education (such as saving, investing, and entrepreneurial education) and to encourage awareness and student academic achievement in economics.

``(F) Encouraging replication of best practices to promote economic and financial literacy.

``(3) Partnership Entities.—The entities described in this paragraph are the following:

``(A) A private sector entity.

``(B) A State educational agency.

``(C) A local educational agency.

``(D) An institution of higher education.

``(E) An organization promoting economic development.

``(F) An organization promoting educational excellence.

``(G) An organization promoting personal finance or entrepreneurial education.

“SEC. 5534. APPLICATIONS.

``(a) Grantee Applications.—To be eligible to receive a grant under this subpart, the grantee shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

``(b) Recipient Applications.—

``(1) Submission.—To be eligible to receive a subgrant under this section, a recipient shall submit an application to the grantee at such time, in such manner, and accompanied by such information as the grantee may require.

``(2) Review.—The grantee shall invite the individuals described in paragraph (3) to review all applications from recipients for a subgrant under this section and to make recommendations to the grantee regarding the approval of the applications.

``(3) Reviewers.—The individuals described in this paragraph are the following:

``(i) Leaders in the fields of economics and education.

``(ii) Such other individuals as the grantee determines to be necessary, especially members of the State and local business, banking, and finance communities.

“SEC. 5535. REQUIREMENTS.

``(a) Administrative Costs.—The grantee and each recipient receiving a subgrant under this subpart for a fiscal year may use not more than 5 percent of the funds made available through the grant or subgrant for administrative costs.

``(b) Teacher Training Programs.—In carrying out the teacher training programs described in section 5533(b)(2)(A), a recipient shall—

``(1) train teachers who teach a grade from kindergarten through grade 12; and

``(2) encourage teachers from disciplines other than economics and financial literacy to participate in such teacher training programs, if the training will promote the economic and financial literacy of those teachers' students.

``(c) Involvement of Business Community.—In carrying out the activities assisted under this subpart, the grantee and recipients are strongly encouraged to—

``(1) include interactions with the local business community to the fullest extent possible to reinforce the connection between economic and financial literacy and economic development; and

``(2) work with private businesses to obtain matching contributions for Federal funds and assist recipients in working toward self-sufficiency.

``(d) Additional Requirements and Technical Assistance.—The grantee shall—

``(1) meet such other requirements as the Secretary determines to be necessary to assure compliance with this section; and

``(2) receive from the Secretary such technical assistance as may be necessary to carry out this section.

“SEC. 5536. ADMINISTRATIVE PROVISIONS.

``(a) Federal Share.—The Federal share of the cost described in section 5533(b)(2) shall be 50 percent.

``(b) Payment of Non-Federal Share.—The non-Federal share may be paid in cash or in kind (fairly evaluated, including plant, equipment, or services).

``(c) Reports to Congress.—Not later than 2 years after the date funds are first made available to carry out this subpart, and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report regarding activities assisted under this subpart.

“SEC. 5537. SUPPLEMENT, NOT SUPPLANT.

Funds made available to carry out this subpart shall be used to supplement, and not supplant, other Federal, State, and local funds expended for the purpose described in section 5532(a).

“Subpart 14—Grants to Improve the Mental Health of Children

“SEC. 5541. GRANTS FOR THE INTEGRATION OF SCHOOLS AND MENTAL HEALTH SYSTEMS.

``(a) Authorization.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, State educational agencies, local educational agencies, or Indian tribes, for the purpose of increasing student access to quality mental health care by developing innovative programs to link local school systems with the local mental health system.

``(b) Duration.—With respect to a grant, contract, or cooperative agreement awarded or entered into under this section, the period during which payments under such grant, contract or agreement are made to the recipient may not exceed 5 years.

``(c) Use of Funds.—A State educational agency, local educational agency, or Indian tribe that receives a grant, contract, or cooperative agreement under this section shall use amounts made available through such grant, contract, or cooperative agreement for the following:

``(1) To enhance, improve, or develop collaborative efforts between school-based service systems and mental health service systems to provide, enhance, or improve prevention, diagnosis, and treatment services to students.

``(2) To enhance the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services, and ongoing mental health services.

``(3) To provide training for the school personnel and mental health professionals who will participate in the program carried out under this section.

``(4) To provide technical assistance and consultation to school systems and mental health agencies and families participating in the program carried out under this section.

``(5) To provide linguistically appropriate and culturally competent services.

``(6) To evaluate the effectiveness of the program carried out under this section in increasing student access to quality mental health services, and make recommendations to the Secretary about sustainability of the program.

``(d) Applications.—To be eligible to receive a grant, contract, or cooperative agreement under this section, a State educational agency, local educational agency, or Indian tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The application shall include each of the following:

``(1) A description of the program to be funded under the grant, contract, or cooperative agreement.

``(2) A description of how such program will increase access to quality mental health services for students.

``(3) A description of how the applicant will establish a crisis intervention program to provide immediate mental health services to the school community when necessary.

``(4) An assurance that—

``(A) persons providing services under the grant, contract, or cooperative agreement are adequately trained to provide such services;

``(B) the services will be provided in accordance with subsection (c);

``(C) teachers, principal administrators, and other school personnel are aware of the program; and

``(D) parents of students participating in services under this section will be involved in the design and implementation of the services.

``(5) An explanation of how the applicant will support and integrate existing school-based services with the program to provide appropriate mental health services for students.

``(6) An explanation of how the applicant will establish a program that will support students and the school in maintaining an environment conducive to learning.

``(e) Interagency Agreements.—

``(1) Designation of Lead Agency.—The recipient of each grant, contract, or cooperative agreement shall designate a lead agency to direct the establishment of an interagency agreement among local educational agencies, juvenile justice authorities, mental health agencies, and other relevant entities in the State, in collaboration with local entities and parents and guardians of students.

``(2) Contents.—The interagency agreement shall ensure the provision of the services described in subsection (c), specifying with respect to each agency, authority, or entity—

``(A) the financial responsibility for the services;

``(B) the conditions and terms of responsibility for the services, including quality, accountability, and coordination of the services; and

``(C) the conditions and terms of reimbursement among the agencies, authorities, or entities that are parties to the interagency agreement, including procedures for dispute resolution.

``(f) Evaluation.—The Secretary shall evaluate each program carried out by a State educational agency, local educational agency, or Indian tribe under this section and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

``(g) Distribution of Awards.—The Secretary shall ensure that grants, contracts, and cooperative agreements awarded or entered into under this section are equitably distributed among the geographical regions of the United States and among urban, suburban, and rural populations.

``(h) Rule of Construction.—Nothing in Federal law shall be construed—

``(1) to prohibit an entity involved with a program carried out under this section from reporting a crime that is committed by a student to appropriate authorities; or

``(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student.

``(i) Supplement, Not Supplant.—Any services provided through programs carried out under this section must supplement, and not supplant, existing mental health services, including any services required to be provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"SEC. 5542. PROMOTION OF SCHOOL READINESS THROUGH EARLY CHILDHOOD EMOTIONAL AND SOCIAL DEVELOPMENT.

"(a) AUTHORIZATION.—The Secretary, in consultation with the Secretary of Health and Human Services, may award grants (to be known as 'Foundations for Learning Grants') to local educational agencies, local councils, community-based organizations, and other public or nonprofit private entities to assist eligible children to become ready for school.

"(b) APPLICATIONS.—To be eligible to receive a grant under this section, a local educational agency, local council, community-based organization, or other public or nonprofit private entity, or a combination of such entities, shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The application shall include each of the following:

"(1) A description of the population that the applicant intends to serve and the types of services to be provided under the grant.

"(2) A description of the manner in which services under the grant will be coordinated with existing similar services provided by public and nonprofit private entities within the State.

"(3) An assurance that—

"(A) services under the grant shall be provided by or under the supervision of qualified professionals with expertise in early childhood development;

"(B) such services shall be culturally competent;

"(C) such services shall be provided in accordance with subsection (c);

"(D) funds received under this section shall be used to supplement, and not supplant, non-Federal funds; and

"(E) parents of students participating in services under this section will be involved in the design and implementation of the services.

"(c) USES OF FUNDS.—A local educational agency, local council, community-based organization, or other public or nonprofit private entity that receives funds under this section may use such funds to benefit eligible children, for one or more of the following:

"(1) To deliver services to eligible children and their families that foster eligible children's emotional, behavioral, and social development and take into consideration the characteristics described in subsection (f)(1)

"(2) To coordinate and facilitate access by eligible children and their families to the services available through community resources, including mental health, physical health, substance abuse, educational, domestic violence prevention, child welfare, and social services.

"(3) To provide ancillary services such as transportation or child care in order to facilitate the delivery of any other services or activities authorized by this section.

"(4) To develop or enhance early childhood community partnerships and build toward a community system of care that brings together child-serving agencies or organizations to provide individualized supports for eligible children and their families.

"(5) To evaluate the success of strategies and services provided pursuant to this section in promoting young children's successful entry to school and to maintain data systems required for effective evaluations.

"(6) To pay for the expenses of administering the activities authorized under this section, including assessment of children's eligibility for services.

"(d) LIMITATIONS.—

"(1) SERVICES NOT OTHERWISE FUNDED.—A local educational agency, local council, community-based organization, or other public or nonprofit private entity may use funds under this section only to pay for services that cannot be paid for using other Federal, State, or local public resources or through private insurance.

"(2) ADMINISTRATIVE EXPENSES.—A grantee may not use more than 3 percent of the amount of the grant to pay the administrative expenses described in subsection (c)(6).

"(e) EVALUATIONS.—The Secretary shall directly evaluate, or enter into a contract for an outside evaluation of, each program carried out under this section and shall disseminate the findings with respect to such evaluation to appropriate public and private entities.

"(f) DEFINITIONS.—In this section:

"(1) ELIGIBLE CHILD.—The term 'eligible child' means a child who has not attained the age of 7 years, and to whom two or more of the following characteristics apply:

"(A) The child has been abused, maltreated, or neglected.

"(B) The child has been exposed to violence.

"(C) The child has been homeless.

"(D) The child has been removed from child care, Head Start, or preschool for behavioral reasons or is at risk of being so removed.

"(E) The child has been exposed to parental depression or other mental illness.

"(F) The family income with respect to the child is below 200 percent of the poverty line.

"(G) The child has been exposed to parental substance abuse.

"(H) The child has had early behavioral and peer relationship problems.

"(I) The child had a low birth weight.

"(J) The child has a cognitive deficit or developmental disability.

"(2) LOCAL COUNCIL.—The term 'local council' means a council that is established or designated by a local government entity, Indian tribe, regional corporation, or native Hawaiian entity, as appropriate, which is composed of representatives of local agencies directly affected by early learning programs, parents, key community leaders, and other individuals concerned with early learning issues in the locality, such as elementary education, child care resource and referral services, early learning opportunities, child care, and health services.

"(3) PROVIDER OF EARLY CHILDHOOD SERVICES.—The term 'provider of early childhood services' means a public or private entity that has regular contact with young children, including child welfare agencies, child care providers, Head Start and Early Head Start providers, preschools, kindergartens, libraries, mental health professionals, family courts, homeless shelters, and primary care providers.

"Subpart 15—Arts in Education

"SEC. 5551. ASSISTANCE FOR ARTS EDUCATION.

"(a) PURPOSES.—The purposes of this subpart are the following:

"(1) To support systemic education reform by strengthening arts education as an integral part of the elementary school and secondary school curriculum.

"(2) To help ensure that all students meet challenging State academic content standards and challenging State student academic achievement standards in the arts.

"(3) To support the national effort to enable all students to demonstrate competence in the arts.

"(b) AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, eligible entities described in subsection (c).

"(c) ELIGIBLE ENTITIES.—The Secretary may make assistance available under subsection (b) to each of the following eligible entities:

"(1) State educational agencies.

"(2) Local educational agencies.

"(3) Institutions of higher education.

"(4) Museums or other cultural institutions.

"(5) Any other public or private agencies, institutions, or organizations.

"(d) USE OF FUNDS.—Assistance made available under this subpart may be used for any of the following:

"(1) Research on arts education.

"(2) Planning, developing, acquiring, expanding, improving, or disseminating information about model school-based arts education programs.

"(3) The development of model State arts education assessments based on State academic achievement standards.

"(4) The development and implementation of curriculum frameworks for arts education.

"(5) The development of model inservice professional development programs for arts educators and other instructional staff.

"(6) Supporting collaborative activities with Federal agencies or institutions involved in arts education, arts educators, and organizations representing the arts, including State and local arts agencies involved in arts education.

"(7) Supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts.

"(8) Supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities.

"(9) Supporting model projects and programs to integrate arts education into the regular elementary school and secondary school curriculum.

"(10) Other activities that further the purposes of this subpart.

"(e) SPECIAL RULE.—If the amount made available to the Secretary to carry out this subpart for any fiscal year is $15,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

"(f) CONDITIONS.—As conditions of receiving assistance made available under this subpart, the Secretary shall require each entity receiving such assistance—

"(1) to coordinate, to the extent practicable, each project or program carried out with such assistance with appropriate activities of public or private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters; and

"(2) to use such assistance only to supplement, and not to supplant, any other assistance or funds made available from non-Federal sources for the activities assisted under this subpart.

"(g) CONSULTATION.—In carrying out this subpart, the Secretary shall consult with Federal agencies or institutions, arts educators (including professional arts education associations), and organizations representing the arts (including State and local arts agencies involved in arts education).

"Subpart 16—Parental Assistance and Local Family Information Centers

"SEC. 5561. PURPOSES.

"The purposes of this subpart are the following:

"(1) To provide leadership, technical assistance, and financial support to nonprofit organizations (including statewide nonprofit organizations) and local educational agencies to help the organizations and agencies implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student academic achievement.

"(2) To strengthen partnerships among parents (including parents of children from birth through age 5), teachers, principals, administrators, and other school personnel in meeting the educational needs of children.

"(3) To develop and strengthen the relationship between parents and their children's school.

"(4) To further the developmental progress of children assisted under this subpart.

"(5) To coordinate activities funded under this subpart with parental involvement initiatives funded under section 1118 and other provisions of this Act.

"(6) To provide a comprehensive approach to improving student learning, through coordination and integration of Federal, State, and local services and programs.

"SEC. 5562. GRANTS AUTHORIZED.

"(a) Parental Information and Resource Centers.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations (including statewide nonprofit organizations), and consortia of such organizations and local educational agencies, to establish school-linked or school-based parental information and resource centers that provide comprehensive training, information, and support to—

"(1) parents of children enrolled in elementary schools and secondary schools;

"(2) individuals who work with the parents of children enrolled in elementary schools and secondary schools;

"(3) State educational agencies, local educational agencies, schools, organizations that support family-school partnerships (such as parent-teacher associations and Parents as Teachers organizations), and other organizations that carry out parent education and family involvement programs; and

"(4) parents of children from birth through age 5.

"(b) Geographic Distribution.—In awarding grants under this subpart, the Secretary shall, to the extent practicable, ensure that such grants are distributed in all geographic regions of the United States.

"SEC. 5563. APPLICATIONS.

"(a) Submission.—Each nonprofit organization (including a statewide nonprofit organization), or a consortia of such an organization and a local educational agency, that desires a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"(b) Contents.—Each application submitted under subsection (a), at a minimum, shall include assurances that the organization or consortium will—

"(1)(A) be governed by a board of directors the membership of which includes parents; or

"(B) be an organization or consortium that represents the interests of parents;

"(2) establish a special advisory committee the membership of which includes—

"(A) parents of children enrolled in elementary schools and secondary schools, who shall constitute a majority of the members of the special advisory committee;

"(B) representatives of education professionals with expertise in improving services for disadvantaged children; and

"(C) representatives of local elementary schools and secondary schools, including students and representatives from local youth organizations;

"(3) use at least 50 percent of the funds received under this subpart in each fiscal year to serve areas with high concentrations of low-income families, in order to serve parents who are severely educationally or economically disadvantaged;

"(4) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

"(5) serve both urban and rural areas;

"(6) design a center that meets the unique training, information, and support needs of parents of children enrolled in elementary schools and secondary schools, particularly such parents who are educationally or economically disadvantaged;

"(7) demonstrate the capacity and expertise to conduct the effective training, information, and support activities for which assistance is sought;

"(8) network with—

"(A) local educational agencies and schools;

"(B) parents of children enrolled in elementary schools and secondary schools;

"(C) parent training and information centers assisted under section 682 of the Individuals with Disabilities Education Act;

"(D) clearinghouses; and

"(E) other organizations and agencies;

"(9) focus on serving parents of children enrolled in elementary schools and secondary schools who are parents of low-income, minority, and limited English proficient children;

"(10) use at least 30 percent of the funds received under this subpart in each fiscal year to establish, expand, or operate Parents as Teachers programs, Home Instruction for Preschool Youngsters programs, or other early childhood parent education programs;

"(11) provide assistance to parents in areas such as understanding State and local standards and measures of student and school academic achievement;

"(12) work with State educational agencies and local educational agencies to determine parental needs and the best means for delivery of services;

"(13) identify and coordinate Federal, State, and local services and programs that support improved student learning, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education, and job training; and

"(14) work with and foster partnerships with other agencies that provide programs and deliver services described in paragraph (13) to make such programs and services more accessible to children and families.

"SEC. 5564. USES OF FUNDS.

"(a) In General.—Grant funds received under this subpart shall be used for one or more of the following:

"(1) To assist parents in participating effectively in their children's education and to help their children meet State and local standards, such as assisting parents—

"(A) to engage in activities that will improve student academic achievement, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children's educational academic achievement in comparison to State and local standards;

"(B) to provide follow-up support for their children's educational achievement;

"(C) to communicate effectively with teachers, principals, counselors, administrators, and other school personnel;

"(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

"(E) to participate in the design and provision of assistance to students who are not making adequate academic progress;

"(F) to participate in State and local decision-making; and

"(G) to train other parents (such as training related to Parents as Teachers activities).

"(2) To obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents.

"(3) To help the parents learn and use the technology applied in their children's education.

"(4) To plan, implement, and fund activities for parents that coordinate the education of their children with other Federal, State, and local services and programs that serve their children or their families.

"(5) To provide support for State or local educational personnel, if the participation of such personnel will further the activities assisted under the grant.

"(6) To coordinate and integrate early childhood programs with school-age programs.

"(b) Permissive Activities.—Grant funds received under this subpart may be used to assist schools with activities including one or more of the following:

"(1) Developing and implementing the schools' plans or activities under sections 1118 and 1119.

"(2) Developing and implementing school improvement plans, including addressing problems that develop in the implementation of the schools' plans or activities under sections 1118 and 1119.

"(3) Providing information about assessment and individual results to parents in a manner and a language the family can understand.

"(4) Coordinating the efforts of Federal, State, and local parent education and family involvement initiatives.

"(5) Providing training, information, and support to—

"(A) State educational agencies;

"(B) local educational agencies and schools, especially low-performing local educational agencies and schools; and

"(C) organizations that support family-school partnerships.

"SEC. 5565. ADMINISTRATIVE PROVISIONS.

"(a) Matching Funds for Grant Renewal.—For each fiscal year after the first fiscal year in which an organization or consortium receives assistance under this subpart, the organization or consortium shall demonstrate in the application submitted for such fiscal year, that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

"(b) Submission of Information.—

"(1) In General.—Each organization or consortium receiving assistance under this subpart shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this subpart, including the following information:

"(A) The number of parents (including the number of minority and limited English proficient parents) who receive information and training.

"(B) The types and modes of training, information, and support provided under this subpart.

"(C) The strategies used to reach and serve parents of minority and limited English proficient children, parents with limited literacy skills, and other parents in need of the services provided under this subpart.

"(D) The parental involvement policies and practices used by the center and an evaluation of whether such policies and practices are effective in improving home-school communication, student academic achievement, student and school academic achievement, and parental involvement in school planning, review, and improvement.

"(E) The effectiveness of the activities that local educational agencies and schools are carrying out, with regard to parental involvement and other activities assisted under this Act, that lead to improved student academic achievement and improved student and school academic achievement.

"(2) Dissemination.—The Secretary shall disseminate annually to Congress and the public the information that each organization or consortium submits under paragraph (1).

"(c) Technical Assistance.—The Secretary shall provide technical assistance, by grant or *contract, for the establishment, development, and coordination of parent training, information, and support programs and parental information and resource centers.*

"(d) Rule of Construction.—Nothing in this subpart shall be construed to prohibit a parental information and resource center from—

"(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

"(2) working with another agency that serves children.

"(e) Parental Rights.—Notwithstanding any other provision of this subpart—

"(1) no person (including a parent who educates a child at home, a public school parent, or a private school parent) shall be required to participate in any program of parent education or developmental screening under this subpart; and

"(2) no program or center assisted under this subpart shall take any action that infringes in any manner on the right of a parent to direct the education of their children.

"(f) Continuation of Awards.—The Secretary shall use funds made available under this subpart to continue to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001) for the duration of the grant or contract award.

"SEC. 5566. LOCAL FAMILY INFORMATION CENTERS.

"(a) In General.—If the amount made available to carry out this subpart for a fiscal year is more than $50,000,000, the Secretary is authorized to award 50 percent of the amount that exceeds $50,000,000 as grants to, and enter into contracts and cooperative agreements with, local nonprofit parent organizations to enable the organizations to support local family information centers that help ensure that parents of students in elementary schools and secondary schools assisted under this subpart have the training, information, and support the parents need to enable the parents to participate effectively in their children's early childhood education, in their children's elementary and secondary education, and in helping their children to meet challenging State academic content and student academic achievement standards.

"(b) Local Nonprofit Parent Organization Defined.—In this section, the term 'local nonprofit parent organization' means a private nonprofit organization (other than an institution of higher education) that—

"(1) has a demonstrated record of working with low-income individuals and parents;

"(2)(A) has a board of directors, the majority of whom are parents of students in elementary schools and secondary schools assisted under part A of title I and located in the geographic area to be served by a local family information center; or

"(B) has a special governing committee to direct and implement a local family information center, a majority of the members of whom are parents of students in schools assisted under part A of title I; and

"(3) is located in a community with elementary schools and secondary schools that receive funds under part A of title I, and is accessible to the families of students in those schools.

"Subpart 17—Combatting Domestic Violence

"SEC. 5571. GRANTS TO COMBAT THE IMPACT OF EXPERIENCING OR WITNESSING DOMESTIC VIOLENCE ON ELEMENTARY AND SECONDARY SCHOOL CHILDREN.

"(a) Definitions.—In this section:

"(1) Domestic Violence.—The term 'domestic violence' has the meaning given that term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).

"(2) Expert.—The term 'expert' means—

"(A) an expert on domestic violence, sexual assault, and child abuse from the educational, legal, youth, mental health, substance abuse, or victim advocacy field; and

"(B) a State or local domestic violence coalition or community-based youth organization.

"(3) Witness Domestic Violence.—

"(A) In General.—The term 'witness domestic violence' means to witness—

"(i) an act of domestic violence that constitutes actual or attempted physical assault; or

"(ii) a threat or other action that places the victim in fear of domestic violence.

"(B) Witness.—In subparagraph (A), the term 'witness' means—

"(i) to directly observe an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action; or

"(ii) to be within earshot of an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action.

"(b) Grants Authorized.—

"(1) Authority.—The Secretary is authorized to award grants to local educational agencies that work with experts to enable the elementary schools and secondary schools served by the local educational agency—

"(A) to provide training to school administrators, faculty, and staff, with respect to issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on the children;

"(B) to provide educational programming for students regarding domestic violence and the impact of experiencing or witnessing domestic violence on children;

"(C) to provide support services for students and school personnel to develop and strengthen effective prevention and intervention strategies with respect to issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on the children; and

"(D) to develop and implement school system policies regarding appropriate and safe responses to, identification of, and referral procedures for, students who are experiencing or witnessing domestic violence.

"(2) Award Basis.—The Secretary is authorized to award grants under this section—

"(A) on a competitive basis; and

"(B) in a manner that ensures that such grants are equitably distributed among local educational agencies located in rural, urban, and suburban areas.

"(3) Policy Dissemination.—The Secretary shall disseminate to local educational agencies any Department policy guidance regarding the prevention of domestic violence and the impact on children of experiencing or witnessing domestic violence.

"(c) Uses of Funds.—Funds made available to carry out this subpart may be used for one or more of the following purposes:

"(1) To provide training for elementary school and secondary school administrators, faculty, and staff that addresses issues concerning elementary school and secondary school students who experience domestic violence in dating relationships or who witness domestic violence, and the impact of such violence on those students.

"(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students' grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

"(3) To develop and implement elementary school and secondary school system policies regarding—

"(A) appropriate and safe responses to, identification of, and referral procedures for, students who are experiencing or witnessing domestic violence; and

"(B) to develop and implement policies on reporting and referral procedures for those students.

"(4) To provide the necessary human resources to respond to the needs of elementary school and secondary school students and personnel who are faced with the issue of domestic violence, such as a resource person who is either on-site or on-call and who is an expert.

"(5) To provide media center materials and educational materials to elementary schools and secondary schools that address issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on those children.

"(6) To conduct evaluations to assess the impact of programs and policies assisted under this subpart in order to enhance the development of the programs.

"(d) Confidentiality.—Policies, programs, training materials, and evaluations developed and implemented under subsection (c) shall address issues of safety and confidentiality for the victim and the victim's family in a manner consistent with applicable Federal and State laws.

"(e) Application.—To be eligible for a grant under this section for a fiscal year, a local educational agency, in consultation with an expert, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include each of the following:

"(1) A description of the need for funds provided under the grant and the plan for implementation of any of the activities described in subsection (c).

"(2) A description of how the experts will work in consultation and collaboration with the local educational agency.

"(3) Measurable objectives for, and expected results from, the use of the funds provided under the grant.

"(4) Provisions for appropriate remuneration for collaborating partners.

"Subpart 18—Healthy, High-Performance Schools

"SEC. 5581. GRANT PROGRAM AUTHORIZED.

"The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, is authorized to award grants to State educational agencies to permit such State educational agencies to carry out section 5582.

"SEC. 5582. STATE USES OF FUNDS.

"(a) Subgrants.—

"(1) In General.—A State educational agency receiving a grant under this subpart shall use funds made available under the grant to award subgrants to local educational agencies to permit such local educational agencies to carry out the activities described in section 5583.

"(2) Limitation.—A State educational agency shall award subgrants under this subsection to local educational agencies that are the neediest, as determined by the State, and that have made a commitment to develop healthy, high-performance school buildings in accordance with the plan developed and approved under paragraph (3)(A).

"(3) Implementation.—

"(A) Plans.—A State educational agency shall award subgrants under this subsection only to local educational agencies that, in consultation with the State educational agency and State agencies with responsibilities relating to energy and health, have developed plans that the State educational agency determines to be feasible and appropriate in order to achieve the purposes for which the subgrants are made.

"(B) SUPPLEMENTING GRANT FUNDS.—The State educational agency shall encourage local educational agencies that receive subgrants under this subsection to supplement their subgrant funds with funds from other sources in order to implement their plans.

"(b) ADMINISTRATION.—A State educational agency receiving a grant under this subpart shall use the grant funds made available under this subpart for one or more of the following:

"(1) To evaluate compliance by local educational agencies with the requirements of this subpart.

"(2) To distribute information and materials on healthy, high-performance school buildings for both new and existing facilities.

"(3) To organize and conduct programs for school board members, school district personnel, and others to disseminate information on healthy, high-performance school buildings.

"(4) To provide technical services and assistance in planning and designing healthy, high-performance school buildings.

"(5) To collect and monitor information pertaining to healthy, high-performance school building projects.

"SEC. 5583. LOCAL USES OF FUNDS.

"(a) IN GENERAL.—A local educational agency that receives a subgrant under section 5582(a) shall use the subgrant funds to plan and prepare for healthy, high-performance school building projects that—

"(1) reduce energy use to at least 30 percent below that of a school constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results;

"(2) meet Federal and State health and safety codes; and

"(3) support healthful, energy efficient, and environmentally sound practices.

"(b) USE OF FUNDS.—A local educational agency that receives a subgrant under section 5582(a) shall use funds for one or more of the following:

"(1) To develop a comprehensive energy audit of the energy consumption characteristics of a building and the need for additional energy conservation measures necessary to allow schools to meet the guidelines set out in subsection (a).

"(2) To produce a comprehensive analysis of building strategies, designs, materials, and equipment that—

"(A) are cost effective, produce greater energy efficiency, and enhance indoor air quality; and

"(B) can be used when conducting school construction and renovation or purchasing materials and equipment.

"(3) To obtain research and provide technical services and assistance in planning and designing healthy, high-performance school buildings, including developing a timeline for implementation of such plans.

"SEC. 5584. REPORT TO CONGRESS.

"The Secretary shall conduct a biennial review of State actions implementing this subpart and carrying out the plans developed under this subpart through State and local funding, and shall submit a report to Congress on the results of such reviews.

"SEC. 5585. LIMITATIONS.

"No funds received under this subpart may be used for any of the following:

"(1) Payment of maintenance of costs in connection with any projects constructed in whole or in part with Federal funds provided under this subpart.

"(2) Construction, renovation, or repair of school facilities.

"(3) Construction, renovation, repair, or acquisition of a stadium or other facility primarily used for athletic contests or exhibitions, or other events for which admission is charged to the general public.

"SEC. 5586. HEALTHY, HIGH-PERFORMANCE SCHOOL BUILDING DEFINED.

"In this subpart, the term 'healthy, high-performance school building' means a school building in which the design, construction, operation, and maintenance—

"(1) use energy-efficient and affordable practices and materials;

"(2) are cost-effective;

"(3) enhance indoor air quality; and

"(4) protect and conserve water.

"Subpart 19—Grants for Capital Expenses of Providing Equitable Services for Private School Students

"SEC. 5591. GRANT PROGRAM AUTHORIZED.

"The Secretary is authorized to award grants to State educational agencies, from allotments made under section 5593, to enable the State educational agencies to award subgrants to local educational agencies to pay for capital expenses in accordance with this subpart.

"SEC. 5592. USES OF FUNDS.

"A local educational agency that receives a subgrant under this subpart shall use the subgrant funds only to pay for capital expenses incurred in providing equitable services for private school students under section 1120.

"SEC. 5593. ALLOTMENTS TO STATES.

"From the funds made available to carry out this subpart for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the funds made available as the number of private school students who received services under part A of title I in the State in the most recent year for which data, satisfactory to the Secretary, are available bears to the number of such students in all States in such year.

"SEC. 5594. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) APPLICATIONS.—A local educational agency that desires to receive a subgrant under this subpart shall submit an application to the State educational agency involved at such time, in such manner, and containing such information as the State educational agency may require.

"(b) DISTRIBUTION.—A State educational agency shall award subgrants to local educational agencies within the State based on the degree of need set forth in their respective applications submitted under subsection (a).

"SEC. 5595. CAPITAL EXPENSES DEFINED.

"In this subpart, the term 'capital expenses' means—

"(1) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

"(2) insurance and maintenance costs;

"(3) transportation; and

"(4) other comparable goods and services.

"SEC. 5596. TERMINATION.

"The authority provided by this subpart terminates effective October 1, 2003.

"Subpart 20—Additional Assistance for Certain Local Educational Agencies Impacted by Federal Property Acquisition

"SEC. 5601. RESERVATION.

"The Secretary is authorized to provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under section 8002.

"SEC. 5602. ELIGIBILITY.

"A local educational agency is eligible to receive additional assistance under this subpart only if such agency—

"(1) received a payment under both section 8002 and section 8003(b) for fiscal year 1996 and is eligible to receive payments under those sections for the year of application;

"(2) provided a free public education to children described under subparagraphs (A), (B), or (D) of section 8003(a)(1);

"(3) had a military installation located within the geographic boundaries of the local educational agency that was closed as a result of base closure or realignment and, at the time at which the agency is applying for a payment under this subpart, the agency does not have a military installation located within its geographic boundaries;

"(4) remains responsible for the free public education of children residing in housing located on Federal property within the boundaries of the closed military installation but whose parents are on active duty in the uniformed services and assigned to a military activity located within the boundaries of an adjoining local educational agency; and

"(5) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

"SEC. 5603. MAXIMUM AMOUNT.

"(a) MAXIMUM AMOUNT.—The maximum amount that a local educational agency is eligible to receive under this subpart for any fiscal year, when combined with its payment under section 8002(b), shall not be more than 50 percent of the maximum amount determined under section 8002(b).

"(b) INSUFFICIENT FUNDS.—If funds appropriated under section 5401 are insufficient to pay the amount determined under subsection (a), the Secretary shall ratably reduce the payment to each local education agency eligible under this subpart.

"(c) EXCESS FUNDS.—If funds appropriated under section 5401 are in excess of the amount determined under subsection (a), the Secretary shall ratably distribute any excess funds to all local educational agencies eligible for payment under section 8002(b).

"Subpart 21—Women's Educational Equity Act

"SEC. 5611. SHORT TITLE AND FINDINGS.

"(a) SHORT TITLE.—This subpart may be cited as the 'Women's Educational Equity Act of 2001'.

"(b) FINDINGS.—Congress finds that—

"(1) since the enactment of title IX of the Education Amendments of 1972, women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

"(2) because of funding provided under the Women's Educational Equity Act, more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

"(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

"(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

"(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

"(C) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

"(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing

dropout prevention programs do not adequately address the needs of such teenagers;

"(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

"(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

"(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

"(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

"SEC. 5612. STATEMENT OF PURPOSES.

"It is the purpose of this subpart—

"(1) to promote gender equity in education in the United States;

"(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

"(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited English proficiency, disability, or age.

"SEC. 5613. PROGRAMS AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized—

"(1) to promote, coordinate, and evaluate gender equity policies, programs, activities, and initiatives in all Federal education programs and offices;

"(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

"(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

"(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

"(5) to assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to education equity for women and girls; and

"(6) to perform any other activities consistent with achieving the purposes of this subpart.

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed 4 years, to—

"(A) provide grants to develop model equity programs; and

"(B) provide funds for the implementation of equity programs in schools throughout the Nation.

"(2) SUPPORT AND TECHNICAL ASSISTANCE.—To achieve the purposes of this subpart, the Secretary is authorized to provide support and technical assistance—

"(A) to implement effective gender-equity policies and programs at all educational levels, including—

"(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

"(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

"(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

"(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

"(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex, and on race, ethnic origin, limited English proficiency, disability, socioeconomic status, or age;

"(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

"(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

"(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

"(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

"(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

"(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving assistance under a State program funded under part A of title IV of the Social Security Act;

"(xii) programs to improve representation of women in educational administration at all levels; and

"(xiii) planning, development, and initial implementation of—

"(I) comprehensive institutionwide or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

"(II) comprehensive plans for implementation of equity programs in State educational agencies and local educational agencies and institutions of higher education, including community colleges; and

"(III) innovative approaches to school-community partnerships for educational equity;

"(B) for research and development, which shall be coordinated with each of the research institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

"(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

"(ii) the development of high-quality and challenging assessment instruments that are nondiscriminatory;

"(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

"(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

"(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

"(vi) updating high-quality educational materials previously developed through awards made under this subpart;

"(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

"(viii) the development and improvement of programs and activities to increase opportunity for women; including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving assistance under the State program funded under part A of title IV of the Social Security Act; and

"(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

"SEC. 5614. APPLICATIONS.

"An application under this subpart shall—

"(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this subpart, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

"(2) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

"(3) for applications for assistance under section 5613(b)(1), demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies, local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses, or other recipients of Federal educational funding which may include State literacy resource centers;

"(4) for applications for assistance under section 5613(b)(1), demonstrate how parental involvement in the project will be encouraged; and

"(5) for applications for assistance under section 5613(b)(1), describe plans for continuation of the activities assisted under this subpart with local support following completion of the grant period and termination of Federal support under this subpart.

"SEC. 5615. CRITERIA AND PRIORITIES.

"(a) CRITERIA AND PRIORITIES.—

"(1) IN GENERAL.—The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 5613(b) to ensure that funds under this subpart are used for programs that most effectively will achieve the purposes of this subpart.

"(2) CRITERIA.—The criteria described in paragraph (1) may include the extent to which the activities assisted under this subpart—

"(A) address the needs of women and girls of color and women and girls with disabilities;

"(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972;

"(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

"(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this subpart has terminated.

"(b) Priorities.—In awarding grants under this subpart, the Secretary may give special consideration to applications—

"(1) submitted by applicants that have not received assistance under this subpart or this subpart's predecessor authorities;

"(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

"(3) for projects that will—

"(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

"(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

"(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this subpart has terminated;

"(D) address issues of national significance that can be duplicated; and

"(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

"(c) Special Rule.—To the extent feasible, the Secretary shall ensure that grants awarded under this subpart for each fiscal year address—

"(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

"(2) all regions of the United States; and

"(3) urban, rural, and suburban educational institutions.

"(d) Coordination.—Research activities supported under this subpart—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

"(e) Limitation.—Nothing in this subpart shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this subpart.

"SEC. 5616. REPORT.

"Not later than January 1, 2006, the Secretary shall submit to the President and Congress a report on the status of educational equity for girls and women in the Nation.

"SEC. 5617. ADMINISTRATION.

"(a) Evaluation and Dissemination.—Not later than January 1, 2005, the Secretary shall evaluate and disseminate materials and programs developed under this subpart and shall report to Congress regarding such evaluation materials and programs.

"(b) Program Operations.—The Secretary shall ensure that the activities assisted under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

"SEC. 5618. AMOUNT.

"From amounts made available to carry out this subpart for a fiscal year, not less than ⅔ of such amount shall be used to carry out the activities described in section 5613(b)(1).

SEC. 502. CONTINUATION OF AWARDS.

(a) In General.—Notwithstanding any other provision of this Act or the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in the case of any agency or consortium that was awarded a grant under section 5111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7211) or any person or agency that was awarded a contract or grant under part B, D, or E of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8031 et seq., 8091 et seq., 8131 et seq.), prior to the date of enactment of this Act, the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

(b) Special Rule.—Notwithstanding any other provision of this Act, any person or agency that was awarded or entered into a grant, contraot, or cooperative agreement under part B of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7231 et seq.), prior to the date of enactment of this Act shall continue to receive funds in accordance with the terms of such grant, contract, or agreement until the date on which the grant, contract, or agreement period terminates under such terms.

TITLE VI—FLEXIBILITY AND ACCOUNTABILITY

SEC. 601. FLEXIBILITY AND ACCOUNTABILITY.

Title VI (20 U.S.C. 7301 et seq.) is amended to read as follows:

"TITLE VI—FLEXIBILITY AND ACCOUNTABILITY

"PART A—IMPROVING ACADEMIC ACHIEVEMENT

"Subpart 1—Accountability

"SEC. 6111. GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.

"The Secretary shall make grants to States to enable the States—

"(1) to pay the costs of the development of the additional State assessments and standards required by section 1111(b), which may include the costs of working in voluntary partnerships with other States, at the sole discretion of each such State; and

"(2) if a State has developed the assessments and standards required by section 1111(b), to administer those assessments or to carry out other activities described in this subpart and other activities related to ensuring that' the State's schools and local educational agencies are held accountable for results, such as the following:

"(A) Developing challenging State academic content and student academic achievement standards and aligned assessments in academic subjects for which standards and assessments are not required by section 1111(b).

"(B) Developing or improving assessments of English language proficiency necessary to comply with section 1111(b)(7).

"(C) Ensuring the continued validity and reliability of State assessments.

"(D) Refining State assessments to ensure their continued alignment with the State's academic content standards and to improve the alignment of curricula and instructional materials.

"(E) Developing multiple measures to increase the reliability and validity of State assessment systems.

"(F) Strengthening the capacity of local educational agencies and schools to provide all students the opportunity to increase educational achievement, including carrying out professional development activities aligned with State student academic achievement standards and assessments.

"(G) Expanding the range of accommodations available to students with limited English proficiency and students with disabilities to improve the rates of inclusion of such students, including professional development activities aligned with State academic achievement standards and assessments.

"(H) Improving the dissemination of information on student achievement and school performance to parents and the community, including the development of information and reporting systems designed to identify best educational practices based on scientifically based research or to assist in linking records of student achievement, length of enrollment, and graduation over time.

"SEC. 6112. GRANTS FOR ENHANCED ASSESSMENT INSTRUMENTS.

"(a) Grant Program Authorized.—From funds made available to carry out this subpart, the Secretary shall award, on a competitive basis, grants to State educational agencies that have submitted an application at such time, in such manner, and containing such information as the Secretary may require, which demonstrate to the satisfaction of the Secretary, that the requirements of this section will be met, for the following:

"(1) To enable States (or consortia of States) to collaborate with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for such assessments described in section 1111(b)(3).

"(2) To measure student academic achievement using multiple measures of student academic achievement from multiple sources.

"(3) To chart student progress over time.

"(4) To evaluate student academic achievement through the development of comprehensive academic assessment instruments, such as performance and technology-based academic assessments.

"(b) Application.—Each State wishing to apply for funds under this section shall include in its State plan under part A of title I such information as the Secretary may require.

"(c) Annual Report.—Each State educational agency receiving a grant under this section shall submit an annual report to the Secretary describing its activities, and the result of those activities, under the grant.

"SEC. 6113. FUNDING.

"(a) Authorization of Appropriations.—

"(1) National Assessment of Educational Progress.—For the purpose of administering the State assessments under the National Assessment of Educational Progress, there are authorized to be appropriated $72,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(2) State Assessments and Related Activities.—For the purpose of carrying out this subpart, there are authorized to be appropriated $490,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(b) Allotment of Appropriated Funds.—

"(1) In General.—From amounts made available for each fiscal year under subsection (a)(2) that are equal to or less than the amount described in section 1111(b)(3)(D) (hereinafter in this subsection referred to as the 'trigger amount'), the Secretary shall—

"(A) reserve ½ of 1 percent for the Bureau of Indian Affairs;

"(B) reserve ½ of 1 percent for the outlying areas; and

"(C) from the remainder, allocate to each State an amount equal to—

"(i) $3,000,000; and

"(ii) with respect to any amounts remaining after the allocation is made under clause (i), an amount that bears the same relationship to such total remaining amounts as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

"(2) Remainder.—Any amounts remaining for a fiscal year after the Secretary carries out paragraph (1) shall be made available as follows:

"(A)(i) To award funds under section 6112 to States according to the quality, needs, and scope of the State application under that section.

"(ii) In determining the grant amount under clause (i), the Secretary shall ensure that a State's grant shall include an amount that bears the same relationship to the total funds available under this paragraph for the fiscal year as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

"(B) Any amounts remaining after the Secretary awards funds under subparagraph (A) shall be allocated to each State that did not receive a grant under such subparagraph, in an amount that bears the same relationship to the total funds available under this subparagraph as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

"(c) STATE DEFINED.—In this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"Subpart 2—Funding Transferability for State and Local Educational Agencies

"SEC. 6121. SHORT TITLE.

"This subpart may be cited as the 'State and Local Transferability Act'.

"SEC. 6122. PURPOSE.

"The purpose of this subpart is to allow States and local educational agencies the flexibility—

"(1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and

"(2) to transfer Federal funds allocated to other activities to allocations for certain activities authorized under title I.

"SEC. 6123. TRANSFERABILITY OF FUNDS.

"(a) TRANSFERS BY STATES.—

"(1) IN GENERAL.—In accordance with this subpart, a State may transfer not more than 50 percent of the nonadministrative State funds (including funds transferred under paragraph (2)) allotted to the State for use for State-level activities under the following provisions for a fiscal year to one or more of the State's allotments for such fiscal year under any other of such provisions:

"(A) Section 2113(a)(3).

"(B) Section 2412(a)(1).

"(C) Subsections (a)(1) (with the agreement of the Governor) and (c)(1) of section 4112 and section 4202(c)(3).

"(D) Section 5112(b).

"(2) ADDITIONAL FUNDS FOR TITLE I.—In accordance with this subpart and subject to the 50 percent limitation described in paragraph (1), a State may transfer any funds allotted to the State under a provision listed in paragraph (1) to its allotment under title I.

"(b) TRANSFERS BY LOCAL EDUCATIONAL AGENCIES.—

"(1) AUTHORITY TO TRANSFER FUNDS.—

"(A) IN GENERAL.—In accordance with this subpart, a local educational agency (except a local educational agency identified for improvement under section 1116(c) or subject to corrective action under section 1116(c)(9)) may transfer not more than 50 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

"(B) AGENCIES IDENTIFIED FOR IMPROVEMENT.—In accordance with this subpart, a local educational agency identified for improvement under section 1116(c) may transfer not more than 30 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year—

"(i) to its allocation for school improvement for such fiscal year under section 1003; or

"(ii) to any other allocation for such fiscal year if such transferred funds are used only for local educational agency improvement activities consistent with section 1116(c).

"(C) ADDITIONAL FUNDS FOR TITLE I.—In accordance with this subpart and subject to the percentage limitation described in subparagraph (A) or (B), as applicable, a local educational agency may transfer funds allocated to such agency under any of the provisions listed in paragraph (2) for a fiscal year to its allocation for part A of title I for that fiscal year.

"(2) APPLICABLE PROVISIONS.—A local educational agency may transfer funds under subparagraph (A), (B), or (C) of paragraph (1) from allocations made under each of the following provisions:

"(A) Section 2121.

"(B) Section 2412(a)(2)(A).

"(C) Section 4112(b)(1).

"(D) Section 5112(a).

"(c) NO TRANSFER OF TITLE I FUNDS.—A State or a local educational agency may not transfer under this subpart to any other program any funds allotted or allocated to it for part A of title I.

"(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION.—

"(1) STATE TRANSFERS.—Each State that makes a transfer of funds under this section shall—

"(A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;

"(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

"(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

"(2) LOCAL TRANSFERS.—Each local educational agency that makes a transfer of funds under this section shall—

"(A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;

"(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

"(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

"(e) APPLICABLE RULES.—

"(1) IN GENERAL.—Except as otherwise provided in this subpart, funds transferred under this section are subject to each of the rules and requirements applicable to the funds under the provision to which the transferred funds are transferred.

"(2) CONSULTATION.—Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 9501, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.

"Subpart 3—State and Local Flexibility Demonstration

"SEC. 6131. SHORT TITLE.

"This subpart may be cited as the 'State and Local Flexibility Demonstration Act'.

"SEC. 6132. PURPOSE.

"The purpose of this subpart is to create options for selected State educational agencies and local educational agencies—

"(1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;

"(2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;

"(3) to better empower parents, educators, administrators, and schools to effectively address the needs of their children and students;

"(4) to give participating State educational agencies and local educational agencies greater flexibility in determining how to increase their students' academic achievement and implement education reforms in their schools;

"(5) to eliminate barriers to implementing effective State and local education reform, while preserving the goals of opportunity for all students and accountability for student progress;

"(6) to hold participating State educational agencies and local educational agencies accountable for increasing the academic achievement of all students, especially disadvantaged students; and

"(7) to narrow achievement gaps between the lowest and highest achieving groups of students so that no child is left behind.

"SEC. 6133. GENERAL PROVISION.

"For purposes of this subpart, any State that is one local educational agency shall be considered a State educational agency and not a local educational agency.

"CHAPTER A—STATE FLEXIBILITY AUTHORITY

"SEC. 6141. STATE FLEXIBILITY.

"(a) FLEXIBILITY AUTHORITY.—Except as otherwise provided in this chapter, the Secretary shall, on a competitive basis, grant flexibility authority to not more than 7 eligible State educational agencies, under which the agencies may consolidate and use funds in accordance with section 6142.

"(b) DEFINITIONS.—In this chapter:

"(1) ELIGIBLE STATE EDUCATIONAL AGENCY.—The term 'eligible State educational agency' means a State educational agency that—

"(A) submits an approvable application under subsection (c); and

"(B) proposes performance agreements—

"(i) that shall be entered into with not fewer than 4, and not more than 10, local educational agencies;

"(ii) not fewer than half of which shall be entered into with high-poverty local educational agencies; and

"(iii) that require the local educational agencies described in clause (i) to align their use of consolidated funds under section 6152 with the State educational agency's use of consolidated funds under section 6142.

"(2) HIGH-POVERTY LOCAL EDUCATIONAL AGENCY.—The term 'high-poverty local educational agency' means a local educational agency for which 20 percent or more of the children who are age 5 through 17, and served by the local educational agency, are from families with incomes below the poverty line.

"(c) STATE APPLICATIONS.—

"(1) APPLICATIONS.—To be eligible to receive flexibility authority under this chapter, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) information demonstrating, to the satisfaction of the Secretary, that the grant of authority offers substantial promise of—

"(i) assisting the State educational agency in making adequate yearly progress, as defined under section 1111(b)(2); and

"(ii) aligning State and local reforms and assisting the local educational agencies that enter into performance agreements with the State educational agency under paragraph (2) in making such adequate yearly progress;

"(B) the performance agreements that the State educational agency proposes to enter into with eligible local educational agencies under paragraph (2);

"(C) information demonstrating that the State educational agency has consulted with and involved parents, representatives of local educational agencies, and other educators in the development of the terms of the grant of authority;

"(D) a provision specifying that the grant of flexibility authority shall be for a term of not more than 5 years;

"(E) a list of the programs described in section 6142(b) that are included in the scope of the grant of authority;

"(F) a provision specifying that no requirements of any program described in section 6142(b) and included by a State educational agency in the scope of the grant of authority shall apply to that agency, except as otherwise provided in this chapter;

"(G) a 5-year plan describing how the State educational agency intends to consolidate and use the funds from programs included in the scope of the grant of authority, for any educational purpose authorized under this Act, in order to make adequate yearly progress and advance the education priorities of the State and the local educational agencies with which the State educational agency enters into performance agreements;

"(H) an assurance that the State educational agency will provide parents, teachers, and representatives of local educational agencies and schools with notice and an opportunity to comment on the proposed terms of the grant of authority;

"(I) an assurance that the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the grant of authority;

"(J) an assurance that the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will meet the requirements of all applicable Federal civil rights laws in carrying out the grant of authority, including consolidating and using funds under the grant of authority;

"(K) an assurance that, in consolidating and using funds under the grant of authority—

"(i) the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will provide for the equitable participation of students and professional staff in private schools consistent with section 9501; and

"(ii) that sections 9502, 9503, and 9504 shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 9501;

"(L) an assurance that the State educational agency will, for the duration of the grant of authority, use funds consolidated under section 6142 only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds; and

"(M) an assurance that the State educational agency shall, not later than 1 year after the date on which the Secretary makes the grant of authority, and annually thereafter during the term of the grant of authority, disseminate widely to parents and the general public, transmit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report, which shall include a detailed description of how the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, used the funds consolidated under the grant of authority to make adequate yearly progress and advance the education priorities of the State and local educational agencies in the State.

"(2) PROPOSED PERFORMANCE AGREEMENTS WITH LOCAL EDUCATIONAL AGENCIES.—

"(A) IN GENERAL.—A State educational agency that wishes to receive flexibility authority under this subpart shall propose performance agreements that meet the requirements of clauses (i) and (ii) of subsection (b)(1)(B) (subject to approval of the application or amendment involved under subsection (d) or (e)).

"(B) PERFORMANCE AGREEMENTS.—Each proposed performance agreement with a local educational agency shall—

"(i) contain plans for the local educational agency to consolidate and use funds in accordance with section 6152, for activities that are aligned with the State educational agency's plan described in paragraph (1)(G);

"(ii) be subject to the requirements of chapter B relating to agreements between the Secretary and a local educational agency, except—

"(I) that, as appropriate, references in that chapter to the Secretary shall be deemed to be references to the State educational agency; and

"(II) as otherwise provided in this chapter; and

"(iii) contain an assurance that the local educational agency will, for the duration of the grant of authority, use funds consolidated under section 6152 only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds.

"(d) APPROVAL AND SELECTION.—The Secretary shall—

"(1) establish a peer review process to assist in the review of proposed State applications under this section; and

"(2) appoint individuals to participate in the peer review process who are—

"(A) representative of parents, teachers, State educational agencies, and local educational agencies; and

"(B) familiar with educational standards, assessments, accountability, curricula, instruction, and staff development, and other diverse educational needs of students.

"(e) AMENDMENT TO GRANT OF AUTHORITY.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall amend the grant of flexibility authority made to a State educational agency under this chapter, in each of the following circumstances:

"(A) REDUCTION IN SCOPE OF THE GRANT OF AUTHORITY.—Not later than 1 year after receiving a grant of flexibility authority, the State educational agency seeks to amend the grant of authority to remove from the scope of the grant of authority any program described in section 6142(b).

"(B) EXPANSION OF SCOPE OF THE GRANT OF AUTHORITY.—Not later than 1 year after receiving a grant of flexibility authority, the State educational agency seeks to amend the grant of authority to include in the scope of the grant of authority any additional program described in section 6142(b) or any additional achievement indicators for which the State will be held accountable.

"(C) CHANGES WITH RESPECT TO NUMBER OF PERFORMANCE AGREEMENTS.—The State educational agency seeks to amend the grant of authority to include or remove performance agreements that the State educational agency proposes to enter into with eligible local educational agencies, except that in no case may the State educational agency enter into performance agreements that do not meet the requirements of clauses (i) and (ii) of subsection (b)(1)(B).

"(2) APPROVAL AND DISAPPROVAL.—

"(A) DEEMED APPROVAL.—A proposed amendment to a grant of flexibility authority submitted by a State educational agency pursuant to paragraph (1) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the proposed amendment, that the proposed amendment is not in compliance with this chapter.

"(B) DISAPPROVAL.—The Secretary shall not finally disapprove the proposed amendment, except after giving the State educational agency notice and an opportunity for a hearing.

"(C) NOTIFICATION.—If the Secretary finds that the proposed amendment is not in compliance, in whole or in part, with this chapter, the Secretary shall—

"(i) give the State educational agency notice and an opportunity for a hearing; and

"(ii) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

"(I) cite the specific provisions in the proposed amendment that are not in compliance; and

"(II) request additional information, only as to the noncompliant provisions, needed to make the proposed amendment compliant.

"(D) RESPONSE.—If the State educational agency responds to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the proposed amendment with the requested information described in subparagraph (C)(ii)(II), the Secretary shall approve or disapprove such proposed amendment prior to the later of—

"(i) the expiration of the 45-day period beginning on the date on which the proposed amendment is resubmitted; or

"(ii) the expiration of the 120-day period described in subparagraph (A).

"(E) FAILURE TO RESPOND.—If the State educational agency does not respond to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, such proposed amendment shall be deemed to be disapproved.

"(3) TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM GRANT OF AUTHORITY.—Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a grant of authority shall apply to the use of funds made available under the program by the State educational agency and each local educational agency with which the State educational agency has a performance agreement.

"SEC. 6142. CONSOLIDATION AND USE OF FUNDS.

"(a) IN GENERAL.—

"(1) AUTHORITY.—Under a grant of flexibility authority made under this chapter, a State educational agency may consolidate Federal funds described in subsection (b) and made available to the agency, and use such funds for any educational purpose authorized under this Act.

"(2) PROGRAM REQUIREMENTS.—Except as otherwise provided in this chapter, a State educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the State.

"(b) ELIGIBLE FUNDS AND PROGRAMS.—

“(1) FUNDS.—The funds described in this subsection are funds, for State-level activities and State administration, that are described in the following provisions:

“(A) Section 1004.

“(B) Paragraphs (4) and (5) of section 1202(d).

“(C) Section 2113(a)(3).

“(D) Section 2412(a)(1).

“(E) Subsections (a) (with the agreement of the Governor), (b)(2), and (c)(1) of section 4112.

“(F) Paragraphs (2) and (3) of section 4202(c).

“(G) Section 5112(b).

“(2) PROGRAMS.—The programs described in this subsection are the programs authorized to be carried out with funds described in paragraph (1).

“(c) SPECIAL RULE.—A State educational agency that receives a grant of flexibility authority under this chapter—

“(1) shall ensure that the funds described in section 5112(a) are allocated to local educational agencies in the State in accordance with section 5112(a); but

“(2) may specify how the local educational agencies shall use the allocated funds.

“SEC. 6143. PERFORMANCE REVIEW AND PENALTIES.

“(a) MIDTERM REVIEW.—

“(1) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS.—If, during the term of a grant of flexibility authority under this chapter, a State educational agency fails to make adequate yearly progress for 2 consecutive years, the Secretary shall, after providing notice and an opportunity for a hearing, terminate the grant of authority promptly.

“(2) NONCOMPLIANCE.—The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide evidence as described in paragraph (3)), terminate a grant of flexibility authority for a State if there is evidence that the State educational agency involved has failed to comply with the terms of the grant of authority.

“(3) EVIDENCE.—If a State educational agency believes that a determination of the Secretary under this subsection is in error for statistical or other substantive reasons, the State educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final termination determination under this subsection.

“(b) FINAL REVIEW.—

“(1) IN GENERAL.—If, at the end of the 5-year term of a grant of flexibility authority made under this chapter, the State educational agency has not met the requirements described in section 6141(c), the Secretary may not renew the grant of flexibility authority under section 6144.

“(2) COMPLIANCE.—Beginning on the date on which such term ends, the State educational agency, and the local educational agencies with which the State educational agency has entered into performance agreements, shall be required to comply with each of the program requirements in effect on such date for each program that was included in the grant of authority.

“SEC. 6144. RENEWAL OF GRANT OF FLEXIBILITY AUTHORITY.

“(a) IN GENERAL.—Except as provided in section 6143 and in accordance with this section, if a State educational agency has met, by the end of the original 5-year term of a grant of flexibility authority under this chapter, the requirements described in section 6141(c), the Secretary shall renew a grant of flexibility authority for one additional 5-year term.

“(b) RENEWAL.—The Secretary may not renew a grant of flexibility authority under this chapter unless, not later than 6 months before the end of the original term of the grant of authority, the State educational agency seeking the renewal notifies the Secretary, and the local educational agencies with which the State educational agency has entered into performance agreements, of the agency's intention to renew the grant of authority.

“(c) EFFECTIVE DATE.—A renewal under this section shall be effective on the later of—

“(1) the expiration of the original term of the grant of authority; or

“(2) the date on which the State educational agency seeking the renewal provides to the Secretary all data required for the application described in section 6141(c).

“CHAPTER B—LOCAL FLEXIBILITY DEMONSTRATION

“SEC. 6151. LOCAL FLEXIBILITY DEMONSTRATION AGREEMENTS.

“(a) AUTHORITY.—Except as otherwise provided in this chapter, the Secretary shall, on a competitive basis, enter into local flexibility demonstration agreements—

“(1) with local educational agencies that submit approvable proposed agreements under subsection (c) and that are selected under subsection (b); and

“(2) under which those agencies may consolidate and use funds in accordance with section 6152.

“(b) SELECTION OF LOCAL EDUCATIONAL AGENCIES.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into local flexibility demonstration agreements under this chapter with not more than 80 local educational agencies. Each local educational agency shall be selected on a competitive basis from among those local educational agencies that—

“(A) submit a proposed local flexibility demonstration agreement under subsection (c) to the Secretary and demonstrate, to the satisfaction of the Secretary, that the agreement—

“(i) has a substantial promise of assisting the local educational agency in meeting the State's definition of adequate yearly progress, advancing the education priorities of the local educational agency, meeting the general purposes of the programs included under this chapter and the purposes of this part, improving student achievement, and narrowing achievement gaps in accordance with section 1111(b);

“(ii) meets the requirements of this chapter; and

“(iii) contains a plan to consolidate and use funds in accordance with section 6152 in order to meet the State's definition of adequate yearly progress and the local educational agency's specific, measurable goals for improving student achievement and narrowing achievement gaps; and

“(B) have consulted and involved parents and other educators in the development of the proposed local flexibility demonstration agreement.

“(2) GEOGRAPHIC DISTRIBUTION.—

“(A) INITIAL AGREEMENTS.—The Secretary may enter into not more than 3 local flexibility demonstration agreements under this chapter with local educational agencies in each State that does not have a grant of flexibility authority under chapter A.

“(B) URBAN AND RURAL AREAS.—If more than 3 local educational agencies in a State submit approvable local flexibility demonstration agreements under this chapter, the Secretary shall select local educational agencies with which to enter into such agreements in a manner that ensures an equitable distribution among such agencies serving urban and rural areas.

“(C) PRIORITY OF STATES TO ENTER INTO STATE FLEXIBILITY DEMONSTRATION AGREEMENTS.—Notwithstanding any other provision of this part, a local educational agency may not seek to enter into a local flexibility demonstration agreement under this chapter if that agency is located in a State for which the State educational agency—

“(i) has, not later than 4 months after the date of enactment of the No Child Left Behind Act of 2001, notified the Secretary of its intent to apply for a grant of flexibility authority under chapter A and, within such period of time as the Secretary may establish, is provided with such authority by the Secretary; or

“(ii) has, at any time after such period, been granted flexibility authority under chapter A.

“(c) REQUIRED TERMS OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.—Each local flexibility demonstration agreement entered into with the Secretary under this chapter shall contain each of the following terms:

“(1) DURATION.—The local flexibility demonstration agreement shall be for a term of 5 years.

“(2) APPLICATION OF PROGRAM REQUIREMENTS.—The local flexibility demonstration agreement shall provide that no requirements of any program described in section 6152 and included by a local educational agency in the scope of its agreement shall apply to that agency, except as otherwise provided in this chapter.

“(3) LIST OF PROGRAMS.—The local flexibility demonstration agreement shall list which of the programs described in section 6152 are included in the scope of the agreement.

“(4) USE OF FUNDS TO IMPROVE STUDENT ACHIEVEMENT.—The local flexibility demonstration agreement shall contain a 5-year plan describing how the local educational agency intends to consolidate and use the funds from programs included in the scope of the agreement for any educational purpose authorized under this Act to advance the education priorities of the local educational agency, meet the general purposes of the included programs, improve student achievement, and narrow achievement gaps in accordance with section 1111(b).

“(5) LOCAL INPUT.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency will provide parents, teachers, and representatives of schools with notice and an opportunity to comment on the proposed terms of the local flexibility demonstration agreement.

“(6) FISCAL RESPONSIBILITIES.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the agreement.

“(7) CIVIL RIGHTS.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using the funds under the agreement.

“(8) PRIVATE SCHOOL PARTICIPATION.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency agrees that in consolidating and using funds under the agreement—

“(A) the local educational agency, will provide for the equitable participation of students and professional staff in private schools consistent with section 9501; and

“(B) that sections 9502, 9503, and 9504 shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 9501.

“(9) SUPPLANTING.— The local flexibility demonstration agreement shall contain an assurance that the local educational agency will, for the duration of the grant of authority, use funds consolidated under section 6152 only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds.

"(10) ANNUAL REPORTS.—The local flexibility demonstration agreement shall contain an assurance that the local educational agency shall, not later than 1 year after the date on which the Secretary enters into the agreement, and annually thereafter during the term of the agreement, disseminate widely to parents and the general public, transmit to the Secretary, and the State educational agency for the State in which the local educational agency is located, distribute to print and broadcast media, and post on the Internet, a report that includes a detailed description of how the local educational agency used the funds consolidated under the agreement to improve student academic achievement and reduce achievement gaps.

"(d) PEER REVIEW.—The Secretary shall—

"(1) establish a peer review process to assist in the review of proposed local flexibility demonstration agreements under this chapter; and

"(2) appoint individuals to the peer review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, curriculum, instruction and staff development, and other diverse educational needs of students.

"(e) AMENDMENT TO PERFORMANCE AGREEMENT.—

"(1) IN GENERAL.—In each of the following circumstances, the Secretary shall amend a local flexibility demonstration agreement entered into with a local educational agency under this chapter:

"(A) REDUCTION IN SCOPE OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.—Not later than 1 year after entering into a local flexibility demonstration agreement, the local educational agency seeks to amend the agreement to remove from the scope any program described in section 6152.

"(B) EXPANSION OF SCOPE OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.—Not later than 1 year after entering into the local flexibility demonstration agreement, a local educational agency seeks to amend the agreement to include in its scope any additional program described in section 6251 or any additional achievement indicators for which the local educational agency will be held accountable.

"(2) APPROVAL AND DISAPPROVAL.—

"(A) DEEMED APPROVAL.—A proposed amendment to a local flexibility demonstration agreement pursuant to paragraph (1) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the proposed amendment, that the proposed amendment is not in compliance with this chapter.

"(B) DISAPPROVAL.—The Secretary shall not finally disapprove the proposed amendment, except after giving the local educational agency notice and an opportunity for a hearing.

"(C) NOTIFICATION.—If the Secretary finds that the proposed amendment is not in compliance, in whole or in part, with this chapter, the Secretary shall—

"(i) give the local educational agency notice and an opportunity for a hearing; and

"(ii) notify the local educational agency of the finding of noncompliance and, in such notification, shall—

"(I) cite the specific provisions in the proposed amendment that are not in compliance; and

"(II) request additional information, only as to the noncompliant provisions, needed to make the proposed amendment compliant.

"(D) RESPONSE.—If the local educational agency responds to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the proposed amendment with the requested information described in subparagraph (C)(ii)(II), the Secretary shall approve or disapprove such proposed amendment prior to the later of—

"(i) the expiration of the 45-day period beginning on the date on which the proposed amendment is resubmitted; or

"(ii) the expiration of the 120-day period described in subparagraph (A).

"(E) FAILURE TO RESPOND.—If the local educational agency does not respond to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, such proposed amendment shall be deemed to be disapproved.

"(3) TREATMENT OF PROGRAM FUNDS WITHDRAWN FROM AGREEMENT.—Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a local flexibility demonstration agreement shall apply to the use of funds made available under the program by the local educational agency.

"SEC. 6152. CONSOLIDATION AND USE OF FUNDS.

"(a) IN GENERAL.—

"(1) AUTHORITY.—Under a local flexibility demonstration agreement entered into under this chapter, a local educational agency may consolidate Federal funds made available to the agency under the provisions listed in subsection (b) and use such funds for any educational purpose permitted under this Act.

"(2) PROGRAM REQUIREMENTS.—Except as otherwise provided in this chapter, a local educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the agency.

"(b) ELIGIBLE PROGRAMS.—Program funds made available to local educational agencies on the basis of a formula under the following provisions may be consolidated and used under subsection (a):

"(1) Subpart 2 of part A of title II.

"(2) Subpart 1 of part D of title II.

"(3) Subpart 1 of part A of title IV.

"(4) Subpart 1 of part A of title V.

"SEC. 6153. LIMITATIONS ON ADMINISTRATIVE EXPENDITURES.

"Each local educational agency that has entered into a local flexibility demonstration agreement with the Secretary under this chapter may use for administrative purposes not more than 4 percent of the total amount of funds allocated to the agency under the programs included in the scope of the agreement.

"SEC. 6154. PERFORMANCE REVIEW AND PENALTIES.

"(a) MIDTERM REVIEW.—

"(1) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS.—If, during the term of a local flexibility demonstration agreement, a local educational agency fails to make adequate yearly progress for 2 consecutive years, the Secretary shall, after notice and opportunity for a hearing, promptly terminate the agreement.

"(2) NONCOMPLIANCE.—The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide information as provided for in paragraph (3)), terminate a local flexibility demonstration agreement under this chapter if there is evidence that the local educational agency has failed to comply with the terms of the agreement.

"(3) EVIDENCE.—If a local educational agency believes that the Secretary's determination under this subsection is in error for statistical or other substantive reasons, the local educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final early termination determination.

"(b) FINAL REVIEW.—If, at the end of the 5-year term of a local flexibility demonstration agreement entered into under this chapter, the local educational agency has not met the requirements described in section 6151(c), the Secretary may not renew the agreement under section 6155 and, beginning on the date on which such term ends, the local educational agency shall be required to comply with each of the program requirements in effect on such date for each program included in the local flexibility demonstration agreement.

"SEC. 6155. RENEWAL OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT.

"(a) IN GENERAL.—Except as provided in section 6154 and in accordance with this section, the Secretary shall renew for 1 additional 5-year term a local flexibility demonstration agreement entered into under this chapter if the local educational agency has met, by the end of the original term of the agreement, the requirements described in section 6151(c).

"(b) NOTIFICATION.—The Secretary may not renew a local flexibility demonstration agreement under this chapter unless, not less than 6 months before the end of the original term of the agreement, the local educational agency seeking the renewal notifies the Secretary of its intention to renew.

"(c) EFFECTIVE DATE.—A renewal under this section shall be effective at the end of the original term of the agreement or on the date on which the local educational agency seeking renewal provides to the Secretary all data required under the agreement, whichever is later.

"SEC. 6156. REPORTS.

"(a) TRANSMITTAL TO CONGRESS.—Not later than 60 days after the Secretary receives a report described in section 6151(b)(10), the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

"(b) LIMITATION.—A State in which a local educational agency that has a local flexibility demonstration agreement is located may not require such local educational agency to provide any application information with respect to the programs included within the scope of that agreement other than that information that is required to be included in the report described in section 6151(b)(10).

"Subpart 4—State Accountability for Adequate Yearly Progress

"SEC. 6161. ACCOUNTABILITY FOR ADEQUATE YEARLY PROGRESS.

"In the case of a State educational agency that has a plan approved under subpart 1 of part A of title I after the date of enactment of the No Child Left Behind Act of 2001, and has a plan approved under subpart 1 of part A of title III of such Act after such date of enactment, the Secretary shall annually, starting with the beginning of the first school year following the first 2 school years for which such plans were implemented, review whether the State has—

"(1) made adequate yearly progress, as defined in section 1111(b)(2)(B), for each of the groups of students described in section 1111(b)(2)(C)(v); and

"(2) met its annual measurable achievement objectives under section 3122(a).

"SEC. 6162. PEER REVIEW.

"The Secretary shall use a peer review process to review, based on data from the State assessments administered under section 1111(b)(3) and on data from the evaluations conducted under section 3121, whether the State has failed to make adequate yearly progress for 2 consecutive years or whether the State has met its annual measurable achievement objectives.

"SEC. 6163. TECHNICAL ASSISTANCE.

"(a) PROVISION OF ASSISTANCE.—

"(1) ADEQUATE YEARLY PROGRESS.—Based on the review described in section 6161(1), the Secretary shall provide technical assistance to a State that has failed to make adequate yearly progress, as defined in section 1111(b)(2), for 2 consecutive years. The Secretary shall provide such assistance not later than the beginning of the first school year that begins after such determination is made.

"(2) ANNUAL MEASURABLE ACHIEVEMENT OBJECTIVES.—Based on the reviews described in section 6161(2), the Secretary may provide technical assistance to a State that has failed to meet its annual measurable achievement objectives under section 3122(a) for 2 consecutive years. The Secretary shall provide such assistance not later than the beginning of the first school year that begins after such determination is made.

"(b) CHARACTERISTICS.—The technical assistance described in subsection (a) shall—

"(1) be valid, reliable and rigorous; and

"(2) provide constructive feedback to help the State make adequate yearly progress, as defined in section 1111(b)(2), or meet the annual measurable achievement objectives under section 3122(a).

"SEC. 6164. REPORT TO CONGRESS.

"Beginning with the school year that begins in 2005, the Secretary shall submit an annual report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate containing the following:

"(1) A list of each State that has not made adequate yearly progress based on the review conducted under section 6161(1).

"(2) A list of each State that has not met its annual measurable achievement objectives based on the review conducted under section 6161(2).

"(3) The information reported by the State to the Secretary pursuant to section 1119(a).

"(4) A description of any technical assistance provided pursuant to section 6163.

"PART B—RURAL EDUCATION INITIATIVE

"SEC. 6201. SHORT TITLE.

"This part may be cited as the 'Rural Education Achievement Program'.

"SEC. 6202. PURPOSE.

"It is the purpose of this part to address the unique needs of rural school districts that frequently—

"(1) lack the personnel and resources needed to compete effectively for Federal competitive grants; and

"(2) receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

"Subpart 1—Small, Rural School Achievement Program

"SEC. 6211. USE OF APPLICABLE FUNDING.

"(a) ALTERNATIVE USES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding that the agency is eligible to receive from the State educational agency for a fiscal year to carry out local activities authorized under any of the following provisions:

"(A) Part A of title I.

"(B) Part A or D of title II.

"(C) Title III.

"(D) Part A or B of title IV.

"(E) Part A of title V.

"(2) NOTIFICATION.—An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1), by a date that is established by the State educational agency for the notification.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

"(A)(i)(I) the total number of students in average daily attendance at all of the schools served by the local educational agency is fewer than 600; or

"(II) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile; and

"(ii) all of the schools served by the local educational agency are designated with a school locale code of 7 or 8, as determined by the Secretary; or

"(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii).

"(2) CERTIFICATION.—The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

"(c) APPLICABLE FUNDING DEFINED.—In this section, the term 'applicable funding' means funds provided under any of the following provisions:

"(1) Subpart 2 and section 2412(a)(2)(A) of title II.

"(2) Section 4114.

"(3) Part A of title V.

"(d) DISBURSEMENT.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time as the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

"(e) APPLICABLE RULES.—Applicable funding under this section shall be available to carry out local activities authorized under subsection (a).

"SEC. 6212. GRANT PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out activities authorized under any of the following provisions:

"(1) Part A of title I.

"(2) Part A or D of title II.

"(3) Title III.

"(4) Part A or B of title IV.

"(5) Part A of title V.

"(b) ALLOCATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall award a grant under subsection (a) to a local educational agency eligible under section 6211(b) for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received by the agency under the provisions of law described in section 6211(c) for the preceding fiscal year.

"(2) DETERMINATION OF INITIAL AMOUNT.—The initial amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students, in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the initial amount may not exceed $60,000.

"(3) RATABLE ADJUSTMENT.—

"(A) IN GENERAL.—If the amount made available to carry out this section for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

"(B) ADDITIONAL AMOUNTS.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

"(c) DISBURSEMENT.—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that fiscal year.

"(d) SPECIAL ELIGIBILITY RULE.—A local educational agency that is eligible to receive a grant under this subpart for a fiscal year is not eligible to receive funds for such fiscal year under subpart 2.

"SEC. 6213. ACCOUNTABILITY.

"(a) ACADEMIC ACHIEVEMENT ASSESSMENT.—Each local educational agency that uses or receives funds under this subpart for a fiscal year shall administer an assessment that is consistent with section 1111(b)(3).

"(b) DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency that receives funding under the provisions of law described in section 6211(c) shall—

"(1) after the third year that a local educational agency in the State participates in a program under this subpart and on the basis of the results of the assessments described in subsection (a), determine whether the local educational agency participating in the program made adequate yearly progress, as described in section 1111(b)(2);

"(2) permit only those local educational agencies that participated and made adequate yearly progress, as described in section 1111(b)(2), to continue to participate; and

"(3) permit those local educational agencies that participated and failed to make adequate yearly progress, as described in section 1111(b)(2), to continue to participate only if such local educational agencies use applicable funding under this subpart to carry out the requirements of section 1116.

"Subpart 2—Rural and Low-Income School Program

"SEC. 6221. PROGRAM AUTHORIZED.

"(a) GRANTS TO STATES.—

"(1) IN GENERAL.—From amounts appropriated under section 6234 for this subpart for a fiscal year that are not reserved under subsection (c), the Secretary shall award grants (from allotments made under paragraph (2)) for the fiscal year to State educational agencies that have applications submitted under section 6223 approved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 6222(a).

"(2) ALLOTMENT.—From amounts described in paragraph (1) for a fiscal year, the Secretary shall allot to each State educational agency for that fiscal year an amount that bears the same ratio to those amounts as the number of students in average daily attendance served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

"(3) SPECIALLY QUALIFIED AGENCIES.—

"(A) ELIGIBILITY AND APPLICATION.—If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 6223 approved, a specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.

"(B) DIRECT AWARDS.—The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible

to receive under paragraph (2) directly to a specially qualified agency in the State that has submitted an application in accordance with subparagraph (A) and obtained approval of the application.

“(C) SPECIALLY QUALIFIED AGENCY DEFINED.—In this subpart, the term ‘specially qualified agency’ means an eligible local educational agency served by a State educational agency that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subsection.

“(b) LOCAL AWARDS.—

“(1) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this subpart if—

“(A) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line; and

“(B) all of the schools served by the agency are designated with a school locale code of 6, 7, or 8, as determined by the Secretary.

“(2) AWARD BASIS.—A State educational agency shall award grants to eligible local educational agencies—

“(A) on a competitive basis;

“(B) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State; or

“(C) according to an alternative formula, if, prior to awarding the grants, the State educational agency demonstrates, to the satisfaction of the Secretary, that the alternative formula enables the State educational agency to allot the grant funds in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the State educational agency used the formula described in subparagraph (B).

“(c) RESERVATIONS.—From amounts appropriated under section 6234 for this subpart for a fiscal year, the Secretary shall reserve—

“(1) ½ of 1 percent to make awards to elementary schools or secondary schools operated or supported by the Bureau of Indian Affairs, to carry out the activities authorized under this subpart; and

“(2) ½ of 1 percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this subpart.

“SEC. 6222. USES OF FUNDS.

“(a) LOCAL AWARDS.—Grant funds awarded to local educational agencies under this subpart shall be used for any of the following:

“(1) Teacher recruitment and retention, including the use of signing bonuses and other financial incentives.

“(2) Teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers.

“(3) Educational technology, including software and hardware, as described in part D of title II.

“(4) Parental involvement activities.

“(5) Activities authorized under the Safe and Drug-Free Schools program under part A of title IV.

“(6) Activities authorized under part A of title I.

“(7) Activities authorized under title III.

“(b) ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs and to provide technical assistance to eligible local educational agencies.

“SEC. 6223. APPLICATIONS.

“(a) IN GENERAL.—Each State educational agency or specially qualified agency desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(b) CONTENTS.—At a minimum, each application submitted under subsection (a) shall include information on specific measurable goals and objectives to be achieved through the activities carried out through the grant, which may include specific educational goals and objectives relating to—

“(1) increased student academic achievement;

“(2) decreased student dropout rates; or

“(3) such other factors as the State educational agency or specially qualified agency may choose to measure.

“SEC. 6224. ACCOUNTABILITY.

“(a) STATE REPORT.—Each State educational agency that receives a grant under this subpart shall prepare and submit an annual report to the Secretary. The report shall describe—

“(1) the method the State educational agency used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;

“(2) how local educational agencies and schools used funds provided under this subpart; and

“(3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 6223.

“(b) SPECIALLY QUALIFIED AGENCY REPORT.—Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe—

“(1) how such agency uses funds provided under this subpart; and

“(2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 6223.

“(c) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a biennial report. The report shall describe—

“(1) the methods the State educational agencies used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;

“(2) how local educational agencies and schools used funds provided under this subpart; and

“(3) the degree to which progress has been made toward meeting the goals and objectives described in the applications submitted under section 6223.

“(d) ACADEMIC ACHIEVEMENT ASSESSMENT.—Each local educational agency or specially qualified agency that receives a grant under this subpart for a fiscal year shall administer an assessment that is consistent with section 1111(b)(3).

“(e) DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency or specially qualified agency that receives a grant under this subpart shall—

“(1) after the third year that a local educational agency or specially qualified agency in the State receives funds under this subpart, and on the basis of the results of the assessments described in subsection (d)—

“(A) in the case of a local educational agency, determine whether the local educational agency made adequate yearly progress, as described in section 1111(b)(2); and

“(B) in the case of a specially qualified agency, submit to the Secretary information that would allow the Secretary to determine whether the specially qualified agency has made adequate yearly progress, as described in section 1111(b)(2);

“(2) permit only those local educational agencies or specially qualified agencies that made adequate yearly progress, as described in section 1111(b)(2), to continue to receive grants under this subpart; and

“(3) permit those local educational agencies or specially qualified agencies that failed to make adequate yearly progress, as described in section 1111(b)(2), to continue to receive such grants only if the State educational agency disbursed such grants to the local educational agencies or specially qualified agencies to carry out the requirements of section 1116.

“Subpart 3—General Provisions

“SEC. 6231. ANNUAL AVERAGE DAILY ATTENDANCE DETERMINATION.

“(a) CENSUS DETERMINATION.—Each local educational agency desiring a grant under section 6212 and each local educational agency or specially qualified agency desiring a grant under subpart 2 shall—

“(1) not later than December 1 of each year, conduct a census to determine the number of students in average daily attendance in kindergarten through grade 12 at the schools served by the agency; and

“(2) not later than March 1 of each year, submit the number described in paragraph (1) to the Secretary (and to the State educational agency, in the case of a local educational agency seeking a grant under subpart (2)).

“(b) PENALTY.—If the Secretary determines that a local educational agency or specially qualified agency has knowingly submitted false information under subsection (a) for the purpose of gaining additional funds under section 6212 or subpart 2, then the agency shall be fined an amount equal to twice the difference between the amount the agency received under this section and the correct amount the agency would have received under section 6212 or subpart 2 if the agency had submitted accurate information under subsection (a).

“SEC. 6232. SUPPLEMENT, NOT SUPPLANT.

“Funds made available under subpart 1 or subpart 2 shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

“SEC. 6233. RULE OF CONSTRUCTION.

“Nothing in this part shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services, pursuant to State law or a written agreement, from entering into similar arrangements for the use, or the coordination of the use, of the funds made available under this part.

“SEC. 6234. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, to be distributed equally between subparts 1 and 2.

“PART C—GENERAL PROVISIONS

“SEC. 6301. PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.

“Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this Act.

“SEC. 6302. RULE OF CONSTRUCTION ON EQUALIZED SPENDING.

“Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.”.

SEC. 602. AMENDMENT TO THE NATIONAL EDUCATION STATISTICS ACT OF 1994.

(a) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—Section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010) is amended to read as follows:

"SEC. 411. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

"(a) ESTABLISHMENT.—The Commissioner shall, with the advice of the National Assessment Governing Board established under section 412, and with the technical assistance of the Advisory Council established under section 407, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress, which collectively refers to a national assessment, State assessments, and a long-term trend assessment in reading and mathematics.

"(b) PURPOSE; STATE ASSESSMENTS.—

"(1) PURPOSE.—The purpose of this section is to provide, in a timely manner, a fair and accurate measurement of student academic achievement and reporting trends in such achievement in reading, mathematics, and other subject matter as specified in this section.

"(2) MEASUREMENT AND REPORTING.—The Commissioner, in carrying out the measurement and reporting described in paragraph (1), shall—

"(A) use a random sampling process which is consistent with relevant, widely accepted professional assessment standards and that produces data that are representative on a national and regional basis;

"(B) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private elementary schools and secondary schools at least once every two years, in grades 4 and 8 in reading and mathematics;

"(C) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools in reading and mathematics in grade 12 in regularly scheduled intervals, but at least as often as such assessments were conducted prior to the date of enactment of the No Child Left Behind Act of 2001;

"(D) to the extent time and resources allow, and after the requirements described in subparagraph (B) are implemented and the requirements described in subparagraph (C) are met, conduct additional national assessments and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in grades 4, 8, and 12 in public and private elementary schools and secondary schools in regularly scheduled intervals in additional subject matter, including writing, science, history, geography, civics, economics, foreign languages, and arts, and the trend assessment described in subparagraph (F);

"(E) conduct the reading and mathematics assessments described in subparagraph (B) in the same year, and every other year thereafter, to provide for one year in which no such assessments are conducted in between each administration of such assessments;

"(F) continue to conduct the trend assessment of academic achievement at ages 9, 13, and 17 for the purpose of maintaining data on long-term trends in reading and mathematics;

"(G) include information on special groups, including, whenever feasible, information collected, cross tabulated, compared, and reported by race, ethnicity, socioeconomic status, gender, disability and limited English proficiency; and

"(H) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis and that includes trend lines.

"(3) STATE ASSESSMENTS.—

"(A) IN GENERAL.—The Commissioner—

"(i) shall conduct biennial State academic assessments of student achievement in reading and mathematics in grades 4 and 8 as described in paragraphs (1)(B) and (1)(E);

"(ii) may conduct the State academic assessments of student achievement in reading and mathematics in grade 12 as described in paragraph (1)(C);

"(iii) may conduct State academic assessments of student achievement in grades 4, 8, and 12 as described in paragraph (1)(D); and

"(iv) shall conduct each such State assessment, in each subject area and at each grade level, on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

(B) AGREEMENT.—

(i) IN GENERAL.—States participating in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(3).

"(ii) CONTENT.—Such agreement shall contain information sufficient to give States full information about the process for decision-making (which shall include the consensus process used), on objectives to be tested, and the standards for random sampling, test administration, test security, data collection, validation, and reporting.

"(C) REVIEW AND RELEASE.—

"(i) IN GENERAL.—Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

"(ii) SPECIAL RULE.—A State participating in the biennial academic assessments of student achievement in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if the State has an approved plan under section 1111 of the Elementary and Secondary Education Act of 1965.

"(4) PROHIBITED ACTIVITIES.—

"(A) IN GENERAL.—The use of assessment items and data on any assessment authorized under this section by an agent or agents of the Federal Government to rank, compare, or otherwise evaluate individual students or teachers, or to provide rewards or sanctions for individual students, teachers, schools or local educational agencies is prohibited.

"(B) SPECIAL RULE.—Any assessment authorized under this section shall not be used by an agent or agents of the Federal Government to establish, require, or influence the standards, assessments, curriculum, including lesson plans, textbooks, or classroom materials, or instructional practices of States or local educational agencies.

"(C) APPLICABILITY TO STUDENT EDUCATIONAL DECISIONS.—Nothing in this section shall be construed to prescribe the use of any assessment authorized under this section for student promotion or graduation purposes.

"(D) APPLICABILITY TO HOME SCHOOLS.—Nothing in this section shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, nor shall any home schooled student be required to participate in any assessment referenced or authorized under this section.

"(5) REQUIREMENT.—In carrying out any assessment authorized under this section, the Commissioner, in a manner consistent with subsection (c)(2), shall—

"(A) use widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and ensure that any academic assessment authorized under this section be tests that do not evaluate or assess personal or family beliefs and attitudes or publicly disclose personally identifiable information;

"(B) only collect information that is directly related to the appraisal of academic achievement, and to the fair and accurate presentation of such information; and

"(C) collect information on race, ethnicity, socioeconomic status, disability, limited English proficiency, and gender.

(6) TECHNICAL ASSISTANCE.—In carrying out any assessment authorized under this section, the Commissioner may provide technical assistance to States, localities, and other parties.

"(c) ACCESS.—

"(1) PUBLIC ACCESS.—

"(A) IN GENERAL.—Except as provided in paragraph (3), parents and members of the public shall have access to all assessment data, questions, and complete and current assessment instruments of any assessment authorized under this section. The local educational agency shall make reasonable efforts to inform parents and members of the public about the access required under this paragraph.

"(B) TIMELINE.—The access described in this paragraph shall be provided within 45 days of the date the request was made, in writing, and be made available in a secure setting that is convenient to both parties.

"(C) PROHIBITION.—To protect the integrity of the assessment, no copy of the assessment items or assessment instruments shall be duplicated or taken from the secure setting.

"(2) COMPLAINTS.—

"(A) IN GENERAL.—Parents and members of the public may submit written complaints to the National Assessment Governing Board.

"(B) FORWARDING OF COMPLAINTS.—The National Assessment Governing Board shall forward such complaints to the Commissioner, the Secretary of Education, and the State and local educational agency from within which the complaint originated within 30 days of receipt of such complaint.

"(C) REVIEW.—The National Assessment Governing Board, in consultation with the Commissioner, shall review such complaint and determine whether revisions are necessary and appropriate. As determined by such review, the Board shall revise, as necessary and appropriate, the procedures or assessment items that have generated the complaint and respond to the individual submitting the complaint, with a copy of such response provided to the Secretary, describing any action taken, not later than 30 days after so acting.

"(D) REPORT.—The Secretary shall submit a summary report of all complaints received pursuant to subparagraph (A) and responses by the National Assessment Governing Board pursuant to subparagraph (B) to the Chairman of the House Committee on Education and the Workforce, and the Chairman of the Senate Committee on Health, Education, Labor, and Pensions.

"(E) COGNITIVE QUESTIONS.—

"(i) IN GENERAL.—The Commissioner may decline to make available through public means, such as posting on the Internet, distribution to the media, distribution through public agencies, or in response to a request under section 552 of title 5, United States Code, for a period, not to exceed 10 years after initial use, cognitive questions that the Commissioner intends to reuse in the future.

"(ii) EXTENSION.—Notwithstanding clause (i), the Commissioner may decline to make cognitive questions available as described in clause (i) for a period longer than 10 years if the Commissioner determines such additional period is necessary to protect the security and integrity of long-term trend data.

"(3) PERSONALLY IDENTIFIABLE INFORMATION.—

"(A) IN GENERAL.—The Commissioner shall ensure that all personally identifiable information about students, their academic achievement, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5, United States Code.

"(B) PROHIBITION.—The National Board, the Commissioner, and any contractor or subcontractor shall not maintain any system of records containing a student's name, birth information, Social Security number, or parents' name or names, or any other personally identifiable information.

"(4) PENALTIES.—Any unauthorized person who knowingly discloses, publishes, or uses assessment questions, or complete and current assessment instruments of any assessment authorized under this section may be fined as specified in section 3571 of title 18, United States Code or charged with a class E felony.

"(d) PARTICIPATION.—

"(1) VOLUNTARY PARTICIPATION.—Participation in any assessment authorized under this section shall be voluntary for students, schools, and local educational agencies.

"(2) STUDENT PARTICIPATION.—Parents of children selected to participate in any assessment authorized under this section shall be informed before the administration of any authorized assessment, that their child may be excused from participation for any reason, is not required to finish any authorized assessment, and is not required to answer any test question.

"(3) STATE PARTICIPATION.—

"(A) VOLUNTARY.—Participation in assessments authorized under this section, other than reading and mathematics in grades 4 and 8, shall be voluntary.

"(B) AGREEMENT.—For reading and mathematics assessments in grades 4 and 8, the Secretary shall enter into an agreement with any State carrying out an assessment for the State under this section. Each such agreement shall contain provisions designed to ensure that the State will participate in the assessment.

"(4) REVIEW.—Representatives of State educational agencies and local educational agencies or the chief State school officer shall have the right to review any assessment item or procedure of any authorized assessment upon request in a manner consistent with subsection (c), except the review described in subparagraph (2)(C) of subsection (c) shall take place in consultation with the representatives described in this paragraph.

"(e) STUDENT ACHIEVEMENT LEVELS.—

"(1) ACHIEVEMENT LEVELS.—The National Assessment Governing Board shall develop appropriate student achievement levels for each grade or age in each subject area to be tested under assessments authorized under this section, except the trend assessment described in subsection (b)(2)(F).

"(2) DETERMINATION OF LEVELS.—

"(A) IN GENERAL.—Such levels shall—

"(i) be determined by—

"(I) identifying the knowledge that can be measured and verified objectively using widely accepted professional assessment standards; and

"(II) developing achievement levels that are consistent with relevant widely accepted professional assessment standards and based on the appropriate level of subject matter knowledge for grade levels to be assessed, or the age of the students, as the case may be.

"(B) NATIONAL CONSENSUS APPROACH.—After the determinations described in subparagraph (A), devising a national consensus approach.

"(C) TRIAL BASIS.—The achievement levels shall be used on a trial basis until the Commissioner determines, as a result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public.

"(D) STATUS.—The Commissioner and the Board shall ensure that reports using such levels on a trial basis do so in a manner that makes clear the status of such levels.

(E) UPDATES.—Such levels shall be updated as appropriate by the National Assessment Governing Board in consultation with the Commissioner.

"(3) REPORTING.—After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f), the Commissioner shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

"(4) REVIEW.—The National Assessment Governing Board shall provide for a review of any trial student achievement levels under development by representatives of State educational agencies or the chief State school officer in a manner consistent with subsection (c), except the review described in subparagraph (2)(C) shall take place in consultation with the representatives described in this paragraph.

"(f) REVIEW OF NATIONAL AND STATE ASSESSMENTS.—

"(1) REVIEW.—

"(A) IN GENERAL.—The Secretary shall provide for continuing review of any assessment authorized under this section, and student achievement levels, by 1 or more professional assessment evaluation organizations.

"(B) ISSUES ADDRESSED.—Such continuing review shall address—

"(i) whether any authorized assessment is properly administered, produces high quality data that are valid and reliable, is consistent with relevant widely accepted professional assessment standards, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation);

"(ii) whether student achievement levels are reasonable, valid, reliable, and informative to the public;-

"(iii) whether any authorized assessment is being administered as a random sample and is reporting the trends in academic achievement in a valid and reliable manner in the subject areas being assessed;

"(iv) whether any of the test questions are biased, as described in section 412(e)(4); and

"(v) whether the appropriate authorized assessments are measuring, consistent with this section, reading ability and mathematical knowledge.

"(2) REPORT.—The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, the President, and the Nation on the findings and recommendations of such reviews.

"(3) USE OF FINDINGS AND RECOMMENDATIONS.—The Commissioner and the National Assessment Governing Board shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner carries out the National Assessment.

"(g) COVERAGE AGREEMENTS.—

"(1) DEPARTMENT OF DEFENSE SCHOOLS.—The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary schools and secondary schools operated by the Department of Defense.

"(2) BUREAU OF INDIAN AFFAIRS SCHOOLS.—The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.".

(b) NATIONAL ASSESSMENT GOVERNING BOARD.—Section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) is amended to read as follows:

"SEC. 412. NATIONAL ASSESSMENT GOVERNING BOARD.

"(a) ESTABLISHMENT.—There is established the National Assessment Governing Board (hereafter in this title referred to as the "Board"), which shall formulate policy guidelines for the National Assessment.

"(b) MEMBERSHIP.—

"(1) APPOINTMENT AND COMPOSITION.—The Board shall be appointed by the Secretary and be composed as follows:

"(A) Two Governors, or former Governors, who shall not be members of the same political party.

"(B) Two State legislators, who shall not be members of the same political party.

"(C) Two chief State school officers.

"(D) One superintendent of a local educational agency.

"(E) One member of a State board of education.

"(F) One member of a local board of education.

"(G) Three classroom teachers representing the grade levels at which the National Assessment is conducted.

"(H) One representative of business or industry.

"(I) Two curriculum specialists.

"(J) Three testing and measurement experts, who shall have training and experience in the field of testing and measurement.

"(K) One nonpublic school administrator or policymaker.

"(L) Two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal.

"(M) Two parents who are not employed by a local, State or Federal educational agency.

"(N) Two additional members who are representatives of the general public, and who may be parents, but who are not employed by a local, State, or Federal educational agency.

"(2) ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH.—The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

"(3) BALANCE AND DIVERSITY.—The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

"(c) TERMS.—

"(1) IN GENERAL.—Terms of service of members of the Board shall be staggered and may not exceed a period of 4 years, as determined by the Secretary.

"(2) SERVICE LIMITATION.—Members of the Board may serve not more than two terms.

"(3) CHANGE OF STATUS.—A member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

"(4) CONFORMING PROVISION.—Members of the Board previously granted 3 year terms, whose terms are in effect on the date of enactment of the Department of Education Appropriations Act, 2001, shall have their terms extended by one year.

"(d) VACANCIES.—

"(1) IN GENERAL.—

"(A) ORGANIZATIONS.—The Secretary shall appoint new members to fill vacancies on the

Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

“(B) Nominations.—Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Board vacancy.

“(C) Maintenance of board.—The Secretary's appointments shall maintain the composition, diversity, and balance of the Board required under subsection (b).

“(2) Additional nominations.—The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

“(e) Duties.—

“(1) In general.—In carrying out its functions under this section the Board shall—

“(A) select the subject areas to be assessed (consistent with section 411(b));

“(B) develop appropriate student achievement levels as provided in section 411(e);

“(C) develop assessment objectives consistent with the requirements of this section and test specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards;

“(D) develop a process for review of the assessment which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

“(E) design the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other technical experts who engage in large scale surveys, including the Advisory Council established under section 407;

“(F) consistent with section 411, measure student academic achievement in grades 4, 8, and 12 in the authorized academic subjects;

“(G) develop guidelines for reporting and disseminating results;

“(H) develop standards and procedures for regional and national comparisons; and

“(I) take appropriate actions needed to improve the form, content, use, and reporting of results of any assessment authorized by section 411 consistent with the provisions of this section and section 411.

“(2) Delegation.—The Board may delegate any of the Board's procedural and administrative functions to its staff.

“(3) All cognitive and noncognitive assessment items.—The Board shall have final authority on the appropriateness of all assessment items.

“(4) Prohibition against bias.—The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological.

“(5) Technical.—In carrying out the duties required by paragraph (1), the Board may seek technical advice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

“(6) Report.—Not later than 90 days after an evaluation of the student achievement levels under section 411(e), the Board shall make a report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

“(f) Personnel.—

“(1) In general.—In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

“(2) Staff.—

“(A) In general.—The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

“(B) Technical employees.—Such appointments may include, for terms not to exceed three years and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(g) Coordination.—The Commissioner and the Board shall meet periodically—

“(1) to ensure coordination of their duties and activities relating to the National Assessment; and

“(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board.

“(h) Administration.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board, other than sections 10, 11, and 12 of such Act.”.

TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

SEC. 701. INDIANS.

Title VII (20 U.S.C. 7401 et seq.) is amended to read as follows:

“TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

“PART A—INDIAN EDUCATION

“SEC. 7101. STATEMENT OF POLICY.

“It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

“SEC. 7102. PURPOSE.

“(a) Purpose.—It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the same challenging State student academic achievement standards as all other students are expected to meet.

“(b) Programs.—This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

“(1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;

“(2) the education of Indian children and adults;

“(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

“(4) research, evaluation, data collection, and technical assistance.

“Subpart 1—Formula Grants to Local Educational Agencies

“SEC. 7111. PURPOSE.

“It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs—

“(1) are based on challenging State academic content and student academic achievement standards that are used for all students; and

“(2) are designed to assist Indian students in meeting those standards.

“SEC. 7112. GRANTS TO LOCAL EDUCATIONAL AGENCIES AND TRIBES.

“(a) In General.—The Secretary may make grants, from allocations made under section 7113, to local educational agencies and Indian tribes, in accordance with this section and section 7113.

“(b) Local Educational Agencies.—

“(1) Enrollment requirements.—A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 7117 who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

“(A) was at least 10; or

“(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

“(2) Exclusion.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

“(c) Indian Tribes.—

“(1) In general.—If a local educational agency that is otherwise eligible for a grant under this subpart does not establish a committee under section 7114(c)(4) for such grant, an Indian tribe that represents not less than ½ of the eligible Indian children who are served by such local educational agency may apply for such grant.

“(2) Special rule.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart, except that any such tribe is not subject to section 7114(c)(4), section 7118(c), or section 7119.

“SEC. 7113. AMOUNT OF GRANTS.

“(a) Amount of Grant Awards.—

“(1) In general.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this subpart an amount equal to the product of—

“(A) the number of Indian children who are eligible under section 7117 and served by such agency; and

“(B) the greater of—

“(i) the average per pupil expenditure of the State in which such agency is located; or

“(ii) 80 percent of the average per pupil expenditure of all the States.

“(2) Reduction.—The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e).

“(b) Minimum Grant.—

“(1) In general.—Notwithstanding subsection (e), an entity that is eligible for a grant under section 7112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

“(2) Consortia.—Local educational agencies may form a consortium for the purpose of obtaining grants under this subpart.

“(3) Increase.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary

determines such increase is necessary to ensure the quality of the programs provided.

"(c) DEFINITION.—For the purpose of this section, the term 'average per pupil expenditure', used with respect to a State, means an amount equal to—

"(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

"(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

"(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—

"(1) IN GENERAL.—Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

"(A) the total number of Indian children enrolled in schools that are operated by—

"(i) the Bureau of Indian Affairs; or

"(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

"(B) the greater of—

"(i) the average per pupil expenditure of the State in which the school is located; or

"(ii) 80 percent of the average per pupil expenditure of all the States.

"(2) SPECIAL RULE.—Any school described in paragraph (1)(A) that wishes to receive an allocation under this subpart shall submit an application in accordance with section 7114, and shall otherwise be treated as a local educational agency for the purpose of this subpart, except that such school shall not be subject to section 7114(c)(4), section 7118(c), or section 7119.

"(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 7152(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

"SEC. 7114. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

"(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

"(2)(A) is consistent with the State and local plans submitted under other provisions of this Act; and

"(B) includes academic content and student academic achievement goals for such children, and benchmarks for attaining such goals, that are based on the challenging State academic content and student academic achievement standards adopted under title I for all children;

"(3) explains how Federal, State, and local programs, especially programs carried out under title I, will meet the needs of such students;

"(4) demonstrates how funds made available under this subpart will be used for activities described in section 7115;

"(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

"(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

"(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

"(6) describes how the local educational agency—

"(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

"(B) will provide the results of each assessment referred to in subparagraph (A) to—

"(i) the committee described in subsection (c)(4); and

"(ii) the community served by the local educational agency; and

"(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

"(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

"(1) the local educational agency will use funds received under this subpart only to supplement the funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

"(2) the local educational agency will prepare and submit to the Secretary such reports, in such form and containing such information, as the Secretary may require to—

"(A) carry out the functions of the Secretary under this subpart; and

"(B) determine the extent to which activities carried out with funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

"(3) the program for which assistance is sought—

"(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

"(B) will use the best available talents and resources, including individuals from the Indian community; and

"(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

"(4) the local educational agency developed the program with the participation and written approval of a committee—

"(A) that is composed of, and selected by—

"(i) parents of Indian children in the local educational agency's schools;

"(ii) teachers in the schools; and

"(iii) if appropriate, Indian students attending secondary schools of the agency;

"(B) a majority of whose members are parents of Indian children;

"(C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

"(D) with respect to an application describing a schoolwide program in accordance with section 7115(c), that has—

"(i) reviewed in a timely fashion the program; and

"(ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaska Native students; and

"(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

"SEC. 7115. AUTHORIZED SERVICES AND ACTIVITIES.

"(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7111, for services and activities that—

(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 7114(a);

"(2) are designed with special regard for the language and cultural needs of the Indian students; and

"(3) supplement and enrich the regular school program of such agency.

"(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

"(1) culturally related activities that support the program described in the application submitted by the local educational agency;

"(2) early childhood and family programs that emphasize school readiness;

"(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging State academic content and student academic achievement standards;

"(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

"(5) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Vocational and Technical Education Act of 1998, including programs for tech-prep education, mentoring, and apprenticeship;

"(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

"(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 7111;

"(8) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

"(9) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State standards, into the curriculum used by the local educational agency;

"(10) family literacy services; and

"(11) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.

"(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if—

"(1) the committee established pursuant to section 7114(c)(4) approves the use of the funds for the schoolwide program; and

"(2) the schoolwide program is consistent with the purpose described in section 7111.

"(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

"SEC. 7116. INTEGRATION OF SERVICES AUTHORIZED.

"(a) PLAN.—An entity receiving funds under this subpart may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

"(b) CONSOLIDATION OF PROGRAMS.—Upon the receipt of an acceptable plan under subsection (a), the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal programs, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

"(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services that would be used to serve Indian students.

"(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), the plan shall—

"(1) identify the programs or funding sources to be consolidated;

"(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

"(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this subpart;

"(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

"(5) identify the projected expenditures under the plan in a single budget;

"(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

"(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

"(8) set forth measures for academic content and student academic achievement goals designed to be met within a specific period of time; and

"(9) be approved by a committee formed in accordance with section 7114(c)(4), if such a committee exists.

"(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this subpart or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

"(f) PLAN APPROVAL.—Within 90 days after the receipt of an entity's plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

"(g) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.—Not later than 180 days after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency head for a demonstration project under this section shall be—

"(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

"(2) the Secretary of Education, in the case of any other entity.

"(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency shall include—

"(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

"(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

"(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

"(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

"(i) REPORT REQUIREMENTS.—A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h), together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstration of student academic achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

"(j) NO REDUCTION IN AMOUNTS.—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

"(k) INTERAGENCY FUND TRANSFERS AUTHORIZED.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

"(l) ADMINISTRATION OF FUNDS.—

"(1) IN GENERAL.—Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

"(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

"(m) OVERAGE.—The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

"(n) FISCAL ACCOUNTABILITY.—Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

"(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.—

"(1) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

"(2) FINAL REPORT.—Not later than 5 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of the demonstration projects authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section.

"(p) DEFINITIONS.—For the purposes of this section, the term 'Secretary' means—

"(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

"(2) the Secretary of Education, in the case of any other entity.

"SEC. 7117. STUDENT ELIGIBILITY FORMS.

"(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b).

“(b) FORMS.—The form described in subsection (a) shall include—

“(1) either—

“(A)(i) the name of the tribe or band of Indians (as defined in section 7151) with respect to which the child claims membership;

“(ii) the enrollment number establishing the membership of the child (if readily available); and

“(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

“(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

“(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

“(3) the name and address of the parent or legal guardian of the child;

“(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

“(5) any other information that the Secretary considers necessary to provide an accurate program profile.

“(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 7151.

“(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–86 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

“(1) to establish eligibility under this subpart; and

“(2) to meet the requirements of subsection (a).

“(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

“(f) MONITORING AND EVALUATION REVIEW.—

“(1) IN GENERAL.—

“(A) REVIEW.—For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

“(B) EXCEPTION.—A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.

“(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this subpart shall—

“(A) be ineligible to apply for any other grant under this subpart; and

“(B) be liable to the United States for any funds from the grant that have not been expended.

“(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 7113.

“(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, in calculating the amount of a grant under this subpart to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall use only 1 of the following, as selected by the school:

“(1) A count of the number of students in the schools certified by the Bureau.

“(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

“(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this subpart (other than in the case described in subsection (g)(1)), the local educational agency shall—

“(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7114; and

“(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

“SEC. 7118. PAYMENTS.

“(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 7113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

“(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

“(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

“(1) IN GENERAL.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 7113 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis, was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

“(2) FAILURE TO MAINTAIN EFFORT.—If, for the preceding fiscal year, the Secretary determines that a local educational agency and State failed to maintain the combined fiscal effort for such agency at the level specified in paragraph (1), the Secretary shall—

“(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of the failure to maintain the fiscal effort at such level; and

“(B) not use the reduced amount of the agency and State expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

“(3) WAIVER.—

“(A) IN GENERAL.—The Secretary may waive the requirement of paragraph (1) for a local educational agency, for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

“(B) FUTURE DETERMINATIONS.—The Secretary shall not use the reduced amount of the agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

“(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

“(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

“(2) otherwise become available for reallocation under this subpart.

“SEC. 7119. STATE EDUCATIONAL AGENCY REVIEW.

“Before submitting an application to the Secretary under section 7114, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

“Subpart 2—Special Programs and Projects To Improve Educational Opportunities for Indian Children

“SEC. 7121. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

“(a) PURPOSE.—

“(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

“(2) COORDINATION.—The Secretary shall take the necessary actions to achieve the coordination of activities assisted under this subpart with—

“(A) other programs funded under this Act; and

“(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

“(b) ELIGIBLE ENTITIES.—In this section, the term ‘eligible entity’ means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education), or a consortium of such entities.

"(c) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose of this section, including—

"(A) innovative programs related to the educational needs of educationally disadvantaged children;

"(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in 1 or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

"(C) bilingual and bicultural programs and projects;

"(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

"(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children;

"(F) comprehensive guidance, counseling, and testing services;

"(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

"(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary to postsecondary education;

"(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

"(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

"(K) family literacy services;

"(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or

"(M) other services that meet the purpose described in this section.

"(2) PROFESSIONAL DEVELOPMENT.—Professional development of teaching professionals and paraprofessionals may be a part of any program assisted under this section.

"(d) GRANT REQUIREMENTS AND APPLICATIONS.—

"(1) GRANT REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may make multiyear grants under subsection (c) for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

"(B) PRIORITY.—In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining 2 or more of the activities described in subsection (c) over a period of more than 1 year.

"(C) PROGRESS.—The Secretary shall make a grant payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

"(2) DISSEMINATION GRANTS.—

"(A) IN GENERAL.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

"(B) DETERMINATION.—The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

"(i) has been adequately reviewed;

"(ii) has demonstrated educational merit; and

"(iii) can be replicated.

"(3) APPLICATION.—

"(A) IN GENERAL.—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(B) CONTENTS.—Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

"(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

"(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

"(iii) information demonstrating that the proposed program for the activities is a scientifically based research program, where applicable, which may include a program that has been modified to be culturally appropriate for students who will be served;

"(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over; and

"(v) such other assurances and information as the Secretary may reasonably require.

"(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

"SEC. 7122. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

"(a) PURPOSES.—The purposes of this section are—

"(1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;

"(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

"(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means—

"(1) an institution of higher education, including an Indian institution of higher education;

"(2) a State educational agency or local educational agency, in consortium with an institution of higher education;

"(3) an Indian tribe or organization, in consortium with an institution of higher education; and

"(4) a Bureau-funded school (as defined in section 1146 of the Education Amendments of 1978).

"(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable those entities to carry out the activities described in subsection (d).

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grant funds under this section shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include continuing programs, symposia, workshops, conferences, and direct financial support, and may include programs designed to train tribal elders and seniors.

"(2) SPECIAL RULES.—

"(A) TYPE OF TRAINING.—For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

"(B) PROGRAM.—For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

"(e) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

"(f) SPECIAL RULE.—In awarding grants under this section, the Secretary—

"(1) shall consider the prior performance of the eligible entity; and

"(2) may not limit eligibility to receive a grant under this section on the basis of—

"(A) the number of previous grants the Secretary has awarded such entity; or

"(B) the length of any period during which such entity received such grants.

"(g) GRANT PERIOD.—Each grant under this section shall be awarded for a period of not more than 5 years.

"(h) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

"(A) perform work—

"(i) related to the training received under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated part of the assistance received.

"(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

"Subpart 3—National Activities

"SEC. 7131. NATIONAL RESEARCH ACTIVITIES.

"(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 7152(b) for each fiscal year to—

"(1) conduct research related to effective approaches for the education of Indian children and adults;

"(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

"(3) collect and analyze data on the educational status and needs of Indians; and

"(4) carry out other activities that are consistent with the purpose of this part.

"(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

"(c) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education Programs and the Office of Educational Research and Improvement.

"SEC. 7132. IN-SERVICE TRAINING FOR TEACHERS OF INDIAN CHILDREN.

"(a) GRANTS AUTHORIZED.—In addition to the grants authorized by section 7122(c), the Secretary may make grants to eligible consortia for the provision of high quality in-service training. The Secretary may make such a grant to—

"(1) a consortium of a tribal college and an institution of higher education that awards a degree in education; or

"(2) a consortium of—

"(A) a tribal college;

"(B) an institution of higher education that awards a degree in education; and

"(C) 1 or more elementary schools or secondary schools operated by the Bureau of Indian Affairs, local educational agencies serving Indian children, or tribal educational agencies.

"(b) USE OF FUNDS.—

"(1) IN-SERVICE TRAINING.—A consortium that receives a grant under subsection (a) shall use the grant funds only to provide high quality in-service training to teachers, including teachers who are not Indians, in schools of local educational agencies with substantial numbers of Indian children enrolled in their schools, in order to better meet the needs of those children.

"(2) COMPONENTS.—The training described in paragraph (1) shall include such activities as preparing teachers to use the best available scientifically based research practices and learning strategies, and to make the most effective use of curricula and materials, to respond to the unique needs of Indian children in their classrooms.

"(c) PREFERENCE FOR INDIAN APPLICANTS.—In applying section 7143 to this section, the Secretary shall give a preference to any consortium that includes 1 or more of the entities described in section 7143.

"SEC. 7133. FELLOWSHIPS FOR INDIAN STUDENTS.

"(a) FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

"(2) REQUIREMENTS.—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

"(A) of not more than 4 academic years; and

"(B) that leads—

"(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, or a related field; or

"(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, or a related field.

"(b) STIPENDS.—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

"(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which such a fellowship recipient is pursuing a course of study, in lieu of tuition charged to such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided to such recipient.

"(d) SPECIAL RULES.—

"(1) IN GENERAL.—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the first fellowship.

"(2) WRITTEN NOTICE.—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

"(A) the amount of the funding for the fellowship; and

"(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

"(3) PRIORITY.—Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

"(e) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

"(A) perform work—

"(i) related to the training for which the individual receives the assistance under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated portion of such assistance.

"(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a recipient of assistance under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement described in paragraph (1).

"(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

"SEC. 7134. GIFTED AND TALENTED INDIAN STUDENTS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

"(1) establish 2 centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

"(2) support demonstration projects described in subsection (c).

"(b) ELIGIBLE ENTITIES.—The Secretary shall make grants, or enter into contracts, for the activities described in subsection (a), to or with—

"(1) 2 tribally controlled community colleges that—

"(A) are eligible for funding under the Tribally Controlled College or University Assistance Act of 1978; and

"(B) are fully accredited; or

"(2) the American Indian Higher Education Consortium, if the Secretary does not receive applications that the Secretary determines to be approvable from 2 colleges that meet the requirements of paragraph (1).

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Funds made available through the grants made, or contracts entered into, by the Secretary under subsection (b) shall be used for—

"(A) the establishment of centers described in subsection (a); and

"(B) carrying out demonstration projects designed to—

"(i) address the special needs of Indian students in elementary schools and secondary schools who are gifted and talented; and

"(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

"(2) SUBCONTRACTS.—Each recipient of a grant or contract under subsection (b) to carry out a demonstration project under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project.

"(3) DEMONSTRATION PROJECTS.—Demonstration projects assisted under subsection (b) may include—

"(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

"(i) identifying the emotional and psychosocial needs of such students; and

"(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the projects;

"(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines hold a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including—

"(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

"(ii) carrying out mentoring and apprenticeship programs;

"(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

"(D) the use of public television in meeting the special educational needs of such gifted and talented children;

"(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and

"(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children as are needed to enable such children to benefit from the projects.

"(4) APPLICATION.—Each eligible entity desiring a grant or contract under subsection (b) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

"(d) ADDITIONAL GRANTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter referred to individually in this section as a 'Bureau school') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

"(A) gifted and talented students;

"(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

"(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

"(D) mathematics and science education.

"(2) APPLICATIONS.—Each Bureau school desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

"(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

"(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

"(5) GRANT PERIOD.—Subject to the availability of appropriations, a grant awarded under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

"(6) DISSEMINATION.—

"(A) COOPERATIVE EFFORTS.—The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

"(B) REPORT.—The Secretary shall prepare and submit to the Secretary of the Interior and to Congress a report concerning any results from activities described in this subsection.

"(7) EVALUATION COSTS.—

"(A) DIVISION.—The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under subsection (a).

"(B) GRANTS AND CONTRACTS.—If no funds are provided under subsection (b) for—

"(i) the evaluation of activities assisted under paragraph (1);

"(ii) technical assistance and coordination with respect to such activities; or

"(iii) the dissemination of the evaluations referred to in clause (i),

the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

"(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

"SEC. 7135. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.

"(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

"(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

"(2) develop education codes for schools within the territorial jurisdiction of the tribe;

"(3) provide support services and technical assistance to schools serving children of the tribe; and

"(4) perform child-find screening services for the preschool-aged children of the tribe to—

"(A) ensure placement in appropriate educational facilities; and

"(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

"(b) PERIOD OF GRANT.—Each grant awarded under this section may be awarded for a period of not more than 3 years. Such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

"(c) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved.

"(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

"(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

"(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

"(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

"(d) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Education Amendments of 1978.

"SEC. 7136. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

"(a) IN GENERAL.—The Secretary shall make grants to State educational agencies, local educational agencies, and Indian tribes, institutions, and organizations—

"(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs that are designed to stimulate—

"(A) the provision of basic literacy opportunities for all nonliterate Indian adults; and

"(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

"(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

"(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

"(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

"(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

"(d) APPLICATIONS.—

"(1) IN GENERAL.—Each entity desiring a grant or contract under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted and the objectives to be achieved under the grant or contract; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant or contract are achieved.

"(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates that—

"(A) there has been adequate participation, by the individuals to be served and the appropriate tribal communities, in the planning and development of the activities to be assisted; and

"(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

"(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies; organizations, and institutions.

"(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available to an entity through a grant or contract made or entered into under this section for a fiscal year may be used to pay for administrative costs.

"Subpart 4—Federal Administration

"SEC. 7141. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

"(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the 'Council'), which shall—

"(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

"(2) represent different geographic areas of the United States.

"(b) DUTIES.—The Council shall—

"(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

"(A) with respect to which the Secretary has jurisdiction; and

"(B)(i) that includes Indian children or adults as participants; or

"(ii) that may benefit Indian children or adults;

"(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

"(3) submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

"(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

"(B) recommendations concerning the funding of any program described in subparagraph (A).

"SEC. 7142. PEER REVIEW.

"The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2 or subpart 3.

"SEC. 7143. PREFERENCE FOR INDIAN APPLICANTS.

"In making grants and entering into contracts or cooperative agreements under subpart 2 or subpart 3, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

"SEC. 7144. MINIMUM GRANT CRITERIA.

"The Secretary may not approve an application for a grant, contract, or cooperative agreement under subpart 2 or subpart 3 unless the application is for a grant, contract, or cooperative agreement that is—

"(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

"(2) based on relevant research findings.

"Subpart 5—Definitions; Authorizations of Appropriations

"SEC. 7151. DEFINITIONS.

"For the purposes of this part:

"(1) Adult.—The term 'adult' means an individual who—

"(A) has attained the age of 16 years; or

"(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

"(2) Free public education.—The term 'free public education' means education that is—

"(A) provided at public expense, under public supervision and direction, and without tuition charge; and

"(B) provided as elementary or secondary education in the applicable State or to preschool children.

"(3) Indian.—The term 'Indian' means an individual who is—

"(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

"(i) any tribe or band terminated since 1940; and

"(ii) any tribe or band recognized by the State in which the tribe or band resides;

"(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

"(C) considered by the Secretary of the Interior to be an Indian for any purpose;

"(D) an Eskimo, Aleut, or other Alaska Native; or

"(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the Improving America's Schools Act of 1994.

"SEC. 7152. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) Subpart 1.—For the purpose of carrying out subpart 1, there are authorized to be appropriated $96,400,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(b) Subparts 2 and 3.—For the purpose of carrying out subparts 2 and 3, there are authorized to be appropriated $24,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"PART B—NATIVE HAWAIIAN EDUCATION

"SEC. 7201. SHORT TITLE.

"This part may be cited as the 'Native Hawaiian Education Act'.

"SEC. 7202. FINDINGS.

"Congress finds the following:

"(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as a nation by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

"(2) At the time of the arrival of the first nonindigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

"(3) A unified monarchal government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

"(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

"(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, in 1993 the United States apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

"(6) In 1898, the joint resolution entitled 'Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from the lands be used 'solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes'.

"(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

"(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, Congress affirmed the special relationship between the United States and the Native Hawaiians, which was described by then Secretary of the Interior Franklin K. Lane, who said: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

"(9) In 1938, Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396, 396a), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.'.

"(10) Under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and amendments to such Act affecting the rights of beneficiaries under such Act.

"(11) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', the United States also ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State 'in public trust' and reaffirmed the special relationship that existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians,

as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

"(12) The United States has recognized and reaffirmed that—

"(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

"(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

"(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawai'i;

"(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

"(E) the aboriginal, indigenous people of the United States have—

"(i) a continuing right to autonomy in their internal affairs; and

"(ii) an ongoing right of self-determination and self-governance that has never been extinguished.

"(13) The political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States, as evidenced by the inclusion of Native Hawaiians in—

"(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

"(B) the American Indian Religious Freedom Act (42 U.S.C. 1996);

"(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

"(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

"(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

"(F) the Native American Languages Act (25 U.S.C. 2901 et seq.);

"(G) the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.);

"(H) the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and

"(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

“(14) In 1981, Congress instructed the Office of Education to submit to Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with regard to national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics indicative of special educational needs, and had educational needs that were related to their unique cultural situation, such as different learning styles and low self-image.

“(15) In recognition of the educational needs of Native Hawaiians, in 1988, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians.

“(16) In 1993, the Kamehameha Schools Bishop Estate released a 10-year update of findings of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still existed for Native Hawaiians. Subsequent reports by the Kamehameha Schools Bishop Estate and other organizations have generally confirmed those findings. For example—

“(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

“(i) late or no prenatal care;

“(ii) high rates of births by Native Hawaiian women who are unmarried; and

“(iii) high rates of births to teenage parents;

“(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

“(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

“(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

“(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

“(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed 4 or more years of college;

“(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics indicative of special educational needs, as demonstrated by the fact that—

“(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

“(ii) Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawai'i; and

“(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

“(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education, and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

“(17) In the 1998 National Assessment of Educational Progress, Hawaiian fourth-graders ranked 39th among groups of students from 39 States in reading. Given that Hawaiian students rank among the lowest groups of students nationally in reading, and that Native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawai'i.

“(18) The findings described in paragraphs (16) and (17) are inconsistent with the high rates of literacy and integration of traditional culture and Western education historically achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

“(19) Following the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period of Hawai'i, and until 1986, use of the Hawaiian language as an instructional medium in education in public schools was declared unlawful. The declaration caused incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'ōlelo nō ke ola; I ka 'ōlelo nō ka make. In the language rests life; In the language rests death.'.

“(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

“(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

“(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language;

“(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system; and

“(C) promotes the study of the Hawaiian culture, language, and history by providing a Hawaiian education program and using community expertise as a suitable and essential means to further the program.

“SEC. 7203. PURPOSES.

“The purposes of this part are to—

“(1) authorize and develop innovative educational programs to assist Native Hawaiians;

“(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, and to provide periodic assessment and data collection;

“(3) supplement and expand programs and authorities in the area of education to further the purposes of this title; and

“(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

“SEC. 7204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

“(a) Establishment of Native Hawaiian Education Council.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the 'Education Council').

“(b) Composition of Education Council.—The Education Council shall consist of not more than 21 members, unless otherwise determined by a majority of the council.

“(c) Conditions and Terms.—

“(1) Conditions.—At least 10 members of the Education Council shall be Native Hawaiian education service providers and 10 members of the Education Council shall be Native Hawaiians or Native Hawaiian education consumers. In addition, a representative of the State of Hawai'i Office of Hawaiian Affairs shall serve as a member of the Education Council.

“(2) Appointments.—The members of the Education Council shall be appointed by the Secretary based on recommendations received from the Native Hawaiian community.

“(3) Terms.—Members of the Education Council shall serve for staggered terms of 3 years, except as provided in paragraph (4).

“(4) Council determinations.—Additional conditions and terms relating to membership on the Education Council, including term lengths and term renewals, shall be determined by a majority of the Education Council.

“(d) Native Hawaiian Education Council Grant.—The Secretary shall make a direct grant to the Education Council to carry out the following activities:

“(1) Coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part.

“(2) Assess the extent to which such services and programs meet the needs of Native Hawaiians, and collect data on the status of Native Hawaiian education.

“(3) Provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, relating to Native Hawaiian education, and serve, where appropriate, in an advisory capacity.

“(4) Make direct grants, if such grants enable the Education Council to carry out the duties of the Education Council, as described in paragraphs (1) through (3).

“(e) Additional Duties of the Education Council.—

“(1) In general.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council, including any information that the Education Council provides to the Secretary pursuant to subsection (i), to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Indian Affairs of the Senate.

“(2) Annual report.—The Education Council shall prepare and submit to the Secretary an annual report on the Education Council's activities.

“(3) Island council support and assistance.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary determines to be appropriate, in a manner that supports the distinct needs of each island council.

“(f) Establishment of Island Councils.—

“(1) In general.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Secretary is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as an 'island council') for the following islands:

“(A) Hawai'i.

“(B) Maui.

“(C) Moloka'i.

“(D) Lana'i.

“(E) O'ahu.

“(F) Kaua'i.

“(G) Ni'ihau.

“(2) Composition of island councils.—Each island council shall consist of parents, students,

and other community members who have an interest in the education of Native Hawaiians, and shall be representative of individuals concerned with the educational needs of all age groups, from children in preschool through adults. At least ¾ of the members of each island council shall be Native Hawaiians.

"(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island council shall meet at the call of the chairperson of the appropriate council, or upon the request of the majority of the members of the appropriate council, but in any event not less often than 4 times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

"(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for service on the Education Council and each island council, respectively.

"(i) REPORT.—Not later than 4 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Indian Affairs of the Senate a report that summarizes the annual reports of the Education Council, describes the allocation and use of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

"SEC. 7205. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—

"(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make direct grants to, or enter into contracts with—

"(A) Native Hawaiian educational organizations;

"(B) Native Hawaiian community-based organizations;

"(C) public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and

"(D) consortia of the organizations, agencies, and institutions described in subparagraphs (A) through (C),

to carry out programs that meet the purposes of this part.

"(2) PRIORITIES.—In awarding grants or contracts to carry out activities described in paragraph (3), the Secretary shall give priority to entities proposing projects that are designed to address—

"(A) beginning reading and literacy among students in kindergarten through third grade;

"(B) the needs of at-risk children and youth;

"(C) needs in fields or disciplines in which Native Hawaiians are underemployed; and

"(D) the use of the Hawaiian language in instruction.

"(3) AUTHORIZED ACTIVITIES.—Activities provided through programs carried out under this part may include—

"(A) the development and maintenance of a statewide Native Hawaiian early education and care system to provide a continuum of services for Native Hawaiian children from the prenatal period of the children through age 5;

"(B) the operation of family-based education centers that provide such services as—

"(i) programs for Native Hawaiian parents and their infants from the prenatal period of the infants through age 3;

"(ii) preschool programs for Native Hawaiians; and

"(iii) research on, and development and assessment of, family-based, early childhood, and preschool programs for Native Hawaiians;

"(C) activities that enhance beginning reading and literacy in either the Hawaiian or the English language among Native Hawaiian students in kindergarten through third grade and assistance in addressing the distinct features of combined English and Hawaiian literacy for Hawaiian speakers in fifth and sixth grade;

"(D) activities to meet the special needs of Native Hawaiian students with disabilities, including—

"(i) the identification of such students and their needs;

"(ii) the provision of support services to the families of those students; and

"(iii) other activities consistent with the requirements of the Individuals with Disabilities Education Act;

"(E) activities that address the special needs of Native Hawaiian students who are gifted and talented, including—

"(i) educational, psychological, and developmental activities designed to assist in the educational progress of those students; and

"(ii) activities that involve the parents of those students in a manner designed to assist in the students' educational progress;

"(F) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture;

"(G) professional development activities for educators, including—

"(i) the development of programs to prepare prospective teachers to address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions;

"(ii) in-service programs to improve the ability of teachers who teach in schools with concentrations of Native Hawaiian students to meet those students' unique needs; and

"(iii) the recruitment and preparation of Native Hawaiians, and other individuals who live in communities with a high concentration of Native Hawaiians, to become teachers;

"(H) the operation of community-based learning centers that address the needs of Native Hawaiian families and communities through the coordination of public and private programs and services, including—

"(i) preschool programs;

"(ii) after-school programs;

"(iii) vocational and adult education programs; and

"(iv) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors;

"(I) activities, including program co-location, to enable Native Hawaiians to enter and complete programs of postsecondary education, including—

"(i) provision of full or partial scholarships for undergraduate or graduate study that are awarded to students based on their academic promise and financial need, with a priority, at the graduate level, given to students entering professions in which Native Hawaiians are underrepresented;

"(ii) family literacy services;

"(iii) counseling and support services for students receiving scholarship assistance;

"(iv) counseling and guidance for Native Hawaiian secondary students who have the potential to receive scholarships; and

"(v) faculty development activities designed to promote the matriculation of Native Hawaiian students;

"(J) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults;

"(K) other research and evaluation activities related to programs carried out under this part; and

"(L) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

"(4) SPECIAL RULE AND CONDITIONS.—

"(A) INSTITUTIONS OUTSIDE HAWAII.—The Secretary shall not establish a policy under this section that prevents a Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawai'i from receiving a scholarship pursuant to paragraph (3)(I).

"(B) SCHOLARSHIP CONDITIONS.—The Secretary shall establish conditions for receipt of a scholarship awarded under paragraph (3)(I). The conditions shall require that an individual seeking such a scholarship enter into a contract to provide professional services, either during the scholarship period or upon completion of a program of postsecondary education, to the Native Hawaiian community.

"(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a recipient of a grant or contract under subsection (a) for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section and section 7204 such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

"(2) RESERVATION.—Of the funds appropriated under this subsection, the Secretary shall reserve $500,000 for fiscal year 2002 and each of the 5 succeeding fiscal years to make a direct grant to the Education Council to carry out section 7204.

"(3) AVAILABILITY.—Funds appropriated under this subsection shall remain available until expended.

"SEC. 7206. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION REQUIRED.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

"(b) SPECIAL RULE.—Each applicant for a grant or contract under this part shall submit the application for comment to the local educational agency serving students who will participate in the program to be carried out under the grant or contract, and include those comments, if any, with the application to the Secretary.

"SEC. 7207. DEFINITIONS.

"In this part:

"(1) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States; and

"(B) a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

"(i) genealogical records;

"(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification; or

"(iii) certified birth records.

"(2) NATIVE HAWAIIAN COMMUNITY-BASED ORGANIZATION.—The term 'Native Hawaiian community-based organization' means any organization that is composed primarily of Native Hawaiians from a specific community and that assists in the social, cultural, and educational development of Native Hawaiians in that community.

"(3) NATIVE HAWAIIAN EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian educational organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has Native Hawaiians in substantive and policymaking positions within the organization;

"(C) incorporates Native Hawaiian perspective, values, language, culture, and traditions into the core function of the organization;

"(D) has demonstrated expertise in the education of Native Hawaiian youth; and

"(E) has demonstrated expertise in research and program development.

"(4) NATIVE HAWAIIAN LANGUAGE.—The term 'Native Hawaiian language' means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

"(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has Native Hawaiians in substantive and policymaking positions within the organizations; and

"(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

"(6) OFFICE OF HAWAIIAN AFFAIRS.—The term 'Office of Hawaiian Affairs' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

"PART C—ALASKA NATIVE EDUCATION

"SEC. 7301. SHORT TITLE.

"This part may be cited as the 'Alaska Native Educational Equity, Support, and Assistance Act'.

"SEC. 7302. FINDINGS.

"Congress finds and declares the following:

"(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being, and preservation of the culture of Alaska Natives.

"(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

"(3) Alaska Native children enter and exit school with serious educational handicaps.

"(4) The educational achievement of Alaska Native children is far below national norms. Native performance on standardized tests is low, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

"(5) The programs authorized in this part, combined with expanded Head Start, infant learning, and early childhood education programs, and parent education programs, are essential if educational handicaps are to be overcome.

"(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural Alaska and Alaska villages should be addressed through the development and implementation of innovative, model programs in a variety of areas.

"(7) Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

"SEC. 7303. PURPOSES.

"The purposes of this part are as follows:

"(1) To recognize the unique educational needs of Alaska Natives.

"(2) To authorize the development of supplemental educational programs to benefit Alaska Natives.

"(3) To supplement existing programs and authorities in the area of education to further the purposes of this part.

"(4) To provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

"SEC. 7304. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—

"(1) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives, and consortia of organizations and entities described in this paragraph to carry out programs that meet the purposes of this part.

"(2) PERMISSIBLE ACTIVITIES.—Activities provided through programs carried out under this part may include the following:

"(A) The development and implementation of plans, methods, and strategies to improve the education of Alaska Natives.

"(B) The development of curricula and educational programs that address the educational needs of Alaska Native students, including the following:

"(i) Curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives.

"(ii) Instructional programs that make use of Native Alaskan languages.

"(iii) Networks that introduce successful programs, materials, and techniques to urban and rural schools.

"(C) Professional development activities for educators, including the following:

"(i) Programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students.

"(ii) In-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students.

"(iii) Recruitment and preparation of teachers who are Alaska Native, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction in Alaska.

"(D) The development and operation of home instruction programs for Alaska Native preschool children, to ensure the active involvement of parents in their children's education from the earliest ages.

"(E) Family literacy services.

"(F) The development and operation of student enrichment programs in science and mathematics that—

"(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter secondary school, to excel in science and math;

"(ii) provide appropriate support services to the families of such students that are needed to enable such students to benefit from the programs; and

"(iii) may include activities that recognize and support the unique cultural and educational needs of Alaska Native children, and incorporate appropriately qualified Alaska Native elders and seniors.

"(G) Research and data collection activities to determine the educational status and needs of Alaska Native children and adults.

"(H) Other research and evaluation activities related to programs carried out under this part.

"(I) Remedial and enrichment programs to assist Alaska Native students in performing at a high level on standardized tests.

"(J) Education and training of Alaska Native students enrolled in a degree program that will lead to certification or licensing as teachers.

"(K) Parenting education for parents and caregivers of Alaska Native children to improve parenting and caregiving skills (including skills relating to discipline and cognitive development), including parenting education provided through in-home visitation of new mothers.

"(L) Cultural education programs operated by the Alaska Native Heritage Center and designed to share the Alaska Native culture with students.

"(M) A cultural exchange program operated by the Alaska Humanities Forum and designed to share Alaska Native culture with urban students in a rural setting, which shall be known as the Rose Cultural Exchange Program.

"(N) Activities carried out through Even Start programs carried out under subpart 3 of part B of title I and Head Start programs carried out under the Head Start Act, including the training of teachers for programs described in this subparagraph.

"(O) Other early learning and preschool programs.

"(P) Dropout prevention programs such as the Cook Inlet Tribal Council's Partners for Success program.

"(Q) An Alaska Initiative for Community Engagement program.

"(R) Career preparation activities to enable Alaska Native children and adults to prepare for meaningful employment, including programs providing tech-prep, mentoring, training, and apprenticeship activities.

"(S) Provision of operational support and purchasing of equipment, to develop regional vocational schools in rural areas of Alaska, including boarding schools, for Alaska Native students in grades 9 through 12, or at higher levels of education, to provide the students with necessary resources to prepare for skilled employment opportunities.

"(T) Other activities, consistent with the purposes of this part, to meet the educational needs of Alaska Native children and adults.

"(3) HOME INSTRUCTION PROGRAMS.—Home instruction programs for Alaska Native preschool children carried out under paragraph (2)(D) may include the following:

"(A) Programs for parents and their infants, from the prenatal period of the infant through age 3.

"(B) Preschool programs.

"(C) Training, education, and support for parents in such areas as reading readiness, observation, story telling, and critical thinking.

"(b) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of funds provided to a grantee under this section for any fiscal year may be used for administrative purposes.

"(c) PRIORITIES.—In awarding grants or contracts to carry out activities described in subsection (a)(2), except for activities listed in subsection (d)(2), the Secretary shall give priority to applications from Alaska Native regional nonprofit organizations, or consortia that include at least 1 Alaska Native regional nonprofit organization.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

"(2) AVAILABILITY OF FUNDS.—Of the funds appropriated and made available under this section for a fiscal year, the Secretary shall make available—

"(A) not less than $1,000,000 to support activities described in subsection (a)(2)(K);

"(B) not less than $1,000,000 to support activities described in subsection (a)(2)(L);

"(C) not less than $1,000,000 to support activities described in subsection (a)(2)(M);

"(D) not less than $2,000,000 to support activities described in subsection (a)(2)(P); and

"(E) not less than $2,000,000 to support activities described in subsection (a)(2)(Q).

"SEC. 7305. ADMINISTRATIVE PROVISIONS.

"(a) Application Required.—No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

"(b) Applications.—A State educational agency or local educational agency may apply for an award under this part only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

"(c) Consultation Required.—Each applicant for an award under this part shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

"(d) Local Educational Agency Coordination.—Each applicant for an award under this part shall inform each local educational agency serving students who would participate in the program to be carried out under the grant or contract about the application.

"SEC. 7306. DEFINITIONS.

"In this part:

"(1) Alaska Native.—The term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act.

"(2) Alaska Native Organization.—The term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and another organization that—

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policymaking positions within the organization.".

SEC. 702. CONFORMING AMENDMENTS.

(a) Higher Education Act of 1965.—Section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)) is amended—

(1) in paragraph (1), by striking "section 9308" and inserting "section 7306"; and

(2) in paragraph (3), by striking "section 9212" and inserting "section 7207".

(b) Public Law 88–210.—Section 116 of Public Law 88–210 (as added by section 1 of Public Law 105–332 (112 Stat. 3076)) is amended by striking "section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)" and inserting "section 7207 of the Native Hawaiian Education Act".

(c) Carl D. Perkins Vocational and Technical Education Act of 1998.—Section 116(a)(5) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2326(a)(5)) is amended by striking "section 9212" and all that follows and inserting "section 7207 of the Native Hawaiian Education Act".

(d) Museum and Library Services Act.—Section 261 of the Museum and Library Services Act (20 U.S.C. 9161) is amended by striking "section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)" and inserting "section 7207 of the Native Hawaiian Education Act".

(e) Act of April 16, 1934.—Section 5 of the Act of April 16, 1934 (commonly known as the "Johnson-O'Malley Act") (88 Stat. 2213; 25 U.S.C. 456) is amended by striking "section 9104(c)(4)" and inserting "section 7114(c)(4)".

(f) Native American Languages Act.—Section 103 of the Native American Languages Act (25 U.S.C. 2902) is amended—

(1) in paragraph (2), by striking "section 9161(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7881(4))" and inserting "section 7151(3) of the Elementary and Secondary Education Act of 1965"; and

(2) in paragraph (3), by striking "section 9212(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7912(1))" and inserting "section 7207 of the Elementary and Secondary Education Act of 1965".

(g) Workforce Investment Act of 1998.—Section 166(b)(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2911(b)(3)) is amended by striking "paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)" and inserting "section 7207 of the Native Hawaiian Education Act".

(h) Assets for Independence Act.—Section 404(11) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912)" and inserting "section 7207 of the Native Hawaiian Education Act".

SEC. 703. SAVINGS PROVISIONS.

Funds appropriated for parts A, B, and C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of enactment of this Act) shall be available for use under parts A, B, and C, respectively, of title VII of such Act, as added by this section.

TITLE VIII—IMPACT AID PROGRAM

SEC. 801. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

(a) Foundation Payments for Pre-1995 Recipients.—Section 8002(h)(1) (20 U.S.C. 7702(h)(1)) is amended—

(1) in subparagraph (A), by striking "and was eligible to receive a payment under section 2 of the Act of September 30, 1950" and inserting "and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950"; and

(2) in subparagraph (B), by striking "(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994" and inserting "(or if the local educational agency did not meet, or has not been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994".

(b) Payments for 1995 Recipients.—Section 8002(h)(2) (20 U.S.C. 7702(h)(2)) is amended—

(1) in subparagraph (A), by adding at the end before the period ", or whose application under this section for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years"; and

(2) in subparagraph (B)(ii), by striking "for each local educational agency that received a payment under this section for fiscal year 1995" and inserting "for each local educational agency described in subparagraph (A)".

(c) Remaining Funds.—Section 8002(h)(4)(B) (20 U.S.C. 7702(h)(4)(B)) is amended—

(1) by striking "(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))" and inserting "(by dividing the maximum amount that the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies)"; and

(2) by striking ", except that for the purpose of calculating a local educational agency's assessed value of the Federal property" and inserting ", except that, for the purpose of calculating a local educational agency's maximum amount under subsection (b)".

(d) Additional Assistance for Certain Local Educational Agencies Impacted by Federal Property Acquisition.—Section 8002 (20 U.S.C. 7702) is amended by striking subsection (j).

(e) Minimum Payment with Respect to Loss of Eligibility of Certain Local Educational Agencies.—Section 8002 (20 U.S.C. 7702) is amended by adding at the end the following:

"(n) Loss of Eligibility.—

"(1) In General.—Notwithstanding any other provision of this section, the Secretary shall make a minimum payment to a local educational agency described in paragraph (2), for the first fiscal year that the agency loses eligibility for assistance under this section as a result of property located within the school district served by the agency failing to meet the definition of Federal property under section 8013(5)(C)(iii), in an amount equal to 90 percent of the amount received by the agency under this section for the preceding year.

"(2) Local Educational Agency Described.—A local educational agency described in this paragraph is an agency that—

"(A) was eligible for, and received, a payment under this section for fiscal year 2002; and

"(B) beginning in fiscal year 2003 or a subsequent fiscal year, is no longer eligible for payments under this section as provided for in subsection (a)(1)(C) as a result of the transfer of the Federal property involved to a non-Federal entity.".

(f) Application for Payment.—Notwithstanding any other provision of law, the Secretary shall treat as timely filed an application under section 8002 (20 U.S.C. 7702) from Academy School District 20, Colorado, for a payment for fiscal year 1999, and shall process that application from funds appropriated for that section for fiscal year 2001.

SEC. 802. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

(a) Eligibility for Certain Heavily Impacted Local Educational Agencies.—

(1) In General.—Section 8003(b)(2)(C) (20 U.S.C. 7703(b)(2)(C)) is amended—

(A) in clauses (i) and (ii), by inserting after "Federal military installation" each place it appears the following: "(or if the agency is a qualified local educational agency as described in clause (iv))"; and

(B) by adding at the end the following:

"(iv) Qualified Local Educational Agency.—A qualified local educational agency described in this clause is an agency that meets the following requirements:

"(I) The boundaries of the agency are the same as island property designated by the Secretary of the Interior to be property that is held in trust by the Federal Government.

"(II) The agency has no taxing authority.

"(III) The agency received a payment under paragraph (1) for fiscal year 2001.".

(2) Effective Date.—The Secretary shall consider an application for a payment under section 8003(b)(2) for fiscal year 2002 from a qualified local educational agency described in section 8003(b)(2)(C)(iv), as added by paragraph (1), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such section not later than 30 days after the date of enactment of this Act.

(b) Applications for Payment.—

(1) Warner Public Schools, Muskogee County, Oklahoma.—Notwithstanding any other provision of law, the Secretary of Education shall treat as timely filed an application under section 8003 (20 U.S.C. 7703) from Warner Public Schools, Muskogee County, Oklahoma, for a payment for fiscal year 2002, and shall process that application for payment, if the Secretary has received the fiscal year 2002 application not later than 30 days after the date of enactment of this Act.

(2) Pine Point School, School District 25, Minnesota.—Notwithstanding any other provision of law, the Secretary shall treat as timely

filed an application under section 8003 (20 U.S.C. 7703) from Pine Point School, School District 25, Minnesota, for a payment for fiscal year 2000, and shall process that application for payment, if the Secretary has received the fiscal year 2000 application not later than 30 days after the date of enactment of this Act.

SEC. 803. CONSTRUCTION.

Section 8007(b) (20 U.S.C. 7707(b)) is amended to read as follows:

"(b) SCHOOL FACILITY EMERGENCY AND MODERNIZATION GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From 60 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary—

"(A) shall award emergency grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

"(B) shall award modernization grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out the modernization of school facilities.

"(2) PRIORITY.—In approving applications from local educational agencies for emergency grants and modernization grants under this subsection, the Secretary shall give priority to applications in accordance with the following:

"(A) The Secretary shall first give priority to applications for emergency grants from local educational agencies that meet the requirements of paragraph (3)(A) and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency, as determined by the Secretary.

"(B) The Secretary shall next give priority to applications for emergency grants from local educational agencies that meet the requirements of subparagraph (C) or (D) of paragraph (3) and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency, as determined by the Secretary.

"(C) The Secretary shall next give priority to applications for modernization grants from local educational agencies that meet the requirements of paragraph (3)(B) and, among such applications for modernization grants, shall give priority to those applications of local educational agencies based on the severity of the need for modernization, as determined by the Secretary.

"(D) The Secretary shall next give priority to applications for modernization grants from local educational agencies that meet the requirements of subparagraph (C) or (D) of paragraph (3) and, among such applications for modernization grants, shall give priority to those applications of local educational agencies based on the severity of the need for modernization, as determined by the Secretary.

"(3) ELIGIBILITY REQUIREMENTS.—

"(A) EMERGENCY GRANTS.—A local educational agency is eligible to receive an emergency grant under paragraph (2)(A) if—

"(i) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent)—

"(I) has no practical capacity to issue bonds;

"(II) has minimal capacity to issue bonds and is at not less than 75 percent of the agency's limit of bonded indebtedness; or

"(III) does not meet the requirements of subclauses (I) and (II) but is eligible to receive funds under section 8003(b)(2) for the fiscal year; and

"(ii) the agency is eligible to receive assistance under subsection (a) for the fiscal year and has a school facility emergency, as determined by the Secretary, that poses a health or safety hazard to the students and school personnel assigned to the school facility.

"(B) MODERNIZATION GRANTS.—A local educational agency is eligible to receive a modernization grant under paragraph (2)(C) if—

"(i) the agency is eligible to receive assistance under this title for the fiscal year;

"(ii) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(i); and

"(iii) the agency has facility needs resulting from the presence of the Federal Government, such as the enrollment of federally connected children, the presence of tax-exempt Federal property, or an increase in enrollment due to the expansion of Federal activities, housing privatization, or the acquisition of Federal property.

"(C) ADDITIONAL ELIGIBILITY FOR EMERGENCY AND MODERNIZATION GRANTS.—(i) A local educational agency is eligible to receive an emergency grant or a modernization grant under subparagraph (B) or (D) of paragraph (2), respectively, if the agency meets the following requirements:

"(I) The agency receives a basic support payment under section 8003(b) for the fiscal year and the agency meets at least one of the following requirements:

"(aa) The number of children determined under section 8003(a)(1)(C) for the agency for the preceding school year constituted at least 40 percent of the total student enrollment in the schools of the agency during the preceding school year.

"(bb) The number of children determined under subparagraphs (B) and (D)(i) of section 8003(a)(1) for the agency for the preceding school year constituted at least 40 percent of the total student enrollment in the schools of the agency during the preceding school year.

"(II) The agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) is at not less than 75 percent of the agency's limit of bonded indebtedness.

"(III) The agency has an assessed value of real property per student that may be taxed for school purposes that is less than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located.

"(ii) A local educational agency is also eligible to receive a modernization grant under this subparagraph if the agency is eligible to receive assistance under section 8002 for the fiscal year and meets the requirements of subclauses (II) and (III) of clause (i).

"(D) SPECIAL RULE.—

"(i) IN GENERAL.—Any school described in clause (ii) that desires to receive an emergency grant or a modernization grant under subparagraph (B) or (D) of paragraph (2), respectively, shall, except as provided in the following sentence, submit an application in accordance with paragraph (6), and shall otherwise be treated as a local educational agency for the purpose of this subsection. The school shall submit an application for the grant to the local educational agency of such school and the agency shall submit the application on behalf of the school to the Secretary.

"(ii) SCHOOL DESCRIBED.—A school described in this clause is a school that meets the following requirements:

"(I) The school is located within the geographic boundaries of a local educational agency that does not meet the applicable eligibility requirements under subparagraph (A), (B), or (C) for a grant under this subsection.

"(II) The school meets at least one of the following requirements:

"(aa) The number of children determined under section 8003(a)(1)(C) for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.

"(bb) The number of children determined under subparagraphs (B) and (D)(i) of section 8003(a)(1) for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.

"(III) The school is located within the geographic boundaries of a local educational agency that meets the requirements of subclauses (II) and (III) of subparagraph (C)(i).

"(E) RULE OF CONSTRUCTION.—For purposes of subparagraph (A)(i), a local educational agency—

"(i) has no practical capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is less than $25,000,000; and

"(ii) has minimal capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is at least $25,000,000 but not more than $50,000,000.

"(4) AWARD CRITERIA.—In awarding emergency grants and modernization grants under this subsection, the Secretary shall consider the following factors:

"(A) The ability of the local educational agency to respond to the emergency, or to pay for the modernization project, as the case may be, as measured by—

"(i) the agency's level of bonded indebtedness;

"(ii) the assessed value of real property per student that may be taxed for school purposes compared to the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the agency is located;

"(iii) the agency's total tax rate for school purposes (or, if applicable, for capital expenditures) compared to the average total tax rate for school purposes (or the average capital expenditure tax rate, if applicable) in the State in which the agency is located; and

"(iv) funds that are available to the agency, from any other source, including subsection (a), that may be used for capital expenditures.

"(B) The percentage of property in the agency that is nontaxable due to the presence of the Federal Government.

"(C) The number and percentages of children described in subparagraphs (A), (B), (C), and (D) of section 8003(a)(1) served in the school facility with the emergency or served in the school facility proposed for modernization, as the case may be.

"(D) In the case of an emergency grant, the severity of the emergency, as measured by the threat that the condition of the school facility poses to the health, safety, and well-being of students.

"(E) In the case of a modernization grant—

"(i) the severity of the need for modernization, as measured by such factors as—

"(I) overcrowding, as evidenced by the use of portable classrooms, or the potential for future overcrowding because of increased enrollment; or

"(II) the agency's inability to utilize technology or offer a curriculum in accordance with contemporary State standards due to the physical limitations of the current school facility; and

"(ii) the age of the school facility proposed for modernization.

"(5) OTHER AWARD PROVISIONS.—

"(A) GENERAL PROVISIONS.—

"(i) LIMITATIONS ON AMOUNT OF FUNDS.—

"(I) IN GENERAL.—The amount of funds provided under an emergency grant or a modernization grant awarded under this subsection to a local educational agency that meets the requirements of subclause (II) or (III) of paragraph (3)(A)(i) for purposes of eligibility under subparagraph (A) or (B) of paragraph (3) or that meets the requirements of clause (i) or (ii) of paragraph (3)(C) for purposes of eligibility under such paragraph (3)(C), or to a school that is eligible under paragraph (3)(D)—

"(aa) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection; and

"(bb) shall not exceed $4,000,000 during any 4-year period.

"(II) IN-KIND CONTRIBUTIONS.—A local educational agency may use in-kind contributions to meet the matching requirement of subclause (I)(aa).

"(ii) PROHIBITIONS ON USE OF FUNDS.—A local educational agency may not use funds provided under an emergency grant or modernization grant awarded under this subsection for—

"(I) a project for a school facility for which the agency does not have full title or other interest;

"(II) stadiums or other school facilities that are primarily used for athletic contests, exhibitions, or other events for which admission is charged to the general public; or

"(III) the acquisition of real property.

"(iii) SUPPLEMENT, NOT SUPPLANT.—A local educational agency shall use funds provided under an emergency grant or modernization grant awarded under this subsection only to supplement the amount of funds that would, in the absence of the Federal funds provided under the grant, be made available from non-Federal sources to carry out emergency repairs of school facilities or to carry out the modernization of school facilities, as the case may be, and not to supplant such funds.

"(iv) MAINTENANCE COSTS.—Nothing in this subsection shall be construed to authorize the payment of maintenance costs in connection with any school facility modernized in whole or in part with Federal funds provided under this subsection.

"(v) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this subsection shall comply with all relevant Federal, State, and local environmental laws and regulations.

"(vi) CARRY-OVER OF CERTAIN APPLICATIONS.—A local educational agency that applies for an emergency grant or a modernization grant under this subsection for a fiscal year and does not receive the grant for the fiscal year shall have the application for the grant considered for the following fiscal year, subject to the priority requirements of paragraph (2) and the award criteria requirements of paragraph (4).

"(B) EMERGENCY GRANTS; PROHIBITION ON USE OF FUNDS.—A local educational agency that is awarded an emergency grant under this subsection may not use amounts under the grant for the complete or partial replacement of an existing school facility unless such replacement is less expensive or more cost-effective than correcting the identified emergency.

"(6) APPLICATION.—A local educational agency that desires to receive an emergency grant or a modernization grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain the following:

"(A) A description of how the local educational agency meets the award criteria under paragraph (4), including the information described in clauses (i) through (iv) of paragraph (4)(A) and subparagraphs (B) and (C) of paragraph (4).

"(B) In the case of an application for an emergency grant—

"(i) a description of the school facility deficiency that poses a health or safety hazard to the occupants of the facility and a description of how the deficiency will be repaired; and

"(ii) a signed statement from an appropriate local official certifying that a deficiency in the school facility threatens the health or safety of the occupants of the facility or that prevents the use of all or a portion of the building.

"(C) In the case of an application for a modernization grant—

"(i) an explanation of the need for the school facility modernization project;

"(ii) the date on which original construction of the facility to be modernized was completed;

"(iii) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 8003(a)(1) in average daily attendance in each school facility; and

"(iv) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located.

"(D) A description of the project for which a grant under this subsection will be used, including a cost estimate for the project.

"(E) A description of the interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement.

"(F) Such other information and assurances as the Secretary may reasonably require.

"(7) REPORT.—

"(A) IN GENERAL.—Not later than January 1 of each year, the Secretary shall prepare and submit to the appropriate congressional committees a report that contains a justification for each grant awarded under this subsection for the prior fiscal year.

"(B) DEFINITION.—In this paragraph, the term 'appropriate congressional committees' means—

"(i) the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives; and

"(ii) the Committee on Appropriations and the Committee on Health, Education, Labor, and Pensions of the Senate.".

SEC. 804. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

Section 8009(b)(1) (20 U.S.C. 7709(b)(1)) is amended by inserting after "section 8003(a)(2)(B)" the following: "and, with respect to a local educational agency that receives a payment under section 8003(b)(2), the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 8003(b)(1) and not section 8003(b)(2)".

SEC. 805. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 8014 (20 U.S.C. 7714) is amended in subsections (a), (b), (c), and (f) by striking "three succeeding fiscal years" each place it appears and inserting "seven succeeding fiscal years".

(b) CONSTRUCTION.—Section 8014(e) (20 U.S.C. 7714(e)) is amended by striking "for each of the three succeeding fiscal years" and inserting "for fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the five succeeding fiscal years".

(c) ADDITIONAL ASSISTANCE FOR CERTAIN LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION.—Section 8014 (20 U.S.C. 7714) is amended by striking subsection (g).

"TITLE IX—GENERAL PROVISIONS

"PART A—DEFINITIONS

"SEC. 9101. DEFINITIONS.

"Except as otherwise provided, in this Act:

"(1) AVERAGE DAILY ATTENDANCE.—

"(A) IN GENERAL.—Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

"(i) the aggregate number of days of attendance of all students during a school year; divided by

"(ii) the number of days school is in session during that year.

"(B) CONVERSION.—The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

"(C) SPECIAL RULE.—If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for the purpose of this Act—

"(i) consider the child to be in attendance at a school of the agency making the payment; and

"(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

"(D) CHILDREN WITH DISABILITIES.—If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act, the Secretary shall, for the purpose of this Act, consider the child to be in attendance at a school of the agency making the payment.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

"(ii) any direct current expenditures by the State for the operation of those agencies; divided by

"(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

"(3) BEGINNING TEACHER.—The term 'beginning teacher' means a teacher in a public school who has been teaching less than a total of 3 complete school years.

"(4) CHILD.—The term 'child' means any person within the age limits for which the State provides free public education.

"(5) CHILD WITH A DISABILITY.—The term 'child with a disability' has the same meaning given that term in section 602 of the Individuals with Disabilities Education Act.

"(6) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

"(A) is representative of a community or significant segments of a community; and

"(B) provides educational or related services to individuals in the community.

"(7) CONSOLIDATED LOCAL APPLICATION.—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 9305.

"(8) CONSOLIDATED LOCAL PLAN.—The term 'consolidated local plan' means a plan submitted by a local educational agency pursuant to section 9305.

"(9) CONSOLIDATED STATE APPLICATION.—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 9302.

"(10) CONSOLIDATED STATE PLAN.—The term 'consolidated State plan' means a plan submitted by a State educational agency pursuant to section 9302.

"(11) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

"(12) COUNTY.—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

"(13) COVERED PROGRAM.—The term 'covered program' means each of the programs authorized by—

"(A) part A of title I;

"(B) subpart 3 of part B of title I;

"(C) part C of title I;

"(D) part D of title I;

"(E) part F of title I;

"(F) part A of title II;

"(G) part D of title II;

"(H) part A of title III;

"(I) part A of title IV;

"(J) part B of title IV;

"(K) part A of title V; and

"(L) subpart 2 of part B of title VI.

"(14) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education—

"(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

"(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and part A of title V.

"(15) DEPARTMENT.—The term 'Department' means the Department of Education.

"(16) DISTANCE LEARNING.—The term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

"(17) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

"(18) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

"(19) EXEMPLARY TEACHER.—The term 'exemplary teacher' means a teacher who—

(A) is a highly qualified teacher such as a master teacher;

(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

(C) is recommended to be an exemplary teacher by administrators and other teachers who are knowledgeable about the individual's performance;

(D) is currently teaching and based in a public school; and

(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs teacher mentoring, develops curricula, and offers other professional development.

"(20) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

"(C) Parent literacy training that leads to economic self-sufficiency.

"(D) An age-appropriate education to prepare children for success in school and life experiences.

"(21) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.

"(22) GIFTED AND TALENTED.—The term 'gifted and talented', when used with respect to students, children, or youth, means students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

"(23) HIGHLY QUALIFIED.—The term 'highly qualified'—

"(A) when used with respect to any public elementary school or secondary school teacher teaching in a State, means that—

"(i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and

"(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;

"(B) when used with respect to—

"(i) an elementary school teacher who is new to the profession, means that the teacher—

"(I) holds at least a bachelor's degree; and

"(II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or

"(ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by—

"(I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or

"(II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and

"(C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and—

"(i) has met the applicable standard in clause (i) or (ii) of subparagraph (B), which includes an option for a test; or

"(ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that—

"(I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;

"(II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

"(III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;

"(IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;

"(V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;

"(VI) is made available to the public upon request; and

"(VII) may involve multiple, objective measures of teacher competency.

"(24) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965.

"(25) LIMITED ENGLISH PROFICIENT.—The term 'limited English proficient', when used with respect to an individual, means an individual—

"(A) who is aged 3 through 21;

"(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

"(C)(i) who was not born in the United States or whose native language is a language other than English;

"(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

"(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

"(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

"(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

"(i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);

"(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

"(iii) the opportunity to participate fully in society.

"(26) LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

"(B) ADMINISTRATIVE CONTROL AND DIRECTION.—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

"(C) BIA SCHOOLS.—The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency

receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

"(D) EDUCATIONAL SERVICE AGENCIES.—The term includes educational service agencies and consortia of those agencies.

"(E) STATE EDUCATIONAL AGENCY.—The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

"(27) MENTORING.—The term 'mentoring', except when used to refer to teacher mentoring, means a process by which a responsible adult, postsecondary student, or secondary school student works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

"(28) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' have the same meaning given those terms in section 103 of the Native American Languages Act of 1990.

"(29) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

"(30) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121(b) and any other discretionary grant program under this Act, includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau until an agreement for the extension of United States education assistance under the Compact of Free Association for each of the freely associated states becomes effective after the date of enactment of the No Child Left Behind Act of 2001.

"(31) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

"(32) PARENTAL INVOLVEMENT.—The term 'parental involvement' means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—

"(A) that parents play an integral role in assisting their child's learning;

"(B) that parents are encouraged to be actively involved in their child's education at school;

"(C) that parents are full partners in their child's education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child;

"(D) the carrying out of other activities, such as those described in section 1118.

"(33) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

"(34) PROFESSIONAL DEVELOPMENT.—The term 'professional development'—

"(A) includes activities that—

"(i) improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;

"(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

"(iii) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student academic achievement standards;

"(iv) improve classroom management skills;

"(v)(I) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom; and

"(II) are not 1-day or short-term workshops or conferences;

"(vi) support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;

"(vii) advance teacher understanding of effective instructional strategies that are—

"(I) based on scientifically based research (except that this subclause shall not apply to activities carried out under part D of title II); and

"(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and

"(viii) are aligned with and directly related to—

"(I) State academic content standards, student academic achievement standards, and assessments; and

"(II) the curricula and programs tied to the standards described in subclause (I) except that this subclause shall not apply to activities described in clauses (ii) and (iii) of section 2123(3)(B);

"(ix) are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;

"(x) are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

"(xi) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;

"(xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

"(xiii) provide instruction in methods of teaching children with special needs;

"(xiv) include instruction in the use of data and assessments to inform and instruct classroom practice; and

"(xv) include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents; and

"(B) may include activities that—

"(i) involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

"(ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

"(iii) provide follow-up training to teachers who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

"(35) PUBLIC TELECOMMUNICATIONS ENTITY.—The term 'public telecommunications entity' has the meaning given that term in section 397(12) of the Communications Act of 1934.

"(36) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—

"(A) PUPIL SERVICES PERSONNEL.—The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

"(B) PUPIL SERVICES.—The term 'pupil services' means the services provided by pupil services personnel.

"(37) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research'—

"(A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

"(B) includes research that—

"(i) employs systematic, empirical methods that draw on observation or experiment;

"(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

"(iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

"(iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

"(v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

"(vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

"(38) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

"(39) SECRETARY.—The term 'Secretary' means the Secretary of Education.

STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(41) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

"(42) TEACHER MENTORING.—The term 'teacher mentoring' means activities that—

"(A) consist of structured guidance and regular and ongoing support for teachers, especially beginning teachers, that—

"(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

"(ii) as part of an ongoing developmental induction process—

"(I) involve the assistance of an exemplary teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

"(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

"(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, a teacher organization, or another organization.

"(43) TECHNOLOGY.—The term 'technology' means state-of-the-art technology products and services.

"SEC. 9102. APPLICABILITY OF TITLE.

"Parts B, C, D, and E of this title do not apply to title VIII of this Act.

"SEC. 9103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

"For the purpose of any competitive program under this Act—

"(1) a consortium of schools operated by the Bureau of Indian Affairs;

"(2) a school operated under a contract or grant with the Bureau of Indian Affairs in consortium with another contract or grant school or a tribal or community organization; or

"(3) a Bureau of Indian Affairs school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,

shall be given the same consideration as a local educational agency.

"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"SEC. 9201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

"(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

"(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs under paragraph (2) if the State educational agency can demonstrate that the majority of its resources are derived from non-Federal sources.

"(2) APPLICABILITY.—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

"(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a), such as—

"(A) the coordination of those programs with other Federal and non-Federal programs;

"(B) the establishment and operation of peer-review mechanisms under this Act;

"(C) the administration of this title;

"(D) the dissemination of information regarding model programs and practices;

"(E) technical assistance under any program under this Act;

"(F) State-level activities designed to carry out this title;

"(G) training personnel engaged in audit and other monitoring activities; and

"(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department.

"(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

"(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of that administration.

"(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to the agency under this section for administration, the agency may use those funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

"(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop challenging State academic standards and assessments, a State educational agency may consolidate the amounts described in subsection (a) for those purposes under title I.

"SEC. 9202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

"A State educational agency that also serves as a local educational agency shall, in its applications or plans under this Act, describe how the agency will eliminate duplication in conducting administrative functions.

"SEC. 9203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

"(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary and for any fiscal year, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more programs under this Act (or such other programs as the Secretary shall designate) not more than the percentage, established in each program, of the total available for the local educational agency under those programs.

"(b) STATE PROCEDURES.—Within 1 year after the date of enactment of the No Child Left Behind Act of 2001, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under those programs that may be used for administration on a consolidated basis.

"(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

"(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use the consolidated funds for the administration of the programs and for uses, at the school district and school levels, comparable to those described in section 9201(b)(2).

"(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of the programs included in the consolidation.

"SEC. 9204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

"(a) GENERAL AUTHORITY.—

"(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title VII, and the education for homeless children and youth program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

"(2) AGREEMENT.—

"(A) IN GENERAL.—The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

"(B) CONTENTS.—The agreement shall—

"(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement measures to assess program effectiveness, including measurable goals and objectives; and

"(ii) be developed in consultation with Indian tribes.

"(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for its costs related to the administration of the funds transferred under this section.

"PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

"SEC. 9301. PURPOSE.

"The purposes of this part are—

"(1) to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery;

"(2) to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting; and

"(3) to enhance the integration of programs under this Act with State and local programs.

"SEC. 9302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

"(a).GENERAL AUTHORITY.—

"(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which, after consultation with the Governor, a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

"(A) each of the covered programs in which the State participates; and

"(B) such other programs as the Secretary may designate.

"(2) CONSOLIDATED APPLICATIONS AND PLANS.—After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

"(b) COLLABORATION.—

"(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

"(2) CONTENTS.—Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under this Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

"(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

"SEC. 9303. CONSOLIDATED REPORTING.

"(a) IN GENERAL.—In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the Governor of the State, may submit a consolidated State annual report.

"(b) CONTENTS.—The report shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities.

"(c) REPLACEMENT.—The report shall replace separate individual annual reports for the programs included in the consolidated State annual report.

"SEC. 9304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

"(a) ASSURANCES.—A State educational agency, in consultation with the Governor of the State, that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 9302, shall have on file with the Secretary a single set of assurances, applicable to each program for which the plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, a nonprofit private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

"(3) the State will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

"(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

"(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

"(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

"(6) the State will—

"(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

"(B) maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

"(7) before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

"(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

"SEC. 9305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

"(a) GENERAL AUTHORITY.—

"(1) CONSOLIDATED PLAN.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under those programs on a consolidated basis.

"(2) AVAILABILITY TO GOVERNOR.—The State educational agency shall make any consolidated local plans and applications available to the Governor.

"(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has an approved consolidated State plan or application under section 9302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under those programs, but may not require those agencies to submit separate plans.

"(c) COLLABORATION.—A State educational agency, in consultation with the Governor, shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

"(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

"SEC. 9306. OTHER GENERAL ASSURANCES.

"(a) ASSURANCES.—Any applicant, other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 9305, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes;

"(3) the applicant will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

"(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;

"(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;

"(6) the applicant will—

"(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

"(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency's or the Secretary's duties; and

"(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.

"(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act shall not apply to programs under this Act.

"PART D—WAIVERS

"SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

"(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

"(1) receives funds under a program authorized by this Act; and

"(2) requests a waiver under subsection (b).

"(b) REQUEST FOR WAIVER.—

"(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe that desires a waiver shall submit a waiver request to the Secretary that—

"(A) identifies the Federal programs affected by the requested waiver;

"(B) describes which Federal statutory or regulatory requirements are to be waived and how the waiving of those requirements will—

"(i) increase the quality of instruction for students; and

"(ii) improve the academic achievement of students;

"(C) describes, for each school year, specific, measurable educational goals, in accordance with section 1111(b), for the State educational agency and for each local educational agency, Indian tribe, or school that would be affected by the waiver and the methods to be used to measure annually λsuch progress for meeting such goals and outcomes;

"(D) explains how the waiver will assist the State educational agency and each affected local educational agency, Indian tribe, or school in reaching those goals; and

"(E) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

"(2) ADDITIONAL INFORMATION.—Such requests—

"(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) shall be developed and submitted—

"(i)(I) by local educational agencies (on behalf of those agencies and schools) to State educational agencies; and

"(II) by State educational agencies (on behalf of, and based on the requests of, local educational agencies) to the Secretary; or

"(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

"(3) GENERAL REQUIREMENTS.—

"(A) STATE EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a State educational agency acting on its own behalf, the State educational agency shall—

"(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

"(ii) submit the comments to the Secretary; and

"(iii) provide notice and information to the public regarding the waiver request in the manner in which the applying agency customarily provides similar notices and information to the public.

"(B) LOCAL EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

"(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the State educational agency; and

"(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner in which that agency customarily provides similar notices and information to the public.

"(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

"(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

"(2) maintenance of effort;

"(3) comparability of services;

"(4) use of Federal funds to supplement, not supplant, non-Federal funds;

"(5) equitable participation of private school students and teachers;

"(6) parental participation and involvement;

"(7) applicable civil rights requirements;

"(8) the requirement for a charter school under subpart 1 of part B of title V;

"(9) the prohibitions regarding—

"(A) State aid in section 9522;

"(B) use of funds for religious worship or instruction in section 9505; and

"(C) activities in section 9526; or

"(10) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I if the percentage of children from low-income families in the school attendance area or who attend the school is not more than 10 percentage points below the lowest percentage of those children for any school attendance area or school of the local educational agency that meets the requirements of subsections (a) and (b) of section 1113.

"(d) DURATION AND EXTENSION OF WAIVER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a waiver approved by the Secretary under this section may be for a period not to exceed 4 years.

"(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

"(A) the waiver has been effective in enabling the State or affected recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved student achievement; and

'(B) the extension is in the public interest.

"(e) REPORTS.—

"(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall, at the end of the second year for which a waiver is received under this section and each subsequent year, submit a report to the State educational agency that—

"(A) describes the uses of the waiver by the agency or by schools;

"(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers were granted; and

"(C) evaluates the progress of the agency and of schools in improving the quality of instruction or the academic achievement of students.

"(2) STATE WAIVER.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on those reports and contains such information as the Secretary may require.

"(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

"(A) describes the uses of the waiver by schools operated by the tribe; and

"(B) evaluates the progress of those schools in improving the quality of instruction or the academic achievement of students.

"(4) REPORT TO CONGRESS.—Beginning in fiscal year 2002 and for each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report—

"(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) describing whether the waivers—

"(i) increased the quality of instruction to students; or

"(ii) improved the academic achievement of students.

"(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

"(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of the notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

"PART E—UNIFORM PROVISIONS

"Subpart 1—Private Schools

"SEC. 9501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

"(a) PRIVATE SCHOOL PARTICIPATION.—

"(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

"(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

"(3) SPECIAL RULE.—Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

"(5) PROVISION OF SERVICES.—An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—This section applies to programs under—

"(A) subparts 1 and 3 of part B of title I;

"(B) part C of title I;

"(C) part A of title II, to the extent provided in paragraph (3);

"(D) part B of title II;

"(E) part D of title II;

"(F) part A of title III;

"(G) part A of title IV; and

"(H) part B of title IV.

"(2) DEFINITION.—For the purpose of this section, the term 'eligible children' means children eligible for services under a program described in paragraph (1).

"(3) APPLICATION.—(A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4), applies to funds awarded to a local educational agency under part A of title II only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

"(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

"(c) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how, where, and by whom the services will be provided;

"(D) how the services will be assessed and how the results of the assessment will be used to improve those services;

"(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and

"(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

"(2) DISAGREEMENT.—If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.

"(3) TIMING.—The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

"(4) DISCUSSION REQUIRED.—The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

"(d) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

"(2) PROVISION OF SERVICES.—

"(A) IN GENERAL.—The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

"(B) INDEPENDENCE; PUBLIC AGENCY.—In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

"(C) COMMINGLING OF FUNDS PROHIBITED.—Funds used to provide services under this section shall not be commingled with non-Federal funds.

"SEC. 9502. STANDARDS FOR BY-PASS.

"(a) IN GENERAL.—If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 9501, the Secretary shall—

"(1) waive the requirements of that section for the agency, consortium, or entity; and

"(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 9501, 9503, and 9504.

"(b) DETERMINATION.—In making the determination under subsection (a), the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

"SEC. 9503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

"(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 9501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

"(b) APPEALS TO SECRETARY.—The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. The appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 120 days after receipt of the appeal.

"SEC. 9504. BY-PASS DETERMINATION PROCESS.

"(a) REVIEW.—

"(1) IN GENERAL.—

"(A) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under section 9502 until the State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity affected by the action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

"(B) PRIOR TO REDUCTION.—Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(2) PETITION FOR REVIEW.—

"(A) PETITION.—If the affected agency, consortium, or entity is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), the agency, consortium, or entity may, within 60 days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action.

"(B) TRANSMISSION.—A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

"(C) FILING.—The Secretary, upon receipt of the copy of the petition, shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

"(3) FINDINGS OF FACT.—

"(A) IN GENERAL.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

"(B) NEW OR MODIFIED FINDINGS.—Any new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) JURISDICTION.—

"(A) IN GENERAL.—Upon the filing of a petition, the court shall have jurisdiction to affirm the action of the Secretary or to set the action aside, in whole or in part.

"(B) JUDGMENT.—The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with that agency, consortium, or entity and representatives of the affected private school children, teachers, or other educational personnel, that there will no longer be any failure or inability on the part of the agency, consortium, or entity to meet the applicable requirements of section 9501 or any other provision of this Act.

"(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of those services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001 shall remain in effect to the extent the Secretary determines that that determination is consistent with the purpose of this section.

"SEC. 9505. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

"SEC. 9506. PRIVATE, RELIGIOUS, AND HOME SCHOOLS.

"(a) APPLICABILITY TO NONRECIPIENT PRIVATE SCHOOLS.—Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act, nor shall any student who attends a private school that does not receive funds or services under this Act be required to participate in any assessment referenced in this Act.

"(b) APPLICABILITY TO HOME SCHOOLS.—Nothing in this Act shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this Act.

"(c) RULE OF CONSTRUCTION ON PROHIBITION OF FEDERAL CONTROL OVER NONPUBLIC SCHOOLS.—Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

"(d) RULE OF CONSTRUCTION ON STATE AND LOCAL EDUCATIONAL AGENCY MANDATES.—Nothing in this Act shall be construed to require any State educational agency or local educational agency that receives funds under this Act to mandate, direct, or control the curriculum of a private or home school, regardless or whether or not a home school is treated as a private school under state law, nor shall any funds under this Act be used for this purpose.

"Subpart 2—Other Provisions

"SEC. 9521. MAINTENANCE OF EFFORT.

"(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(b) REDUCTION IN CASE OF FAILURE TO MEET.—

"(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion by which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the local agency).

"(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

"(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

"(1) exceptional or uncontrollable circumstances, such as a natural disaster; or

"(2) a precipitous decline in the financial resources of the local educational agency.

"SEC. 9522. PROHIBITION REGARDING STATE AID.

"A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

"SEC. 9523. PRIVACY OF ASSESSMENT RESULTS.

"Any results from an individual assessment referred to in this Act of a student that become part of the education records of the student shall have the protections provided in section 444 of the General Education Provisions Act.

"SEC. 9524. SCHOOL PRAYER.

"(a) GUIDANCE.—The Secretary shall provide and revise guidance, not later than September 1, 2002, and of every second year thereafter, to State educational agencies, local educational agencies, and the public on constitutionally protected prayer in public elementary schools and secondary schools, including making the guidance available on the Internet. The guidance shall be reviewed, prior to distribution, by the Office of Legal Counsel of the Department of Justice for verification that the guidance represents the current state of the law concerning constitutionally protected prayer in public elementary schools and secondary schools.

"(b) CERTIFICATION.—As a condition of receiving funds under this Act, a local educational agency shall certify in writing to the State educational agency involved that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance required under subsection (a). The certification shall be provided by October 1 of each year. The State educational agency shall report to the Secretary by November 1 of each year a list of those local educational agencies that have not filed the certification or against which complaints have been made to the State educational agency that the local educational agencies are not in compliance with this section.

"(c) ENFORCEMENT.—The Secretary is authorized and directed to effectuate subsection (b) by issuing, and securing compliance with, rules or orders with respect to a local educational agency that fails to certify, or is found to have certified in bad faith, that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools.

"SEC. 9525. EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES.

"(a) SHORT TITLE.—This section may be cited as the 'Boy Scouts of America Equal Access Act'.

"(b) IN GENERAL.—

"(1) EQUAL ACCESS.—Notwithstanding any other provision of law, no public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or a limited public forum and that receives funds made available through the Department shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 of the United States Code (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 of the United States Code (as a patriotic society).

"(2) VOLUNTARY SPONSORSHIP.—Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 of the United States Code (as a patriotic society).

"(c) TERMINATION OF ASSISTANCE AND OTHER ACTION.—

"(1) DEPARTMENTAL ACTION.—The Secretary is authorized and directed to effectuate subsection (b) by issuing and securing compliance with rules or orders with respect to a public elementary school, public secondary school, local educational agency, or State educational agency that receives funds made available through the Department and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (b).

"(2) PROCEDURE.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), through the Office for Civil Rights and in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964. If the public school or agency does not comply with the rules or orders, then notwithstanding any other provision of law, no funds made available through the Department shall be provided to a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders.

"(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of the Civil Rights Act of 1964. Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of such Act.

"(d) DEFINITION AND RULE.—

"(1) DEFINITION.—In this section, the term 'youth group' means any group or organization intended to serve young people under the age of 21.

"(2) RULE.—For the purpose of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

"SEC. 9526. GENERAL PROHIBITIONS.

"(a) PROHIBITION.—None of the funds authorized under this Act shall be used—

"(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

"(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

"(3) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

"(4) to operate a program of contraceptive distribution in schools.

"(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

"(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or school's instructional content, curriculum, and related activities;

"(2) limit the application of the General Education Provisions Act;

"(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right.

"SEC. 9527. PROHIBITIONS ON FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.

"(a) GENERAL PROHIBITION.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

"(b) PROHIBITION ON ENDORSEMENT OF CURRICULUM.—Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this Act may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

"(c) PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect requirements under title I or part A of title VI.

"(d) RULE OF CONSTRUCTION ON BUILDING STANDARDS.—Nothing in this Act shall be construed to mandate national school building standards for a State, local educational agency, or school.

"SEC. 9528. ARMED FORCES RECRUITER ACCESS TO STUDENTS AND STUDENT RECRUITING INFORMATION.

"(a) POLICY.—

"(1) ACCESS TO STUDENT RECRUITING INFORMATION.—Notwithstanding section 444(a)(5)(B) of the General Education Provisions Act and except as provided in paragraph (2), each local educational agency receiving assistance under this Act shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students names, addresses, and telephone listings.

"(2) CONSENT.—A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described in paragraph (1) not be released without prior written parental consent, and the local educational agency or private school shall notify parents of the option to make a request and shall comply with any request.

"(3) SAME ACCESS TO STUDENTS.—Each local educational agency receiving assistance under this Act shall provide military recruiters the same access to secondary school students as is provided generally to post secondary educational institutions or to prospective employers of those students.

"(b) NOTIFICATION.—The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after the date of enactment of the No Child Left Behind Act of 2001, notify principals, school administrators, and other educators about the requirements of this section.

"(c) EXCEPTION.—The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

''(d) SPECIAL RULE.—A local educational agency prohibited by Connecticut State law (either explicitly by statute or through statutory interpretation by the State Supreme Court or State Attorney General) from providing military recruiters with information or access as required by this section shall have until May 31, 2002, to comply with that requirement.

"SEC. 9529. PROHIBITION ON FEDERALLY SPONSORED TESTING.

''(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

''(b) EXCEPTIONS.—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 and administered to only a representative sample of pupils in the United States and in foreign nations.

"SEC. 9530. LIMITATIONS ON NATIONAL TESTING OR CERTIFICATION FOR TEACHERS.

''(a) MANDATORY NATIONAL TESTING OR CERTIFICATION OF TEACHERS.—Notwithstanding any other provision of this Act or any other provision of law, no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

''(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

"SEC. 9531. PROHIBITION ON NATIONWIDE DATABASE.

''Nothing in this Act (other than section 1308(b)) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act.

"SEC. 9532. UNSAFE SCHOOL CHOICE OPTION.

''(a) UNSAFE SCHOOL CHOICE POLICY.—Each State receiving funds under this Act shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school.

''(b) CERTIFICATION.—As a condition of receiving funds under this Act, a State shall certify in writing to the Secretary that the State is in compliance with this section.

"SEC. 9533. PROHIBITION ON DISCRIMINATION.

''Nothing in this Act shall be construed to require, authorize, or permit, the Secretary, or a State educational agency, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.

"SEC. 9534. CIVIL RIGHTS.

''(a) IN GENERAL.—Nothing in this Act shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, or disability in any program funded under this Act.

''(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require the disruption of services to a child or the displacement of a child enrolled in or participating in a program administered by an eligible entity, as defined in section 1116 of title I and part B of title V, at the commencement of the entity's participation in a grant under section 1116 of title I or part B of title V.

"SEC. 9535. RULEMAKING.

''The Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this Act.

"SEC. 9536. SEVERABILITY.

''If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.

"PART F—EVALUATIONS

"SEC. 9601. EVALUATIONS.

''(a) RESERVATION OF FUNDS.—Except as provided in subsections (b) and (c), the Secretary may reserve not more than 0.5 percent of the amount appropriated to carry out each categorical program and demonstration project authorized under this Act—

''(1) to conduct—

''(A) comprehensive evaluations of the program or project; and

''(B) studies of the effectiveness of the program or project and its administrative impact on schools and local educational agencies;

''(2) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs assisted or authorized under this Act and related Federal preschool, elementary, and secondary programs under any other Federal law; and

''(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and use of information relating to performance under the program or project.

''(b) TITLES I AND III EXCLUDED.—The Secretary may not reserve under subsection (a) funds appropriated to carry out any program authorized under title I or title III.

''(c) EVALUATION ACTIVITIES AUTHORIZED ELSEWHERE.—If, under any other provision of this Act (other than title I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of that program or project.

TITLE X—REPEALS, REDESIGNATIONS, AND AMENDMENTS TO OTHER STATUTES

PART A—REPEALS

SEC. 1011. REPEALS.

The following provisions of law are repealed:

(1) Part G of title XV of the Higher Education Amendments of 1992 (20 U.S.C. 1070a–11 note), relating to the Advanced Placement fee payment program.

(2) Part B of title VIII of the Higher Education Amendments of 1998 (20 U.S.C. 1070a–11 note), relating to the Advanced Placement incentive program.

(3) Part F of the General Education Provisions Act (20 U.S.C. 1235 et seq.), relating to Ready to Learn Television.

(4) The following provisions of the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.):

(A) Parts A and C of title II (20 U.S.C. 5821 et seq., 5871), relating to the National Education Goals Panel.

(B) Title VI (20 U.S.C. 5951), relating to the International Education Program.

(5) The following provisions of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.):

(A) Titles X through XII (20 U.S.C. 8001 et seq.).

(B) Sections 13001 and 13002 (20 U.S.C. 8601, 8602).

(C) Title XIV (20 U.S.C. 8801 et seq.).

(6) The Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.).

SEC. 1012. CONFORMING CLERICAL AND TECHNICAL AMENDMENTS.

The table of contents in section 1(b) of the Goals 2000: Educate America Act (20 U.S.C. 5801 note) is amended by striking the items relating to the following provisions:

(1) Parts A and C of title II (including the items relating to sections within those parts).

(2) Sections 231, 232, 234, and 235.

(3) Titles III through VI (including the items relating to sections within those titles).

PART B—REDESIGNATIONS

SEC. 1021. COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.

(a) IN GENERAL.—Part A of title XIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8621 et seq.) is transferred to and redesignated as part K of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) SECTIONS.—Sections 13101 through 13105 of such part are redesignated as sections 1001 through 1005, respectively.

(c) DEFINED TERMS.—Part K of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as transferred and redesignated by this section) is amended by adding at the end the following new section:

"SEC. 1006. DEFINED TERMS.

''In this part, the definitions of terms defined in section 9101 of the Elementary and Secondary Education Act of 1965 shall apply.''.

SEC. 1022. NATIONAL DIFFUSION NETWORK.

(a) IN GENERAL.—Part B of title XIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8651 et seq.) is transferred to and redesignated as part L of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) SECTIONS.—Sections 13201 and 13102 of such part are redesignated as sections 1011 and 1012, respectively.

(c) DEFINED TERMS.—Part L of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as transferred and redesignated by this section) is amended by adding at the end the following new section:

"SEC. 1013. DEFINED TERMS.

''In this part, the definitions of terms defined in section 9101 of the Elementary and Secondary Education Act of 1965 shall apply.''.

SEC. 1023. EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA.

(a) IN GENERAL.—Part C of title XIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8671 et seq.) is transferred to and redesignated as part M of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) SECTIONS.—Sections 13301 through 13108 of such part are redesignated as sections 1021 through 1028, respectively.

(c) DEFINED TERMS.—Part M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as transferred and redesignated by this section) is amended by adding at the end the following new section:

"SEC. 1029. DEFINED TERMS.

"In this part, the definitions of terms defined in section 9101 of the Elementary and Secondary Education Act of 1965 shall apply.".

SEC. 1024. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.

(a) In General.—Part D of title XIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8701) is transferred to and redesignated as part N of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) Sections.—Section 13401 of such part is redesignated as section 1031.

(c) Defined Terms.—Part N of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as transferred and redesignated by this section) is amended by adding at the end the following new section:

"SEC. 1032. DEFINED TERMS.

"In this part, the definitions of terms defined in section 9101 of the Elementary and Secondary Education Act of 1965 shall apply.".

SEC. 1025. CONFORMING AMENDMENTS.

(a) Parts K Through M.—Parts K through M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as transferred and redesignated by sections 1021 through 1024 of this Act) are amended as follows:

(1) Insert "of such Act" in—

(A) section 1002(a)(1)(A), after "title I"; and

(B) section 1002(a)(1)(B), after "section 1114".

(2) Insert "of the Elementary and Secondary Education Act of 1965 (as such Act was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001)" in—

(A) sections 1001(a)(2)(A) and 1011(e)(1), after "title I";

(B) sections 1002(b)(1) and section 1011(g)(3)(A), after "section 1114"; and

(C) in section 1011(e)(3), after "title III".

(3) In section 1011(a)(1), strike "(hereafter referred to in this Act as 'NDN')".

(4) In subsections (c) and (g)(1) of section 1011 and in section 1027(1)(E), strike "of the Educational Research, Development, Dissemination, and Improvement Act of 1994".

(5) In subsections (a)(2)(A) and (d) of section 1011, strike "part A" and insert "part K".

(6) In sections 1002(a)(4) and 1011(e)(3), strike "part C" and insert "part M".

(7) In section 1002(a), strike "section 13101(a)" and insert "section 1001(a)".

(8) In section 1003(b)(1), strike "section 13102" and insert "section 1002".

(9) In section 1004(b)(1), strike "section 13105" and insert "section 1005".

(10) In sections 1002(a)(7) and 1003(b)(2), strike "section 13201" and insert "section 1011".

(11) In section 1022(2) and (3), strike "section 13301(a)(1)" and insert "section 1021(a)(1)".

(12) In section 1027(4), strike "section 13301" and insert "section 1021".

(13) In subsections (a) and (b) of section 1025, strike "section 13303" and insert "section 1023".

(14) In the text preceding paragraph (1) of section 1022, strike "section 13304" and insert "section 1024".

(15) In section 1021(a)(3), strike "section 13308" and insert "section 1028".

(16) In sections 1003(b)(2) and 1011(f)(4), strike "section 13401" and insert "section 1031".

(17) Strike "this Act" and insert "the Elementary and Secondary Education Act of 1965 (as such Act was in effect on the day before the date of enactment of the No Child Left Behind Act of 2001)" in—

(A) section 1001(a)(1) (the first occurrence only);

(B) paragraphs (1) through (3) of section 1001(c);

(C) paragraphs (1), (2), (6), and (8) of section 1002(a);

(D) section 1011(e); and

(E) section 1031(2).

(18) In paragraphs (1) and (2) of section 1004(b), strike "this Act" and insert "the Elementary and Secondary Education Act of 1965".

(19) In section 1001(a)(1) (the second occurrence only) and in section 1002(a)(1)(C), strike "this Act" and insert "such Act".

(20) Section 1011 is amended—

(A) in subsection (a)(1), by striking "In order to implement the purposes of this title, the" and inserting "The"; and

(B) in subsection (f)(5), by striking "to achieve the purposes of this title".

(21) In section 1022(1), strike ", the Eisenhower National Clearinghouse for Science and Mathematics Education established under section 2102(b)".

(22) In section 1026(a), strike "section 14701" and insert "section 9601".

(b) Title XIII Heading.—The Elementary and Secondary Education Act of 1965 is amended by striking the heading of title XIII.

PART C—HOMELESS EDUCATION

SEC. 1031. SHORT TITLE.

This part may be cited as the "McKinney-Vento Homeless Education Assistance Improvements Act of 2001".

SEC. 1032. EDUCATION FOR HOMELESS CHILDREN AND YOUTHS.

Subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended to read as follows:

"Subtitle B—Education for Homeless Children and Youths

"SEC. 721. STATEMENT OF POLICY.

"The following is the policy of the Congress:

"(1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.

"(2) In any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.

"(3) Homelessness alone is not sufficient reason to separate students from the mainstream school environment.

"(4) Homeless children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

"SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTHS.

"(a) General Authority.—The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d) through (g).

"(b) Application.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c) Allocation and Reservations.—

"(1) Allocation.—(A) Subject to subparagraph (B), the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 that remains after the Secretary reserves funds under paragraph (2) and uses funds to carry out section 724(d) and (h), as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than the greater of—

"(i) $150,000;

"(ii) $\frac{1}{4}$ *of 1 percent of the amount appropriated under section 726 for that year; or*

"(iii) the amount such State received under this section for fiscal year 2001.

"(B) If there are insufficient funds in a fiscal year to allot to each State the minimum amount under subparagraph (A), the Secretary shall ratably reduce the allotments to all States based on the proportionate share that each State received under this subsection for the preceding fiscal year.

"(2) Reservations.—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this subtitle, as determined by the Secretary.

"(B)(i) The Secretary shall transfer 1 percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), that are consistent with the purposes of the programs described in this subtitle.

"(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this subtitle, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in this subtitle. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

"(3) State Defined.—For purposes of this subsection, the term 'State' does not include the United States Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

"(d) Activities.—Grants under this section shall be used for the following:

"(1) To carry out the policies set forth in section 721 in the State.

"(2) To provide activities for, and services to, homeless children, including preschool-aged homeless children, and youths that enable such children and youths to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs.

"(3) To establish or designate an Office of Coordinator for Education of Homeless Children and Youths in the State educational agency in accordance with subsection (f).

"(4) To prepare and carry out the State plan described in subsection (g).

"(5) To develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youths.

"(e) State and Local Subgrants.—

"(1) Minimum Disbursements by States.—From the sums made available each year to carry out this subtitle, the State educational agency shall distribute not less than 75 percent in subgrants to local educational agencies for the purposes of carrying out section 723, except

that States funded at the minimum level set forth in subsection (c)(1) shall distribute not less than 50 percent in subgrants to local educational agencies for the purposes of carrying out section 723.

"(2) USE BY STATE EDUCATIONAL AGENCY.—A State educational agency may use funds made available for State use under this subtitle to conduct activities under subsection (f) directly or through grants or contracts.

"(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth in a separate school, or in a separate program within a school, based on such child's or youth's status as homeless.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), paragraphs (1)(J)(i) and (3) of subsection (g), section 723(a)(2), and any other provision of this subtitle relating to the placement of homeless children or youths in schools, a State that has a separate school for homeless children or youths that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this subtitle for programs carried out in such school if—

"(i) the school meets the requirements of subparagraph (C);

"(ii) any local educational agency serving a school that the homeless children and youths enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E); and

"(iii) the State is otherwise eligible to receive funds under this subtitle.

"(C) SCHOOL REQUIREMENTS.—For the State to be eligible under subparagraph (B) to receive funds under this subtitle, the school described in such subparagraph shall—

"(i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that—

"(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

"(II) sets forth the general rights provided under this subtitle;

"(III) specifically states—

"(aa) the choice of schools homeless children and youths are eligible to attend, as provided in subsection (g)(3)(A);

"(bb) that no homeless child or youth is required to attend a separate school for homeless children or youths;

"(cc) that homeless children and youths shall be provided comparable services described in subsection (g)(4), including transportation services, educational services, and meals through school meals programs; and

"(dd) that homeless children and youths should not be stigmatized by school personnel; and

"(IV) provides contact information for the local liaison for homeless children and youths and the State Coordinator for Education of Homeless Children and Youths;

"(ii)(I) provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent's or guardian's (or youth's) choice of schools, as provided in subsection (g)(3)(A); and

"(II) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;

"(iii) ensure that the parent or guardian (or, in the case of an unaccompanied youth, the youth) shall receive the information required by this subparagraph in a manner and form understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth); and

"(iv) demonstrate in the school's application for funds under this subtitle that such school—

"(I) is complying with clauses (i) and (ii); and

"(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools in the State (such as complying with sections 1111 and 1116 of the Elementary and Secondary Education Act of 1965 and providing a full range of education and related services, including services applicable to students with disabilities).

"(D) SCHOOL INELIGIBILITY.—A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subparagraph (C)(iv)(II) shall not be eligible to receive funds under this subtitle for programs carried out in such school after the first date of such failure.

"(E) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B)(ii) shall—

"(i) implement a coordinated system for ensuring that homeless children and youths—

"(I) are advised of the choice of schools provided in subsection (g)(3)(A);

"(II) are immediately enrolled, in accordance with subsection (g)(3)(C), in the school selected under subsection (g)(3)(A); and

"(III) are promptly provided necessary services described in subsection (g)(4), including transportation, to allow homeless children and youths to exercise their choices of schools under subsection (g)(3)(A);

"(ii) document that written notice has been provided—

"(I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school under subparagraph (B); and

"(II) in accordance with subsection (g)(6)(A)(v);

"(iii) prohibit schools within the agency's jurisdiction from referring homeless children or youths to, or requiring homeless children and youths to enroll in or attend, a separate school described in subparagraph (B);

"(iv) identify and remove any barriers that exist in schools within the agency's jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B); and

"(v) not use funds received under this subtitle to establish—

"(I) new or additional separate schools for homeless children or youths; or

"(II) new or additional sites for separate schools for homeless children or youths, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

"(F) REPORT.—

"(i) PREPARATION.—The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this subtitle in accordance with this paragraph. The report shall contain, at a minimum, information on—

"(I) compliance with all requirements of this paragraph;

"(II) barriers to school access in the school districts served by the local educational agencies; and

"(III) the progress the separate schools are making in integrating homeless children and youths into the mainstream school environment, including the average length of student enrollment in such schools.

"(ii) COMPLIANCE WITH INFORMATION REQUESTS.—For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinator for Education of Homeless Children and Youths established in the State under subsection (d)(3), and shall comply with any requests for information by the Secretary and State Coordinator for such State.

"(iii) SUBMISSION.—Not later than 2 years after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, the Secretary shall submit the report described in clause (i) to—

"(I) the President;

"(II) the Committee on Education and the Workforce of the House of Representatives; and

"(III) the Committee on Health, Education, Labor, and Pensions of the Senate.

"(G) DEFINITION.—For purposes of this paragraph, the term 'covered county' means—

"(i) San Joaquin County, California;

"(ii) Orange County, California;

"(iii) San Diego County, California; and

"(iv) Maricopa County, Arizona.

"(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator for Education of Homeless Children and Youths established in each State shall—

"(1) gather reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youths have in gaining access to public preschool programs and to public elementary schools and secondary schools, the difficulties in identifying the special needs of such children and youths, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the programs under this subtitle in allowing homeless children and youths to enroll in, attend, and succeed in, school;

"(2) develop and carry out the State plan described in subsection (g);

"(3) collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, a report containing such information as the Secretary determines is necessary to assess the educational needs of homeless children and youths within the State;

"(4) facilitate coordination between the State educational agency, the State social services agency, and other agencies (including agencies providing mental health services) to provide services to homeless children, including preschool-aged homeless children, and youths, and to families of such children and youths;

"(5) in order to improve the provision of comprehensive education and related services to homeless children and youths and their families, coordinate and collaborate with—

"(A) educators, including child development and preschool program personnel;

"(B) providers of services to homeless and runaway children and youths and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths);

"(C) local educational agency liaisons designated under subsection (g)(1)(J)(ii) for homeless children and youths; and

"(D) community organizations and groups representing homeless children and youths and their families; and

"(6) provide technical assistance to local educational agencies in coordination with

local educational agency liaisons designated under subsection (g)(1)(J)(ii), to ensure that local educational agencies comply with the requirements of section 722(e)(3) and paragraphs (3) through (7) of subsection (g).

"(g) STATE PLAN.—

"(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following:

"(A) A description of how such children and youths are (or will be) given the opportunity to meet the same challenging State academic achievement standards all students are expected to meet.

"(B) A description of the procedures the State educational agency will use to identify such children and youths in the State and to assess their special needs.

"(C) A description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths.

"(D) A description of programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of runaway and homeless youths.

"(E) A description of procedures that ensure that homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.

"(F) A description of procedures that ensure that—

"(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children in the State;

"(ii) homeless youths and youths separated from the public schools are identified and accorded equal access to appropriate secondary education and support services; and

"(iii) homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs.

"(G) Strategies to address problems identified in the report provided to the Secretary under subsection (f)(3).

"(H) Strategies to address other problems with respect to the education of homeless children and youths, including problems resulting from enrollment delays that are caused by—

"(i) immunization and medical records requirements;

"(ii) residency requirements;

"(iii) lack of birth certificates, school records, or other documentation;

"(iv) guardianship issues; or

"(v) uniform or dress code requirements.

"(I) A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youths in schools in the State.

"(J) Assurances that—

"(i) the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of their status as homeless;

"(ii) local educational agencies will designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youths, to carry out the duties described in paragraph (6)(A); and

"(iii) the State and its local educational agencies will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

"(I) If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

"(II) If the homeless child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

"(2) COMPLIANCE.—

"(A) IN GENERAL.—Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

"(B) COORDINATION.—Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local educational agency liaisons designated under paragraph (1)(J)(ii).

"(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—

"(A) IN GENERAL.—The local educational agency serving each child or youth to be assisted under this subtitle shall, according to the child's or youth's best interest—

"(i) continue the child's or youth's education in the school of origin for the duration of homelessness—

"(I) in any case in which a family becomes homeless between academic years or during an academic year; or

"(II) for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or

"(ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

"(B) BEST INTEREST.—In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

"(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

"(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the homeless child's or youth's parent or guardian, if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

"(iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).

"(C) ENROLLMENT.—(i) The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

"(ii) The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

"(iii) If the child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations, or immunization or medical records, in accordance with subparagraph (D).

"(D) RECORDS.—Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, regarding each homeless child or youth shall be maintained—

"(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

"(ii) in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

"(E) ENROLLMENT DISPUTES.—If a dispute arises over school selection or enrollment in a school—

"(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;

"(ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

"(iii) the child, youth, parent, or guardian shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and

"(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

"(F) PLACEMENT CHOICE.—The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

"(G) SCHOOL OF ORIGIN DEFINED.—In this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

"(H) CONTACT INFORMATION.—Nothing in this subtitle shall prohibit a local educational agency from requiring a parent or guardian of a homeless child to submit contact information.

"(4) COMPARABLE SERVICES.—Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including the following:

"(A) Transportation services.

"(B) Educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency.

"(C) Programs in vocational and technical education.

‘‘(D) Programs for gifted and talented students.

‘‘(E) School nutrition programs.

‘‘(5) COORDINATION.—

‘‘(A) IN GENERAL.—Each local educational agency serving homeless children and youths that receives assistance under this subtitle shall coordinate—

‘‘(i) the provision of services under this subtitle with local social services agencies and other agencies or programs providing services to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and

‘‘(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

‘‘(B) HOUSING ASSISTANCE.—If applicable, each State educational agency and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youths who become homeless.

‘‘(C) COORDINATION PURPOSE.—The coordination required under subparagraphs (A) and (B) shall be designed to—

‘‘(i) ensure that homeless children and youths have access and reasonable proximity to available education and related support services; and

‘‘(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

‘‘(6) LOCAL EDUCATIONAL AGENCY LIAISON.—

‘‘(A) DUTIES.—Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that—

‘‘(i) homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;

‘‘(ii) homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency;

‘‘(iii) homeless families, children, and youths receive educational services for which such families, children, and youths are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

‘‘(iv) the parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

‘‘(v) public notice of the educational rights of homeless children and youths is disseminated where such children and youths receive services under this Act, such as schools, family shelters, and soup kitchens;

‘‘(vi) enrollment disputes are mediated in accordance with paragraph (3)(E); and

‘‘(vii) the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, as described in paragraph (1)(J)(iii), and is assisted in accessing transportation to the school that is selected under paragraph (3)(A).

‘‘(B) NOTICE.—State coordinators established under subsection (d)(3) and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the local educational agency liaisons.

‘‘(C) LOCAL AND STATE COORDINATION.—Local educational agency liaisons for homeless children and youths shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youths.

‘‘(7) REVIEW AND REVISIONS.—

‘‘(A) IN GENERAL.—Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the enrollment of homeless children and youths in schools that are selected under paragraph (3).

‘‘(B) CONSIDERATION.—In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

‘‘(C) SPECIAL ATTENTION.—Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school.

“SEC. 723. LOCAL EDUCATIONAL AGENCY SUBGRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTHS.

‘‘(a) GENERAL AUTHORITY.—

‘‘(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e), and from amounts made available to such agency under section 726, make subgrants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youths.

‘‘(2) SERVICES.—

‘‘(A) IN GENERAL.—Services under paragraph (1)—

‘‘(i) may be provided through programs on school grounds or at other facilities;

‘‘(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youths with nonhomeless children and youths; and

‘‘(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

‘‘(B) SERVICES ON SCHOOL GROUNDS.—If services under paragraph (1) are provided on school grounds, schools—

‘‘(i) may use funds under this subtitle to provide the same services to other children and youths who are determined by the local educational agency to be at risk of failing in, or dropping out of, school, subject to the requirements of clause (ii); and

‘‘(ii) except as otherwise provided in section 722(e)(3)(B), shall not provide services in settings within a school that segregate homeless children and youths from other children and youths, except as necessary for short periods of time—

‘‘(I) for health and safety emergencies; or

‘‘(II) to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youths.

‘‘(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

‘‘(b) APPLICATION.—A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Such application shall include the following:

‘‘(1) An assessment of the educational and related needs of homeless children and youths in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups).

‘‘(2) A description of the services and programs for which assistance is sought to address the needs identified in paragraph (1).

‘‘(3) An assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

‘‘(4) An assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 722(g).

‘‘(5) A description of policies and procedures, consistent with section 722(e)(3), that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youths.

‘‘(c) AWARDS.—

‘‘(1) IN GENERAL.—The State educational agency shall, in accordance with the requirements of this subtitle and from amounts made available to it under section 726, make competitive subgrants to local educational agencies that submit applications under subsection (b). Such subgrants shall be awarded on the basis of the need of such agencies for assistance under this subtitle and the quality of the applications submitted.

‘‘(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youths enrolled in preschool, elementary, and secondary schools within the area served by the local educational agency, and shall consider the needs of such children and youths and the ability of the local educational agency to meet such needs. The State educational agency may also consider the following:

‘‘(A) The extent to which the proposed use of funds will facilitate the enrollment, retention, and educational success of homeless children and youths.

‘‘(B) The extent to which the application—

‘‘(i) reflects coordination with other local and State agencies that serve homeless children and youths; and

‘‘(ii) describes how the applicant will meet the requirements of section 722(g)(3).

‘‘(C) The extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youths.

‘‘(D) Such other criteria as the State agency determines appropriate.

‘‘(3) QUALITY.—In determining the quality of applications under paragraph (1), the State educational agency shall consider the following:

‘‘(A) The applicant's needs assessment under subsection (b)(1) and the likelihood that the program presented in the application will meet such needs.

‘‘(B) The types, intensity, and coordination of the services to be provided under the program.

‘‘(C) The involvement of parents or guardians of homeless children or youths in the education of their children.

‘‘(D) The extent to which homeless children and youths will be integrated within the regular education program.

‘‘(E) The quality of the applicant's evaluation plan for the program.

‘‘(F) The extent to which services provided under this subtitle will be coordinated with other services available to homeless children and youths and their families.

‘‘(G) Such other measures as the State educational agency considers indicative of a high-

quality program, such as the extent to which the local educational agency will provide case management or related services to unaccompanied youths.

''(4) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed 3 years.

''(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities that carry out the purpose of this subtitle, including the following:

''(1) The provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youths.

''(2) The provision of expedited evaluations of the strengths and needs of homeless children and youths, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational and technical education, and school nutrition programs).

''(3) Professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youths, the rights of such children and youths under this subtitle, and the specific educational needs of runaway and homeless youths.

''(4) The provision of referral services to homeless children and youths for medical, dental, mental, and other health services.

''(5) The provision of assistance to defray the excess cost of transportation for students under section 722(g)(4)(A), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3).

''(6) The provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged homeless children.

''(7) The provision of services and assistance to attract, engage, and retain homeless children and youths, and unaccompanied youths, in public school programs and services provided to nonhomeless children and youths.

''(8) The provision for homeless children and youths of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.

''(9) If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services.

''(10) The provision of education and training to the parents of homeless children and youths about the rights of, and resources available to, such children and youths.

''(11) The development of coordination between schools and agencies providing services to homeless children and youths, as described in section 722(g)(5).

''(12) The provision of pupil services (including violence prevention counseling) and referrals for such services.

''(13) Activities to address the particular needs of homeless children and youths that may arise from domestic violence.

''(14) The adaptation of space and purchase of supplies for any nonschool facilities made available under subsection (a)(2) to provide services under this subsection.

''(15) The provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations.

''(16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.

"SEC. 724. SECRETARIAL RESPONSIBILITIES.

''(a) REVIEW OF STATE PLANS.—In reviewing the State plan submitted by a State educational agency under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plan adequately address the problems of homeless children and youths relating to access to education and placement as described in such plan.

''(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to a State educational agency to assist such agency in carrying out its responsibilities under this subtitle, if requested by the State educational agency.

''(c) NOTICE.—The Secretary shall, before the next school year that begins after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, create and disseminate nationwide a public notice of the educational rights of homeless children and youths and disseminate such notice to other Federal agencies, programs, and grantees, including Head Start grantees, Health Care for the Homeless grantees, Emergency Food and Shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development.

''(d) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

''(e) SUBMISSION AND DISTRIBUTION.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

''(f) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (h), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education, as described in section 721(1).

''(g) GUIDELINES.—The Secretary shall develop, issue, and publish in the Federal Register, not later than 60 days after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, school enrollment guidelines for States with respect to homeless children and youths. The guidelines shall describe—

''(1) successful ways in which a State may assist local educational agencies to immediately enroll homeless children and youths in school; and

''(2) how a State can review the State's requirements regarding immunization and medical or school records and make such revisions to the requirements as are appropriate and necessary in order to enroll homeless children and youths in school immediately.

''(h) INFORMATION.—

''(1) IN GENERAL.—From funds appropriated under section 726, the Secretary shall, directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding—

''(A) the number and location of homeless children and youths;

''(B) the education and related services such children and youths receive;

''(C) the extent to which the needs of homeless children and youths are being met; and

''(D) such other data and information as the Secretary determines to be necessary and relevant to carry out this subtitle.

''(2) COORDINATION.—The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this subtitle.

''(i) REPORT.—Not later than 4 years after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, the Secretary shall prepare and submit to the President and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the status of education of homeless children and youths, which shall include information on—

''(1) the education of homeless children and youths; and

''(2) the actions of the Secretary and the effectiveness of the programs supported under this subtitle.

"SEC. 725. DEFINITIONS.

''For purposes of this subtitle:

''(1) The terms 'enroll' and 'enrollment' include attending classes and participating fully in school activities.

''(2) The term 'homeless children and youths'—

''(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and

''(B) includes—

''(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

''(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));

''(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

''(iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

''(3) The terms 'local educational agency' and 'State educational agency' have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965.

''(4) The term 'Secretary' means the Secretary of Education.

''(5) The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(6) The term 'unaccompanied youth' includes a youth not in the physical custody of a parent or guardian.

"SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subtitle, there are authorized to be appropriated $70,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2007.''.

SEC. 1033. CONFORMING AMENDMENT.

The table of contents of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 note) is amended so that the items relating to subtitle B of title VII read as follows:

"Subtitle B—Education for Homeless Children and Youths

"Sec. 721. Statement of policy.
"Sec. 722. Grants for State and local activities for the education of homeless children and youths.
"Sec. 723. Local educational agency subgrants for the education of homeless children and youths.
"Sec. 724. Secretarial responsibilities.
"Sec. 725. Definitions.
"Sec. 726. Authorization of appropriations.".

SEC. 1034. TECHNICAL AMENDMENT.

(a) IN GENERAL.—Section 1 of Public Law 106–400 (42 U.S.C. 11301) is amended by striking "Section 1 of" and inserting "Section 101 of".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to be effective on the date of enactment of Public Law 106–400.

PART D—NATIVE AMERICAN EDUCATION IMPROVEMENT

SEC. 1041. SHORT TITLE.

This part may be cited as the "Native American Education Improvement Act of 2001".

SEC. 1042. AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978.

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

"SEC. 1120. DECLARATION OF POLICY.

"Congress declares that the Federal Government has the sole responsibility for the operation and financial support of the Bureau of Indian Affairs funded school system that it has established on or near Indian reservations and Indian trust lands throughout the Nation for Indian children. It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children and for the operation and financial support of the Bureau of Indian Affairs-funded school system to work in full cooperation with tribes toward the goal of ensuring that the programs of the Bureau of Indian Affairs-funded school system are of the highest quality and provide for the basic elementary and secondary educational needs of Indian children, including meeting the unique educational and cultural needs of those children.

"SEC. 1121. ACCREDITATION FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

"(a) PURPOSE; DECLARATIONS OF PURPOSE.—

"(1) PURPOSE.—The purpose of the accreditation required under this section shall be to ensure that Indian students being served by a school funded by the Bureau of Indian Affairs are provided with educational opportunities that equal or exceed those for all other students in the United States.

"(2) DECLARATIONS OF PURPOSE.—Local school boards for schools operated by the Bureau of Indian Affairs, in cooperation and consultation with the appropriate tribal governing bodies and their communities, are encouraged to adopt declarations of purpose for education for their communities, taking into account the implications of such declarations on education in their communities and for their schools. In adopting such declarations of purpose, the school boards shall consider the effect the declarations may have on the motivation of students and faculties.

"(b) ACCREDITATION.—

"(1) DEADLINE.—

"(A) IN GENERAL.—Not later than 24 months after the date of enactment of the Native American Education Improvement Act of 2001, each Bureau-funded school shall, to the extent that necessary funds are provided, be a candidate for accreditation or be accredited—

"(i) by a tribal accrediting body, if the accreditation standards of the tribal accrediting body have been accepted by formal action of the tribal governing body and such accreditation is acknowledged by a generally recognized State certification or regional accrediting agency;

"(ii) by a regional accreditation agency;

"(iii) by State accreditation standards for the State in which the Bureau-funded school is located; or

"(iv) in the case of a Bureau-funded school that is located on a reservation that is located in more than 1 State, in accordance with the State accreditation standards of 1 State as selected by the tribal government.

"(B) FEASIBILITY STUDY.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary of the Interior and the Secretary of Education shall, in consultation with Indian tribes, Indian education organizations, and accrediting agencies, develop and submit to the appropriate committees of Congress a report on the desirability and feasibility of establishing a tribal accreditation agency that would—

"(i) review and acknowledge the accreditation standards for Bureau-funded schools; and

"(ii) establish accreditation procedures to facilitate the application, review of the standards and review processes, and recognition of qualified and credible tribal departments of education as accrediting bodies serving tribal schools.

"(2) DETERMINATION OF ACCREDIFATION TO BE APPLIED.—The accreditation type applied for each school shall be determined by the tribal governing body, or the school board, if authorized by the tribal governing body.

"(3) ASSISTANCE TO SCHOOL BOARDS.—

"(A) IN GENERAL.—The Secretary, through contracts and grants, shall provide technical and financial assistance to Bureau-funded schools, to the extent that necessary amounts are made available, to enable such schools to obtain the accreditation required under this subsection, if the school boards request that such assistance, in part or in whole, be provided.

"(B) ENTITIES THROUGH WHICH ASSISTANCE MAY BE PROVIDED.—The Secretary may provide such assistance directly or through the Department of Education, an institution of higher education, a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with demonstrated experience in assisting schools in obtaining accreditation.

"(4) APPLICATION OF CURRENT STANDARDS DURING ACCREDITATION.—A Bureau-funded school that is seeking accreditation shall remain subject to the standards issued under section 1121 of the Education Amendments of 1978 and in effect on the day before the date of enactment of the Native American Education Improvement Act of 2001 until such time as the school is accredited, except that if any of such standards are in conflict with the standards of the accrediting agency, the standards of such agency shall apply in such case.

"(5) ANNUAL REPORT ON UNACCREDITED SCHOOLS.—Not later than 90 days after the end of each school year, the Secretary shall prepare and submit to the Committee on Appropriations, the Committee on Education and the Workforce, and the Committee on Resources of the House of Representatives and the Committee on Appropriations, the Committee on Indian Affairs, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning unaccredited Bureau-funded schools that—

"(A) identifies those Bureau-funded schools that fail to be accredited or to be candidates for accreditation within the period provided for in paragraph (1);

"(B) with respect to each Bureau-funded school identified under subparagraph (A), identifies the reasons that each such school is not accredited or a candidate for accreditation, as determined by the appropriate accreditation agency, and a description of any possible way in which to remedy such nonaccreditation; and

"(C) with respect to each Bureau-funded school for which the reported reasons for the lack of accreditation under subparagraph (B) are a result of the school's inadequate basic resources, contains information and funding requests for the full funding needed to provide such schools with accreditation, such funds if provided shall be applied to such unaccredited school under this paragraph.

"(6) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—

"(A) IN GENERAL.—Prior to including a Bureau-funded school in an annual report required under paragraph (5), the Secretary shall—

"(i) ensure that the school has exhausted all administrative remedies provided by the accreditation agency; and

"(ii) provide the school with an opportunity to review the data on which such inclusion is based.

"(B) PROVISION OF ADDITIONAL INFORMATION.—If the school board of a school that the Secretary has proposed for inclusion in an annual report under paragraph (5) believes that such inclusion is in error, the school board may provide to the Secretary such information as the board believes is in conflict with the information and conclusions of the Secretary with respect to the determination to include the school in such annual report. The Secretary shall consider such information provided by the school board before making a final determination concerning the inclusion of the school in any such report.

"(C) PUBLICATION OF ACCREDITATION STATUS.—Not later than 30 days after making an initial determination to include a school in an annual report under paragraph (5), the Secretary shall make public the final determination on the accreditation status of the school.

"(7) SCHOOL PLAN.—

"(A) IN GENERAL.—Not later than 120 days after the date on which a school is included in an annual report under paragraph (5), the school shall develop a school plan, in consultation with interested parties including parents, school staff, the school board, and other outside experts (if appropriate), that shall be submitted to the Secretary for approval. The school plan shall cover a 3-year period and shall—

"(i) incorporate strategies that address the specific issues that caused the school to fail to be accredited or fail to be a candidate for accreditation;

"(ii) incorporate policies and practices concerning the school that have the greatest likelihood of ensuring that the school will obtain accreditation during the 3-year period beginning on the date on which the plan is implemented;

"(iii) contain an assurance that the school will reserve the necessary funds, from the funds described in paragraph (3), for each fiscal year for the purpose of obtaining accreditation;

"(iv) specify how the funds described in clause (iii) will be used to obtain accreditation;

"(v) establish specific annual, objective goals for measuring continuous and significant progress made by the school in a manner that will ensure the accreditation of the school within the 3-year period described in clause (ii);

"(vi) identify how the school will provide written notification about the lack of accreditation to the parents of each student enrolled in such school, in a format and, to the extent practicable, in a language the parents can understand; and

"(vii) specify the responsibilities of the school board and any assistance to be provided by the Secretary under paragraph (3).

"(B) IMPLEMENTATION.—A school shall implement the school plan under subparagraph (A) expeditiously, but in no event later than the beginning of the school year following the school year in which the school was included in the annual report under paragraph (5) so long as the necessary resources have been provided to the school.

"(C) REVIEW OF PLAN.—Not later than 45 days after receiving a school plan, the Secretary shall—

"(i) establish a peer-review process to assist with the review of the plan; and

"(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

"(8) CORRECTIVE ACTION.—

"(A) DEFINITION.—In this subsection, the term 'corrective action' means any action that—

"(i) substantially and directly responds to—

"(I) the failure of a school to achieve accreditation; and

"(II) any underlying staffing, curriculum, or other programmatic problem in the school that contributed to the lack of accreditation; and

"(ii) is designed to increase substantially the likelihood that the school will be accredited.

"(B) WAIVER.—The Secretary shall grant a waiver which shall exempt a school from any or all of the requirements of this paragraph and paragraph (7) (though such school shall be required to comply with the standards contained in part 36 of title 25, Code of Federal Register, as in effect on the date of enactment of the Native American Education Improvement Act of 2001) if the school—

"(i) is identified in the report described in paragraph (5)(C); and

"(ii) fails to be accredited for reasons that are beyond the control of the school board, as determined by the Secretary, including, but not limited to—

"(I) a significant decline in financial resources;

"(II) the poor condition of facilities, vehicles, or other property; and

"(III) a natural disaster.

"(C) DUTIES OF SECRETARY.—After providing assistance to a school under paragraph (3), the Secretary shall—

"(i) annually review the progress of the school under the applicable school plan to determine whether the school is meeting, or making adequate progress towards, achieving the goals described in paragraph (7)(A)(v) with respect to reaccreditation or becoming a candidate for accreditation;

"(ii) except as provided in subparagraph (B), continue to provide assistance while implementing the school's plan, and, if determined appropriate by the Secretary, take corrective action with respect to the school if it fails to be accredited at the end of the third full year immediately following the date that the school's plan was first in effect under paragraph (7);

"(iii) provide all students enrolled in a school that is eligible for a corrective action determination by the Secretary under clause (ii) with the option to transfer to another public or Bureau-funded school, including a public charter school, that is accredited;

"(iv) promptly notify the parents of children enrolled in a school that is eligible for a corrective action determination by the Secretary under clause (ii) of the option to transfer their child to another public or Bureau-funded school; and

"(v) provide, or pay for the provision of, transportation for each student described in clause (iii) to the school described in clause (iii) to which the student elects to be transferred to the extent funds are available, as determined by the tribal governing body.

"(D) FAILURE OF SCHOOL PLAN OF BUREAU-OPERATED SCHOOL.—With respect to a Bureau-operated school that fails to be accredited at the end of the third full year immediately following the date that the school's plan was first in effect under paragraph (7), the Secretary may take 1 or more of the following corrective actions:

"(i) Institute and fully implement actions suggested by the accrediting agency.

"(ii) Consult with the tribe involved to determine the causes for the lack of accreditation including potential staffing and administrative changes that are or may be necessary.

"(iii) Set aside a certain amount of funds that may only be used by the school to obtain accreditation.

"(iv)(I) Provide the tribe with a 60-day period during which to determine whether the tribe desires to operate the school as a contract or grant school before meeting the accreditation requirements in section 5207(c) of the Tribally Controlled Schools Act of 1988 at the beginning of the next school year following the determination to take corrective action. If the tribe agrees to operate the school as a contract or grant school, the tribe shall prepare a plan, pursuant to paragraph (7), for approval by the Secretary in accordance with paragraph (7), to achieve accreditation.

"(II) If the tribe declines to assume control of the school, the Secretary, in consultation with the tribe, may contract with an outside entity, consistent with applicable law, or appoint a receiver or trustee to operate and administer the affairs of the school until the school is accredited. The outside entity, receiver, or trustee shall prepare a plan, pursuant to paragraph (7), for approval by the Secretary in accordance with paragraph (7).

"(III) Upon accreditation of the school, the Secretary shall allow the tribe to continue to operate the school as a grant or contract school, or if the school is being controlled by an outside entity, provide the tribe with the option to assume operation of the school as a contract school, in accordance with the Indian Self-Determination Act, or as a grant school in accordance with the Tribally Controlled Schools Act of 1988, at the beginning of the school year following the school year in which the school obtains accreditation. If the tribe declines, the Secretary may allow the outside entity, receiver, or trustee to continue the operation of the school or reassume control of the school.

"(E) FAILURE OF SCHOOL PLAN OF CONTRACT OR GRANT SCHOOL.—

"(i) CORRECTIVE ACTION.—With respect to a contract or grant school that fails to be accredited at the end of the third full year immediately following the date that the school's plan was first in effect under paragraph (7), the Secretary may take 1 or more of the corrective actions described in subparagraph (D)(i) and (D)(ii). The Secretary shall implement such corrective action for at least 1 year prior to taking any action described under clause (ii).

"(ii) OUTSIDE ENTITY.—If the corrective action described in clause (i) does not result in accreditation of the school, the Secretary, in conjunction with the tribal governing body, may contract with an outside entity to operate the school in order to achieve accreditation of the school within 2 school years. Prior to entering into such a contract, the Secretary shall develop a proposal for such operation which shall include, at a minimum, the following elements:

"(I) The identification of 1 or more outside entities each of which has demonstrated to the Secretary its ability to develop a satisfactory plan for achieving accreditation and its willingness and availability to undertake such a plan.

"(II) A plan for implementing operation of the school by such an outside entity, including the methodology for oversight and evaluation of the performance of the outside entity by the Secretary and the tribe.

"(iii) PROPOSAL AMENDMENTS.—The tribal governing body shall have 60 days to amend the plan developed pursuant to clause (ii), including identifying another outside entity to operate the school. The Secretary shall reach agreement with the tribal governing body on the proposal and any such amendments to the plan not later than 30 days after the expiration of the 60 day period described in the preceding sentence. After the approval of the proposal and any amendments, the Secretary, with continuing consultation with such tribal governing body, shall implement the proposal.

"(iv) ACCREDITATION.—Upon accreditation of the school, the tribe shall have the option to assume the operation and administration of the school as a contract school after complying with the Indian Self-Determination Act, or as a grant school, after complying with the Tribally Controlled Schools Act of 1988, at the beginning of the school year following the year in which the school obtains accreditation.

"(v) RETROCEDE.—Nothing in this subparagraph shall limit a tribe's right to retrocede operation of a school to the Secretary pursuant to section 105(e) of the Indian Self-Determination Act (with respect to a contract school) or section 5204(f) of the Tribally Controlled Schools Act of 1988 (with respect to a grant school).

"(vi) CONSISTENT.—The provisions of this subparagraph shall be construed to be consistent with the provisions of the Tribally Controlled Schools Act of 1988 and the Indian Self-Determination Act as in effect on the day before the date of enactment of the Native American Education Improvement Act of 2001, and shall not be construed as expanding the authority of the Secretary under any other law.

"(F) HEARING.—With respect to a school that is operated pursuant to a grant, or a school that is operated under a contract under the Indian Self-Determination Act, prior to implementing any corrective action under this paragraph, the Secretary shall provide notice and an opportunity for a hearing to the affected school pursuant to section 5207 of the Tribally Controlled Schools Act of 1988.

"(9) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to school employees under applicable law (including applicable regulations or court orders) or under the terms of any collective bargaining agreement, memorandum of understanding, or other agreement between such employees and their employers.

"(10) FISCAL CONTROL AND FUND ACCOUNTING STANDARDS.—The Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract and grant schools. Such standards shall provide data comparable to those used by Bureau-operated schools.

"(c) ANNUAL PLAN.—

"(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall implement the standards in effect under this section on the day before the date of enactment of the Native American Education Improvement Act of 2001.

"(2) PLAN.—On an annual basis, the Secretary shall submit to the appropriate committees of Congress, all Bureau-funded schools, and the tribal governing bodies of such schools

a detailed plan to ensure that all Bureau-funded schools are accredited, or if such schools are in the process of obtaining accreditation that such schools meet the Bureau standards in effect on the day before the date of enactment of the Native American Education Improvement Act of 2001 to the extent that such standards do not conflict with the standards of the accrediting agency. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school up to the level required by such standards.

"(d) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

"(1) IN GENERAL.—Except as specifically required by law—

"(A) no Bureau-funded school or dormitory operated on or after January 1, 1992, may be closed, consolidated, or transferred to another authority; and

"(B) no program of such a school may be substantially curtailed except in accordance with the requirements of this subsection.

"(2) EXCEPTIONS.—This subsection (other than this paragraph) shall not apply—

"(A) in those cases in which the tribal governing body for a school, or the local school board concerned (if designated by the tribal governing body to act under this paragraph), requests the closure, consolidation, or substantial curtailment; or

"(B) if a temporary closure, consolidation, or substantial curtailment is required by facility conditions that constitute an immediate hazard to health and safety.

"(3) REGULATIONS.—The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of Bureau schools, in accordance with the requirements of this subsection.

"(4) NOTICE.—

"(A) IN GENERAL.—In a case in which closure, transfer to another authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board will be notified immediately in writing, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review.

"(B) DECISION TO CLOSE.—If a formal decision is made to close, transfer to another authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated school board shall be notified not later than 180 days before the end of the school year preceding the proposed closure date.

"(C) COPIES.—Copies of any such notices and information shall be—

"(i) submitted promptly to the appropriate committees of Congress; and

"(ii) published in the Federal Register.

"(5) REPORT.—The Secretary shall submit to the appropriate committees of Congress, the affected tribe, and the designated school board, a report describing the process of the active consideration or review referred to in paragraph (4) that includes—

"(A) a study of the impact of such action on the student population;

"(B) a description of those students with particular educational and social needs;

"(C) recommendations to ensure that alternative services are available to such students; and

"(D) a description of the consultation conducted between the potential service provider, current service provider, parents, tribal representatives and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students.

"(6) LIMITATION ON CERTAIN ACTIONS.—No irrevocable action may be taken in furtherance of any such proposed school closure, transfer to another authority, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) prior to the end of the first full academic year after such report is made.

"(7) TRIBAL GOVERNING BODY APPROVAL REQUIRED' FOR CERTAIN ACTIONS.—The Secretary may, with the approval of the tribal governing body, terminate, contract, transfer to any other authority, consolidate, or substantially curtail the operation or facilities of—

"(A) any Bureau-funded school that is operated on or after of January 1, 1999;

"(B) any program of such a school that is operated on or after January 1, 1999; or

"(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988.

"(e) APPLICATION FOR CONTRACTS OR GRANTS FOR NON-BUREAU-FUNDED SCHOOLS OR EXPANSION OF BUREAU-FUNDED SCHOOLS.—

"(1) REVIEW BY SECRETARY.—

"(A) CONSIDERATION OF FACTORS.—

"(i) IN GENERAL.—The Secretary shall consider only the factors described in subparagraph (B) in reviewing—

"(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau-funded school; and

"(II) applications from any tribe or school board of any Bureau-funded school for—

"(aa) a school which is not a Bureau-funded school; or

"(bb) the expansion of a Bureau-funded school which would increase the amount of funds received by the Indian tribe or school board under section 1127.

"(ii) NO DENIAL BASED ON GEOGRAPHIC PROXIMITY.—With respect to applications described in this subparagraph, the Secretary shall give consideration to all factors described in subparagraph (B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

"(B) FACTORS.—With respect to applications described in subparagraph (A), the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

"(i) The adequacy of the facilities or the potential to obtain or provide adequate facilities.

"(ii) Geographic and demographic factors in the affected areas.

"(iii) The adequacy of the applicant's program plans or, in the case of a Bureau-funded school, of projected needs analysis done either by the tribe or the Bureau.

"(iv) Geographic proximity of comparable public education.

"(v) The stated needs of all affected parties, including students, families, tribal governments at both the central and local levels, and school organizations.

"(vi) Adequacy and comparability of programs already available.

"(vii) Consistency of available programs with tribal educational codes or tribal legislation on education.

"(viii) The history and success of those services for the proposed population to be served, as determined from all factors, including standardized examination performance.

"(2) DETERMINATION ON APPLICATION.—

"(A) IN GENERAL.—Not later than 180 days after the date on which an application described in paragraph (1)(A) is submitted to the Secretary, the Secretary shall make a determination of whether to approve the application.

"(B) FAILURE TO MAKE DETERMINATION.—If the Secretary fails to make a determination with respect to an application by the date described in subparagraph (A), the application shall be deemed to have been approved by the Secretary.

"(3) REQUIREMENTS FOR APPLICATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (2)(B), an application described in paragraph (1)(A) may be approved by the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application; and

"(ii) written evidence of such approval is submitted with the application.

"(B) INCLUDED INFORMATION.—Each application described in paragraph (1)(A) shall include information concerning each of the factors described in paragraph (1)(B).

"(4) DENIAL OF APPLICATIONS.—If the Secretary denies an application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections to the application in writing to the applicant not later than 180 days after the date the application is submitted to the Secretary;

"(B) provide assistance to the applicant to overcome the stated objections;

"(C) provide to the applicant a hearing on the record regarding the denial, under the same rules and regulations as apply under the Indian Self-Determination and Education Assistance Act; and

"(D) provide to the applicant a notice of the applicant's appeals rights and an opportunity to appeal the decision resulting from the hearing under subparagraph (D).

"(5) EFFECTIVE DATE OF A SUBJECT APPLICATION.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, an action that is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective—

"(i) at the beginning of the academic year following the fiscal year in which the application is approved; or

"(ii) at an earlier date determined by the Secretary.

"(B) APPLICATIONS DEEMED APPROVED.—If an application is deemed to have been approved by the Secretary under paragraph (2)(B), the action that is the subject of the application shall become effective—

"(i) on the date that is 18 months after the date on which the application is submitted to the Secretary; or

"(ii) at an earlier date determined by the Secretary.

"(6) STATUTORY CONSTRUCTION.—Nothing in this section or any other provision of law, shall be construed to preclude the expansion of grades and related facilities at a Bureau-funded school, if such expansion is paid for with non-Bureau funds. Subject to the availability of appropriated funds the Secretary is authorized to provide the necessary funds needed to supplement the cost of operations and maintenance of such expansion.

"(f) JOINT ADMINISTRATION.—Administrative, transportation, and program cost funds received by Bureau-funded schools, and any program from the Department of Education or any other Federal agency for the purpose of providing education or related services, and other funds received for such education and related services from nonfederally funded programs, shall be apportioned and the funds shall be retained at the school.

"(g) GENERAL USE OF FUNDS.—Funds received by Bureau-funded schools from the Bureau of Indian Affairs, and under any program from the Department of Education or any other Federal

agency, for the purpose of providing education or related services may be used for schoolwide projects to improve the educational program for all Indian students.

"(h) STUDY ON ADEQUACY OF FUNDS AND FORMULAS.—

"(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau-funded schools, taking into account unique circumstances applicable to Bureau-funded schools. The study shall analyze existing information gathered and contained in germane studies that have been conducted or are currently being conducted with regard to Bureau-funded schools.

"(2) ACTION.—Upon completion of the study, the Secretary of the Interior shall take such action as necessary to ensure distribution of the findings of the study to all affected Indian tribes, local school boards, and associations of local school boards.

"SEC. 1122. NATIONAL CRITERIA FOR HOME-LIVING SITUATIONS.

"(a) REVISION OF STANDARDS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Education, Indian organizations and tribes, and Bureau-funded schools, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, needs for counselors (including special needs related to off-reservation home-living (dormitory) situations), therapeutic programs, space, and privacy.

"(2) IMPLEMENTATION.—Such standards shall be implemented in Bureau-operated schools, and shall serve as minimum standards for contract or grant schools.

"(3) REVISION AFTER ESTABLISHMENT.—Once established, any revisions of such standards shall be developed according to the requirements established under section 1137.

"(b) IMPLEMENTATION.—The Secretary shall implement the revised standards established under this section immediately upon completion of the standards.

"(c) PLAN.—

"(1) IN GENERAL.—The Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Federal Register, a detailed plan to bring all Bureau-funded schools that provide home-living (dormitory) situations up to the standards established under this section.

"(2) COMPONENTS OF PLAN.—The plan described in paragraph (1) shall include—

"(A) a statement of the relative needs of each Bureau-funded home-living (dormitory) school;

"(B) projected future needs of each Bureau-funded home-living (dormitory) school;

"(C) detailed information on the status of each school in relation to the standards established under this section;

"(D) specific cost estimates for meeting each standard for each such school;

"(E) aggregate cost estimates for bringing all such schools into compliance with the criteria established under this section; and

"(F) specific timelines for bringing each school into compliance with such standards.

"(d) WAIVER.—

"(1) IN GENERAL.—A tribal governing body or local school board may, in accordance with this subsection, waive the standards established under this section for a school described in subsection (a).

"(2) INAPPROPRIATE STANDARDS.—

"(A) IN GENERAL.—A tribal governing body, or the local school board so designated by the tribal governing body, may waive, in whole or in part, the standards established under this section if such standards are determined by such body or board to be inappropriate for the needs of students from that tribe.

"(B) ALTERNATIVE STANDARDS.—The tribal governing body or school board involved shall, not later than 60 days after providing a waiver under subparagraph (A) for a school, submit to the Director a proposal for alternative standards that take into account the specific needs of the tribe's children. Such alternative standards shall be established by the Director for the school involved unless specifically rejected by the Director for good cause and in writing provided to the affected tribes or local school board.

"(e) CLOSURE FOR FAILURE TO MEET STANDARDS PROHIBITED.—No school in operation on or before July 1, 1999 (regardless of compliance or noncompliance with the standards established under this section), may be closed, transferred to another authority, or consolidated, and no program of such a school may be substantially curtailed, because the school failed to meet such standards.

"SEC. 1123. CODIFICATION OF REGULATIONS.

"(a) PART 32 OF TITLE 25, CODE OF FEDERAL REGULATIONS.—The provisions of part 32 of title 25, Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Such provisions may be altered only by means of an Act of Congress. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before November 1, 1978, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) DEFINITION OF REGULATION.—In this section, the term 'regulation' means any rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by any officer or employee of the executive branch.

"SEC. 1124. SCHOOL BOUNDARIES.

"(a) ESTABLISHMENT BY SECRETARY.—The Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau-funded school.

"(b) ESTABLISHMENT BY TRIBAL BODY.—In any case where there is more than one Bureau-funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau-funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

"(c) BOUNDARY REVISIONS.—

"(1) NOTICE.—On or after July 1, 2001, no geographical attendance area shall be revised or established with respect to any Bureau-funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been afforded—

"(A) at least 6 months notice of the intention of the Bureau to revise or establish such attendance area; and

"(B) the opportunity to propose alternative boundaries.

"(2) REVISION PROCESS.—Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. The Secretary shall cause such revisions to be published in the Federal Register.

"(3) TRIBAL RESOLUTION DETERMINATION.—Nothing in this section shall deny a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents the choice of the Bureau-funded school their children may attend, regardless of the attendance boundaries established under this section.

"(d) FUNDING RESTRICTIONS.—

"(1) IN GENERAL.—The Secretary shall not deny funding to a Bureau-funded school for any eligible Indian student attending the school solely because that student's home or domicile is outside of the geographical attendance area established for that school under this section.

"(2) TRANSPORTATION.—No funding shall be made available without tribal authorization to enable a school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

"(e) RESERVATION AS BOUNDARY.—When there is only 1 Bureau-funded program located on an Indian reservation—

"(1) the attendance area for the program shall be the boundaries (established by treaty, agreement, legislation, court decisions, or executive decisions and as accepted by the tribe) of the reservation served; and

"(2) those students residing near the reservation shall also receive services from such program.

"(f) OFF-RESERVATION HOME-LIVING (DORMITORY) SCHOOLS.—

"(1) IN GENERAL.—Notwithstanding any geographical attendance areas, attendance at off-reservation home-living (dormitory) schools shall include students requiring special emphasis programs to be implemented at each off-reservation home-living (dormitory) school.

"(2) COORDINATION.—Such attendance shall be coordinated between education line officers, the family, and the referring and receiving programs.

"SEC. 1125. FACILITIES CONSTRUCTION.

"(a) NATIONAL SURVEY OF FACILITIES CONDITIONS.—

"(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the General Accounting Office shall compile, collect, and secure the data that are needed to prepare a national survey of the physical conditions of all Bureau-funded school facilities.

"(2) DATA AND METHODOLOGIES.—In preparing the national survey required under paragraph (1), the General Accounting Office shall use the following data and methodologies:

"(A) The existing Department of Defense formula for determining the condition and adequacy of Department of Defense facilities.

"(B) Data related to conditions of Bureau-funded schools that has previously been compiled, collected, or secured from whatever source derived so long as the data are accurate, relevant, timely, and necessary to the survey.

"(C) The methodologies of the American Institute of Architects, or other accredited and reputable architecture or engineering associations.

"(3) CONSULTATIONS.—

"(A) IN GENERAL.—In carrying out the survey required under paragraph (1), the General Accounting Office shall, to the maximum extent practicable, consult (and if necessary contract) with national, regional, and tribal Indian education organizations to ensure that a complete and accurate national survey is achieved.

"(B) REQUESTS FOR INFORMATION.—All Bureau-funded schools shall comply with reasonable requests for information by the General Accounting Office and shall respond to such requests in a timely fashion.

"(4) SUBMISSION.—Not later than 2 years after the date of enactment of the Native American Education Improvement Act of 2001, the General Accounting Office shall submit the results of the national survey conducted under paragraph (1) to the Committee on Indian Affairs, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of

the Senate and the Committee on Resources, the Committee on Education and the Workforce, and the Committee on Appropriations of the House of Representatives and to the Secretary. The Secretary shall submit the results of the national survey to school boards of Bureau-funded schools and their respective tribes.

"(5) NEGOTIATED RULEMAKING COMMITTEE.—

"(A) IN GENERAL.—Not later than 6 months after the date on which the submission is made under paragraph (4), the Secretary shall establish a negotiated rulemaking committee pursuant to section 1138(b)(3). The negotiated rulemaking committee shall prepare and submit to the Secretary the following:

"(i) A catalog of the condition of school facilities at all Bureau-funded schools that—

"(I) incorporates the findings from the General Accounting Office study evaluating and comparing school systems of the Department of Defense and the Bureau of Indian Affairs;

"(II) rates such facilities with respect to the rate of deterioration and useful life of structures and major systems;

"(III) establishes a routine maintenance schedule for each facility;

"(IV) identifies the complementary educational facilities that do not exist but that are needed; and

"(V) makes projections on the amount of funds needed to keep each school viable, consistent with the accreditation standards required pursuant to this Act.

"(ii) A school replacement and new construction report that determines replacement and new construction need, and a formula for the equitable distribution of funds to address such need, for Bureau-funded schools. Such formula shall utilize necessary factors in determining an equitable distribution of funds, including—

"(I) the size of school;

"(II) school enrollment;

"(III) the age of the school;

"(IV) the condition of the school;

"(V) environmental factors at the school; and

"(VI) school isolation.

"(iii) A renovation repairs report that determines renovation need (major and minor), and a formula for the equitable distribution of funds to address such need, for Bureau-funded schools. Such report shall identify needed repairs or renovations with respect to a facility, or a part of a facility, or the grounds of the facility, to remedy a need based on disabilities access or health and safety changes to a facility. The formula developed shall utilize necessary factors in determining an equitable distribution of funds, including the factors described in clause (ii).

"(B) SUBMISSION OF REPORTS.—Not later than 24 months after the negotiated rulemaking committee is established under subparagraph (A), the reports described in clauses (ii) and (iii) of subparagraph (A) shall be submitted to the committees of Congress referred to in paragraph (4), the national and regional Indian education organizations, and to all school boards of Bureau-funded schools and their respective tribes.

"(6) FACILITIES INFORMATION SYSTEMS SUPPORT DATABASE.—The Secretary shall develop a Facilities Information Systems Support Database to maintain and update the information contained in the reports under clauses (ii) and (iii) of paragraph (5)(A) and the information contained in the survey conducted under paragraph (1). The system shall be updated every 3 years by the Bureau of Indian Affairs and monitored by General Accounting Office, and shall be made available to school boards of Bureau-funded schools and their respective tribes, and Congress.

"(b) COMPLIANCE WITH HEALTH AND SAFETY STANDARDS.—

"(1) IN GENERAL.—The Secretary shall immediately begin to bring all schools, dormitories, and other Indian education-related facilities operated by the Bureau or under contract or grant with the Bureau, into compliance with—

"(A) all applicable tribal, Federal, or State health and safety standards, whichever provides greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards);

"(B) section 504 of the Rehabilitation Act of 1973; and

"(C) the Americans with Disabilities Act of 1990.

"(2) NO TERMINATION REQUIRED.—Nothing in this subsection requires termination of the operations of any facility that—

"(A) does not comply with the provisions and standards described in paragraph (1); and

"(B) is in use on the date of enactment of the Native American Education Improvement Act of 2001.

"(c) COMPLIANCE PLAN.—At the time that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all facilities covered under subsection (a) into compliance with the standards referred to in that subsection that includes—

"(1) detailed information on the status of each facility's compliance with such standards;

"(2) specific cost estimates for meeting such standards at each school; and

"(3) specific timelines for bringing each school into compliance with such standards.

"(d) CONSTRUCTION PRIORITIES.—

"(1) SYSTEM TO ESTABLISH PRIORITIES.—On an annual basis, the Secretary shall submit to the appropriate committees of Congress and cause to be published in the Federal Register, the system used to establish priorities for replacement and construction projects for Bureau-funded schools and home-living schools, including boarding schools and dormitories. At the time any budget request for education is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all Bureau-funded school construction priorities.

"(2) LONG-TERM CONSTRUCTION AND REPLACEMENT LIST.—In addition to the plan submitted under subsection (c), the Secretary shall—

"(A) not later than 18 months after the date of enactment of the Native American Education Improvement Act of 2001, establish a long-term construction and replacement list for all Bureau-funded schools;

"(B) using the list prepared under subparagraph (A), propose a list for the orderly replacement of all Bureau-funded education-related facilities over a period of 40 years to enable planning and scheduling of budget requests;

"(C) cause the list prepared under subsection (B) to be published in the Federal Register and allow a period of not less than 120 days for public comment;

"(D) make such revisions to the list prepared under subparagraph (B) as are appropriate based on the comments received; and

"(E) cause the final list to be published in the Federal Register.

"(3) EFFECT ON OTHER LIST.—Nothing in this section shall interfere with or change in any way the construction priority list as it existed on the day before the date of enactment of the Native American Education Improvement Act of 2001.

"(e) HAZARDOUS CONDITION AT BUREAU-FUNDED SCHOOL.—

"(1) CLOSURE, CONSOLIDATION, OR CURTAILMENT.—

"(A) IN GENERAL.—A Bureau-funded school may be closed or consolidated, or the programs of a Bureau-funded school may be substantially curtailed, by reason of facility conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau and an individual designated at the beginning of the school year by the tribe involved under subparagraph (B) determine that such conditions exist at a facility of the Bureau-funded school.

"(B) DESIGNATION OF INDIVIDUAL BY TRIBE.—To be designated by a tribe for purposes of subparagraph (A), an individual shall—

"(i) be a licensed or certified facilities safety inspector;

"(ii) have demonstrated experience in the inspection of facilities for health and safety purposes with respect to occupancy; or

"(iii) have a significant educational background in the health and safety of facilities with respect to occupancy.

"(C) INSPECTION.—After making a determination described in subparagraph (A), the Bureau health and safety officer and the individual designated by the tribe shall conduct an inspection of the conditions of such facility in order to determine whether conditions at such facility constitute an immediate hazard to health and safety. Such inspection shall be completed as expeditiously as practicable, but not later than 20 days after the date on which the action described in subparagraph (A) is taken.

"(D) FAILURE TO CONCUR.—If the Bureau health and safety officer, and the individual designated by the tribe, conducting the inspection of a facility required under subparagraph (C) do not concur that conditions at the facility constitute an immediate hazard to health and safety, such officer and individual shall immediately notify the tribal governing body and provide written information related to their determinations.

"(E) CONSIDERATION BY TRIBAL GOVERNING BODY.—Not later than 10 days after a tribal governing body receives notice under subparagraph (D), the tribal governing body shall consider all information relating to the determinations of the Bureau health and safety officer and the individual designated by the tribe and make a determination regarding the closure, consolidation, or curtailment involved.

"(F) AGREEMENT TO CLOSE, CONSOLIDATE, OR CURTAIL.—

"(i) IN GENERAL.—If the Bureau health and safety officer and the individual designated by the tribe conducting the inspection of a facility required under subparagraph (C), concur that conditions at the facility constitute an immediate hazard to health and safety, or if the tribal governing body makes such a determination under subparagraph (E), the facility involved shall be closed immediately.

"(ii) REOPENING OF FACILITY IF NO IMMEDIATE HAZARD FOUND TO EXIST.—If the Bureau health and safety officer or the individual designated by the tribe conducting the inspection of a facility required under subparagraph (C) determines that conditions at the facility do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made under this paragraph shall immediately cease and any school closed by reason of conditions at the facility shall be reopened immediately.

"(G) GENERAL CLOSURE REPORT.—If a Bureau-funded school is temporarily closed or consolidated or the programs of a Bureau-funded school are temporarily substantially curtailed under this subsection and the Secretary determines that the closure, consolidation, or curtailment will exceed 1 year, the Secretary shall submit to the appropriate committees of Congress, the affected tribe, and the local school board, not later than 90 days after the date on which the closure, consolidation, or curtailment was initiated, a report that specifies—

"(i) the reasons for such temporary action;

"(ii) the actions the Secretary is taking to eliminate the conditions that constitute the hazard;

"(iii) an estimated date by which the actions described in clause (ii) will be concluded; and

"(iv) a plan for providing alternate education services for students enrolled at the school that is to be closed.

"(2) NONAPPLICATION OF CERTAIN STANDARDS FOR TEMPORARY FACILITY USE.—

"(A) CLASSROOM ACTIVITIES.—The Secretary shall permit the local school board to temporarily utilize facilities adjacent to the school, or satellite facilities, if such facilities are suitable for conducting classroom activities. In permitting the use of facilities under the preceding sentence, the Secretary may waive applicable minor standards under section 1121 relating to such facilities (such as the required number of exit lights or configuration of restrooms) so long as such waivers do not result in the creation of an environment that constitutes an immediate and substantial threat to the health, safety, and life of students and staff.

"(B) ADMINISTRATIVE ACTIVITIES.—The provisions of subparagraph (A) shall apply with respect to administrative personnel if the facilities involved are suitable for activities performed by such personnel.

"(C) TEMPORARY.—In this paragraph, the term 'temporary' means—

"(i) with respect to a school that is to be closed for not more than 1 year, 3 months or less; and

"(ii) with respect to a school that is to be closed for not less than 1 year, a time period determined appropriate by the Bureau.

"(3) TREATMENT OF CLOSURE.—Any closure of a Bureau-funded school under this subsection for a period that exceeds 30 days but is less than 1 year, shall be treated by the Bureau as an emergency facility improvement and repair project.

"(4) USE OF FUNDS.—With respect to a Bureau-funded school that is closed under this subsection, the tribal governing body, or the designated local school board of each Bureau-funded school, involved may authorize the use of funds allocated pursuant to section 1127, to abate the hazardous conditions without further action by Congress.

"(f) FUNDING REQUIREMENT.—

"(1) DISTRIBUTION OF FUNDS.—Beginning with the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, all funds appropriated to the budget accounts for the operations and maintenance of Bureau-funded schools shall be distributed by formula to the schools. No funds from these accounts may be retained or segregated by the Bureau to pay for administrative or other costs of any facilities branch or office, at any level of the Bureau.

"(2) REQUIREMENTS FOR CERTAIN USES.—No funds shall be withheld from the distribution to the budget of any school operated under contract or grant by the Bureau for maintenance or any other facilities or road-related purpose, unless such school has consented, as a modification to the contract or in writing for grants schools, to the withholding of such funds, including the amount thereof, the purpose for which the funds will be used, and the timeline for the services to be provided. The school may, at the end of any fiscal year, cancel an agreement under this paragraph upon giving the Bureau 30 days notice of its intent to do so.

"(g) NO REDUCTION IN FEDERAL FUNDING.—Nothing in this section shall diminiish any Federal funding due to the receipt by the school of funding for facilities improvement or construction from a State or any other source.

"SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

"(a) FORMULATION AND ESTABLISHMENT OF POLICY AND PROCEDURE; SUPERVISION OF PROGRAMS AND EXPENDITURES.—The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs.

"(b) DIRECTION AND SUPERVISION OF PERSONNEL OPERATIONS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Native American Education Improvement Act of 2001, the Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved in the provision of education program services by the Bureau, including school or institution custodial or maintenance personnel, and personnel responsible for contracting, procurement, and finance functions connected with school operation programs.

"(2) TRANSFERS.—The Assistant Secretary for Indian Affairs shall, not later than 180 days after the date of enactment of the Native American Education Improvement Act of 2001, coordinate the transfer of functions relating to procurements for, contracts of, operation of, and maintenance of schools and other support functions to the Director.

"(c) INHERENT FEDERAL FUNCTION.—For purposes of this Act, all functions relating to education that are located at the Area or Agency level and performed by an education line officer shall be subject to contract under the Indian Self-Determination and Education Assistance Act, unless determined by the Secretary to be inherently Federal functions as defined in section 1141(12).

"(d) EVALUATION OF PROGRAMS; SERVICES AND SUPPORT FUNCTIONS; TECHNICAL AND COORDINATING ASSISTANCE.—Education personnel who are under the direction and supervision of the Director of the Office of Indian Education Programs in accordance with subsection (b)(1) shall—

"(1) monitor and evaluate Bureau education programs;

"(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions; and

"(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, curriculum, and operation and maintenance of school facilities.

"(e) CONSTRUCTION, IMPROVEMENT, OPERATION, AND MAINTENANCE OF FACILITIES.—

"(1) PLAN FOR CONSTRUCTION.—The Assistant Secretary shall submit as part of the annual budget a plan—

"(A) for school facilities to be constructed under section 1125(c);

"(B) for establishing priorities among projects and for the improvement and repair of educational facilities, which together shall form the basis for the distribution of appropriated funds; and

"(C) for capital improvements to be made over the 5 succeeding years.

"(2) PROGRAM FOR OPERATION AND MAINTENANCE.—

"(A) ESTABLISHMENT.—The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include—

"(i) a method of computing the amount necessary for each educational facility;

"(ii) similar treatment of all Bureau-funded schools;

"(iii) a notice of an allocation of appropriated funds from the Director of the Office of Indian Education Programs directly to the education line officers and appropriate school officials;

"(iv) a method for determining the need for, and priority of, facilities repair and maintenance projects, both major and minor (to be determined, through the conduct by the Assistant Secretary, of a series of meetings at the agency and area level with representatives of the Bureau-funded schools in those areas and agencies to receive comment on the lists and prioritization of such projects); and

"(v) a system for the conduct of routine preventive maintenance.

"(B) LOCAL SUPERVISORS.—The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers, except that no funds under this chapter may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.

"(3) IMPLEMENTATION.—This subsection shall be implemented as soon as practicable after the date of enactment of the Native American Education Improvement Act of 2001.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—

"(1) GUIDELINES.—Notwithstanding any other provision of law, the Director of the Office shall promulgate guidelines for the establishment and administration of mechanisms for the acceptance of gifts and bequests for the use and benefit of particular schools or designated Bureau-operated education programs, including, in appropriate cases, the establishment and administration of trust funds.

"(2) MONITORING AND REPORTS.—Except as provided in paragraph (3), in a case in which a Bureau-operated education program is the beneficiary of such a gift or bequest, the Director shall—

"(A) make provisions for monitoring use of the gift or bequest; and

"(B) submit a report to the appropriate committees of Congress that describes the amount and terms of such gift or bequest, the manner in which such gift or bequest shall be used, and any results achieved by such use.

"(3) EXCEPTION.—The requirements of paragraph (2) shall not apply in the case of a gift or bequest that is valued at $5,000 or less.

"(g) DEFINITION OF FUNCTIONS.—For the purpose of this section, the term 'functions' includes powers and duties.

"SEC. 1127. ALLOTMENT FORMULA.

"(a) FACTORS CONSIDERED; REVISION TO REFLECT STANDARDS.—

"(1) FORMULA.—The Secretary shall establish, by regulation adopted in accordance with section 1137, d formula for determining the minimum annual amount of funds necessary to sustain each Bureau-funded school. In establishing such formula, the Secretary shall consider—

"(A) the number of eligible Indian students served and total student population of the school;

"(B) special cost factors, such as—

"(i) the isolation of the school;

"(ii) the need for special staffing, transportation, or educational programs;

"(iii) food and housing costs;

"(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

"(v) special transportation and other costs of isolated and small schools;

"(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a tribal governing body or designated school board;

"(vii) costs associated with greater lengths of service by education personnel;

"(viii) the costs of therapeutic programs for students requiring such programs; and

"(ix) special costs for gifted and talented students;

"(C) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located;

"(D) whether the available funding will enable the school involved to comply with the accreditation standards applicable to the school under section 1121; and

"(E) such other relevant factors as the Secretary determines are appropriate.

"(2) Revision of formula.—

"(A) In general.—Upon the establishment of the standards required in section 1122, the Secretary shall revise the formula established under this subsection to reflect the cost of funding such standards.

"(B) Review of formula.—Not later than January 1, 2003, the Secretary shall review the formula established under this section and shall take such steps as are necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-living (dormitory) schools and other Bureau-operated residential facilities.

"(C) Review of standards.—Concurrent with such action, the Secretary shall review the standards established under section 1122 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling and therapeutic programs.

"(b) Pro Rata Allotment.—Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau-funded schools shall be allotted pro rata in accordance with the formula established under subsection (a).

"(c) Annual Adjustment; Reservation of Amount for School Board Activities.—

"(1) Annual adjustment.—For fiscal year 2003, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to ensure that the formula does the following:

"(A) Uses a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school.

"(B) Considers a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools.

"(C) Takes into account the provision of residential services on less than a 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.

"(D) Uses a weighted unit of 2.0 for each eligible Indian student that—

"(i) is gifted and talented; and

"(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(E) Uses a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school. The adjustment required under this subparagraph shall be used for such school after—

"(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year for which the certification is made; and

(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.

"(2) Reservation of amount.—

"(A) In general.—From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $8,000; or

"(ii) the lesser of—

"(I) $15,000; or

"(II) 1 percent of such allotted funds,

for school board activities for such school, including (notwithstanding any other provision of law) meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

"(B) Training.—

"(i) In general.—Each local school board, and any agency school board that serves as a local school board for any grant or contract school, shall ensure that each individual who is a new member of the school board receives, within 1 year after the individual becomes a member of the school board, 40 hours of training relevant to that individual's service on the board.

"(ii) Types of training.—Such training may include training concerning legal issues pertaining to Bureau-funded schools, legal issues pertaining to school boards, ethics, and other topics determined to be appropriate by the school board.

"(iii) Recommendation.—The training described in this subparagraph shall not be required, but is recommended, for a tribal governing body that serves in the capacity of a school board.

"(d) Reservation of Amount for Emergencies.—

"(1) In general.—The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount that, in the aggregate, equals 1 percent of the funds available for such purpose for that fiscal year, to be used, at the discretion of the Director of the Office of Indian Education Programs, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section.

"(2) Use of funds.—Funds reserved under this subsection may be expended only for education services or programs, including emergency repairs of educational facilities, at a schoolsite (as defined by section 5204(c)(2) of the Tribally Controlled Schools Act of 1988).

"(3) Availability of funds.—Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds.

"(4) Report.—When the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.

"(e) Supplemental Appropriations.—Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

"(f) Eligible Indian Student Defined.—In this section, the term 'eligible Indian student' means a student who—

"(1) is a member of, or is at least ¼ degree Indian blood descendant of a member of, a tribe that is eligible for the special programs and services provided by the United States through the Bureau to Indians because of their status as Indians;

"(2) resides on or near a reservation or meets the criteria for attendance at a Bureau off-reservation home-living school; and

"(3) is enrolled in a Bureau-funded school.

"(g) Tuition.—

"(1) In general.—No eligible Indian student or a student attending a Bureau school under paragraph (2)(C) may be charged tuition for attendance at a Bureau school or contract or grant school.

"(2) Attendance of non-Indian students at Bureau schools.—The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards or accreditation;

"(B) the school board consents;

"(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site; or

"(D) tuition is paid for the student that is not more than the tuition charged by the nearest public school district for out-of-district students and shall be in addition to the school's allocation under this section.

"(3) Attendance of non-Indian students at contract and grant schools.—The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school. Any tuition collected for those students shall be in addition to funding received under this section.

"(h) Funds Available Without Fiscal Year Limitation.—Notwithstanding any other provision of law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take such steps as are necessary to implement this subsection.

"(i) Students at Richfield Dormitory, Richfield, Utah.—

"(1) In general.—Tuition for the instruction of each out-of-State Indian student in a home-living situation at the Richfield dormitory in Richfield, Utah, who attends Sevier County high schools in Richfield, Utah, for an academic year, shall be paid from Indian school equalization program funds authorized in this section and section 1129, at a rate not to exceed the weighted amount provided for under subsection (b) for a student for that year.

"(2) No administrative cost funds.—No additional administrative cost funds shall be provided under this part to pay for administrative costs relating to the instruction of the students.

"SEC. 1128. ADMINISTRATIVE COST GRANTS.

"(a) Definitions.—In this section:

"(1) Administrative cost.—

"(A) In general.—The term 'administrative cost' means the cost of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program;

"(ii) are not customarily paid by comparable Bureau-operated programs out of direct program funds; and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds; or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) Inclusions.—The term 'administrative cost' may include—

"(i) contract or grant (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) BUREAU ELEMENTARY AND SECONDARY FUNCTIONS.—The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government; and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3) DIRECT COST BASE.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year; or

"(ii) if such programs have not been operated by the tribe or tribal organization during the two preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) FUNCTIONS NOT PREVIOUSLY OPERATED.—In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(4) MAXIMUM BASE RATE.—The term 'maximum base rate' means 50 percent.

"(5) MINIMUM BASE RATE.—The term 'minimum base rate' means 11 percent.

"(6) STANDARD DIRECT COST BASE.—The term 'standard direct cost base' means $600,000.

"(7) TRIBAL ELEMENTARY OR SECONDARY EDUCATIONAL PROGRAMS.—The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are funded through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

"(b) GRANTS; EFFECT UPON APPROPRIATED AMOUNTS.—

"(1) GRANTS.—Subject to the availability of funds, the Secretary shall provide grants to each tribe or tribal organization operating a contract school or grant school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract or grant schools, provided that no school operated as a stand-alone institution shall receive less than $200,000 per year for these purposes, in order to—

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice; and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau-operated programs.

"(2) EFFECT UPON APPROPRIATED AMOUNTS.—Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

"(c) DETERMINATION OF GRANT AMOUNT.—

"(1) IN GENERAL.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau.

"(2) DIRECT COST BASE FUNDS.—The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization; and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(d) ADMINISTRATIVE COST PERCENTAGE RATE.—

"(1) IN GENERAL.—For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

"(A) the sum of—

"(i) the amount equal to—

"(I) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(II) the minimum base rate; plus

"(ii) the amount equal to—

"(I) the standard direct cost base; multiplied by

"(II) the maximum base rate; by

"(B) the sum of—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year; plus

"(ii) the standard direct cost base.

"(2) ROUNDING.—The administrative cost percentage rate shall be determined to the 1/100 of a decimal point.

"(3) APPLICABILITY.—The administrative cost percentage rate determined under this subsection shall not apply to other programs operated by the tribe or tribal organization.

"(e) COMBINING FUNDS.—

"(1) IN GENERAL.—Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract or grant school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(2) INDIRECT COST FUNDS.—Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in paragraph (1).

"(f) AVAILABILITY OF FUNDS.—Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(g) TREATMENT OF FUNDS.—Funds received as grants under this section for Bureau-funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(h) TREATMENT OF ENTITY OPERATING OTHER PROGRAMS.—In applying this section and section 106 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

"(1) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988; and

"(2) operates 1 or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs that are associated with operating the contract or grant school, and of the indirect costs, that are associated with all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

"(i) STUDIES FOR DETERMINATION OF FACTORS AFFECTING COSTS; BASE RATES LIMITS; STANDARD DIRECT COST BASE; REPORT TO CONGRESS.—

"(1) STUDIES.—Not later than 120 days after the date of enactment of the Native American Education Improvement Act of 2001, the Director of the Office of Indian Education Programs shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting required administrative costs of tribal elementary and secondary education programs, using the formula set forth in subsection (c); and

"(B) conduct a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs;

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs; and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (d) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate; and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) GUIDELINES.—The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1131) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c); and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted onsite with a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found to substantially affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to ensure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how the factors may effectively be incorporated into such formula.

"(3) Consultation with Inspector General.—In carrying out the studies required under this subsection, the Director shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

"(4) Consideration of delivery of administrative services.—Determinations described in paragraph (2)(C) shall be based on what is practicable at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or whether other services were delivered instead, during the period of the study.

"(5) Report.—Upon completion of the studies conducted under paragraph (1), the Director shall submit to Congress a report on the findings of the studies, together with determinations based upon such studies that would affect the definitions set forth under subsection (e) that are used in the formula set forth in subsection (c).

"(6) Projection of costs.—The Secretary shall include in the Bureau's justification for each appropriations request beginning in the first fiscal year after the completion of the studies conducted under paragraph (1), a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary education programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(7) Determination of program size.—For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau-funded programs which share common administrative cost functions.

"(j) Authorization of appropriations.—

"(1) In general.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

"(2) Reductions.—If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (c) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (c) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grants determined under subsection (c) bears to the total of all grants determined under subsection (c) section for all tribes and tribal organizations for such fiscal year.

"(k) Applicability to Schools Operating Under Tribally Controlled Schools Act of 1988.—The provisions of this section shall apply to schools operating under the Tribally Controlled Schools Act of 1988.

"(l) Administrative Cost Grant Budget Requests.—

"(1) In general.—Beginning with President's annual budget request under section 1105 of title 31, United States Code for fiscal year 2002, and with respect to each succeeding budget request, at the discretion of the Secretary, the Secretary shall submit to the appropriate committees of Congress information and funding requests for the full funding of administrative costs grants required to be paid under this section.

"(2) Requirements.—

"(A) Funding for new conversions to contract or grant school operations.—With respect to a budget request under paragraph (1), the amount required to provide full funding for an administrative cost grant for each tribe or tribal organization expected to begin operation of a Bureau-funded school as contract or grant school in the academic year funded by such annual budget request, the amount so required shall not be less than 10 percent of the amount required for subparagraph (B).

"(B) Funding for continuing contract and grant school operations.—With respect to a budget request under paragraph (1), the amount required to provide full funding for an administrative cost grant for each tribe or tribal organization operating a contract or grant school at the time the annual budget request is submitted, which amount shall include the amount of funds required to provide full funding for an administrative cost grant for each tribe or tribal organization which began operation of a contract or grant school with administrative cost grant funds supplied from the amount described in subparagraph (A).

"SEC. 1129. DIVISION OF BUDGET ANALYSIS.

"(a) Establishment.—Not later than 1 year after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall establish within the Office of Indian Education Programs a Division of Budget Analysis (hereafter in this section referred to as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

"(b) Functions.—In consultation with the tribal governing bodies and tribal school boards, the Director of the Office, through the Division, shall conduct studies, surveys, or other activities to gather demographic information on Bureau-funded schools and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

"(c) Annual Reports.—Not later than the date on which the Assistant Secretary for Indian Affairs makes the annual budget submission, for each fiscal year after the date of enactment of the Native American Education Improvement Act of 2001, the Director of the Office shall submit to the appropriate committees of Congress (including the Appropriations committees), all Bureau-funded schools, and the tribal governing bodies of such schools, a report that contains—

"(1) projections, based upon the information gathered pursuant to subsection (b) and any other relevant information, of amounts necessary to provide Indian students in Bureau-funded schools the educational program set forth in this part;

"(2) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (1); and

"(3) such other information as the Director of the Office considers appropriate.

"(d) Use of Reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the annual report required by subsection (c) when preparing annual budget submissions.

"SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.

"(a) Establishment of System and Forward Funding.—

"(1) In general.—The Secretary shall establish, by regulation adopted in accordance with section 1136, a system for the direct funding and support of all Bureau-funded schools. Such system shall allot funds in accordance with section 1127. All amounts appropriated for distribution in accordance with this section shall be made available in accordance with paragraph (2).

"(2) Timing for use of funds.—

"(A) Availability.—For the purposes of affording adequate notice of funding available pursuant to the allotments made under section 1127 and the allotments of funds for operation and maintenance of facilities, amounts appropriated in an appropriations Act for any fiscal year for such allotments—

"(i) shall become available for obligation by the affected schools on July 1 of the fiscal year for which such allotments are appropriated without further action by the Secretary; and

"(ii) shall remain available for obligation through the succeeding fiscal year.

"(B) Publications.—The Secretary shall, on the basis of the amounts appropriated as described in this paragraph—

"(i) publish, not later than July 1 of the fiscal year for which the amounts are appropriated, information indicating the amount of the allotments to be made to each affected school under section 1127, of 80 percent of such appropriated amounts; and

"(ii) publish, not later than September 30 of such fiscal year, information indicating the amount of the allotments to be made under section 1127, from the remaining 20 percent of such appropriated amounts, adjusted to reflect the actual student attendance.

"(C) Overpayments.—Any overpayments made to tribal schools shall be returned to the Secretary not later than 30 days after the final determination that the school was overpaid pursuant to this section.

"(3) Limitation.—

"(A) Expenditures.—Notwithstanding any other provision of law (including a regulation), the supervisor of a Bureau-operated school may expend an aggregate of not more than $50,000 of the amount allotted to the school under section 1127 to acquire materials, supplies, equipment, operation services, maintenance services, and other services for the school, and amounts received as operations and maintenance funds, funds received from the Department of Education, or funds received from other Federal sources, without competitive bidding if—

"(i) the cost for any single item acquired does not exceed $15,000;

"(ii) the school board approves the acquisition;

"(iii) the supervisor certifies that the cost is fair and reasonable;

"(iv) the documents relating to the acquisition executed by the supervisor of the school or other *school staff cite this paragraph as authority for the acquisition; and*

"(v) the acquisition transaction is documented in a journal maintained at the school that clearly identifies when the transaction occurred, the item that was acquired and from whom, the price paid, the quantities acquired, and any other information the supervisor or the school board considers to be relevant.

"(B) NOTICE.—Not later than 6 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall send notice of the provisions of this paragraph to each supervisor of a Bureau school and associated school board chairperson, the education line officer of each agency and area, and the Bureau division in charge of procurement, at both the local and national levels.

"(C) APPLICATION AND GUIDELINES.—The Director of the Office shall be responsible for—

"(i) determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph;

"(ii) ensuring that there is at least 1 such individual at each Bureau facility; and

"(iii) the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

"(4) EFFECT OF SEQUESTRATION ORDER.—If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1127 for any fiscal year by more than 7 percent of the amount of funds available for allotment under such section during the preceding fiscal year—

"(A) to fund allotments under section 1127, the Secretary, notwithstanding any other law, may use—

"(i) funds appropriated for the operation of any Bureau-funded school that is closed or consolidated; and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school; and

"(B) the Secretary may waive the application of the provisions of section 1121(h) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1127 for such fiscal year.

"(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE OF FUNDS.—

"(1) PLAN REQUIRED.—Each Bureau-operated school that receives an allotment under section 1127 shall prepare a local financial plan that specifies the manner in which the school will expend the funds made available under the allotment and ensures that the school will meet the accreditation requirements or standards for the school pursuant to section 1121.

"(2) REQUIREMENT.—A local financial plan under paragraph (1) shall comply with all applicable Federal and tribal laws.

"(3) PREPARATION AND REVISION.—

"(A) IN GENERAL.—The financial plan for a school under subparagraph (A) shall be prepared by the supervisor of the school in active consultation with the local school board for the school.

"(B) AUTHORITY OF SCHOOL BOARD.—The local school board for each school shall have the authority to ratify, reject, or amend such financial plan and, at the initiative of the local school board or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan.

"(4) ROLE OF SUPERVISOR.—The supervisor of the school—

"(A) shall implement the decisions of the school board relating to the financial plan under paragraph (1);

"(B) shall provide the appropriate local union representative of the education employees of the school with copies of proposed financial plans relating to the school and all modifications and proposed modifications to the plans, and at the same time submit such copies to the local school board; and

"(C) may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned.

"(5) STATEMENTS.—

"(A) IN GENERAL.—A copy of each statement filed under paragraph (4)(C) shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal.

"(B) OVERTURNED ACTIONS.—After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board.

"(C) TRANSMISSION OF DETERMINATION.—The appropriate education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

"(c) TRIBAL DIVISION OF EDUCATION, SELF-DETERMINATION GRANT AND CONTRACT FUNDS.—The Secretary may approve applications for funding tribal divisions of education and developing tribal codes of education, from funds made available pursuant to section 103(a) of the Indian Self-Determination and Education Assistance Act.

"(d) TECHNICAL ASSISTANCE AND TRAINING.—In carrying out this section, a local school board may request technical assistance and training from the Secretary, and the Secretary shall, to the maximum extent practicable, provide those services and make appropriate provisions in the budget of the Office for the provision of those services.

"(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT SERVICES.—

"(1) PLAN.—

"(A) IN GENERAL.—A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school.

"(B) PREVENTION ACTIVITIES.—Any such program may include activities related to the prevention of alcohol and substance abuse.

"(C) SUMMER USE.—The Assistant Secretary for Indian Affairs shall provide for the use of any such school facility during any summer in which such use is requested.

"(2) USE OF OTHER FUNDS.—Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934, and this Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) TECHNICAL ASSISTANCE AND PROGRAM COORDINATION.—The Assistant Secretary for Indian Affairs, acting through the Director of the Office, shall—

"(A) provide technical assistance and coordination for any program described in paragraph (1); and

"(B) to the extent practicable, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

"(f) COOPERATIVE AGREEMENTS.—

"(1) IMPLEMENTATION.—

"(A) IN GENERAL.—From funds allotted to a Bureau school under section 1127, the Secretary shall, if specifically requested by the appropriate tribal governing body, implement a cooperative agreement that is entered into between the tribe, the Bureau, the local school board, and a local public school district that meets the requirements of paragraph (2) and involves the school.

"(B) TERMS.—The tribe, the Bureau, the school board, and the local public school district shall determine the terms of an agreement entered into under subparagraph (A).

"(2) COORDINATION PROVISIONS.—An agreement under paragraph (1) may, with respect to the Bureau school and schools in the school district involved, encompass coordination of all or any part of the following:

"(A) The academic program and curriculum, unless the Bureau school is accredited by a State or regional accrediting entity and would not continue to be so accredited if the agreement encompassed the program and curriculum.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(3) EQUAL BENEFIT AND BURDEN.—

"(A) IN GENERAL.—Each agreement entered into under paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed by the school.

"(B) LIMITATION.—Subparagraph (A) shall not be construed to require equal expenditures, or an exchange of similar services, by the Bureau school and schools in the school district.

"(g) PRODUCT OR RESULT OF STUDENT PROJECTS.—Notwithstanding any other provision of law, in a case in which there is agreement on action between the superintendent and the school board of a Bureau-funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

"(h) MATCHING FUND REQUIREMENTS.—

"(1) NOT CONSIDERED FEDERAL FUNDS.—Notwithstanding any other provision of law, funds received by a Bureau-funded school under this title for education-related activities (not including funds for construction, maintenance, and facilities improvement or repair) shall not be considered Federal funds for the purposes of a matching funds requirement for any Federal program.

"(2) LIMITATION.—In considering an application from a Bureau-funded school for participation in a program or project that requires matching funds, the entity administering such program or project or awarding such grant shall not give positive or negative weight to such application based solely on the provisions of paragraph (1).

"SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

"(a) FACILITATION OF INDIAN CONTROL.—It shall be the policy of the United States acting through the Secretary, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

"(b) CONSULTATION WITH TRIBES.—

"(1) IN GENERAL.—All actions under this Act shall be done with active consultation with tribes. The United States acting through the Secretary, and tribes shall work in a government-to-government relationship to ensure quality education for all tribal members.

"(2) REQUIREMENTS.—

"(A) DEFINITION OF CONSULTATION.—In this subsection, the term 'consultation' means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties.

"(B) DISCUSSION AND JOINT DELIBERATION.—During discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity—

"(i) to present issues (including proposals regarding changes in current practices or programs) that will be considered for future action by the Secretary; and

"(ii) to participate and discuss the options presented, or to present alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information available from or presented by the interested parties during 1 or more of the discussions and deliberations, that there is a substantial reason for another course of action.

"(C) EXPLANATION BY SECRETARY.—The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties described in subparagraph (B).

"SEC. 1132. INDIAN EDUCATION PERSONNEL.

"(a) IN GENERAL.—Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay and leave, respectively, and the sections of such title relating to the appointment, promotion, hours of work, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (p)).

"(b) REGULATIONS.—Not later than 60 days after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall prescribe regulations to carry out this section. Such regulations shall provide for—

"(1) the establishment of education positions;

"(2) the establishment of qualifications for educators and education personnel;

"(3) the fixing of basic compensation for educators and education positions;

"(4) the appointment of educators;

"(5) the discharge of educators;

"(6) the entitlement of educators to compensation;

"(7) the payment of compensation to educators;

"(8) the conditions of employment of educators;

"(9) the leave system for educators;

"(10) the annual leave and sick leave for educators;

"(11) the length of the school year applicable to education positions described in subsection (a); and

"(12) such additional matters as may be appropriate.

"(c) QUALIFICATIONS OF EDUCATORS.—

"(1) REQUIREMENTS.—In prescribing regulations to govern the qualifications of educators, the Secretary shall require that—

"(A) lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies;

"(B) a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (e)(2), a determination by a school board that such a person be hired shall be instituted by the supervisor of the school involved; and

"(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that—

"(i) such individual's name appear on a list maintained pursuant to subparagraph (A); or

"(ii) such individual have applied at the national level for an education position.

"(2) EXCEPTION FOR CERTAIN TEMPORARY EMPLOYMENT.—The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations if the Secretary determines that failure to do so would result in that position remaining vacant.

"(d) HIRING OF EDUCATORS.—

"(1) REQUIREMENTS.—In prescribing regulations to govern the appointment of educators, the Secretary shall require—

"(A)(i)(I) that educators employed in a Bureau school (other than the supervisor of the school) shall be hired by the supervisor of the school; and

"(II) in a case in which there are no qualified applicants available to fill a vacancy at a Bureau school, the supervisor may consult a list maintained pursuant to subsection (c)(1)(A);

"(ii) each supervisor of a Bureau school shall be hired by the education line officer of the agency office of the Bureau for the jurisdiction in which the school is located;

"(iii) each educator employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office; and

"(iv) each education line officer and educator employed in the office of the Director of the Office shall be hired by the Director;

"(B)(i) before an individual is employed in an education position in a Bureau school by the supervisor of the school (or, with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted; and

"(ii) that a determination by such school board, as evidenced by school board records, that such individual should or should not be so employed shall be instituted by the supervisor (or with respect to the position of supervisor, by the superintendent for education of the agency office);

"(C)(i) before an individual is employed in an education position in an agency or area office of the Bureau, the appropriate agency school board shall be consulted; and

"(ii) a determination by such school board, as evidenced by school board records, that such individual should or should not be employed shall be instituted by the superintendent for education of the agency office; and

"(D) all employment decisions or actions be in compliance with all applicable Federal, State and tribal laws.

"(2) INFORMATION REGARDING APPLICATION AT NATIONAL LEVEL.—

"(A) IN GENERAL.—Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau.

"(B) DETERMINATION OF ACCURACY.—If such individual is employed at the local level, such individual's name shall be immediately forwarded to the Secretary, who shall, as soon as practicable but in no event in more than 30 days, ascertain the accuracy of the statement made by such individual pursuant to subparagraph (A).

"(C) FALSE STATEMENTS.—Notwithstanding subsection (e), if the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged.

"(D) CONDITIONAL APPOINTMENT FOR NATIONAL PROVISION.—If the individual has applied at the national level for an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of 90 days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

"(3) STATUTORY CONSTRUCTION.—Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards authority over, or control of, educators at Bureau-funded schools or the authority to issue management decisions.

"(4) APPEALS.—

"(A) BY SUPERVISOR.—

"(i) IN GENERAL.—The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned.

"(ii) ACTION BY BOARD.—A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal.

"(iii) OVERTURNING OF DETERMINATION.—After reviewing such written appeal and response, the education line officer may, for good cause, overturn the determination of the local school board.

"(iv) TRANSMISSION OF DETERMINATION.—The education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

"(B) BY EDUCATION LINE OFFICER.—

"(i) IN GENERAL.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned.

"(ii) ACTION BY BOARD.—A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal.

"(iii) OVERTURNING OF DETERMINATION.—After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board.

"(iv) TRANSMISSION OF DETERMINATION.—The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(5) OTHER APPEALS.—

"(A) IN GENERAL.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned.

"(B) ACTION BY BOARD.—A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal.

"(C) OVERTURNING OF DETERMINATION.—After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board.

"(D) TRANSMISSION OF DETERMINATION.—The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(e) DISCHARGE AND CONDITIONS OF EMPLOYMENT OF EDUCATORS.—

"(1) REGULATIONS.—In promulgating regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

"(A) that procedures shall be established for the rapid and equitable resolution of grievances of educators;

"(B) that no educator may be discharged without notice of the reasons for the discharge and an opportunity for a hearing under procedures that comport with the requirements of due process; and

"(C) that each educator employed in a Bureau school shall be notified 30 days prior to the end of an academic year whether the employment contract of the individual will be renewed for the following year.

"(2) PROCEDURES FOR DISCHARGE.—

"(A) DETERMINATIONS.—

"(i) IN GENERAL.—Except as provided in clause (iii), the supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school.

"(ii) NOTIFICATION OF BOARD.—On giving notice to an educator of the supervisor's intention to discharge the educator, the supervisor shall immediately notify the local school board of the proposed discharge.

"(iii) DETERMINATION BY BOARD.—If the local school board determines that such educator shall not be discharged, that determination shall be followed by the supervisor.

"(B) APPEALS.—

"(i) IN GENERAL.—The supervisor shall have the right to appeal to the education line officer of the appropriate agency office of the Bureau a determination by a local school board under subparagraph (A)(iii), as evidenced by school board records, not to discharge an educator.

"(ii) DECISION OF AGENCY EDUCATION LINE OFFICER.—Upon hearing such an appeal, the agency education line officer may, for good cause, issue a decision overturning the determination of the local school board with respect to the employment of such individual.

"(iii) FORM OF DECISION.—The education line officer shall make the decision in writing and submit the decision to the local school board.

"(3) RECOMMENDATIONS OF SCHOOL BOARDS FOR DISCHARGE.—Each local school board for a Bureau school shall have the right—

"(A) to recommend to the supervisor that an educator employed in the school be discharged; and

"(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

"(f) APPLICABILITY OF INDIAN PREFERENCE LAWS.—

"(1) APPLICABILITY.—

"(A) IN GENERAL.—Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action carried out under this section with respect to an applicant or employee not entitled to an Indian preference if each tribal organization concerned—

"(i) grants a written waiver of the application of those laws with respect to the personnel action; and

"(ii) states that the waiver is necessary.

"(B) NO EFFECT ON RESPONSIBILITY OF BUREAU.—This paragraph shall not be construed to relieve the responsibility of the Bureau to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

"(2) DEFINITIONS.—In this subsection:

"(A) INDIAN PREFERENCE LAWS.—

"(i) IN GENERAL.—The term 'Indian preference laws' means section 12 of the Act of June 18, 1934 (48 Stat. 986, chapter 576) or any other provision of law granting a preference to Indians in promotions and other personnel actions.

"(ii) EXCLUSION.—The term 'Indian preference laws' does not include section 7(b) of the Indian Self-Determination and Education Assistance Act.

"(B) TRIBAL ORGANIZATION.—The term 'tribal organization' means—

"(i) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act); or

"(ii) in connection with any personnel action referred to in this subsection, any local school board to which the governing body has delegated the authority to grant a waiver under this subsection with respect to a personnel action.

"(g) COMPENSATION OR ANNUAL SALARY.—

"(1) IN GENERAL.—

"(A) COMPENSATION FOR EDUCATORS AND EDUCATION POSITIONS.—Except as otherwise provided in this section, the Secretary shall establish the compensation or annual salary rate for educators and education positions—

"(i) at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable; or

"(ii) on the basis of the Federal Wage System schedule in effect for the locality involved, and for the comparable positions, at the rates of compensation in effect for the senior executive service.

"(B) COMPENSATION OR SALARY FOR TEACHERS AND COUNSELORS.—

"(i) IN GENERAL.—The Secretary shall establish the rate of compensation, or annual salary rate, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rate of compensation applicable (on the date of enactment of the Native American Education Improvement Act of 2001 and thereafter) for comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act.

"(ii) ESSENTIAL PROVISIONS.—The Secretary shall allow the local school boards involved authority to implement only the aspects of the Defense Department Overseas Teachers Pay and Personnel Practices Act pay provisions that are considered essential for recruitment and retention of teachers and counselors. Implementation of such provisions shall not be construed to require the implementation of that entire Act.

"(C) RATES FOR NEW HIRES.—

"(i) IN GENERAL.—Beginning with the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, each local school board of a Bureau school may establish a rate of compensation or annual salary rate described in clause (ii) for teachers and counselors (including academic counselors) who are new hires at the school and who had not worked at the school, as of the first day of such fiscal year.

"(ii) CONSISTENT RATES.—The rates established under clause (i) shall be consistent with the rates paid for individuals in the same positions, with the same tenure and training, as the teachers and counselors, in any other school within whose boundaries the Bureau school is located.

"(iii) DECREASES.—In a case in which the establishment of rates under clause (i) causes a reduction in compensation at a school from the rate of compensation that was in effect for the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, the new rates of compensation may be applied to the compensation of employees of the school who worked at the school as of such date of enactment by applying those rates at each contract renewal for the employees so that the reduction takes effect in 3 equal installments.

"(iv) INCREASES.—In a case in which adoption of rates under clause (i) leads to an increase in the payment of compensation from that which was in effect for the fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, the school board may make such rates applicable at the next contract renewal such that—

"(I) the increase occurs in its entirety; or

"(II) the increase is applied in 3 equal installments.

"(D) USE OF REGULATIONS; CONTINUED EMPLOYMENT OF CERTAIN EDUCATORS.—The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not—

"(i) preclude the use of regulations and procedures used by the Bureau prior to April 28, 1988, in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator; or

"(ii) affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make an election under subsection (p) as in effect on January 1, 1990.

"(2) POST DIFFERENTIAL RATES.—

"(A) IN GENERAL.—The Secretary may pay a post differential rate, not to exceed 25 percent of the rate of compensation, for educators or education positions, on the basis of conditions of environment or work that warrant additional pay, as a recruitment and retention incentive.

"(B) SUPERVISOR'S AUTHORITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), on the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide 1 or more post differential rates under subparagraph (A).

"(ii) EXCEPTION.—The Secretary shall disapprove, or approve with a modification, a request for authorization to provide a post differential rate if the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that the rate should be disapproved or decreased because the disparity of compensation between the appropriate educators or positions in the Bureau school, and the comparable educators or positions at the nearest public school, is—

"(I)(aa) at least 5 percent; or

"(bb) less than 5 percent; and

"(II) does not affect the recruitment or retention of employees at the school.

"(iii) APPROVAL OF REQUESTS.—A request made under clause (i) shall be considered to be approved at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with a modification, or disapproved by the Secretary.

"(iv) DISCONTINUATION OF OR DECREASE IN RATES.—The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential rate provided for under this paragraph at the beginning of an academic year if—

"(I) the local school board requests that such differential be discontinued or decreased; or

"(II) the Secretary or the supervisor, respectively, determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(v) Reports.—On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and approvals of authorization made under this paragraph during the previous year and listing the positions receiving post differential rates under contracts entered into under those authorizations.

"(h) Liquidation of Remaining Leave Upon Termination.—Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual covered by of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations promulgated pursuant to subsection (b)(10) shall not be so liquidated.

"(i) Transfer of Remaining Sick Leave Upon Transfer, Promotion, or Reemployment.—In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations promulgated pursuant to subsection (b)(10) shall be transferred to such person's credit in the employing agency on an adjusted basis in accordance with regulations which shall be promulgated by the Office of Personnel Management.

"(j) Ineligibility for Employment of Voluntarily Terminated Educators.—An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(k) Dual Compensation.—In the case of any educator employed in an education position described in subsection (l)(1)(A) who—

"(1) is employed at the close of a school year;

"(2) agrees in writing to serve in such position for the next school year; and

"(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation,

shall not apply to such educator by reason of any such employment during a recess period for any receipt of additional compensation.

"(l) Voluntary Services.—

"(1) In general.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools.

"(2) Federal employee protection.—Nothing in this part requires Federal employees to work without compensation or allows the use of volunteer services to displace or replace Federal employees.

"(3) Federal status.—An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

"(m) Proration of Pay.—

"(1) Election of employee.—

"(A) In general.—Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school year over the entire 12-month period.

"(B) Election.—Each educator employed for the academic school year shall annually elect to be paid on a 12-month basis or for those months while school is in session.

"(C) No loss of pay or benefits.—No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

"(2) Change of election.—During the course of such year the employee may change election once.

"(3) Lump sum payment.—That portion of the employee's pay which would be paid between academic school years may be paid in a lump sum at the election of the employee.

"(4) Nonapplicability.—This subsection applies to those individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

"(5) Definitions.—For purposes of this subsection, the terms 'educator' and 'education position' have the meanings contained in paragraphs (1) and (2) of subsection (o).

"(n) Extracurricular Activities.—

"(1) Stipend.—

"(A) In general.—Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off.

"(B) Provision to employees.—Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend.

"(C) Nature of stipend.—Such stipend shall be paid as a supplement to the employee's base pay.

"(2) Election not to receive stipend.—If an employee elects not to be compensated through the stipend established by this subsection, the appropriate provisions of title 5, United States Code, shall apply.

"(3) Applicability of subsection.—This subsection applies to all Bureau employees, regardless of whether the employee is employed under section 1132 of this title or title 5, United States Code.

"(o) Definitions.—In this section:

"(1) Education position.—The term 'education position' means a position in the Bureau the duties and responsibilities of which—

"(A)(i) are performed on a school year basis principally in a Bureau school; and

"(ii) involve—

"(I) classroom or other instruction or the supervision or direction of classroom or other instruction;

"(II) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education;

"(III) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

"(IV) support services at, or associated with, the site of the school; or

"(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

"(2) Educator.—The term 'educator' means an individual whose services are required, or who is employed, in an education position.

"(p) Covered Individuals; Election.—This section shall apply with respect to any educator hired after November 1, 1979 (and to any educator who elected for coverage under that provision after November 1, 1979) and to the position in which such individual is employed. The enactment of this section shall not affect the continued employment of an individual employed on October 31, 1979, in an education position, or such person's right to receive the compensation attached to such position.

"(q) Furlough Without Consent.—

"(1) In general.—An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under subsection (p) at that time, and who did not make the election under such subsection, may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code, without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the education line officer upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1129(b); and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency education line officer upon appeal under paragraph (2)), may continue 1 or more educators in pay status if—

"(i) such educators are needed to operate summer programs, attend summer training sessions, or participate in special activities including curriculum development committees; and

"(ii) such educators are selected based upon such educator's qualifications after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

"(2) Appeals.—The supervisor of a Bureau school may appeal to the appropriate agency education line officer any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, approve the determination of the supervisor. The educational line officer shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

"(r) Stipends.—The Secretary is authorized to provide annual stipends to teachers who become certified by the National Board of Professional Teaching Standards, the National Council on Teacher Quality, or other nationally recognized certification or credentialing organizations.

"SEC. 1133. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

"(a) In General.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall update the computerized management information system within the Office. The information to be updated shall include information regarding—

"(1) student enrollment;

"(2) curricula;

"(3) staffing;

"(4) facilities;

"(5) community demographics;

"(6) student assessment information;

"(7) information on the administrative and program costs attributable to each Bureau program, divided into discrete elements;

"(8) relevant reports;

"(9) personnel records;

"(10) finance and payroll; and

"(11) such other items as the Secretary determines to be appropriate.

"(b) Implementation of System.—Not later than July 1, 2003, the Secretary shall complete the implementation of the updated computerized management information system at each Bureau field office and Bureau-funded school.

"SEC. 1134. RECRUITMENT OF INDIAN EDUCATORS.

"The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

"SEC. 1135. ANNUAL REPORT; AUDITS.

"(a) Annual Reports.—The Secretary shall submit to each appropriate committee of Congress, all Bureau-funded schools, and the tribal governing bodies of such schools, a detailed annual report on the state of education within the Bureau, and any problems encountered in Indian education during the period covered by the report, that includes—

"(1) suggestions for the improvement of the Bureau educational system and for increasing tribal or local Indian control of such system; and

"(2) information on the status of tribally controlled community colleges.

"(b) Budget Request.—The annual budget request for the education programs of the Bureau, as submitted as part of the President's next annual budget request under section 1105 of title 31, United States Code, shall include the plans required by sections 1121(c), 1122(c), and 1124(c).

"(c) Financial and Compliance Audits.—The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits, based upon the extent to which a school described in subsection (a) has complied with the local financial plan under section 1130, are conducted of each Bureau-operated school at least once every 3 years.

"(d) Administrative Evaluation of Schools.—The Director shall, at least once every 3 to 5 years, conduct a comprehensive evaluation of Bureau-operated schools. Such evaluation shall be in addition to any other program review or evaluation that may be required under Federal law.

"SEC. 1136. RIGHTS OF INDIAN STUDENTS.

"The Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau-funded schools, including such students' rights to—

"(1) privacy under the laws of the United States;

"(2) freedom of religion and expression; and

"(3) to due process in connection with disciplinary actions, suspensions, and expulsions.

"SEC. 1137. REGULATIONS.

"(a) Promulgation.—

"(1) In General.—The Secretary may promulgate only such regulations—

"(A) as are necessary to ensure compliance with the specific provisions of this part; and

"(B) as the Secretary is authorized to promulgate pursuant to section 5211 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2510).

"(2) Publication.—In promulgating the regulations, the Secretary shall—

"(A) publish proposed regulations in the Federal Register; and

"(B) provide a period of not less than 120 days for public comment and consultation on the regulations.

"(3) Citation.—The regulations shall contain, immediately following each regulatory section, a citation to any statutory provision providing authority to promulgate such regulatory section.

"(b) Miscellaneous.—The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of this Act and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

"SEC. 1138. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

"(a) Regional Meetings.—Prior to publishing any proposed regulations under subsection (b)(1), and prior to establishing the negotiated rulemaking committee under subsection (b)(3), the Secretary shall convene regional meetings to consult with personnel of the Office of Indian Education Programs, educators at Bureau schools, and tribal officials, parents, teachers, administrators, and school board members of tribes served by Bureau-funded schools to provide guidance to the Secretary on the content of regulations authorized to be promulgated under this part and the Tribally Controlled Schools Act of 1988.

"(b) Negotiated Rulemaking.—

"(1) In general.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the Secretary shall promulgate regulations authorized under subsection (a) and under the Tribally Controlled Schools Act of 1988, in accordance with the negotiated rulemaking procedures provided for under subchapter III of chapter 5 of title 5, United States Code, and shall publish final regulations in the Federal Register.

"(2) Notification to congress.—If draft regulations implementing this part and the Tribally Controlled Schools Act of 1988 are not promulgated in final form within 18 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall notify the appropriate committees of Congress of which draft regulations were not promulgated in final form by the deadline and the reason such final regulations were not promulgated.

"(3) Rulemaking committee.—The Secretary shall establish a negotiated rulemaking committee to carry out this subsection. In establishing such committee, the Secretary shall—

"(A) apply the procedures provided for under subchapter III of chapter 5 of title 5, United States Code, in a manner that reflects the unique government-to-government relationship between Indian tribes and the United States;

"(B) ensure that the membership of the committee includes only representatives of the Federal Government and of tribes served by Bureau-funded schools;

"(C) select the tribal representatives of the committee from among individuals nominated by the representatives of the tribal and tribally operated schools;

"(D) ensure, to the maximum extent possible, that the tribal representative membership on the committee reflects the proportionate share of students from tribes served by the Bureau-funded school system; and

"(E) comply with the Federal Advisory Committee Act (5 U.S.C. App.).

"(4) Special rule.—The Secretary shall carry out this section using the general administrative funds of the Department of the Interior. In accordance with subchapter III of chapter 5 of title 5, United States Code, and section 7(d) of the Federal Advisory Committee Act, payment of costs associated with negotiated rulemaking shall include the reasonable expenses of committee members.

"(c) Application of Section.—

"(1) Supremacy of provisions.—The provisions of this section shall supersede any conflicting regulations in effect on the day before the date of enactment of this part, and the Secretary may repeal any regulation that is inconsistent with the provisions of this part.

"(2) Modifications.—The Secretary may modify regulations promulgated under this section or the Tribally Controlled Schools Act of 1988, only in accordance with this section.

"SEC. 1139. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

"(a) In General.—The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b) Amount of Grants.—

"(1) In general.—The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (g) for such fiscal year (less amounts provided under subsection (f)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe;

"(ii) the tribe that authorized such tribal organization; or

"(iii) any tribe that—

"(I) is a member of such consortium; or

"(II) authorizes any tribal organization that is a member of such consortium; bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a);

"(ii) is a member of a consortium that is eligible to receive such funds; or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) Limitation.—No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members;

"(B) to any tribal organization which is authorized—

"(i) by only one tribe that has less than 500 members; or

"(ii) by one or more tribes that have a combined total membership of less than 500 members; or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c) Application.—

"(1) In general.—A grant may be provided under subsection (a) to a tribe, tribal organization, or consortium of tribes and tribal organizations only if the tribe, organization, or consortium submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Contents.—Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) Requirement of Programs Funded.—The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care;

"(B) nutrition education;

"(C) health education and screening;

"(D) family literacy services;

"(E) educational testing; and

"(F) other educational services;

"(2) may include instruction in the language, art, and culture of the tribe; and

"(3) shall provide for periodic assessment of the program.

"(e) COORDINATION OF FAMILY LITERACY PROGRAMS.—Family literacy programs operated under this section and other family literacy programs operated by the Bureau of Indian Affairs shall be coordinated with family literacy programs for Indian children under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving Indians.

"(f) ADMINISTRATIVE COSTS.—The Secretary shall, out of funds appropriated under subsection (g), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe, tribal organization, or consortium of tribes in establishing and maintaining the early childhood development program.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

"SEC. 1140. TRIBAL DEPARTMENTS OR DIVISIONS OF EDUCATION.

"(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make grants and provide technical assistance to tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) APPLICATIONS.—For a tribe to be eligible to receive a grant under this section, the governing body of the tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(c) DIVERSITY.—The Secretary shall award grants under this section in a manner that fosters geographic and population diversity.

"(d) USE.—Tribes that receive grants under this section shall use the funds made available through the grants—

"(1) to facilitate tribal control in all matters relating to the education of Indian children on reservations (and on former Indian reservations in Oklahoma);

"(2) to provide for the development of coordinated educational programs (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) on reservations (and on former Indian reservations in Oklahoma) by encouraging tribal administrative support of all Bureau-funded educational programs as well as encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other Federal agencies, State agencies, or private entities; and

"(3) to provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs.

"(e) PRIORITIES.—In making grants under this section, the Secretary shall give priority to any application that—

"(1) includes—

"(A) assurances that the applicant serves 3 or more separate Bureau-funded schools; and

"(B) assurances from the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools;

"(2) includes assurances that all education programs for which funds are provided by such a contract or grant will be monitored and audited, by or through the tribal department of education, to ensure that the programs meet the requirements of law; and

"(3) provides a plan and schedule that—

"(A) provides for—

"(i) the assumption, by the tribal department of education, of all assets and functions of the Bureau agency office associated with the tribe, to the extent the assets and functions relate to education; and

"(ii) the termination by the Bureau of such functions and office at the time of such assumption; and

"(B) provides that the assumption shall occur over the term of the grant made under this section, except that, when mutually agreeable to the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(f) TIME PERIOD OF GRANT.—Subject to the availability of appropriated funds, a grant provided under this section shall be provided for a period of 3 years. If the performance of the grant recipient is satisfactory to the Secretary, the grant may be renewed for additional 3-year terms.

"(g) TERMS, CONDITIONS, OR REQUIREMENTS.—A tribe that receives a grant under this section shall comply with regulations relating to grants made under section 103(a) of the Indian Self-Determination and Education Assistance Act that are in effect on the date that the tribal governing body submits the application for the grant under subsection (b). The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000.

"SEC. 1141. DEFINITIONS.

"For the purposes of this part, unless otherwise specified:

"(1) AGENCY SCHOOL BOARD.—The term 'agency school board' means a body—

"(A) the members of which are appointed by all of the school boards of the schools located within an agency, including schools operated under contract or grant; and

"(B) the number of such members is determined by the Secretary, in consultation with the affected tribes;

except that, in agencies serving a single school, the school board of such school shall fulfill these duties, and in agencies having schools or a school operated under contract or grant, 1 such member at least shall be from such a school.

"(2) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

"(3) BUREAU-FUNDED SCHOOL.—The term 'Bureau-funded school' means—

"(A) a Bureau school;

"(B) a contract or grant school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

"(4) BUREAU SCHOOL.—The term 'Bureau school' means a Bureau-operated elementary or secondary day or boarding school or a Bureau-operated dormitory for students attending a school other than a Bureau school.

"(5) COMPLEMENTARY EDUCATIONAL FACILITIES.—The term 'complementary educational facilities' means educational program functional spaces such as libraries, gymnasiums, and cafeterias.

"(6) CONTRACT OR GRANT SCHOOL.—The term 'contract or grant school' means an elementary school, secondary school, or dormitory that receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

"(7) DIRECTOR.—The term 'Director' means the Director of the Office of Indian Education Programs.

"(8) EDUCATION LINE OFFICER.—The term 'education line officer' means a member of the education personnel under the supervision of the Director of the Office, whether located in a central, area, or agency office.

"(9) FAMILY LITERACY SERVICES.—The term 'family literacy services' has the meaning given that term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(10) FINANCIAL PLAN.—The term 'financial plan' means a plan of services provided by each Bureau school.

"(11) INDIAN ORGANIZATION.—the term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes.

"(12) INHERENTLY FEDERAL FUNCTIONS.—The term 'inherently Federal functions' means functions and responsibilities which, under section 1126(c), are noncontractable, including—

"(A) the allocation and obligation of Federal funds and determinations as to the amounts of expenditures;

"(B) the administration of Federal personnel laws for Federal employees;

"(C) the administration of Federal contracting and grant laws, including the monitoring and auditing of contracts and grants in order to maintain the continuing trust, programmatic, and fiscal responsibilities of the Secretary;

"(D) the conducting of administrative hearings and deciding of administrative appeals;

"(E) the determination of the Secretary's views and recommendations concerning administrative appeals or litigation and the representation of the Secretary in administrative appeals and litigation;

"(F) the issuance of Federal regulations and policies as well as any documents published in the Federal Register;

"(G) reporting to Congress and the President;

"(H) the formulation of the Secretary's and the President's policies and their budgetary and legislative recommendations and views; and

"(I) the nondelegable statutory duties of the Secretary relating to trust resources.

"(13) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, or independent or other school district located within a State, and includes any State agency that directly operates and maintains facilities for providing free public education.

"(14) LOCAL SCHOOL BOARD.—The term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that, for a school serving a substantial number of students from different tribes—

"(A) the members of the body shall be appointed by the tribal governing bodies of the tribes affected; and

"(B) the number of such members shall be determined by the Secretary in consultation with the affected tribes.

"(15) OFFICE.—The term 'Office' means the Office of Indian Education Programs within the Bureau.

"(16) Regulation.—

"(A) In general.—The term 'regulation' means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this Act.

"(B) Rule of construction.—Nothing in subparagraph (A) or any other provision of this title shall be construed to prohibit the Secretary from issuing guidance, internal directives, or other documents similar to the documents found in the Indian Affairs Manual of the Bureau of Indian Affairs.

"(17) Secretary.—The term 'Secretary' means the Secretary of the Interior.

"(18) Supervisor.—The term 'supervisor' means the individual in the position of ultimate authority at a Bureau school.

"(19) Tribal governing body.—The term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

"(20) Tribe.—The term 'tribe' means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Regional Corporation or Village Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

SEC. 1043. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.

The Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) is amended by striking sections 5202 through 5212 and inserting the following new sections:

"SEC. 5202. DECLARATION OF POLICY.

"(a) Recognition.—Congress recognizes that the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control and that the United States has an obligation to assure maximum Indian participation in the direction of educational services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities.

"(b) Commitment.—Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children through the establishment of a meaningful Indian self-determination policy for education that will deter further perpetuation of Federal bureaucratic domination of programs.

"(c) National Goal.—Congress declares that a national goal of the United States is to provide the resources, processes, and structure that will enable tribes and local communities to obtain the quantity and quality of educational services and opportunities that will permit Indian children—

"(1) to compete and excel in areas of their choice; and

"(2) to achieve the measure of self-determination essential to their social and economic well-being.

"(d) Educational Needs.—Congress affirms—

"(1) true self-determination in any society of people is dependent upon an educational process that will ensure the development of qualified people to fulfill meaningful leadership roles;

"(2) that Indian people have special and unique educational needs, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities; and

"(3) that those needs may best be met through a grant process.

"(e) Federal Relations.—Congress declares a commitment to the policies described in this section and support, to the full extent of congressional responsibility, for Federal relations with the Indian nations.

"(f) Termination.—Congress repudiates and rejects House Concurrent Resolution 108 of the 83d Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

"SEC. 5203. GRANTS AUTHORIZED.

"(a) In General.—

"(1) Eligibility.—The Secretary shall provide grants to Indian tribes, and tribal organizations that—

"(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing the schools as contract schools;

"(B) operate other tribally controlled schools eligible for assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

"(C) elect to assume operation of Bureau-funded schools with the assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.

"(2) Deposit of funds.—Grants provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is made.

"(3) Use of funds.—

"(A) In general.—Except as otherwise provided in this paragraph, grants provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education related activities for which any funds that compose the grant may be used under the laws described in section 5205(a), including expenditures for—

"(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes; and

"(ii) support services for the school, including transportation.

"(B) Exception.—Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operations and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

"(b) Limitations.—

"(1) One grant per tribe or organization per fiscal year.—Not more than 1 grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

"(2) Nonsectarian use.—Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

"(3) Administrative costs limitation.—Funds provided under any grant under this part may not be expended for administrative costs (as defined in section 1128(h)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128 of such Act.

"(c) Limitation on Transfer of Funds Among School Sites.—

"(1) In general.—In the case of a grantee that operates schools at more than 1 school site, the grantee may expend at any school site operated by the grantee not more than the lesser of—

"(A) 10 percent of the funds allocated for another school site under section 1128 of the Education Amendments of 1978; or

"(B) $400,000 of the funds allocated for another school site.

"(2) Definition of school site.—For purposes of this subsection, the term 'school site' means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discreet student count is identified under the funding formula established under section 1127 of the Education Amendments of 1978.

"(d) No Requirement To Accept Grants.—Nothing in this part may be construed—

"(1) to require a tribe or tribal organization to apply for or accept; or

"(2) to allow any person to coerce any tribe or tribal organization to apply for, or accept,

a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications and the timing of such applications shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

"(e) No Effect on Federal Responsibility.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

"(f) Retrocession.—

"(1) In general.—Whenever a tribal governing body requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary that is not later than 120 days after the date on which the tribal governing body requests the retrocession. A later date may be specified if mutually agreed upon by the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

"(2) Status after retrocession.—The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau-operated school or as a school operated under contract under the Indian Self-Determination and Education Assistance Act.

"(3) Transfer of equipment and materials.—Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) the existing equipment and materials which were acquired—

"(A) with assistance under this part; or

"(B) upon assumption of operation of the program under this part, if the school was a Bureau-funded school under title XI of the Education Amendments of 1978 before receiving assistance under this part.

"(g) Prohibition of Termination for Administrative Convenience.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

"SEC. 5204. COMPOSITION OF GRANTS.

"(a) In General.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

"(1) the total amount of funds allocated for such fiscal year under sections 1127 and 1128 of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part which are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs;

"(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination Act, or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to those referenced under section 1126(d) of the Education Amendments of 1978 or any other law); and

"(3) the total amount of funds that are allocated to such schools for such fiscal year under—

"(A) title I of the Elementary and Secondary Education Act of 1965;

"(B) the Individuals with Disabilities Education Act; and

"(C) any other Federal education law, that are allocated to such schools for such fiscal year.

"(b] SPECIAL RULES.—

"(1) IN GENERAL.—

"(A) APPLICABILITY OF CERTAIN LAWS.—Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

"(i) title I of the Elementary and Secondary Education Act of 1965;

"(ii) the Individuals with Disabilities Education Act; or

"(iii) any Federal education law other than title XI of the Education Amendments of 1978.

"(B) APPLICABILITY OF BUREAU PROVISIONS.—Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

"(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—Tribally controlled schools for which grants are provided under this part shall be treated as contract schools for the purposes of allocation of funds under sections 1126(e), 1127, and 1128 of the Education Amendments of 1978.

"(3) SCHOOLS CONSIDERED BUREAU SCHOOLS.—Tribally controlled schools for which grants are provided under this chapter shall be treated as Bureau schools for the purposes of allocation of funds provided under—

"(A) title I of the Elementary and Secondary Education Act of 1965;

"(B) the Individuals with Disabilities Education Act; and

"(C) any other Federal education law, that are distributed through the Bureau.

"(4) ACCOUNTS; USE OF CERTAIN FUNDS.—

"(A) SEPARATE ACCOUNT.—

"(i) IN GENERAL.—Notwithstanding section 5204(a)(2), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant provided under section 5204(a), the grant recipient shall maintain a separate account for such funds.

"(ii) SUBMISSION OF ACCOUNTING.—At the end of the period designated for the work covered by the funds received, the grant recipient shall submit to the Secretary a separate accounting of the work done and the funds expended.

"(iii) USE OF FUNDS.—Funds received from those accounts may only be used for the purpose for which the funds were appropriated and for the work encompassed by the application or submission for which the funds were received.

"(iv) COMPLETION OF PROJECT.—Upon completion of a project for which a separate account is established under this paragraph, the portion of the grant related to such project may be closed out upon agreement by the grantee and the Secretary.

"(B) REQUIREMENTS FOR PROJECTS.—

"(i) REGULATORY REQUIREMENTS.—With respect to a grant to a tribally controlled school under this part for new construction or facilities improvements and repair in excess of $100,000, such grant shall be subject to the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in part 12 of title 43, Code of Federal Regulations.

"(ii) EXCEPTION.—Notwithstanding clause (i), grants described in such clause shall not be subject to section 12.61 of title 43, Code of Federal Regulations. The Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed.

"(iii) APPLICATIONS.—In considering applications for a grant described in clause (i), the Secretary shall consider whether the Indian tribe or tribal organization involved would be deficient in ensuring that the construction projects under the proposed grant conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required under section 1124 of the Education Amendments of 1978 (25 U.S.C. 2005(a)) with respect to organizational and financial management capabilities.

"(iv) DISPUTES.—Any disputes between the Secretary and any grantee concerning a grant described in clause (i) shall be subject to the dispute provisions contained in section 5209(e).

"(C) NEW CONSTRUCTION.—Notwithstanding subparagraph (A), a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal governing body or tribal organization that submits the application for the grant provides funding for the new construction equal to at least 25 percent of the total cost of such new construction.

"(D) PERIOD.—In a case in which the appropriations measure under which the funds described in subparagraph (A) are made available or the application submitted for the funds does not stipulate a period for the work covered by the funds, the Secretary and the grant recipient shall consult and determine such a period prior to the transfer of the funds. A period so determined may be extended upon mutual agreement of the Secretary and the grant recipient.

"(5) ENFORCEMENT OF REQUEST TO INCLUDE FUNDS.—

"(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant under this part the funds described in subsection (a)(2) within 180 days after the filing of the request, the Secretary shall—

"(i) be deemed to have approved such request; and

"(ii) immediately upon the expiration of such 180-day period amend the grant accordingly.

"(B) RIGHTS.—A tribe or organization described in subparagraph (A) may enforce its rights under subsection (a)(2) and this paragraph, including rights relating to any denial or failure to act on such tribe's or organization's request, pursuant to the dispute authority described in section 5209(e).

"SEC. 5205. ELIGIBILITY FOR GRANTS.

"(a) RULES.—

"(1) IN GENERAL.—A tribally controlled school is eligible for assistance under this part if the school—

"(A) on April 28, 1988, was a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part;

"(B) was a Bureau-operated school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b);

"(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c); or

"(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

"(2) NEW SCHOOLS.—Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of enactment of the Native American Education Improvement Act of 2001 shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

"(b) ADDITIONAL REQUIREMENTS FOR BUREAU-FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

"(1) BUREAU-FUNDED SCHOOLS.—A school that was a Bureau-funded school under title XI of the Education Amendments of 1978 on the date of enactment of the Native American Education Improvement Act of 2001 and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

"(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

"(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school; and

"(ii) make a determination as to whether the school is eligible for assistance under this part; and

"(B) the Secretary makes a determination that the school is eligible for assistance under this part.

"(2) CERTAIN ELECTING SCHOOLS.—

"(A) IN GENERAL.—By not later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

"(i) in the case of a school which is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

"(ii) whether the school is eligible for assistance under this part.

"(B) OTHER DETERMINATIONS.—In considering applications submitted under paragraph (1)(A), the Secretary—

"(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and

"(ii) shall determine that the school is eligible for assistance under this part, unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

"(C) CONSIDERATIONS.—In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

"(i) equipment;

"(ii) bookkeeping and accounting procedures;

"(iii) ability to adequately manage a school; or

"(iv) adequately trained personnel.

"(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL WHICH IS NOT A BUREAU-FUNDED SCHOOL.—

"(1) IN GENERAL.—A school which is not a Bureau-funded school under title XI of the Education Amendments of 1978 meets the requirements of this subsection if—

"(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary as to whether the school is eligible for assistance under this part; and

"(B) the Secretary makes a determination that a school is eligible for assistance under this part.

"(2) DEADLINE FOR DETERMINATION BY SECRETARY.—

"(A) IN GENERAL.—By not later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

"(B) CONSIDERATIONS.—In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

"(i) With respect to the applicant's proposal—

"(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

"(II) geographic and demographic factors in the affected areas;

"(III) adequacy of the applicant's program plans;

"(IV) geographic proximity of comparable public education; and

"(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations.

"(ii) With respect to all education services already available—

"(I) geographic and demographic factors in the affected areas;

"(II) adequacy and comparability of programs already available;

"(III) consistency of available programs with tribal education codes or tribal legislation on education; and

"(IV) the history and success of these services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

"(C) GEOGRAPHIC PROXIMITY.—The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

"(D) OTHER INFORMATION.—Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

"(E) DEADLINE.—If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary's discretion.

"(d) FILING OF APPLICATIONS AND REPORTS.—

"(1) IN GENERAL.—All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which such filing occurs shall, for purposes of this part, be treated as the date on which the application or amendment was submitted to the Secretary.

"(2) SUPPORTING DOCUMENTATION.—Any application that is submitted under this chapter shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

"(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided by subsection (c)(2)(E), a grant provided under this part, and any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

"(f) DENIAL OF APPLICATIONS.—

"(1) IN GENERAL.—Whenever the Secretary refuses to approve a grant under this chapter, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

"(A) state the objections in writing to the tribe or tribal organization within the allotted time;

"(B) provide assistance to the tribe or tribal organization to overcome all stated objections;

"(C) at the request of the tribe or tribal organization, provide the tribe or tribal organization a hearing on the record under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act; and

"(D) provide an opportunity to appeal the objection raised.

"(2) TIMELINE FOR RECONSIDERATION OF AMENDED APPLICATIONS.—The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

"(g) REPORT.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to Congress the budget under section 1105 of title 31, United States Code.

"SEC. 5206. DURATION OF ELIGIBILITY DETERMINATION.

"(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5205, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

"(b) ANNUAL REPORTS.—

"(1) IN GENERAL.—Each recipient of a grant provided under this part shall complete an annual report which shall be limited to—

"(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

"(B) an annual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

"(C) a biennial compliance audit of the procurement of personal property during the period for which the report is being prepared that shall be in compliance with written procurement standards that are developed by the local school board;

"(D) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

"(E) a program evaluation conducted by an impartial evaluation review team, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

"(2) EVALUATION REVIEW TEAMS.—Where appropriate, other tribally controlled schools and representatives of tribally controlled community colleges shall make up members of the evaluation review teams.

"(3) EVALUATIONS.—In the case of a school which is accredited, evaluations will be conducted at intervals under the terms of accreditation.

"(4) SUBMISSION OF REPORT.—

"(A) TO TRIBAL GOVERNING BODY.—Upon completion of the report required under paragraph (1), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the tribal governing body (as defined in section 1132(f) of the Education Amendments of 1978) of the tribally controlled school.

"(B) TO SECRETARY.—Not later than 30 days after receiving written confirmation that the tribal governing body has received the report sent pursuant to subparagraph (A), the recipient of the grant shall send a copy of the report to the Secretary.

"(c) REVOCATION OF ELIGIBILITY.—

"(1) DETERMINATION OF ELIGIBILITY FOR ASSISTANCE.—The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

"(A) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school; and

"(B) at least 1 of the following clauses applies with respect to the school:

"(i) The school is certified or accredited by a State or regional accrediting association or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by the students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

"(ii) The Secretary determines that there is a reasonable expectation that the certification or accreditation described in clause (i), or candidacy in good standing for such certification or accreditation, will be achieved by the school within 3 years. The school seeking accreditation shall remain under the standards of the Bureau in effect on the date of enactment of the Native American Education Improvement Act of 2001 until such time as the school is accredited, except that if the Bureau standards are in conflict with the standards of the accrediting agency, the standards of such agency shall apply in such case.

"(iii) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

"(iv)(I) With respect to a school that lacks accreditation, or that is not a candidate for accreditation, based on circumstances that are not beyond the control of the school board, every 3 years an impartial evaluator agreed upon by the Secretary and the grant recipient conducts evaluations of the school, and the school receives a positive assessment under such evaluations. The evaluations are conducted under standards adopted by a contractor under a contract for the school entered into under the Indian Self-Determination and Education Assistance Act (or revisions of such standards agreed to by the Secretary and the grant recipient) prior to the date of enactment of the Native American Education Improvement Act of 2001.

"(II) If the Secretary and a grant recipient other than a tribal governing body fail to agree on such an evaluator, the tribal governing body

shall choose the evaluator or perform the evaluation. If the Secretary and a grant recipient that is a tribal governing body fail to agree on such an evaluator, subclause (I) shall not apply.

“(III) A positive assessment by an impartial evaluator under this clause shall not affect the revocation of a determination of eligibility by the Secretary where such revocation is based on circumstances that were within the control of the school board.

“(2) NOTICE REQUIREMENTS FOR REVOCATION.—The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A) until the Secretary—

“(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 1141 of the Education Amendments of 1978) of the tribally controlled school which states—

“(i) the specific deficiencies that led to the revocation or resumption determination; and

“(ii) the actions that are needed to remedy such deficiencies; and

“(B) affords such authority an opportunity to effect the remedial actions.

“(3) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical·assistance to enable the school and governing body to carry out such remedial actions.

“(4) HEARING AND APPEAL.—In addition to notice and technical assistance under this subsection, the Secretary shall provide to the school and governing body—

“(A) at the request of the school or governing body, a hearing on the record regarding the revocation or reassumption determination, to be conducted under the rules and regulations described in section 5206(f)(1)(C); and

“(B) an opportunity to appeal the decision resulting from the hearing.

“(d) APPLICABILITY OF SECTION PURSUANT TO ELECTION UNDER SECTION 5208(b).—With respect to a tribally controlled school that receives assistance under this part pursuant to an election made under section 5208(b)—

“(1) subsection (b) of this section shall apply; and

“(2) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c) of this section.

“SEC. 5207. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

“(a) PAYMENTS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments, of which—

“(A) the first payment shall be made not later than July 1 of each year in an amount equal to 80 percent of the amount which the grantee was entitled to receive during the preceding academic year; and

“(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

“(2) EXCESS FUNDING.—In a case in which the amount provided to a grant recipient under paragraph (1)(A) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the recipient shall return to the Secretary such excess amount not later than 30 days after the final determination that the school was overpaid pursuant to this section. The amount returned to the Secretary under this paragraph shall be distributed equally to all schools in the system.

“(3) NEWLY FUNDED SCHOOLS.—For any school for which no payment under this part was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

“(4) LATE FUNDING.—With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

“(5) APPLICABILITY OF CERTAIN TITLE 31 PROVISIONS.—The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (3), and (4).

“(6) RESTRICTIONS.—Paragraphs (1), (3), and (4) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved.

“(b) INVESTMENT OF FUNDS.—

“(1) TREATMENT OF INTEREST AND INVESTMENT INCOME.—Notwithstanding any other provision of law, any interest or investment income that accrues to any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law. Such interest income shall be spent on behalf of the school.

“(2) PERMISSIBLE INVESTMENTS.—Funds provided under this part may be invested by the Indian tribe or tribal organization before such funds are expended for the purposes of this part so long as such funds are—

“(A) invested by the Indian tribe ,or tribal organization only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States, or securities that are guaranteed or insured by the United States; or

“(B) deposited only into accounts that are insure by and agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

“(c) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

“SEC. 5208. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

“(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—The following provisions of the Indian Self-Determination and Education Assistance Act (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this part:

“(1) Section 5(f) (relating to single agency audit).

“(2) Section 6 (relating to criminal activities; penalties).

“(3) Section 7 (relating to wage and labor standards).

“(4) Section 104 (relating to retention of Federal employee coverage).

“(5) Section 105(f) (relating to Federal property).

“(6) Section 105(k) (relating to access to Federal sources of supply).

“(7) Section 105(l) (relating to lease of facility used for administration and delivery of services).

“(8) Section 106(f) (relating to limitation on remedies relating to cost allowances).

“(9) Section 106(j) (relating to use of funds for matching or cost participation requirements).

“(10) Section 106(k) (relating to allowable uses of funds).

“(11) Section 108(c) (Model Agreements provisions (1)(a)(5) (relating to limitations of costs), (1)(a)(7) (relating to records and monitoring), (1)(a)(8) (relating to property), and (a)(1)(9) (relating to availability of funds).

“(12) Section 109 (relating to reassumption).

“(13) Section 111 (relating to sovereign immunity and trusteeship rights unaffected).

“(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

“(1) IN GENERAL.—Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect on the date of enactment of the Native American Education Improvement Act of 2001 may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.

“(2) EFFECTIVE DATE OF ELECTION.—Any election made under paragraph (1) shall take effect on the first day of July immediately following the date of such election.

“(3) EXCEPTION.—In any case in which the first day of July immediately following the date of an election under paragraph (1) is less than 60 days after such election, such election shall not take effect until the first day of July of year following the year in which the election is made.

“(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or services if a grant has been made under this part to pay such expenses.

“(d) TRANSFERS AND CARRYOVERS.—

“(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATERIALS.—A tribe or tribal organization assuming the operation of—

“(A) a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act; or

“(B) a contract school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act.

“(2) FUNDS.—Any tribe or tribal organization which assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization which elects to operate a school with assistance under this part rather that to continue as a contract school shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

“(3) FUNDING FOR SCHOOL IMPROVEMENT.—Any tribe or tribal organization that assumes operation of a Bureau school or a contract school with assistance under this part shall be eligible for funding for the improvement, alteration, replacement, and repair of facilities to the same extent as a Bureau school.

“(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any exception or problem cited in an audit conducted pursuant to section 5206(b)(1), any dispute regarding a grant authorized to be made pursuant to this part or any amendment to such grant, and any dispute involving an administrative cost grant under section 1128 of the Education Amendments of 1978 shall be administered under the provisions governing such exceptions, problems, or disputes in the case of contracts

under the Indian Self-Determination and Education Assistance Act. The Equal Access to Justice Act shall apply to administrative appeals filed after September 8, 1988, by grantees regarding a grant under this part, including an administrative cost grant.

"SEC. 5209. ROLE OF THE DIRECTOR.

"Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

"SEC. 5210. REGULATIONS.

"The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary in this part. For all other matters relating to the details of planning, developing, implementing, and evaluating grants under this part, the Secretary shall not issue regulations.

"SEC. 5211. THE TRIBALLY CONTROLLED GRANT SCHOOL ENDOWMENT PROGRAM.

"(a) In General.—

"(1) Establishment.—Each school receiving a grant under this part may establish, at a federally insured financial institution, a trust fund for the purposes of this section.

"(2) Deposits and Use.—The school may provide—

"(A) for deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received from grants provided under this part may be used for that purpose;

"(B) for deposit into the trust fund, any earnings on funds deposited in the fund; and

"(C) for the sole use of the school any noncash, in-kind contributions of real or personal property, which may at any time be used, sold, or otherwise disposed of.

"(b) Interest.—Interest from the fund established under subsection (a) may periodically be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school consistent with the purposes of this Act.

"SEC. 5212. DEFINITIONS.

"In this part:

"(1) Bureau.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

"(2) Eligible Indian student.—The term 'eligible Indian student' has the meaning given such term in section 1127(f) of the Education Amendments of 1978.

"(3) Indian.—The term 'Indian' means a member of an Indian tribe, and includes individuals who are eligible for membership in a tribe, and the child or grandchild of such an individual.

"(4) Indian tribe.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Village Corporation or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(5) Local educational agency.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for the State's public elementary schools or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

"(6) Secretary.—The term 'Secretary' means the Secretary of the Interior.

"(7) Tribal governing body.—The term 'tribal governing body' means, with respect to any school that receives assistance under this Act, the recognized governing body of the Indian tribe involved.

"(8) Tribal organization.—

"(A) In general.—The term 'tribal organization' means—

"(i) the recognized governing body of any Indian tribe; or

"(ii) any legally established organization of Indians that—

"(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization; and

"(II) includes the maximum participation of Indians in all phases of the organization's activities.

"(B) Authorization.—In any case in which a grant is provided under this part to an organization to provide services through a tribally controlled school benefiting more than 1 Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of the students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

"(9) Tribally controlled school.—The term 'tribally controlled school' means a school that—

"(A) is operated by an Indian tribe or a tribal organization, enrolling students in kindergarten through grade 12, including a preschool;

"(B) is not a local educational agency; and

"(C) is not directly administered by the Bureau of Indian Affairs.".

SEC. 1044. LEASE PAYMENTS BY THE OJIBWA INDIAN SCHOOL.

(a) In General.—Notwithstanding the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), or the regulations promulgated under such Act, the Ojibwa Indian School located in Belcourt, North Dakota, may use amounts received under such Act to enter into, and make payments under, a lease described in subsection (b).

(b) Lease.—A lease described in this subsection is a lease that—

(1) is entered into by the Ojibwa Indian School for the use of facilities owned by St. Ann's Catholic Church located in Belcourt, North Dakota;

(2) is entered into in the 2001–2002 school year, or any other school year in which the Ojibwa Indian School will use such facilities for school purposes;

(3) requires lease payments in an amount determined appropriate by an independent lease appraiser that is selected by the parties to the lease, except that such amount may not exceed the maximum amount per square foot that is being paid by the Bureau of Indian Affairs for other similarly situated Indian schools under the Indian Self-Determination and Education Assistance Act (Public Law 93-638); and

(4) contains a waiver of the right of St. Ann's Catholic Church to bring an action against the Ojibwa Indian School, the Turtle Mountain Band of Chippewa, or the Federal Government for the recovery of any amounts remaining unpaid under leases entered into prior to the date of enactment of this Act.

(c) Method of Funding.—Amounts shall be made available by the Bureau of Indian Affairs to make lease payments under this section in the same manner as amounts are made available to make payments under leases entered into by Indian schools under the Indian Self-Determination and Education Assistance Act (Public Law 93–638).

(d) Operation and Maintenance Funding.—The Bureau of Indian Affairs shall provide funding for the operation and maintenance of the facilities and property used by the Ojibwa Indian School under the lease entered into under subsection (a) so long as such facilities and property are being used by the School for educational purposes.

SEC. 1045. ENROLLMENT AND GENERAL ASSISTANCE PAYMENTS.

Section 5404(a) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 13d–2(a)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"(a) In General.—The Secretary of the Interior shall not disqualify from continued receipt of general assistance payments from the Bureau of Indian Affairs an otherwise eligible Indian for whom the Bureau is making or may make general assistance payments (or exclude such an individual from continued consideration in determining the amount of general assistance payments for a household) because the individual is enrolled (and is making satisfactory progress toward completion of a program or training that can reasonably be expected to lead to gainful employment) for at least half-time study or training
in—"; and

(2) by striking paragraph (4), and inserting the following:

"(4) other programs or training approved by the Secretary or by tribal education, employment or training programs.".

PART E—HIGHER EDUCATION ACT OF 1965

SEC. 1051. PREPARING TOMORROW'S TEACHERS TO USE TECHNOLOGY.

Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended—

(1) by striking the title heading and inserting the following:

"TITLE II—TEACHER QUALITY ENHANCEMENT

"PART A—TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS";

(2) by striking "this title" each place it appears and inserting "this part"; and

(3) by adding at the end the following:

"PART B—PREPARING TOMORROW'S TEACHERS TO USE TECHNOLOGY

"SEC. 221. PURPOSE AND PROGRAM AUTHORITY.

"(a) Purpose.—It is the purpose of this part to assist consortia of public and private entities—

"(1) to carry out programs that prepare prospective teachers to use advanced technology to prepare all students to meet challenging State and local academic content and student academic achievement standards; and

"(2) to improve the ability of institutions of higher education to carry out such programs.

"(b) Program Authority.—

"(1) In general.—The Secretary is authorized to award grants to eligible applicants, or enter into contracts or cooperative agreements with eligible applicants, on a competitive basis in order to pay for the Federal share of the cost of projects to develop or redesign teacher preparation programs to enable prospective teachers to use advanced technology effectively in their classrooms.

"(2) Period of Awards.—The Secretary may award grants, or enter into contracts or cooperative agreements, under this part for periods that are not more than 5 years in duration.

"SEC. 222. ELIGIBILITY.

"(a) Eligible Applicants.—In order to receive a grant or enter into a contract or cooperative agreement under this part, an applicant shall be a consortium that includes the following:

"(1) At least one institution of higher education that awards baccalaureate degrees and prepares teachers for their initial entry into teaching.

"(2) At least one State educational agency or local educational agency.

"(3) One or more of the following entities:

"(A) An institution of higher education (other than the institution described in paragraph (1)).

"(B) A school or department of education at an institution of higher education.

"(C) A school or college of arts and sciences (as defined in section 201(b)) at an institution of higher education.

"(D) A professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity, with the capacity to contribute to the technology-related reform of teacher preparation programs.

"(b) Application Requirements.—In order to receive a grant or enter into a contract or cooperative agreement under this part, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include the following:

"(1) A description of the proposed project, including how the project would—

"(A) ensure that individuals participating in the project would be prepared to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

"(B) improve the ability of at least one participating institution of higher education described in section 222(a)(1) to ensure such preparation.

"(2) A demonstration of—

"(A) the commitment, including the financial commitment, of each of the members of the consortium for the proposed project; and

"(B) the active support of the leadership of each organization that is a member of the consortium for the proposed project;

"(3) A description of how each member of the consortium will participate in project activities.

"(4) A description of how the proposed project will be continued after Federal funds are no longer awarded under this part for the project.

"(5) A plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

"(c) Matching Requirements.—

"(1) In General.—The Federal share of the cost of any project funded under this part shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

"(2) Acquisition of Equipment.—Not more than 10 percent of the funds awarded for a project under this part may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be provided in cash.

"SEC. 223. USE OF FUNDS.

"(a) Required Uses.—A consortium that receives a grant or enters into a contract or cooperative agreement under this part shall use funds made available under this part for—

"(1) a project creating one or more programs that prepare prospective teachers to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

"(2) evaluating the effectiveness of the project.

"(b) Permissible Uses.—The consortium may use funds made available under this part for a project, described in the application submitted by the consortium under this part, that carries out the purpose of this part, such as the following:

"(1) Developing and implementing high-quality teacher preparation programs that enable educators—

"(A) to learn the full range of resources that can be accessed through the use of technology;

"(B) to integrate a variety of technologies into curricula and instruction in order to expand students' knowledge;

"(C) to evaluate educational technologies and their potential for use in instruction;

"(D) to help students develop their technical skills; and

"(E) to use technology to collect, manage, and analyze data to improve teaching and decision-making.

"(2) Developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators.

"(3) Developing achievement-based standards and assessments aligned with the standards to measure the capacity of prospective teachers to use technology effectively in their classrooms.

"(4) Providing technical assistance to entities carrying out other teacher preparation programs.

"(5) Developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms.

"(6) Subject to section 222(c)(2), acquiring technology equipment, networking capabilities, infrastructure, software, and digital curricula to carry out the project.

"SEC. 224. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2002 and 2003.".

SEC. 1052. CONTINUATION OF AWARDS.

Notwithstanding any other provision of this Act or the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in the case of a person or entity that was awarded a grant, relating to preparing tomorrow's teachers to use technology, that was made pursuant to section 3122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6832) prior to the date of enactment of this Act, the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates.

PART F—GENERAL EDUCATION PROVISIONS ACT

SEC. 1061. STUDENT PRIVACY, PARENTAL ACCESS TO INFORMATION, AND ADMINISTRATION OF CERTAIN PHYSICAL EXAMINATIONS TO MINORS.

Section 445(b) of the General Education Provisions Act (20 U.S.C. 1232h(b)) is amended—

(1) by striking paragraphs (1) through (7) and inserting the following new paragraphs:

"(1) political affiliations or beliefs of the student or the student's parent;

"(2) mental or psychological problems of the student or the student's family;

"(3) sex behavior or attitudes;

"(4) illegal, anti-social, self-incriminating, or demeaning behavior;

"(5) critical appraisals of other individuals with whom respondents have close family relationships;

"(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;

"(7) religious practices, affiliations, or beliefs of the student or student's parent; or

"(8) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).";

(2) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) Development of Local Policies Concerning Student Privacy, Parental Access to Information, and Administration of Certain Physical Examinations to Minors.—

"(1) Development and Adoption of Local Policies.—Except as provided in subsections (a) and (b), a local educational agency that receives funds under any applicable program shall develop and adopt policies, in consultation with parents, regarding the following:

"(A)(i) The right of a parent of a student to inspect, upon the request of the parent, a survey created by a third party before the survey is administered or distributed by a school to a student; and

"(ii) any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.

"(B) Arrangements to protect student privacy that are provided by the agency in the event of the administration or distribution of a survey to a student containing one or more of the following items (including the right of a parent of a student to inspect, upon the request of the parent, any survey containing one or more of such items):

"(i) Political affiliations or beliefs of the student or the student's parent.

"(ii) Mental or psychological problems of the student or the student's family.

"(iii) Sex behavior or attitudes.

"(iv) Illegal, anti-social, self-incriminating, or demeaning behavior.

"(v) Critical appraisals of other individuals with whom respondents have close family relationships.

"(vi) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.

"(vii) Religious practices, affiliations, or beliefs of the student or the student's parent.

"(viii) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

"(C)(i) The right of a parent of a student to inspect, upon the request of the parent, any instructional material used as part of the educational curriculum for the student; and

"(ii) any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.

"(D) The administration of physical examinations or screenings that the school or agency may administer to a student.

"(E) The collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose), including arrangements to protect student privacy that are provided by the agency in the event of such collection, disclosure, or use.

"(F)(i) The right of a parent of a student to inspect, upon the request of the parent, any instrument used in the collection of personal information under subparagraph (E) before the instrument is administered or distributed to a student; and

"(ii) any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

"(2) PARENTAL NOTIFICATION.—

"(A) NOTIFICATION OF POLICIES.—The policies developed by a local educational agency under paragraph (1) shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of students enrolled in schools served by that agency. At a minimum, the agency shall—

"(i) provide such notice at least annually, at the beginning of the school year, and within a reasonable period of time after any substantive change in such policies; and

"(ii) offer an opportunity for the parent (and for purposes of an activity described in subparagraph (C)(i), in the case of a student of an appropriate age, the student) to opt the student out of participation in an activity described in subparagraph (C).

"(B) NOTIFICATION OF SPECIFIC EVENTS.—The local educational agency shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities described in subparagraph (C) are scheduled, or expected to be scheduled.

"(C) ACTIVITIES REQUIRING NOTIFICATION.—The following activities require notification under this paragraph:

"(i) Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose).

"(ii) The administration of any survey containing one or more items described in clauses (i) through (viii) of paragraph (1)(B).

"(iii) Any nonemergency, invasive physical examination or screening that is—

"(I) required as a condition of attendance;

"(II) administered by the school and scheduled by the school in advance; and

"(III) not necessary to protect the immediate health and safety of the student, or of other students.

"(3) EXISTING POLICIES.—A local educational agency need not develop and adopt new policies if the State educational agency or local educational agency has in place, on the date of enactment of the No Child Left Behind Act of 2001, policies covering the requirements of paragraph (1). The agency shall provide reasonable notice of such existing policies to parents and guardians of students, in accordance with paragraph (2).

"(4) EXCEPTIONS.—

"(A) EDUCATIONAL PRODUCTS OR SERVICES.—Paragraph (1)(E) does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:

"(i) College or other postsecondary education recruitment, or military recruitment.

"(ii) Book clubs, magazines, and programs providing access to low-cost literary products.

"(iii) Curriculum and instructional materials used by elementary schools and secondary schools.

"(iv) Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.

"(v) The sale by students of products or services to raise funds for school-related or education-related activities.

"(vi) Student recognition programs.

"(B) STATE LAW EXCEPTION.—The provisions of this subsection—

"(i) shall not be construed to preempt applicable provisions of State law that require parental notification; and

"(ii) do not apply to any physical examination or screening that is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification.

"(5) GENERAL PROVISIONS.—

"(A) RULES OF CONSTRUCTION.—

"(i) This section does not supersede section 444.

"(ii) Paragraph (1)(D) does not apply to a survey administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(B) STUDENT RIGHTS.—The rights provided to parents under this section transfer to the student when the student turns 18 years old, or is an emancipated minor (under an applicable State law) at any age.

"(C) INFORMATION ACTIVITIES.—The Secretary shall annually inform each State educational agency and each local educational agency of the educational agency's obligations under this section and section 444.

"(D) FUNDING.—A State educational agency or local educational agency may use funds provided under part A of title V of the Elementary and Secondary Education Act of 1965 to enhance parental involvement in areas affecting the in-school privacy of students.

"(6) DEFINITIONS.—As used in this subsection:

"(A) INSTRUCTIONAL MATERIAL.—The term 'instructional material' means instructional content that is provided to a student, regardless of its format, including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

"(B) INVASIVE PHYSICAL EXAMINATION.—The term 'invasive physical examination' means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

"(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means an elementary school, secondary school, school district, or local board of education that is the recipient of funds under an applicable program, but does not include a postsecondary institution.

"(D) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child).

"(E) PERSONAL INFORMATION.—The term 'personal information' means individually identifiable information including—

"(i) a student or parent's first and last name;

"(ii) a home or other physical address (including street name and the name of the city or town);

"(iii) a telephone number; or

"(iv) a Social Security identification number.

"(F) STUDENT.—The term 'student' means any elementary school or secondary school student.

"(G) SURVEY.—The term 'survey' includes an evaluation.".

SEC. 1062. TECHNICAL CORRECTIONS.

The General Education Provisions Act (20 U.S.C. 1221 et seq.) is amended as follows:

(1) SECTION 431.—Section 422 (the second place it appears) (20 U.S.C. 1231a), relating to collection and dissemination of information, is redesignated as section 431.

(2) SECTION 441.—Section 3501(c) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 357) is amended by striking "through 'such Act)'" and inserting "through 'Act of 1965'", effective as of the date of enactment of that law.

(3) SECTION 444.—Section 444 (20 U.S.C. 1232g) is amended—

(A) in subsection (a)(1), by moving subparagraph (B) four ems to the left;

(B) in subsection (b)(1)(J), by moving subparagraph (J)(i) and clause (ii) of subparagraph (J) each two ems to the left;

(C) in the undesignated text following subsection (b)(1)(J)(ii), by striking "clause (E)" and inserting "subparagraph (E)"; and

(D) in subsection (b), by moving paragraph (7)(A) and subparagraph (B) of paragraph (7) each two ems to the left.

(4) SECTION 447.—Section 447(b) (20 U.S.C. 1232j(b)) is amended by striking "et seq.".

(5) SECTION 475.—Section 475(b)(2) (20 U.S.C. 1235d) is amended by striking "section 4703(3)" and inserting "section 473(3)".

(6) SECTION 477.—Section 477 (20 U.S.C. 1235f) is amended by striking "section 4702" and inserting "472".

PART G—MISCELLANEOUS OTHER STATUTES

SEC. 1071. TITLE 5 OF THE UNITED STATES CODE.

(a) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Education".

(b) EFFECTIVE DATE.—This section shall take effect on the first day of the first pay period on or after the date of enactment of this Act.

SEC. 1072. DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) COORDINATOR FOR THE OUTLYING AREAS.—Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following new section:

"COORDINATOR FOR THE OUTLYING AREAS

"SEC. 220. (a) ESTABLISHMENT.—The Secretary shall designate an office of the Department to coordinate the activities of the Department as they relate to the outlying areas.

"(b) APPOINTMENT.—Not later than 90 days after the date of enactment of the No Child Left Behind Act of 2001, the head of the office designated under subsection (a) shall appoint a coordinator for the outlying areas, who shall be a person with substantial experience in the operation of Federal programs in the outlying areas.

"(c) DUTIES.—The coordinator for the outlying areas shall—

"(1) serve as the principal advisor to the Department on Federal matters affecting the outlying areas;

"(2) evaluate, on a periodic basis, the needs of education programs in the outlying areas;

"(3) assist with the coordination of programs that serve the outlying areas; and

"(4) provide guidance to programs within the Department that serve the outlying areas.

"(d) OUTLYING AREAS DEFINED.—As used in this section, the term 'outlying areas' includes Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Marianas Islands, but does not include the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.".

(b) RENAMING OF OFFICE.—The Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended by striking "Office of Bilingual Education and Minority Languages Affairs" and "Office of Bilingual Education" each place either such term appears and inserting "Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students".

(c) CLERICAL AMENDMENTS.—The Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended as follows:

(1) TABLE OF CONTENTS.—The table of contents in section 1 (20 U.S.C. 3401 note) is amended—

(A) by amending the item relating to section 209 to read as follows:

"Sec. 209. Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.";

(B) by amending the item relating to section 216 to read as follows:

"Sec. 216. Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students."; and

(C) by inserting after the item relating to section 217 the following new items:

"Sec. 218. Office of Educational Technology.
"Sec. 219. Liaison for Proprietary Institutions of Higher Education.
"Sec. 220. Coordinator for the Outlying Areas.".

(2) SECTION HEADINGS.—

(A) SECTION 209.—The section heading for section 209 of the Department of Education Organization Act (20 U.S.C. 3420) is amended to read as follows:

"OFFICE OF ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT FOR LIMITED ENGLISH PROFICIENT STUDENTS".

(B) SECTION 216.—The section heading for section 216 of the Department of Education Organization Act (20 U.S.C. 3423d) is amended to read as follows:

"SEC. 216. OFFICE OF ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT FOR LIMITED ENGLISH PROFICIENT STUDENTS.".

(d) CONFORMING AMENDMENTS.—Sections 209 and 216 of the Department of Education Organization Act (20 U.S.C. 3420, 3423d) are amended by striking "Director of Bilingual Education and Minority Languages Affairs" each place such term appears and inserting "Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students".

(e) TECHNICAL CORRECTIONS.—

(2) SECTION 202.—Paragraph (3) of section 202(b) (20 U.S.C. 3412(b)(3)), relating to the Assistant Secretary for Educational Research and Improvement (as added by section 913(2) of the Goals 2000: Educate America Act (108 Stat. 223)), is redesignated as paragraph (4).

(3) SECTION 218.—Section 216 (the second place it appears) (20 U.S.C. 3425), relating to the Office of Educational Technology (as added by section 233(a) the Goals 2000: Educate America Act (108 Stat. 154), is redesignated as section 218.

SEC. 1073. EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999.

Section 4(b) of the Education Flexibility Partnership Act of 1999 (20 U.S.C. 5891b(b)) is amended to read as follows:

"(b) INCLUDED PROGRAMS.—The statutory or regulatory requirements referred to in subsection (a)(1)(A) are any such requirements for programs that are authorized under the following provisions and under which the Secretary provides funds to State educational agencies on the basis of a formula:

"(1) The following provisions of the Elementary and Secondary Education Act of 1965:

"(A) Part A (other than sections 1111 and 1116), subpart 3 of part B, and parts C, D, and F of title I.

"(B) Subparts 2 and 3 of part A of title II.

"(C) Subpart 1 of part D of title II.

"(D) Subpart 4 of part B of title III, if the funding trigger in section 3001 of such Act is not reached.

"(E) Subpart 1 of part A of title IV.

"(F) Part A of title V.

"(2) The Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).".

SEC. 1074. EDUCATIONAL RESEARCH, DEVELOPMENT, DISSEMINATION, AND IMPROVEMENT ACT OF 1994.

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6001 et seq.) is amended by adding after part I the following new part:

"PART J—CERTAIN MULTIYEAR GRANTS AND CONTRACTS

"SEC. 995. CONTINUATION OF AWARDS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, from funds appropriated under subsection (b), the Secretary—

"(1) shall continue to fund any multiyear grant or contract awarded under section 3141 and parts A and C of title XIII of the Elementary and Secondary Education Act of 1965 (as such provisions were in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001), for the duration of that multiyear award in accordance with its terms; and

"(2) may extend, on a year-to-year basis, any multiyear grant or contract awarded under an authority described in paragraph (1) that expires after the enactment of the No Child Left Behind Act of 2001, but before the enactment of successor authority to this Act.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out subsection (a).".

SEC. 1075. NATIONAL CHILD PROTECTION ACT OF 1993.

Section 5(9) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(9)) is amended—

(1) in subparagraph (A)(i), by inserting "(including an individual who is employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel)" before the semicolon at the end; and

(2) in subparagraph (B)(i), by inserting "(including an individual who seeks to be employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel)" before the semicolon at the end.

SEC. 1076. TECHNICAL AND CONFORMING AMENDMENTS.

(a) LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1997.—Section 5(d)(1) of the Legislative Branch Appropriations Act, 1997 (2 U.S.C. 117b-2(d)(1)) is amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 8801)".

(b) LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1987.—Section 104(3)(B)(ii) of the Legislative Branch Appropriations Act, 1987 (as incorporated by reference in section 101(j) of Public Law 99–500 and Public Law 99–591) (2 U.S.C. 117e(3)(B)(ii)) is amended by striking "14101" and inserting "9101".

(c) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—Section 1417(j)(1)(B) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)(1)(B)) is amended—

(1) by striking "14101(25)" and inserting "9101"; and

(2) by striking "(20 U.S.C. 8801(25))".

(d) REFUGEE EDUCATION ASSISTANCE ACT OF 1980.—Section 101(1) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "14101" and inserting "9101".

(e) TITLE 10, UNITED STATES CODE.—Section 2194(e)(2) of title 10, United States Code, is amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 8801)".

(f) TOXIC SUBSTANCES CONTROL ACT.—

(1) ASBESTOS.—Paragraphs (7), (9) and (12) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642) are amended by striking "14101" and inserting "9101".

(2) RADON.—Section 302(1)(A) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(A)) is amended by striking "14101" and inserting "9101".

(g) HIGHER EDUCATION ACT OF 1965.—Paragraphs (4), (5), (6), (10), and (14) of section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003) are amended by striking "14101" and inserting "9101".

(h) GENERAL EDUCATION PROVISIONS ACT.—Section 425(6) of the General Education Provisions Act (20 U.S.C. 1226c(6)) is amended by striking "14701" and inserting "9601".

(i) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 613(f) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(f)) is amended by striking paragraph (3).

(j) EDUCATION AMENDMENTS OF 1972.—Section 908(2)(B) of the Education Amendments of 1972 (20 U.S.C. 1687(2)(B)) is amended by striking "14101" and inserting "9101".

(k) CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT OF 1998.—Section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302) is amended—

(1) in paragraph (5)—

(A) by striking "10306" and inserting "5206"; and

(B) by striking "(20 U.S.C. 8066)";

(2) in paragraph (8) by striking "14101" and inserting "9101"; and

(3) in paragraphs (16) and (21)—

(A) by striking "14101" and inserting "9101"; and

(B) by striking "(20 U.S.C. 8801)".

(l) EDUCATION FOR ECONOMIC SECURITY ACT.—

(1) ECONOMIC SECURITY.—Section 3(3) of the Education for Economic Security Act (20 U.S.C. 3902) is amended—

(A) in paragraph (3)—

(i) by striking "198(a)(7)" and inserting "9101"; and

(B) in paragraph (7)—

(i) by striking "198(a)(10)" and inserting "9101"; and

(C) in paragraph (12)—

(i) by striking "198(a)(17)" and inserting "9101".

(2) ASBESTOS.—Section 511 of the Education for Economic Security Act (20 U.S.C. 4020) is amended—

(A) in paragraph (4)(A), by striking "198(a)(10)" and inserting "9101"; and

(B) in paragraph (5)(A), by striking "198(a)(7)" and inserting "9101".

(m) JAMES MADISON MEMORIAL FELLOWSHIP ACT.—Section 815(4) of the James Madison Memorial Fellowship Act (20 U.S.C. 4514(4)) is amended by striking "14101" and inserting "9101".

(n) NATIONAL ENVIRONMENTAL EDUCATION ACT.—Section 3(5) of the National Environmental Education Act (20 U.S.C. 5502(5)) is amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 3381)".

(o) EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999.—Section 3(1) of the Education Flexibility Partnership Act of 1999 (20 U.S.C. 5891a(1)) is amended by striking "14101" and inserting "9101".

(p) DISTRICT OF COLUMBIA COLLEGE ACCESS ACT OF 1999.—Section 3(c)(5) of the District of Columbia College Access Act of 1999 (Public Law 106–98; 113 Stat. 1323) is amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 8801)".

(q) SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—Paragraph (5) of section 502(b) of the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6212(b)(5)) is amended to read as follows:

"(5) parts K through N of the Educational Research, Development, Dissemination, and Improvement Act of 1994; and".

(r) NATIONAL EDUCATION STATISTICS ACT OF 1994.—Paragraphs (4) and (6) of section 402(c) of the National Education Statistics Act of 1994 (20 U.S.C. 9001(c)) are amended by striking "14101" and inserting "9101".

(s) ADULT EDUCATION AND FAMILY LITERACY ACT.—Section 203(13) of the Adult Education and Family Literacy Act (20 U.S.C. 9202(13)) is amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 8801)".

(t) INTERNAL REVENUE CODE OF 1986.—Section 1397E(d)(4)(B) of the Internal Revenue Code of 1986 is amended by striking "14101" and inserting "9101".

(u) REHABILITATION ACT OF 1973.—

(1) RESEARCH.—Section 202(b)(4)(A)(i) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(4)(A)(i)) is amended by striking "14101" and inserting "9101".

(2) NONDISCRIMINATION.—Section 504(b)(2)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 794(b)(2)(B)) is amended by striking "14101" and inserting "9101".

(v) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Section 108(a)(1)(A) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2618(a)(1)(A)) is amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 2891(12))".

(w) WORKFORCE INVESTMENT ACT OF 1998.—Paragraphs (23) and (40) of section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801) are amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 8801)".

(x) SAFE DRINKING WATER ACT.—Paragraphs (3)(A) and (6) of section 1461 of the Safe Drinking Water Act (42 U.S.C. 300j–21) are amended by striking "14101" and inserting "9101".

(y) CIVIL RIGHTS ACT OF 1964.—Section 606(2)(B) of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a(2)(B)) is amended by striking "14101" and inserting "9101".

(z) AGE DISCRIMINATION ACT OF 1975.—Section 309(4)(B)(ii) of the Age Discrimination Act of 1975 (42 U.S.C. 6107(4)(B)(ii)) is amended by striking "14101" and inserting "9101".

(aa) HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1989.—Section 221(f)(3)(B)(i) of The Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. 6921 note) is amended by striking "198(a)(7)" and inserting "9101".

(bb) ALBERT EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP ACT OF 1994.—Paragraphs (1), (2), and (3) of section 514 of the Albert Einstein Distinguished Educator Fellowship Act of 1994 (42 U.S.C. 7382b) are amended by striking "14101" and inserting "9101".

(cc) EARTHQUAKE HAZARDS.—Section 2(c)(1)(A) of the Act entitled "An Act to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, and for other purposes", approved October 1, 1997 (42 U.S.C. 7704 note) is amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 8801)".

(dd) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—Paragraphs (6) and (11) of section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877) are amended by striking "14101" and inserting "9101".

(ee) COMMUNITY SERVICES BLOCK GRANT ACT.—Section 682(b)(4) of the Community Services Block Grant Act (42 U.S.C. 9923(b)(4)) is amended—

(1) by striking "14101" and inserting "9101"; and

(2) by striking "(20 U.S.C. 8801)".

(ff) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Paragraphs (8), (14), (22), and (28) of section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511) are amended by striking "14101" and inserting "9101".

(gg) TELECOMMUNICATIONS ACT OF 1996.—Section 706(c)(2) of the Telecommunications Act of 1996 (47 U.S.C. 157 note) is amended—

(1) by striking "paragraphs (14) and (25), respectively, of section 14101" and inserting "section 9101"; and

(2) by striking "(20 U.S.C. 8801)".

(hh) COMMUNICATIONS ACT OF 1934.—Section 254(h)(7)(A) of the Communications Act of 1934 (47 U.S.C. 254(h)(7)(A)) is amended—

(1) by striking "paragraphs (14) and (25), respectively, of section 14101" and inserting "section 9101"; and

(2) by striking "(20 U.S.C. 8801)".

(ii) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 4024 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31136 note) is amended by striking "14101" and inserting "9101".

And the Senate agree to the same.

JOHN BOEHNER,
THOMAS E. PETRI,
MARGE ROUKEMA,
HOWARD "BUCK" MCKEON,
MIKE CASTLE,
LINDSEY, GRAHAM,
VAN HILLEARY,
JOHNNY, ISAKSON,
GEORGE MILLER,
DALE E. KILDEE,
MAJORS R. OWENS,
PATSY T. MINK,
ROBERT E. ANDREWS,
TIM ROEMER,
Managers on the Part of the House.

EDWARD KENNEDY,
CHRISTOPHER DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PATTY MURRAY,
JOHN EDWARDS,
HILLARY RODHAM CLINTON,
JOSEPH LIEBERMAN,
EVAN BAYH,
JUDD GREGG,
BILL FRIST,
MIKE ENZI,
TIM HUTCHINSON,
JOHN WARNER,
KIT BOND,
PAT ROBERTS,
SUSAN COLLINS,
JEFF SESSIONS,
MIKE DEWINE,
WAYNE ALLARD,
JOHN ENSIGN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, (H.R. 1), to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, submit the following joint statement to the House and the Senate in explanation of the effect to the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the text of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to all of the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

Title I, Part A, Subpart 2 (Formula)

**Note: The side-by-sides were numbered wrong, so these notes have been re-numbered. To correlate these notes with your side-by-side, add 15 to the side-by-side note number to get these re-numbered notes.

501. The House bill and the Senate amendment are substantially the same with exception of technical differences.

LC

502. Both bills provide assistance to the outlying areas. The Senate amendment, but not the House bill, provides assistance to the outlying areas in accordance with such criteria as the Secretary determines will best carry out the purpose of this part.

LC—conform to note 504.

503. The House bill and the Senate amendment are substantially the same except the Senate amendment clarifies that grants are specifically to local educational agencies.

HR

504. Both the House bill and the Senate amendment authorize a competition for grants. The House bill authorizes the competition for FY2002 and FY2003, while the Senate amendment authorizes the competition for FY2002 and each of the 6 succeeding fiscal years. The House bill and the Senate amendment have two different ways of referring to the $5 million reserved for the Freely Associated States. The Senate amendment authorizes the Secretary to reserve $5 million for the competitive grants from funds under subsection (a)(1), for the Freely Associated States. The House bill, but not the Senate amendment, caps the reservation at the level reserved for the Freely Associated

States in FY1999, which was $5 million. The House bill directs the Secretary to make competitive grant awards pursuant to the recommendations of the Pacific Region Educational Laboratory while the Senate amendment allows the Secretary to award grants "taking into consideration" the recommendations of the Pacific Region Educational Laboratory. The House bill provides for competitive grants to outlying areas and Freely Associated States while the Senate amendment includes only the Freely Associated States.

HR with amendment to strike "For fiscal year 2002, and each of the 6 succeeding fiscal years" and insert "Until an agreement for the extension of United States education assistance under the Compact of Free Association for each appropriate outlying area enters into effect after the date of enactment of this Act.

505. The Senate amendment, but not the House bill, provides that funds may only be used for specified purposes under this paragraph.

HR with an amendment to insert "that assist all students with meeting challenging State academic content standards" after "to provide direct educational services" in (ii).

506. The House bill and the Senate amendment both permit the Secretary to provide 5 percent of the amount reserved for grants under this paragraph to the Pacific Region Educational Laboratory for pay for administrative costs. There are minor technical differences in wording.

SR

507. The House bill, but not the Senate amendment, includes a special rule whereby, consolidation authority under P.L. 95-134 does not apply with respect to these funds.

SR

508. The House bill, but not the Senate amendment, includes definitions of "Freely Associated States" and "Outlying Area" for purposes of subsection (a) and (b). See also note 29 in Title VIII's General Provisions regarding definitions of these words. See also note 507 following.

LC—conform and put in Title VIII

509. The House bill and the Senate amendment are identical, except the House bill uses the word "allotted" while the Senate amendment uses the word "reserved."

SR

510. The House bill and the Senate amendment are identical, except the House bill uses the word "allotted" while the Senate amendment uses the word "reserved."

SR

511. The House bill and the Senate amendment are substantially the same, except the House bill refers to FY2002-FY2006 while the Senate amendment refers to FY2002-FY2008. The House bill refers to amounts "equal to" the amount appropriated to carry out section 1124 while the Senate amendment refers to amounts "less than or equal to" the amount appropriated to carry out section 1124. In effect, the House bill and Senate amendment are the same, as long as appropriations are at or above the FY2001 level.

SR with an amendment to strike "2006" and insert "2007".

512. The Senate amendment refers to amounts appropriated that are not used under paragraph (1) while the House bill does not have a similar clause.

SR

513. The House bill allocates funds under section 1125 according to the extent to which the amount appropriated under 1002(a) for the current fiscal year exceeds the amount appropriated for fiscal year 2001. The Senate amendment allocates funds in accordance with section 1125 for which a determination is made that funds are not used to carry out paragraphs (1) and (2). In effect, the House bill and Senate amendment are the same.

SR

514. The House bill and Senate amendment have identical provisions on ratable reductions.

LC

515. The House bill includes a hold harmless provision for sections 1124 and 1125 together, with a separate provision for section 1124A. The Senate amendment includes a hold harmless for sections 1124, 1124A and 1125 as one provision. The House bill provides for basic and targeted grants a hold harmless of 95 percent, 90 percent and 85 percent based on ranges of percentages of poor children in LEAs, while the Senate amendment provides, for basic, concentration, and targeted grants, a hold harmless based on the greater of 100% of what a district received for 2001 or the amount the district would have received under the statutory formula without applying any hold harmless. Under the House bill, the hold harmless provisions apply separately to each formula, as opposed to being applied to total grants under all three formulas. The Senate amendment applies to the FY2001 grant amount for each year, not to the previous year's grant amount, as in the House bill.

SR

516. The House bill, but not the Senate amendment provides for an 85 percent hold harmless for section 1124A (concentration) grants. Compare to Senate provision above.

SR with an amendment—apply according to district poverty level a sliding scale hold harmless of 85 percent to 95 percent of previous year's grant to basic, concentration, and targeted formulas, separately.

517. The House bill, but not the Senate amendment, provides a special rule regarding ineligible LEAs with respect to grants under section 1124A. See also the "Special Rules" under subsection (c)(2) of the Senate bill for minimum eligibility criteria.

SR

518. The Senate amendment, but not the House bill, prohibits the Secretary from taking into account the hold harmless for purposes of calculating State or local allocations for any other program that relies on Part A allocations.

HR

519. The House bill, and the Senate amendment contain the same provision (see section 1122(c)(3) of the Senate amendment), which provides a special rule for addressing situations where allocations for counties are insufficient to meet the hold harmless requirements for every local educational agency within that county. Under such circumstances, the State educational agency shall reallocate funds from all other local educational agencies in the State that are receiving funds in excess of the hold harmless amounts.

LC

520. The Senate amendment, but not the House bill, requires the Secretary of Education to use updated population data published by the Department of Commerce for purposes of carrying out grants under section 1124, unless the Secretary of Education and the Secretary of Commerce determine the use of the updated population data would be inappropriate or unreliable. The Senate amendment also includes provisions relating to inappropriate or unreliable data, poverty criteria, authorizations of appropriations, special rules, and calculations based on population data for counties. The Senate amendment provides for the use of population updates annually, rather than every second year, as under the House bill.

HR with an amendment to insert "annually" between "use" and "updated" in clause (i); Allow for biennial data usage when annually updated data in not available; strike clause (iv) AUTHORIZATION OF APPROPRIATIONS **and subclauses (II) and (III) of clause (ii);**

LC on Senate (3).

Report Language:

The Conferees strongly urge the Department of Education and the Department of Commerce to work collaboratively to produce annually updated data on the number of poor children as soon as possible, but not later than March 2003. The conferees believe it is imperative that the departments use annually updated data as produced by the Department of Commerce, as provided for in the Conference agreement. The Conferees recognize that additional resources will likely be necessary to produce annually updated data and therefore expect the Departments of Commerce and Education to submit budget requests that reflect the efforts that will be necessary to carry out this new responsibility.

521. The House bill and the Senate amendment on ratable reductions are identical.

LC

522. The Senate amendment includes definitions for "Freely Associated States," and "Outlying Areas," for purposes of this subpart. The House bill, in note 493 above, includes definitions of "Freely Associated States" and "Outlying Areas." See also note 29 in Title VIII (General Provisions) for definition of "Outlying Area."

LC

523. The House bill and the Senate amendment both include definitions of the term "State." The Senate amendment references the definition for purposes of this subpart while the House bill references applicability to section 1122, 1124, 1124A, and 1125.

LC

524. The House bill and the Senate amendment have identical provisions for the amount of grants to local educational agencies.

LC

525. The House bill and the Senate amendment are identical for the calculation of grants for purposes of allocations to local educational agencies.

LC

526. The House bill and Senate amendment have substantially similar provisions for allocations to large and small local educational agencies with minor technical differences.

LC

527. The House bill and the Senate amendment have substantially similar provisions on allocations to counties with minor technical differences.

LC

528. The House bill and the Senate amendment are identical except the House bill uses the "Assurances" in the heading and the Senate bill uses the phrase "Allocations to Local Educational Agencies."

HR

529. The House bill and the Senate amendment are substantially similar with minor technical differences in wording.

LC

530. The House bill and Senate amendment are substantially similar with minor technical differences in wording.

LC

531. The House bill, but not the Senate amendment, includes minimum percentages for each of fiscal years 2002-2005 and succeeding fiscal years in the calculations of the expenditure factor for Puerto Rico.

SR with an amendment to insert:

"(v) for fiscal year 2006, 92.5 percent; and

"(vi) for fiscal year 2007, 100 percent."

532. The House bill, but not the Senate amendment, includes adjustments in allocations to Puerto Rico relative to any of the 50 States or the District of Columbia receiving less than in the preceding fiscal year.

SR with an amendment to strike the "or" after "(A)(i)" and insert a comma, and insert ", or the percentage specified in subparagraph (B) for the preceding fiscal year" after "the percentage used for the preceding fiscal year".

533. The House bill, but not the Senate amendment, includes a definition of "State" for purposes of this subsection.

SR

534. The House bill and Senate amendment have identical provisions relating to the minimum number of children to qualify for a basic grant.

LC

535. The House bill and the Senate amendment on categories of children to be counted are identical except the Senate amendment references both paragraphs (2) and (3) for the determination, while the House bill only references paragraph (2).

HR

536. Paragraph (B) of the Senate amendment is identical to Paragraph (C) of the House bill.

LC

537. Paragraph (B) of the House bill is identical to Paragraph (C) of the Senate amendment with minor technical differences in the placement of parentheticals.

LC

538. Paragraph (C) of the House bill and Paragraph (B) of the Senate amendment are identical.

LC.

539. The House bill and the Senate amendment are identical with the exception of minor technical differences in drafting.

SR

540. The House bill and the Senate amendment are identical with minor technical differences in drafting. However, see also note 505 above for section (c)(1)(C)(i) of the Senate amendment which provides population updates every year rather than every second year as under the House bill and under (c)(3) of the Senate amendment.

LC—conform with note 520.

541. The House bill and the Senate amendment are identical with the exception of technical differences in punctuation.

LC

542. The House bill and Senate amendment are identical with minor technical differences in cross references.

LC

543. The House bill and Senate amendment are identical with minor technical differences.

HR with an amendment to increase small state minimum for funds above FY 2001 level to .35 percent with current law per pupil grant cap adjusted accordingly.

544. The House bill and Senate amendment have substantially similar provisions on eligibility for concentration grants, except Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands are not eligible for such grants under the House bill. See also section 1123 of the Senate amendment which defines "state" as the 50 states, the District of Columbia and Puerto Rico for purposes of subpart 2. Accordingly, the effect of the House bill and Senate amendment herein is the same.

HR with an amendment to increase small state minimum for funds above FY 2001 level to .35 percent with current law per pupil grant cap adjusted accordingly.

545. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment includes a calculation relating to Puerto Rico in the formula. The effect of the House bill and the Senate amendment is the same.

HR with an amendment to strike "section 1124(a)(3)" and insert "section 1124(a)(4)".

546. The House bill and the Senate amendment are identical.

LC

547. The House bill and the Senate amendment are identical except in paragraph (B) the House bill refers to "allocation" to the State while the Senate amendment refers to "amount made available to the State."

SR

548. The Senate amendment, but not the House bill, includes a ratable reduction rule.

SR

549. The House bill and the Senate amendment have substantially similar provisions regarding minimum grants with technical differences in wording. The Senate amendment refers to States receiving .25 percent or less while the House bill refers to minimum grants.

SR with an amendment to strike "In States that receive the minimum grant under subsection (a)(1)(B)" and to insert "In any State for which on the date of enactment of The No Child Left Behind Act of 2001 the number of children counted under section 1124(c) is less than 0.25 percent of the number of those children counted for all States".

550. The House bill and Senate amendment on targeted grants are substantially the same with technical differences, including differences in formatting.

HR

551. The House bill and Senate amendment are substantially the same. However, the House bill refers to a State and the District of Columbia while the Senate amendment refers to a State "(other than the Commonwealth of Puerto Rico)."

LC

552. The House bill and the Senate amendment are substantially the same.

LC

553. The House bill and the Senate amendment on weighted child counts are identical with technical differences.

HR with an amendment to update quintiles as per latest available Census poverty data and to strike "1.72" and insert "1.82" in subparagraph (D) of paragraphs (1) and (2).

554. The House bill and the Senate amendment are substantially the same.

LC

555. The House bill and the Senate amendment have substantially different provisions for the state minimum. The House bill guarantees .25% of appropriations or the average of .25% of the amount available to carry out the concentration grants section and 150% of the national average. The Senate amendment provides a .5% minimum grant.

SR with an amendment to strike ".25" and insert ".35" in its place; and strike "one quarter of 1" and insert ".35".

556. The Senate amendment, but not the House bill, includes findings relative to the funding of targeted grants, and a statement on funding such grants. The Senate amendment effectively re-emphasizes the text in section 1122(a).

HR with an amendment to strike all language in subsection (b) and insert the following:

"(b) LIMITATION ON ALLOCATION OF TITLE I FUNDS CONTINGENT ON ADEQUATE FUNDING OF TARGETED GRANTS.—Pursuant to section 1122, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under Part A of Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 1125 of that Act (20 U.S.C. 6335) in the applicable fiscal year meets the requirements of section 1122 (a)."

557. The Senate amendment, but not the House bill, includes an education finance incentive program. The Senate amendment, but not the House bill, also provides for a school finance equity study in subsection (f).

HR with an amendment:

(1) funds distributed to states based on multiplication of each state's effort factor, equity factor, total number of children counted under section 1124 (c), and "cost of education factor" described in section 1124 (a)(1)(B), except that the amount determined under that subparagraph shall not be less than 34 percent or more than 46 percent of the average per pupil expenditure in the United States;

(2) funds distributed within state via section 1125 in states with an equity factor that is greater than 1.2, via section 1125 with a maximum weight of 6 in states with an equity factor greater than 1.1 and less than 1.2, and via section 1125 with a maximum weight of 8 in states with an equity factor greater than 1.0 and less than 1.1;

(3) strike ".5" and insert ".35" in subparagraph (B) of paragraph (1) of subsection (b).

(4) strike "$200,000,000" and insert "such sums" and strike "6" and insert "5" in subsection (e).

558. The House bill and the Senate amendment have identical special allocation procedures except the House bill refers to "neglected children" while the Senate amendment refers to "neglected or delinquent children."

HR

559. The House bill and Senate amendment are identical.

LC

560. The House bill, but not the Senate amendment, includes a provision relating to secular, neutral, and nonideological educational services and benefits.

HR

Title I, Part A

1. The House bill and the Senate amendment have different titles.

SR

2. The House bill and the Senate amendment are substantially the same.

LC*

*Legislative Counsel, only minor and technical changes were made.

3. The Senate amendment, but not the House bill, amends current law by moving the "**SHORT TITLE**" and "**TABLE OF CONTENTS**" to different sections and adds a "PURPOSE" section for the entire Act.

HR

4. The House bill, but not the Senate amendment, continues for one year after the enactment of the bill those grants entered

into before enactment. The Senate amendment, but not the House bill, contains specific transitional provisions within the various titles of the Senate amendment. Also, see note in Title VIII, General Provisions.

SR with an amendment to strike "date that is one year after the effective date of this Act" and replace with "the end of fiscal year 2002, unless such grant was awarded after the date of enactment of this Act but prior to January 1, 2002, in which case such grant funds shall be available for one year after such grant is awarded."

5. The House bill and the Senate amendment vary significantly as to organization of each piece of legislation. The differences between the two bills are fully explained in the notes for each title, which are organized according to the House bill.

HR/SR with an amendment—(see organizational handout).

6. The Senate amendment does not contain a similar provision.

SR with amendment to strike "on October 1, 2001, or" and ", whichever occurs later"

7. The House bill and the Senate amendment have different headings for Title I.

SR with amendment to strike "PERFORMANCE" and insert "ACrHIEVEMENT"

8. The House bill and the Senate amendment have different section headings.

SR

9. The House bill, but not the Senate amendment contains findings.

HR

10. The Senate amendment, but not the House bill, contains a more detailed statement of purpose and references challenging State content and performance standards. Both the House bill and the Senate amendment refer to "all children". The Senate amendment, but not the House bill, describes the purpose of the title in the following nine paragraphs.

HR/SR with amendment to insert:

"SEC. 1001. STATEMENT OF PURPOSE.

"The purpose of this title is to ensure all children have a fair, equal and significant opportunity to obtain a high quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments. This purpose can be accomplished by—

"(1) ensuring high quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement;

"(2) meeting the educational needs of low-achieving children in our Nation's highest-poverty schools, limited English proficient children, migratory children, disabled children, Indian children, neglected or delinquent children, and young children in need of reading assistance;

"(3) closing the achievement gap between high and low performing children, especially the achievement gaps between minority and non-minority students, and between disadvantaged and their more advantaged peers;

"(4) holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high quality education to its students, while providing alternatives to students in such schools to enable them to receive a high quality education;

"(5) distributing and targeting resources sufficiently to make a difference to local educational agencies and schools where needs are greatest;

"(6) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to ensure students are meeting challenging State academic achievement and content standards and increasing achievement overall, but especially for the disadvantaged;

"(7) providing greater decision making authority and flexibility to schools and teachers in exchange for greater responsibility for student performance;

"(8) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time;

"(9) promoting schoolwide reform and ensuring access of children to effective, scientifically-based instructional strategies and challenging academic content;

"(10) significantly elevating the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

"(11) coordinating services under all parts of this title with each other, with other educational services, and to the extent feasible, with other agencies providing services to youth, children, and families;

"(12) affording parents substantial and meaningful opportunities to participate in the education of their children:"

11. The House bill, but not the Senate amendment, contains a subsection that describes the recognition of need by Congress. However, see notes 12 and 13.

HR (see note 10)

12. The Senate amendment contains a generally similar provision to the House bill regarding accountability in paragraph (8) of section 1001 of the Senate amendment.

HR (see note 10)

13. The Senate amendment contains a generally similar provision to the House bill regarding the quality and alignment of standards, assessments, and other efforts of states and LEAs in paragraph (1) of section 1001 of the Senate amendment.

HR (see note 10)

14. The Senate amendment, but not the House bill, provides a short title for the LEA grants subsection.

HR

15. The House bill and the Senate amendment are substantially different. The Senate amendment authorizes greater annual appropriations than the House bill and extends the authorization schedule through 2011, while the House bill provides authorization levels through 2006.

HR/SR with amendment to strike all and insert the following:

"(A) $13,500,000,000 for fiscal year 2002;
"(B) $16,000,000,000 for fiscal year 2003;
"(C) $18,500,000,000 for fiscal year 2004;
"(D) $20,500,000,000 for fiscal year 2005;
"(E) $22,750,000,000 for fiscal year 2006;
"(F) $25,000,000,000 for fiscal year 2007."

Report Language:

The Conferees recognize that Title I grants to local educational agencies are essential to provide low-income students with the resources they need to meet challenging State academic achievement standards. The Conferees further recognize that to implement fully the reforms incorporated in the conference agreement, the local educational agencies will require increased Title I resources, for which reason the Conferees have agreed to significant and annual increases in Title I authorizations.

According to the Congressional Research Service, one common interpretation of the "full funding" theory for Title I, part A is based on the maximum payment calculations under the Basic Grant allocation formula, which is one of the four Title I, part A formulas. The Basic Grant formula establishes a maximum payment based on the number of low-income children (and other children that qualify for services under other Title I programs) multiplied by a State expenditure factor. The State expenditure factor for the Basic Grant formula is the State average expenditure per pupil in average daily attendance for public elementary and secondary education, within the range of 80% to 120% of the national average. The 80%—120% range means that if the State average expenditure per pupil is less than 80% of the national average, it is raised to 80%, and if it is above 120%, it is reduced to 120%. Under this theory, for fiscal year 2001, Congress provided local educational agencies with roughly 1/3 of "full funding."

The Conferees also note there are other theories that might be used to determine "full funding" of Title I, part A, to ensure that the maximum number of low-income, low-achieving children receive direct educational assistance.

The Conferees wish to emphasize that the conference agreement provides for significantly increased and targeted funding for Title I, part A, and strongly encourage Congress to continue to significantly increase funding for Title I, part A. Such funding, in conjunction with the significant reforms in the conference agreement, is critical to helping schools close the achievement gap and low-income students achieve and succeed academically."

16. The House bill and the Senate amendment authorize the same amount for FY 02 and such sums for the out years. The House bill and Senate amendment refer to the same program but have a technical difference in cross-references. Also, the Senate amendment authorizes such sums for the 6 succeeding fiscal years while the House bill authorizes such sums for the 4 succeeding fiscal years. The technical difference in cross-references and the difference in the number of years for which such sums are authorized beyond FY 02 are consistent throughout the remainder of the provisions authorizing appropriations for the various Title I programs.

LC

17. The House bill and the Senate amendment are substantially the same with the differences indicated in note 16 regarding cross-references and the number of years.

LC

18. The House bill and the Senate amendment contain different authorization levels for FY 02, but otherwise are substantially the same with the differences indicated in note 16 regarding cross-references and the number of years.

LC

19. The House bill authorizes such sums for FY 02 and the 4 succeeding fiscal years. The Senate amendment authorizes $25 million for FY 02 and such sums for the 6 succeeding fiscal years.

HR/SR with amendment to move RIF to FIE and to strike paragraph (4) and insert:

"(4) Improving Literacy Through Libararies.—For the purpose of carrying out subpart 4 of part B, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years."

20. The House bill and the Senate amendment contain different authorization levels for FY 02, but otherwise are substantially the same with the difference indicated in note 16 regarding the number of years.

LC

21. The House bill and the Senate amendment are substantially the same with the differences indicated in note 16 regarding cross-references and the number of years.

LC

22. The House bill and the Senate amendment contain different authorization levels for FY 02, but otherwise are substantially the same with the difference indicated in note 16 regarding cross-references and the number of years.

LC

23. The House bill and the Senate amendment are substantially the same with the difference indicated in note 16 regarding the number of years.

HR/SR to strike all language (Rural authorization is now in Title VI, part B).

24. The House bill authorizes $6 million for FY 02 and such sums for FY 03. The Senate amendment authorizes $15 million for FY 02 and FY 03, and $5 million for FY 04.

HR/SR to move to FIE

25. The House bill and the Senate amendment contain different authorization levels for FY 02, but otherwise are substantially the same with the difference indicated in note 16 regarding the number of years.

HR with amendment to strike paragraph (1) and to insert:

"(1) SECTIONS 1501 AND 1502.—For the purposes of carrying out sections 1501 and 1502, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years."

26. The House bill authorizes such sums for FY 02 and the 4 succeeding fiscal years. The Senate amendment authorizes $25 million for FY 02 and such sums for the 6 succeeding fiscal years.

HR/SR to strike all language

27. The Senate amendment does not contain a similar provision.

SR with amendment to strike 1503 in both places and insert 1504.

28. The House bill does not contain a similar provision in Title I, part A. However, see note in Title V of the House bill for the authorization level for 21st Century Community Learning Centers.

SR with amendment to include agreed upon authorization level in the 21st Century program (Title IV, part B).

29. The House bill does not contain a similar provision.

HR with amendment to strike $500,000,000 and insert $125,000,000 and to insert as a new subsection:

(#—LC) "ADVANCED PLACEMENT—For the purpose of carrying out part H, there are authorized to appropriated such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years."

30. The Senate amendment retains the State administration reservation of 1% of programs through a redesignation of Part F of current law, with significant differences between the House bill and the Senate amendment. The House bill limits State administration to 1% of the State's allocation for FY 01, while the Senate amendment limits it to 1% of each fiscal year's allocation. In addition, the House bill refers to "administrative duties assigned", while the Senate amendment refers to "proper and efficient performance of its duties". Otherwise, the Senate amendment does not contain the House bill provisions in paragraphs (2) and (3).

SR with amendment to strike paragraphs (1) and (2) and insert:

(1)(A) To carry out administrative duties assigned under parts A, C, and D of this title, each State may reserve the greater of—

(i) 1 percent of the amounts received under such parts; or

(ii) $400,000 ($50,000 for each outlying area);

(B) If the sum of the amounts appropriated for parts A, C, and D of this title is equal to or greater than $14,000,000,000, the reservation described in subparagraph (A)(i) shall not exceed 1 percent of the amount the State received, or would receive, if $14,000,000,000 is allocated among the States for parts A, C, and D of this title.

31. The Senate amendment does not contain a similar provision.

SR with amendment to insert as new paragraph (7) and renumber the subsequent paragraphs accordingly:

"(7) A State educational agency that receives a grant award under this subsection shall allocate at least 95 percent of that amount directly to local educational agencies for schools identified for school improvement, corrective action, and restructuring for activities under section 1116(b), or may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies."

32. The House bill requires the State to reserve 1% of the part A, subpart 2 amount for FY 02 and FY 03, and 3% of the part A, subpart 2 amount for FY 04 through FY 06. The Senate amendment requires the State to reserve 3.5% of the part A, subpart 2 amount for FY 02 and FY 03, and 5% of the part A, subpart 2 amount for FY 04 through FY 08. Otherwise the House bill and Senate amendment are similar.

SR with amendment to strike "1 percent" and insert "2 percent" and to strike "3 percent" and insert "4 percent".

33. The House bill requires the State to allocate 95% of the funds reserved to those schools identified pursuant to section 1116(b) that have the greatest need and in sufficient amounts. The Senate amendment requires the State to allocate 50% of the funds reserved to those schools identified pursuant to section 1116(c). The House bill and the Senate amendment differ technically in the cross-references.

SR with amendment to insert "for activities" after "restructuring" and strike all after "1116(b)" and insert "or may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies."

34. The Senate amendment does not contain a similar provision.

SR

35. The Senate amendment does not contain a similar provision.

SR

36. The Senate amendment does not contain a similar provision.

SR with amendment to add a new subsection:

"(f) REPORTING—Upon request, the State education agency shall provide a list of those schools that have received funds or services pursuant to subsection (b) and the poverty percentage of such schools."

37. The House bill does not contain a similar provision.

HR with an amendment move language to the State plan and appear as section 1111(c)(3), then renumber current 1111(c)(3) as (c)(4), and subsequent sections in like manner. (Cross reference with note 113)

"(3) the State educational agency, in consultation with the Governor, will include, as a component of the State plan, a plan to carry out the responsibilities of the State under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies."

38. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill, but not the Senate amendment, requires consultation with entities listed, while the Senate amendment, but not the House bill, specifically refers to the chief State school official who prepares the plan and that the Governor is consulted; and (2) The House bill requires coordination with the acts listed, including the Homeless Act, which the Senate amendment does not, while the Senate amendment requires coordination with the acts listed, including the Adult Education and Family Literacy Act, which the House bill does not.

SR with an amendment to insert "Adult Education and Family Literacy Act" before "and the McKinney-Vento".

39. The House bill and the Senate amendment are substantially similar with a technical difference in cross-references.

LC

40. The House bill and the Senate amendment are substantially similar with the exception that the House bill, but not the Senate amendment, refers to "academic content standards" and "academic achievement standards". This difference in references to standards is consistent throughout the remainder of Title I, part A, of each piece of legislation.

SR

41. The House bill and the Senate amendment are similar with technical differences.

SR

42. The House bill, but not the Senate amendment, specifically refers to students served under this part and emphasizes that all children are held to the same expectations.. The Senate amendment, but not the House bill, includes history as a subject for which standards are required. In addition, the House bill refers to the date by which science standards are required, which the Senate amendment also does, but in subparagraph (C)(ii) following of the Senate amendment. See note 44.

SR

43. The House bill does not contain a similar provision.

SR

44. See note 42 regarding the date by which science standards are required.

SR

45. The House bill and the Senate amendment are substantially similar in subparagraph (D) of each piece of legislation, with the exception indicated in note 46 and the reference to standards indicated in note 40.

LC

46. The Senate amendment does not contain a similar provision.

SR

47. The House bill and the Senate amendment are similar with minor wording differences.

LC

48. The Senate amendment does not contain a similar provision.

SR with an amendment to insert the following language:

"(F) Nothing in this part shall prohibit a State from revising, consistent with this section, any standard adopted under this part before or after the date of enactment of the No Child Left Behind Act of 2001."

49. The House bill and the Senate amendment are substantially the same with the following exceptions: (1) The Senate amendment, but not the House bill, refers to a single statewide system; (2) The Senate amendment, but not the House bill, references two

subparagraphs regarding adequate yearly progress; and (3) The House bill, but not the Senate amendment, refers to all "public" elementary and secondary schools.

HR with an amendment to insert "public" before "elementary and secondary schools".

(LC for all other occurrences).

50. The House bill and the Senate amendment are similar with the following exceptions: (1) See note 40 regarding references to standards; (2) The House bill, but not the Senate amendment, adds the word "academic" before "assessments", which is consistent throughout the remainder of Title I, part A, of each piece of legislation ; (3) There is a technical difference in cross-references; and (4) The House bill, but not the Senate amendment, refers to all "public" school students.

SR with an amendment to insert "and other academic indicators consistent with subparagraph (D)" before "and take into account".

51. The House bill and the Senate amendment are substantially the same with the following exceptions: (1) A technical difference in cross-references; and (2) The House bill, but not the Senate amendment, refers to "public" schools.

SR

52. The House bill does not contain a similar provision.

SR

53. The House bill and the Senate amendment are similar with the following exceptions: (1) The Senate amendment, but not the House bill, refers to "bonuses or recognition"; (2) The House bill, but not the Senate amendment, refers to "public" schools; and (3) The Senate amendment, but not the House bill, holds LEAs and schools accountable for student achievement and performance.

SR with an amendment to strike "rewards and sanctions" and insert "sanctions and rewards, such as bonuses or recognition,".

54. The Senate amendment does not contain a similar provision. However, the Senate amendment defines adequate yearly progress in subparagraphs (B) through (H) following of the Senate amendment.

SR

55. The House bill and the Senate amendment are similar with the exception that the Senate amendment references a subparagraph the House bill does not.

SR

56. The House bill and the Senate amendment are similar with the exception indicated in note 50 regarding public school students.

SR with amendment to strike "performance" and insert "achievement"

57. The House bill does not contain a similar provision.

HR

58. The House bill does not contain a similar provision.

HR

59. The House bill and the Senate amendment are similar with the exceptions indicated in notes 50 regarding assessments and 51 regarding public schools.

SR

60. The Senate amendment does not contain a similar provision. However, see the Senate amendment provision in subparagraph (B)(vii) regarding the similar issue of high school completion. See note 65.

HR

61. The House bill and the Senate amendment are similar with the exceptions that the House bill provides an exception to the required disaggregation of data which the Senate amendment also does in clause (v)(II) (see note 63), and the House bill refers to "numerical objectives", while the Senate amendment refers to "measurable objectives".

SR with amendment to strike "annual numerical" and insert "measurable"

62. See note 50 regarding public school students.

SR

63. The Senate amendment contains two more groups than the House bill: "migrant students" and "students by gender". However, see note 72 regarding the Senate amendment provision in subparagraph (D)(i)(II). In addition, the House bill, but not the Senate amendment, refers to "major" racial and ethnic groups. Also, see note 61 regarding the exception to the disaggregation of data.

SR

64. The Senate amendment does not contain a similar provision.

HR

65. The Senate does not contain a similar provision. However, see the Senate amendment provision in subparagraph (B)(vii) regarding high school completion and the exception regarding the inclusion of such factors not affecting school identification for school improvement or corrective action (under section 1116 of each piece of legislation). In addition, the House allows for these additional indicators to be discretionary, while the Senate amendment requires high school completion / graduation and one other factor as mandatory.

SR with amendment to strike clause (v) and insert:

"(v) at the State's discretion, may also include other academic indicators such as achievement on additional State or local academic assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students from the subgroups described in [(C)(v)(ii)] completing gifted and talented, advanced placement, and college preparatory courses, except the use of such indicators may not be used to reduce the number or change which schools would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring."

And with amendment to add a special rule that these indicators and those referenced at note 67 shall be consistent with nationally recognized professional standards.

66. Both the House bill and the Senate amendment require the State to establish a timeline by which the groups of students identified by each piece of legislation (see note 63) shall meet or exceed the State's proficient level on the State assessments used under this section and section 1116 of each piece of legislation. However, there are several major differences: (1) The House bill, but not the Senate amendment, establishes a baseline year by which to establish the timeline, which is the first year after enactment; (2) The House bill, but not the Senate amendment, requires a target year to get all groups of students to proficiency that is not to exceed 12 years after the baseline year is established; (3) The Senate amendment, but not the House bill, requires all groups of students to obtain proficiency in 10 years or less after enactment; and (4) See note 50 regarding academic assessments.

SR

67. See notes 60 and 65.

HR with amendment to strike "school completion or" and to strike "except that . . . included" and replace with: " except the use of such indicators may not be used to reduce the number or change which schools would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring."

Report Language:

The Conferees intend that adequate yearly progress shall not be met or exceeded based solely on increased dropouts.

68. The Senate amendment does not contain a similar provision.

HR with amendment to insert that a State must establish a statutory minimum starting point based on each State's lowest achieving subgroup or the bottom quintile of the total student population in the State, whichever is higher, and that States must raise the "bar" at least once every three years in equal increments to reach 100% proficiency in 12 years, except the bar may remain the same for the first 2 years.

69. The House bill does not contain a similar provision.

SR with amendment to insert a significant progress exemption where the subgroup not meeting adequate yearly progress make a 10% reduction in the percentage of students in that subgroup who are not proficient and progress on one other academic indicator would allow a school to avoid being identified/to have met AYP.

70. The House bill and the Senate amendment are similar with minor wording differences and the following exceptions: (1) See note 63 regarding the differences in groups of students between each piece of legislation; (2) Technical differences in cross-references regarding accommodations for students with disabilities; and (3) The Senate amendment, but not the House bill, contains an exception that this provision shall not abrogate the requirement to assess all students.

SR with amendment to insert: "with paragraph [(4)(H)(ii) {House reference}/(3(I)(ii) {Senate reference}] and with accommodations, guidelines, and alternate assessments provided in the same manner as they are provided under" after "consistent" and to strike "with" before "section 612(a)(17)(A)" and to insert at the end after "based" the following: "(except that the 95 percent requirement described in this subparagraph shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student)."

71. The House bill does not contain a similar provision.

SR

72. The Senate amendment reduces the groups of students (see note 63) that must make at least 1% gain in the percentage of students meeting the proficient level of performance. Consequently, the composition of the required groups that must be making progress to proficiency under the House bill and the Senate amendment are the same.

SR

73. The House bill does not contain a similar provision.

HR with amendment to add a new clause:

(#—LC) "the State, in establishing the uniform procedure for averaging data with the previous 1 or 2 school years preceding the school year for which the determination of meeting or exceeding adequate yearly progress is made, consistent with clause [(ii)], may use the academic assessments described in paragraph [(2)—conform with grade span assessment reference] that were required prior to the date of enactment of this Act until such time as the additional assessments described in paragraph [(2)—conform with 3–8 assessment reference] and required under this Act are being administered in such manner and time as to allow for the uniform procedure for averaging data described in clause [(ii)]."

74. The House bill and the Senate amendment are substantially similar with the exception that the Senate amendment, but not the House bill, lists specific groups the State must seek comment from. In addition, there are some minor wording differences.

HR

75. The House bill and the Senate amendment are substantially similar with the exceptions indicated in notes 40 and 50 regarding references to standards and assessments, and with the exception indicated in note 76.

LC

76. The House bill and the Senate amendment are similar with the exception that the House bill, but not the Senate amendment, references regulations published by the Secretary relating to the standards and assessments required under Title I, part A.

SR

77. The House bill does not contain a similar provision.

HR with an amendment to strike subparagraph (H) and insert the following as a new subparagraph (H):

"(H) The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law."

Report Language:

"Charter schools are public schools and therefore subject to the same accountability requirements of this Act as they apply to other public schools, including Sections 1111 and 1116, as developed in each state. However, there is no intent to replace or duplicate the role of authorized chartering agencies, as established under each state's charter school law, in overseeing the Act's accountability requirements for the charter schools that they authorize. Authorized chartering agencies should be held accountable for carrying out their oversight responsibilities as determined by each state through its charter school law and other applicable state laws. This should be done in ways that do not inhibit or discourage the approval or oversight of innovative, high quality charter schools."

78. The House bill and the Senate amendment are similar with following exceptions: (1) The House bill, but not the Senate amendment, refers to the State implementing a set of assessments; (2) The Senate amendment, but not the House bill, refers to consultation with LEAs in the assessment plan; (3) The Senate amendment, but not the House bill, requires science assessments, but provides an exception that such assessments shall not be required until the 2007–2008 school year; (4) The House bill, but not the Senate amendment, refers to the yearly performance progress of the State; (5) The House bill, but not the Senate amendment, refers to "challenging" standards; and (6) See notes 40 and 50 regarding references to standards and assessments.

SR with an amendment to:

Insert "in consultation with local educational agencies," after "that the State", insert "and science" after "language arts", insert after "achievement standards" and before the period the following: "except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year".

Insert before "Such assessments shall—" the following language:

"Each State may incorporate the data from these assessments into a state-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time."

LC regarding references to standards and assessments.

Report Language:

"The Conferees are aware of, and encouraged by, initiatives undertaken in some States to enable parents and others to compare the progress of students, classrooms and schools on a longitudinal basis. The Conferees wish to make clear that States may incorporate the data from the assessments required under this subsection into a state-developed longitudinal data system that links students' test scores, length of enrollment, and graduation records over time. Such systems may enable policymakers, educators, and parents to better evaluate the success of schools by reporting on the achievement of students enrolled in the same school for at least three years."

"The Conferees recognize that a quality science education should prepare students to distinguish the data and testable theories of science from religious or philosophical claims that are made in the name of science. Where topics are taught that may generate controversy (such as biological evolution), the curriculum should help students to understand the full range of scientific views that exist, why such topics may generate controversy, and how scientific discoveries can profoundly affect society."

79. The House bill and the Senate amendment are the same with the exception indicated in note 40 regarding references to standards.

LC

80. The House bill and the Senate amendment are similar with the following exception: The Senate amendment, but not the House bill, refers to "nationally" recognized standards of testing that are developed and used by "national experts on educational testing".

HR with an amendment to strike "developed and . . . on educational testing;"

81. The Senate amendment does not contain a similar provision.

HR

82. The House bill does not contain a similar provision.

HR with an amendment to insert after "Act," the words "and are consistent with the requirements of this section,".

83. The House bill requires assessments in at least mathematics and reading or language arts at least once in the grade spans listed. The Senate amendment requires assessments to commence not later than the 01–02 school year for students served under Title I, part A in mathematics and reading or language arts at least once in the grade spans listed.

SR with an amendment:

"(E)(i) except as otherwise provided for grades 3 through 8 under subparagraph [(G)], measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

"(I) grades 3 through 5;

"(II) grades 6 through 9; and

"(III) grades 10 through 12;"

84. The Senate amendment, but not the House bill, requires assessments to commence not later than the 02–03 school year for all students in mathematics and reading or language arts at least once in the grade spans listed.

SR with an amendment:

(ii) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than once during—

(I) grades 3 through 5;

(II) grades 6 through 9; and

(III) grades 10 through 12;

85. The House bill does not contain a similar provision.

SR (See note 78)

86. The House bill refers to student "achievement", while the Senate amendment refers to student "performance". In addition, the House bill refers to "critical thinking skills", while the Senate amendment refers to "higher order thinking skills."

HR with an amendment to strike "performance" and insert "academic achievement".

87. The House bill requires assessments in the 04–05 school year in each of the grades 3 through 8 in at least mathematics and reading or language arts. The Senate amendment requires assessments in the 05–06 school year annually in grades 3 through 8 and at least once in the grade span of 10–12, in at least mathematics and reading or language arts, if the tests are aligned with State standards. (The House bill contains a similar requirement for an assessment at least once in the grade span of 10–12 in at least mathematics and reading or language arts in paragraph (4)(E).) See notes 40 and 50 regarding references to standards and assessments. In addition, the House bill and the Senate amendment allow for a delay in assessment implementation with the following exceptions: (1) The House bill provides for a one-year delay after the 04–05 school year if the assessment will be implemented after that one-year delay, while the Senate amendment provides for the assessments to be delayed from the 05–06 school year to the 06–07 school year if the assessments will be implemented in the 06–07 school year.; and (2) The House bill refers to the financial resources of the State, while the Senate amendment refers to the financial resources of the LEA or school.

SR with an amendment to strike "2004–2005" and replace with "2005–2006".

88. The House bill does not contain a similar provision.

HR with amendment to strike clause (i) and insert as a new clause (i):

"(i) a State may defer commencement, or suspend the administration, but not cease the development, of the assessments described in this paragraph, that were not required prior to the date of enactment of this Act, for 1 year, for each year for which the amount appropriated for grants under section [6205(a)(3) {Senate} / 7104(a)(3) {House}] is less than—"

(Retain subclauses (I), (II), (III))

And to strike "fiscal year 2005" in subclause (IV) and insert "fiscal years 2005 through 2007" and strike subclauses (VI) and (VII).

89. The House bill does not contain a similar provision.

HR

90. The House bill and the Senate amendment are similar with minor wording differences and the exception indicated in note 91.

HR/SR with an amendment to strike clause (iii) and insert as a new clause (iii):

"(iii) the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency as determined under paragraph (7).

91. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill allows LEAs to determine if students should be assessed in the appropriate language (as opposed to English) and then assess such students in the appropriate language for one additional year; (2) The Senate amendment allows LEAs to demonstrate to the SEA if students should be assessed in the appropriate language (as opposed to English) and the SEA to permit such students to be assessed in the appropriate language for one or more additional years contingent upon the exception described.

HR/SR with an amendment to strike clause (iv) and insert as a new clause (iv):

"(iv) notwithstanding clause (iii), the academic assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for 3 or more consecutive school years, except if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such students know and can do, the local educational agency may make a determination to assess such students in the appropriate language other than English for a period that does not exceed 2 additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts."

92. The House bill and the Senate amendment are the same.

LC

93. The House bill and the Senate amendment are similar with the following exceptions: (1) The Senate amendment, but not the House bill, refers to "interpretive and descriptive reports"; (2) The Senate amendment, but not the House bill, refers to the parents of all students; (3) The House bill refers to assessment scores, while the Senate amendment refers to assessment "performance"; and (4) The Senate amendment, but not the House bill, includes a list of other measures that can be included on the reports.

HR with an amendment to strike subparagraph (L) and insert:

"(L) produce individual student interpretive, descriptive, and diagnostic reports, consistent with 1111[(b)(3)(C)—(nationally recognized professional standards reference)], which allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;"

94. The House bill and the Senate amendment are substantially similar with the exception that the Senate amendment, but not the House bill, provides for an exception to the disaggregation.

HR with an amendment to insert "major" before "racial and ethnic group,".

95. The Senate amendment does not contain a similar provision.

SR with amendment to strike (L) and insert as a new subparagraph (L):

"(N) be consistent with widely accepted professional testing standards, objectively measure academic achievement, knowledge and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information;"

Report language:

The Conferees wish to clarify that this provision does not prohibit the use of essay, extended response, or short answer test items, nor does it prohibit the use of test items which require a student to analyze a passage of text or to express opinions, provided that such test items are developed consistent with widely accepted professional testing standards.

96. The House bill does not contain a similar provision.

HR with amendment to strike subparagraph (N) and insert:

"(N) enable itemized score analysis to be produced and reported, consistent with 1111[(b)(3)(C)—(nationally recognized professional standards reference)], to local educational agencies and schools, so that parents, teachers, principals and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items."

Report Language:

"In providing for itemized score analysis, the Conferees intend for data to be presented in a format which parents, teachers and schools can understand. Providing parents, teachers and schools with clear and technology-viable access to both scores and scoring procedures is one of the best strategies to ensure that mistakes that do occur are both identified and corrected in an expedient manner. In developing their State academic assessment systems, States should also consider and address the issue of sufficient assessment transparency and accessibility in order to protect the ability of students, parents, teachers and school administrators to gain access to test results and testing methodologies."

97. The House bill and the Senate amendment are similar in that they do not allow additional assessment measures to take the place of those assessments required in paragraph (4) of the House bill or paragraph (3) of the Senate amendment. The House bill, but not the Senate amendment, further stipulates that such additional assessment measures shall not change the identification of schools pursuant to section 1116. See note 67.

SR with amendment to strike "Results on ... not included" and insert: "The use of such additional assessment measures may not be used to reduce the number or change which schools would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring."

98. The House bill does not contain a similar provision.

SR

99. The House bill and the Senate amendment are substantially the same with the exception indicated in note 50 regarding references to assessments.

LC

100. The Senate amendment, but not the House bill, refers to the development of English proficiency as appropriate to the factors listed. The Senate amendment, but not the House bill, refers to students served under this part or Title III of the Senate amendment with the stated exception. The House bill, but not the Senate amendment, refers to all LEP students in the State's schools.

SR with amendment to strike paragraph (7) and replace with:

"(7) Academic Assessments of English Language Proficiency.—Each State plan shall demonstrate that local educational agencies in the State will, beginning no later than school year 2002–2003, provide for an annual assessment of English proficiency (measuring students' oral language, reading, and writing skills in English) for all students with limited English proficiency in their schools, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that it will complete implementation within the additional 1-year period."

Report language:

"This Act requires each State to provide for annual English language proficiency assessments (covering speaking, listening, reading and writing skills) by the beginning of the 2002—2003 school year. The Conferees believe that additional scientifically-based research efforts must be made to develop better assessments to measure the progress of limited English proficient children in developing their English language proficiency, including speaking, listening, reading and writing skills. The Conferees encourage the Secretary to provide technical assistance to States, if requested, on the development and implementation of such assessments."

101. The House bill and the Senate amendment are the same with technical differences in cross-references.

LC

102. The Senate amendment does not contain a similar provision.

SR

103. The House bill does not contain a similar provision.

HR

104. The House bill does not contain a similar provision.

HR with an amendment to strike "how the . . . will develop or identify" and insert "an assurance that the SEA will assist LEAs in developing or identifying".

105. The House bill and the Senate amendment are substantially the same with the exception indicated in note 40 regarding references to standards.

LC

106. The House bill does not contain a similar provision.

SR

107. The House bill does not contain a similar provision.

HR with amendment:

"(8) Factors Impacting Student Achievement.—Each State plan shall include an assurance that the State will coordinate and collaborate, to the extent feasible and necessary as determined by the State, with agencies providing services to children, youth, and families, with respect to local educational agencies within the State that are identified for improvement under section 1116 and that request assistance with addressing major factors that have significantly impacted student achievement at the local educational agency or at schools in such agency."

108. The Senate amendment does not contain a similar provision. However, see the Senate amendment provision in subsection (f) of section 1111 regarding the provision of information.

SR with amendment to strike "the end" and insert "before the beginning" and insert "next" before "school year" and to strike "(consistent with 1116".

109. The Senate amendment does not contain a similar provision.

SR

110. The Senate amendment does not contain a similar provision. However, see the Senate amendment provision in subsection (l) of section 1111. See note 172.

HR

111. The House bill and the Senate amendment are similar with the exception that the House bill refers to 2003—04 school year, while the Senate amendment refers to the 2002—03 school year, and with technical differences in cross-references.

HR with amendment

"(c) Other Provisions To Support Teaching and Learning.—Each State plan shall contain assurances that—

"(1) the State will meet the requirements of subsection (j)(1) and, beginning with the 2002-2003 school year, will produce the annual State report cards described in such subsection, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that it will complete implementation within the additional 1-year period."

112. The House bill refers to "academic" assessments, while the Senate amendment refers to "State" assessments. The Senate amendment, but not the House bill, refers to the Secretary paying the costs of administration of these assessments and provides for an exception for states with fewer than .25% of the total number of poor, school-aged children in the U.S. The House bill, but not the Senate amendment, provides for an alternative assessment to NAEP.

HR with amendment to strike "annual" and insert "biennial" before "State assessments of 4th and 8th" and to insert "academic" after "State" and before "assessments" and to strike "except that ... basis."

113. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment, but not the House bill, refers to parental involvement under section 1118. In addition, there is a technical difference in cross-references regarding section 1119.

HR

114. The House bill and the Senate amendment are the same with minor wording differences.

LC

115. The House bill and the Senate amendment are the same with minor wording differences.

LC

116. The House bill and the Senate amendment are the same with the exceptions indicated in notes 40 and 50 regarding references to standards and assessments.

LC

117. The House bill and the Senate amendment are the same with minor wording differences.

LC

118. The House bill and the Senate amendment are the same with minor wording differences.

LC

119. The House bill and the Senate amendment are the same.

LC

120. The House bill and the Senate amendment are the same with a minor wording difference.

LC

121. The House bill and the Senate amendment are the same with a technical difference in cross-references.

LC

122. The House bill and the Senate amendment are substantially similar with the following exceptions: 1) The House bill, but not the Senate amendment, refers to transfer authority under Title VII of the House bill; and (2) There is a technical differences in cross-references regarding waivers.

SR

LC—check cites for included programs.

123. The House bill does not contain a similar provision.

HR

124. The Senate amendment does not contain a similar provision.

SR

125. The House bill does not contain a similar provision.

The House bill and the Senate amendment are substantially the same through subparagraph (B) of the Senate amendment following. See the next note.

HR with an amendment to insert in (d)(1) "meeting the highest professional and technical standards" after "current research".

126. The House bill does not contain a similar provision.

HR with an amendment to insert "the needs of low-performing schools" after "accountability,"

127. The House bill and the Senate amendment are the same in the following provisions with the exception indicated in note 128 and those indicated in notes 40 and 50 regarding references to standards and assessments.

LC

128. The House bill does not contain a similar provision.

HR

129. The House bill does not contain a similar provision. However, see the House bill provision in subsection (b)(9) of section 1111 regarding the provision of information (note 108).

The House bill and the Senate amendment are the same through paragraph (1). See the next note.

SR

130. The Senate amendment does not contain a similar provision.

HR

131. The House bill and the Senate amendment are substantially the same with the exceptions indicated in notes 40 and 50 regarding references to standards and assessments.

LC

132. The House bill and the Senate amendment are similar with the exceptions that the House bill refers to a prohibition of Federal control, while the Senate amendment says that nothing in this part shall be construed to authorize Federal control, and with the differences indicated in notes 40 and 50 regarding references to standards and assessments and other minor wording differences.

HR with amendment (use same language agreed upon for Title IX).

133. The House bill refers to those deadlines established by IASA of 1994 or those established under any waivers or compliance agreements with Secretary. The Senate amendment refers to "statutory deadlines. The Senate amendment, but not the House bill, refers to standards aligned with assessments. The House bill, but not the Senate amendment, requires the Secretary to withhold 25% of the funds available to the State for administration and activities each year. The Senate amendment, but not the House bill, requires the Secretary to withhold an undefined amount of funds for State administration and activities under section 1117 and take such needed steps to assist State to reach compliance.

SR with an amendment to insert "under this part" after "administration and activities".

134. The Senate amendment does not contain a similar provision.

SR with amendment to insert ",90 days after enactment of this Act," after "The Secretary shall not".

135. The Senate amendment does not contain a similar provision. However, the Senate amendment does refer generally to "statutory deadlines" in subsection (i) previously. See note 133.

SR with an amendment to insert "under this part" after "administration".

136. The House bill and the Senate amendment are similar through subparagraph (D) of each piece of legislation with the exception that the House bill requires the reports not later than the start of the 03-04 school year, while the Senate amendment requires the reports not later than the start of the 02-03 school year.

HR with an amendment to insert the following:

"(j) Reports.—

"(1) Annual State Report Card.—

"(A) In general.—Not later than the beginning of the 2002-2003 school year, unless the State has received a one-year waiver pursuant to subsection (c)(1), a State that receives assistance under this Act shall prepare and disseminate an annual State report card.

"(B) Implementation.—The State report card shall be—

"(i) concise; and

"(ii) presented in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand."

137. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill and the Senate amendment have different cross-references; and (2) The House bill, but not the Senate amendment contains an exception to the required disaggregation; however, the Senate amendment contains a similar exception in paragraph (2)(D). See note 156.

HR/SR with an amendment to insert as new (D) and (E): (Notes 137-150)

"(D) Required information.—The State shall include in its annual State report card—

"(i) information, in the aggregate, on student achievement at each proficiency level on the State academic assessments described in subsection (b)(4) (disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal individually identifiable information about an individual student);

"(ii) information that provides a comparison between the actual achievement levels of each group of students described in subclauses (I) and (II) of subsection (b)(2)(C) to the State's annual numerical objectives for each such group of students on each of the assessments required under this part;

"(iii) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

"(iv) the most recent 2-year trend in student performance in each subject area, and for each grade level, for which assessments under section 1111 are required;

"(v) aggregate information on any other indicators used by the State to determine the adequate yearly progress of students in achieving State academic achievement standards;

"(vi) graduation rates for secondary school students, consistent with 1111[(b)(2)(B)(vii)];

"(vii) information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and names of each school identified for school improvement, including schools identified under section 1116;

"(viii) the professional qualifications of teachers in the aggregate, the percentage of teachers teaching with emergency or provisional credentials, and the percentage of classes not taught by highly qualified teachers (disaggregated by high poverty and low poverty schools which for purposes of this clause means schools in the top quartile of poverty and the bottom quartile of poverty) in the State;

"(E) PERMISSIVE INFORMATION.—The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and secondary schools. Such information may include information regarding—

"(i) school attendance rates;

"(ii) average class size in each grade;

"(iii) academic achievement and gains in English proficiency of limited English proficient students;

"(iv) the incidence of school violence, drug abuse, alcohol abuse, student suspensions, and student expulsions;

"(v) the extent and type of parental involvement in the schools;

"(vi) the percentage of students completing advanced placement courses, and the rate of passing of advanced placement tests;

"(vii) a clear and concise description of the State's accountability system, including: a description of the criteria by which the State evaluates school performance, and the criteria that the State has established, consistent with (b)(2)(B), to determine the status of schools regarding school improvement, corrective action, and reconstitution; and

Report Language:

The Conferees intend that reporting of graduation rates described in clause (vi) shall be determined by reporting the percentage of students who graduate from high school with a regular diploma (not an alternative degree that may not be fully aligned with State academic standards, such as a certificate or GED), on time (within four years of starting the ninth grade for high schools that begin with the ninth grade or within the standard number of years for high schools that begin with another grade). The approach used to calculate graduation rates must also avoid counting dropouts as transfers. States that have or could have a more accurate longitudinal system that follows individual student progress through high school may use that system if approved by the Secretary as part of the State's Title I plan.

The Conferees intend that in addition to reporting graduation rates for secondary schools that for those districts that define secondary school as including grades 6, 7 or 8, data should be reported on student progress from that entry grade level through twelfth grade with particular attention placed on the transition point between eighth and ninth grade.

138. The Senate amendment does not contain a similar provision.

HR/SR with an amendment; (See note 137).

139. The House bill and the Senate amendment are the same with the exception to disaggregation indicated in note 137.

HR/SR with an amendment; (See note 137).

140. The House bill does not contain a similar provision.

HR/SR with an amendment; (See note 137).

141. The House bill does not contain a similar provision.

HR/SR with an amendment; (See note 137).

142. The House bill and the Senate amendment require 4-year graduation rates, although the House bill requires the percentage of students who graduate, while the Senate amendment requires the average graduation rates. In addition, the Senate amendment, but not the House bill, requires the average 4-year school dropout rates disaggregated by the categories listed with an exception to the required disaggregation. See also note 147.

HR/SR with an amendment; (See note 137).

143. The House bill does not contain a similar provision. However, see also the House bill provision in section 1116(b)(6).

HR/SR with an amendment; (See note 137).

144. The Senate amendment does not contain a similar provision.

HR/SR with an amendment; (See note 137).

145. The House bill does not contain a similar provision.

HR/SR with an amendment; (See note 137).

146. The House bill, but not the Senate amendment, requires the State aggregate of the qualifications of teachers. The House bill and the Senate amendment both require the percentage of teachers teaching with emergency or provisional qualifications, although the Senate amendment requires this information to be disaggregated by poverty. The Senate amendment refers to classes not taught by "highly" qualified teachers, while the House bill refers to classes not taught by "fully" qualified teachers.

HR/SR with an amendment; (See note 137).

147. The House bill and the Senate amendment allow for additional information. However, the House bill lists other possible categories of information, while the Senate amendment lists them in clauses (i) through (x) following in the Senate amendment. Also, the House bill allows dropout rates as an optional category, while the Senate amendment requires dropout rates in subparagraph (D)(v). See note 142.

HR/SR with an amendment; (See note 137).

148. The Senate amendment provisions in clauses (i) and (ii) are similar to those listed in the House bill in clause (vii).

HR/SR with an amendment; (See note 137).

149. The House bill does not contain the provisions listed in clauses (iii) through (x) of the Senate amendment following.

HR/SR with an amendment; (See note 137).

150. The House bill, but not the Senate amendment, contains a provision requiring the State to annually report a description of its accountability system.

HR/SR with an amendment; (See note 137).

151. The House bill does not contain a similar provision. However, see note 133 of the House bill's Title VIII, General Provisions.

SR

152. The House bill does not contain a similar provision.

HR with an amendment to insert the following:

(2) ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS.—

"(A) (i) IN GENERAL.—Not later than the beginning of the 2002–2003 school year, a local educational agency that receives assistance under this Act shall prepare and disseminate an annual local educational agency report card, except that the State may provide the local educational agency 1 additional year if the local educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, prevented full implementation of this paragraph by that deadline and that it will complete implementation within the additional 1-year period."

"(ii) SPECIAL RULE.—If a State has received a waiver under subsection (c)(1), then a local education agency within that State shall not be required to include the information required under paragraph (1)(D) in such report card during the one year waiver period."

153. The House bill and the Senate amendment are substantially similar through subparagraph (B) of the House bill and subparagraph (C) of the Senate amendment with minor wording differences, the exception indicated in note 50 regarding references to assessments, and the exceptions indicated in notes 154 and 155.

LC

154. The House bill refers to "its schools students", while the Senate amendment refers to "students served by the local educational agency".

LC

155. The House bill refers to "its students", while the Senate amendment refers to "the school's students".

SR with an amendment to insert "and other adequate yearly progress indicators" after "academic assessments".

156. The House bill does not contain a similar provision, however, see note 137.

HR

157. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill requires the LEA report card to be publicly disseminated not later than the start of the 03–04 school year, while the Senate amendment requires the LEA report card to be publicly disseminated not later than the start of the 02–03 school year; and (2) The Senate amendment, but not the House bill, provides for an exception for LEAs already issuing a report card for all students.

HR with an amendment to insert as new (E):

"(E) PUBLIC DISSEMINATION.—The local educational agency shall, not later than the beginning of the 2002–2003 school year, unless the local educational agency has received a one year waiver pursuant to section 1111(c)(2), publicly disseminate the information described in this paragraph to all schools in the school district and to all parents of students attending those schools in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand, and make the information broadly available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report."

158. The House bill and the Senate amendment are similar with the exception that the House bill references those report cards in existence prior to the enactment of H.R. 1.

SR

159. The House bill and the Senate amendment are substantially the same in paragraph (4) and subparagraph (A) of each piece of legislation with the following exceptions: (1) See note 50 regarding references to assessments; and (2) A technical difference in cross-references.

HR/SR with amendment to strike paragraph (4) and insert as new (4):

"(4) ANNUAL STATE REPORT TO THE SECRETARY.—Each State receiving assistance under this Act shall report annually to the Secretary, and publicly disseminate within the State—

(A) beginning with school year [2001–2002], information on the State's progress in developing and implementing the assessments described in subsection (b)(3);

"(B) beginning not later than school year 2002-2003, information on the achievement of students on the assessments required by that section, including the disaggregated results for the categories of students identified in subsection 1111(b)—[COMMENT: The reference will be to the 6 categories agreed upon for reporting: economically disadvantaged, racial/ethnic minority, disabled, LEP, gender, and migrant]

"(C) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student assessments (including disaggregated results) required under this section.

"(D) beginning not later than school year 2002–2003, unless the State has received a waiver pursuant to section 1111(c)(1), information on the acquisition of English proficiency by children with limited English proficiency;

"(E) the number and names of each school identified for school improvement, including schools identified under section 1116(c), the reason why each school was so identified, and the measures taken to address the performance problems of such schools;

"(F) the number of students and schools that participated in public school choice and supplemental service programs and activities under this title.

"(G) beginning not later than the 2002–2003 school year, information on the quality of teachers and the percentage of classes being taught by highly qualified teachers as defined in [section], in the State, LEA, and school consistent with subparagraph (D)(7) (see note 137)."

160. The House bill and the Senate amendment are substantially the same with the following exceptions: (1) See note 50 regarding references to assessments; and (2) The categories of students referenced in each bill are different. See note 63.

HR/SR with an amendment; (See note 159).

161. The Senate amendment does not contain a similar provision.

HR/SR with an amendment; (See note 159).

162. The House bill contains a similar provision in section 1116 (b)(6) (see note 300). The House bill refers to a report not less than once a year, while the Senate amendment refers to an annual report. The Senate amendment refers to each State receiving assistance under this Act, while the House bill refers to each SEA. The House bill and the Senate amendment refer to the names of schools identified for school improvement, although the Senate amendment contains a specific cross-reference to section 1116. The Senate amendment, but not the House bill, refers to the number of schools identified for school improvement, the reason for such identification, and the measures taken to address the school's performance problems.

HR/SR with an amendment; (See note 159).

163. The House bill and the Senate amendment are substantially the same except for difference indicated in note 50 regarding references to assessments.

HR/SR with an amendment; (See note 159).

164. The House bill and the Senate amendment are substantially the same with the following exceptions: (1) The House bill, but not the Senate amendment, requires that parental notification be provided at the beginning of the school year; and (2) The House bill, but not the Senate amendment, requires LEAs to provide information to requesting parents in a timely manner.

SR

165. The House bill and the Senate amendment provisions are the same in clauses (i) through (iv) following each piece of legislation, with a minor wording difference in clause (iv).

LC

166. The House bill and the Senate amendment are substantially the same with the exception that the House bill, but not the Senate amendment, refers to additional information beyond that described in subparagraph (A).

LC

167. The Senate amendment does not contain a similar provision.

SR

168. The House bill, but not the Senate amendment, requires the information be provided to parents in an understandable language to the extent practicable.

SR (LC all other references to providing information to parents in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand)

169. The Senate amendment does not contain a similar provision.

SR

170. The House bill does not contain a similar provision.

HR with an amendment to move the following language to after note 163 and before paragraph (5) and redesignate sections according:

"(5) REPORT TO CONGRESS.—The Secretary shall transmit annually to [Standard name for House and Senate education committees] a report that provides national and state level data on the information collected under (4)."

171. The House bill and the Senate amendment are the same.

4LC

172. The House bill does not contain a similar provision. However, see also the House bill provision in subsection (b)(10) of section 1111. See note 110.

HR

173. The House bill does not contain a similar provision.

HR

174. The Senate amendment does not contain a similar provision.

SR with amendment to add a new subsection at end of section 1111 and before section 1112:

(#—LC) "IN GENERAL.—Nothing in this part shall prescribe the use of the assessments described under this part for student promotion or graduation purposes."

175. The House bill and the Senate amendment are substantially the same with the exception that the House bill, but not the Senate amendment, refers to the Homeless Act.

SR

176. The House bill and the Senate amendment are substantially the same with the exception of a technical difference in cross-references.

LC

177. The House bill, but not the Senate amendment, makes a number of changes to current law. The Senate amendment retains current law unchanged through subparagraph (C).

SR with an amendment to strike (b)(1) and insert the following:

"(1) a description of high-quality student academic assessments, if any, that are in addition to the academic assessments described in the State plan under section 1111(b)(3), that the local educational agency and schools served under this part will use to—"

178. The Senate amendment, but not the House bill, contains this subparagraph regarding first grade student literacy and related interventions and assessments.

HR with an amendment to insert as new (D):

"(D) effectively identify students who may be at risk for reading failure or who are having difficulty reading through the use of screening, diagnostic, and classroom-based instructional reading assessments, as defined under section 1209 of this title."

179. The House bill, but not the Senate amendment, makes a number of changes to current law. The Senate amendment retains current law unchanged to subparagraph (B).

SR with an amendment to strike paragraph (2) and insert:

"(2) at the local educational agency's discretion, a description of other academic indicators, if any, that will be used in addition to the academic assessments described in paragraph (1) for the uses described in such paragraph;"

180. The Senate amendment does not contain a similar provision.

SR

181. The House bill and the Senate amendment are similar with the exception that the Senate amendment refers to coordination with Title II of the Senate bill if a LEA receives funds under such title.

SR with an amendment on coordination with Title II and adding " and principals" after "teachers" .

182. The Senate amendment makes a technical change to current law regarding the wording of "vocational programs". Both the House bill and the Senate amendment strike "school-to-work transition programs".

SR with an amendment to insert "vocational".

183. The House bill and the Senate amendment strike the same language with the exception that the House bill, but not the Senate amendment retains "served under part C" after "migratory children".

SR with and amendment inserting "children with disabilities" after "proficiency,"; strike "or with disabilities"; and strike "served under part C,".

184. The Senate amendment, which retains current law to paragraph (9), does not contain this provision regarding LEA participation in NAEP or an alternative assessment if selected.

SR with amendment to strike "or in another . . . section 7101(b)(1)(B)(ii)" in paragraph (6).

185. The House bill and the Senate amendment are generally similar. However, the

House bill refers to “preschool programs for children” and lists a number of such programs and services, while the Senate amendment refers to “early childhood education programs under section 1120B”.

SR

186. The House bill refers to LEA actions to assist schools in school improvement, while the Senate amendment refers to LEA determinations of factors impacting student achievement at schools in school improvement or corrective action.

SR

187. The Senate amendment does not contain paragraphs (13) through (15) of the House bill.

SR with an amendment to insert as new (13), (14), and (15):

“(13) a description of the actions the local educational agency will take to implement public school choice and supplemental services, consistent with the requirements of section 1116;

“(14) a description how the local educational agency will meet the requirements of section 1119; and

“(15) a description of the services the local educational agency will provide homeless children, including services provided with funds reserved under section 1113(f)(3)(A).”

188. The House bill does not contain paragraphs (10) and (12) of the Senate amendment.

HR with an amendment to insert “after school (including before school and summer school) and” after “this part to support” and with amendment to insert new paragraph:

“(#—LC) The academic assessments and indicators described in paragraphs (1) and (2) shall not be used in lieu of the academic assessments required under section 1111[(b)(4)] and other State academic indicators under section 1111[(b)(2)]. In addition, the use of the assessments and indicators described in paragraphs (1) and (2) may not be used to reduce the number or change which schools would otherwise be subject to school improvement, corrective action, or restructuring under section 1116, if such additional assessments or indicators described in paragraphs (1) and (2) were not used, but such assessments and indicators may be used to identify additional schools for school improvement or in need of corrective action or restructuring.”

189. The House bill and the Senate amendment are the same.

LC

190. The House bill, but not the Senate amendment, refers to the ability of schools to consolidate funds from the entities listed. The Senate amendment refers to schoolwide projects while the House bill refers to school wide programs.

SR

191. See note 40 regarding references to standards.

LC

192. The House bill and the Senate amendment are substantially the same with a technical difference in cross-references.

LC

193. The House bill and the Senate amendment are the same.

LC

194. The House bill, but not the Senate amendment refers to “scientifically based” research.

SR

195. The Senate amendment does not contain a similar provision.

SR

196. The House bill does not contain the Senate amendment provisions in paragraph (5).

HR

197. The House bill requires compliance with section 1119 relating to teacher and paraprofessional qualifications, while the Senate amendment requires compliance with section 1119 relating to professional development.

SR with an amendment to insert “and professional development” after “paraprofessionals”.

198. The House bill and the Senate amendment are substantially the same with a technical difference in cross-references.

LC

199. The House bill and the Senate amendment are substantially the same, except the Senate amendment, but not the House bill, refers to “health and social services”.

HR with amendment:

“(6) coordinate, and collaborate, to the extent feasible and necessary as determined by the local educational agency, with the state and other agencies providing service to children, youth, and families with respect to schools in school improvement, corrective action, or restructuring under section 1116 that request assistance from the local educational agency with addressing major factors that have significantly impacted student achievement at the school.”

200. The House bill does not contain the following Senate provisions in paragraphs (11) through (14).

HR with amendment to strike “10 years” and insert “12 years” and to strike “of the date . . . Act” and insert “the end of the 2001–2002 school year” in paragraph (12), to conform parental information in paragraph (13) with note #168, and to strike paragraph (14) and insert the following:

“(14) assist each school served by the agency and assisted under this part in developing or identifying models of high quality, effective curriculum models consistent with section 1111(b)(6)(C).”

201. The House bill, but not the Senate amendment, makes a number of changes to current law in paragraphs (d)(1) and (2). The Senate amendment retains current law unchanged to subsection (e).

SR with an amendment to strike “academic achievement standards” and insert “Performance Standards” after “Head Start” in subparagraph (B).

202. The House bill and the Senate provision are the same.

LC

203. The House bill and the Senate amendment are similar in retaining current law with the exception that the House bill, but not the Senate amendment, modifies the organization of paragraph (2) and adds a new subparagraph (B).

SR

204. The House bill does not retain paragraph (3) of current law which the Senate amendment retains and modifies.

HR

205. The House bill and the Senate amendment retain current law with no changes.

LC

206. The Senate amendment does not contain this provision regarding parental notification and consent for English language instruction of the House bill.

SR with amendment to strike subsection (g) and insert the following as new subsection (g):

“(g) PARENTAL NOTIFICATION.—

“(a) IN GENERAL.—(1) Each eligible entity using funds under this title to provide high-quality language instruction educational programs shall inform a parent or parents of a child participating in such a program of—

“(A) the reasons for the identification of their child as limited English proficient and being in need of placement in a language instruction educational program;

“(B) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

“(C) the program and methods of instruction available, including how such programs differ in content, instructional goals, and use of English and a native language in instruction;

“(D) how the language instruction educational program will meet the educational strengths and needs of their child;

“(E) how such language instruction program will specifically help the child acquire English, and meet age appropriate academic achievement standards for grade promotion and graduation;

“(F) the specific exit requirements for the program, including the expected rate of transition from the program into classrooms that are not tailored for limited English proficient students, and the expected rate of graduation from high school for the program if funds under this title are used for children in secondary schools;

“(G) in the case of a student with a disability who participates in an English language instruction educational program, how the program meets the objectives of the individualized education program of the student;

“(H) the entity's failure to make progress on the annual measurable achievement objectives in section 3329(a), if applicable. Such notice shall be sent in addition to the parental notification of their child as in need of participation in a language instruction educational program.

“(I) information pertaining to parental rights, that includes written guidance—

“(i) detailing the options that parents have to remove their child in an language instruction educational program, and shall give parents an opportunity to decline such enrollment, and the right to have their child immediately removed from a specialized language instruction program upon their request; and

“(ii) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

“(b) RECEIPT OF INFORMATION.—The notice and information provided in subsection (a) to a parent or parents of a child identified for participation in a language instruction educational program for limited English proficient children shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

“(c) SPECIAL RULE APPLICABLE DURING THE SCHOOL YEAR.—For those children who have not been identified as limited English proficient prior to the beginning of the school year the eligible entity shall notify parents within the first two weeks of the child being placed in a language instruction educational program consistent with subsections (a) and (b).

“(d) PARENTAL PARTICIPATION.—Each eligible entity using funds under this title shall implement an effective means of outreach to parents of limited English proficient students to inform parents of how they can be involved in the education of their children, and be active participants in assisting their children to attain English and achieve at high levels in core academic subjects and meet challenging state academic achievement standards and state academic content standards expected of all students, including holding and sending notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this title.

“(e) BASIS FOR ADMISSION OR EXCLUSION.—A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.”

207. The House bill and the Senate amendment retain current law with no substantive changes.

LC

208. The House bill and the Senate amendment retain current law with no substantive changes.

LC

209. The House bill and the Senate amendment are substantially similar with minor differences in wording and a difference in the cross-reference (the House bill refers to the subsection regarding Ranking Order and the Senate amendment refers to Eligible School Attendance Areas).

LC

210. The House bill and the Senate amendment retain current law with no substantive changes.

LC

211. The House bill, but not the Senate amendment, makes a number of changes to current law in subsection (b) regarding the rank order of funds and by adding a new paragraph (3) regarding elementary schools. Otherwise, the House bill retains current law with minor changes through paragraph (c)(1). The Senate amendment retains current law unchanged through paragraph (c)(1).

HR

212. The House bill adds a paragraph (2) regarding equitable service to private school students. The Senate amendment contains the same provision in section 1120A. See note 488.

HR

213. The House bill, but not the Senate amendment, makes a change to current law regarding the total enrollment. The Senate amendment retains current law unchanged through subsection (e).

HR

214. The House bill, but not the Senate amendment, makes a number of minor, technical changes to current law. The Senate amendment retains current law unchanged through subparagraph (f)(3)(C).

LC

215. The Senate amendment does not contain the provisions in paragraphs (4) and (5) of the House bill regarding school improvement reservation and financial incentives and rewards reservation.

SR with an amendment to insert “from the amount (if any) by which the funds received by the LEA under this part for a fiscal year exceed the amount received by the LEA under this part for the preceding fiscal year,” after “necessary” in paragraph (4) and to insert “from those funds received by the LEA under Title II and up to 5% of those funds received by the LEA” after “necessary” in paragraph (5).

216. The Senate amendment does not contain similar provisions.

HR

217. The House bill and the Senate amendment are similar with the following exceptions: 1) The House bill refers to a LEA that “may consolidate” funds, while the Senate amendment refers to a LEA that “may use” funds; and 2) The Senate amendment, but not the House bill, refers to the “initial year of the schoolwide program”.

SR with an amendment to insert “and use” after “consolidate”.

218. The House bill and the Senate amendment retain current law with no substantive changes.

LC

219. The House bill and the Senate amendment are the same.

LC

220. The House bill, but not the Senate amendment, makes a number of changes to current law regarding an exception to IDEA in subparagraph (A) and the list of requirements in subparagraph (B). The Senate amendment retains current law unchanged through subparagraph (B).

SR with an amendment to add “comparability of services” after “maintenance of effort” in subparagraph (B).

221. The House bill and the Senate amendment are substantially similar with the following exceptions: 1) The House bill refers to “consolidate” funds, while the Senate amendment refers to “use” funds; and 2) Minor wording differences.

SR with an amendment to insert “and uses” after “consolidates”.

222. The House bill and the Senate amendment retain current law with no substantive changes.

LC

223. The House bill, but not the Senate amendment, makes a number of changes to current law regarding the addition of migratory children in subparagraph (A), omitting current law clause (iii) in schoolwide reform strategies, referring to “scientifically based research” in clause (ii), adding subclause (I), referencing standards and low-achieving in subclause (I) of clause (iii), and omitting specific examples contained in current law subclause (I) of clause (iiii). The Senate amendment retains current law unchanged.

SR with an amendment to insert the following (rewrite of whole subsection):

“(c) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

“(1) IN GENERAL.—A schoolwide program shall include the following components:

“(A) A comprehensive needs assessment of the entire school (including taking into account the needs of migratory children as defined in section 1309(2)) that is based on information which includes the performance of children in relation to the State academic content standards and the State student academic achievement standards described in section 1111(b)(1).

“(B) Schoolwide reform strategies that—

“(i) provide opportunities for all children to meet the State's proficient and advanced levels of student achievement described in section 1111(b)(1)(D);

“(ii) use effective methods and instructional strategies that are based upon scientifically based research that—

“(I) strengthen the core academic program in the school;

“(II) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

“(III) include strategies for meeting the educational needs of historically underserved populations;

“(iii)(I) include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State student academic achievement standards who are members of the target population of any program that is included in the schoolwide program, which may include—

“(aa) counseling, pupil services, and mentoring services;

“(bb) college and career awareness and preparation, such as college and career guidance, personal finance education, and innovative teaching methods which may include applied learning and team teaching strategies; and

“(cc) the integration of vocational and technical education programs; and

“(II) address how the school will determine if such needs have been met; and”

224. The House bill does not contain a similar provision, although the House bill also strikes the reference to Goals 2000 as does the Senate amendment in clause (i).

LC

225. The House bill, but not the Senate amendment, makes a number of changes to current law regarding teachers in subparagraph (C), professional development in subparagraph (D), and by adding subparagraph (E). The Senate amendment retains current law unchanged through subparagraph (D).

SR with an amendment to insert “principals,” after “teachers,” in (D); and strike “such as . . . pay” in (E).

Report language:

“The Conferees believe that teacher recruitment strategies will be most effective if they succeed in attracting highly qualified teachers and subsequently retaining those teachers. Such strategies can include differential pay and merit based pay, as well as other services such as teacher advancement initiatives that promote professional growth and multiple career paths, pre-service internships, high quality professional development, effective mentoring, and ongoing, comprehensive evaluations of teachers' knowledge and abilities.”

226. The Senate amendment, but not the House bill, refers to a list of activities beyond family literacy services.

SR

227. The House bill, but not the Senate amendment, makes a number of changes to current law regarding the listed programs in subparagraph (G), cross-references in subparagraph (H), referring to proficiency in subparagraph (I), and omitting clauses (ii) and (iii) of subparagraph (H) of current law. The Senate amendment retains current law unchanged through subparagraph (H).

SR

228. The House bill does not contain a similar provision.

HR with an amendment to insert “vocational and technical education” before “job training”.

229. The House bill and the Senate amendment refer to the title of each piece of legislation. In addition, the House bill, but not the Senate amendment, makes changes to current law by omitting consultation requirements in paragraph (2), omitting clause (iv) through subparagraph (2)(B) of current law. The Senate amendment retains current law unchanged through subparagraph (C).

SR with an amendment to insert “, in consultation with the local educational agency and its school support team or other technical assistance provider under section 1117,” in paragraph (2) before “, a comprehensive plan” and to strike in (2)(A) “incorporates” and insert “describes how the school will implement”.

230. The House bill does not contain this provision.

HR with an amendment to retain current law clause (iv) as subparagraph (D) and to conform parental information in that subparagraph with note #168.

231. The House bill does not contain this provision.

SR

232. The House bill, but not the Senate amendment, makes changes to current law by omitting the requirement to consider recommendations of technical assistance providers in clause (i). The Senate amendment retains current law.

HR

233. The House bill and the Senate amendment refer to the title of each piece of legislation. In addition, the House bill, but not the Senate amendment, makes a number of changes to current law by changing the plan requirements in clause (ii), adding to the involvement requirements in subparagraph (B), and by changing the availability requirements in subparagraph (D). The Senate amendment retains current law through subparagraph (D).

SR with an amendment to conform parental information with note #168.

234. Both the House bill and the Senate amendment strike the reference to the School-to-Work Act. In addition, the House bill, but not the Senate amendment, makes a change to current law by changing the list of programs to coordinate with. The Senate amendment retains current law.

SR

235. The House bill and the Senate amendment retain current law with no substantive changes regarding the Accountability provision.

LC

236. The Senate amendment does not contain similar provisions.

SR

237. The House bill and the Senate amendment retain current law with no substantive changes.

LC

238. The House bill and the Senate amendment are substantially the same.

LC

239. The House bill, but not the Senate amendment, makes a number of changes to current law by changing references to standards and assessments in subparagraph (B) and changing the list of included children in clause (i) of subparagraph (A). The Senate amendment retains current law unchanged through paragraph (2).

HR (LC—academic achievement).

240. The Senate amendment refers to early childhood education services under this title, while the House bill refers to preschool services under this title and adds a reference to Early Reading First.

SR

241. The House bill and the Senate amendment strike the reference to part D (of Title I) and its predecessor authority. The House bill, but not the Senate amendment, changes the reference from part (D) (Neglected and Delinquent education) to part (C) (Migrant education). The House bill, but not the Senate amendment, changes to current law. The Senate amendment retains current law.

SR

242. The House bill clarifies that these 2 groups of children are eligible, not possibly eligible as under current law. The Senate retains current law through subparagraph (D).

SR

243. The House bill, but not the Senate amendment, makes a number of changes to current law by changing references to standards in paragraph (1) and subparagraph (A), omitting subparagraph (B) of current law, changing subparagraph (3), replacing current law subparagraph (E) with subparagraph (D) of the House bill, and changing the teacher references in subparagraph (E). The Senate amendment retains current law unchanged through subparagraph (G).

SR/LC conform "highly qualified teacher" in this note.

244. The House bill, but not the Senate amendment, references subsection (e)(3) and section 1119A. The Senate amendment, but not the House bill, refers to "paraprofessionals" and "parents". The House bill, but not the Senate amendment, conditions the provision of opportunities for professional development for "pupil services personnel".

SR with an amendment to strike ", for teachers . . . pupil services personnel," and replace with ", for teachers, principals and paraprofessionals, including, if appropriate, pupil services personnel, parents, and other staff."

245. The House bill and the Senate amendment reference section 1118 of Title I, part A of each piece of legislation and "family literacy services." However, the Senate amendment, but not the House bill, adds after family literacy services a list of additional options.

SR

246. The House bill contains a generally similar provision in subsection (c)(2)(A). See note 248.

HR with an amendment to insert "vocational and technical education".

247. The House bill and the Senate amendment retain current law with no substantive changes.

SR (Note 181)

248. The Senate amendment contains a generally similar provision in subparagraph (I) following. See note 246. The House bill, but not the Senate amendment, makes a change to current law by omitting the reference to standards in current law. The Senate amendment retains current law.

SR

249. The House bill, but not the Senate amendment, makes a number of changes to current law by changing the reference to standards in subparagraph (B), changing the section heading in subsection (d), omitting the reference to children served under this part in subsection (d), omitting paragraphs (1) and (3) of subsection (d) of current law, changing subparagraph (2) list of services, and omitting subparagraph (B) of paragraph (2) of current law. The Senate amendment retains current law.

SR with an amendment to retain current law 1115(d)(1); to strike "medical" and insert "health" in paragraph (2) and to insert current law subparagraph (e)(2)(B) as subparagraph (e)(2)(C).

250. The House bill, but not the Senate amendment, makes a number of changes to current law by referencing public schools throughout, changing the plan provisions in subsection (b), replacing paragraph (5) of current law with paragraph (2) of the House bill and modifying the list of required participants, replacing paragraph (6) of current law with paragraph (4) and omitting paragraphs (2)-(4) and (7)-(9) of current law.

HR/SR to eliminate from current law.

251. The House bill does not contain a similar section. However, pupil safety and school choice activities are an authorized use of funds under section 5115 (b)(2)(P) of the House bill. See Title V of the House bill.

SR

252. The House bill and the Senate amendment have different section headings. The House bill adds the word "academic" before assessment, which is consistent throughout this part. See note 50.

LC

253. The House bill and the Senate amendment are similar with the following exceptions: (1) There is a difference in cross-references to the adequate yearly progress provisions in each piece of legislation; (2) The Senate amendment, but not the House bill, requires LEAs to use State assessments and additional measures described in their plan to determine if adequate yearly progress is being met; the House bill, but not the Senate amendment, requires the use of State assessments to determine if adequate yearly progress is being met; and (3) The Senate amendment, but not the House bill, refers to enabling students to meet the State standards.

SR with amendment to strike paragraph (1) and insert the following and redesignate subsequent paragraphs accordingly:

"(1) use the State academic assessments and other academic indicators described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section [1111(b)(2)(B)]; and

"(2) at the local education agency's discretion, use any academic assessments or any other academic indicators described in the local educational agency's plan under section [1112(b)(1) and (2)] to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section [1111(b)(2)(B)], except the use of such additional assessments or indicators may not be used to reduce the number or change which schools would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional assessments or indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring."

254. The House bill refers to publication and dissemination of results, while the Senate amendment refers to the provision of results. The Senate amendment, but not the House bill, adds the word "local" before "annual review". The House bill has a different list of recipients than the Senate amendment. The Senate amendment, but not the House bill, describes how the results are to be provided and what they are to be used for.

HR/SR with an amendment to merge the language of both.

255. The House bill and the Senate amendment are similar, with the following exceptions: (1) The House bill contains a general reference to parental involvement under the Act, while the Senate amendment refers to specific parental involvement under section 1118; and (2) The Senate amendment, but not the House bill, refers to professional development under section 1119 and "other activities" under the Act.

SR with an amendment to insert "professional development, and other activities" after "parental involvement," in (3).

256. The House bill does not contain a similar provision.

SR

257. The House bill and the Senate amendment are similar with the following exceptions: (1) The Senate amendment, but not the House bill, conditions the LEA requirements on subparagraph (B) following, although subsection (b)(1)(C) of the House bill is similar; see note 260; and (2) There is a difference in cross-references to the adequate yearly progress provisions in each piece of legislation.

HR with amendment to strike "for any year" and insert "for two consecutive years"

258. The Senate amendment contains a similar provision which is located in subsection (b)(12)(A)(i). See note 331 for differences.

HR

259. The Senate amendment does not contain a similar provision.

SR with amendment to strike "first day" and insert "beginning" and to insert "next" before "school year".

260. The House bill and the Senate amendment are similar with the exceptions that the House bill refers to "advanced" achievement and the Senate amendment refers to "proficient level of performance", and there is a technical difference in cross-references.

HR

261. The House bill and the Senate amendment are the same.

LC

262. The Senate amendment contains a similar provision in subsection (b)(5). See notes 290, 291 and 292 for differences.

SR with amendment to add at the end: "In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest-achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1)."

263. The Senate amendment does not contain a similar provision.

SR

264. The House bill and the Senate amendment are the same with the exception that the House bill refers to "restructuring" while the Senate amendment refers to "reconstitution".

SR

265. The House bill and the Senate amendment are substantially the same with the exception that the House bill, but not the Senate amendment, allows for supporting evidence to be provided to contest an identification if a majority of parents believe the identification was in error.

SR

Report language:

"The Conferees urge that, in providing the opportunity for review under paragraph (2) and before identifying a school for school improvement, corrective action, or restructuring, SEAs should provide to LEAs, and the LEAs shall make available to school officials, teachers, parents, and other interested parties, information on the statistical accuracy of the assessment and the data produced in a language and format that is likely to be accessible and understandable to all parties, in order to allow such individuals to make an informed judgment about the accuracy of the identification for improvement of a school."

266. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill, but not the Senate amendment, refers to an LEA providing a school with the opportunity to review school level data; and (2) The Senate amendment, but not the House bill, refers to an LEA making an initial determination under the paragraphs listed.

SR

267. The House bill and the Senate amendment are substantially the same with the exception that the House bill, but not the Senate amendment, conditions the LEA requirements on the resolution of the review previously described in paragraph (2).

SR

268. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment, but not the House bill, allows for the inclusion of a comprehensive school reform model meeting the requirements of section 1706(a).

HR

269. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill and the Senate amendment reference different categories of students (see note 63); (2) There is a technical difference in cross-references to assessment provisions; and (3) The House bill and the Senate amendment differ in the title of each piece of legislation.

HR/SR with amendment to strike "10 years" and insert "12 years" and to strike "after the date . . . 2001" and insert "of the end of the 2001—2002 school year"

270. The House bill and the Senate amendment are the same.

LC

271. The House bill and the Senate amendment are the same.

LC

272. The House bill and the Senate amendment are the same with a technical difference in cross-references.

LC

273. The Senate amendment does not contain a similar provision.

SR

274. The House bill and the Senate amendment are the same.

LC

275. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill and the Senate amendment reference different categories of students (see note 63); (2) There is a technical difference in cross-references to assessment provisions; (3) The House bill and the Senate amendment differ in the title of each piece of legislation; (4) The House bill refers to "measurable" goals, while the Senate amendment refers to "objective" goals; and (5) The Senate amendment, but not the House bill, refers to students making "continuous and significant progress".

SR w/amendment to insert "objective" after "measurable", to insert "consistent with adequate yearly progress as defined under section 1111 (b)" and to strike "10 years" and insert "12 years" and to strike "after the date . . . 2001" and insert "of the end of the 2001—2002 school year"

276. The House bill and the Senate amendment are the same.

LC

277. The House bill and the Senate amendment are the same.

LC and after "(4)" insert "and the local educational agency's responsibilities under section 1120A."

278. The House bill does not contain a similar provision.

HR

279. The Senate amendment does not contain similar provisions.

SR with an amendment to strike "extended learning time for students, such as" and insert "activities" after "year" in clause (viii) and to strike clause (ix) and insert "(ix) incorporate a teacher mentoring program."

Report Language:

Successful mentoring programs pair beginning and veteran teachers with an exemplary teacher who has expertise in the same subject matter as the teachers who are mentored. Mentoring programs are usually school-based and include activities such as observing and coaching the teachers who are mentored.

280. The House bill and the Senate amendment are the same with a technical difference in cross-references.

LC

281. The Senate amendment does not contain a similar provision.

SR

282. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill, but not the Senate amendment, provides for an exception to the requirement described in subparagraph (D) of the House bill following; and (2) The House bill refers to the school year following the school year in which the school failed to make adequate yearly progress, while the Senate amendment refers to the school year following the school year in which the school was identified.

HR with amendment to insert "Except as provided in subparagraph [(D)]," before "A school shall"

283. The Senate amendment does not contain a similar provision.

SR

284. The Senate amendment, but not the House bill, requires the LEA to act 45 days after receiving a school plan.

HR

285. The House bill and the Senate amendment are the same in the clauses (i) and (ii) of each piece of legislation.

LC

Report language:

"The Conferees believe that in instances where peer review of a school plan [Section 1116(c)(3)(D)] is required, local educational agencies may, with the approval of the State educational agency, use the State Committee of Practitioners (as described in Section 1803(b)) to perform the peer review process."

286. The House bill and the Senate amendment are substantially the same with the exception that the House bill, but not the Senate amendment, directs the LEA to provide technical assistance to the school "throughout the duration of the plan."

SR

287. The House bill and the Senate amendment differ technically in the cross-reference. The Senate amendment, but not the House bill, refers to problems in implementing parental involvement (under section 1118), professional development (under section 1119), and other school and LEA responsibilities.

HR

288. The House bill and the Senate amendment are the similar with the exception of the House bill reference to professional development.

SR

289. The House bill and the Senate amendment are the same through subparagraph (C) following of each piece of legislation.

LC

290. The House bill contains a similar provision which is located in subsection (b)(1)(E) (see note 262). The House bill requires intra-district public school choice not later than the first day of the school year following identification, while the Senate amendment requires intra-district public school choice at the end of the first year after the school year for which the school was identified. In addition, there is a difference in cross-references to the adequate yearly progress provisions in each piece of legislation.

HR with amendment to insert "continue to" before "provide" and to strike "unless" in subparagraph (A) and to insert as a new subparagraph (#—LC) "make supplemental services available, consistent with subsection [(d)(1)]"

291. The House bill contains a similar provision which is located in subsection (b)(1)(E). The Senate amendment, but not the House bill, also requires the intra-district public school choice to be not prohibited by local law, including school board approved LEA policy.

SR

292. The House bill does not contain a similar exception.

SR

293. The House bill does not contain this provision. Also see note 303.

SR

294. The House bill does not contain this provision. However, see also paragraph (4) of the House bill.

HR with amendment to strike "while . . . action"

295. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment, but not the House bill, references corrective action and reconstitution.

HR with an amendment strike "reconstitution" and insert "restructuring" in (F)(7) and to conform parental information with note #168.

296. The House bill and the Senate amendment are the same with minor wording differences in subparagraphs (A) through (C) following of each piece of legislation.

SR

297. The House bill and the Senate amendment are substantially the same with the exception that the House refers to the "achievement" problem, while the Senate amendment refers to the "performance" problem.

SR

298. The House bill and the Senate amendment are the same with minor differences in wording.

LC

299. The House bill, but not the Senate amendment, includes public charter schools. The Senate amendment, but not the House bill, conditions the explanation on when the school is identified for corrective action or reconstitution. The Senate amendment, but not the House bill, refers to the provision of transportation and supplementary services.

HR with amendment to strike "when the school is identified . . . (8),"

300. See note 162.

HR

301. The House bill and the Senate amendment are the same in subparagraph (A) of each piece of legislation with minor wording differences and a technical difference in cross-references. The Senate amendment requires corrective action to be consistent with "State and local law", while the House bill requires corrective action to be consistent with State law.

SR

302. The House bill and the Senate amendment are similar with minor wording differences and a technical difference in cross-references.

LC

303. The House bill, but not the Senate amendment, refers to the provision of public school choice and technical assistance and the identification of a school and corrective action to be taken. The Senate amendment contains a similar provision in clause (iii) following. There is a technical difference in cross-references to assessment provisions. The House bill refers to those schools that have failed to make adequate yearly progress at the end of the first full school year following identification. The Senate amendment refers to those schools that have failed to make adequate yearly progress at the end of the 2nd year after the school year for which the school was identified. The House bill contains a provision regarding those schools identified before enactment, which the Senate also does in paragraph (12) following. See note 331 for differences.

HR with amendment to add "full school" after "second"

304. The House bill and the Senate amendment are similar with the following exceptions: (1) The House bill, but not the Senate amendment adds "continue to" before "provide; and (2) The House bill, but not the Senate amendment, refers to State law.

SR

305. The House bill and the Senate amendment contain similar provisions, however, the House bill provision is located in subsection (b)(10). The House bill refers to those schools in school improvement, while the Senate amendment refers to those schools in school improvement and corrective action. The Senate amendment, but not the House bill, requires the transfer of as many children as possible and that the selection of those children is done on an equitable basis.

SR

306. See note 303 regarding identifying schools and taking corrective actions.

LC

307. The House bill does not contain this provision.

SR

308. The House bill, but not the Senate amendment, refers to the staff relevant to the failure to make adequate yearly progress.

SR

309. The House bill and the Senate amendment are substantially similar with the exceptions of minor wording differences and the House bill, but not the Senate amendment, referring to the school meeting adequate yearly progress.

SR with an amendment to insert Report Language:

Report Language:

If an LEA chooses to implement a new curriculum as a means of corrective action, such new curriculum shall significantly depart from the existing curriculum in a manner aimed to have the school attain adequate yearly progress. The Conferees intend that such new curriculum constitute a substantial structural change to the school's curriculum that is consistent with the State academic content and academic achievement standards and specifically address issues identified by the plan developed by the school upon being identified as in need of improvement.

310. The Senate amendment does not contain the provisions in subclauses (III)—(VI) following in the House bill.

SR

311. The House bill and the Senate amendment are the same.

LC with amendment to add "requirements of second year of school improvement" after "implementation of", strike "only" and insert "restructuring", strike "school's failure" and to insert "school makes adequate yearly progress for one year or fails" before "to make" and to strike "was justified".

312. The House bill, but not the Senate amendment, requires the information be disseminated to the parents of children enrolled at the school in a format and to the extent practicable in a language the parents can understand.

SR with an amendment to conform parental information with note #168.

313. Both the House bill and the Senate amendment refer to schools having failed to make adequate yearly progress after one year of corrective action, although the House bill refers to a "full" year. However, the House bill, but not the Senate amendment, also requires for schools to be identified in restructuring to fail to make statistically significant adequate yearly progress for the economically disadvantaged students in the subjects included in the State's definition of adequate yearly progress after one year.

HR with amendment to insert "full school" after "one"

314. The Senate amendment does not contain a similar provision.

HR

315. See note 304.

SR with amendment to insert "continue to" before "provide"

316. The Senate amendment, but not the House bill, refers to those children who remain in the schools.

HR with amendment to insert "continue to" before "make" and for LC to move same language to corrective action (at note 304) and to move same language but without "continue to" to 2nd year of school improvement (at note 290)

317. The House bill and the Senate amendment are the same through clause (i) of the House bill and subclause (I) following of the Senate amendment.

LC

318. The House bill, but not the Senate amendment, includes principals. Otherwise, see note 308.

SR with an amendment to strike "the principal and" and insert "which may include the principal" after "that are relevant,".

319. The House bill refers to "entering into a contract", while the Senate amendment refers to "turning the operation" over.

SR with an amendment to insert "with a demonstrated record of effectiveness" after "public school" in (iii).

320. The House bill, but not the Senate amendment, refers to State law permitting such action.

SR

321. The House bill does not contain these Senate provisions.

HR with an amendment to strike subclause (V) and clause (ii) and replace with a new subclause (V) and report language:

"(V) Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and which has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under section 1111(b)(2). In the case of a rural local educational agency with less than 600 students in average daily attendance at the schools served by the agency and have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this subclause."

Report Language:

The Conferees recognize that rural schools and communities face unique challenges, including geographic isolation, in implementing the alternative governance arrangements under subparagraph (B)(i)(I)—(IV). Therefore, the Conferees intend for the Secretary to provide technical assistance and otherwise make every effort to assist these schools in restructuring, while not lessening the accountability requirements under this subparagraph.

322. The Senate amendment does not contain a similar provision.

SR with amendment to strike "the end" and insert "not later than the beginning" and to insert "next" before "school year in which the academic assessments are administered".

323. The House bill, but not the Senate amendment, refers to the participation of parents, to the extent practicable, in the development of the plan required by this paragraph. The House bill, but not the Senate amendment, also requires parents to be

given an explanation of the plan under this paragraph.

SR with an amendment to strike "to the extent practicable".

324. The House bill refers by cross-reference to those schools in school improvement, corrective action, or restructuring. The Senate amendment refers to those schools in corrective action.

SR with amendment for LC to add a reference to 2nd year of school improvement (at note 290)

325. The House bill, but not the Senate amendment, refers to "public" schools. The Senate amendment, but not the House bill, references the subsection regarding a LEAs obligation to provide supplementary services and transportation costs.

SR

326. The House bill and the Senate amendment cap the amount the LEA can use for transportation costs at 15% of the LEA allocation under this part. The Senate amendment, but not the House bill, also includes the costs of providing supplementary services in the 15% cap.

SR with amendment to strike "15 percent" and insert "5 percent" and for LC to insert as a new subparagraph (C) the 10% "flex pot" that can be used for either public school choice or for supplemental services and to insert special rule that if the State pays for public school choice, the 5% can be used as an additional flex pot to pay for supplemental services.

327. See note 305.

SR with amendment for LC to add a reference to 2nd year of school improvement (at note 290) and to insert "corrective action, or restructuring" after "school improvement"

328. The House bill, but not the Senate amendment, refers to those schools in corrective action and restructuring. Otherwise, the House bill and Senate amendment are substantially the same.

HR with amendment to insert "school improvement, corrective action, or restructuring" and to strike "reconstitution" in both places.

329. The Senate amendment does not contain a similar provision.

HR

330. The House bill does not contain a similar provision.

HR with amendment to strike paragraph (11) and insert new paragraph (11):

"(11) SPECIAL RULE.—A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends, except that the obligation of the local educational agency to provide, or provide for, transportation remains until the end of the school year, if the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring."

331. See notes 258 and 303.

HR with amendment to strike in subparagraph (A) (i) and (ii) "at the beginning of the next school year following such day" and to strike in subparagraph (B) "and that fails . . . such date" and to strike in subparagraph (B) "subject to . . . next school year" and insert "treated by the local educational agency as a school described in paragraph (7)" and to strike subparagraphs (A)(iii) and (A)(iv) and subparagraph (B)(ii), and to add a special rule that public school choice and supplemental services must be implemented no later than the beginning of the 2002–2003 school year for the appropriate schools identified before enactment pursuant to paragraphs (A)(i) and (ii) and (B)(ii), and the Department of Education must issue regulations on the new provisions relating to sections 1111 and 1116 within 6 months of date of enactment of this Act.

332. The House bill refers to State responsibilities while the Senate amendment refers to SEA responsibilities.

HR

333. The Senate amendment, but not the House bill, refers to schools in corrective action. The House bill, but not the Senate amendment, refers to "restructuring". The Senate amendment, but not the House bill, directs the SEA to use funds reserved under section 1003 to the extent possible.

SR with an amendment to insert "corrective action" after "school improvement," in (A).

334. The House bill and the Senate amendment are the same with minor wording differences.

LC

335. The Senate amendment does not contain this provision.

SR with amendment to strike "within the same . . . was given" and insert "before any identification of a school required under this section takes place."

336. The House bill does not contain these provisions.

HR with amendment to strike subparagraphs (C) and (D) and insert new subparagraph (C):

"(C) for local educational agencies or schools identified for improvement under section 1116, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 1111(b)(8) that have significantly impacted student achievement."

337. There is a difference in cross-references regarding adequate yearly progress. The Senate amendment, but not the House bill, also requires a review of the LEA's implementation of the responsibilities contained in the listed sections.

SR with an amendment "and to determine if each LEA is carrying out its responsibilities under 1116, 1117, 1118, and 1119" after "achievement standards" and before the semi-colon.

338. The Senate amendment does not contain this provision.

SR

339. The House bill does not contain these provisions.

SR with an amendment to strike subparagraph (B) and strike paragraph (2) and insert:

"(2) REWARDS.—In the case of a local educational agency that for 2 consecutive years has exceeded the State's definition of adequate yearly progress as defined in the State plan under section 1111(b)(2), the State may make rewards of the kinds described under section 1117."

340. The Senate amendment, but not the House bill, refers to schools served under this part and their progress toward meeting the State's performance standards. The Senate amendment also provides for an exception for targeted assistance programs, which the House does as well in paragraph (4), although the House bill refers to targeted assistance schools and there are other minor wording differences.

SR

341. The Senate amendment does not contain this provision.

SR with amendment for LC to move language to note 331 as subparagraph (C) and to parallel school improvement and corrective action language for schools.

342. The Senate amendment does not contain this provision.

SR with amendment for LC to move language to note 331 as subparagraph (D) and to parallel school improvement and corrective action language for schools.

343. See note 340.

SR

344. The House bill and the Senate amendment are similar with the following exceptions: (1) There is a difference in the paragraph references; (2) The House bill refers to LEA data, while the Senate amendment refers to "school-level" data; and (3) There are minor wording differences between the House bill and Senate amendment regarding the LEA provision of evidence for alleged identification error and the timeline for the final determination of LEA status.

SR with an amendment to strike "local educational agency" before "data".

Report Language:

The Conferees urge that, in providing the opportunity for review under paragraph (5) and before identifying a local educational agency for improvement, SEAs should provide to LEAs, and the LEAs shall make available to school officials, teachers, parents, and other interested parties, information on the statistical accuracy of the assessment and the data produced in a language and format that is likely to be accessible and understandable to all parties, in order to allow such individuals to make an informed judgment about the accuracy of the identification for improvement of a local educational agency."

345. The Senate amendment does not contain a similar provision.

SR

346. The House bill and the Senate amendment are similar with a technical difference in cross-references regarding LEA identification. In addition, the House bill, but not the Senate amendment, requires consultation with the groups listed.

SR

347. The House bill and the Senate amendment are the same.

LC

348. The Senate amendment, but not the House bill, refers to consistency with State standards.

HR

349. The Senate amendment does not contain a similar provision.

SR

350. The Senate amendment, but not the House bill, contains numerous requirements, including specifying where the funds are to be taken from, how they are to be treated, and what they are to be used for.

HR with amendment to strike clause (iv) and replace with new clause (iv): "(iv) address the professional development needs of the instructional staff by committing to spend not less than 10% of the funds received by the local educational agency under this part during 1 fiscal year for professional development (including funds reserved for professional development under subsection (c)(3)(A)(iii)), but excluding funds reserved for professional development under subsection (j) of section 1119A."

Report language:

"The Conferees intend that such funds shall supplement and not supplant professional development that instructional staff would otherwise receive, and which professional development, including mentoring for teachers in low-performing schools, shall increase the content knowledge of teachers and build the capacity of the teachers to align

classroom instruction with challenging academic content standards and to bring all students to proficient or advanced levels of achievement as determined by the State."

351. The House bill and the Senate amendment are generally similar with the exception that the Senate amendment refers to "subjects and grades" and "continuous and significant progress" toward proficiency over 10 years.

SR with an amendment to insert "consistent with adequate yearly progress as described under section 1111(b)"

352. The House bill does not contain a similar provision.

HR with an amendment to strike "and performance;" and insert "academic" before "achievement".

353. The Senate amendment does not contain a similar provision.

SR with an amendment to strike clause (iii) and insert as new clause (iii):

"(iii) incorporate, as appropriate, before school, after school, during the summer, and extension of the school year activities."

(See note 279)

354. The House bill and the Senate amendment are substantially the same.

LC to conform with parental language from note 168.

355. The House bill and the Senate amendment are similar with the exception that the Senate amendment, but not the House bill, includes SEA technical assistance.

HR with an amendment to insert after "(5)" the following: "and the local educational agency's responsibilities under section 1120A."

356. The House bill does not contain a similar provision.

HR

357. The Senate amendment does not contain a similar provision.

SR

358. The House bill and the Senate amendment are similar with the exception that the House bill, but not the Senate amendment, refers to the provision of technical assistance if requested. In addition, the House bill refers to the "State" responsibility while the Senate amendment refers to the SEA responsibility, a difference which is consistent through the remainder of each piece of legislation.

HR with an amendment to insert "if requested" after "or other assistance"

359. The House bill and the Senate amendment are substantially the same in clauses (i) and (ii) following of each piece of legislation.

LC

360. The House bill and the Senate amendment are similar with the exception that the Senate amendment, but not the House bill, refers to the provision of SEA technical assistance for problems implementing those activities listed in the Senate amendment.

HR with an amendment to strike "tied to scientifically based research" and insert "based on scientifically based research" in (B).

361. The Senate amendment does not contain this provision.

SR

362. The House bill and the Senate amendment are similar with minor differences in wording, technical differences in cross-references, and the Senate amendment refers to consistency with State and local law, while the House bill in subparagraph (B) following refers to consistency with State law. See note 365.

SR

363. The House bill and the Senate amendment are the same with the exception that the House bill specifically references clauses regarding corrective action.

LC

364. The Senate amendment does not contain this provision.

SR

365. The House bill and the Senate amendment are similar, with minor wording differences, and the Senate amendment, but not the House bill, refers to consistency with State and local law. See note 362 and subparagraph (B) in the House bill.

SR

366. The House bill and the Senate amendment are similar.

HR with an amendment to strike "deferring, reducing, or withholding funds." and insert "deferring programmatic funds or reducing administrative funds" in (vi).

367. The House bill does not contain this provision.

HR with an amendment to insert Report Language:

Report Language:

If an SEA chooses to implement a new curriculum as a means of corrective action, such new curriculum shall significantly depart from the existing curriculum in a manner aimed to have the LEA attain adequate yearly progress. The conferees intend that such new curriculum shall constitute a substantial structural change to the LEA's curriculum that is consistent with State academic content and academic achievement standards and specifically address issues identified by the plan developed by the local educational agency upon being identified as in need of improvement.

368. The House bill refers to replacing personnel relevant to the failure to make adequate yearly progress. The Senate amendment refers to reconstituting personnel.

SR

369. The House bill and the Senate amendment are substantially the same in the following three provisions.

LC

370. The Senate amendment does not contain a similar provision.

SR with amendment to require LEA to use the 5% LEA reservation and 10% flex reservation for transportation. (See note 326)

371. The Senate amendment, but not the House bill, refers to that corrective action taken pursuant to this paragraph. The House bill refers to due process provided to LEAs, while the Senate amendment refers to notice provided to LEAs. The Senate amendment, but not the House bill, refers to a timeline by which the hearing shall take place.

HR

372. The House bill and the Senate amendment are substantially the same with the exception that the House bill refers to specific dissemination outlets, while the Senate amendment refers to a generally available medium.

LC

373. The House bill and the Senate amendment are substantially the same with minor wording differences, and the House bill, but not the Senate amendment, refers to the financial resources of LEAs and schools.

LC with amendment to conform with note 311

374. The House bill does not contain a similar provision.

SR

375. The House bill and the Senate amendment are similar with the exceptions of minor wording differences and that the House bill allows for an LEA to make adequate yearly progress two out of the three years following identification, while the Senate amendment requires a LEA to make adequate yearly progress for two consecutive years.

HR

376. The House bill does not contain this provision.

HR

377. The House bill and the Senate amendment have different headings and are located in different subsections of section 1116 of each piece of legislation.

HR

378. The House bill and the Senate amendment provide the option of supplemental services to parents if a school has failed for 3 years to make adequate yearly progress, as defined in each piece of legislation in Title I, part A, with a technical difference in cross-references. The House bill refers to "each eligible child" that is able to obtain supplemental services, while the Senate amendment refers to "to children in the school". The House bill defines "eligible child" in subsection (d)(10)(A) (See note 414). Both the House bill and the Senate amendment require the SEA to approve supplemental service providers and allow parents to choose from the approved providers. However, the House bill, but not the Senate amendment, describes the minimum elements of the "reasonable criteria" the SEAs shall use to approve supplemental service providers.

HR/SR with amendment:

(#—LC) Supplemental Educational Services.—

(1) In the case of any school described in subsection [2nd year of school improvement, corrective action, or restructuring], the local educational agency serving such school shall, subject to subparagraphs [(B) through (E)], arrange for the provision of supplemental services to eligible children in the school from a provider with a demonstrated record of effectiveness, selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria that it shall adopt."

Report Language:

The Conferees intend that a local educational agency shall not be required to arrange for the provision of supplemental services for a student, if the parent of such student has not requested supplemental services.

379. The House bill, but not the Senate amendment, references the criteria described in paragraph (d)(1) of the House bill in regards to those supplemental service providers that may be selected by parents. In addition, the House bill requires the LEA to assist requesting parents with the selection of a provider, while the Senate amendment contains a similar provision in subsection (f)(2)(C) of the Senate amendment. See note 388.

HR

380. The House bill contains a specific reference to a contract between the LEA and a supplemental service provider, while the Senate amendment generally refers to the relationship between the LEA and the provider in subsection (f)(1)(C)—(FINANCIAL OBLIGATION OF LEA) and (f)(2)(E) of the Senate amendment.

HR/SR with amendment to insert the following and strike all language (380—395 & 406):

(3) Local Educational Agency Responsibilities.—Each local educational agency subject to this subsection shall—

(A) provide, at a minimum, annual notice to parents (in a format and, to the extent practicable, in a language the parents can understand) of—

(i) the availability of services under this subsection;

(ii) the approved providers of those services that are within the school district served by the agency or whose services are reasonably available in neighboring school districts; and (iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

(B) if requested, assist parents to choose a provider from the list of approved providers maintained by the State;

(C) apply fair and equitable procedures for serving students if spaces at approved providers are not sufficient to serve all students;

(D) not disclose to the public the identity of any student eligible for, or receiving, supplemental services under this subsection without the written permission of the parents of the student.

(E) AGREEMENT.—In the case of the selection of a provider by a parent, the local educational agency shall enter into an agreement with such provider. Such agreement shall—

(i) require the local educational agency to develop, with parents (and the provider they have chosen), a statement of specific performance goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 614(d) of the Individuals with Disabilities Education Act;

(ii) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

(iii) provide for the termination of such agreement with a provider that is unable to meet such goals and timetables; and

(iv) contain provisions with respect to the making of payments to the provider by the local educational agency;

(v) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, supplemental services under this subsection without the written permission of the parents of such student.

(4) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—Each State educational agency shall—

(A) promote maximum participation by providers, in consultation with local educational agencies, parents, teachers, and other interested members of the public, to ensure, to the extent practicable, that parents have as many choices of those providers as possible;

(B) develop and apply objective criteria, consistent with paragraph [(6)], to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 1111(b)(1);

(C) maintain an updated list of approved providers across the State, by school district, from which parents may select; and

(D) ensure supplemental services are provided the school year following the date of enactment of the [NCLB Act].

Report Language:

The Conferees intend for State educational agencies to actively consider the inclusion of providers who can deliver high-quality distance learning in order to meet the purposes of this section.

381. The House bill and the Senate amendment require the LEA, the provider, and the child's parents to agree on the goals and progress for the supplemental services provided, although the Senate provision is in subsection (f)(2)(E) of the Senate amendment. Also see note 390.

HR/SR with amendment to strike language (see note 380)

382. The Senate amendment does not contain a similar provision.

HR/SR with amendment to strike language (see note 380)

383. The Senate amendment does not contain a similar provision, although the Senate amendment does generally reference the relationship between the LEA and the supplemental service provider in subsection (f)(1)(C)—(FINANCIAL OBLIGATION OF LEA) and (f)(2)(E) of the Senate amendment.

HR/SR with amendment to strike language (see note 380)

384. The House bill and the Senate amendment require each LEA required to provide supplemental services (see note 378) to notify parents of the availability of supplemental services, with the exception of some minor wording differences.

HR/SR with amendment to strike language (see note 380)

385. The House bill and the Senate amendment require the LEA to notify parents of the eligible supplemental service providers, with the exception that the Senate amendment, but not the House bill, requires notification to parents of those providers within the district or in neighboring districts.

HR/SR with amendment to strike language (see note 380)

386. The House bill does not contain a similar provision.

HR/SR with amendment to strike language (see note 380)

387. The Senate amendment requires LEAs to inform providers in that school district of the opportunity to provide supplemental services and of the procedures for getting SEA approval to provide those services. The House bill contains a similar provision, but requires the SEA to notify all providers of the opportunity to provide services, not just those within a district, in subsection (d)(5)(E) of the House bill.

HR/SR with amendment to strike language (see note 380)

388. See note 379.

HR/SR with amendment to strike language (see note 380)

389. The House bill does not contain a similar provision.

HR/SR with amendment to strike language (see note 380)

390. The Senate amendment, but not the House bill, requires the child's parents to be informed of the child's progress on a regular basis (however, see House bill subparagraph (6)(A) regarding parental information required) (see note 400) and the supplemental services are consistent with a child's IEP under IDEA. Otherwise see note 381.

HR/SR with amendment to strike language (see note 380)

391. The House bill does not contain a similar provision.

HR/SR with amendment to strike language (see note 380)

392. The House bill and the Senate amendment require consultation carrying out the responsibilities detailed in the following subparagraphs, although the Senate amendment, but not the House bill, contains more entities that shall be consulted.

HR/SR with amendment to strike language (see note 380)

393. The House bill and the Senate amendment are similar with the exceptions that the House bill, but not the Senate amendment, requires consultation with LEAs and with minor wording differences.

HR/SR with amendment to strike language (see note 380)

394. The House bill and Senate amendment are generally similar in terms of requiring the SEA to develop criteria by which to judge the eligibility of supplemental service providers to participate. However, the Senate amendment, but not the House bill, adds the word "objective" before "criteria". In addition, the Senate amendment, but not the House bill, specifically references standards developed pursuant to section 1111 of Title I, while the House bill references these standards in paragraph (d)(1) and generally in subparagraph (d)(6)(B).

HR/SR with amendment to strike language (see note 380)

395. The Senate amendment, but not the House bill, requires the SEA to maintain a list of supplemental service providers in the LEAs that must make supplemental services available.

HR/SR with amendment to strike language (see note 380)

396. The House bill and the Senate amendment require the SEA to develop standards and techniques to monitor the performance of supplemental service providers and to withdraw SEA approval if such standards are not being met by the providers. The Senate amendment, but not the House bill, requires the SEA to publicly report on the nature of the services offered by supplemental service providers. In addition, the Senate amendment, but not the House bill, refers to subparagraph (B) regarding standards. See note 394.

HR with an amendment to strike "develop and implement" and strike "publicly report on," and insert as the first clause in (D) "develop, implement, and publicly report on".

397. See note 387.

SR

398. The Senate amendment requires the SEA to ensure supplemental service providers meet the codes listed. The House bill contains a similar provision, with the exception that the House bill, but not the Senate amendment, also includes civil-rights laws. However, the House bill provision is in subsection (d)(6)(C). See note 402.

SR

399. The Senate amendment does not contain a similar provision, however similar elements can be found throughout the Senate amendment. See the following notes for cross-references.

SR

400. The Senate amendment does not contain a substantially similar provision, however, see note 390 regarding information required to be provided to parents on the progress of their child.

SR

401. See note 382.

SR with an amendment to insert "and is aligned with academic achievement standards" after "and State," in (B).

402. See note 398.

SR

403. The Senate amendment does not contain a similar provision.

SR

404. The House bill, but not the Senate amendment, sets a limit on the administration and cost of providing supplemental services to 40 percent of the Title I, part A, subpart 2 per child allocation for each school identified as having failed to meet adequate yearly progress for 3 years (see note 378). The House bill defines "per child allocation" in subparagraph (d)(10)(D). The Senate amendment, but not the House bill, establishes the maximum amount a LEA shall pay for supplemental services for each child receiving

services as either the LEA's Title I, part A, subpart 2 allocation divided by the number of low-income students in the district, or the actual cost of the services received, whichever is less.

HR with amendment to insert after "low-income families" the following: "(which, for the purposes of this subparagraph shall mean poverty as used by the Census)"

405. The House bill does not contain a similar provision.

HR

406. The House bill does not contain a similar provision. However, see notes 380 and 383.

HR/SR with amendment to strike language (see note 380)

407. The House bill, but not the Senate amendment, allows an LEA to use up to 15% of its Title I, part A, subpart 2 allocation to pay for transportation costs associated with providing supplemental services. The Senate amendment, but not the House bill, allows an LEA to use not more than 15% of its Title I, part A, subpart 2 allocation for supplemental services as well as transportation costs related to public school choice transportation costs referenced in subsection (c)(9) of the Senate amendment. See note 326.

HR with amendment to strike "15 percent" and insert "5 percent" and to strike "or to provide . . . (c)(9)" and for LC to add a reference to the "flex pot" at note 326.

408. The House bill does not contain a similar provision. However, see note 404.

HR

409. The House bill does not contain a similar provision.

HR

410. The House bill does not contain a similar provision.

HR

411. The Senate amendment does not contain a similar provision in Title I, part A. However, the Senate amendment contains a provision in section 5331(b)(1)(Q) which authorizes LEAs to use Innovative Program Strategies funds to help pay the costs of supplementary services.

SR

412. The Senate amendment does not contain a similar provision.

SR

413. The Senate amendment does not contain a similar provision.

SR with amendment:

"(9) DURATION.—The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were received."

414. The Senate amendment does not contain a similar provision.

SR

415. The House bill and the Senate amendment are generally similar in the definition of supplemental services. However, the Senate amendment, but not the House bill, includes in the definition the words "high quality, research-based, focused on academic content". In addition, the House bill defines the services as designed to help the student increase achievement on the assessments required under section 1111 of Title I, while the Senate amendment defines the services as directed at raising student proficiency on the State's standards generally.

SR with an amendment to insert the following:

"(B) supplemental educational services' means tutoring and other supplemental academic enrichment services that are—

(i) in addition to instruction provided during the school day; and

(ii) are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 1111 and attain proficiency in meeting the State's academic achievement standards;"

416. The Senate amendment does not contain a similar provision.

SR with an amendment to strike subparagraph (C) and insert the following:

"(C) 'provider' means a non-profit entity, a for-profit entity, or a local educational agency which has a demonstrated record of effectiveness in increasing student academic achievement, and is capable of providing supplemental instructional services that are consistent with the instructional program of the local educational agency and the academic standards described under section 1111, and is financially sound."

417. The Senate amendment does not contain a similar provision regarding fiscal management.

SR

418. The Senate amendment does not contain a similar provision. However, also see note 407.

HR

419. The Senate amendment does not contain a similar provision.

SR

420. The House bill does not contain a similar provision.

HR with amendment to strike paragraph (4) and insert the following:

"(4) WAIVER.—(A) At the request of a local educational agency, a State educational agency may waive, in whole or in part, the requirement of this subsection to provide supplemental services if the State educational agency determines that—

"(i) none of the providers of those services on the list approved by the State educational agency under [paragraph (5)] makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and

"(ii) the local educational agency provides evidence that it is not able to provide those services.

"(B) The State educational agency shall notify the local educational agency, within 30 days of receiving the local educational agency's request for a waiver, whether the request is approved or disapproved. If the waiver is disapproved, the State educational agency shall respond in writing within the same time frame with the reasons for the disapproval."

421. The House bill does not contain a similar provision.

HR with amendment to strike paragraph (5) and insert the following:

"(5) SPECIAL RULE.—If State law prohibits a State educational agency from carrying out one or more of its responsibilities under [paragraph (5)] with respect to those who provide, or seek approval to provide, supplemental services, each local educational agency in the State shall carry out those responsibilities with respect to its students who are eligible for those services."

422. The Senate amendment does not contain a similar provision.

SR with amendment:

(f) SCHOOLS FUNDED BY THE BUREAU OF INDIAN AFFAIRS.—

(1) ADEQUATE YEARLY PROGRESS FOR BUREAU FUNDED SCHOOLS.—

(A) (i) DEVELOPMENT OF DEFINITION.—The Secretary of the Interior, in consultation with the Secretary of Education if the Secretary of Interior requests it, using the process set out in section 1138A [LC] of the Education Amendments of 1978 (25 U.S.C. 2001) [negotiated rulemaking for Bureau schools], shall define adequate yearly progress, consistent with section 1111(b), for the schools funded by the Bureau of Indian Affairs on a regional or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.

(ii) The Secretary of the Interior, consistent with clause (i), may use the definition of adequate yearly progress that the State in which the school that is funded by the Bureau is located uses consistent with section 1111(b), or in the case of schools that are located in more than one State, the Secretary of the Interior may use whichever State definition of adequate yearly progress that best meets the circumstances and needs of such school or schools and the students they serve.

(B) WAIVER.—The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the definition of adequate yearly progress established pursuant to paragraph (A) where such definition is deemed by such body or school board to be inappropriate. If such definition is waived, the tribal governing body or school board shall, within 60 days thereafter, submit to the Secretary of Interior a proposal for an alternative definition of adequate yearly progress, consistent with section 1111(b), that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior, in consultation with the Secretary of Education if the Secretary of Interior requests it, shall approve such alternative definition unless the Secretary determines that the definition does not meet the requirements of section 1111(b), having taken into account the unique circumstances and needs of such school or schools and the students served.

(C) TECHNICAL ASSISTANCE.—The Secretary of Interior shall, in consultation with the Secretary of Education if the Secretary of Interior requests it, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks to develop an alternative definition of adequate yearly progress.

(2) ACCOUNTABILITY FOR BIA SCHOOLS.—For the purposes of this section, schools funded by the Bureau of Indian Affairs shall be considered schools subject to subsection (b), as specifically provided for in this subsection, except that such schools shall not be subject to subsections (b)(1)(E) [public school choice], (b)(9), (b)(10), (c) and (d).

(3) SCHOOL IMPROVEMENT FOR BUREAU SCHOOLS.—

(A) CONTRACT AND GRANT SCHOOLS.—For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act [25 USC 450 et seq.] or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act [25 USC 2501 et seq.], the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any school improvement plan as described in subsection(b)(1) through (b)(3) and subsection (b)(5), except subsection (b)(1)(E)[public school choice]. The Bureau of Indian Affairs shall be responsible for meeting the requirements of subsection (b)(4) relating to technical assistance.

(B) BUREAU OPERATED SCHOOLS.—For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any school improvement plan as described in subsection(b)(1) through (b)(5) except subsection (b)(1)(E)[public school choice].

(4) CORRECTIVE ACTION AND RESTRUCTURING FOR BUREAU FUNDED SCHOOLS.

(A) CONTRACT AND GRANT SCHOOLS.—For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act [25 USC □450 et seq.] or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act [25 USC 2501 et seq.], the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by such school board under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(B) BUREAU OPERATED SCHOOLS.—For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by the Bureau under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(5) ANNUAL REPORT.—On an annual basis, the Secretary of the Interior shall report to the Secretary of Education and to the [House and Senate Committees] regarding any schools funded by the Bureau of Indian Affairs which have been identified for school improvement. Such report shall include—

(A) the identity of each school;

(B) a statement from each affected school board regarding the factors that lead to such identification; and

(C) an analysis by the Secretary of the Interior, in consultation with the Secretary of Education if the Secretary of Interior requests it, as to whether sufficient resources were available to enable such school to achieve adequate yearly progress.

423. The House bill does not contain a similar provision.

HR with amendment to strike subsection (g) and insert new subsection (g):

"(g) OTHER AGENCIES.—Pursuant to the notification described in subsection (c)(13)(C), the Secretary may notify, to the extent feasible and necessary as determined by the Secretary, other relevant Federal agencies regarding the major factors determined by the State educational agency that have significantly impacted student achievement."

424. The House bill, but not the Senate amendment, makes a number of changes to current law by adding LEAs, changing the references to standards and omitting paragraph (2) of subsection (a) of current law. The Senate amendment retains current law.

HR/SR with amendment to strike all and insert the following:

SEC. 107. SCHOOL SUPPORT AND RECOGNITION.

Section 1117 is amended to read as follows:

"SEC. 1117. SCHOOL SUPPORT AND RECOGNITION.

"(a) SYSTEM FOR SUPPORT.—Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students in those agencies and schools to meet the State's academic content standards and student academic achievement standards.

"(1) Priorities.—In carrying out this subsection, a State shall—

"(A) first, provide support and assistance to local educational agencies subject to corrective action under section 1116 and assist schools, in accordance with section 1116(b)(11), for which a local educational agency has failed to carry out its responsibilities under paragraphs (7) and (8) of section 1116(b);

"(B) second, provide support and assistance to other local educational agencies identified as in need of improvement under section 1116(b); and

"(C) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

"(2) REGIONAL CENTERS.—Such a statewide system shall, to the extent practicable, work with and receive support and assistance from the comprehensive regional technical assistance centers and the regional educational laboratories under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, or other providers of technical assistance.

"(3) PROVISIONS.—The system shall include at a minimum, the following:

"(A) APPROACHES.—

"(i) IN GENERAL.—In order to achieve the purpose described in subsection (a), each such system shall give priority to using funds made available to carry out this section—

"(I) to establish school support teams for assignment to and working in schools in the State that are described in subsection (a)(1)(A) which shall be composed of persons knowledgeable about scientifically based research and practice on teaching and learning and about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including—

"(aa) highly qualified or distinguished teachers and principals;

"(bb) pupil services personnel;

"(cc) parents;

"(dd) representatives of institutions of higher education;

"(ee) regional educational laboratories or comprehensive regional technical assistance centers;

"(ff) outside consultant groups; or

"(gg) other individuals as the State educational agency, in consultation with the local educational agency, may determine appropriate.

"(II) to provide such support as the State educational agency determines to be necessary and available to assure the effectiveness of such teams .

"(III) FUNCTIONS.—Each school support team assigned to a school under this section shall—

"(aa) review and analyze all facets of the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performances in that school;

"(bb) collaborate, with parents and school staff and the local educational agency serving the school, in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to improve student performance and help the school meet its goals for improvement, including adequate yearly progress under section 1111(b)(2)(B);

"(cc) evaluate, at least semiannually, the effectiveness of school personnel assigned to the school, including identifying outstanding teachers and principals, and make findings and recommendations to the school, the local educational agency, and, where appropriate, the State educational agency; and

"(dd) make additional recommendations as the school implements the plan described in clause (ii) to the local educational agency and the State educational agency concerning additional assistance that is needed by the school or the school support team.

"(ii) CONTINUATION OF ASSISTANCE.—After 1 school year, the school support team, in consultation with the local educational agency, may recommend that the school support team continue to provide assistance to the school, or that the local educational agency or the State educational agency, as appropriate, take alternative actions with regard to the school.

"(iii) the designation and use of 'Distinguished Teachers and Principals', chosen from schools served under this part that have been especially successful in improving academic achievement.

"(iv) ALTERNATIVES.—The State may devise additional approaches to providing the assistance described in subsection (a), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance.

"(b) STATE RECOGNITION.—

"(1) ESTABLISHMENT OF ACADEMIC ACHIEVEMENT AWARDS PROGRAM.—

"(A) IN GENERAL.—Each State receiving a grant under this part shall establish a program for making academic achievement awards to recognize and, as appropriate and as funds are available under subsection (c)(3)(A), may financially reward schools served under this part that have—

"(i) significantly closed the achievement gap between the groups of students defined in section 1111(b)(2); or

"(ii) exceeded their adequate yearly progress goals, consistent with section 1111(b)(2), for 2 or more consecutive years.

"(B) DISTINGUISHED SCHOOLS.—Of those schools meeting the criteria described in subparagraph (A), each State shall designate as distinguished schools those schools that have made the greatest gains in closing the achievement gap as described in clause (i) or exceeding adequate yearly progress as described in clause (ii). Such designated schools may serve as models and provide support to other schools, especially schools identified for improvement under section 1116, to assist such schools in meeting the State's academic content standards and student academic achievement standards.

"(C) AWARDS TO TEACHERS.—A State program under paragraph (A) may also recognize and provide financial awards to teachers teaching in a school described in such paragraph that consistently makes significant gains in academic achievement in the areas in which the teacher provides instruction, or to teachers or principals designated as distinguished under subsection (a)(3)(A)(iii).

"(c) Funds.—Each State—

"(1) shall use funds reserved under section 1003(a) and may use funds made available under section 1002(j) for the approaches described under subsection (a)(3)(A).'

"(2) shall use State administrative funds authorized under section 1002(i) for such purpose to establish a Statewide system of support described under subsection (a) and

"(3) (A) RESERVATION OF FUNDS BY STATE.—

"(i) For the purpose of carrying out subparagraphs (A), (B), or (C) of subsection (b), each State receiving a grant under this part may reserve, from the amount (if any) by which the funds received by the State under this part for a fiscal year exceed the amount received by the State under this part for the preceding fiscal year, not more than 5 percent of such excess amount; and

"(ii) For the purpose of carrying out subparagraph (C) of subsection (b), a State educational agency may reserve funds as necessary from [State activity reference] under Title II.

"(B) USE WITHIN 3 YEARS.—Notwithstanding any other provision of law, the amount reserved under paragraph (A) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years.

"(C) SPECIAL ALLOCATION RULE FOR SCHOOLS IN HIGH-POVERTY AREAS.—

"(i) IN GENERAL.—Each State shall distribute at least 75 percent of the amount reserved under paragraph (A) for each fiscal year to schools described in subparagraph (A), or to teachers consistent with subsection (b)(1)(C).

"(ii) SCHOOL DESCRIBED.—A school described in subparagraph) (i) is a school whose student population is in the highest quartile of schools statewide in terms of the percentage of children from low income families.

425. The House bill and the Senate amendment are similar except the House bill refers to the State, while the Senate amendment refers to the SEA. There are also technical differences in cross-references.

HR/SR with amendment (see note 424)

426. The House bill and the Senate amendment are similar with a technical difference in cross-references. The House bill only refers to LEAs, while the Senate amendment refers to both LEAs and schools.

HR/SR with amendment (see note 424)

427. The House bill and the Senate amendment are the same.

HR/SR with amendment (see note 424)

428. The House bill does not contain this provision.

HR/SR with amendment (see note 424)

429. The House bill refers to technical assistance to support the approaches listed while the Senate amendment refers to giving priority to using available funds for the approaches listed.

HR/SR with amendment (see note 424)

430. Both the House bill and the Senate amendment refer to school support teams. However, there are major differences: (1) The Senate amendment, but not the House bill, refers to the assignment and working of such teams in schools described in subsection (a)(3(A); (2) The House bill, but not the Senate amendment, refers to scientifically based research and practice on teaching and learning; (3) The Senate amendment, but not the House bill, refers to schoolwide projects and school reform; (4) The House bill refers to "educational results", while the Senate amendment refers to "educational opportunities"; and (5) The Senate amendment, but not the House bill, contains a specific list of required individuals.

HR/SR with amendment (see note 424)

431. The House bill does not contain a similar provision.

HR/SR with amendment (see note 424)

432. The House bill does not contain similar provisions. The Senate amendment, but not the House bill, makes a number of changes to current law. Clauses (i) and (ii) of the Senate amendment are in current law. The Senate amendment adds the functions in clauses (iii) and (iv).

HR/SR with amendment (see note 424)

433. The House bill does not contain similar provisions. The Senate amendment, but not the House bill, makes a number of changes to current law. The Senate amendment allows States to identify any school served under the part as a distinguished school, while current law refers to only those schools that have exceeded the State's adequate yearly progress definition for 3 consecutive years. The Senate amendment also makes a technical change adding a parenthesis and expands distinguished educators to teachers and principals.

HR/SR with amendment (see note 424)

434. The House bill, but not the Senate amendment, refers to "Distinguished Educators" chosen from schools served under this part. The House bill and the Senate amendment are similar as to the criteria of academic achievement. The Senate amendment, but not the House bill, refers to State recognition and provision of financial awards to teachers and principals.

HR/SR with amendment (see note 424)

435. The House bill does not contain these provisions.

HR/SR with amendment (see note 424)

436. The House bill, but not the Senate amendment, makes a number of changes to current law by changing the wording, uses and cross-references in subsection (d) and by changing cross-references in subsection (e). The Senate amendment retains current law.

HR/SR with amendment (see note 424)

437. The Senate amendment does not contain a similar section.

HR/SR with amendment (see note 424)

438. The House bill does not contain a similar section.

HR with amendment to move language to Title VI, part A with amendments to language (See note 45 of Title VII).

439. The House bill and the Senate amendment retain current law with no changes.

LC

440. The House bill does not contain the Senate amendment's change to current law. Otherwise, the House bill and the Senate amendment retain current law with no other changes.

HR

441. The House bill, but not the Senate amendment, makes a number of changes to current law by adding a reference to Early Reading First in subparagraph (D), replacing subparagraphs (E) and (F) of current law with subparagraphs (E) and (F.) of the House bill. The Senate amendment retains current law unchanged through subparagraph (F).

SR with amendment to strike subparagraph (E) and insert:

"(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the schools served under this part, including identifying barriers to greater participation by parents in activities authorized by this section, including giving particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background, and use findings of such evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the parental involvement policies described in this section; and"

442. The House bill and the Senate amendment retain current law with no changes in subparagraphs (A) and (B). The House bill, but not the Senate amendment, contains a new subparagraph (C) regarding the requirement that 95 percent of funds must be distributed to schools served under this part.

SR

443. The House bill does not contain similar provisions.

SR

444. The House bill, but not the Senate amendment, conditions the provision of notice to parents in a language they can understand "to the extent practicable" and includes the format parents can understand.

SR with an amendment to conform parental information with note #168

445. The House bill does not contain this provision.

HR

446. The House bill and the Senate amendment retain current law with no substantive changes through paragraph (c)(3).

LC

447. The House bill, but not the Senate amendment, makes a number of changes to current law through subsection (e). The Senate amendment retains current law. The House bill strikes subparagraphs (B), (D) and (E) from current law in paragraph (4). In addition, the House bill eliminates school-parent compacts in current law in subsection (d), changes references to assessments and changes cross-references in paragraph (5).

SR with amendment to strike paragraph (4) and insert the following:

"(4) provide parents of participating children—

"(A) timely information about programs under this part;

"(B) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet; and

"(C) if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; and"

And with amendment to strike subsection (d) and to replace with current law subsection (d).

448. Both the Senate amendment and the House bill strike the reference to National Education Goals. The House bill refers to "participating parents", while the Senate amendment refers to the parents of children served. The Senate amendment, but not the House bill, conditions the provision "as appropriate".

HR

449. The Senate amendment does not contain a similar provision. The House bill, but not the Senate amendment, makes a number of changes to current law. The Senate amendment retains current law with the exception of the addition of a new subparagraph (C). See next note.

SR with an amendment to insert "such as literacy training and using technology, as appropriate, to foster parental involvement;" to the end of paragraph (2).

450. The House bill does not contain a similar provision.

SR

451. The House bill, but not the Senate amendment, makes a number of changes to current law by changing "home" to "parents" in paragraph (3), adding references in paragraph (4), adding "parents" in paragraph (5) (current law (7)), adding understandable

language requirements in paragraph (6) (current law (8)), omitting current law paragraphs (6) and (12), and omitting words from paragraphs (9) (current law (11)) and (11) (current law (14)). The Senate amendment retains current law unchanged through paragraph (14).

SR with amendment to strike paragraphs (4) and (10) and insert the following:

(4) shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for PreSchool Youngsters, the Parents as Teachers Program, public pre-school and other programs, and conduct other activities, such as parent resource centers, that encourage and support in more fully participating in the education of their children.

(10) may arrange school meetings at a variety of times or conduct in-home conferences between teachers or other educators, who work directly with participating children, with parents who are unable to attend such conferences at school, in order to maximize parental involvement and participation;

452. The House bill and the Senate amendment are similar except that the House bill refers to the "part", while the Senate amendment refers to the "section", which limits the Senate amendment provision as compared to the House bill.

SR

453. The House bill, but not the Senate amendment, makes a change to current law. The Senate amendment retains current law.

SR

454. The House bill does not contain a similar provision.

HR with an amendment to strike "which may . . . technologies" in (16)

455. The House bill and the Senate amendment refer to "parents of migratory children". Otherwise, the House bill, but not the Senate amendment, makes a number of changes to current law. The Senate amendment retains current law.

SR

456. The House bill does not contain similar provisions.

HR with amendment to strike all after "existence and purpose of such centers" in subsection (g) AND to retain subsection (h).

457. The House bill, but not the Senate amendment, makes a number of changes to current law. The Senate amendment retains current law. In addition, see also Senate provisions regarding teacher quality programs in Title II.

SR with amendment to strike "fully" before "qualified" and insert "highly" in (a)(1) and to strike "1 year or more" in (b)(1), insert "State or local" after "formal" in (b)(1)(C), strike "before the date that is 1 year" and strike "3" and replace with "4" after "not later than" in (c), strike "only" in (f)(2), strike "fully qualified" before "teacher" and insert "consistent with 1119" after "teacher" in (f)(3)(A), strike (f)(3)(B) and strike (g)(2).

Insert as new subsection (f)(3)(B) the following:

"(B) may assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school."

Insert as new subsections (a) and (b) and redesignate subsequent subsections accordingly (make changes indicated above first, strike subsection (a), and then add the following new language):

"SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

(a) Teachers Qualifications and Measurable Objectives.—

(1) In general.—Beginning with the first school year after the effective date of this Act, each local educational agency receiving assistance under this part shall ensure that all teachers hired and teaching in a program supported with funds under this part are highly qualified.

(2) State Plan.—As part of the plan described in section 1111, each State educational agency receiving assistance under this part shall develop and submit to the Secretary a plan to ensure that all teachers teaching within the State are highly qualified not later than the end of the 2005–2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school, that, at a minimum—

(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005–2006 school year;

(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

(C) may include such other measures as the State educational agency deems appropriate to increase teacher qualifications.

(3) Local plan.—As part of the plan described in section 1112, each local educational agency receiving assistance under this part shall develop and submit to the State educational agency a plan to ensure that all teachers teaching within the local educational agency and each school are highly qualified not later than the end of the 2005–2006 school year.

(b) Reports.—

(1) Annual State and Local Reports.—

(A) Each State educational agency described under subsection (a) shall require each local educational agency receiving funds under this part to publicly report, each year, beginning in the 2002–2003 school year, the annual progress of the local educational agency as a whole and of each of its schools, in meeting the measurable objectives described in subsection (a)(2).

(B) Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning in the 2002–2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2).

(C) A State or local educational agency may submit information from the reports described in section 1111[(h)—LC] for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 1111[(h)—LC].

(2) Annual Reports by the Secretary.—Each year, beginning in the 2002–2003 school year, the Secretary shall publicly report the annual progress of State educational agencies, local educational agencies, and schools in meeting the measurable objectives described in subsection (a)(2), including the information submitted pursuant to paragraph (1)(B).

458. The House bill, but not the Senate amendment, includes this provision, which the Senate amendment does not. The Senate amendment retains current law.

(Notes 458–469).

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

459. The Senate amendment, but not the House bill, refers to supporting professional development activities and includes paraprofessionals, pupil services personnel, and parents. See note 40 regarding references to standards.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

460. The Senate amendment does not contain this provision.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

461. The House bill and the Senate amendment are similar with the exception that the House bill, but not the Senate amendment, refers to "scientifically based" research.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

462. The Senate amendment does not contain similar provisions and instead retains current law.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

463. The Senate amendment, but not the House bill, contains an exception to the prohibition.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

464. Both the House bill and the Senate amendment strike the reference to Title III of the Goals Act, which the House bill does by striking the entire subparagraph referenced by the Senate amendment.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

465. The Senate amendment does not contain similar provisions.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

466. The House bill and the Senate amendment are the same with minor wording differences.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

467. The House bill and the Senate amendment are substantially the same.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

468. The House bill does not contain a similar provision.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

469. The House bill, but not the Senate amendment, makes a number of changes to current law by redesignating current law paragraph (2) as subsection (c), omitting current law paragraphs (G), (H), and (I), changing the references to and uses of assessment

assessments in paragraph (1), and by changing a change in subsection (d). The Senate amendment retains current law.

HR/SR with an agreement to move redrafted definition of "Professional Development" to General Provisions. (See Teacher Offer notes 174–193).

470. Both the House bill and the Senate amendment strike the reference to Goals 2000. Otherwise, the House bill, but not the Senate amendment, makes changes to current law by referring to "consolidation". The Senate amendment retains current law.

HR

471. The House bill, but not the Senate amendment, makes a number of changes to current law by omitting current law paragraphs (1) and (d) of subsection (h). The Senate amendment retains current law.

SR

472. The House bill does not contain a similar provision.

HR with amendment to strike subsection (j) and insert as new subsection (j):

"(j) Each local educational agency that receives funds under this part shall use not less than 5 percent or more than 10 percent of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005–2006 school year."

473. The House bill and the Senate amendment are substantially the same regarding addressing the needs and ensuring participation of teachers and families in the activities of the sections indicated, with a technical differences in cross-references.

LC

474. The House bill and the Senate amendment retain current law with no changes.

LC

475. The House bill and the Senate amendment are the same regarding the timely provision of services and benefits.

LC

476. The House bill and the Senate amendment are similar regarding the LEA determination.

LC

477. The House bill, but not the Senate amendment, makes a change to current law by replacing "shall" with "may". The Senate amendment retains current law.

HR

478. The House bill and the Senate amendment retain current law with no changes.

LC

479. The House bill and the Senate amendment are the same.

LC

480. The House bill and the Senate amendment are the same with a minor wording difference.

LC

481. The House bill, but not the Senate amendment, makes changes to current law by referring to "funds generated ...". The Senate amendment retains current law.

HR

482. The Senate amendment does not contain this provision.

SR

483. The House bill and the Senate amendment are similar with minor wording differences.

LC

484. The House bill, but not the Senate amendment, makes a number of changes to current law by including and describing "meetings". The Senate amendment retains current law.

SR

485. The House bill and the Senate amendment retain current law with no substantive changes.

LC

486. The House bill and the Senate amendment are similar, except the Senate amendment, but not the House bill, contains a description of what the LEA shall do if a private school declines to participate and the requirement of the LEA to notify the private school each year of the opportunity to participate.

HR/SR with amendment to strike paragraph (4) and insert new paragraph (4):

"(4) DOCUMENTATION.—Each local educational agency shall maintain in its records and provide to the State educational agency a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency. Such officials who do not provide such affirmation may appeal to the State educational agency, consistent with subsection [#—LC], regarding any failure of the local educational agency to provide the consultation required by this section."

487. The House bill and the Senate amendment are similar, except the House bill refers the "State" throughout and the Senate amendment refers to the SEA throughout. In addition, there are other minor wording differences.

LC

488. The House contains the same provision in section 1113(c)(2). See note 212.

HR with an amendment to insert new subparagraph (D):

"(D) using an equated measure of low-income correlated with the measure of low-income used to count public school children."

489. The House bill and the Senate amendment retain current law with no substantive changes.

LC

490. The House bill and the Senate amendment retain current law with no substantive changes.

LC

491. The House bill and the Senate amendment retain current law with no substantive changes.

LC

492. The House bill and the Senate amendment refer to the same provision in the references but the cross-references differ.

LC

493. The House bill and the Senate amendment are substantially the same with minor differences in wording.

LC

494. The House bill and the Senate amendment retain current law with no substantive changes.

HR/SR to move language to FIE

495. The House bill does not contain this provision.

SR

496. The House bill and the Senate amendment retain current law with no substantive changes.

LC and SR with amendment to strike "English language instruction" and replace with "language instruction educational program" in paragraph (5)(A).

497. The House bill and the Senate amendment have different section headings. In addition, the House bill, but not the Senate amendment, omits much of current law.

SR

498. The House bill, but not the Senate amendment, makes a number of changes to current law by adding references to Early Reading First throughout and adding paragraph (5). The Senate amendment retains current law.

SR

499. The House bill refers to the Head Start Act, while the Senate amendment refers to the Head Start Amendments of 1998.

SR

500. The House bill does not contain similar provisions.

HR with amendment to strike all language and add a new subsection (d):

"(d) EARLY CHILDHOOD SERVICES.—A local educational agency may use funds received under this part to provide high quality preschool services."

SR—Limitation on funds

501. The House bill does not contain this section.

HR with amendment to strike all language and add a new subsection (e):

"(e) A local educational agency may use funds received under this part to extend the length of the school year."

Title I, Part B—Reading First

1. The House bill and the Senate amendment both authorize $900 million for FY 2002. In the out years, the House bill authorizes such sums for 4 succeeding fiscal years and the Senate amendment authorizes such sums for 6 succeeding fiscal years.

HR with amendment to go to 5 succeeding years.

2. The House bill and the Senate amendment authorize $75 million in FY 2002. The House amendment authorizes such sums for 4 succeeding fiscal years and the Senate Amendment authorizes such sums for 6 succeeding fiscal years.

SR with amendment to go to 5 succeeding years.

3. The House bill authorizes $275 million for FY 2002 and such sums for 4 succeeding fiscal years and the Senate Amendment authorizes $250 million for FY 2002 and such sums for 6 succeeding fiscal years.

SR with an amendment to authorize $260 million for FY 2002 and such sums for 5 succeeding years.

4. The House bill authorizes such sums for FY 2002 and for the 4 succeeding fiscal years. The Senate amendment appropriates $25 million for FY 2002 and such sums for 6 succeeding fiscal years.

HR/SR (no authorization because moved to FIE).

5. The Senate amendment authorizes $500 million for a school library program, the House bill does not.

HR with an agreement to authorize program at $250 million (with a trigger for a formula grant at $100 million).

6. The House bill includes findings, the Senate amendment does not.

HR

7. The House bill and the Senate amendment contain similar provisions.

LC

8. Identical

LC

9. The House bill includes reference to special education teachers.

SR

10. The House bill references "classroom instruction."

HR (see note 11)

11. The Senate amendment references "classroom-based instructional assessments."

HR with amendment to strike "screening . . . assessments" and insert "screening, diagnostic, and classroom-based instructional reading assessments."

LC make three terms uniform throughout Title I, part B.

Insert “learning systems,” after “effective,” in (4).

Insert “including classroom-based materials to assist teachers in implementing the essential components of reading instruction,” after “instructional materials” in (4).

12. The Senate amendment includes "family literacy programs".

HR

13. The House bill requires states to show progress after the third year of funding, or risk losing future funding under Reading First. The Senate amendment does not include this provision.

SR with an amendment to conform list of groups in (B)(i)(II) to list of groups for accountability purposes under Title I (A).

14. The House bill reserves 1 percent for national activities. The Senate amendment authorizes 1 percent ($9 million) funds for all national activities, including the external evaluation and technical assistance. In addition the House bill reserves $30 million or 3 percent, whichever is less, for the external evaluation.

HR with an amendment to cap Reservation from appropriations for external evaluation at 2.5% or $25 million, which ever is less.

15. Identical provision.

HR with an amendment to insert the following language as new Senate (3):

(3) beginning with 2004, shall reserve annually not more than 10 percent or $90 million, whichever is less, from funds appropriated for this part in excess of the amount appropriated for FY 2003 to carry out 1207(d)."

(Legislative language to be finalized after ratification).

16. The House bill provides 80 percent of funds to States via formula with the remainder for the Secretary to distribute via competitive grants. The Senate amendment provides 100 percent of funds to State via formula for the first two years, after which 25 percent is for competitive grants from the Secretary.

HR with an amendment to strike (A) and (B).

17. The House bill has a formula based on school age population below the poverty line. The Senate amendment uses a Title I formula.

SR

18. The House bill includes an allotment for Puerto Rico. The Senate has no comparable provision.

SR

19. The Senate amendment has no similar provisions.

SR with an amendment to insert special rule:

"SPECIAL RULE.—In allocating funds to school districts which successfully compete for and win grants under Reading first, state educational agencies would allocate, at a minimum, to each district the same percentage such district receives of Title I dollars as compared to the title I amount received by all school districts. In awarding grants, SEA's shall give priority to school districts with 15 percent or greater poverty or 6,500 poor children."

(Legislative language to be finalized after ratification).

LC—place appropriately.

20. Identical provision.

LC

21. Identical provisions.

HR

22. Identical provisions.

HR

23. Identical provisions.

HR

24. Similar language with different headings.

HR

25. The House bill refers to eligible LEAs who have the "highest percentages"; The Senate amendment refers to "a high number" of students.

HR with an amendment to strike “a high” and insert “the highest” before “numbers or percentages” in (4)(A).

26. The House bill requires LEAs to have a "significant number" of schools identified for school improvement and the Senate amendment requires LEAs to have at least one school in school improvement."

SR with an amendment to strike “significant number” and insert “significant number or percentage”.

27. The House bill (ii) uses a definition based on the "greatest number or percentages" based on school age population below the poverty line, while the Senate amendment (iii) uses the "number of children counted under Title I".

HR with an amendment to strike “a high” and insert “the highest”.

28. Similar provision.

SR with an amendment striking last clause, “as determined . . . tools.”

29. The House bill does not include (B).

HR

30. The House bill states LEAs "may" provide funds to schools meeting (A) and (B) and the Senate amendment states they "shall" provide funds to schools meeting (A), (B) or (C).

LC

31. The House bill uses "highest percentages of students" and the Senate amendment uses "a high percentage of students."

SR with an amendment to insert “or numbers” after “percentages”

32. Identical provisions except for different references.

LC

33. The House bill uses the "greatest numbers or percentages of children from low income families", and the Senate amendment uses "a high percentage of children counted under Sec. 1124."

HR with an amendment to strike “have a high percentage” and insert “has the highest percentage or number”.

34. The House bill allows for "selecting and administering assessments, and adds "screening", and "tools" to the diagnostic assessments. The Senate amendment allows for "selecting, developing and administering assessments."

SR with an amendment to strike “rigorous diagnostic reading and screening assessment tools” and insert “screening, diagnostic, and classroom-based instructional reading assessments.”

35. The House bill references "classroom" reading instruction, the Senate amendment does not.

SR with an amendment to insert “learning system” after “a” and before “program,” and strike “classroom”.

Report Language:

The Conferees intend State educational agencies and local educational agencies to be able to select from a wide variety of quality programs and interventions to fund under Reading First and Early Reading First, including small group and one to one tutoring, so long as those programs are based in research meeting the criteria in the definition of scientifically based reading research.

36. The House bill refers to the "essential components of reading instruction". The Senate amendment refers to "major components of reading instruction."

SR

37. Identical provision.

LC

38. Identical provision.

LC

39. Identical provision.

LC

40. Identical provision.

LC

41. The House bill adds "(ee) are deficient in their phonemic awareness, phonics skills, vocabulary development, oral reading fluency, or comprehension strategies; or". The Senate amendment has no similar provision.

SR with an amendment to strike “their . . . comprehension strategies,” insert “the essential components of reading instruction,”

42. Identical provision.

LC

43. The Senate amendment refers to "education technology such as software and other digital curricula." The House bill does not.

HR

44. The House bill refers to "special education teachers" of grades K–12. The Senate amendment does not.

SR

45. The House bill uses "essential" the Senate amendment uses "major" components.

SR

46. The House bill uses the term "based". The Senate amendment uses the term "grounded."

SR

47. The House bill adds "screening" and "tools" to classroom assessments.

HR with an amendment to strike “rigorous diagnostic reading assessments” and insert “screening, diagnostic, and classroom-based instructional reading assessments.”

48. Identical provision.

LC

49. The Senate amendment has no similar provision.

SR with an amendment to insert “reading in” before “accordance with”.

50. The House bill refers to library services in (B)(ii).

HR with an amendment to insert Prime Time Family Reading Time.

51. The House bill and the Senate amendment include provisions related to providing training to volunteers. The House bill includes parents and is optional. The Senate amendment requires these activities.

SR with an amendment to strike House (i) insert the following language:

“An LEA may use funds to provide training to parents and other individuals in the Essential Components of reading instruction who volunteer to be reading tutors for students to enable such volunteers to support instructional practices that are based on scientifically-based reading research and being used by the student's teacher.”

Report Language:

“The Committee recognizes the value of research-based, structured learning systems that incorporate community and parental involvement in reading, targeted to low-performing K–12 student populations, that are aligned to state standards and create a high level of accountability. Recently implemented programs, including the HOSTS Language Arts program, in Texas, Ohio, Florida, Delaware, and Michigan have impacted a critical mass of students, and assisted schools in significantly improving student reading levels, raising student achievement and test results, and overall school performance.

“It has been proven that these programs significantly reduce academic failure, promote school safety, and decrease dropout, substance abuse, teen pregnancy, crime, and

unemployment rates. Specifically, the Committee believes these intensive, research-based learning systems that utilize teacher oversight, dramatically increase student achievement and implement the recommendations of the National Reading Panel."

52. The House bill and Senate amendment include provisions related to family literacy services and parental involvement. The House bill provision is optional. The Senate bill requires this activity.

SR with an amendment to strike House (ii) and insert the following language:

"An LEA may use funds to assist parents, through the use of materials and reading programs, strategies and approaches, including family literacy services, that are based on scientifically-based reading research to encourage reading and support their child's reading development."

53. The House bill contains no similar provision. The Senate amendment makes collecting and summarizing data a use of funds.

HR (move to "required list").

54. The House bill has no similar provision.

HR with an amendment to conform list of groups in (H)(ii)(I) to list of groups referenced in Section 1203 (b)(2)(B)(i)(II)—(See note 13).

55. The House bill has 2 percent and the Senate amendment has 5 percent.

HR with an amendment to strike "5" and insert "3.5".

56. The House bill allows not more than 15 percent for professional development. The Senate amendment allows "not more than 20 percent for professional development; technical assistance, planning, administration and reporting. [(c)(6)]

HR

[Note.—The following language coordinates with notes 56–75]

"(d) Other State Uses of Funds.—

(1) In general.—A State educational agency that receives a grant under this section may expend not more than a total of 20 percent of the grant funds to carry out the activities described in paragraphs (3), (4), and (5).

(2) Priority.—A State shall give priority to carrying out the activities described in paragraphs (3), (4), and (5) for schools described in subsection (c)(6).

(3) Professional development.—A State may expend not less than 65 percent of the amount of the funds made available under paragraph (1) to develop and implement a program of professional development for teachers, including special education teachers, of grades kindergarten through 3 that—

(A) will prepare these teachers in all the essential components of reading instruction;

(B) shall include—

(i) information on instructional materials, programs, strategies, and approaches based on scientifically-based reading research, including early intervention and reading remediation materials, programs, and approaches; and

(ii) instruction in the use of rigorous diagnostic reading and screening assessment tools and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and screening, diagnostic, and classroom-based instructional reading assessments; and

(C) shall be provided by eligible professional development providers.

(4) Technical assistance for local educational agencies and schools.—A State may expend not more than 25 percent of the amount of the funds made available under paragraph (1) for one or more of the following authorized State activities—

(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, including—

(i) selecting and implementing a program or programs of classroom reading instruction based on scientifically based reading research;

(ii) selecting rigorous diagnostic reading and screening assessment tools; and screening, diagnostic, and classroom-based instructional reading assessments; and

(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in subparagraphs (A) and (B).

(B) Providing expanded opportunities to students in grades kindergarten through 3 within eligible local educational agencies for receiving reading assistance from alternative providers that includes—

(i) a rigorous diagnostic reading assessment; and screening, diagnostic, and classroom-based instructional reading assessments; and

(ii) as need is indicated by such assessments, instruction based on scientifically-based reading research that includes the essential components of reading instruction.

(5) Planning, administration, and reporting.—

(A) In general.—A State may expend not more than 10 percent of the amount of funds made available under paragraph (1) for the activities described in this paragraph.

(B) Planning and administration.—A State that . . .

(C) Annual reporting.—. . .

* * * * *

(6) Funds not used for state-level activities.—Any portion of the funds described in paragraph (1) that a State does not expend to carry out the activities described in paragraphs (3), (4), and (5) shall be expended for the purpose of making subgrants in accordance with subsection (c)."

57. The Senate amendment prioritizes eligible entities.

HR—See note 56

58. The House bill includes "special education teachers."

HR with an amendment inserting "special education teachers" after "teachers". See note 56

59. The Senate amendment allows "100 percent of the state reservation to be used for professional development.

HR—See note 56

60. The House bill refers to the term "essential" components; The Senate amendment refers to "major" components.

SR—See note 56

61. Identical language

HR with an amendment to strike "grounded" and insert "based". See note 56

62. The House bill includes "screening assessment tools."

HR with the three terms (see note 11). See note 56

63. Identical provision.

LC—See note 56

64. The House bill includes a section to strengthen and enhance professional development courses in reading, and to insure that such courses in reading instruction ensure that the courses meet the highest standards, prepare a report on the findings and make the information available to the public.

SR with an amendment to strike "professional development" and insert "pre-service education and training" after "enhance" in (ii). See note 56

65. The House bill requires certain unused funds to be allocated for reading grants. The Senate amendment has no comparable provision.

SR with an amendment to insert "not used for State level activities" after "funds" and strike "subparagraph (A)" and insert "(d)(1)". See note 56

66. The Senate amendment allows for up to 25 percent of the State reservation to be used for technical assistance. This would equal 5 percent of the total state allotment. The House bill allows for up to 3 percent of the state allotment to be used for such purposes.

HR with an amendment to insert:

15 for PD

3 for TA—Up to 5 for TA

2 for admin

(See note 56 for language (4))

67. The House bill refers to the implementation of a "classroom reading program." The Senate amendment does not refer to "classroom instruction."

HR—See note 56

68. The House bill uses "based" the Senate amendment uses "grounded."

SR with an amendment to strike "classroom". See note 56

69. The House bill adds "screening" and "tools" to diagnostic assessments.

SR with an amendment to use three words (see note 11). See note 56

70. Identical provision.

LC—See note 56

71. Similar provision.

HR—See note 56

72. The House bill includes "screening" and "tools.".

HR with amendment to strike "rigorous . . . tools" and insert three terms (see notes 11 and 56).

73. The House bill refers to "essential" components; the Senate amendment refers to "major" components.

SR—See note 56

74. The Senate amendment allows for up to 25 percent of the state reservation to be used for planning, administration and reporting. The House bill allows for up to 2 percent for similar activities.

HR with an amendment (see note 56 for language (5)).

75. The Senate amendment provides for "collecting and summarizing data to document the effectiveness of this subpart and to stimulate improvement by identifying LEAs that produce significant gains in reading achievement. The House bill requires evaluation on a 'regular basis' to determine if more children are reading at or above grade level.

SR—See note 56

76. The Senate amendment requires additional data. The House bill does not.

SR with an amendment to insert House language from Sec. 1203 (B)(i)(II).

"(ii) Information included.—The progress report shall include information on the progress the State, and local educational agencies within the State, are making in reducing the number of students served under this subpart in the first and second grades who are reading below grade level, as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction. The report shall also include evidence from the State and its local educational agencies that they have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students in ethnic, racial, and low-income populations who are reading at grade level or above, and successfully implemented this subpart."

77. Identical provision.

LC see note 76.

78. The House bill and the Senate amendment require the state to annually report on the implementation of this program.

SR with an amendment to conform list of groups in (d)(C)(ii) to list of groups referenced in Section 1203 (b)(2)(B)(i)(II)—(See note 13).

See note 76.

79. The House bill refers to "set forth" the Senate amendment refers to "reported.".

HR

80. Identical provision.

HR

81. The House bill has no comparable "Prime Time Family Reading Time (paragraph (6)).

HR with an amendment to move to Note 50.

Report Language:

The conferees intend that funding for this activity be used for a library humanities-based program consisting of reading, discussion and storytelling that helps low-literacy families bond around the act of reading and learning together and fosters high academic expectations and achievement for children and their parents.

82. The Senate amendment does not have a comparable "Recommendations Section."

HR

83. Identical provision.

LC

84. The House bill does not have any comparable provision.

HR

85. Identical provision.

HR/LC

86. Identical provision.

HR/LC

87. Identical provision.

HR with an amendment to insert the following language: "including participation, if requested, of State and Local Education Agencies in all national evaluations under this subpart." after "activities under this subpart" in (1)(B).

88. The House bill has no comparable provision.

HR/SR with an amendment to insert the following language (correlates to notes 88–94):

"2. A State plan containing a description of the following:

"A. How the State will assist local educational agencies in identifying rigorous diagnostic reading assessments.

"B. How the State will assist local educational agencies in identifying instructional materials, programs, strategies, and approaches, grounded on scientifically based reading research, including early intervention and reading remediation materials, programs and approaches.

"C. How the State educational agency will ensure that professional development activities related to reading instruction and provided under this subpart are—

"i. Coordinated with other Federal, State and local level funds and used effectively to improve instructional practices for reading; and

"ii. Based on scientifically based reading research.

"D. How the activities assisted under this subpart will address the needs of teachers and other instructional staff in implementing the essential components of reading instruction.

"E. How subgrants made by the State educational agency under this subpart will meet the requirements of this subpart, including how the State educational agency will ensure that local educational agencies receiving subgrants under this subpart will use practices based on scientifically based reading research.

"F. How the State educational agency will, to the extent practicable, make grants to subgrantees in both rural and urban areas.

"G. How the State educational agency will build on, and promote coordination among literacy programs in the State (including federally funded programs such as the Adult Education and Family Literacy Act, the Individuals with Disabilities Education Act, and Early Reading First), in order to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the program; and

H. How the State will assess and evaluate, on a regular basis, local educational agency activities assisted under this subpart, with respect to whether they have been effective in achieving the purposes of this subpart.

"I. Any other information that the Secretary may reasonable require."

89. Identical provision.

HR/SR with an amendment (see note 88).

90. Similar provision.

HR/SR with an amendment (see note 88).

91. Identical provision.

HR/SR with an amendment (see note 88).

92. Similar provision.

HR/SR with an amendment (see note 88).

93. The Senate amendment has no comparable provision on participation in the national external evaluation.

HR/SR with an amendment (see note 88).

94. The House bill has no comparable sections (C) through (H).

HR/SR with an amendment (see note 88).

95. Identical provision.

HR with an amendment to insert "including an individual who has expertise in student screening, diagnostic, and classroom assessments of the essential components of reading instruction," before "based on scientifically based reading research" in (B).

96. Similar provisions.

SR

97. The House bill refers to a special education teacher. The Senate amendment does not.

SR

98. The House bill has no comparable provision.

HR with an amendment to strike "notwithstanding . . . paragraph (1)" and insert in its place, "consistent with the provisions of this part."

99. The House bill gives the Secretary the authority to allot 20 percent for awarding 2 year competitive grants after approval of the 5 year formula grant application of the State. The Senate amendment, beginning in 2004, authorizes the Secretary to reserve 25 percent of funds for competitive grants.

HR/SR with an amendment to:

Strike House (a) and (b) and (b)(1) and (b)(2);

Strike Senate (a) and (b)(1);

Strike "Competitive" and insert "Targeted Assistance" in Senate (2);

Strike Senate (A) and (3);

Keep Senate (B), and (5);

Keep Senate (C) and strike "screening ... assessments and insert three terms;

Keep Senate (4) and strike "or (3)";

Conform (b)(2)(B) to list of groups for accountability purposes under Title I (A).

****Senate (B) on page 20—HR/LC****

100. The House has the expert Peer Review Panel recommend applicants to the Secretary for the awarding of discretionary grants. The Senate amendment has no comparable provision.

SR with an amendment to strike House (A) and (B) and insert Senate (i) (ii) and strike "or (3)." in (ii).

101. The House bill has no comparable provision.

HR

102. The Senate amendment has no comparable provision.

HR

103. Similar provision.

LC

104. Similar provision.

SR

105. The Senate amendment uses the "adequate yearly progress" standard.

SR with an amendment to reference criteria in 1223(B)(2).

106. Similar provisions.

HR/SR and delete.

107. The House bill has no similar provision.

SR

108. Similar provision.

SR/LC

109. The House bill includes a definition of "state." The Senate amendment does not have definition in this subpart but states that the General Provisions definitions apply.

HR

110. There is no comparable provision in the House bill.

SR

111. There are no comparable provisions in the House bill.

SR

112. Similar Provision.

SR with an amendment to strike "shall use only . . . this subpart and" in (b); Strike "rigorous . . . tools" in (6) and insert "screening, diagnostic, and classroom-based instructional reading assessments."

113. The Senate amendment includes, at a minimum, the evaluation of services, provided to children under this subpart with respect to their referral and eligibility for special education services under IDEA (based on their difficulties in learning to read).

HR/SR with an amendment to insert the following combined and new language:

"Sec. 1207. National Activities.—From funds reserved under section 1203(b)(1)(D) the Secretary—

"(a) may provide technical assistance in achieving the purposes of this subpart to States, local educational agencies, and schools requesting such assistance.

"(b) shall, at a minimum, evaluate the impact of services provided to children under this subpart with respect to their referral to and eligibility for special education services under the Individuals with Disabilities Education Act (based on their difficulties learning to read).

"(c) shall carry out the External Evaluation as described in section 1206.

"(d) From funds reserved under Sec. 1203(b)(1)(E), shall establish Competitive Targeted Assistance Grants—

"(1) to eligible high-need local educational agencies which meet the criteria described in section 1203(c)(4) within the State in which the LEA resides to carry out the activities described in section 1203(c)(7)(A) and (B);

"(2) based on criteria which the Secretary shall develop for the awarding of funds described under this subsection, which shall at a minimum, shall include a process of peer review as described under section 1204(c)(2), and be limited to one year of funding per eligible high need LEA unless such LEA can demonstrate significant progress in meeting the goals established in section 1205(d)(4)(C)."

114. Identical provisions.

LC

115. Similar provisions.

HR with an amendment to insert the following after (b). Insert House (b)(1)(B); insert"

"(C) For the purpose of administering the funds reserved under Sec. 1203(b)(E) to carry out this section, the provisions of Sec. 242 of P.L. 105–220 shall apply."

116. The House bill specifies that "special education Teachers" are included, the Senate amendment does not.

SR

117. The House bill refers to "essential" components; the Senate amendment refers to "major" components.

SR

118. The House bill refers to "explicit" systematic instruction; the Senate amendment does not.

SR

119. The House bill includes "oral" reading fluency and the Senate amendment includes "reading fluency."

HR with an amendment to insert "including oral reading skills" after "reading fluency,".

120. Identical provision..

LC

121. Identical provision.

LC

122. The House bill and Senate amendment are similar. The House bill requires that assessments measure progress in four areas, and the Senate bill requires that assessments measure progress in at least one of four areas. The House bill, but not the Senate amendment adds "skills" after phonics.

HR/SR with an amendment to insert the following language:

"(5) RIGOROUS SCREENING, DIAGNOSTIC, CLASSROOM-BASED READING ASSESSMENTS.—

"The term 'screening reading assessment' means assessments that are—

"(A) valid, reliable, and based on scientifically-based reading research;

"(B) a brief procedure designed as a first step in identifying children who may be at high risk for delayed development or academic failure and in need of further diagnosis of their need for special or additional reading instruction.

"The term "diagnostic reading assessment" means assessments that are—

"(A) valid, reliable, and based on scientifically-based reading research;

"(B) used for the purpose of

(i) identifying a child's specific areas of strengths and weaknesses so that they have learned to read by the end of the third grade; and

(ii) determining any difficulties that a child may have in learning to read and the potential cause of such difficulties;

"(iii) helping to determine possible reading intervention strategies, and related special needs.

The term "classroom-based instructional assessment" means—

"(A) evaluations of children's learning based on systematic observations by teachers of children performing academic tasks that are part of their daily classroom experience; and

"(B) are used to improve instruction in reading, including classroom instruction."

123. The Senate has no comparable provision.

HR/SR with an amendment (See note 122).

124. Identical provision.

LC

125. There are similar purposes in both the House bill and the Senate amendment.

LC

Insert the following language for notes 125–134:

"Sec 1221. Purposes.

"The purposes of this subpart are as follows:

"(1) To support local efforts to enhance the early language, literacy, and pre-reading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based research.

"(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

"(3) To demonstrate language and literacy activities based on scientifically based research that supports the age-appropriate development of—

"(A) Recognition, leading to automatic recognition, of letters of the alphabet, knowledge of letter sounds, the blending of sounds, and the use of increasingly complex vocabulary;

"(B) an understanding that written language is composed of phonemes and letters each representing one or more speech sounds that in combination make up syllables, words and sentences.

"(C) spoken language, including vocabulary and oral comprehension abilities; and

"(D) knowledge of the purposes and conventions of print.

"(4) To use screening assessments to effectively identify preschool children who may be at risk for reading failure.

"(5) To integrate such scientific reading research-based instructional materials and literacy activities with existing programs of preschools, child care agencies and programs, and Head Start centers, and with family literacy services."

126. The House bill purposes limit development of pre-reading skills to children ages 3–5 and the Senate amendment uses broader terminology of "preschool age children." This difference repeats throughout Early Reading first subpart.

HR—See note 125

127. The House bill purposes include assessment/screening of children and the Senate amendment does not.

HR—See note 125

128. Similar provisions. The items in the Senate amendment are re-ordered to compare with similar items in the House bill.

HR with an amendment to strike "understanding . . . language;" and insert "knowledge of letter sounds, blending of sounds, and use of increasingly complex vocabulary;" and insert "Recognition, leading to" before "automatic recognition".—See note 125

129. Similar provision.

HR/SR—See note 125

130. Identical provision.

HR with an amendment to insert "including vocabulary" after "spoken language".—See note 125

131. The House bill requires knowledge of "semiotic concepts". The Senate amendment specifies knowledge of "purposes and conventions of print."

HR—See note 125

132. The Senate amendment does not have this provision for screening tools.

SR with an amendment to insert "reading" after "scientific" and strike "tools" and insert "assessments" in (3).—See note 125

133. Similar provision.

SR—See note 125

134. Identical provision.

SR with an amendment to insert "reading" after "scientific".—See note 125

135. Similar provision.

HR

136. The Senate amendment allows multiple LEA's to apply as a single applicant and the House bill does not.

HR

137. The House bill requires demographic information on communities served by programs and the Senate amendment requires demographic information on the children served by programs.

HR

138. The House bill specifies oral language environments and the Senate amendment does not.

SR with an amendment to strike "aged 3 through 5" and inserting "preschool age" before "children" in House (2). take the Senate (2) inserting "reading" after "scientifically based"; drop both (3); take the House (4); take the Senate (4); take House (5); drop Senate (5); drop House (6), (8) (9); take House (7); take Senate (6); take Senate (7) and (8); drop House (10).

139. Similar provision.

LC

140. Similar provision.

LC

141. Similar provision.

LC

142. This provision is not in the House bill

LC

143. This provision is not in the Senate amendment.

LC

144. The Senate amendment (7) is similar to the House bill (9) but the Senate amendment evaluates the success in enhancing "early language, literacy, and pre-reading development" and the House bill states "early language and reading development."

LC

145. The House bill uses the same peer review panel convened for the Reading First grants and the Senate amendment has a separate peer review provision.

SR with an amendment to insert after "under section 1204(c)(2)," the following language: "except such panel shall include, at a minimum, three individuals, selected from the entities described in (ii), (iii), and (iv), who are experts in early reading development and early childhood development."

146. The House bill includes "oral" language skills.

HR

147. The Senate amendment requires 5 activities.

HR with an amendment (notes 147–153): take Senate (B); take Senate (iii) (amended like note 128); take Senate (i); take Senate (iv).

148. Similar provision.

LC—see note 147

149. The Senate amendment (B) is similar to the House bill (B) but the Senate amendment describes professional development being for "staff" and the House bill describes professional development as being for "teachers."

LC—see note 147

150. Similar provision.

HR—see note 147, (amended like note 128).

151. The House bill notes in (ii) that "words are made up of small segments of speech sounds."

HR/SR with an amendment to insert the following language as new (ii):

"Understanding that written language is composed of phonemes and letters each representing one or more speech sounds that in

combination make up syllables, words and sentences."

152. Similar provision.

HR—see note 147

153. The Senate amendment refers to knowledge of "purposes and conventions of print." The House bill refers to understanding of "semiotic concepts."

HR—see note 147

154. The Senate amendment refers to subparagraph (B) in the House bill which lists the skills to be taught to children.

HR

155. Similar provision.

HR

156. Similar provision.

HR with an amendment to insert the following language:

"SEC. 1243. FEDERAL ADMINISTRATION.

"The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with preschool age programs administered by the Department of Health and Human Services."

157. The House bill has no comparable section.

HR with an amendment to insert Senate lead-in ("Each eligible . . . a description of—") and to strike Senate (1), (3), and (2) and to insert House (1), (2), (3).

158. The House bill requires information on staff qualifications and the Senate amendment does not.

SR

159. The House bill has no similar provision.

HR

160. The House bill allows up to $1 million for evaluation.

HR with an amendment to insert the following language:

"SEC. 1246. EVALUATION.

"From the total amount appropriated under section 1002(b)(3) for the period beginning October 1, 2002 and ending September 30, 2006, the Secretary shall reserve not more than $3,000,000 to conduct an independent evaluation of the effectiveness of this subpart. An interim Report shall be sent to the House Education and the Workforce Committee and the Senate Health, Education, Labor, and Pensions Committee by October 1, 2004, with a final Report due no later than September 30, 2006. The Report shall include information on how the grant recipients under this subpart are improving the prereading skills of pre-school children; the effectiveness of the professional development program; how early childhood teachers are being prepared with scientifically based reading research of early reading development; what activities and instructional practices are most effective; how scientifically research-based pre-reading instructional materials and literacy activities are being integrated into pre-schools, child care agencies and programs, and Head Start Centers and Family Literacy programs, and any recommendations on strengthening, or modifying this subpart."

161. The Senate amendment allows up to $5 million for evaluation.

LC—see note 160.

162. The House bill has no comparable provision.

HR

163. The House bill makes technical changes to Even Start. The Senate amendment does not.

SR

164. The House bill transfers the program to a different Title, makes minor changes, and continues current law. The Senate amendment rewrites the program.

HR/SR with an agreement to move to Subpart 5 of Title V, Part D (FIE).

Report Language:

In the 2000 rate case, the U.S. Postal Service levied an 18% increase on mail sent under Bound Printed Matter (BPM), the class of mail under which books are sent to our nation's schools, libraries, literacy, and early childhood programs. This increase, the highest of any category, has had a direct impact on the ability of several literacy and free book programs to deliver their services. It has come to the attention of the Conferees that the U.S. Postal Service intends to again increase the rates charged for bound printed matter, including books. Given the educational importance of the 100 million books shipped to children annually under this rate, the Conferees urge the U.S. Postal Service and Congress to take action to ensure the continued affordability of books for all of America's children.

165. Virtually identical purpose.

LC

166. Virtually identical provisions.

LC

167. Virtually identical provisions for requirements of contract.

LC

168. Virtually identical provisions.

LC

169. Identical provisions.

LC

170. Identical provisions.

LC

171. Virtually identical provisions.

LC

172. The Senate amendment contains no similar provision.

SR

173. The House bill authorizes such sums as may be necessary for fiscal year 2002 and each of the 4 succeeding fiscal years. The Senate amendment authorizes $25 million for FY 02 and such sums as may be necessary for each of the 6 succeeding fiscal years.

HR/SR (no authorization because moved to FIE).

Title I, Part C—Education of Migratory Children

1. The Senate amendment, but not the House bill, amends the program purpose by adding two paragraphs that state that: (1) Migrant students should not be penalized because of differences between states in curriculum, graduation requirements and standards; and (2) Migrant students have the same opportunities as all children to meet academic achievement and content standards.

HR

2. The House bill, but not the Senate amendment, modifies the formula for distributing funds to the States by basing a State's child count on the number of eligible children, aged 3 through 21, residing in the State during the previous year, plus the number of children who received services in summer or intersession programs provided by the State. Only funding above the amount appropriated for fiscal year 2002 will be distributed via the new formula.

SR with an amendment to require the Secretary to take into account the amount of time children spend in a particular program.

"In changing the formula which allocates funds to the States for migrant education programs, the Conferees are concerned that some children could be double counted, thereby inaccurately inflating allocations to some States. To address this situation, the Conferees have amended section 1303 (e) to require the Secretary to develop a procedure to take into account the amount of time a child may spend in a particular program. The Conferees strongly encourage the Secretary to develop such a procedure and utilize it when making allocations to the States."

3. The House bill, but not the Senate amendment, sets and annually increases the minimum allocation amounts for Puerto Rico.

SR with an amendment to retain subsection (d).

4. The House bill and the Senate amendment eliminate the reference to a comprehensive plan and replace it with language to ensure migrant children are provided with the full range of services from all applicable government programs and that coordination will take place between the various levels of government programs, including the Federal ESEA Title III program.

SR

5. The House bill, but not the Senate amendment, requires the integration of services under the Migrant education program with other programs, and adds a requirement for measurable program goals and outcomes.

SR

6. The House bill, but not the Senate amendment, modifies the manner in which subgrants to LEAs must be allocated.

SR

7. The House bill and the Senate amendment changes to the Assurances subsection of current law are the same with exceptions indicated in notes 8 and 9.

LC

8. The Senate amendment does not have this provision, which is technical.

SR

9. The House bill does not have this provision.

HR

10. The House bill, but not the Senate amendment, eliminates the requirement that States develop both a comprehensive service delivery plan and a program application.

HR

11. The Senate amendment, but not the House bill, places conditions on whether States may submit consolidated applications.

HR

12. The House bill does not have the Senate provision regarding special education needs of migrant students.

HR

13. The House bill, but not the Senate amendment, changes current law to clarify State flexibility in determining the activities to be provided as long as funds are first used to meet the identified educational needs of migrant children.

SR with an amendment to add "where applicable" in (a) (1) in first sentence after "agency".

14. The House bill, but not the Senate amendment, requires the Secretary of Education to assist States in developing effective methods to transfer student records and in determining the number of migrant children in each State. Under the House bill, the Secretary is also required to work with States to determine the minimum data elements for records to be maintained and transferred and to assist States in linking their records systems for electronic maintenance and transfer.

HR/SR with an amendment to Sec. 124. Coordination of Migrant Education Activities:

"(a) DURATION.—Section 1308 (a) (2) [20 U.S.C. 6398 (a) (2)] is amended by striking "subpart" and inserting "subsection".

"(b) STUDENT RECORDS.—Section 1308 (b) (20 U.S.C. 6398 (b)) is amended to read as follows:

"'(b) STUDENT RECORDS.—

"'(1) ASSISTANCE.—The Secretary shall assist States in developing effective methods for the electronic transfer of student records and in determining the number of migratory children in each State.'"

15. The Senate amendment, but not the House bill, requires the Secretary to establish a system for electronically transferring student records and lists possible data elements.

HR/SR with an amendment:

"(2) INFORMATION SYSTEM.—(A) The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migrant students. The Secretary shall ensure such linkage in a cost-effective manner, utilizing systems used by the States prior to, or developed after, the date of enactment of [this Act], and shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. Such elements may include-

"(i) immunization records and other health information;

"(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under this title;

"(iii) other academic information essential to ensuring that migrant children achieve to high standards; and

"(iv) eligibility for services under the Individuals with Disabilities Education Act.

Ensuring the timely exchange of important education and health information for migrant students is critically important. Although some States have developed and implemented their own student records systems, current failures and interruptions in records transfer result in delays in school enrollment and academic services for migrant students, discrepancies in student placement, and repeat immunizations of migrant children. It is the Conferees' intent to link existing systems of Interstate migrant records transfer, and expand their function to enable the electronic transfer of records among all States. Section 1308(b)(2) provides federal leadership to accomplish this objective by requiring the Secretary to electronically link migrant student records. Such linkage will build upon existing and future systems for records transfer and will facilitate a timely exchange of health and academic information."

16. The House bill, but not the Senate amendment, requires SEAs and LEAs to make migrant student records available at no cost to another SEA or LEA requesting such records.

SR

17. The House bill does not contain the Senate provisions in subparagraphs (B), (C), (D) regarding the solicitation of comments on the migrant student record transfer system, deadline for operation of the system, and the reservation of funds for the Secretary in establishing the system.

HR/SR with an amendment:

"(B) The Secretary shall publish, after consultation described in subparagraph (A), a notice in the Federal Register seeking public comment on the proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migrant student information, and the requirements that States must meet for immediate electronic access to such information. The publishing of such notice shall take place not later than 120 days after the date of enactment of [this Act]."

18. The House bill does not contain the Senate amendment provision requiring a report be submitted to Congress by the Secretary regarding the findings and recommendations pertaining to the migrant student record transfer system.

HR with an amendment:

"(4) REPORT to CONGRESS.—Not later than April 30, 2003, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's finding and the recommendations regarding the maintenance and transfer of health and educational information for migrant students by the States, and shall include in this report—

"(A) a review of the progress of States in developing and linking electronic records transfer systems;

"(B) recommendations for the developments and linkage of such systems; and

"(C) recommendations for measures that may be taken to ensure the continuity of services provided for migrant students."

19. The Senate amendment language in this subparagraph is similar to the House bill language in subsection (b)(1) regarding assistance to States in transferring records and determining the number of migrant students. (See note 13.) However, the Senate amendment retains the current law provisions regarding the Secretary's need to help States develop methods to count full-time equivalent students, which the House bill does not.

HR/SR with an amendment:

Section 1308(b) (20 U.S.C. 6398(b)) is amended as follows:

"(b) Student Records.—

(1) ASSISTANCE.—The Secretary shall assist States in developing effective methods for the electronic transfer of student records and in determining the number of migratory children in each State."

20. The House bill and the Senate amendment are the same.

LC

21. The House bill and the Senate amendment are the same regarding the maximum amount the Secretary may award to SEAs for incentive grants. The House bill, but not the Senate amendment, references consortium arrangements with other States or appropriate entities that the Secretary determines will improve the delivery of services to migratory children.

SR

22. The Senate amendment, but not the House bill, requires NCES to collect data on migratory children.

HR

Authorization levels: House at $420 million and Senate at $400 million-

SR with an amendment to strike "$420 million" and insert "$410 million."

Title I, Part D—Neglected or Delinquent Youth

1. The House bill and Senate amendment have different headings.

HR

2. The House bill, but not the Senate amendment, contains two findings regarding youth returning from correctional facilities and pregnant and parenting teenagers.

HR

3. The Senate amendment, but not the House bill, moves the PURPOSE AND PROGRAM AUTHORIZED section under Subpart 1 of the Senate amendment.

HR with an amendment to strike "of Dropping out" in the title of Subpart 1, so that it states: "Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or at Risk."

LC should conform language throughout this part to ensure that it conforms with neglected, delinquent or at risk kids—while striking reference to "drop-outs" unless indicated otherwise.

4. The Senate amendment, but not the House bill, makes minor wording changes to the Purpose and Program Authorized section.

HR/LC

5. The Senate amendment, but not the House bill, makes minor conforming, technical wording changes, related to the organizational structure of the Senate amendment.

HR

6. The Senate amendment, but not the House bill, organizes this part into 3 chapters of subpart 1. Also, the Senate amendment, but not the House bill, makes minor conforming, technical wording changes, related to the organizational structure of the Senate amendment.

HR

7. The Senate amendment, but not the House bill, makes minor conforming, technical wording changes, related to the organizational structure of the Senate amendment.

HR

8. The House bill and Senate amendment provisions in subsection (b) regarding Subgrants to State Agencies in Puerto Rico are the same.

SR

9. The House bill, but not the Senate amendment, sets the minimum allocation amounts Puerto Rico will receive.

SR

10. The House bill, but not the Senate amendment, provides for a minimum amount that shall be appropriated to Puerto Rico contingent upon all 50 States and the District of Columbia receiving the same amount as they did the previous year. If not, then Puerto Rico would receive funds based on the greater percentage provided for in paragraph (1)(A) or the percentage of the previous fiscal year.

SR

11. The Senate amendment, but not the House bill, contains this provision regarding ratable reductions.

HR

12. The Senate amendment, but not the House bill, makes minor conforming, technical wording changes, related to the organizational structure of the Senate amendment.

HR

13. The House bill, but not the Senate amendment, changes the wording of paragraph (1) by revising the language to focus on the provision of services to youth returning from correctional institutions instead of youth at risk of dropping out. In addition, the reference to another section in both the House bill (8306) and the Senate amendment (5506) are to the same general policy regarding Other General Assurances (see Title VIII of the House bill).

SR with an amendment to include "at risk" after "delinquent".

14. The House bill, but not the Senate amendment, adds the word "technical" after "vocational".

SR

LC conform language regarding "opportunity to learn" change to "opportunity to achieve" in House (2) (B).

15. The House bill refers to evaluations associated with Institution-Wide Projects (Section 1416), while the Senate amendment refers to general program evaluations under section 1431.

HR

16. The House bill and Senate amendment provisions in paragraph (3) and in subsection (b) following are the same, with the exception indicated in note 17.

LC

17. The House bill heading for paragraph (1) is different than the Senate amendment heading for paragraph (1); otherwise, see note 16.

SR

18. Both the House bill and the Senate amendment reference the State Plan under Title I, part A.

LC

19. The House amendment refers to the specific section in Title VIII of the House bill regarding evaluations, while the Senate amendment refers to evaluations generally.

LC

20. The reference to another section in both the House bill (8501) and the Senate amendment (4) are to the same general policy regarding fiscal effort (see Title VIII of the House bill).

LC

21. The House bill refers to job training programs in general, while the Senate amendment refers specifically to the Workforce Investment Act of 1998. In addition, the House bill, but not the Senate amendment, adds the word "technical" after "vocational".

HR with an amendment to replace "Workforce Investment Act of 1998" with "PL 105–220".

SR on House bill adding "technical" after "vocational".

22. The House bill, but not the Senate amendment, contains this additional element for State applications to focus on the provision of services to youth returning from correctional institutions.

SR

23. The Senate amendment, but not the House bill, adds the word "children" before "youth".

HR

LC conform part with same change.

24. The House bill, but not the Senate amendment, adds the word "incarceration" in place of the word "youth" after "term of".

LC

25. The Senate amendment, but not the House bill, adds the word "children" before "youth". The House bill, but not the Senate amendment, adds the words "distance learning" before "and assistance".

LC on Senate amendment adding "children" before "youth"; SR on House bill adding "distance learning".

26. The House bill, but not the Senate amendment, adds the words "vocational and technical training" to subparagraph (B).

SR

27. The House bill, but not the Senate amendment, strikes clause (iii).

HR with amendment to change language in (iii) to strike "learn to such" and replace with "achieve".

LC for similar references in remainder of this part.

28. The House amendment refers to the specific section in Title VIII of the House bill regarding evaluations, while the Senate amendment refers to evaluations generally.

SR

29. The Senate amendment, but not the House bill, contains this provision regarding the supplement, not supplant provision in section 1120A of Title I, part A.

HR

30. The Senate amendment, but not the House bill, contains this section on Institution-Wide Projects.

HR

31. The Senate amendment, but not the House bill, makes minor conforming, technical wording changes related to the organizational structure of the Senate amendment.

HR

32. The House bill, but not the Senate amendment, changes the reservation percentage for SEAs to 15 percent. The Senate amendment, as amended, but not the House bill allows for a reservation percentage range between 5 and 30 percent, as well as adds two new paragraphs pertaining to the kinds of transition services that may be supported.

HR with an amendment that reservation percentage be 15–30%.

HR with an amendment to strike (C) (iii) and (C) (v) and add new clause (C)(v):

"COUNSELING SERVICES."—The Conferees recognize that LEAs may find that counseling programs, including the provision of mental health services, are a necessary and appropriate component of ensuring the successful transition of youth returning from correctional facilities."

33. The Senate amendment, but not the House bill, adds the word "youth" after "children".

LC/HR

34. The Senate amendment, but not the House bill, adds a new section allowing the Secretary of Education to reserve up to 5 percent of part D funds each year for national activities involving evaluation, technical assistance and model programs.

H.R. with 3 amendments: change "shall" to "may", change 5% to 2.5%, strike paragraph 3.

35. The Senate amendment, but not the House bill, makes minor conforming, technical wording changes related to the organizational structure of the Senate amendment.

LC

36. The House bill, but not the Senate amendment, reorders this paragraph to focus on the provision of services to youth returning from correctional institutions.

SR with an amendment to strike "dropping out of school" in House paragraph (3).

37. Both the House bill and the Senate amendment strike the word "retained", which is a technical change.

LC

38. The House bill, but not the Senate amendment, revises subsection (b) to focus on the provision of services to youth returning from correctional institutions instead of youth at risk of dropping out.

SR

39. The Senate amendment, but not the House bill, makes minor conforming, technical wording changes related to the organizational structure of the Senate amendment.

HR/LC

40. The House bill, but not the Senate amendment, adds subsection (d), TRANSITIONAL AND ACADEMIC SERVICES, with language to focus on the provision of services to youth returning from correctional institutions and by stipulating that services to youth at risk of dropping out shall not negatively impact the transitional and academic needs of youth returning from correctional facilities.

SR

41. The Senate amendment, but not the House bill, makes minor conforming, technical wording changes related to the organizational structure of the Senate amendment.

LC

42. The House bill, but not the Senate amendment, revises paragraphs (4), (5) and (6) following to focus on the provision of services to youth returning from correctional institutions instead of youth at risk of dropping out and removes the conditional statement "as appropriate" preceding each LEA application requirement. See notes 43 and 44 for exceptions.

SR with an amendment to add to (4) "as appropriate" between "and" and "the".

43. The House bill, but not the Senate amendment, requires specific characteristics of the youth to be served to be described, as well as adding a secondary requirement to describe other youth expected to be served. Otherwise, see note 43.

SR

44. The House bill, but not the Senate amendment, adds the word "other" to the list of existing services LEAs will describe how to coordinate. Otherwise, see note 42.

SR

45. The House bill, but not the Senate amendment, adds "curriculum-based entrepreneurship education".

SR

46. The House bill and Senate amendment have the same meaning in paragraph (8), but are worded slightly different.

LC

47. The House bill refers to job training programs in general, while the Senate amendment refers specifically to the Workforce Investment Act of 1998. In addition, the House bill, but not the Senate amendment, adds the word "technical" after "vocational".

HR with an amendment to replace "Workforce Investment Act of 1998" with "PL 105–220".

SR on House bill adding "technical" after "vocational".

48. The House bill and the Senate amendment are the same as current law in paragraphs (10)–(13).

LC

49. The House bill, but not the Senate amendment, contains a provision regarding LEA uses of funds to focus on the provision of services to youth returning from correctional institutions.

SR

50. The House bill, but not the Senate amendment, has no reference to youth "at educational risk" and has no reference to specific groups of youth who may be at risk of dropping out.

HR

51. The House bill, but not the Senate amendment, adds the word "other" to the list of existing services LEAs can use funds to coordinate. The Senate amendment, but not the House bill, refers to "drug and alcohol counseling".

HR with an amendment to add "and mental health services" after "counseling".

52. The House bill, but not the Senate amendment, adds the word "technical" after "vocational" and adds "curriculum-based entrepreneurship education".

SR

53. The House bill, but not the Senate amendment, adds another paragraph regarding mentoring and peer mediation to the LEA uses of funds.

SR

54. The House bill and Senate amendment headings for this section are different.

HR

55. The House bill and Senate amendment have different internal organization structures which accounts for this and the immediately following technical changes.

LC

56. The House bill, but not the Senate amendment, changes "where feasible" to "to the extent practicable" in all the following

paragraphs, through paragraph (8) in which the former phrase appears.

HR

57. The House bill, but not the Senate amendment, makes a number of changes to this paragraph. See notes 52 and 55.

HR with an amendment to replace "Workforce Investment Act of 1998" with "PL 105-220".

58. The House bill, but not the Senate amendment, adds a citation to the U.S. Code for the Act referenced.

LC

59. See note 45.

SR

60. The Senate amendment, but not the House bill, makes minor conforming, technical wording changes, related to the organizational structure of the Senate amendment.

LC

61. The House bill, but not the Senate amendment, changes the reference to "sex" to "gender" and eliminates the conditional statement "if feasible". Otherwise, the House bill and the Senate amendment are the same in paragraphs (1)-(4) and in subsections (b) and (c) that follow. See exception in note 62.

SR with an amendment to reference Title I-A exceptions for "statistically significant and personally identifiable" data.

62. The Senate amendment, but not the House bill, adds a new paragraph to the evaluation of program's impact on participants.

HR with an amendment to add "as appropriate" before participate.

63. The Senate amendment, but not the House bill, adds paragraph headings before each term is defined in paragraphs (1)-(4).

HR

64. The Senate amendment, but not the House bill, reorganizes this paragraph. Neither the Senate amendment nor the House bill changes the meaning of this definition.

LC

Authorization levels—LC (identical authorization amounts of $50 million in FY 02 and such sums in FY 03-07).

Title I, Part E—Evaluations and Demonstrations

1. The House bill amends section 1501, while the Senate amendment strikes the entire section and replaces it.

LC

2. The Senate amendment, but not the House bill, includes the words "of Title I" after "National Assessment".

HR

3. The House bill requires the Secretary of Education to assess the programs assisted under Title I, while the Senate amendment requires the Secretary to assess the impact of policies of Title I on States, LEAs, schools and students.

HR with an amendment to insert "the programs assisted and" before "the impact of the policies" and strike "title I of...Teachers Act" and insert "this title" in (a).

4. The Senate amendment requires the participation of an independent review panel composed of the groups listed at all stages of the assessment. The House bill also requires the participation of an "independent" review panel, but stipulates a number of conditions that must be met in regards to the review panel, which the Senate does not, in subsection (d) of the House bill. See note 49.

SR

5. The House bill and the Senate amendment are substantially the same with minor wording differences.

HR

6. The House bill, but not the Senate amendment, contains a general requirement to examine the implementation and impact of Title I programs in regards to increasing academic achievement, especially in high-poverty schools. See the next note.

SR with an amendment to insert as new (A): "the implementation of programs assisted under this title and the impact of such implementation on increasing student academic achievement particularly in schools with high concentrations of children living in poverty, toward the goal of all students reaching the proficient level on challenging State academic content and achievement standards and State academic assessments under section 1111, including providing information on what types of programs and services that have demonstrated the greatest likelihood of helping students reach the State's academic achievement standards for proficient and advanced;"

7. The Senate amendment, but not the House bill, contains a specific requirement to examine student progress to proficiency in at least reading and math based on State standards and assessments required under section 1111 of Title I (including NAEP).

SR

8. The House bill does not contain a similar provision.

SR

9. The House bill contains a general requirement to examine the implementation and impact of State standards, assessments and accountability systems. The Senate amendment is more specific as to what must be examined in regards to assessments and calls for examination of implementation of requirements for development and administration of 3-8 annual assessments and how well they meet Title I requirements (see next note), but does not reference standards as the House does.

HR/SR with an amendment to insert as new language: "the implementation of State standards, assessments, and accountability systems developed under this title, including the time and cost required for the development of assessments for students in grades 3-8 and how well they meet the requirements for assessments described in this title, and the impact of such standards, assessments, and accountability systems on educational programs and instruction at the local level."

10. The Senate amendment requires a specific examination of the "adequate yearly progress" requirement in Title I, part A. The House does not contain a similar provision, although it does require an examination of accountability in general in subparagraph (a)(2)(B). See previous note.

HR with an amendment: "defined adequate yearly progress and what has been the impact of applying this standard to schools, local educational agencies, and the state, including the number of schools and local educational agencies not meeting the standard and the changes in such identification."

11. The House bill and the Senate amendment require an examination of schoolwide programs and targeted assistance, but the Senate amendment has a similar requirement in subparagraph (a)(2)(G) of the Senate amendment. See note 22.

SR with an amendment: "the implementation and impact of schoolwide programs and targeted assistance programs under this title on improving student academic achievement and to what extent such schools meet the requirements for such programs."

12. The House bill does not contain a similar provision, although to the extent report cards are considered an element of accountability, see note 9 and paragraph (a)(B) of the House bill.

HR with an amendment to insert "parents," after "students".

13. The House bill and the Senate amendment require an examination of comprehensive school reform, although the House is more specific as to models, implementation and impact, while the Senate is more general as to effectiveness, but the Senate provision regarding this requirement is in paragraph (b)(2) of the Senate amendment. See note 35.

SR with an amendment to insert "and implemented" after "are funded" in (D).

14. The Senate amendment does not contain a similar provision.

SR

15. The House bill and the Senate amendment require an examination of school choice as defined in section 1116 of Title I, part A of each piece of legislation, although the Senate provision is in clause (a)(2)(F)(iii). See note 19. The House bill, but not the Senate amendment, requires an examination of the schools from which students have transferred.

HR

16. The House bill and the Senate amendment require an examination of action required pursuant to section 1116 of Title I, part A of each piece of legislation. However, the House bill requirement is more general as to impact and implementation, while the Senate amendment is more specific as detailed in clauses (a)(2)(F)(i)-(v) following the Senate amendment. See notes 17-21.

SR with an amendment to strike "employed" and insert "implemented".

17. The House bill does not contain a similar provision.

HR

18. The House bill does not contain a similar provision. However, the House bill does refer to support provided by the SEA and LEA generally, in subparagraphs (a)(2)(H) and (a)(2)(K). See notes 26 and 29.

HR

19. The Senate amendment requires a specific examination of public school choice, as defined in section 1116 of Title I, part A, regarding number of parents taking the option, costs associated with the option, and the impact on student achievement. The House bill also requires an examination of public school choice as defined in section 1116 of Title I, part A, but is more general. See note 15.

HR with an amendment to insert as new (iii): "the number of parents who take advantage of the public school choice provisions of this title, the costs, including transportation costs, associated with implementing these provisions, and the implementation and impact of these provisions, including the impact of attending another school, on student achievement;"

20. The House bill does not contain a similar provision.

HR

21. The House bill does not contain a similar provision specific to examining the actions taken regarding reconstitution, as defined in section 1116 of Title I, part A, of the Senate amendment. Also, see note 16.

HR with an amendment to strike "kinds" and insert "implementation and impact" before "actions that are taken" and strike "reconstitution" and insert "corrective action and restructuring." in (v).

22. See note 11. In addition, the Senate amendment requires an examination of professional development in this subparagraph, while the House requires a similar examination of professional development in subparagraph (a)(2)(J). Also, see note 28.

SR

23. The House bill does not contain a similar provision.

HR

24. The House bill does not contain a similar provision.

HR with an amendment to insert "implemented the provisions of section 1118 and" before "afforded parents" and strike "at school and at home;" in (I).

25. The House bill does not contain a similar provision, although to the extent school improvement reservation can be generally considered assistance available under this title and is targeted to schools with the most need, see subparagraph (a)(2)(K) of the House bill and note 29.

SR

26. The House bill and the Senate amendment are substantially the same with minor wording differences.

HR with an amendment to strike the language in Senate (K) and insert the following language: "used federal, State, and local educational agency funds and resources to support schools and provide technical assistance to improve the achievement of students in low-performing schools, and the impact of such assistance on such achievement; and"

27. The Senate amendment does not contain a similar provision regarding accounting requirements limiting schoolwide programs, although the Senate amendment does require an examination of schoolwide programs in subparagraph (a)(2)(G) of the Senate amendment. See note 11.

SR with an amendment to strike "limit" and insert "effect, if at all" in (I).

28. See note 22 regarding the professional development requirement in the Senate amendment.

SR with an amendment to strike the language in (J) and insert the following language: "the implementation and impact of the professional development activities assisted under this title and title II on instruction and student academic achievement and on teacher qualifications;"

29. The Senate amendment does not contain a similar provision, however, see note 25.

SR with an amendment to insert the following language: "the extent to which the assistance made available under this title, including funds under section 1003, is targeted to disadvantaged students, schools, and local educational agencies with the greatest need."

30. The Senate amendment does not contain a similar provision.

SR

31. The Senate amendment does not contain a similar provision.

SR

32. The House bill does not contain a similar provision.

HR with an amendment to strike "fully" and insert "highly" and to strike "in four years." and insert "not later than the end of 2005-2006 school year."

33. The Senate amendment and the House bill require the national assessment authorized under this section to examine how the programs under Title I have improved student achievement, although the House provision is located in subparagraph (a)(2)(A).

SR

34. The House bill does not contain a similar provision, however, see notes 6 and 7.

SR

35. See note 13.

SR

36. The House bill and the Senate amendment require the national assessment authorized under this section to be longitudinal. However, the Senate amendment includes the conditional statement "to the extent possible" and seeks to track students. The House bill requires a longitudinal study of schools, not students, is not conditional, and stipulates a number of requirements which the Senate amendment does not. In addition, the House bill provision regarding this longitudinal study is located in subsection (c) of the House bill.

SR

37. The House bill does not contain a similar provision.

HR with an amendment to strike "to the extent possible" and insert "academic" before "achievement";

LC—make last subparagraph of list.

38. The House bill does not contain a similar provision.

HR with an amendment to strike "performance" and insert "academic achievement".

39. The Senate amendment does not contain a similar provision.

SR

40. The Senate amendment does not contain a similar provision as

The House bill in paragraph (a)(4) and subparagraph (a)(4)(A).

SR

41. See note 4.

SR

42. The House bill and the Senate amendment require the Secretary to provide an interim and final report to Congress on the national assessment authorized under this section. However, the House bill also requires both reports to be submitted to the President. In addition, the House bill stipulates the report must be delivered three years after enactment of the House bill, while the Senate amendment sets a date certain for delivery of the report of December 20, 2004. The Senate amendment provisions regarding the report are located in subsection (e) of the Senate amendment.

SR with an amendment to strike "Congress" and insert "House Education and the Workforce Committee and Senate Health, Education, Labor and Pensions Committee"; LC make uniform throughout Act.

43. The House bill, but not the Senate amendment, requires the final report on the national assessment authorized under this section to be delivered no more than 4 years after enactment of the House bill. The Senate amendment requires the final report to be delivered by a date certain of December 20, 2007, which is later than the deadline contained in the House bill.

SR with an amendment to strike "4" and insert "5".

44. The House bill and the Senate amendment are substantially the same in the provisions regarding authorizing the Secretary to undertake additional studies and data collection with minor wording differences and with the exception indicated in note 45.

SR with an amendment to strike House (A) and insert Senate (1) in its place.

45. The Senate amendment does not contain a similar provision.

SR

46. See note 42.

SR

47. See note 43.

SR

48. See note 36; otherwise, the Senate amendment does not contain similar provisions.

SR with an amendment to strike "performance" and insert "achievement" in (A);

LC—conform (A)-(F) to previous changes.

49. See note 4: otherwise, the Senate amendment does not contain similar provisions.

SR with an amendment to change (iii) to new (iv) and insert as new (iii) "parents, members of local boards of education, and other organizations involved with the implementation and operation of programs under this title."; Strike "a majority of the number of" and insert "include" in House (B)(i).

Report Language:

The Conferees intend that parents or other representatives of migrant children, homeless children, and limited English proficient children be included among "parents," and that civil rights groups, test publishers, participating private schools, and faith-based organizations with educational expertise, be included among the "other organizations involved with the implementation and operation of programs under this title."

50. The House bill, but not the Senate amendment, makes minor technical changes to section 1502.

SR

51. House bill renames program as "Ellender-Close Up Fellowship Program" and the Senate amendment renames program as "Close Up Fellowship Program."

HR

52. Both House bill and Senate amendment contain findings, but the findings differ.

HR/SR—No findings

53. Virtually identical provisions.

SR

54. Virtually identical provisions.

LC

55. House bill uses the term "recent immigrants" and Senate amendment uses the term "students with migrant parents."

HR

56. Identical title.

LC

57. House bill, but not Senate amendment, contains additional language "to promote greater civic understanding and responsibility among the students of such teachers."

SR

58. Virtually identical provisions.

SR

59. Virtually identical provisions.

LC

60. House bill entitled "Programs for Recent Immigrants and Students of Migrant Parents." Senate Amendment entitled "Programs for New Americans."

HR

61. House bill authorizes Close Up Foundation to carry out programs among economically disadvantaged recent immigrants and students of migrant parents. Senate amendment authorizes Close Up Foundation to carry out programs among economically disadvantaged secondary school students who are recent immigrants.

HR with an amendment to insert "middle and" before "secondary school students".

62. House bill contains no similar provision.

HR

63. Under House bill, grants shall be used for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program. Under Senate amendment, grants shall be used only to provide financial assistance to economically disadvantaged recent immigrant students who participate in the program.

HR with an amendment to insert "and their teachers" after "recent immigrant students" and insert "and teachers" after "by such students".

64. Virtually identical provisions.

LC

65. House bill requires applications to contain provisions to assure that fellowship grants are made to economically disadvantaged recent immigrants and students of migrant parents. Senate amendment requires

applications to contain provisions to assure that fellowship grants are made to economically disadvantaged secondary school students.

HR with an amendment to insert "middle school and" before "secondary school students;".

66. House bill requires applications to contain provisions that every effort will be made to ensure the participation of recent immigrants and students of migrant parents from rural and small town areas. Senate amendment requires applications to contain provisions that every effort shall be made to ensure the participation of recent immigrant students from rural and small town areas

HR

67. House bill gives special consideration to the participation of recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students. Senate amendment states that in awarding fellowships to economically disadvantaged recent immigrant students, special consideration will be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents and ethnic minority students.

HR

68. Similar provisions.

LC

69. Similar provisions.

LC

70. House bill contains no similar provision.

HR

71. Virtually identical provision.

LC

72. Virtually identical provision.

LC

73. House bill stipulates that the Secretary may use not more than 30 percent to carry out subsection (c) of this section (programs for middle and secondary school teachers). Senate amendment stipulates that not more than 30 percent may be used for middle and secondary school teachers and teachers of recent immigrants associated with students participating in the programs described in sections 2511, 2521 and 2531.

HR

74. House bill authorizes such sums as may be necessary for FY 02 and for each of the 4 succeeding fiscal years. Senate amendment authorizes to carry out the provisions of subparts 1, 2, and 3 of this part $6,000,000 for FY 02 and such sums as may be necessary for each of the four succeeding fiscal years.

SR with an amendment to strike "4 succeeding" and insert "5 succeeding".

76. Senate amendment contains no similar provision.

SR

Title I, Part F—Comprehensive School Reform

1. The House bill and the Senate amendment designate the comprehensive school reform program as different parts within each respective piece of legislation.

LC

2. The House bill, but not the Senate amendment, contains findings.

HR

3. The House bill and the Senate amendment are substantially the same in the PURPOSE section, except the Senate amendment adds the word "promising" before "effective practices". In addition, the House references "academic achievement standards", while the Senate references "student performance standards".

SR with LC on further references to standards.

4. The Senate amendment, but not the House bill, references "allotments", as described in paragraph (2) following. Otherwise, the House bill and Senate amendment are the same with a technical difference in cross-references.

LC

5. The House bill and Senate amendment have different paragraph headings.

LC

6. The Senate amendment, but not the House bill, specifically refers to the Title I section authorizing funds for this part.

HR

7. The Senate amendment, but not the House bill, has language regarding the amounts the Secretary may reserve for the entities listed based on their need for assistance.

HR

8. The House bill and the Senate amendment are the same with a technical difference in cross-references.

LC

9. The House bill allows the Secretary to reserve 2% of the amount appropriated in FY 02 for quality initiatives, while the Senate amendment allows a reservation of 3%. The House bill and Senate amendment also have a technical difference in cross-references.

SR with an amendment to change 2% to 3%.

10. The Senate amendment, but not the House bill, specifically refers to the Title I section authorizing funds for this part, otherwise the House bill and Senate amendment are substantially the same.

HR with an amendment to include House subparagraph (C) regarding the Secretary's reallocation of funds to the States.

11. The Senate amendment, unlike the House bill, does not have a "STATE AWARDS" subsection heading.

HR

12. The House bill and Senate amendment are substantially the same with a minor wording difference that does not affect the meaning.

LC

13. The House bill and the Senate amendment are the same with a technical difference in cross-references.

LC

14. The House bill, but not the Senate amendment, requires comprehensive school reform program technical assistance providers to be financially stable. The Senate amendment, but not the House bill, requires comprehensive school reform program technical assistance providers have capacity to deliver on-site support during reform implementation.

SR on House reference to financially stable.

HR on Senate reference to on-site support.

15. The Senate amendment, but not the House bill, adds the word "promising" before "effective practices". The House bill requires dissemination of "materials", while the Senate amendment requires dissemination of "information".

SR on House reference to effective practices.

SR with an amendment to include "and information" after "materials".

16. The House bill, but not the Senate amendment, contains the phrase "and to participating schools". The House bill requires technical assistance to be provided, while the Senate amendment requires technical assistance to be made available.

SR

17. The Senate amendment, but not the House bill, contains the word "STATE" in the heading.

LC

18. The House bill and Senate amendment are substantially the same with a technical difference in cross-references. The Senate amendment refers to subgrants from SEAs to LEAs, while the House amendment refers to grants from SEAs to LEAs throughout the remainder of this subsection (or, in the case of the Senate amendment, throughout this section), with the exception indicated in note 21.

LC

19. The House bill and the Senate amendment have different headings.

LC

20. The House bill refers to "schools", while the Senate amendment refers to "school".

HR with an amendment to add "or schools" after "school".

21. The Senate amendment, but not the House bill, adds the words "or consortia". The Senate amendment refers to the SEA, while the House bill refers to the State.

HR

22. The Senate amendment, but not the House bill, requires SEAs to give priority to both conditions in paragraphs in (1) and (2) when awarding subgrants to LEAs or consortia thereof. The House bill, but not the Senate amendment, requires SEAs to only give priority either to clause (i), or clause (ii), when awarding subgrants to LEAs. With this exception and that indicated in note 21, the House bill and Senate amendment are substantially the same in the PRIORITY provisions.

HR

23. The House bill and Senate amendment are substantially the same with minor, technical wording differences.

LC

24. The House bill and Senate amendment are substantially the same except the House bill refers to the States "annual" evaluation and the Senate bill does not and with other minor, technical wording differences.

SR/LC

25. The House bill and Senate amendment have different headings.

SR/LC

26. The Senate amendment, but not the House bill, requires LEAs to submit an application to the SEA as the SEA may require. Otherwise the content of LEA applications in the House bill and the Senate amendment are substantially the same with the exceptions indicated in notes 27 and 28.

HR

27. The Senate amendment, but not the House bill, adds the word "promising" before "effective practices".

SR

28. The Senate amendment, but not the House bill, adds the word "comprehensive" before "reforms".

HR

29. The House bill, unlike the Senate amendment, does not have a section heading.

LC

30. The House bill and Senate amendment have different headings. The Senate amendment, but not the House bill, refers to LEAs or consortia thereof. In addition, the Senate amendment, but not the House bill, requires LEAs to award subgrants to schools eligible for assistance under part A of Title I and that are served by that agency.

HR

LC regarding headings.

31. The House bill and the Senate amendment are substantially the same with the exception indicated in note 27, and the House bill references those strategies and methods replicated in similar schools, while the Senate amendment does not reference similar schools.

SR with an amendment to strike "similar".

32. See note 3, specifically that part regarding standards.

LC regarding "academic achievement standards".

33. The House bill, but not the Senate amendment, requires benchmarks for student performance goals in a school's comprehensive school reform program. The House bill refers to "other professional staff" while the Senate amendment refers to "school personnel staff".

HR to include both terms: "other professional staff" and "school personnel staff".

SR to include (E) regarding comprehensive school reform programs being supported by teachers, principals, administrators, and other professional staff.

34. The House bill requires the involvement of parents in "planning and implementing" school improvement activities, while the Senate amendment requires parental involvement to "strengthen" school improvement activities.

SR with an amendment to strike "and" and insert ",". Add " and evaluating" after "implementing" and add at end "consistent with section 1118".

35. The House bill, but not the Senate amendment, requires an annual evaluation of student results achieved. The Senate amendment refers to an evaluation of student performance.

SR

36. The House bill and the Senate amendment are substantially the same with minor technical wording differences.

LC

37. The House bill, but not the Senate amendment, requires a school's comprehensive school reform program to have been proven effective in improving academic performance through field testing or which has a strong evidentiary basis as described in subparagraph (J)(i) and (ii).

SR with an amendment to strike "rigorous field experiments in multiple cites"; and insert "scientifically based research" and strike all references to "similar".

38. The House bill and Senate amendment are substantially the same with minor wording differences, including a technical difference in cross-references.

LC

39. The House bill and Senate amendment have different headings.

SR

40. The House bill and Senate amendment are substantially the same with a minor wording difference that does not affect the meaning.

LC

41. The Senate amendment requires the Secretary of Education to submit an interim report on comprehensive school reform implementation to Congress, while the House bill requires the Secretary to submit an interim report on the first year of comprehensive school reform implementation to Congress.

HR with an amendment to strike "Prior to the completion of the national evaluation." Also strike "an interim" and insert "a". After "describing" add "results of the evaluation under subsection (b)". Also strike "implementation activities" and "which began in 1998".

42. The Senate amendment requires the Secretary to "promote" the activities described in the following paragraphs, while the House bill requires the Secretary to "provide funds" for these activities.

SR

43. The House bill and Senate amendment are similar in paragraphs (1) and (2), with minor wording differences, a technical difference in cross-references, and with the exceptions indicated in the next two notes.

LC

44. The Senate amendment, but not the House bill, requires the Secretary to support activities that promote financial stability in comprehensive school reform providers.

HR

45. The House bill, but not the Senate amendment, requires the Secretary to provide funds for activities to ensure high quality services meeting the needs of teachers and students. The Senate amendment requires activities to "assure quality" in paragraph (2).

HR

Authorization Level: House $260 million. Senate $500 million.

SR with an amendment to strike "$260 million" and replace with "such sums".

Title I, Part G—Rural Education

(New Title VI, Part B)

1. House bill authorizes program in Title I, Part G and short title is 'Rural Education Initiative Act.' Senate amendment authorizes program in Title V, Part B, Subpart 2 and short title is 'Rural Education Achievement Program.'

HR with an agreement to move to Title VI, Part B.

2. Senate amendment, but not House bill, contains purpose.

HR

3. House bill, but not Senate amendment, contains findings.

HR

4. House bill "Subpart 1—Rural Education Flexibility." Senate amendment "Chapter 1—Small, Rural School Achievement Program."

HR

5. Under House bill, a school district may use applicable funding for the local activities authorized in: Title I Part A; Title II Part A (teacher quality), Title III Part A (education of limited English proficient and immigrant children); Title IV Part A (innovative programs); Title V Part A (safe schools and 21st century schools); or Title V Part B (enhancing education through technology). Under Senate amendment, a school district may use applicable funding for the activities authorized in: Section 1114 (schoolwide programs); Section 1115 (targeted assistance schools); Section 1116 (assessments and school improvement); Section 2123 (teacher quality—local uses of state grant funds); Section 4116 (safe and drug-free schools—local drug and violence prevention); or Section 5331(b) (local activities under innovative education program strategies).

SR

6. Under House bill, eligibility is limited to fewer than 600 students in average daily attendance, and all of its schools with a School Locale Code of 7 or 8. Under Senate amendment, eligibility is limited to (1) Fewer than 600 students in average daily attendance or all schools in the district located in counties with a population density of fewer than 10 persons per square mile, and (2) all schools have a Locale Code of 7 or 8.

HR

7. Under House bill, the Secretary shall determine whether or not to waive the School Locale Code requirement based on a demonstration by an LEA and concurrence by the SEA, that the LEA is located in an area defined as rural by a governmental agency of the State. Under Senate amendment, the Secretary may waive the School Locale Code requirement if the Secretary determines, based on information demonstrated by the LEA or the SEA on behalf of the LEA, that the LEA is located in an area defined as rural by a governmental agency of the State.

SR

8. House bill applicable funding: Title II A (teacher quality); Section 3106 (education of limited English proficient and immigrant children); Title IV Part A (innovative programs); Title V Part A, Subpart 1 (safe schools); and Section 5212(a)(2)(A) (enhancing education through technology). Senate amendment applicable funding: Title II (teacher quality); Title IV (Safe and Drug-Free Schools and Communities Act of 1994); and Title V Part B, Subpart 4 (innovative education program strategies).

HR/SR with an agreement for "applicable funding" to include: Subpart 2 of Title II (Teachers); Section 2412(a)(2)(A) (Technology); Section 4114 (Safe and Drugfree Schools); and Part A of Title V (Innovative Programs).

9. Similar provision.

LC

10. Similar provision.

LC

11. House bill contains no similar provision.

HR

12. Under House bill, grants are authorized for eligible LEAs to support local or statewide education reform efforts intended to improve the academic achievement of elementary school and secondary school students and the quality of instruction provided for the students. Under Senate amendment, grants authorized for eligible LEAs for the same activities supported under the flexibility authority with the addition of: Section 2213 (mathematics and science partnerships), or Section 2306 (state and local programs for technology).

HR with an amendment to mirror Note 5 uses.

13. Similar provision except that the amount in House bill is based on the preceding fiscal year and the Senate amendment is based on the same fiscal year.

SR

14. Virtually identical provision.

LC

15. Virtually identical provision.

LC

16. Identical provision.

LC

17. Identical provision.

LC

18. Senate amendment, but not House bill, contains penalty.

HR

19. Identical provision.

LC

20. Similar provision.

SR

21. Identical provision.

LC

22. House bill has no similar provision.

HR

23. Under House bill, LEA must administer assessments consistent with the provisions of ESEA Title I, Section 1111. SEA permits only a district meeting "adequate yearly progress" as defined under Section 1111 to continue to participate after second year of participation. Under Senate amendment, LEA must assess its student achievement using statewide assessment consistent with the assessment under ESEA Title I, Section 1111(b), or, absent such assessment, a test of its own selection. State permits an LEA to continue for additional three-year period only if its students perform "better" on the assessment after the third year than they did in the first year. An LEA that does not

meet this criterion is ineligible to participate for a 3-year period.

SR with an amendment to read as follows:

"(1) after each third year that a local educational agency participates in a program under section 1711 or 1712 and on the basis of the results of the assessments described in subsection (a), determine whether the schools served by the local educational agency participating in the program performed in accordance with section 1111;

"(2) permit those local educational agencies that participated and make adequate yearly progress, as described in section 1111(b)(2), to continue to participate; and,

"(3) only permit those local educational agencies that participated and fail to make adequate yearly progress, as described in section 1111(b)(2), to continue to participate if they disburse applicable funding under section 1711(c) to carry out the requirements of section 1116."

24. House bill "Subpart 2—Rural Education Assistance." Senate amendment "Chapter 2—Low-Income and Rural School Program."

HR with an amendment to change title to "Rural and Low Income School Program".

25. House bill, but not Senate amendment, contains provision to reserve ½ of 1 percent for Bureau of Indian Affairs.

SR with an amendment to add .5% reservation for outlying areas.

26. Similar provision.

LC

27. Virtually identical provision.

LC

28. Virtually identical provision.

LC

29. Under House bill, funds can be used for teacher recruitment and retention, professional development for teachers, acquisition of educational technology, parental involvement activities, or programs to improve student achievement. Under Senate amendment, funds can be used for the activities described in Section 5331(b) (local activities authorized under Title V Part B, Subpart 4—innovative programs). These uses include ones similar to those identified in House bill and other uses, such as acquisition of instructional materials, assessments, and curricular materials; and student and parental literacy efforts.

SR with an amendment to strike (E) and insert "(E) Safe and Drug Free Schools; (F) Title I, part A; and (G) Programs for Limited English Proficient Students"

30. Similar provision.

LC

31. House bill, but not Senate amendment, allows the State, as appropriate, to define formula.

SR with an amendment to read as follows:

(2) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State. The State educational agency may use a formula not based on the number of students in average daily attendance if the State educational agency demonstrates, to the satisfaction of the Secretary and prior to awarding grants to local educational agencies, that the State educational agency will allocate funds according to a formula which serves high concentrations of children from low-income families at a level proportional to or higher than the level that would occur with a formula based on the number of students in average daily attendance.

Report Language:

The conferees note that the objective of this section is to allow the State educational agency the flexibility to implement their own formula so long as that formula is more likely to allocate funds to areas of high concentrations of poverty than a formula based on average daily attendance.

32. Virtually identical provision.

SR with an amendment to insert "and technical assistance to eligible LEA's" after "administrative costs".

33. Similar provision.

HR

34. Similar provision except that House bill also requires the SEA to describe the method used to provide assistance to schools.

SR

35. Virtually identical provision.

LC

36. Virtually identical provision.

LC

37. Senate amendment, but not House bill, contains "supplement not supplant" provision.

HR

38. Virtually identical provision.

LC

39. Senate amendment, but not House bill, contains provision that requires LEAs that receive a grant to administer an assessment to determine the academic achievement of students in the schools served by the LEA.

HR with an amendment to amend Senate amendment (c) to read as follows (consistent with Note 23):

"(c) ACADEMIC ACHIEVEMENT.—

"(1) IN GENERAL.—Each local educational agency that receives a grant under this chapter [subpart] for a fiscal year shall administer an assessment consistent with section 1111.

"(2) SPECIAL RULE.—Each local educational agency that receives a grant under this chapter [subpart] shall use the same assessment described in paragraph (1) for each year of participation in the program carried out under this chapter [subpart]."

40. House bill, but not Senate amendment, requires the Secretary to prepare a report for Congress.

SR with an amendment to strike "annual" and insert "biennial" in (c).

41. House bill requires the Secretary to review the progress of the SEA or specially qualified agency in achieving goals and objectives and determine whether the agency has made progress toward meeting such goals and objectives. Senate amendment requires the SEA to determine whether students served by an LEA participating in the program performed better on assessments after the 3rd year of participation than the students performed on the assessments after the first year of participation.

HR with an amendment to amend Senate amendment (d) to read as follows (consistent with Note 23):

"(d) STATE EDUCATIONAL AGENCY DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency that receives a grant under this chapter [subpart] shall—

"(1) after each third year that a local educational agency receives funds under this chapter [subpart] and on the basis of the results of the assessments described in subsection (c), determine whether the schools served by such local educational agency performed in accordance with section 1111;

"(2) permit such local educational agencies that make adequate yearly progress, as described in section 1111(b)(2), to continue to receive grants; and,

"(3) only permit such local educational agencies that fail to make adequate yearly progress, as described in section 1111(b)(2), to continue to receive grants if they disburse such grants to carry out the requirements of section 1116."

42. House bill, but not Senate amendment, requires the Secretary to review the use of funds of the SEA or specially qualified agency.

HR

43. Senate amendment, but not House bill, permits only the LEAs that performed better on assessments (as described in Note 39) to continue to participate in the program for an additional 3 years.

HR

44. House bill permits the Secretary to deny the provision of additional funds in subsequent fiscal years to an agency only if the Secretary determines, after notice and an opportunity for a hearing, that the agency's use of funds has been inadequate to justify continuation of such funding. Senate amendment prohibits the LEAs that participated in the program and served students that did not perform better on assessments (as described in Note 39) from participating in the program for a period of 3 years from the date of the determination.

HR

45. Identical definition.

LC

46. Similar definition.

LC

47. House bill, but not Senate amendment, contains definition for State.

HR

48. House bill authorizes $300 million for FY 02 and such sums as may be necessary for the next four years with the appropriation divided evenly between the two programs (authorization from Section 1002). Senate amendment authorizes $150 million for each of the two programs for FY 02 and such sums as may be necessary for each of the next six fiscal years.

HR/SR with an agreement to authorize $300 million for FY 2002 and such sums as may be necessary for each of 5 succeeding fiscal years to be distributed equally between subparts 1 and 2.

Title I, Part H—General Provisions

(New Title I, Part I)

1. The House bill, but not the Senate amendment, makes several changes to the general provisions of Title I and includes them in Title I, Part H of the House bill. The Senate amendment retains current law for the general provisions for Title I. The Senate amendment redesignates sections 1601 through 1604 of current law, respectively, as sections 1901 through 1904. See section 161(2) of the Senate amendment regarding the redesignation.

SR with amendment to add "and other organizations" after "local boards of education"; Strike "ensure reasonable compliance" and insert "reasonably ensure that there is compliance".

Report Language:

The Conferees intend that parents or other representatives of migrant children, homeless children, and limited English proficient children be included among "parents," and that civil rights groups, test publishers, participating private schools, and faith-based organizations with educational expertise be included among the "other organizations involved with the implementation and operation of programs under this title."

2. The House bill requires the Secretary to establish a negotiated rulemaking process on a minimum of three key issues, including accountability, implementation of assessments, and use of paraprofessionals. The Senate amendment retains current law which requires a negotiated rulemaking

process on at least two key issues, including (i) schoolwide programs and (ii) standards and assessments.

SR with an amendment to: Strike (b)(A) and replace with

"(A) at a minimum, establish a negotiated rulemaking process on standards and assessments.";

Insert at (b)(3)(B), before the semicolon, "in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials."; and Strike "regulations" and add "policy options" in (b)(3)(C).

Report Language:

The Conferees intend that the Secretary select individuals to participate in the Title I negotiated rulemaking in numbers that will provide an equitable balance between representatives of parents and students and representatives of educators and education officials. The Conferees do not intend this language to require strict numerical equality or comparability among these representatives. Rather, the Conferees intend the Secretary to have flexibility in selecting the conferees, while ensuring that the views of both program beneficiaries and program providers are fairly heard and considered.

3. The House bill, includes provisions governing agreements and record keeping on proposed regulations and negotiated rulemaking. The Senate amendment retains current law.

SR

4. The House bill includes a provision on state rulemaking and regulations. The Senate amendment retains current law.

SR

5. The House bill authorizes a committee of practitioners. The Senate amendment retains current law. See also section 1002(i) of the House bill for authorization of state administrative expenses. The Senate amendment retains current law on the Committee of Practitioners and includes the authorization for administrative expenses here.

SR

6. The House bill includes a local administrative costs limitation of not more than 4 percent. The Senate amendment has no provision.

HR with report language:

The Conferees intend LEAs to use only the necessary and appropriate amount of funds to provide for administrative expenses based on a reasonable definition of such expenses. However, the Conferees recognize the need for additional information regarding this matter and thereby direct the Comptroller General of the General Accounting Office to undertake a study of the definitions of administrative expenses employed by LEAs across the States and the amount of funds reserved for such expenses. The design of such study will be developed by Congress in consultation with the GAO and, as appropriate, with the Secretary of Education.

7. The Senate amendment, but not the House bill, includes a provision in section 1120C of part A of Title I that prohibits the use of funds by a local educational agency for certain activities. See also Title I, Part A, subpart 1 for placement of this section.

SR

8. The Senate amendment, but not the House bill, provides for not less than 6 audits of local educational agencies to determine how such agencies are expending Title I funds.

HR with amendment to strike "the Office of Inspector General" and add "General Accounting Office" in (a) and (b).

9. The House bill, but not the Senate amendment, ensures that no provision of Title I affects home schools. See note 125 from Title VIII (General Provisions for all of ESEA) of House bill which applies the rule of construction to the entire Act (section 8508 of Title VIII). The Senate amendment includes a similar provision in section 17(a) and section 11, also referenced in note 125.

HR

10. The House bill, but not the Senate amendment, ensures that no provision of Title I affects private schools that do not receive Title I funds, and no student at such a school is required to participate in assessments referenced in Title I. See note 126 from Title VIII (General Provisions for all of ESEA) of the House bill which applies similar rule of construction to the entire Act (section 8509 of Title VIII). The Senate amendment includes a similar provision in section 17(b), also referenced in note 126.

HR

11. The House bill, but not the Senate amendment, ensures that the privacy of individual assessments results are protected from disclosure under section 444 of the General Education Provisions Act. The Senate amendment includes a similar provision in section 1111(j)(1)(F) of Title I, Part A but references section 445 rather than section 444.

SR with amendment to move Section 1807 to Title VIII (General Provisions).

Title II—Teacher and Principal Quality

(New Title II, Parts A, B, and C)

1. House bill Title II is "Preparing, Training, and Recruiting Quality Teachers." Senate amendment Title II is "Teachers and Principals."

SR with an amendment to insert "and Principals" after "Teachers".

2. House bill Section 201 is "Teacher Quality Training and Recruiting Fund." Senate amendment Section 201 is "Teacher Quality."

SR with an amendment to insert "and Principal" after "Teacher".

3. Identical provision.

LC

4. House bill is "Preparing, Training, and Recruiting Quality Teachers." Senate amendment is "Teachers and Principals."

SR with an amendment to insert "and Principals" after "Teachers".

5. House bill Part A is "Teacher Quality Training and Recruiting Fund." Senate amendment Part A is "Teacher and Principal Quality."

SR with an amendment to insert "and Principal" after "Teacher".

6. Similar provisions.

HR with an amendment to strike "and student performance" in Senate (3) and to redesignate Senate (3) as (2).

7. Senate amendment, but not House bill, contains purpose to hold LEAs and schools accountable so that all teachers teaching core academic subjects in public schools, in which not less than 50 percent of the students are from low-income families, are highly qualified.

SR

8. Senate amendment, but not House bill, contains purpose of holding LEAs and schools accountable for improvements in student academic achievement and student performance.

SR (redesignated as (2) in Note 6).

9. House bill Subpart 1 is "Grants to States to Prepare, Train, and Recruit Qualified Teachers." Senate amendment Subpart 1 is "Grants to States."

HR

10. Similar provisions.

LC

11. Similar provisions.

LC

12. House bill names individual outlying areas; Senate amendment cites "outlying areas."

SR

13. Similar provisions.

SR with an amendment to strike "for professional development activities for teachers, other staff, and administrators".

14. Senate amendment, but not House bill, limits the amount of funds that may be reserved for BIA and Outlying Areas to the amount received by these entities in FY 01.

SR

15. Similar provisions (wording differs).

LC

16. House bill, but not Senate amendment, sets the hold harmless amount for non-participating States at what they would have received in FY 01, had they participated.

HR

17. Similar provision.

LC

18. House bill formula to the States is 50% based on population and 50% based on poverty. Senate amendment formula to the States is 35% based on population and 65% based on poverty.

HR

19. House bill defines poverty here based on OMB definition and Senate amendment defines poverty in Section 2102 based on OMB definition.

HR

20. Similar small State minimum.

LC

21. Similar provisions (wording differs).

LC

22. House bill, but not Senate amendment, has language that provides that funds granted under this Subpart shall be used to carry out activities for the improvement of teaching and learning.

HR

23. Under House bill, States may reserve not more than 5% of funds for one or more of the authorized State activities described in Subsection (e) [Authorized State Activities]; and for planning and administration related to carrying out such activities and making subgrants to LEAs under Subparts 2 [math and science partnerships] and 3 [Subgrants to LEAs]. Under Senate amendment, States must reserve 2% of funds available for State activities described in Subsection (b) [State Activities]; 95% of the funds to make subgrants to LEAs as described in Subpart 2 [Subgrants to LEAs]; and 3% of the funds to make subgrants to local partnerships as described in Subpart 3 [Subgrants to Eligible Partnerships].

HR with an amendment to read as follows:

"SEC. 2113. STATE USE OF FUNDS.

"(a) IN GENERAL.—A State that receives a grant under section 2111 shall—

"(1) reserve 95 percent of the funds to make subgrants to local educational agencies as described in subpart 2 [Subgrants to Local Educational Agencies];

"(2) reserve 2.5 percent (or, for a fiscal year described in subsection (b), the percentage determined under subsection (b)) of the funds to make subgrants to local partnerships as described in subpart 3 [Subgrants to Eligible Partnerships]; and

"(3) use the remainder of the funds for State activities.

"(b) SPECIAL RULE.—For any fiscal year for which the total amount that would be reserved by all States under subsection (a)(2), if the State applied a 2.5 percentage rate, exceeds $125,000,000, the Secretary shall determine an alternative percentage that the

States shall apply for that fiscal year under subsection (a)(2) so that the total amount reserved by all States under subsection (a)(2) equals $125,000,000."

24. House bill, but not Senate amendment, caps State administrative costs at 1% of the total State grant.

SR with an amendment to read as follows:

"(4) ADMINISTRATIVE COSTS.—A State educational agency or State agency for higher education receiving a grant under this part may use not more than 1 percent of the amount of funds provided under the grant for planning and administration related to carrying out activities under subsection (b) [State Activities] and subpart 3 [Subgrants to Eligible Partnerships]."

25. Similar provisions.

LC

26. House bill, but not Senate amendment, provides that a grant to a State can only be awarded if the State agrees to distribute the funds described in this subsection as subgrants to LEAs.

SR

27. House bill, but not Senate amendment, contains a hold harmless provision for LEAs.

SR

28. House bill, but not Senate amendment, contains a provision for nonparticipating agencies.

SR

29. House bill, but not Senate amendment, contains a provision for ratable reduction.

SR

30. Similar provisions except House bill provides for allotment of additional funds (above the LEA hold harmless provision).

SR

31. Similar provisions (20% based on population) except that House bill is based on the relative enrollment in public and private nonprofit elementary and secondary schools within LEAs and Senate amendment is based on the number of individuals age 5 through 17 in the geographic area served by LEAs.

HR

32. Similar provisions (80% based on poverty) except that House bill defines poverty here based on OMB definition and Senate amendment defines poverty in Section 2102 based on OMB definition.

LC

33. House bill, but not Senate amendment, provides that all new funding above the LEA hold harmless level goes out 50% for LEAs and 50% for Math and Science partnerships under Subpart 2.

HR

34. House bill, but not Senate amendment, requires States to award competitive subgrants for Math and Science partnerships (Senate amendment Section 2201 contains separate program for math and science partnerships).

HR

35. Under House bill, but not Senate amendment, although 50% of the excess is for partnerships, that amount cannot equal more than 15% to 20% of the total state allocation minus State reservation, the precise percentage in that range being chosen by the State.

HR

36. Under House bill, but not Senate amendment, States must award at least 15%—but not more than 20%—of the funds (at the discretion of the State) on a competitive basis to eligible partnerships under Subpart 2.

HR

37. House bill lists authorized activities. Senate amendment requires SEA to carry out one or more of the listed activities, including through a grant or contract with a for-profit or nonprofit entity.

HR

38. Similar provision except that Senate amendment includes language regarding principals.

HR

39. Similar provision except the Senate amendment includes language regarding principals.

HR

40. Similar provision.

SR

41. Similar provision except that Senate amendment includes language regarding technology literacy and principals (Senate amendment also uses term "performance standards").

HR with an amendment to strike "performance" and insert "academic".

42. Similar provisions except that Senate amendment, but not House bill, specifically mentions "assistant principals," "team teaching," and "reduced schedules."

HR with an amendment to read as follows:

"(2) Carrying out programs that provide support, including during their initial experience, to teachers, principals, or assistant principals, such as programs that provide teacher mentoring, team teaching, reduced schedules, and intensive professional development."

43. House bill similar to Senate amendment (8) below.

SR

44. Similar provisions except that Senate amendment, but not House bill, includes principals and specifically includes MA recipients.

HR

45. House bill, but not Senate amendment, emphasizes math and science.

SR

46. Similar provisions except that Senate amendment includes language for pupil services personnel and recruiting specialists in core academic subjects (Language in Senate amendment paragraph (6) largely duplicates Senate amendment paragraph (5)).

HR with an amendment to strike Senate (6) and amend Senate (5) to read as follows:

"(5)(A) Developing and implementing effective mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals, including specialists in core academic subjects, and pupil services personnel.

"(B) SPECIAL RULE.—Funds under this paragraph may be used for pupil services personnel only in cases in which the State educational agency deems appropriate, if the State educational agency is making progress toward meeting the objectives described in section 2141(a) [Accountability], and in a manner consistent with mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals."

47. House bill provides for reforming tenure systems and implementing teacher testing and other procedures to expeditiously remove ineffective teachers from the classroom. Senate amendment provides for testing new teachers for subject matter knowledge, and testing the teachers for State certification or licensing (similar to House bill (iii) above).

HR/SR with an amendment to combine language in House bill and Senate amendment and add report language:

"(8) Reforming tenure systems, implementing teacher testing for teachers for subject matter knowledge, and implementing teacher testing for teachers for State certification or licensing, consistent with title II of the Higher Education Act of 1965."

Report Language:

The conferees recognize that a State educational agency may elect to reform tenure systems and implement teacher testing to expeditiously remove ineffective teachers from the classroom, while ensuring due process consistent with State law.

48. Similar provisions regarding tenure reform.

HR/SR (addressed in Note 47).

49. Senate amendment contains no similar provision.

SR with an amendment to strike "enhanced performance" and after "strategies" insert "to document student academic gains or increases in teachers' mastery of subjects they teach."

50. Senate amendment contains no similar provision.

SR with an amendment to combine with Note 65.

"(18) Fulfilling the State's responsibilities concerning proper and efficient administration of the programs carried out under this part including technical assistance to local educational agencies."

51. Similar provision except that House bill provides that reciprocity agreements cannot weaken State teacher certification requirements and Senate amendment includes principals.

SR with an amendment to insert "and principal" after "reciprocity of teacher".

52. Senate amendment contains no similar provision.

SR with an amendment to combine with Note 64.

"(8) Developing or assisting local educational agencies in the development and utilization of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as through the use of technology, peer networks, and distance learning."

53. Senate amendment, but not House bill, includes administrators.

HR

54. Similar provision except that Senate amendment contains specific language regarding the ability to collect, manage, and analyze data to improve teaching, decision making and school improvement efforts and accountability.

HR

55. Similar provision except that House bill includes language on assessments for teachers and differential pay for teachers in high need subject areas and House bill also focuses on teachers in high need subject areas in high-poverty districts.

SR with an amendment to strike "rigorous assessments for teachers" and add report language:

Report Language:

The Conferees note that locally negotiated and collaboratively designed programs for performance based pay systems are an effective type of merit based pay in that performance based pay systems reward teachers for working together to raise student achievement for all students throughout the school.

56. Senate amendment contains no similar provision.

SR

57. Senate amendment contains no similar provision.

SR

58. House bill contains no similar provision.

HR (LC use "highly qualified" throughout this Title; LC with Note 78).

59. House bill contains no similar provision.

HR

60. House bill contains no similar provision.

HR

61. House bill contains no similar provision.

HR

62. House bill contains no similar provision.

SR

63. House bill contains no similar provision.

HR with an amendment to read as follows:

"(15) Providing professional development for teachers and principals and, in cases in which a State educational agency deems appropriate, supporting the participation of pupil services personnel in the same type of professional development activities made available to teachers and principals."

64. House bill contains no similar provision.

SR (see Note 52).

65. House bill contains no similar provision.

SR (see Note 50).

66. Similar coordination provision.

LC

67. Similar provisions.

LC

68. Senate amendment, but not House bill, requires a description of how activities will be based on review of relevant research and include explanation of why they are expected to improve student performance and outcomes.

HR with an amendment to strike "relevant" and insert "scientifically based" and to strike "performance and outcomes" and insert "academic achievement".

69. Similar provisions.

LC

70. Senate amendment, but not House bill, requires a description of how the SEA will ensure that activities are aligned with State content standards, student performance standards, and assessments

HR with an amendment read as follows:

"(2) A description of how the State educational agency will ensure that activities assisted under this subpart are aligned with State academic content and achievement standards, assessments, and State and local curriculum."

71. House bill, but not Senate amendment, requires a description of how the State will use funds under this Part to meet the requirements of section 1119(a)(2).

SR (LC on reference to section 1119(a)(2)).

72. Senate amendment, but not House bill, requires a description of how SEA will use funds to improve the quality of the State's teachers, principals, and assistant principals, and the educational opportunities for students.

HR with an amendment to strike ", and the educational opportunities for students".

73. Similar coordination provisions except House bill includes 21st Century Schools (Title V, Part A—Subpart 2), and Senate amendment includes Title II of HEA.

SR with an amendment to read as follows:

"(3)(A) A description of how the State educational agency will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs.

(B) The application shall also describe the comprehensive strategy that the State educational agency will take as part of such coordination effort, to ensure that teachers are trained in the utilization of technology so that technology and its applications are effectively used in the classroom to improve teaching and learning in all curriculum and content areas, as appropriate."

74. House bill, but not Senate amendment, requires a description of how the State will encourage the development of proven, innovative strategies to deliver intensive professional development programs such as through the use of technology and distance learning.

SR

75. Similar provisions except House bill cites language (Section 2033) defining a broad range of attributes for the professional development that is to be supported and Senate amendment includes input from paraprofessionals, administrators, and other school personnel (but not principals).

HR/SR to combine language (LC on reference to section 2033):

"(6)(A) A description of how the State educational agency will ensure compliance with section 2033 and how the activities to be carried out are developed collaboratively and are based on the input of teachers, principals, parents, administrators, paraprofessionals, and other school personnel.

(B) In the case of a State where the State educational agency is not the entity responsible for teacher professional standards, licensing, and certification an assurance that the state activities under this subpart are carried out in conjunction with the entity responsible for these activities under State law."

76. Senate amendment, but not House bill, requires a description of how the SEA will ensure that the professional development (including teacher mentoring) needs of teachers will be met using funds under this Subpart and Subpart 2.

HR

77. Senate amendment, but not House bill, requires a description of the SEA's annual measurable performance objectives under Section 2141 (State Performance Objectives and Accountability).

HR with an amendment to strike "performance".

78. House bill contains no similar provision (although House bill (2) and Senate amendment (9) both have to do with the quality objectives regarding teachers).

HR with an amendment to read as follows (LC on references to sections 1119 and 2141):

"(9) A description of how the State educational agency will use funds under this part to meet the teacher and paraprofessional requirements of section 1119 and how the State educational agency will hold local educational agencies accountable for meeting the measurable objectives under section 2141."

79. Senate amendment, but not House bill, requires an assurance that the SEA will consistently monitor the progress of each LEA in meeting the performance objectives described in Section 2142 (Local Performance Objectives and Accountability).

SR (see Note 172).

80. Senate amendment, but not House bill, requires—in the case of a State that has a charter school law that exempts teachers from State certification and licensing requirements—a description of the basis for the exemption.

HR with an amendment to read as follows:

"(11) In the case of a State that has a charter school law that exempts teachers from State certification and licensing requirements, the State educational agency shall include as part of their application the specific portion of the State law which provides for this exemption."

81. House bill contains no similar provision regarding participation by private school children and teachers.

HR

82. Similar provision except House bill includes language regarding State notice and opportunity for a hearing.

SR with an amendment to read as follows:

"(c) GENERAL APPROVAL.—A State educational agency's application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120 day period beginning on the date that the Secretary receives the application, that the application is in violation of this part.

"(d) DISAPPROVAL.—The Secretary shall not finally disapprove an application, except after giving the State educational agency notice and opportunity for a hearing.

"(e) SPECIAL RULE.—If the Secretary finds that the application is not in compliance, in whole or in part, with the provisions of this part, the Secretary shall:

"(1) implement the procedures described in subsection (d); and

"(2) notify the State educational agency of the findings of non-compliance where such notification shall—

"(A) cite the specific provisions in the application that are not in compliance; and

"(B) request additional information, only as to those noncompliant provisions, needed to make the application compliant.

"(f) If the State educational agency does not respond to the notification described in subsection (e)(2) within 45 days, such application is not approved.

"(g) If the State educational agency does respond to the Secretary's notification described in subsection (e)(2) within 45 days with the requested information necessary to make the application compliant, the Secretary shall approve or disapprove such application not later than 45 days following its resubmission or the end of the 120 day period described in subsection (c), whichever is later."

83. House bill contains no similar provision. Senate amendment provides funds to the State agency for Higher Education to make competitive subgrants to eligible partnerships.

HR with an amendment to read as follows and report language:

"Subpart 3—Subgrants to Eligible Partnerships

"SEC. 2131. SUBGRANTS.

"(a) IN GENERAL.—The State agency for higher education for a State that receives a grant under section 2111, working in conjunction with the State educational agency (if such agencies are separate) shall use the funds reserved under section 2113(a)(3) to make subgrants, on a competitive basis, to eligible partnerships to enable such partnerships to carry out the activities described in section 2133.

"(b) DISTRIBUTION.—The State agency for higher education shall ensure that—

"(1) such subgrants are equitably distributed by geographic area within a State; or

"(2) eligible partnerships in all geographic areas within the State are served through the subgrants.

"(c) SPECIAL RULE.—No single participant in an eligible partnership may use more than 50 percent of the funds made available to the partnership under this section.

"SEC. 2132. APPLICATIONS.

"To be eligible to receive a subgrant under this subpart, an eligible partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may require.

"SEC. 2133. USE OF FUNDS.

"(a) In General.—An eligible partnership that receives a subgrant under section 2131 shall use the funds made available through the subgrant for—

"(1) professional development activities in core academic subjects to ensure that teachers and highly qualified paraprofessionals, and, if appropriate, principals have subject matter knowledge in the academic subjects that the teachers teach including the use of computer related technology to enhance student learning and that principals and assistant principals have the instructional leadership skills that will help such principals and assistant principals work most effectively with teachers to help students master core academic subjects; and

"(2) developing and providing assistance to local educational agencies and individuals who are teachers, highly qualified paraprofessionals, or principals of schools served by such agencies, for sustained, high-quality professional development activities that—

"(A) ensure that the individuals are able to use State academic content standards, academic achievement standards, and assessments to improve instructional practices and improve student academic achievement;

"(B) may include intensive programs designed to prepare such individuals who will return to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school; and

"(C) may include activities of partnerships between institutions of 1 or more local educational agencies, 1 or more schools served by such local educational agencies, and 1 or more institutions of higher education for the purpose of improving teaching and learning at low-performing schools.

"(b) Coordination.—An eligible partnership that receives a subgrant to carry out this subpart and a grant under section 203 of the Higher Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under section 203.

"SEC. 2134. DEFINITIONS.—

In this subpart—

"(1) Eligible Partnership.—The term 'eligible partnership' means an entity that—

"(A) shall include—

"(i) a private or State institution of higher education and the division of the institution that prepares teachers and principals;

"(ii) a school of arts and sciences; and

"(iii) a high need local educational agency; and

"(B) may include another local educational agency, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers and principals, a nonprofit cultural organization, an entity carrying out a prekindergarten program, a teacher organization, principal organization, or a business.

(2) Low-Performing School.—The term 'low-performing school' means an elementary school or secondary school that is identified under section 1116."

Report Language:

The Conferees intend that the partnerships described in section 2131 [Subgrants to Eligible Partnerships] include education councils and professional development schools, or similar partnerships, including those funded under Section 203 of the Higher Education Act, that contain 1 or more local educational agencies, acting on behalf of elementary schools or secondary schools served by the agencies and 1 or more institutions of higher education, including community colleges. The purpose of these partnerships is to provide professional development to teachers to ensure that the teachers are prepared and meet high standards for teaching, particularly by educating and preparing prospective teachers in a classroom setting and enhancing the knowledge of in-service teachers while improving the education of the classroom students. Such partnerships also substantially increase interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and provide support, including preparation time, for such interaction.

84. Similar provision.

HR with an amendment to insert "local educational agencies" after "higher education,".

85. House bill contains no similar provision.

HR with an amendment to insert "Improve and" before "upgrade" and insert ", training" after "recruiting".

86. Similar provisions (wording differs).

HR

87. Senate amendment contains no similar provision.

HR

88. Similar provisions (wording differs).

SR

89. House bill contains no similar provision.

HR

90. House bill contains no similar provision.

HR

91. House bill reserves funds for States to award grants to partnerships (see Section 2023). Senate amendment authorizes a separate competitive grant program with grants awarded by the Secretary.

HR with an amendment to read as follows:

"Subpart 1—Grants for Math and Science Partnerships

"SEC. 2211. GRANTS AUTHORIZED.

"(a) Grants by the Secretary.—In any fiscal year in which the appropriations for this subpart are less than $100,000,000, the Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to carry out the authorized activities in section 2213.

"(b) Grants to States.—

"(1) In any fiscal year in which the appropriations for this subpart equal or exceed $100,000,000, the Secretary is authorized to make grants to State educational agencies to enable the State educational agency to award grants, on a competitive basis, to eligible partnerships to carry out the authorized activities in section 2213.

"(2) Subject to subparagraph (1), the Secretary shall allot the amount made available under this subpart for a fiscal year among the States in proportion to the number of children, aged 5 to 17, who reside within the State from families with incomes below the poverty line.

"(3) In any fiscal year in which this subsection applies, no State shall receive less than one half of one percent."

92. Senate amendment provides that the Secretary award grants for 5 years. House bill permits grants between 2 and 5 years.

HR with an amendment to strike "5" and insert "3".

93. Senate amendment, but not House bill, contains a provision that requires matching funds from States.

HR with an amendment to read as follows:

"(c) Special Rule.—Grant funds received under this subpart shall be used to supplement and not supplant funds that would otherwise be used for activities funded under this subpart."

94. Senate amendment requires that the Secretary give a priority for high need LEAs here, while House bill definition of "eligible partnership" requires that eligible partnerships contain a high need LEA (Section 2026).

SR

95. Similar provision except that House bill is an application to the State and the Senate amendment is an application to the Secretary.

HR with an amendment to read as follows:

"SEC. 2212. APPLICATION REQUIREMENTS.

"(a) In General.—Each eligible partnership desiring a grant under this subpart shall submit an application to the Secretary, if funds are awarded under section 2211(a), and to the State educational agency, if funds are awarded under section 2211(b), at such time, in such manner, and accompanied by such information as the Secretary or State educational agency, as the case may be, may require."

96. House bill requires a general assessment while the Senate amendment delineates specific elements that may be included in assessment of teacher quality and professional development.

HR with an amendment to read as follows and report language:

"(1) the results of a comprehensive assessment of the teacher quality and professional development needs of all the schools and agencies participating in the eligible partnership with respect to the teaching and learning of mathematics and science."

Report Language:

The application requirements for the partnership grants include completing and reporting on a comprehensive assessment of teacher quality in the relevant schools and districts. Such an assessment should include relevant information regarding the needs of the schools and districts with respect to the quality of teaching and learning of mathematics and science, including, but not limited to: (1) information regarding the participation of students in advanced courses in mathematics and science; (2) the percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics and science (respectively); (3) the number and percentage of mathematics and science teachers who participate in content-based professional development activities; and (4) the extent to which elementary teachers have the necessary content- knowledge to teach mathematics and science.

97. Similar provision except that Senate amendment includes local standards.

SR with an amendment to insert "and achievement" after "content".

98. Similar provisions.

SR with an amendment to strike "relevant" and insert "scientifically based" in House (3).

99. Senate amendment, but not House bill, requires a description of how the SEA and LEA will comply with requirements regarding participation by private school children and teachers.

HR with an amendment to read as follows:

"(5) a description of how the eligible partnership will continue the activities funded under this subpart after the original Federal grant has ended."

100. House bill provides that the SEA, working in conjunction with the State agency for higher education (if such agencies are separate), shall award subgrants on a competitive basis to eligible partnerships. Senate amendment authorizes a separate competitive grant program with grants awarded by the Secretary (see Section 2211).

HR

101. House bill, but not Senate amendment, provides that the State shall award for a period of not less than 2 and not more than 5 years.

HR

102. Similar provision.

HR

103. House bill contains no similar provision.

HR

104. House bill contains no similar provision.

HR

105. House bill contains no similar provision.

HR

106. Similar provision except that House bill is more detailed in summer professional development workshop requirements.

SR with an amendment to insert "including follow-up training" after "institutes".

107. Similar provisions except that House bill is focused on recruiting math, engineering and science students or mathematicians, engineers and scientists to teaching and Senate amendment is focused is on recruitment of math and science majors.

HR with an amendment to insert ", engineering" after mathematics in Senate (3) and insert ", engineering" after "mathematics" each place it appears in Senate (3)(A).

108. House bill contains no similar provision.

HR

109. House bill contains no similar provision.

HR with an amendment to insert ", engineering" after "mathematics".

110. House bill contains no similar provision.

HR with an amendment to insert ", engineering" after "mathematics".

111. House bill contains no similar provision.

HR with an amendment to insert ", engineering" after "mathematics" and strike "grounded in" and insert "based on scientifically based".

112. House bill contains no similar provision.

HR with an amendment to strike "novice" and insert "beginning and other".

113. Similar provision, except House bill includes mathematicians and engineers, and states a purpose for the activity.

SR

114. House bill contains no similar provision.

HR with an amendment to strike "master" and insert "exemplary".

115. House bill contains no similar provision.

SR

116. House bill contains no similar provision.

SR

117. Senate amendment provides for a priority for high need LEAs only for the mastery incentive system (House bill requires that all partnerships contain a high need LEA).

SR

118. House bill, but not Senate amendment, requires States to give priority to applications seeking to fund summer workshops.

HR

119. House bill contains no similar provision.

SR

120. House bill contains no similar provision.

HR with an amendment to read as follows:

"(12) Training teachers and developing programs to encourage young women and other underrepresented individuals in mathematics and science careers (including engineering and technology) to pursue postsecondary degrees in majors leading to such careers."

121. Senate amendment does not contain a provision regarding coordination with the Higher Education Act.

SR with an amendment to read as follows (see Note 299):

"(e) COORDINATION AND CONSULTATION.—

"(1) Partnerships receiving grants under section 203 of the Higher Education Act of 1965 (20 U.S.C. 1023) shall coordinate the use of such funds with any related activities carried out by such partnership with funds made available under this subpart; and

"(2) In carrying out the activities authorized by this subpart, the Secretary shall consult and coordinate activities with the Director of the National Science Foundation, particularly with respect to the appropriate roles for the Department and the Foundation in the conduct of summer workshops, institutes, or partnerships to improve mathematics and science teaching in elementary schools and secondary schools."

122. Similar provision, except all elements listed for Senate amendment are required; only House bill (1) is required.

SR with an amendment to read as follows (combine Notes 122 through 128):

"SEC. 2024. EVALUATION AND ACCOUNTABILITY PLAN.

"(a) IN GENERAL.—Each eligible partnership receiving a subgrant under this subpart shall develop an evaluation and accountability plan for activities assisted under this subpart that includes rigorous objectives that measure the impact of activities funded under this subpart.

"(b) CONTENTS.—The plan—.

"(1) shall include measurable objectives to increase the number of mathematics and science teachers who participate in content-based professional development activities; and

"(2) shall include measurable objectives for improved student performance on State mathematics and science assessments or, where applicable, an International Math and Science Study assessment;

"(3) may include objectives and measures for—

"(A) increased participation by students in advanced courses in mathematics and science;

"(B) increased percentages of elementary school teachers with academic majors or minors, or group majors or minors, in mathematics, engineering, or the sciences;

"(C) increased numbers of mathematics and science teachers who participate in content-based professional development activities; and

"(D) increased percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics and science, respectively."

123. House bill, but not Senate amendment, requires plan to include goals related to increasing the number of math and science teachers participating in content-based professional development.

SR (see Note 122).

124. Similar provision, except Senate amendment includes performance on TIMSS.

SR (see Note 122).

125. Identical provisions.

SR (see Note 122).

126. Senate amendment contains no similar provision.

SR (see Note 122).

127. House bill contains no similar provision.

SR (see Note 122).

128. Identical provisions.

SR (see Note 122).

129. Similar provision.

LC

130. Similar provision. House bill language applies only to subgrants made for 5-year period (House bill permits grants between 2 and 5 years to be made; only 5 year grants can be made under Senate amendment.

LC with an agreement to strike "performance".

131. Similar provision except House bill applies only to subgrants made for 5-year period (House bill permits grants between 2 and 5 years; only 5 year grants can be made under Senate amendment).

HR/SR (delete language).

132. Similar provision.

HR with an amendment to insert "if funds are awarded under section 2211(a)" after "a State educational agency" (LC on reference to section 2211(a)).

133. House bill does not specifically include an engineering department, but identifies private and state-supported public institutions of higher education; Senate amendment generally refers to institutions of higher education.

HR

134. House bill, but not Senate amendment, requires all partnerships to include a high need LEA.

SR

135. House bill allows another entire higher education institutions or teaching training departments within them. Senate amendment limits eligibility to only specific departments of higher education institutions.

HR

136. House bill, but not Senate amendment, specifically includes charter schools and consortia.

SR

137. Identical provision.

LC

138. Similar provision except that Senate amendment identifies a broader array of entities.

HR with an amendment to redraft and include report language:

"(iv) a nonprofit or for-profit organization of demonstrated effectiveness."

Report Language:

The conferees recognize that a nonprofit or for-profit organization of demonstrated effectiveness may include a museum, research institution, or a or high-impact public coalition composed of leaders from business, kindergarten through grade 12 education, institutions of higher education, public policy organizations, and other organizations.

139. Senate amendment defines "high need local educational agency" here.

HR/SR with an agreement to move redrafted definition of 'high need local educational agency to Title II definitions (see Note 297).

140. Similar definition (wording differences).

LC

141. Similar provision.

LC

142. Senate amendment, but not House bill, contains special rule to allow grants to be

used to hire teachers to reduce class size (House bill groups allowable activities together and also allows hiring of teachers).

SR

143. House bill list of uses is permissive. Senate amendment requires LEAs to carry out at least 1 of these activities.

HR

144. Senate amendment, but not House bill, allows LEAs to carry out these activities through a grant or contract with a for-profit or nonprofit entity.

HR

145. House bill is similar to Senate amendment Section 2123(a) (Special Rule). Senate amendment specifies retention as a focus on these activities (in subsequent provision House bill addresses retention).

HR with an amendment to read as follows:

"(8)(A) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers who will be assigned teaching positions within their field, principals, and pupil services personnel.

"(B) SPECIAL RULE.—Funds under this paragraph may be used for pupil services personnel only in cases in which the local educational agency deems appropriate, if the local educational agency is making progress toward meeting the objectives described in section 2141(a) [Accountability], and in a manner consistent with mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals."

146. Similar recruitment activities except that House bill allows funds to be used to recruit individuals who are underrepresented in the teaching field and the Senate amendment allows funds to be used to recruit teachers in order to reduce class size and special education teachers.

SR with an amendment to read as follows:

"(5) Initiatives to assist in recruiting, particularly activities that have proven effective in retaining highly qualified teachers, and hiring highly qualified teachers who will be assigned teaching positions within their field, including—

"(A) providing scholarships, signing bonuses or other financial incentives, such as differential pay, for teachers to teach in schools or in academic subject areas in which there exists a shortage of such highly qualified teachers within a school or the local educational agency;

"(B) recruiting and hiring highly qualified teachers to reduce class size, particularly in the early grades;

"(C) establishing programs that—

"(i) train and hire regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and nondisabled children);

"(ii) train and hire teachers of special needs children, who are highly qualified as well as teaching specialists in core academic subjects who will provide increased individualized instruction to students;

"(iii) recruit qualified professionals from other fields, including highly qualified paraprofessionals and provide such professionals with alternative routes to teacher certification, including hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, coupled with a system of intensive screening designed to hire the most qualified applicant; and

"(iv) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession."

147. House bill contains no similar provision.

HR with an amendment to read as follows and report language:

(1) Providing professional development activities that improve the knowledge of teachers and principals, and, where appropriate paraprofessionals, concerning—

"(A) 1 or more of the core academic subjects that the teachers and principals teach;

"(B) effective instructional strategies, methods, and skills and use of State academic content standards, student academic achievement standards, and assessments to improve teaching practices and student achievement;

"(C) effective instructional practices that—

"(i) involve collaborative groups of teachers and administrators;

"(ii) provide training in how to teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including those who are gifted and talented) and students with limited English proficiency;

"(iii) provide training in methods of improving student behavior in the classroom and how to identify early and appropriate interventions to help children described in (ii) learn;

"(iv) provide training to enable teachers and principals to involve parents in their child's education, especially parents of LEP and immigrant children; and

"(v) provide training on how to understand and use data and assessments to improve classroom practice and student learning."

Report Language:

The Conferees note that effective instructional practices that involve collaborative groups of teachers and administrators includes such strategies as the provision of dedicated time for collaborative lesson planning and curriculum development meetings; consultation with exemplary teachers; team teaching, peer observation, and coaching; provision of short-term and long-term visits to classrooms and schools; the establishment and maintenance of local professional development networks that provide a forum for interaction among teachers and administrators about content knowledge and teaching and leadership skills; and the provision of release time as needed for such activities.

The Conferees recognize that effective professional development strategies, methods, and skills may include implementing a year-round school schedule that allows the local educational agency to increase pay for teachers.

148. House bill specifies activities to promote retention of highly qualified teachers and principals, particularly in schools with high percentage of low-achieving students. Senate amendment provides for induction and support for teachers, principals, and assistant principals during their first 3 years of employment as teachers, principals, or assistant principals.

SR with an amendment to: strike "newly hired" and "such as" in House (A); strike "master" and insert "exemplary" in House (A); redesignate Senate (4) as new House (B); redesignate House (B) as (C); and redesignate House (C) as (D) and insert "and students with disabilities" after "minority groups".

149. House bill focuses mentoring on newly hired teachers as part of effort to retain highly qualified teachers and principals. Senate amendment specifies that teacher and principal mentoring is an allowable LEA activity.

SR on House (3)(A) with an amendment to read as follows (LC on references to section 2033 and part D):

"(A) innovative professional development programs (which may be through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 2033, and are coordinated with part D;"

SR on House (3)(B)

150. Similar provisions (wording differs).

LC with agreement to add report language:

Report Language:

The Conferees note that locally negotiated and collaboratively designed programs for performance based pay systems are an effective type of merit based pay in that performance based pay systems reward teachers for working together to raise student achievement for all students throughout the school.

151. Senate amendment contains no similar provisions.

SR with an amendment to strike House (4) and strike "exceptionally" in House (5).

152. Identical provision.

LC with an agreement to strike "master" and insert "exemplary".

153. House bill, but not Senate amendment, stipulates that if funding for partnerships under Subpart 2 is less than 15% of the State allocation minus state reservation for activities, administration and planning, the State shall use not less than the amount expended by the agency under section 2206(b) of this Act (as in effect on the day before the date of the enactment of the No Child Left Behind Act of 2001), for the fiscal year preceding the year in which such enactment occurs, to carry out professional development activities in mathematics and science.

HR

154. House bill contains no similar provision.

SR

155. House bill contains no similar provision.

HR with an amendment to read as follows (see Note 297 for definition of exemplary teacher):

"(7) Carrying out programs and activities related to exemplary teachers."

156. Similar provision.

HR

157. Senate amendment, but not House bill, requires applications to be based on the needs assessment.

HR

158. House bill contains no similar provisions.

HR with amendment to:

Strike "content standards, performance standards" in Senate (b)(1)(A)(i) and insert "academic standards, student academic achievement";

Strike "relevant" in Senate (b)(1)(B) and insert "scientifically based"; and

Strike "and student performance" in Senate (b)(2).

159. Similar provisions except House bill includes schools with large average class size.

SR with an agreement to use "highly qualified".

160. Similar provision.

SR

161. Similar provisions although House bill includes 21st Century Schools (Title V, Part A, Subpart 2), and Senate amendment includes Title II of HEA.

SR with an amendment to strike all after "local programs" in House (2).

162. House bill contains no similar provision.

HR with an amendment to combine with Note 164:

"(5) A description of the professional development activities that will be made available to teachers and principals under this subpart and how the local educational agency will ensure that the professional development (which may include teacher mentoring) needs of teachers and principals will be met using funds under this subpart."

163. Senate amendment contains no similar provision.

SR with an amendment to strike "to utilize technology to improve teaching and learning" and insert "to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy" (see Note 149).

164. House bill contains no similar provision.

SR

165. Similar provisions. House bill only applies to application preparation and specifies administrators. Senate amendment applies to planning activities and application preparation and includes paraprofessionals and identifies other relevant school personnel.

HR

166. House bill contains no similar provision.

HR

167. House bill contains no similar provision.

SR

168. House bill contains no similar provision.

SR (see Note 172).

169. House bill contains no similar provision.

HR with an amendment to read as follows:

"(11) A description of how the local educational agency will provide training to enable teachers to—

"(A) teach and address the needs of children with different learning styles, particularly students with disabilities, students with special learning needs (including those who are gifted and talented), and students with limited English proficiency;

"(B) improve student behavior in the classroom and identify early and appropriate interventions to help children described in (A) learn;

"(C) involve parents in their child's education; and

"(D) understand and use data and assessments to improve classroom practice and student learning."

170. House bill contains no similar provision.

HR

171. House bill contains no similar provisions on needs assessment.

HR with an amendment to strike "student performance" in (2) and insert "student academic achievement".

172. Senate amendment, but not House bill, contains accountability provisions for Title II. House bill contains accountability provisions in Title I and requires that all teachers be "fully qualified" by December 31, 2005.

HR with an amendment to read as follows:

"SEC. XXXX. TECHNICAL ASSISTANCE AND ACCOUNTABILITY.

"(a) IMPROVEMENT PLAN.—After the second year of the plan described in section 1119(a)(2), if a State educational agency, based on the reports described under section 1119(b)(1), determines that a local educational agency in the State has failed to make progress toward meeting the measurable objectives described in section 1119(a)(2), such local educational agency shall develop an improvement plan to enable the agency to meet such measurable objectives that specifically addresses issues that prevented the agency from meeting such measurable objectives.

"(b) TECHNICAL ASSISTANCE.—During the development of the improvement plan described in subsection (a) and throughout its implementation, the State educational agency shall—

"(1) provide technical assistance to the local educational agency; and

"(2) provide technical assistance, if applicable, to schools served by the local educational agency that need assistance to enable the local educational agency to meet the measurable objectives described in section 1119(a)(2).

"(c) ACCOUNTABILITY.—After the third year of the plan described in section 1119(a)(2), if the State educational agency determines, based on the reports described under section 1119(b)(1), that the local educational agency has failed to make progress toward meeting the measurable objectives described in section 1119(a)(2), and has failed to make adequate yearly progress as described under section 1111(b)(2), for 3 consecutive years, the State educational agency shall enter into an agreement with such agency on the use of its funds under this part. As part of this agreement, the State educational agency shall—

"(1) develop, in conjunction with the local educational agency, teachers, and principals, professional development strategies and activities, based on scientifically based research, that the local educational agency will use to meet the measurable objectives described under section 1119(a)(2) and require such agency to utilize such strategies and activities; and

"(2) prohibit the use of funds received under title I, part A to fund any paraprofessional hired after such determination is made by the State educational agency in subsection (c), except that if the local educational agency can demonstrate that a significant influx of population has substantially increased student enrollment, or can demonstrate an increased need for translators or assistance with parental involvement activities, the State may allow the hiring of new paraprofessionals, under title I, part A, to address these specific needs.

"(d) During the development of the strategies and activities described in subsection (c)(1), the State educational agency shall, in conjunction with the local educational agency, provide funds directly to a school or schools served by such local educational agency, for the teachers to choose, in continuing consultation with the principal, professional development consistent with the requirements of [reference "professional development" definition in General Provisions] and coordinated with other reform efforts at the school."

173. House bill contains no similar provision.

SR with agreement to send joint House and Senate letter to GAO.

174. House bill requires that professional development meet the requirements of the state Title I plan that all teachers are fully qualified by December 31, 2005 and contains similar language to House bill Title I, Section 1119(A).

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

175. House bill contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

176. Similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

177. House bill contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

178. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

179. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

180. House bill contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

181. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

182. House bill requires that professional development activities be tied to "scientifically based research." Senate amendment requires that activities be based on the "best available research."

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

183. Similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

184. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

185. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

186. House bill calls for professional development to enable teachers and principals to effectively use technology while Senate amendment seeks to strengthen teachers' ability to integrate technology into the curriculum.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

187. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

188. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

189. Similar provision (wording differs).

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

190. Similar provision (wording differs).

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

191. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

192. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

193. Senate amendment contains no similar provision.

HR/SR with an agreement to move redrafted definition of 'professional development' to General Provisions.

194. Senate amendment contains no similar provision regarding Teacher Opportunity Payments.

HR

195. Senate amendment contains no similar provisions.

HR

196. House bill incorporates the Troops-to-Teachers program into the ESEA. Senate amendment amends current law (Troops-to-Teachers Program Act of 1999—Title XVII of the National Defense Authorization Act of Fiscal Year 2000). [References to Senate language regarding Troops-to-Teachers reflect current law language as amended by Senate amendment].

SR

197. House bill contains no similar provision.

HR

198. Similar provision. Senate amendment amends Section 1701 to define "administering Secretary" to mean Secretary of Education (under House bill, by incorporation in ESEA, "Secretary" is the Secretary of Education).

SR

199. Senate amendment amends Section 1701 to strike definition of "alternative certification or licensure requirement" from current law (House bill has no definition of that phrase).

SR

200. Senate amendment amends Section 1701 to add active and former members of the Coast Guard to definition of "member of Armed Forces" (House bill specifies that program is for members and former members of the Armed Forces which includes Coast Guard).

SR

201. Similar provisions. House bill specifies members and former members of the Armed Forces who meet requirements of Section 2042; Senate amendment specifies members of the Armed Forces who retire.

SR

202. House bill, but not Senate amendment, uses term "fully qualified", to describe teachers.

SR with an amendment to strike "fully" and insert "highly".

203. Senate amendment amends current law to add assistance to members of the active reserve forces to activities. House bill has no comparable language.

SR (see Note 213).

204. House bill specifies employment in schools or as vocational or technical teachers.

SR

205. Senate amendment specifies employment by LEAs with shortages.

HR

206. Similar provisions except under House bill, the memorandum of agreement is between the Secretaries of Education and Defense. Under Senate amendment, the memorandum of agreement is between administering Secretary (Secretary of Education) and DANTES.

SR

207. Senate amendment, but not House bill, permits administering Secretary to retain funds to identify LEAs with concentrations of low-income children or teacher shortages, or States with alternative certification.

SR

208. Similar provision. House bill provision is similar to Section 1703(d) of current law as amended by Senate amendment.

LC

209. House bill requires Secretary of Education to provide information to Secretary of Defense for dissemination. Senate amendment has no comparable requirement for Secretary of Education although it requires Secretary of Defense to disseminate the information.

SR

210. Similar provisions. House bill characterizes placement and referral services as "regarding employment opportunities." House bill extends services to those leaving active duty under "other than adverse conditions," while Senate amendment specifies honorable discharge. (House bill in Section 2042(c)(3) requires honorable discharge for eligibility).

HR

211. Senate amendment, but not House bill, specifies that the members have to meet educational qualifications.

HR

212. House bill contains no similar provision to this new Subsection in Section 1702.

LC (see Note 206).

213. Provisions governing eligible members differ between House and Senate language. House bill covers several specific groups of members; Section 1703(a) as amended by Senate targets program to retirees from October 1, 2000 to September 30, 2006 or members of active reserve.

SR with an amendment add new paragraph at the end of (a)(1):

"(C) on or after the date of the enactment of the No Child Left Behind Act of 2001, has an approved date of voluntary retirement from the reserve and, as of the date the member submits an application to participate in the Program, has one year or less of reserve duty remaining before retirement."

SR with an amendment to (a)(2) to read as follows:

"(2) Any member who, on or after the date of the enactment of the No Child Left Behind Act of 2001—

"(A)(i) is separated or released from active duty after six or more years of continuous active duty immediately before the separation or release;

"(ii) has a total of ten years active or reserve duty; or

"(iii) has a combined total of ten years active duty and reserve service; and

"(B) executes a reserve commitment agreement for a period of three years under subsection (e)(2)."

214. Similar provisions.

LC

215. House bill specifies that application needs to be submitted during specified time period. Senate amendment amends section 1704(a) to strike "on a timely basis."

SR

216. No comparable provision in current law as amended by Senate.

SR

217. House bill provision is similar to section 1703(b) of current law as amended by Senate. Wording differs in some places. Primary difference is that House bill reduces from 10 to 6 the number of years of military experience in a vocational or technical field required as one option for member applying for placement as vocational or technical teacher.

SR

218. Section 1703(c) of current law as amended by Senate requires member's last period of service to have been characterized as honorable. House bill has similar language and adds provision directed to individuals selected to participate prior to retirement, separation, or release from active duty.

SR

219. House bill provision similar to section 1704(b) of current law as amended by Senate, but Senate amendment includes as selection priority members with educational or military experience in another subject area identified as important for national educational objectives.

SR

220. House bill provision similar to section 1704(c) of current law as amended by Senate (wording differs).

LC

221. No comparable provision in current law as amended by Senate.

SR (see Note 213).

222. House bill similar to section 1704(d) as amended by Senate.

LC

223. House bill, but not Senate amendment, uses term "fully qualified" to describe teachers.

SR with an amendment to strike "fully" and insert "highly".

224. Both House bill and Senate amendment would reduce the required commitment in current law from 4 years down to 3 years, only Senate permits Secretary of Defense to waive the 3 year commitment.

HR

225. House bill, but not Senate amendment, refers to charter schools.

SR with an amendment to strike "fully" and insert "highly" and insert "high need" after "years with a".

226. Similar provisions.

LC

227. House bill refers to an institution of higher education; current law as amended refers to eligible institution.

SR

228. House bill, but not Senate amendment, uses term "fully qualified."

SR with an amendment to strike "fully" and insert "highly".

229. House bill provision same as current law section 1705(a) as amended by Senate.

LC

230. House bill, but not Senate amendment, has limit on total number of stipends.

SR with an amendment to strike "3,000" and insert "5,000".

231. House bill provision similar to current law section 1705(b) as amended by Senate.

LC

232. House bill, but not Senate amendment, uses term "fully qualified."

SR with an amendment to strike "fully" and insert "highly".

233. House bill reduces commitment to 3 years; current law as amended by Senate does not.

SR

234. House bill, but not Senate amendment, has limit on total number of bonuses.

SR with an amendment to strike "1,000" and insert "3,000".

235. House bill specifies that high need school must meet 1 or more of 3 criteria involving students counted for purposes of making Title I grants, students qualifying for IDEA assistance, or any other criteria established by Secretary in consultation with National Assessment Governing Board. Current law as amended by Senate stipulates that school must be in a low-income district as defined by the Secretary.

SR with an amendment to strike House (C).

236. Identical provision.

LC

237. House bill provisions regarding reimbursement required, amount of reimbursement, treatment of obligation, exceptions to reimbursement requirement, and relationship to educational assistance under Montgomery GI Bill are similar to current law section 1705(d)(1)–(3) as amended by Senate (wording differs).

LC

238. Current law section 1705(d)(4) describes how interest is to be calculated on amounts owed by participants; House has no comparable language.

SR

239. Similar provision.

LC

240. House bill and current law section 1706(a) as amended by Senate amendment are similar; terms used to reference Secretary differ.

LC

241. House bill and current law section 1706 (b) as amended by Senate are similar, but Senate amendment does not include the $4 million obligation limitation and does not refer to "former members."

SR with an amendment to strike “4,000,000” and insert “5,000,000”.

242. Similar provision except House bill describes purpose in more detail.

SR

243. House bill refers to vocational or technical teachers; current law as amended by Senate does not.

SR

244. Virtually identical provisions.

LC

245. House bill, but not Senate amendment, provides that the program must address additional requirements set by Secretary.

SR

246. Similar provisions. House bill includes States among entities eligible to submit applications and Senate amendment gives administering Secretary discretion over the timing and manner of and information in, applications.

LC

247. House bill provides that continuation of program is not responsibility of the Secretary. Senate amendment permits higher education institutions wanting to continue program to use tuition charges to do so.

HR/SR with an agreement to keep provisions in House bill and Senate amendment.

248. House bill, but not current law as amended by Senate, has funding limitation.

SR with an amendment to strike “5,000,000” and insert “10,000,000”.

249. Senate amendment has no comparable provision.

SR with an amendment to: strike “each year” and insert “2006”; strike “each” after “Comptroller General shall”; and strike House (c).

250. Current law as amended by the Senate only defines "administering Secretary," "member of the Armed Forces," and "State."

SR

251. House bill authorizes $50 for both Troops-to-Teachers and Transition-to-Teaching programs combined. Senate amendment authorizes $50 million solely for the Troops-to-Teachers program.

HR/SR with an agreement to authorize $150 million for both Troops-to-Teachers and Transition to Teaching programs combined of which up to $30 million shall be reserved for Troops-to-Teachers. (see Note 289)

252. Senate amendment includes a Transition to Teaching authority among the required national activities that the Secretary must support (this is separate from the Careers to Classrooms authority). House bill Transition to Teaching program is delineated with features similar to the Senate Careers to Classrooms. Those two programs are aligned below.

SR with an amendment to: strike Senate (d); strike “Careers to Classrooms” in heading of Senate (e) and insert “Transition to Teaching” (LC throughout); and insert continuation of award language for current grantees.

253. House bill refers to high need LEAs and career changers, and identifies specific subject areas. Senate amendment addresses its purposes to mid career professionals, recent college graduates, and paraprofessional, and references high need schools.

HR with an amendment to: strike “and certain paraprofessionals”; and insert “(including highly qualified paraprofessionals)” after “mid-career professionals”.

254. Senate amendment, but not House bill, has development and expansion of alternative certification as a purpose.

HR

255. House bill defines "program participants" and Senate amendment defines "eligible participant" differently (Senate amendment definition establishes more specific criteria that vary depending upon the level of instruction.).

HR with an amendment to read as follows:

"(A) ELIGIBLE PARTICIPANT.—The term 'eligible participant' means—

"(i) an individual with substantial demonstrable career experiences, including a highly qualified paraprofessional; or

"(ii) an individual who is a graduate of an institution of higher education who—

"(A) has graduated not later than 3 years before applying to an agency or consortium to teach under this subsection; and

"(B) in the case of an individual wishing to teach in a secondary school, has completed an academic major (or courses totaling an equivalent number of credit hours) in the academic subject that the individual will teach."

256. House bill contains no similar provision.

HR/SR with an agreement to move redrafted definition of “high need local educational agency” to Title II definitions (see Note 297).

257. House bill contains no similar provision.

HR

258. House bill contains no similar provision.

SR

259. House bill contains no similar provision.

SR (definition of “poverty line” moved to General Provisions).

260. House bill authorizes grants to higher education institutions; Senate amendment has priority for collaborations with higher education institution or nonprofit organization with a proven record regarding teacher recruitment and retention.

HR with an amendment to read as follows:

"(3) GRANT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish a program to make grants on a competitive basis to eligible entities to develop State and local teacher corps or other programs to establish, expand, or enhance teacher recruitment and retention efforts.

"(B) ELIGIBLE ENTITY.—An eligible entity described in (A) means a:

"(i) State educational agency;

"(ii) high need local educational agency;

"(iii) for-profit and nonprofit organization that has a proven record of effectively recruiting and retaining highly qualified teachers in partnership with a high need local educational agency or a State educational agency;

"(iv) institution of higher education in partnership with a high need a local educational agency or a State educational agency;

"(v) regional consortia of State educational agencies; or

"(vi) consortia of high need local educational agencies.

"(C) PRIORITY.—In making such a grant, the Secretary shall give priority to an eligible entity that applies for a grant in partnership with a high need local educational agency or a State educational agency."

Report Language:

For a grant that involves a for-profit organization, nonprofit organization, or an institution of higher education, the conferees intend that such entities may apply for and receive a grant from the Secretary. In doing so, such entities shall describe in their application how the entity will partner with a high need local educational agency or State educational agency.

261. Similar provision.

LC

262. House bill contains no similar provision.

HR with an amendment to read as follows:

"(B) CONTENTS.—The application shall—

"(i) describe the target recruitment group upon which the applicant will focus its recruitment efforts and the characteristics of the target group that shows the knowledge and experience of its members and demonstrates that the members are eligible to meet the purpose of this section;

"(ii) describe how the applicant will use funds received under this subsection to develop a teacher corps or other program to recruit and retain highly qualified mid-career professionals, including highly qualified paraprofessionals, recent college graduates and graduate school graduates, as highly qualified teachers in high need schools;

"(iii) explain how the program will meet the relevant State laws (including regulations) related to teacher certification and licensing and facilitate the certification or licensing of such teachers;

"(iv) describe how the grant will increase the number of highly qualified teachers in high need schools in high need school districts (that are urban or rural) and in high need academic subjects in the jurisdiction served by the applicant; and

"(v) a description of how the applicant will collaborate, as needed, with other institutions, agencies, or organizations to recruit, particularly through activities that have proven effective in retaining highly qualified teachers, train, place, support, and provide teacher induction programs to program participants under this section, including evidence of commitment of those institutions, agencies, or organizations to the applicant's program."

263. Senate amendment contains no similar provision.

HR/SR (provisions redrafted under Note 262).

264. House bill contains no similar provision.

HR/SR (provisions redrafted under Note 262).

265. Similar provision.

HR/SR (provisions redrafted under Note 262).

266. House bill contains no similar provision.

HR/SR (provisions redrafted under Note 262).

267. House bill contains no similar provision.

HR/SR (provisions redrafted under Note 262).

268. House bill contains no similar provision.

HR/SR (provisions redrafted under Note 262).

269. House bill contains no similar provision.

HR/SR (provisions redrafted under Note 262).

270. House bill contains no similar provision.

HR/SR (provisions redrafted under Note 262).

271. House bill contains no similar provision.

HR/SR (provisions redrafted under Note 262).

272. House bill contains no similar provision.

HR/SR (provisions redrafted under Note 262).

273. House bill requires collaboration in implementation of the program. Senate amendment requires collaboration in development of the application and delineates a broader range of individuals and entities.

HR/SR (provisions redrafted under Note 262).

274. Senate amendment contains no similar provision.

HR/SR (provisions redrafted under Note 262).

275. House bill contains no similar provision.

HR

276. Similar provisions (wording differs).

LC

277. House bill contains no similar provision.

HR

278. Senate amendment, but not House bill, has general statement of uses of funds.

HR with an amendment to read as follows:

"(8) USES OF FUNDS.—

"(A) IN GENERAL.—An applicant that receives a grant under this subsection shall use the funds made available through the grant to develop a teacher corps or other program in order to establish, expand, or enhance a teacher recruitment program for highly qualified mid-career professionals, including highly qualified paraprofessionals, and graduates of institutions of higher education, who are eligible participants, including activities that provide alternative routes to teacher certification.

"(B) AUTHORIZED ACTIVITIES.—The applicant shall use the funds to carry out a program that includes 2 or more of the following activities—

"(i) Providing scholarships, stipends, bonuses, and other financial incentives, that are linked to participation in activities that have proven effective in retaining teachers in higher need school districts, to all eligible participants, not to exceed $5,000 per participant;

"(ii) Pre-and post-placement induction or support activities that have proven effective in recruiting and retaining teachers such as mentoring, internships, high quality, preservice course work and high quality, sustained in-service professional development;

"(iii) Placement and ongoing activities to ensure that teachers are placed in fields which they are qualified to teach and are placed in the highest need schools;

"(iv) Make payments to schools to pay for costs associated with accepting teachers recruited under this subsection from among eligible participants or to provide financial incentives to prospective teachers who are eligible participants;

"(v) Collaborate with institutions of higher education in developing and implementing programs to facilitate teacher recruitment (including teacher credentialing) and teacher retention programs;

"(vi) Carry out other programs, projects, and activities that are designed and have proven to be effective in recruiting and retaining teachers; and that the Secretary determines to be appropriate; and

"(vii) Develop Long-term Recruitment and Retention Strategies including a statewide or region wide clearinghouse for the recruitment and placement of teachers, the establishment of administrative structures to development and implement programs to provide alternative routes to certification, reciprocity agreements between or among States for the certification or licensure of teachers, or other long-term teacher recruitment and retention strategies.

"(C) EFFECTIVE ACTIVITIES.—The applicant shall use the funds only for activities that have proven effective in both recruiting and retaining teachers."

279. House bill permits funds to be used for identified activities. Senate amendment requires grantees to carry out a teacher corps or other program including 2 or more of the listed activities.

HR/SR (provisions redrafted under Note 278).

280. Senate amendment contains no similar provision.

HR/SR (provisions redrafted under Note 278).

281. Similar provisions except Senate amendment delineates incentives in detail and identifies criteria the participants must meet.

HR/SR (provisions redrafted under Note 278).

282. Senate amendment, but not House bill, authorizes payments to participating schools.

HR/SR (provisions redrafted under Note 278).

283. Senate amendment contains no similar provision.

HR/SR (provisions redrafted under Note 278).

284. Senate amendment contains no similar provision.

HR/SR (provisions redrafted under Note 278).

285. House bill provides for general post-placement activities for participants. Senate amendment enumerates several such activities.

HR/SR (provisions redrafted under Note 278).

286. House bill and Senate amendment have similar provisions governing length of required service and repayment. House bill defines period of service as at least 3 years in high need LEA. Senate amendment requires recipient to teach for at least 2 years in high need school during 5 year period following completion of training.

SR

287. House bill contains no similar provision.

HR

288. House bill contains no similar provision.

HR

289. House bill authorizes $50 million for both Troops-to-Teachers and Transition-to-Teaching programs combined. Senate amendment authorizes $200 million solely for the Careers to Classrooms program and $50 million solely for Troops-to-Teachers program.

HR/SR with an agreement to authorize $150 million for both Troops-to-Teachers and Transition to Teaching programs combined of which up to $30 million shall be reserved for Troops-to-Teachers. (see Note 251)

290. Senate amendment, but not House bill, provides for a National Teacher Recruitment Campaign.

HR with an agreement to move redrafted provision to Subpart 5 of Part A.

291. House bill contains no similar provisions.

SR

292. Senate amendment, but not House bill, contains "National Programs."

HR

293. Senate amendment authorizes a separate program for school leadership with separate authorization of $50 million for FY02 and such sums as may be necessary for each subsequent fiscal year.

HR with an agreement to move redrafted provision to Subpart 5 of Part A.

294. Senate amendment, but not House bill, requires Secretary to support activities related to advanced certification with grants awarded to the National Board for Professional Teaching Standards.

HR with an agreement to move to Subpart 5 of Part A and an amendment to read as follows and report language:

"(d) ADVANCED CERTIFICATION OR ADVANCED CREDENTIALING.—

"(1) IN GENERAL.—The Secretary shall support activities to encourage and support teachers seeking advanced certification or advanced credentialing through high quality professional teacher enhancement programs designed to improve teaching and learning.

"(2) IMPLEMENTATION.—In carrying out paragraph (1), the Secretary shall make grants to eligible entities to—

"(A) develop teacher standards which include measures tied to increased student academic achievement; and

"(B) to promote outreach, teacher recruitment, teacher subsidy, or teacher support programs related to teacher certification by the National Board for Professional Teaching Standards, the National Council on Teacher Quality, and other nationally recognized certification organizations.

"(3) ELIGIBLE ENTITIES.—Under this section, eligible entities include—

"(A) State educational agencies;

"(B) local educational agencies;

"(C) the National Board for Professional Teaching Standards in partnership with a high need local educational agency or a State educational agency;

"(D) the National Council on Teacher Quality in partnership with a high need local educational agency or a State educational agency; or

"(E) other recognized entities, including other recognized certification organizations, in partnership with a high need local educational agency or a State educational agency."

"(e) SPECIAL EDUCATION TEACHER TRAINING.—The Secretary is authorized to award a grant to the University of Northern Colorado to enable such university to provide other institutions of higher education assistance in training special education teachers."

Report Language:

For a grant that involves the National Board for Professional Teaching Standards, the National Council on Teacher Quality, or other recognized certification organizations, the conferees intend that such entities may

apply for and receive a grant from the Secretary. In doing so, such entities shall describe in their application how the entity will partner with a high need local educational agency or State educational agency.

In recognition of the importance of teachers having current content knowledge, as well as pedagogical expertise, the conferees urge that the Secretary give priority to applicants that show that the weight given to the content knowledge portion of the advanced certification or credentialing is at least 60 percent, and provide assurances that they will work with the Secretary and States to conduct outreach activities for teachers serving in high poverty areas to seek advanced certification or credentialing and provide them with incentives to obtain such certification or credentialing.

295. House bill authorizes $3.6 billion for FY 02 and such sums as may be necessary for the next four years. In addition, House bill authorizes $50 million for the Troops-to-Teachers and Transition-to-Teaching programs combined. Senate amendment authorizes $3 billion (other than subpart 5) for FY 02 and such sums as may be necessary for each of the 6 succeeding fiscal years. In addition, Senate amendment authorizes $100 million (other than subsections (b), (e), and (f)) for FY 02 and such sums as may be necessary for each of the 6 succeeding fiscal years. [See section 1003(b) for specific authorization levels through FY 08].

HR with an amendment to strike "3,000,000,000" in section 2103(a) and insert "3,175,000,000" and to strike "6 succeeding" and insert "5 succeeding" and an agreement to authorize National Activities at such sums.

296. House bill contains no similar provision.

SR

297. House bill and Senate amendment define different terms.

HR/SR with an agreement to define the following terms in Title II:

"(1) ARTS AND SCIENCES.—The term 'arts and sciences' means—

"(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

"(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

"(2) CHARTER SCHOOL.—The term 'charter school' has the meaning given the term in section 5120.

"(3) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term 'high need local educational agency' means—

"(A) a local educational agency which serves at least 10,000 children from families with incomes below the poverty line; or more than 20 percent of the children served by such agency are from families with incomes below the poverty line; and

"(B) a local educational agency in which there is a high percentage of teachers not teaching in the content area in which the teachers were trained to teach.

"(4) HIGHLY QUALIFIED PARAPROFESSIONAL.—The term 'highly qualified paraprofessional' means a paraprofessional—

"(i) with at least two years of experience in a classroom; and

"(ii) with at least two years of postsecondary education or has demonstrated competence in a field or subject matter for which there is a significant shortage of qualified teachers.

"(5) OUT-OF-FIELD TEACHER.—The term 'out-of-field teacher' means a secondary school teacher who is teaching an academic subject for which the teacher is not highly qualified.

"(6) PUBLICLY REPORT.—The term 'publicly report', when used with respect to the dissemination of information, means that the information is made widely available to the public, including parents and students, in an understandable and uniform format, and to the extent practicable in a language the parent can understand, through such means as the Internet and major print and broadcast media outlets."

298. House bill contains no similar provision.

SR

299. House bill contains no similar provision.

SR (see Note 121).

300. Senate amendment separately authorizes math and science partnerships at $900 million (House bill math and science partnerships are reserved under Title II, Part A authorization).

HR with an amendment to strike "$900,000,000" and insert "$450,000,000".

301. Senate amendment, but not House bill, authorizes funds for clearinghouse.

SR

302. House bill transfers and continues the National Writing Project as Part B of Title II. Senate amendment amends entire program to "read as follows" as Part B of Title XVI. (Subsequent references to "current law" are to current law as extended by provisions in House bill).

HR/SR with an agreement to move to Subpart 3 of Part C.

303. Senate amendment, but not House bill, adds "continuing."

SR

304. Senate amendment, but not House bill, adds new text beginning with "the shortage of . . ."

SR

305. Senate amendment adds new statistics regarding writing.

SR

306. Senate amendment similar to current law (wording differs).

SR

307. Senate amendment similar to current law (wording differs).

SR

308. No comparable provision in current law.

SR

309. Senate amendment similar to current law (wording differs).

SR

310. Senate amendment modifies current law which describes teachers in all regions of the country who have developed successful methods for teaching writing.

SR

311. Senate amendment similar to current law (wording differs).

SR

312. Senate amendment adds "reading" to current law.

SR

313. Senate amendment updates current law statistics.

SR

314. Senate amendment replaces two subsections from current law that describe results of studies and amount of funding leveraged by federal support.

SR

315. Senate amendment, but not House bill, drops language describing National Writing Project summer and school year activities, teachers-teaching-teachers, career-long education, the number of sites needed to serve all teachers, and the inadequate nature of private foundation resources for National Writing Project.

HR

316. No comparable provision in current law.

HR

317. Similar provision to current law, except Senate amendment drops list of activities.

HR

318. Except where noted, Senate amendment retains current law.

HR

319. Senate amendment similar to current law (wording differs).

HR

320. Senate amendment increases maximum for individual contractor from $40,000 to $100,000.

HR

321. Senate amendment drops current law language regarding classroom teacher grants.

HR

322. Senate amendment updates current law which applied limit to FY 1994 and succeeding four fiscal years.

HR

323. House bill authorizes such sums as may be necessary for FY 02 and succeeding four fiscal years. Senate amendment specifies authorization of $15 million for FY 02 and such sums as may be necessary for succeeding 6 fiscal years.

HR with an amendment to strike "6 succeeding fiscal years" and insert "5 succeeding fiscal years".

324. Senate amendment contains no similar provision.

SR

325. House bill "Civic Education" is Part C of Title II and Senate amendment "Education for Democracy" is Part D of Title XVI.

HR/SR with an agreement to move to Subpart 4 of Part C.

326. Identical provision.

LC

327. Identical provisions.

HR/SR (no findings).

328. Identical provisions.

HR

329. Identical provisions.

HR/SR with an agreement that:

The allocation reserved for the "We the People Program" be awarded to the Center for Civic Education; and

The allocation reserved for "Cooperative Civic Education and Economic Education Exchange Programs" be awarded to the Center for Civic Education (37.5 percent); the National Council on Economic Education (37.5 percent); and up to 3 grants to other organizations (25 percent).

330. House bill contains similar provisions throughout this part but requires the Secretary of Education to get the "concurrence" of the Secretary of State.

HR with an amendment to strike Senate (2).

331. Virtually identical provisions.

LC

332. House bill provides for "allowable" uses of funds; Senate amendment has "requirements"—provisions are otherwise identical.

SR

333. Virtually identical provision.

HR

334. Virtually identical provisions.

LC

335. House bill provides for "allowable" uses of funds; Senate amendment has "requirements"—provisions are otherwise identical.

SR

336. Virtually identical provisions.

HR

337. Virtually identical provisions.

HR

338. House bill has similar avoidance of duplication provisions (see below).

SR

339. Virtually identical provisions.

LC

340. Senate amendment has similar avoidance of duplication provisions (see above).

SR

341. Similar definition except that House bill requires the "concurrence" of the Secretary of State as compared to "consultation" under Senate amendment.

SR

342. House bill authorizes such sums as may be necessary for each of FY 02 through FY 06 with a limitation on funding for activities under subsection (a)(2). Senate amendment authorizes $15 million for Section 11304 for FY 02 and such sums as may be necessary for each of FY 03 through FY 08 and authorizes $12 million for Section 11305 for FY 02 and such sums as may be necessary for each of FY 03 through FY 08.

HR/SR with an agreement to use a single authorization for FY 2002 of $30 million, of which not more than 40 percent of the amount appropriated shall be used for Cooperative Civic Education and Economic Education Exchange Programs.

343. Similar provisions except where noted.

SR

344. House bill has "Liability" in the title.

HR with an amendment to strike findings.

345. Senate amendment has concluding phrase "which are critical for the continued economic development of the United States."

HR/SR (no findings).

346. House bill contains no similar provision.

HR with an amendment to strike (5) and (6) in findings and in section 10003 add new (a):

"(a) This title shall only apply to those States that receive funds under this Act, and shall apply to such a State as a condition of receiving such funds."

347. Similar provisions (wording differs).

HR

348. House bill contains no similar provision.

HR

349. Senate amendment contains no similar provision.

HR

350. House bill contains no similar provision.

HR

351. House bill includes school board, and local educational agency and any employee of the agency in definition of "teacher." Senate amendment specifies terms applies only to members of a school board and does not reference districts and district employees.

SR with an amendment to (6) to read as follows:

"(6) TEACHER.—The term 'teacher' means a teacher; instructor; principal; administrator; other educational professional that works in a school; professional or non-professional employee that works in a school whose job it is to maintain discipline or ensure safety, or due to an emergency is called upon to maintain discipline or ensure safety; or an individual member of a school board (as distinct from the board itself)."

352. House bill contains no similar provision.

HR with an amendment to strike "the Paul D. Coverdell Teacher Protection Act of 2001" and insert "[Short Title of this Act]".

353. Similar provision (wording differs).

HR

354. House bill contains no similar provision.

HR with an agreement to move redrafted Early Childhood Educator Professional Development provisions to Subpart 5 of Part A.

355. House bill contains no similar provision.

HR/SR with an agreement to move National Panel on Teacher Mobility to Subpart 5 of Part A and add report language.

Report Language:

Research indicates that many qualified teachers are not presently working as teachers despite the growing shortage of teachers in many communities due to obstacles related to teacher mobility. The bill includes authorization for a Panel on Teacher Mobility to study strategies for increasing mobility and employment opportunities for qualified teachers, especially in States with teacher shortages and States with districts or schools that are difficult to staff. Conferees do not intend pension portability be addressed by the panel.

However, the conferees note that the portability of teacher pensions was extensively addressed in P.L. 107-16, the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGATRRA). The new provisions will generally be effective on January 1, 2002. Previous law hindered teachers' ability to move their pension benefits with them when they took new jobs. The new provisions break down the barriers thereby enhancing teachers' mobility. Thus, teachers can now take new employment while more fully preserving their pension benefits.

Title III, Part A—Bilingual
(New Title III)

1. The House bill and Senate Amendment have different titles.

HR/SR with an amendment to title this part: the "English Language Acquisition, Language Enhancement, and Academic Achievement Act".

2. The House bill, but not the Senate Amendment, lists findings. The Senate Amendment, but not the House bill, provides that Part D only becomes enacted if appropriations are $700 million or more.

HR

3. The Senate Amendment, but not the House bill, states policy of the federal government.

HR/SR with an amendment to strike all legislative language in notes 3–12 and insert:

"(b) PURPOSES.—The purposes of this part are—

"(1) to help ensure that children who are limited English proficient, including recent immigrant children and youth attain English proficiency develop high levels of academic attainment in English, and meet the same challenging state academic content standards and challenging state student academic achievement standards expected of all children;

"(2) to assist all limited English proficient students, including recent immigrant children and youth, to achieve at high levels in the core academic subjects so that those students can meet the same challenging state academic content and student academic achievement standards that all students are expected to meet, consistent with section 1111(b)(1);

"(3) to develop high-quality programs designed to assist state educational agencies, local educational agencies and schools in teaching limited English proficient children and serving recent immigrant children and youth;

"(4) to assist state educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient students, including recent immigrant children and youth, to enter all-English instructional settings;

"(5) to assist state educational agencies, local educational agencies and schools to build their capacity to establish, implement, and sustain programs of instruction and English language development for limited English proficient students;

"(6) to promote parental and community participation in programs for limited English proficient students;

"(7) to streamline language instruction educational programs into a program carried out through formula grants to state and local educational agencies to help limited English proficient students, including recent immigrant children and youth, develop proficiency in English, while meeting state academic content and student academic achievement standards;

"(8) to hold state educational agencies, local educational agencies and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient students by requiring:

"(A) demonstrated improvements in the English proficiency of limited English proficient students each fiscal year; and

"(B) adequate yearly progress with limited English proficient students, including recent immigrant students, as described in section 1111(b) (2); and

"(9) to provide state educational agencies and local educational agencies with the flexibility to implement the instructional programs, based on scientifically based research on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English."

4. Using different language, the House bill and the Senate Amendment state purposes.

HR/SR (see note 3)

5. Using different language, the House bill and the Senate Amendment state that the purpose of this part is to help LEP children attain English proficiency and develop high levels of achievement in academic areas. The House bill, but not the Senate Amendment includes academic attainment in English. The Senate Amendment, but not the House bill, includes attaining English "as quickly and as effectively as possible."

HR/SR (see note 3)

6. The House bill, but not the Senate Amendment, states the purpose is to develop high-quality programs to assist LEAs in teaching LEP children. (Similar to note 5)

HR/SR (see note 3)

7. The House bill states this similar provision in note 5.

HR/SR (see note 3)

8. The House bill, but not the Senate Amendment, states the purpose is to assist LEAs to develop and enhance high-quality instruction programs designed to prepare LEP students, including recent immigrant students, to enter all-English instructional settings within 3 years. The Senate Amendment, in note 1, says "as quickly and effectively as possible."

HR/SR (see note 3)

9. The Senate Amendment, but not the House bill, states that LEP students develop

English proficiency as quickly and as effectively as possible by streamlining language instruction educational programs into performance-based grants for SEAs and LEAs.

HR/SR (see note 3)

10. The Senate Amendment, but not the House bill, requires states to help LEAs and schools demonstrate improvements in English proficiency each fiscal year.

HR/SR (see note 3)

11. The Senate Amendment, but not the House bill, specifically states that states are required to ensure that LEPs make AYP.

HR/SR (see note 3)

12. Using different language, the House bill and the Senate Amendment, both provide SEAs and LEAs flexibility to implement instructional programs tied to scientifically based research and that agencies believe to be the most effective for teaching English. The House bill, but not the Senate Amendment, uses "scientifically based reading research and sound research and theory."

HR/SR (see note 3)

13. Using different language, the House bill and the Senate Amendment provide provisions for parental notification.

(Notes 13 and 15–39, 124 and 223)

HR/SR with an amendment to strike all legislative language in notes 13 and 15–39 and insert:

"SEC. 3. PARENTAL NOTIFICATION.

"(a) In General.—(1) Each eligible entity using funds under this title to provide high-quality language instruction educational programs shall inform a parent or parents of a child participating in such a program of—

"(A) the reasons for the identification of their child as limited English proficient and being in need of placement in a language instruction educational program;

"(B) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

"(C) the program and methods of instruction available, including how such programs differ in content, instructional goals, and use of English and a native language in instruction;

"(D) how the language instruction educational program will meet the educational strengths and needs of their child;

"(E) how such language instruction program will specifically help the child acquire English, and meet age appropriate academic achievement standards for grade promotion and graduation;

"(F) the specific exit requirements for the program, including the expected rate of transition from the program into classrooms that are not tailored for limited English proficient students, and the expected rate of graduation from high school for the program if funds under this title are used for children in secondary schools;

"(G) in the case of a student with a disability who participates in an language instruction educational program, how the program meets the objectives of the individualized education program of the student;

"(H) If applicable, the entity's failure to make progress on the annual measurable achievement objectives in section 3329(a). Such notice shall be sent in addition to the parental notification of their child as in need of participation in a language instruction educational program; and

"(I) information pertaining to parental rights, that includes written guidance—

"(i) detailing the options that parents have to remove their child from an language instruction educational program, and shall give parents an opportunity to decline such enrollment, and the right to have their child immediately removed from a language instruction educational program upon their request; and

"(ii) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

"(b) Receipt of Information.—The notice and information provided in subsection (a) to a parent or parents of a child identified for participation in an language instruction educational program for limited English proficient children shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

"(c) Special Rule Applicable During the School Year.—For those children who have not been identified as limited English proficient prior to the beginning of the school year the eligible entity shall notify parents within the first two weeks of the child being placed in a language instruction educational program consistent with subsections (a) and (b).

"(d) Parental Participation.—Each eligible entity using funds under this title shall implement an effective means of outreach to parents of limited English proficient students to inform parents of how they can be involved in the education of their children, and be active participants in assisting their children to attain English and achieve at high levels in core academic subjects and meet challenging state academic achievement standards and state academic content standards expected of all students, including holding and sending notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this title.

"(e) Basis for Admission or Exclusion.—A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status."

14. In developing regulations, the Senate Amendment, but not the House bill, requires the Secretary to consult with SEAs, LEAs, organizations representing LEP individuals, and teachers and other personnel involved with teaching LEP students.

HR

15. Using different language, the House bill and the Senate Amendment, provide provisions for parental notification

HR/SR—see note 13.

16. In a different order, both the House bill and the Senate Amendment require the reasons for the child being in need of language instruction. (See note 23) The House bill, but not the Senate Amendment uses English language instruction. The Senate Amendment, but not the House bill, uses language instruction educational program.

HR/SR—see note 13.

17. Using different language, both the House bill and the Senate Amendment, require the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement. The Senate Amendment, but not the House bill, further requires the implications of the student's educational strengths and need for age- and grade-appropriate academic attainment, grade promotion, and graduation.

HR/SR—see note 13.

18. The Senate Amendment, but not the House bill, requires programs available to meet the student's educational strengths and needs, and how the programs differ in content and instruction.

HR/SR—see note 13.

19. The Senate Amendment, but not the House bill, provides for students with a disability participating in a language instruction educational program.

HR/SR—see note 13.

20. Using different language, both the House bill and the Senate Amendment, provide for how the program will help the LEP child acquire English and meet age-appropriate standards for grade promotion and graduation. The Senate Amendment, but not the House bill, also requires the instructional goals of the program.

HR/SR—see note 13.

21. The Senate Amendment, but not the House bill, further requires the characteristics, benefits, and past academic results of such language program and of instructional alternatives.

HR/SR—see note 13.

22. The House bill, but not the Senate Amendment, requires the specific exit requirements for the language program.

HR/SR—see note 13.

23. Both the House bill and Senate Amendment contain this provision in a different order. (See note 16)

HR/SR—see note 13.

24. The House bill, but not the Senate Amendment, requires the expected rate of transition from the program into a classroom not tailored for LEP children.

HR/SR—see note 13.

25. The Senate Amendment, but not the House bill, requires parents be informed of how they can participate and be involved in the language instruction program.

HR/SR—see note 13.

26. The House bill, but not the Senate Amendment, requires that if funds are used for children in secondary schools parents be informed of the expected rate of graduation from high school.

HR/SR—see note 13.

27. The House bill, but not the Senate Amendment, requires LEAs to make a "reasonable and substantial effort" to obtain informed parental consent prior to the placement of a child in an English language instruction program if the program does not exclusively use the English language in instruction. The Senate Amendment provides that parents be informed and provided an option to decline enrollment in a program. (See note 31)

HR/SR—see note 13.

28. The House bill, but not the Senate Amendment, requires LEAs to maintain a written record if parental consent cannot be obtained.

HR/SR—see note 13.

29. The House bill, but not the Senate Amendment, requires LEAs to mail or deliver a copy of the written record and a final request for consent before providing services to LEP students.

HR/SR—see note 13.

30. The House bill, but not the Senate Amendment, provides for situations when children are not identified as limited English proficient prior to the beginning of the school year.

HR/SR—see note 13.

31. The Senate Amendment, but not the House bill, requires that parents be informed of their option to decline enrollment of their LEP child in a program.

HR/SR—see note 13.

32. The House bill, but not the Senate Amendment, requires that parents select among programs if more than one method is offered and have the right to immediately remove their child from the program upon their request.

HR/SR—see note 13.

33. The Senate Amendment, but not the House bill, provides that LEAs cannot be relieved of the agency's obligations of the Civil Rights Act simply because a parent chooses not to enroll a student in a language instruction program.

HR/SR—see note 13.

34. Using different language, the House bill and the Senate Amendment require that parents receive information about their child's instruction program. The Senate Amendment, but not the House bill, further requires information to be in the language used by parents if necessary and feasible.

HR/SR—see note 13.

35. Both the House bill and the Senate Amendment, have similar language regarding timely information about programs.

HR/SR—see note 13.

36. Using similar language, the House bill and the Senate Amendment, provide parents with a notice of opportunities for regular meetings to permit parents to formulate and respond to recommendations from such parents.

HR/SR—see note 13.

37. The House bill, but not the Senate Amendment, requires that parents receive procedural information for removing their child from a program.

HR/SR—see note 13.

38. Both the House bill and the Senate Amendment have similar language stating that students cannot be admitted or excluded in a program solely on the basis of a surname or language minority status.

HR/SR—see note 13.

39. The Senate Amendment, but not the House bill, has a provision stating that nothing shall be construed as to mandate, direct or control an entity's choice in developing standards or assessments, curriculum or program of instruction.

HR/SR—see note 13.

40. The House bill, but not the Senate Amendment, provides for testing of LEP children. Both the House bill and the Senate Amendment have similar provisions for testing LEP children in Title I, Part A.

HR

41. Both the House bill and the Senate Amendment, require that LEP children, who have been in school in the US for three or more consecutive years be tested in English. The Senate Amendment contains the same requirement in Title I, Part A. The House bill, but not the Senate Amendment, further permits the tests to be administered for one additional year, on a case-by-case basis in another language or form. The Senate Amendment, but not the House bill, further permits such tests to be administered for additional years, provided that the total number of students so assessed does not exceed 1/3 the number of students assessed in their native language in the previous year.

HR

42. Using different language, the House bill and the Senate Amendment, authorize federal grants to states for the purposes of assisting LEP children. The House bill, but not the Senate Amendment, provides such grants for the fiscal year in which it is applied for. The Senate Amendment, but not the House bill, provides that such grants remain in effect for the duration of the state's participation under this part. (See note 86)

SR

43. The House bill, but not the Senate Amendment, states the purposes of the state grants.

HR

44. The House bill, but not the Senate Amendment, provides that a state must expend at least 95 percent of its allotment to local eligible entities.

SR

45. Both the House bill and the Senate Amendment provide that a state may not expend more than 5 percent of its allotment for state activities.

LC

46. Both the House bill and the Senate Amendment provide activities for which state grants may be used.

LC

47. The House bill, but not the Senate Amendment, provides for authorized activities that state grants may be used for, such as professional development activities, providing scholarships and fellowships to students who agree to teach limited English proficient children upon graduation, planning administration and interagency coordination, providing technical assistance to LEAs who teach limited English proficient children and other eligible entities not receiving a subgrant from the state, and providing bonuses to eligible entities with successful programs.

HR/SR with an amendment to strike all legislative language in notes 47–49 and insert:

"(2) STATE ACTIVITIES.—Each state educational agency receiving a grant under this part may reserve not more than 5 percent of the agency's allotment under section 3323(b)(2) to carry out state activities described in the state plan submitted under section 3325, including—

"(A) professional development activities, and other activities, that assist personnel in meeting state and local certification requirements for teaching limited English proficient children;

"(B) planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

"(C) providing technical assistance and other forms of assistance to local educational agencies that are receiving assistance from a state educational agency under this part including—

"(i) identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;

"(ii) helping limited English proficient students meet the same challenging state academic content standards and challenging state student academic achievement standards that all students are expected to meet;

"(iii) identifying or developing and implementing measures of English language proficiency; and

"(iv) promoting parental and community participation in programs that serve limited English proficient students.

"(D) Provide recognition, which may include financial awards to subgrantees who have exceeded their achievement objectives pursuant to section 3329."

48. The Senate Amendment, but not the House bill, requires SEAs to describe how they will provide technical assistance to LEAs and elementary and secondary schools for: identifying and implementing language instruction educational programs and curricula tied to scientifically based research; helping LEP student meet challenging state content and student performance standards expected of all children; identify or develop and implement measures of English language proficiency; and the promoting of parental and community participation in programs. The Senate Amendment provides that these activities be described in the state plan.

HR/SR (see note 47)

49. The Senate Amendment, but not the House bill, includes the same set of criteria for specially qualified agencies.

HR/SR (see note 47)

50. Using different language, the House bill and the Senate Amendment, require that a state receiving a grant may not use more than two percent of its allotment for administrative purposes.

HR with an amendment to strike "may use not more than 2 percent" and insert "may use up to 3 percent or $175,000, whichever is greater," and strike "costs" after "planning" in (3).

51. Both the House bill and the Senate Amendment provide for the determination of allotments and reservations.

LC

52. Using different language, the House bill and the Senate Amendment, reserve .5 percent for payments to LEAs that serve Native American children. The House bill, but not the Senate Amendment, provides it for individuals in schools operated predominately for Native American or Alaska Native children. The Senate Amendment, but not the House bill, reserves .5 percent for payments to the Secretary of Interior for activities and schools operated by the BIA. The House bill, but not the Senate Amendment, defines these entities in Section 3106(a). (See note 67)

HR/SR with an amendment to insert as a new (A): "(A) .5% or $5 million of such amount, whichever is greater, for payments to eligible entities that are defined under section 3106(a) for activities proposed by the Secretary."

53. Using similar language both the House bill and the Senate Amendment provide .5 percent for payments to outlying areas.

LC

54. The House bill, but not the Senate Amendment, reserves .5 percent for the evaluation of programs for dissemination of best practices. The Senate Amendment, but not the House bill, continues a National Clearinghouse to disseminate best practices. (See note 176)

HR

55. The Senate Amendment, but not the House bill; reserves 6 percent for national leadership activities.

HR with an amendment to change to "6.5 percent" with .5 percent for evaluation and no more than $2 million for the National Clearinghouse.

56. The Senate Amendment, but not the House bill, reserves such sums for continuation awards.

LC

57. Using different language the House bill and the Senate Amendment provide for the continuation of current grant awards. The House bill, but not the Senate Amendment, provides for such continuation only for grants made to subpart 1, Part A (Capacity and Demonstration grants) under current law. The Senate Amendment, but not the House bill, provides for the continuation of grants made under Subparts 1 and 3 under Part A (Capacity and Demonstration Grants; Professional Development Grants) The Senate Amendment, but not the House bill, provides for awards to cover grants under current law, as well as, grants made in years that Part D is not in effect (when the appropriation is not $700 million or more).

HR

58. Using different language, both the House bill and the Senate Amendment, provide for state allotments. The House bill, but not the Senate Amendment, awards grants to states based on the number of LEP students. The Senate Amendment, but not the

House bill, awards grants to states based 67 percent of each state's share of LEP students and 33 percent of each state's share of immigrant students.

HR with an amendment to strike "67" and insert "80" in (A)(i) and to strike "33" and insert "20" in (A)(ii).

59. The Senate Amendment, but not the House bill, provides that no state would receive less than .5 percent of the total amount available for distribution.

HR with an amendment to strike "less than . . . under this paragraph" and insert "that is in the amount of not less than $500,000" in (B).

60. Using different language, the House bill and the Senate Amendment, require the Secretary to make grants to specially qualified agencies from the amount made available to states when it's determined that such allotment will not be used for the intended purpose. Both the House bill and the Senate Amendment, stipulate that funds are available when a state does not submit an application or submits an application that is not approved. The Senate Amendment, but not the House bill, allows the Secretary to determine such rules as to be appropriate to make amounts available to states.

SR

61. Using different language, the House bill, and the Senate Amendment, require the Secretary to make reallotments available on a competitive basis to specially qualified agencies within the state. The House bill, but not the Senate Amendment, provide for reallocating any portion to the remaining states.

SR

62. The House bill, but not the Senate Amendment, permits specially qualified agencies receiving funding to waive certain requirements.

SR

63. The Senate Amendment, but not the House bill, limits a specially qualified agency from using not more than 1 percent of the direct award for administrative costs.

HR with an amendment to strike "not more than 1 percent" and insert "not more 2 percent".

64. The House bill and the Senate Amendment refer to amounts for Puerto Rico. The House bill, but not the Senate Amendment, caps such amount at .5 percent of the amount allotted to all states. The Senate Amendment, but not the House bill, reserves .5 percent for Puerto Rico.

SR

65. Using different language, the House bill and the Senate Amendment, provides for data determinations. The House bill, but not the Senate Amendment, provides for determining the number of LEP children in the state based on the most recent satisfactory data available from the Bureau of the Census and the American Community Survey. It also stipulates that if satisfactory data is not available or deemed outdated from these sources, then funds are provided based on data provided by the states. The Senate Amendment, but not the House bill, requires the Secretary to use data that would yield the most accurate and up-to-date figures, including data from the Bureau of the Census or data submitted by the states: The Senate Amendment, but not the House bill, also includes immigrant children and youth in their data collection.

HR with an amendment to insert as (A) and (B):

"(3) USE OF DATA FOR DETERMINATIONS.—

"(A) IN GENERAL.—For the purposes of making state allotments under paragraph (2), for the purpose of determining the number of limited English proficient students in a state and in all states, and the number of immigrant children and youth in a state and in all states, for each fiscal year, the Secretary shall use data that will yield the most accurate, up-to-date numbers of such students.

"(B) SPECIAL RULE.—In making such determinations under paragraph (A) for the two fiscal years following the enactment of [Name of Act], the Secretary shall determine the number of limited English proficient students in a state and in all states, and the number of immigrant children and youth in a state and in all states, using data available from the Bureau of Census or submitted by the states to the Secretary. After such time, the Secretary shall use data available from the American Community Survey available from the Department of Commerce or the number of students being assessed for English proficiency in a state as required under section 1111(b)(7), whichever the Secretary determines to be the most accurate."

66. The House bill, but not the Senate Amendment, stipulates that the Secretary may not reduce a state's allotment based on the state's selection of any method of instruction, as its preferred method of teaching English to LEP children.

HR

67. The House bill, but not the Senate Amendment, clarifies certain entities that operate schools for Native American or Alaska Native children are considered LEAs, and therefore eligible to receive funding under 3105(c)(1)(A). (See note 52)

SR with an amendment to insert as new SEC. 3106:

"SEC. 3106. NATIVE AMERICAN AND ALASKAN NATIVE CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children or youth, the following shall be considered to be an eligible entity—

"(1) An Indian Tribe. [Corresponding with Definition in Current Law 7104.]

"(2) A tribally sanctioned educational authority.

"(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

"(4) An elementary or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

"(5) An elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization;

"(6) An elementary or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization;

"(b) SUBMISSION OF APPLICATIONS FOR ASSISTANCE.—Notwithstanding any other provision of this part, an entity that is considered to be an eligible entity under subsection (a), and that desires to submit an application for federal financial assistance under this subpart, shall submit the application to the Secretary.

"(c) SPECIAL RULE.—Eligible Entities described under subsection (a) which receive federal financial assistance pursuant to this section shall not be eligible to receive a subgrant under section [section on State subgrants to eligible entities under formula grant]."

68. Using different language and criteria, both the House bill and the Senate Amendment, stipulate the requirements for an application to be approved by the Secretary. The House bill uses "state application." The Senate Amendment uses "state plans."

HR

69. The House bill, but not the Senate Amendment, stipulates that states must describe the process for making competitive subgrants to eligible entities. The Senate Amendment, but not the House bill, provides a formula for making allotments to LEAs in Sec. 3324.

HR/SR with an amendment to strike all legislative language in notes 69–84 and insert:

"(a) PLAN REQUIRED.—Each state educational agency and specially qualified agency desiring a grant under this part shall submit a plan to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such plan shall:

"(1) describe the process that the state educational agency will use in making competitive subgrants to eligible entities under section 3324(a) [conform to recent immigrant program cite];

"(2) contain an agreement that, in awarding grants under 3324(a)(2), the state educational agency will address the needs of school systems of all sizes and in all geographic areas, including rural and urban schools;

"(3) contain an agreement that competitive subgrants to eligible entities under section 3324(a)(2) shall be of sufficient size and scope to allow such entities to carry out high quality education programs for limited English proficient children;

"(4) contain an agreement that the state educational agency will coordinate its programs and activities under this part with its other programs and activities under this Act and other Acts, as appropriate;

"(5) describe how the state educational agency or specially qualified agency will establish standards and objectives for raising the level of English language proficiency that are derived from the 4 recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the state academic content and student academic achievement standards described in section 1111(b)(1);

"(6) contain an assurance that the—

"(A) state educational agency consulted with local educational agencies, education related community groups and nonprofit organizations, parents, teachers, school administrators, and researchers, in setting the achievement objectives described in section 3329;

"(B) specially qualified agency consulted with education related community groups and nonprofit organizations, parents, teachers, and researchers, in setting the achievement objectives described in section 3329;

"(C) state educational agency or specially qualified agency will ensure that eligible entities comply with section 1111 (b)(3)(j) [LC] to annually test children in English who have been in the United States for 3 or more consecutive years;

"(D) state educational agency or specially qualified agency will develop and require eligible entities receiving a subgrant under this subpart to annually assess the English proficiency of all children with limited English proficiency participating in a program funded under this part, consistent with section

1111(b)(6) [conform to annual proficiency assessments in Title I];—

“(7) contain an agreement that the state educational agency or specially qualified agency will hold local educational agencies, eligible entities, and elementary and secondary schools accountable for—

“(A) meeting all achievement objectives described in section 3329;

“(B) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

“(C) meeting the purposes of this part;

“(8) describes how eligible entities in the state will be given the flexibility to teach limited English proficient students—

“(A) using a language instruction curriculum that is tied to scientifically based research on teaching limited English proficient children and that has been demonstrated to be effective; and

“(B) in the manner the eligible entities determine to be the most effective; and

“(9) contains an agreement that the state will require eligible entities receiving a subgrant under this part to use the subgrant in ways that will build such recipient's capacity to continue to offer high-quality language instruction educational programs which assist limited English proficient children in attaining challenging state academic content standards and challenging state student academic achievement standards once assistance under this part is no longer available.

70. The House bill, but not the Senate Amendment, stipulates that states must agree to address the needs of schools, including rural and urban schools.

HR/SR (see note 69)

71. The House bill, but not the Senate Amendment, stipulates that states must agree to make competitive subgrants that are of sufficient size and scope to eligible entities.

HR/SR (see note 69)

72. Using different language, the Senate Amendment and the House bill, require states receiving grants under this part to establish English language standards and benchmarks. The Senate Amendment, but not the House bill, specifically states that such benchmarks and standards must be derived from speaking, listening, reading, and writing. The House bill has a similar provision. (See note 76).

HR/SR (see note 69)

73. The House bill, but not the Senate Amendment, requires states to agree to coordinate its programs and activities with other programs and activities as appropriate.

HR/SR (see note 69)

74. The Senate Amendment, but not the House bill, requires SEAs and specially qualified agencies to consult with other groups, such as LEAs, education-related community groups and nonprofit organizations, parents, teachers, school administrators and second language acquisition specialists in setting performance objectives.

HR/SR (see note 69)

75. The House bill, but not the Senate Amendment, requires states to monitor the progress of students enrolled in such programs and activities in attaining English proficiency and attaining challenging state academic content standards and academic achievement standards.

HR/SR (see note 69)

76. Using different language, the Senate Amendment and the House bill, require states or specially qualified agencies to establish English language standards and benchmarks. The House bill and the Senate Amendment, require that such standards be aligned with state academic content and achievement standards. The Senate Amendment, but not the House bill, requires that such benchmarks and standards be derived from speaking, listening, reading, and writing.

HR/SR (see note 69)

77. The Senate Amendment, but not the House bill, requires states to describe how SEAs will hold LEAs accountable for meeting all performance objectives and making adequate yearly progress with LEP students.

HR/SR (see note 69)

78. Using different language, the House bill and the Senate Amendment, require states to annually measure LEP students progress in becoming English proficient. The House bill, but not the Senate Amendment, requires states to ensure that eligible entities comply with annual testing requirements for LEP students in reading and language arts who have been in the US for 3 or more consecutive years. The Senate Amendment, but not the House bill, requires states to annually measure LEP students progress in becoming English proficient as quickly and as effectively as possible.

HR/SR (see note 69)

79. The Senate Amendment, but not the House bill, includes the same requirements for specially qualified agencies.

HR/SR (see note 69)

80. The House bill, but not the Senate Amendment, stipulates that the application must contain an assurance that the state will develop high-quality annual assessments to measure English language proficiency and require eligible entities receiving a subgrant to annually assess all LEP children for English proficiency. The Senate Amendment requires annual assessments to measure the English proficiency of all LEP students under Title I.

HR/SR (see note 69)

81. The Senate Amendment, but not the House bill, requires specially qualified agencies to describe the activities for which assistance is sought, how such activities will increase the effectiveness with which students develop English proficiency as quickly and effectively as possible, while meeting state content and student performance standards.

HR/SR (see note 69)

82. The House bill, but not the Senate Amendment, stipulates that states must develop annual performance objectives as part of the state application, and must include percentage increases in performance on annual assessments in reading, writing, speaking, and listening comprehension as compared to the preceding school year. The Senate Amendment requires states to develop annual performance objectives under Sec. 3329

HR/SR (see note 69)

83. The Senate Amendment, but not the House bill, stipulates that the SEA must describe how LEAs will be given the flexibility to teach LEP students using language instruction curriculum that is tied to scientifically based research and demonstrated to be effective, and in a manner determined to be the most effective by the LEA.

HR/SR (see note 69)

84. The House bill, but not the Senate Amendment, stipulates that states must require eligible entities to use subgrants in ways that will build the capacity of such recipient to continue to offer high-quality English language programs that assist LEP children in attaining challenging state academic content standards and achievement standards once assistance is no longer available.

HR/SR (see note 69)

85. The Senate Amendment, but not the House bill, requires the Secretary to approve a state or specially qualified agency plan that meets all of the requirements after using a peer review process.

HR with an amendment to strike “and holds reasonable . . . in section 3321(b).”

86. The Senate Amendment, but not the House bill, stipulates that each state or specially qualified agency plan must remain in effect for the duration of the SEAs or specially qualified agency's participation under this part and must be periodically reviewed and revised by the SEA or specially qualified agency to reflect changes to strategies and programs carried out. The House bill, but not the Senate Amendment, provides such grants for the fiscal year in which it is applied for. (See note 42)

HR

87. The Senate Amendment, but not the House bill, requires the SEA or specially qualified agency to submit significant changes to their plans to the Secretary. The Secretary must approve such changes, but has the right to deny approval if it deems such changes to not meet the requirements or fulfill the purposes of the grants.

HR with an amendment to insert the following language as (2)(A):

“(A) AMENDMENTS.—If the State educational agency or specially qualified agency amends the plan, such agencies shall submit such amendments to the Secretary.”

88. The Senate Amendment, but not the House bill, permits states to submit a plan as part of a consolidated plan.

HR

89. The Senate Amendment, but not the House bill, requires the Secretary to provide technical assistance in the development of English language development standards and English language proficiency assessments, if requested.

HR with an amendment to insert the following language as (2)(f):

“(f) SECRETARY ASSISTANCE.—The Secretary shall provide technical assistance, if requested, in the development of English language proficiency standards, objectives, and assessments.

90. The House bill, but not the Senate Amendment, describes the main purposes of the subgrants.

SR with an amendment to strike “reading” after “based on scientifically based” and “and sound research and theory” before “on teaching limited” in (a). Strike “English” and insert “instructional educational programs” after the word “language” in paragraphs (1)(2) and (3).

91. The Senate Amendment, but not the House bill, provides for grants to LEAs to carry out Sec. 3327(b) (Grants for the education of LEP students) and 3327 (c) (Grants for the education of immigrant students). Both the House bill and Senate Amendment provide that at least 95 percent of federal funding be used for making subgrants to eligible entities and LEAs. (See note 131)

HR

92. The Senate Amendment, but not the House bill, requires that not more then 1 percent of funds received by LEAs be used for administrative costs.

HR with an amendment to strike “1 percent” and insert “2 percent”.

93. Using different language and criteria, the House bill and the Senate Amendment, provide for activities of LEAs and eligible entities receiving subgrants from states. The

House bill, but not the Senate Amendment, stipulates that states may make a subgrant to eligible entities to achieve one of the purposes by undertaking activities to improve the understanding and use of the English language based on a child's learning skills and attainment of challenging state academic content and student achievement standards. The Senate Amendment, but not the House bill, stipulates that grant funds shall be used for specific criteria.

HR/SR with an amendment to strike all legislative language in notes 93–105 and insert:

"(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

(1) IN GENERAL.—Subject to paragraph (2), a state educational agency may make a subgrant to an eligible entity from funds received by the State under this subpart to achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities—

"(A) Upgrading program objectives and effective instructional strategies.

"(B) Improving the instruction program for limited English proficient students by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures.

"(C) PROVIDING.—

(i) tutorials and academic or vocational education for limited English proficient children; and

"(ii) intensified instruction.

"(D) Developing and implementing elementary or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

"(E) Improving the English language proficiency and academic performance of limited English proficient children.

"(F) Providing community participation programs, family literacy services and parent outreach and training activities to limited English proficient children and their families to improve the English language skills of limited proficient children, and assist parents in helping their children to improve their academic performance, and become active participants in the education of their children;

"(G) Improving the instruction of limited English proficient children by providing for the acquisition or development of education technology or instructional materials, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs, such as those funded under this subpart; and

"(H) Other activities that are consistent with the purposes of this part.

(c) REQUIRED SUBGRANTEE ACTIVITIES.—

"(1) An eligible entity receiving a grant under this subpart shall use the grant funds—

"(A) to increase limited English proficient students' proficiency in English by providing high-quality language instruction educational programs that are—

"(i) based on scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency; and

"(ii) based on scientifically based research demonstrating the effectiveness of the programs in increasing student performance in the core academic subjects;

"(B) to provide high-quality professional development to classroom teachers, (including teachers in classroom settings that are not the settings of language instruction educational programs) principals, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of children who are limited English proficient children, that are—

"(i) designed to enhance the ability of the teachers to understand and use curricula, assessment measures, and instructional strategies for limited English proficient students;

"(ii) based on scientifically based research demonstrating the effectiveness of those activities in increasing students' English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of those teachers; and

"(iii) of sufficient intensity and duration (not to include activities such as 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this clause shall not apply to an activity that is 1 component described in a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and the local educational agency."

94. The House bill, but not the Senate Amendment, lists activities that may be undertaken by eligible entities, such as, upgrading program objectives and effective instructional strategies as an activity.

HR/SR (see note 93)

95. The House bill, but not the Senate Amendment, stipulates that improving the instruction program for LEP students by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures is also an activity.

HR/SR (see note 93)

96. The Senate Amendment, but not the House bill, stipulates that grants funds must be used to increase LEP students' proficiency in English by providing high-quality language instruction education programs that are tied to scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency and in increasing student performance in the core academic subjects.

HR/SR (see note 93)

97. The House bill, but not the Senate Amendment, further lists activities that may be undertaken by eligible entities, such as providing tutorials and academic or vocational education and intensified instruction for LEP children.

HR/SR (see note 93)

98. The House bill, but not the Senate Amendment stipulates that developing and implementing elementary and secondary school English language instructional programs coordinated with other relevant programs and services as an activity.

HR/SR (see note 93)

99. Using different language, the House bill and the Senate Amendment, provide for professional development activities to improve the instruction of LEP children. The House bill, but not the Senate Amendment, extends such activities to principals, administrators, and other school or community-based organizational personnel to improve instruction and assessment. The Senate Amendment, but not the House bill, further requires such activities to be tied to scientifically based research.

HR/SR (see note 93)

100. The Senate Amendment, but not the House bill, further provides that professional development activities be of sufficient intensity and duration to have a lasting impact on the teachers' performance in the classroom. This clause does not apply for long-term, comprehensive professional development plans already established.

HR/SR (see note 93)

101. The House bill, but not the Senate Amendment, further requires the improvement of the English language proficiency and academic performance of LEP children.

HR/SR (see note 93)

101. The House bill, but not the Senate Amendment, requires the improvement of the instruction of LEP children by acquiring or development of educational technology or instructional materials, training and communications, and incorporation of such resources in curricula and programs.

HR/SR (see note 93)

102. The House bill, but not the Senate Amendment, requires the development of tutoring programs for LEP children that provide early intervention and intensive instruction to increase academic achievement, graduation rates and prepare students for transitioning into classrooms where instruction is not tailored for LEP children.

HR/SR (see note 93)

104. Using different language, the House bill and Senate Amendment, provide for parental participation and outreach.

HR/SR (see note 93)

105. The House bill, but not the Senate Amendment, includes other activities.

HR/SR (see note 93)

106. The House bill, but not the Senate Amendment, requires any program or activity undertaken by eligible entities using a subgrant from a state be designed to assist students in attaining English proficiency within three years of attendance in the U.S. and move such students into classrooms where instruction is not tailored for limited English proficient children.

HR

107. The House bill, but not the Senate Amendment, stipulates that eligible entities must select one or more methods or forms of instruction to be used to assist LEP children in attaining English and to meet challenging state academic content and student academic achievement standards.

SR

108. The House bill, but not the Senate Amendment, stipulates that states have the discretion to decide the duration of a subgrant to an eligible entity.

SR

109. The Senate Amendment, but not the House bill, provides for grant awards to meet the needs of immigrant students under Sec. 3324(c).

HR

110. The Senate Amendment, but not the House bill, specifies activities to provide support for immigrant children.

HR with an amendment to strike "payment of salaries" and insert "support for" before "personnel" in (2);

Strike "overhead costs, costs of construction, acquisition, or rental of space" in (5).

Insert the following language as (6) and (7):

"(6) other instructional services that are designed to assist immigrant students to achieve in elementary and secondary schools in the United States, such as programs of introduction to the educational system, and civics education; and

"(7) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant students by offering comprehensive community services."

111. The Senate Amendment, but not the House bill, includes a provision to insure

that funds are used to supplement and not supplant other federal, state and local public funds.

HR

112. Using different language, both the House bill and the Senate Amendment, require eligible entities to apply for subgrants from the state. The House bill, but not the Senate Amendment uses "application." The Senate Amendment, but not the House bill, uses "plan."

HR

113. Using different language and criteria, both the House bill and the Senate Amendment, stipulate the requirements for submitting a plan or application.

HR

114. The House bill, but not the Senate Amendment, requires an eligible entity to describe the programs and activities to be developed, implemented, and administered under the subgrant.

HR/SR with an amendment to strike all legislative language in notes 114–121 and insert:

"(b) Contents.—Each plan submitted under subsection (a) shall—

"(A) describe the programs and activities proposed to be developed, implemented and administered under the subgrant;

"(B) describe how the eligible entity will use the grant funds to meet all achievement objectives described in section 3329;

"(C) describe how the eligible entity will hold elementary schools and secondary schools accountable for—

"(i) meeting the achievement objectives described in section 3329;

"(ii) making adequate yearly progress with limited English proficient students as described in section 1111(b)(2); and

"(iii) annually measuring the English language proficiency of limited English proficient students, so that such students served by the programs carried out under this subpart develop proficiency in English while meeting state academic content and student academic achievement standards as required by section 1111(b)(1);

"(D) describe how the eligible entity will promote parental and community participation in programs for limited English proficient students;

"(E) contain an assurance that the local educational agency consulted with teachers, researchers, school administrators, and parents, and if appropriate, with education related community groups and nonprofit organizations, and institutions of higher education, in developing the local educational agency plan;

"(F) describe how language instruction educational programs will ensure that limited English proficient students being served by the programs develop English language proficiency."

115. The Senate Amendment, but not the House bill, requires applicants to describe how such a subgrant will meet all performance objectives.

HR/SR (see note 114)

116. The House bill, but not the Senate Amendment, requires applicants to describe how such subgrant will be used to satisfy the requirement of moving LEP children out of specialized classrooms.

HR/SR (see note 114)

117. The Senate Amendment, but not the House bill, requires applicants to describe how they will measure the progress of LEP children and hold schools accountable for making such progress.

HR/SR (see note 114)

118. The Senate Amendment, but not the House bill, requires applicants to describe how they will promote parental and community participation in LEP programs.

HR/SR (see note 114)

119. The Senate Amendment, but not the House bill, requires applicants to contain assurances that they consulted with appropriate experts and officials in developing the local educational agency plan.

HR/SR (see note 114)

120. Using similar language, the House bill and the Senate Amendment, require applicants to describe how they will use disaggregated results of student assessments and other measures to annually review the progress of schools within its jurisdiction to determine if such schools are making AYP necessary to ensure that LEP students will meet the state's proficient level of performance.

HR/SR (see note 114)

121. Placed in a different order and using different language, both the House bill and the Senate Amendment, require applicants to describe how language instruction programs will ensure that LEP students develop English proficiency. The Senate Amendment, but not the House bill, states as quickly and effectively as possible. The House bill, but not the Senate Amendment, states after 3 academic years of enrollment. (See note 127)

HR with an amendment to insert "and attain" after "develop" and strike "as quickly and effectively as possible."

122. The House bill, but not the Senate Amendment, stipulates additional requirements that must be included for an application to be approved.

HR

123. The House bill and the Senate Amendment have similar provisions. The House bill, but not the Senate Amendment, requires eligible entities to use qualified personnel who are proficient in English, including written and oral communication skills. The Senate Amendment, but not the House bill, stipulates that LEAs certify to the SEAs that all teachers for LEP students are fluent in English and any other language used for instruction.

HR with an amendment to insert "including written and oral communication skills," after "instruction," and insert Report Language:

Report Language:

Although various educational staff, such as para-professionals, serve a critical need in language instruction educational programs, teachers of such programs are the primary provider of instruction to limited English proficient students. As such, it is the intent of Conferees to ensure that teachers in language instruction educational. programs be well-qualified in the designated method or instructional approach used with limited English proficient students.

124. The House bill, but not the Senate Amendment, requires eligible entities to ensure that all agencies are complying with the parental consent requirements each school year;

SR

125. The House bill, but not the Senate Amendment, requires eligible entities to assess the English proficiency of all children with LEP participating in a program;

SR

126. The House bill, but not the Senate Amendment, requires eligible entities to have based its proposal on scientifically based reading research and sound research and theory on teaching LEP children.

SR with an amendment to strike "reading" and "sound research and theory" in (D).

127. Placed in a different order and using different language, both the House bill and the Senate Amendment, require applicants to describe how language instruction programs will ensure LEP students to develop English proficiency. The House bill, but not the Senate Amendment, states after 3 academic years of enrollment. The Senate Amendment, but not the House bill, states as quickly and effectively as possible. (See note 121)

HR

128. The House bill, but not the Senate Amendment, requires eligible entities to ensure that programs will enable children to speak, read, write and comprehend the English language.

SR

129. The House bill, but not the Senate Amendment, requires eligible entities to ensure that they are not in violation of any state law or state constitutional law regarding the education of LEP children.

SR

130. The House bill, but not the Senate Amendment, requires states to consider the quality of the application and ensure it meets the purposes of the subgrant.

SR

131. Using different language, the House bill and the Senate Amendment require states to expend at least 95 percent of their federal grant money for making subgrants to eligible entities and LEAs. (See note 91)

LC

132. The House bill, but not the Senate Amendment, requires states to reserve 75 percent of their funds for subgrants to eligible entities. The House bill, but not the Senate Amendment, distributes funds only to LEAs if the number of LEP children and youth is at least 500 students, or 3 percent of the total population.

HR

133. Using similar language, the House bill and the Senate Amendment require states to award funds to eligible entities and LEAs based on their share of LEP children.

HR

134. The Senate Amendment, but not the House bill, requires a state to award an LEA a minimum grant of $10,000.

HR

135. The House bill, but not the Senate Amendment, requires states to reallocate any funding that will not be used during a fiscal year.

SR

136. The House bill, but not the Senate Amendment, reserves 25 percent of its remaining funds to award competitive subgrants to eligible entities experiencing significant increases in LEP children.

HR

137. The Senate Amendment, but not the House bill, requires states to reserve up to 15 percent for LEAs experiencing a substantial increase in immigrant children enrollment.

HR (See note 138).

138. Using different language, the House bill and the Senate Amendment, define the terms "significant increases" and "substantial increase." The House bill, but not the Senate Amendment, provides awards to eligible entities with "significant increases" (as determined by the state) in LEP children over the 2 previous years or who do not qualify for subgrants under the 75 percent formula distribution.

HR/SR with an amendment to strike House (2) and Senate (B) and combine Senate (A) and House (1) to insert as the following new (A):

"(A) IN GENERAL.—A state educational agency receiving a grant under this part for a fiscal year shall reserve not more than 15 percent of the agency's allotment under section 3323(b)(2) to award grants to local educational agencies in the state that have experienced significant increases, as compared to the previous 2 years, in the percentage or number of immigrant children and youth, that have enrolled in public and nonpublic elementary and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities during the previous fiscal year for which the subgrant is made and shall equally consider local educational agencies that have limited or no experience in serving immigrant children and youth.”

139. The Senate Amendment, but not the House bill, defines “substantial increase” as an increase in an LEA's immigrant enrollment of at least 20 percent or 50 children relative to the preceding year, or as an increase of at least 20 percent in an LEA's immigrant enrollment for which the LEA has limited or no experience in educating LEP students.

SR

140. Both the House bill and Senate Amendment provide for the authorization of appropriations. The House bill, but not the Senate Amendment, authorizes $750 million for FY 2002 and such sums through FY 2006. The Senate Amendment, but not the House bill, authorizes $700 million for the bilingual education program for FY 2002 and such sums through FY 2008.

SR with amendment to change 4 to 5 succeeding years.

141. The Senate Amendment, but not the House bill, authorizes that for any fiscal year that funds appropriated for the bilingual education program are $700 million or more, the funds should be used for the state and local grants for language minority students in Part D.

HR with an amendment to strike the language, conform to new structure and insert:

(b) STATE AND LOCAL GRANTS.—Notwithstanding subsection (a), for any fiscal year for which the total amount of funds appropriated for Parts A and C are not less than $650 million, all such funds shall be used to carry out Part D.

Report Language:

The Conferees support the reform measures being included in the formula grant program (Title III, Part A). By making these reforms contingent upon a set appropriated amount, the Conferees intend to make these reforms permanent and encourage the appropriators to maintain such amount for all succeeding fiscal years.

142. The Senate Amendment, but not the House bill, contains a Sense of the Senate that Congress should appropriate $750 million to carry out Parts A and D and authorizes significant increases in appropriations for FY 2003 through FY 2008. This was an amendment to Title X of the Senate Amendment.

SR with an amendment to strike all of (a).

SR on (b)

143. The Senate Amendment, but not the House bill, stipulates that Parts A, C, E and F are not in effect if Part D is enacted. Part D is only enacted when the appropriation is $700 million or more.

HR with amendment to conform to new structure

144. The House bill, but not the Senate Amendment, requires subgrant recipients to submit biennial evaluations to the state. The evaluation must include programs and activities conducted by the entity; the progress made by LEP students in meeting challenging state academic content and student achievement standards; the number and percentage of LEP students attaining English proficiency; and the progress made by students in meeting challenging state academic content and student achievement standards after such students are no longer receiving services. The Senate Amendment, but not the House bill, also requires increases in the number and percentage of LEP students attaining English proficiency. (See note 148)

SR with an amendment to:

Strike “subpart 1” and insert “this part” after “under” and strike “of” and insert “that includes” in (a);

Insert “a description of” before “the programs” and strike “subpart 1” and insert “this part for” in (1).

145. The House bill, but not the Senate Amendment, stipulates that the evaluations must be used for improvement of programs and activities; the effectiveness of such programs and activities in teaching LEP children English and meet challenging state academic standards; and whether or not to continue funding for programs and activities.

SR

146. The House bill, but not the Senate Amendment, stipulates the components of the evaluation such as an evaluation of whether or not students enrolled in a program or activity have attained English proficiency; and have achieved a working knowledge of the English language.

SR with an amendment to strike (c)(1), (A), (B) and (2) and insert:

“(c) EVALUATION COMPONENTS.—An evaluation provided by an eligible entity under subsection (a) shall provide an evaluation of students enrolled in a program or activity conducted by the entity using funds under this title, including the percentage of students that—

“(1) are making progress in attaining English proficiency, including the percentage of students that have achieved proficiency in the English language and the percentage of students that have transitioned into classrooms not tailored for limited English proficient students;

“(2) have achieved a level of proficiency in the English language that is sufficient to permit them to achieve in English, in a classroom that is not tailored to limited English proficient children;

“(3) are meeting challenging state academic content standards and challenging state student academic achievement standards expected of all students;

“(4) are not receiving waivers for grades 3–8 testing under section 1111(b)(H)(iv); and

“(5) such other information as the state may require.”

147. The House bill, but not the Senate Amendment, requires states to approve evaluation measures that are designed to assess oral language proficiency in Kindergarten, oral language proficiency, including speaking and listening skills in first grade, including reading and writing proficiency in second grade and higher, and attainment of challenging state student academic achievement standards.

SR with an amendment to strike (d)(1)—(4) and insert:

“(d) EVALUATION MEASURES.—In preparing an evaluation for use by an entity under subsection (a), a state shall approve evaluation measures, as applicable, for use under subsection (c) that are designed to assess -

“(1) the progress of students in attaining English proficiency that shows the level of oral language, including speaking and listening, reading, and writing skills in English;

“(2) student attainment of challenging state student academic achievement standards on assessments described in section 1111(b)[check reference]; and

“(3) progress in meeting the state annual achievement objectives as consistent with section 3329.”

148. The Senate Amendment, but not the House bill, requires SEAs or specially qualified agencies to develop annual measurable performance objectives for LEP programs and must specify an incremental percentage increase for each performance objective for each fiscal year, including increases in the number of LEP students demonstrating increases on annual assessments.

HR with an amendment to strike SEC. 3329 (a) and insert:

SEC. 3329. ACHIEVEMENT OBJECTIVES AND ACCOUNTABILITY

“(a) IN GENERAL.—Each state educational agency or specially qualified agency receiving a grant under this title shall develop annual measurable achievement objectives for limited English proficient students served under this title with respect to helping such students develop and attain proficiency in English while meeting state academic content and student academic achievement standards as required by section 1111(b)(1). Such achievement objectives shall be developed in a manner that considers the amount of time an individual student has been enrolled in a language instruction educational program and assigns such objectives in an appropriate manner to reflect such enrollment, and shall be consistent in the method and measurement for determining the increases described in paragraphs (1), (2) and (4). Measurable achievement objective for students served in language instruction educational programs under this title shall include—

“(1) at a minimum, annual increases in the number or percentage of students making progress made by students in learning the English language;

“(2) at a minimum, annual increases in the number or percentage of students attaining English language proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency consistent with section 1111(b)(7);

“(3) meeting adequate yearly progress for limited English proficient student established in section 1111(b)(2)(C)(iv); and

“(4) may include, at the discretion of the State, the number or percentage of students not receiving waivers for grades 3–8 testing under section 1111(b)(H)(iv), except that States shall not apply such requirement to eligible entities that in a given school year—

“(A) have experienced a large influx of limited English proficient children or immigrant children and youth;

“(B) enroll a statistically significant number of immigrants from countries where such immigrants had little or no access to formal education; or

“(C) have a statistically significant number of immigrants who have fled from war and natural disaster.”

Report Language:

To Modify Achievement Objectives 3329(a)—The Conferees wish to clarify that annual measurable achievement objectives described under 3329(a) for developing and attaining English proficiency be derived from scientifically-based research on teaching limited English proficient children such as, but not limited to research conducted by the READ Institute, the National Academy of Sciences and the Center for Applied Linguistics, and be established by states in a manner that reflects the full range of second language proficiency, including developmentally-appropriate communication and academic skills.

To Modify Achievement Objectives 3329(a)(1) and 3329(a)(2)—In providing for achievement objectives under section 3329(a), the Conferees intend to reflect progress in the development and the attainment of English language proficiency among limited English proficient students. In developing these objectives, states should distinguish between learning the English language and attaining English language proficiency by establishing such objectives in a manner that reflects the number of children showing improved achievement on assessments of English language proficiency (consistent with section 3329(a)(1)), and that reflects the number of children within a common group or cohort of students that are enrolled in a language instruction educational program from year to year, and that attain full English proficiency (consistent with section 3329(a)(2)).

149. The Senate Amendment, but not the House bill, requires SEAs and specially qualified agencies to be held accountable for meeting annual measurable performance objectives and meeting AYP.

HR with an amendment to strike (b)(1) and (b)(2) and insert:

"(b) ACCOUNTABILITY.—

"(1) FOR STATES.—Each state educational agency receiving a grant under this title shall hold eligible entities accountable for meeting the annual measurable achievement objectives under this part and adequate yearly progress for limited English proficient students under section 1111(b)(2)(B).

"(2) IMPROVEMENT PLAN.—(A) If the state determines, based on the objectives described in subsection (a) that the entity has failed to make progress toward meeting the annual measurable achievement objectives for limited English proficient children for two consecutive years, the entity shall develop an improvement plan to ensure that the entity meets such annual measurable objectives that specifically addresses factors that prevented the entity from achieving their objectives.

"(3) TECHNICAL ASSISTANCE.—During the development of the improvement plan described in subparagraph (2), and throughout its implementation, the State educational agency shall —

"(A) provide technical assistance to eligible entities;

"(B) provide technical assistance, if applicable, to schools served by such entity that need assistance to enable the local educational agency to meet the annual measurable objectives described in subsection (a);

"(C) develop, in consultation with the entity, professional development strategies and activities, based on scientifically-based research that the agency will use to meet the annual measurable objectives described in subsection (a) and require such entity to utilize such strategies and activities;

"(D) develop, in consultation with the entity, a plan to incorporate strategies and methodologies, based on scientifically-based research, to improve the specific program or method of instruction provided to limited English proficient students.

"(4) ACCOUNTABILITY.—If the State determines the entity has failed to meet the objectives in subsection (a) for limited English proficient children for four consecutive years, the State educational agency shall—

"(A) require such entity to modify their curriculum, program, and method of instruction; or

"(B) make a determination whether such entity shall continue to receive funds related to the entity's failure to make progress on the measurable objectives in (a); and

"(C) require such entity to replace educational personnel relevant to the entity's failure to make progress on the measurable objectives in (a)."

Report Language:

For the purposes of making determinations as described in subsections (b)(2) and (b)(4), a State educational agency shall assign equal weight to annual goals for learning and attaining English (consistent with (a)(1) and (a)(2)), and to annual objectives for academic proficiency (consistent with (a)(3)).

150. The House bill, but not the Senate Amendment, requires states receiving a grant to submit a report to the Secretary every two years on the programs and activities undertaken by the state and the effectiveness of such programs and activities in improving the education of LEP children.

SR

151. The House bill, but not the Senate Amendment, requires the Secretary to prepare and submit a report every two years to the respective House and Senate committees.

SR with an amendment to strike paragraphs (1)—(5) and to insert the following as new paragraphs (1)—(8):

"(b) SECRETARY.—Every second year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on—

"(1) programs and activities undertaken to serve limited English proficient students under part and, the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

"(2) the types of language instructional educational programs used by local educational agencies or eligible entities receiving funding under this title to teach limited English proficient children;

"(3) a critical synthesis of data reported by the states, pursuant to section 3124, when applicable;

"(4) an estimate of the number of teachers certified in the field of language instruction educational programs and the education of limited English proficient students, and an estimate of the number of such teachers which will be needed for the succeeding 5 fiscal years;

"(5) the major findings of scientifically based research carried out under this title;

"(6) the number of programs or projects, if any, that were terminated because they were not able to reach program goals;

"(7) the number of limited English proficient children served by local educational agencies or eligible entities receiving funding under this title who were transitioned out of language instruction educational programs funded under this title into classrooms where instruction is not tailored for limited English proficient children; and

"(8) other information gathered from the reports submitted under section 3122(a), 3107, and 3124(g) when applicable."

152. The House bill, but not the Senate Amendment, requires the Secretary to coordinate all programs serving language minority and LEP students administered by the Department and other agencies.

SR

153. The House bill, but not the Senate Amendment, defines "children and youth."

SR

Definition linked to note 222.

154. The Senate Amendment, but not the House bill, defines "core academic subjects."

HR/SR to move to General Provisions of the Act.

155. The House bill, but not the Senate Amendment, defines "community-based organization." The House bill also defines this in Title VIII—General Provisions.

SR

156. The Senate Amendment, but not the House bill, defines "immigrant children and youth."

HR

157. The House bill, but not the Senate Amendment, defines "eligible entity."

SR

158. The Senate Amendment, but not the House bill, defines "language instruction educational program."

HR with an amendment to insert "and attaining" after "developing" in (A);

Insert "academic" after "State" in (A);

Strike "performance" and insert "academic achievement" in (A);

Insert "and attain" after "develop" in (B).

Strike "as quickly and effectively as possible" in both (A) and (B).

159. The House bill, but not the Senate Amendment, defines "Native Hawaiian or Native American Pacific Islander Native language educational organization."

HR with amendment to use definition on page 121, numbers 9 and 10, which reads as follows:

"NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms "Native American and Native American language" shall have the same meanings given such terms in section 103 of the Native American Languages Act.

"NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term "Native Hawaiian or Native American Pacific Islander Native Language educational organization" means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs and with not less than 5 years successful experience in providing educational services in traditional Native American languages."

160. The Senate Amendment, but not the House bill, defines the term "limited English proficient student" in Part D. The House bill only defines "limited English proficient student " in Title VIII—General Provisions.

HR with an amendment to strike "opportunity to learn" and insert "ability to successfully achieve" in (4)(D)(ii).

Move definition to General provisions.

161. The Senate Amendment, but not the House bill, defines "local educational agency" in Part D. The House bill defines it in Title VIII—General Provisions.

SR

162. Using different language, the House bill and the Senate Amendment, define "native language."

HR/SR with an amendment to use definition on page 122, number 11, which reads as follows:

"NATIVE LANGUAGE—the term native language, when used with reference to an individual of limited English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth."

163. The Senate Amendment, but not the House bill, defines "scientifically based research" in Part D. The House bill defines it in Title VIII—General Provisions.

SR

164. Using different language, the House bill and the Senate Amendment, define "specially qualified agency."

HR with an amendment to add House (6)(B) to Senate (8).

165. The Senate Amendment, but not the House bill, defines "state" in Part D. The House bill defines it in Title VIII—General Provisions.

SR

166. The House bill, but not the Senate Amendment, defines "tribally sanctioned educational authority."

SR

167. The House bill, but not the Senate Amendment, stipulates that nothing shall be construed as to prohibiting LEAs from serving LEP children simultaneously with students with similar needs, in the same educational settings where appropriate; requires states or LEAs to establish, continue, or eliminate any particular type of instructional programs for LEP children; or limit the preservation or use of Native American languages.

SR

168. The House bill, but not the Senate Amendment, requires the Secretary to issue regulations that are only necessary to ensure compliance with specific requirements of this part.

HR

169. The House bill, but not the Senate Amendment, provides that nothing shall be construed to negate or supersede the legal authority under state law.

SR

170. The House bill, but not the Senate Amendment, provides for the protection of federal law guaranteeing a civil right.

SR

171. The House bill, but not the Senate Amendment, stipulates that programs that serve Native American children, Native Pacific Island children and children of the Commonwealth of Puerto Rico may include learning and studying their native languages, as long as the primary focus and outcome of such program is to increase English proficiency among such children.

SR with an amendment to strike “primary.”

172. The House bill, but not the Senate Amendment, provides the necessary conforming amendments for this title and changes the name of the office that administers bilingual education programs as well as changes the name of the director.

SR with an amendment to strike “Office of Educational Services for Limited English Proficient Children” and to insert “Office of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students” in paragraph (1); Strike “Director of Educational Services for Limited English Proficient Children” and insert “Director of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students” in (2); and Conform to subsection (b).

173. The Senate Amendment, but not the House bill, prohibits the Secretary from mandating or stopping the use of a particular curricular or instructional approach to education LEP students.

HR

174. The Senate Amendment, but not the House bill, provides for national leadership activities.

HR

175. The Senate Amendment, but not the House bill, provides competitive grants for up to five years, for professional development activities.

HR with an amendment to strike “bilingual education teachers” and insert “teachers that serve limited English proficient students” in (b); Strike paragraph (1); Insert the following language for (4):

"(4) in conjunction with other federal need-based student financial assistance programs, financial assistance and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, and meet certification or licensing requirements for teachers that serve limited English proficient students."

176. The Senate Amendment, but not the House bill, continues the National Clearinghouse for Bilingual Education.

HR with an amendment to strike the language and insert the following:

(c) NATIONAL CLEARINGHOUSE.—The Secretary shall establish and support the operation of a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, which shall collect, analyze, synthesize, and disseminate information about second language acquisition programs for limited English proficient students, and related programs. The National Clearinghouse shall—

(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Office of Educational Research and Improvement;

(2) coordinate activities with federal data and information clearinghouses and entities operating federal dissemination networks and systems;

(3) develop a system for improving the operation and effectiveness of federally funded language instruction educational programs;

(4) collect and disseminate information on—

(A) educational research and processes related to the education of limited English proficient students; and

(B) accountability systems that monitor the academic progress of limited English proficient students in language instruction educational programs, including information on academic content standards and English language proficiency assessments for language instructional programs;

(5) publish, on an annual basis, a list of grant recipients under this section.

177. No comparable House provision.

HR

178. No comparable House provision.

HR with an amendment to move (2)(A) to the definition section and to strike (B).

179. No comparable House provision.

HR

180. No comparable House provision.

HR

181. No comparable House provisions.

HR with an amendment to strike the purpose (a)(1), (2), and (3); Strike subparagraph (A) and insert:

"(A) In General.—The Secretary is authorized to award grants to eligible entities having applications approved under section 3104 to enable such entities to provide innovative, locally designed, high quality instruction to children and youth of limited English proficiency, by expanding, developing or strengthening language instruction educational programs."

Strike “performance” and insert “academic achievement” in (2)(i)(I);

Insert “academic” before “services” in (2)(i)(II);

Strike “career counseling” and insert “vocational and technical training” in (B)(v);

Strike one of the two duplicative (B)(v);

Insert as (B)(ix):

“(ix) acquiring or developing education technology or instructional materials for limited English proficient students, including materials in languages other than English, and participation in electronic networks for materials, training, communication, and incorporation of such resources in curricula and programs.”

LC—renumber original (B)(ix) as (x).

182. No comparable House provisions.

HR with an amendment to:

Strike the purpose (a) and (1)-(3);

Strike (b)(1) AUTHORITY, and insert as new (1):

"(1) Authority.—The Secretary may award grants to eligible entities having applications approved under section 3104 to enable such entities to develop and implement language instruction educational programs, and improve, reform, or upgrade programs or operations that serve significant percentages or numbers of students of limited English proficiency."

Strike “career counseling” and insert “vocational or technical training” in (3)(D);

Strike “performance” and insert “academic achievement” in (3)(E);

Strike “such as...education programs” in (3)(G) and insert a period after “proficiency;”

Strike "all" and "more than 1 language" and insert "English and other languages" after "in" in (3)(I);

INSERT AS NEW (3)(J):

"(J) acquiring or developing education technology or instructional materials for limited English proficient students, including materials in languages other than English, and participation in electronic networks for materials, training, communication, and incorporation of such resources in curricula and programs."

LC—re-letter original (3)(J) as (3)(K);

Strike first “90” and insert “45” and strike second “90” and insert “30” and insert “the beginning of the school year or after “not later than” in (4);

Insert “7112, 7113, 7114, 7115” in (1)(A)(i) [COVERED GRANT];

Insert “to eligible entities” after “award grants” in both (2)(A) and (2)(B) [Availability].

Insert new (d)(A)—(D):

(d) PRIORITY—In awarding grants under this section, the Secretary shall give priority to an entity that—

(A) experiences a significant increase in the number or percentage of limited English proficient students enrolled in the applicant's programs and has limited or no experience in serving limited English proficient students;

"(B) is a local educational agency that serves a school district that has a total district enrollment that is less than 10,000 students;

"(C) demonstrates that the applicant has a proven track record of success in helping limited English proficient children and youth learn English and meet high academic standards; or

"(D) serves a school district with a large number or percentage of limited English proficient students.

"(e) ELIGIBLE ENTITIES . . ."

183. No comparable House provision.

HR with an amendment to:

Strike “bilingual” and insert “language instruction educational programs” in (1)(D) [IN GENERAL section]; Strike “with an advisory . . . whose members are” in (2)(B)(ii); Strike “and fair” in (h)(B)(3)(A) and insert “and” after “valid;”

Move all of (1) PRIORITY (pg. 78) to Section 3103 (pg. 65), strike "subpart" and insert "section" in (1), strike paragraph (D); and Strike (3) Due Consideration (B).

184. No comparable House provision.

HR with an amendment to strike “bilingual” and insert “language instruction educational programs” in Sec. 3105.

185. No comparable House provision.

HR

186. No comparable House provision.

HR with an amendment to strike "language groups" and insert "native languages spoken by student" and insert "socioeconomic status" before the "and" in (c)(2); Strike "performance" and insert "academic achievement" in (c)(3).

Report Language:

It is the intent of the Conferees that evaluations submitted to the Secretary under this subpart accurately reflect academic achievement and progress made in developing and attaining English language proficiency for all students enrolled in a particular language instruction educational program. Consistent with section 3107(c)(2), results shall be disaggregated by language group and show the progress made by all students, when applicable.

187. No comparable House provision.

HR

188. No comparable House provision.

HR with an amendment to:

Strike "bilingual" and insert "language instruction educational programs" in Sec. 3221 (a).

Strike "Office of Bilingual Education and Minority Language Affairs" and insert "Office of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students" in Sec. 3321(c).

189. No comparable House provisions.

HR with an amendment to replace the current Sec. 3122 (b)(3) with the following language:

"(3) may include establishing (through the National Center for Education Statistics in consultation with experts in second language acquisition and in scientifically-based research on teaching LEP students) a common definition of 'limited English proficient student' for purposed of national data collection; and"

Strike "bilingual education" and insert "second language acquisition, scientifically-based research on teaching LEP students," in (b)(4).

Insert "LEP" before "students or teachers" and strike "into bilingual education" and insert "that serve such students", strike the second "bilingual education" and insert "language instruction educational programs" in (c)(1);

Replace the current (2)(d) with the following language:

"(d) Consultation.—The Secretary shall consult with agencies, organizations, and individuals that are engaged in research and practice on the education of LEP students, language instruction educational programs, or related research, to identify areas of study and activities to be funded under this section."

Strike "Office of Bilingual Education and Minority Language Affairs" and insert "Office of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students" in Sec. 3122 (a).

190. No comparable House provision.

HR with an amendment to insert "academic" after "State" in (a)(2).

191. No comparable House provision.

HR with an amendment to strike $200,000 and insert "$100,000" in sec. 3124(b).

192. No comparable House provision.

HR with an amendment to strike "bilingual education" and replace with "language instruction educational programs" in sec. 3125 (a), (b)(3), and (b)(4);

Conform (b)(4) to Note 176.

193. No comparable House provision.

HR with an amendment to strike "voluntary national content standards" in (b)(2) and insert "academic" after "State" in (b)(2).

194. No comparable House provision.

HR with an amendment to strike all legislative language in notes 194–202 and insert:

"SEC. 3131.
PROFESSIONAL DEVELOPMENT.

"(a) Purpose.—The purpose of this subpart is to provide assistance to prepare educators to improve the educational services for limited English proficient children and youth by—

"(1) supporting professional development programs and activities to prepare teachers, pupil service personnel, administrators, and other educational personnel working in language instruction educational programs to provide effective services to limited English proficient children and youth;

"(2) incorporating curricula and resources on appropriate and effective instructional and assessment methodologies specific to limited English proficient students into preservice and in-service professional development programs;

"(3) upgrading the qualifications and skills of non-certified educational personnel, including educational paraprofessionals, to enable such personnel to meet high professional standards for educating limited English proficient students;

"(4) improving quality of professional development programs in schools or departments of education at institutions of higher education, for educational personnel serving or preparing to serve children and youth of limited English proficiency; and

"(5) supporting the recruitment and training of prospective educational personnel to serve limited English proficient students by providing fellowships for undergraduate, graduate, doctoral, and post-doctoral study related to the instruction of such students.

"(b) Authorization.—

"(1) In general.—The Secretary is authorized to award grants to institutions of higher education, state educational agencies, local educational agencies, or a consortium of one or more local educational agencies, state educational agencies, institutions of higher education, or for profit and nonprofit organizations.

"(2) Duration.—Each grant awarded under this subpart shall be awarded for a period of not more than 4 years.

"(c) Authorized Activities.—Grants awarded under this subpart shall be used to conduct high-quality professional development programs and effective activities and strategies to improve the quality of instruction and services provided to limited English proficient students, including—

"(1) implementing pre-service and in-service professional development programs for teachers that serve limited English proficient students, administrators, and other educational personnel who are preparing to provide educational services for children and youth of limited English proficiency, including professional development programs that assist limited English proficient children to attain English proficiency;

"(2) implementing school-based collaborative efforts among teachers to improve instruction in core academic areas, especially reading, for students of limited English proficiency;

"(3) developing and implementing programs to assist new teachers who serve limited English proficient students with transitioning to the teaching profession, including mentoring and team teaching with trained and experienced teachers;

"(4) implementing programs that support effective teacher use of education technologies to improve instruction and assessment;

"(5) developing curricular materials and assessments for teachers that are appropriate to the needs of limited English proficient students, and that are aligned with state academic achievement content standards, including materials and assessments that ensure limited English proficient children attain English proficiency;

"(6) integrating and coordinating activities with entities carrying out other programs consistent with the purposes of this subsection and supported under this Act, or other Acts as appropriate;

"(7) developing and implementing career ladder programs to upgrade the qualifications and skills of non-certified educational personnel working in, or preparing to work in, language instruction educational programs to enable such personnel to meet high professional standards, including standards for certification and licensure as teachers;

"(8) developing and implementing activities to help recruit and train secondary school students as teachers that serve limited English proficient students;

"(9) providing fellowships and assistance for costs related to enrollment in a course of study at an institution of higher education that addresses the instruction of children and youth of limited English proficiency in such areas as teacher training, program administration, research, evaluation, and curriculum development, and for the support of dissertation research related to such study, provided that any person receiving such a fellowship or assistance shall agree to—

"(A) work in an activity related to the program or in an activity such as an activity authorized under this subpart, including work as a teacher that serves limited English proficient students, for a period of time equivalent to the period of time during which such person receives assistance under this provision; or

"(B) repay such assistance; and

"(10) carrying out such other activities as are consistent with the purpose of this subpart.

"(d) Application.—

"(1) In general.—Each eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(A) Contents.—Each application shall—

"(i) describe the programs and activities proposed to be developed, implemented and administered under the award;

"(ii) describe how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited English proficiency to determine such schools' need for, and the design of, the program for which funds are sought; and

"(iii) describe how the activities to be carried out under the award will be used to ensure limited English proficient students meet state academic achievement standards and attain English proficiency.

"(B) Special rule.—An eligible entity who proposes conducting a master's- or doctoral-level program with funds applied for under this subpart shall contain an assurance in their application that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited English proficiency.

"(C) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this subpart.

"(D) DISTRIBUTION RULE.—In making awards under this subpart, the Secretary shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience concerning the programs and activities authorized under this subpart and are otherwise qualified.

"(e) PRIORITIES IN AWARDING GRANTS.—

"(1) PRIORITIES.—

"(A) In awarding grants to state educational agencies and local educational agencies under this subpart, the Secretary shall give priority to programs and activities designed to implement professional development programs for teachers and educational personnel who are currently providing or preparing to provide educational services for limited English proficient children and youth, including services provided through language instruction educational programs, that ensure such children attain English proficiency and meet challenging state academic content and student academic achievement standards.

"(B) In awarding grants to institutions of higher education under this subpart, the Secretary shall give priority to institutions who propose programs to recruit and upgrade the qualifications and skills of certified and noncertified educational personnel by offering degree programs that prepare new teachers to serve limited English proficient students.

"(f) PROGRAM EVALUATIONS.—

"(1) IN GENERAL.—Each recipient of awards under this subpart shall annually conduct an independent evaluation of the program and submit to the Secretary a report containing the independent evaluation. Such report shall include information on—

"(A) the programs and activities conducted by the recipient to provide high-quality professional development to participants of such programs and activities;

"(B) the number of participants served through the program, the number of participants who completed program requirements, and the number of participants who took positions in an instructional setting with limited English proficient students;

"(C) the effectiveness of the program in imparting the professional skills necessary for participants to achieve the objectives of the program; and

"(D) the teaching effectiveness of graduates of the program or other participants who have completed the program."

195. No comparable House provision.

HR with an amendment (see note 194).

196. No comparable House provision.

HR with an amendment (see note 194).

197. No comparable House provision.

HR with an amendment (see note 194).

198. No comparable House provision.

HR with an amendment (see note 194).

199. No comparable House provision.

HR with an amendment (see note 194).

200. No comparable House provision.

HR with an amendment (see note 194).

201. No comparable House provision.

HR with an amendment (see note 194).

202. No comparable House provision.

SR

203. No comparable House provision.

HR with an amendment to move to FIE/LIFE

204. No comparable House provision.

HR with an amendment to move to FIE/LIFE

205. No comparable House provision.

HR with an amendment to move to FIE/LIFE

206. No comparable House provision.

HR with an amendment to move to FIE/LIFE

207. No comparable House provision.

HR with an amendment to move to FIE/LIFE (strike language not needed)

208. No comparable House provisions.

HR with an amendment to strike (a) FINDINGS.

209. No comparable House provisions.

HR

210. No comparable House provisions.

HR

211. No comparable House provision.

HR

212. No comparable House provision.

HR

213. No comparable House provision.

HR

214. No comparable House provision.

HR with an amendment to strike "salaries" and insert "support" in (a)(2); Strike "overhead costs, costs of construction, acquisition or rental of space" in (a)(5).

215. No comparable House provision.

HR

216. No comparable House provision.

HR with an amendment to strike "$200,000 for fiscal year 2001 and such sums as may be necessary for each of the 6 succeeding fiscal years" and insert: "such sums for fiscal year 2001 and such sums as may be necessary for each of the 5 succeeding fiscal years."

217. No comparable House provision.

HR

218. No comparable House provision.

HR with an amendment to move to Authorized Activities to subpart 1—Bilingual Education Capacity and Demonstration Grants

219. No comparable House provision.

HR

220. No comparable House provision.

HR

221. No comparable House provision.

SR with an amendment to correspond with note 151.

Insert "appropriately" after "number of," strike "bilingual," and strike "bilingual education teachers" and insert "teachers that serve limited English proficient students" in (d)(3)

222. No comparable House provision.

SR on definition of "Bilingual Education Program;"

HR on definition of "children and youth;"

SR on definition of "community-based organization;"

HR on definition of "community college;"

HR with amendment to strike "Office of Bilingual Education and Minority Languages Affairs" and insert "Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students" in definition of "director";

HR on definition of "family education program;"

SR on definition of (6)(B) "instruction for higher education and employment;"

HR on definition of "immigrant children and youth;"

SR on definition of "limited English proficiency and limited English proficient;"

HR on definition of "Native American and Native American Language;"

HR on definition of "Native Hawaiian or Native American Pacific Islander Native Language Educational Organization;"

HR on definition of "Native Language" (keep with note 162 (pg. 51);

HR with amendment to strike "Office of Bilingual Education and Minority Languages Affairs" and insert "Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students" in definition of "office";

SR on definition of "other programs for persons of limited English proficiency;"

HR on definition of "paraprofessional;"

SR on definition of "special alternative instructional program"

223. No comparable House provision.

Corresponds with notes 13–39.

Title III, Part B—Indian and Alaska Native Education

(New Title VII)

1. The House bill authorizes programs for Indian and Alaska Native Education. The Senate amendment authorizes programs for Indian, Native Hawaiian, and Alaska Native Education. The House bill places these programs in Title III, Part B. The Senate amendment places them in Title VII.

HR/LC for placement.

2. The House bill includes a header referencing Indian and Alaska Native Education. The Senate amendment references Indian Education. The House bill places programs relating to Indian education in Title III, Part B, Subpart 1. The Senate amendment places these programs in Title VII, Part A.

LC

3. Using slightly different language, both the House bill and the Senate amendment include the same findings.

HR/SR with an amendment to insert the following language:

"STATEMENT OF POLICY

"It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the American Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of assuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children."

4. Using slightly different language, both the House bill and the Senate amendment include the same purposes.

LC

5. Both the House bill and the Senate amendment authorize formula grants to Local Educational Agencies. The House bill does this in Chapter 1, the Senate amendment does this in Subpart 1.

LC

6. Using slightly different language, both the House bill and the Senate amendment have the same purposes.

LC

7. The House bill references academic content standards and State student academic achievement standards. The Senate amendment references State student performance standards.

LC—align with bill—academic achievement standards

8. Using different placement, both the House bill and Senate amendment provide for grants to LEAs.

LC

9. Using slightly different language, both the House bill and the Senate amendment describe eligibility requirements.

LC

10. Using slightly different language, both the House bill and the Senate amendment allow for Indian tribes to apply for grants in the event that an eligible LEA does not establish a parent committee.

LC

11. Using slightly different language and different references, both the House bill and the Senate amendment establish criteria to determine the amount of grants to eligible LEAs. The Senate amendment but not the House bill references subsection (d)—the definition of average per pupil expenditure.

LC

12. Using slightly different language, both the House bill and the Senate amendment provide for a minimum grant amount.

LC

13. Using slightly different language, both the House bill and the Senate amendment provide the same definitions.

LC

14. Using slightly different language, both the House bill and the Senate amendment provide the same criteria for grants to schools supported by the Bureau of Indian Affairs (BIA).

LC

15. Using slightly different language, both the House bill and the Senate amendment provide for the same application requirements.

HR

16. The House bill allows applications for schoolwide programs to be approved if they will not diminish culturally related activities. The Senate amendment allows for schoolwide programs if they enhance culturally related activities.

SR

17. Using slightly different language, both the House bill and the Senate amendment have the same general criteria for the use of grant funds.

LC

18. Using slightly different language, both the House bill and the Senate amendment have similar specific requirements for the use of grant funds.

LC

19. The House bill refers to State academic content standards and State academic achievement standards. The Senate amendment refers to State content standards and State performance standards.

LC—need to conform academic achievement standards

20. The House bill references the Perkins Vocational and Technical Education Act of 1998. The Senate amendment references P.L. 103–239, and P.L. 88–120.

SR

21. The Senate amendment, but not the House bill, specifies that funds may be used to promote the incorporation of culturally responsive teaching and learning strategies.

HR

22. The Senate amendment, but not the House bill, specifies that funds may be used for activities that incorporate American Indian and Alaska Native specific curriculum content.

HR

23. The Senate amendment, but not the House bill, specifies that funds may be used to promote coordination and collaboration between tribal, Federal, and State public schools.

SR

24. Using slightly different language, both the House bill and the Senate amendment allow LEAs to use funds to support schoolwide programs.

LC

25. Using slightly different language, both the House bill and the Senate amendment limit the use of funds by a grantee for administrative purposes to five percent of the funds received.

LC

26. Using slightly different language, both the House bill and the Senate amendment provide for LEAs receiving formula grants under this Title to combine federal funds received to serve Indian students into a comprehensive program to serve such students.

LC

27. Using slightly different language, both the House bill and the Senate amendment require LEAs that want to participate to submit a plan to the Secretary.

SR

28. Using slightly different language, both the House bill and the Senate amendment require the Secretary to authorize the applicant to consolidate programs upon receipt of an acceptable plan.

HR

29. Using slightly different language, both the House bill and the Senate amendment set forth criteria for commingling of funds.

LC

30. Using slightly different language, both the House bill and the Senate amendment list the same requirements for an acceptable plan.

LC

31. The Senate amendment but not the House bill requires consultation with the House Committee on Resources and the Senate Committee on Indian Affairs.

SR

32. Using slightly different language, both the House bill and the Senate amendment require coordination among federal agencies, which provide funds effected under the LEA's plan.

LC

33. Using slightly different language, both the House bill and the Senate amendment set forth the responsibilities of federal agencies under this section, as well as criteria for determining the lead agency for the purposes of this section.

SR

34. Using slightly different language, both the House bill and the Senate amendment list information that the applicant is required to report to the Secretary.

SR

35. Using slightly different language, both the House bill and the Senate amendment prohibit reduction in funding received by applicants, authorize interagency fund transfers, set forth administrative requirements for participating LEAs, allow for simplified record keeping for participating LEAs, allow for the commingling of administrative funds, and allow the Secretary and the lead agency to safeguard federal funds pursuant to the Single Audit Act.

LC—to check references to other acts

36. Using slightly different Language, both the House bill and the Senate amendment require the Secretary of Education to report on obstacles to program integration to the relevant congressional committees. The House bill and the Senate amendment requires the reports to be made to the Senate Health, Education, Labor, and Pensions committee, and to the House Committee on Education and the Workforce. In addition, the Senate amendment requires reports to be made to the Senate Committee on Indian Affairs.

HR

37. Using slightly different language, both the House bill and the Senate amendment define the term "Secretary" for purposes of this section.

SR

38. Using slightly different language, both the House bill and the Senate amendment set forth information that must be included on student eligibility forms.

HR

39. Using slightly different language, both the House bill and the Senate amendment set forth the same criteria for the Secretary to conduct monitoring and evaluation reviews, compute grant awards for BIA funded schools, and establish the timing of child counts.

LC

40. Using slightly different language, both the House bill and the Senate amendment set forth the same criteria regarding notification of payments, payments taken into account by a State in determination of State aid, and maintenance of effort.

LC

41. The Senate amendment refers to "the year", while the House bill refers to the "preceding year.

SR

42. See note 41.

SR

43. Using slightly different language, both the House bill and the Senate amendment provide the same requirements for State review of applications.

LC

44. Both the House bill and the Senate amendment authorize special programs and projects to improve educational opportunities for Indian children. These activities are authorized under Chapter 2 in the House bill and Subpart 2 in the Senate amendment.

LC

45. Using slightly different language, both the House bill and the Senate amendment set forth the same purposes.

LC

46. Using slightly different language, both the House bill and the Senate amendment list the same eligible entities.

HR

47. Both the House bill and the Senate amendment authorize the same activities.

HR with an amendment to strike "secondary school" and insert "high school" in (E).

48. The House bill refers to career preparation programs, while the Senate amendment refers to school-to-work transition programs.

SR

49. Using slightly different language, both the House bill and the Senate amendment authorize grants for professional development. The Senate amendment refers to preservice or in-service training, while the House bill refers to professional development.

SR

50. Using slightly different language, both the House bill and the Senate amendment set forth the same grant and application requirements.

LC

51. Using different language, both the House bill and the Senate amendment require that material to be disseminated: (1) be adequately reviewed; (2) have demonstrated educational merit; and (3) has the ability to be replicated.

HR

52. The Senate amendment refers to scientifically based research, while the Senate amendment refers to research-based programs.

HR with an amendment to insert "where applicable" after "research program" in (iii).

53. Using slightly different language, both the House bill and the Senate amendment limit the use of funds for administrative purposes to five percent of the funds received.

LC

54. Using slightly different language, both the House bill and the Senate amendment authorize grants for professional development.

SR

55. Both the House bill and the Senate amendment set forth the same purposes.

SR

56. Using different wording, both the House bill and the Senate amendment designate institutions of higher education, State and local educational agencies, and Indian tribes or organizations as eligible entities. The House bill specifies that Indian tribes or organizations are eligible in consortium with institutions of higher education. The Senate amendment defines "eligible entity" to mean a consortium of: (1) an SEA or LEA; (2) an institution of higher education (including an Indian institution of higher education); or (3) an Indian tribe or organization.

SR with an amendment to insert "a BIA funded school" as new House (4).

57. Using slightly different language, both the House bill and the Senate amendment authorize the Secretary to award grants to eligible entities.

LC

58. Using slightly different language, both the House bill and the Senate amendment authorize the same activities, set forth the same application requirements, place the same requirements on eligible entities and individuals trained under the program, and set forth the same reporting requirements.

LC

59. The Senate amendment, but not the House bill authorizes a specific program for in-service training for teachers of Indian children.

HR with amendment to move to national activities and delete any findings or separate authorizations of appropriations.

60. The Senate amendment, but not the House bill, maintains an authorization for fellowships for Indian students. This provision is currently unfunded.

HR with an amendment to move to national activities and delete any findings or separate authorizations of appropriations.

61. The Senate amendment, but not the House bill, maintains an authorization of a program for gifted and talented Indian students. This authorization is currently unfunded.

HR with an amendment to move to national activities and delete any findings or separate authorizations of appropriations.

62. The Senate amendment, but not the House bill, maintains an authorization of a program to provide grants to tribes for administrative planning and development. This authorization is currently unfunded.

HR with an amendment to move to national activities and delete any findings or separate authorizations of appropriations.

63. The Senate amendment, but not the House bill, maintains an authorization for a programs related to adult education for Indians. This authorization is currently unfunded.

HR with an amendment to move to national activities and delete any findings or separate authorizations of appropriations.

64. Using slightly different language, both the House bill and the Senate amendment authorize the use of funds for research activities related to the education of Indian children and adults. The House bill authorizes these activities in Chapter 3. The Senate amendment places them in Subpart 4.

LC

65. The Senate amendment but not the House bill limits the amount of funds that can be used for administrative expenses to not more than 5 percent of the grant or contract.

SR

66. Both the House bill and the Senate amendment authorize the National Advisory Council in Indian Education (NACIE). The House bill does this in Chapter 4. The Senate amendment does so in Subpart 5.

LC

67. Using almost identical language, both the House bill and the Senate amendment set forth membership criteria and duties for the Council.

LC

68. Using different language, both the House bill and the Senate amendment provide for peer review of applications, preferences for certain Indian applicants, and minimum grant criteria.

LC

69. Both the House bill and the Senate amendment provide definitions and authorizations of appropriations. The House bill does so in Chapter 5. The Senate amendment does so in Subpart 6.

LC

70. Both the House bill and the Senate amendment provide identical definitions of "adult", "free public education", and "Indian".

SR

71. The House bill authorizes $100,000,000 million for Chapter 1 for FY 2002, and such sums for each of fiscal years 2003 through 2006. The Senate amendment authorizes $93,300,000 for FY 2002, and such sums for each of the six succeeding fiscal years.

SR with an amendment to Strike $100,000,000 and insert $96,400,000.

72. The House bill authorizes $25,000,000 for Chapters 2 and 3 for FY 2002, and such sums for FY 2003 through 2006. The Senate amendment authorizes $20,000,000 for Subparts 2 through 4 for FY 2002, and such sums for each of the six succeeding fiscal years.

SR with an amendment to Strike $25,000,000 and insert $24,000,000.

73. The House bill but not the Senate amendment includes a savings provision.

SR

74. The Senate amendment, but not the House bill, continues programs to supplement educational programs for Native Hawaiians.

HR with an amendment accept Senate language on findings; Move Native Hawaiian Council language to allowable uses of funds; Insert "including program co-location" after "activities," in Sec. 7205 (a)(3)(I); and to strike section 7205 (a)(3)(L) (construction).

75. The Senate amendment, but not the House bill, authorizes $300,000 for FY 2002 and such sums as necessary for Native Hawaiian education councils.

HR with an amendment to make Native Hawaiian education councils an authorized activity with funding set aside of $500,000 per year.

76. The Senate amendment, but not the House bill, authorizes $35,000,000 for FY 2002, and such sums as necessary for the succeeding six fiscal years, for programs to supplement the education of Native Hawaiians.

HR with an amendment—Strike "$35,000,000" so that it is "such sums for FY 2002, and each of the succeeding six fiscal years", and insert a provision such that $500,000 is reserved to fund Native Hawaiian education councils.

77. Both the House bill and the Senate amendment authorize programs to supplement the education of Alaska Natives. The House bill authorizes these programs under Subpart 2. The Senate amendment authorizes them under Part C.

LC

78. Both the House bill and the Senate amendment provide the same short title.

LC

79. Using slightly different language, both the House bill and the Senate amendment have the same findings.

HR

80. Using slightly different language, both the House bill and the Senate amendment have the same purposes.

LC

81. Both the House bill and the Senate amendment authorize the Secretary to make grants or enter into contracts.

HR

82. Both the House bill and the Senate amendment list permissible activities. The House bill includes the development of plans, the development of curricula and educational programs, professional development of educators, the development and operation of home instruction programs, family literacy services, the development and operation of enrichment programs in science and math, research and data collection, and other research and evaluation activities. In addition, the Senate amendment lists parenting education, cultural education programs, cultural exchange programs activities carried out through the Even Start program, other early learning and preschool programs, dropout prevention programs, an Alaska initiative for community engagement, career preparation activities, and operational support and construction funding as permissible activities.

HR

83. Using slightly different language, both the House bill and the Senate amendment limit the amount of grants that can be spent on administrative costs to five percent.

LC

84. The Senate amendment but not the House bill requires the Secretary to give priority to applications from Alaska Native regional nonprofit organizations or consortia that include Alaska Native nonprofit organizations when awarding grants for permissible activities listed under subsection (a) (2). The Senate amendment further exempts funds earmarked for certain permissible activities from this provision

HR

85. The House bill authorizes the appropriation of $15,000,000 for FY 2002, and such sums as necessary for FY 2003 through FY 2006 to carry out this part. The Senate amendment authorizes $35,000,000 million for FY 2002 and such sums as necessary for each of the six succeeding fiscal years to carry out this section (see note 80).

HR with an amendment to strike "$35,000,000" and insert such sums as necessary.

86. The Senate amendment but not the House bill directs the Secretary to make available $1 million annually for each of the following activities: (1) parenting education; (2) cultural education programs; and (3) cultural exchange programs. The Senate amendment further directs the Secretary to make available annually $2 million for each of the following activities: (1) dropout prevention programs; and (2) an Alaska Native Initiative for Community Engagement program.

HR

87. Using slightly different language, both the House bill and the Senate amendment

provide administrative provisions including application requirements, requirements for consultation with representatives of the Alaska Native community, and coordination with local educational agencies.

LC

88. Using slightly different language, both the House bill and the Senate amendment provide the same definitions of "Alaska Native", and "Alaska Native Organization".

LC

89. The House bill but not the Senate amendment includes a savings provision.

SR

90. The Senate amendment, but not the House bill, includes conforming amendments.

LC

91. The Senate amendment but not the House bill contains a new Part D, entitled "Educational, Cultural, Apprenticeship and Exchange Programs for Alaska Natives, Native Hawaiians and Their Historical Whaling and Trading Partners in Massachusetts".

HR with an amendment to move to the Life Fund.

92. The Senate amendment but not the House bill contains findings.

HR with an amendment to move to the Life Fund.

93. The Senate amendment but not the House bill establishes the purpose of the program.

HR with an amendment to move to the Life Fund.

94. The Senate amendment but not the House bill authorizes the Secretary to make grants or enter into contracts, and lists eligible entities.

HR with an amendment to move to the Life Fund.

95. The Senate amendment but not the House bill lists permissible activities.

HR with an amendment to move to the Life Fund.

96. The Senate amendment but not the House bill authorizes the appropriation of $10 million for FY 2002, and such sums as necessary for each of the 6 succeeding fiscal years.

SR with an amendment for one allowable use under single authorization for Life Fund.

97. The Senate amendment but not the House bill requires the Secretary to make available $2 million for the New Bedford Whaling Museum, $2 million for the Inupiat Heritage Center, $1 million each for the Alaska Native Heritage Center, the Bishop Museum, and the Peabody—Essex Museum to carry out permissible activities under this part, and $1 million each for the Alaska Native Heritage Center, the Bishop Museum, and the Peabody—Essex Museum for internship and apprenticeship programs.

HR with an amendment to move to the Life Fund.

98. The Senate amendment but not the House bill provides application requirements and requires coordination with Local Educational Agencies.

HR with an amendment to move to the Life Fund.

Title III, Part B—BIA Indians

(New Title X, Part D)

1. The Senate Amendment, but not the House bill includes a short Title for its amendments.

HR

2. The Senate amendment, but not the House bill, includes a reference to the Federal government's unique and continuing trust relationship with the Indian people.

SR

3. The House bill, but not the Senate Amendment refers to the responsibility for the operation of BIA schools as solely the Federal Governments.

HR/SR

4. Using similar language, both the House bill and the Senate amendment have a statement of policy. The Senate amendment, but not the House bill, references the basic elementary and secondary educational needs of Indian children.

HR with an amendment to strike all of Senate (b) Policy and insert in its place the following language:

"It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children and for the operation and financial support of the Bureau of Indian Affairs funded school system to work in full cooperation with tribes toward the goal of assuring that the programs of the Bureau of Indian Affairs funded school system are of the highest quality and provide for the basic elementary and secondary educational needs of Indian children, including meeting the unique educational and cultural needs of these children."

5. The Senate Amendment refers to accreditation while the House bill refers to accreditation standards.

HR

6. The Senate Amendment, but not the House bill, includes a declaration of purpose.

HR with an amendment to strike all of Senate (B).

7. The House bill, but not the Senate amendment, requires that the Secretary carry out studies and surveys to establish and revise standards through a contract with an Indian organization.

HR

8. The House bill, but not the Senate amendment, requires the Secretary to revise Bureau academic standards.

HR

9. The House bill, but not the Senate amendment requires the Secretary to provide alternative standards to ensure compliance with minimum accreditation standards for the State or region of a school.

HR

10. The House bill, but not the Senate amendment, allows tribal governing bodies to waive Bureau standards under certain circumstances.

HR

11. The House bill allows Bureau schools to meet standards or be accredited not later than the 2nd academic year after publication of the standards, while the Senate amendment requires accreditation 12-months after the date of enactment.

HR with an amendment to strike "12" and insert "24".

12. The House bill allows for accreditation by a tribal accrediting agency if the standards used by that agency are equal to, or exceed standards of the accreditor for the State or region in which the school is located. The Senate amendment allows for tribal accreditation if such accreditation is certified by a State or accepted by a regional accreditor. The Senate amendment further allows a tribal government to select the State accreditor if its reservation is located in more than one State.

SR with an amendment to strike "are equal . . . is located;" in (A) and insert "such accreditation is acknowledged by a generally recognized State certification or regional accrediting agency;"

Insert Senate (iv) as a new House (D).

Report language to read as follows:

Section (i) concerning tribal accreditation clarifies the conferee's intent that accreditation standards developed by tribal accrediting bodies are recognized by State or regional accrediting agencies. It is the purpose of this section to have Bureau-funded schools develop standards that are equal to or exceed the accreditation standards of a State or regional accrediting agency, chosen by the school board in conjunction with the tribal governing body. The accreditation agency should recognize that tribal departments of education are more experienced in developing standards of accreditation for Indian schools and their children. These accreditation standards take into account the unique cultural barriers that exist for Indian children and the conditions needed for them to achieve their educational goals.

13. The Senate amendment but not the House bill requires the Secretary of Interior, in conjunction with the Secretary of Education, to study and report on the feasibility of establishing a National Tribal Accrediting Agency. The report is to be made to the appropriate committees of Congress within 12 months of the date of enactment.

HR with an amendment to insert as new (B) the following language:

"(B) FEASIBILITY STUDY.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary of the Interior and the Secretary of Education shall, in consultation with Indian tribes, Indian education organizations, and accrediting agencies, develop and submit to the appropriate Committees of Congress a report on the desirability and feasibility of establishing a tribal accreditation agency that would serve to review and acknowledge the accreditation standards for Bureau funded schools and that would establish accreditation procedures to facilitate the application, review of the standards and review processes, and recognition of qualified and credible tribal departments of education as accrediting bodies serving tribal schools."

14. The House bill, but not the Senate amendment, refers to standards.

HR

15. The House bill provides that assistance may be given to contract or grant schools in implementing bureau standards, upon request. The Senate Amendment provides that assistance may be given to Bureau funded schools to obtain accreditation. Such assistance can be provided through a number of entities.

HR

16. The Senate amendment, but not the House bill, provides that Bureau standards shall apply while accreditation is being sought.

HR

17. The Senate Amendment, but not the House bill, provides that the Secretary issue a report on unaccredited Bureau funded schools 90 days after the end of each school year.

HR with an amendment to insert "the Committee on Education and the Workforce" after "the Committees on Appropriations," and to insert "the HELP Committee" before "of the Senate" in (5).

18. The Senate amendment, but not the House bill, provides schools with the opportunity to present evidence prior to being included in the report.

HR

19. The Senate amendment, but not the House bill requires schools included in the annual report to develop a school plan to obtain accreditation.

HR

20. The Senate amendment, but not the House bill, requires the Secretary to take

corrective action against a Bureau school if they fail to obtain accreditation.

HR with an amendment to strike all language and insert the following:

"(8) Corrective action.—

"(A) Definition.—In this subsection, the term 'corrective action' means action that—

"(i) substantially and directly responds to—

"(I) the failure of a school to achieve accreditation; and

"(II) any underlying staffing, curriculum, or other programmatic problem in the school that contributed to the lack of accreditation; and

"(ii) is designed to increase substantially the likelihood that the school will be accredited.

"(B) Corrective action inapplicable.—The Secretary shall grant a waiver to any school that-

(i) is identified in the report described in paragraph (5)(C); and

(ii) fails to be accredited for reasons that are beyond the control of the school board, as determined by the Secretary. Reasons that are beyond the control of the school board include, but are not limited to, significant decline in financial resources, the poor condition of facilities, vehicles or other property, or a natural disaster.. Such a waiver shall exempt such school from any or all of the requirements of this paragraph and paragraph (7), but such school shall be required to comply with the standards contained in part 36 of title 25, Code of Federal Register, as in effect on the date of enactment of the [Native American Education Improvement Act of 2001].

"(C) Duties of secretary.—After providing assistance to a school under paragraph (3), the Secretary shall—

"(i) annually review the progress of the school under the applicable school plan, to determine whether the school is meeting, or making adequate progress towards, achieving the goals described in paragraph (7)(A)(v) with respect to reaccredidation or becoming a candidate for accreditation;

"(ii) except as provided in subparagraph (B), continue to provide assistance while implementing the school's plan, and, if determined appropriate by the Secretary, take corrective action with respect to the school if it fails to be accredited at the end of the third year of the school's plan;

"(iii) promptly notify the parents of children enrolled in the school of the option to transfer their child to another public or Bureau funded school;

"(iv) provide all students enrolled in the school with the option to transfer to another public or Bureau funded school, including a public charter school, that is accredited; and

"(v) provide, or pay for the provision of, transportation for each student described in clause (iv) to the school described in clause (iv) to which the student elects to be transferred to the extent funds are available as determined by the tribal governing body.

"(D) Failure of school plan.—With respect to a Bureau operated school that fails to be accredited at the end of the 3–year period during which the school's plan is in effect under paragraph (7), the Secretary may take 1 or more of the following corrective actions:

"(i) Institute and fully implement actions suggested by the accrediting agency.

"(ii) Consult with the tribe involved to determine the causes for the lack of accreditation including potential staffing and administrative changes that are or may be necessary.

"(iii) Set aside a certain amount of funds that may only be used by the school to obtain accreditation.

"(iv)(I) Provide the tribe with a 60-day period in which to determine whether the tribe desires to operate the school as a contract or grant school, before meeting the accreditation requirements in section 5207 of the Tribally Controlled Schools Act, at the beginning of the next school year following the determination to take corrective action. If the tribe agrees to operate the school as a contract or grant school, the tribe shall prepare a plan, pursuant to paragraph (7), for approval by the Secretary in accordance with paragraph (7), to achieve accreditation.

"(II) If the tribe declines to assume control of the school, the Secretary, in consultation with the tribe, may contract with an outside entity, consistent with applicable law, or appoint a receiver or trustee to operate and administer the affairs of the school until the school is accredited. The outside entity, receiver or trustee shall prepare a plan, pursuant to paragraph (7), for approval by the Secretary in accordance with paragraph (7).

"(III) Upon accreditation of the school, the Secretary shall allow the tribe to continue to operate the school as a grant or contract school, or if being controlled by an outside entity, provide the tribe with the option to assume operation of the school as a contract school, in accordance with the Indian Self Determination Act, or as a grant school in accordance with the Tribally Controlled Schools Act, at the beginning of the school year following the school year in which the school obtains accreditation. If the tribe declines, the Secretary may allow the outside entity, receiver or trustee to continue the operation of the school or reassume control of the school.

"(E) Failure of school plan of contract or grant school.

"(i) Corrective action.—With respect to a contract or grant school that fails to be accredited at the end of the 3–year period during which the school's plan is in effect under paragraph (7), the Secretary may take 1 or more of the corrective actions described in (D)(i), through (iii). The Secretary shall implement such corrective action for at least 1 year prior to taking any action described in clause (ii).

"(ii) Outside entity.—If the corrective action described in clause (i) does not result in accreditation of the school, the Secretary, in conjunction with the tribal governing body, may contract with an outside entity to operate the school in order to achieve accreditation of the school within 2 school years. Prior to any such contract, the Secretary shall develop a proposal for such operation which shall include, at a minimum, the following elements:

"(I) the identification of 1 or more outside entities which has demonstrated to the Secretary its ability to develop a satisfactory plan for achieving accreditation, and which is willing and available to undertake such plan; and

"(II) a plan for implementing operation of the school by such outside entity, including the methodology for oversight and evaluation of the performance of such outside entity by the Secretary and the tribe.

"(iii) Proposal amendments.—The tribal governing body shall have 60 days to amend the proposal described in clause (ii), including identifying another outside entity to operate the school. The Secretary shall reach agreement with the tribal governing body on the proposal and any such amendments to such proposal within 30 days of the expiration of the 60 day period described in the preceding sentence. After the approval of such proposal and any such amendments, the Secretary, with continuing consultation with such tribal governing body, shall implement such proposal.

"(iv) Accreditation.—Upon accreditation of the school, the tribe shall have the option to assume the operation and administration of the school as a contract school after complying with the Indian Self Determination Act, or as a grant school, after complying with the Tribally Controlled Schools Act, at the beginning of the school year following the year in which the school obtains accreditation.

"(v) Retrocede.—Nothing in this subparagraph shall limit a tribe's right to retrocede operation of a school to the Secretary pursuant to Sec. 105(e) of the Indian Self-Determination Act (with respect to a contract school) or Sec. 5204(f) of the Tribally Controlled Schools Act (with respect to a grant school).

(vi) Consistent.—The provisions of this subparagraph shall be construed consistent with the provisions of the Tribally Controlled Schools Act and the Indian Self Determination Act as in effect on the date of enactment of the Native American Education Improvement Act of 2001, and shall not be construed as expanding the authority of the Secretary under any other law.

"(F) Hearing.—With respect to a school that is operated pursuant to a grant, or a school that is operated under a contract under the Indian Self Determination Act, prior to implementing any corrective action under this paragraph, the Secretary shall provide notice and an opportunity for a hearing to the affected school pursuant to section 5207 of the Tribally Controlled Schools Act."

Report Language:

It is not the intent of the Conferees to broaden the authority of the Secretary of the Interior provided under the Indian Self Determination Act. However, nothing is intended to prevent this Act from being implemented as set forth in the Conference report. It is also the intent of this Act that prior to revoking an eligibility of determination and ceasing funding of a school, the Secretary shall exhaust all remedies stated in the Act and take any actions necessary to keep the school operational. The Conferees intend that the Secretary work with the affected tribe, consistent with the Federal policies of Indian self-determination, including, if necessary, temporarily assuming the operation and administration of a school that fails to become accredited for reasons that are not beyond the control of the school until the school becomes accredited and to eliminate impediments to achieving accreditation, including addressing underlying staffing, curriculum, or other programmatic problems in the school.

Section 1121(b)(8)(E) authorizes the Secretary to contract with an outside entity in cases where a contract or grant school has not achieved accreditation after the implementation of a school plan and corrective actions. While this section does not require the Secretary to contract with an outside entity, it is the intention of the Conferees to provide the Secretary with the discretion to contract with an outside entity in a case where both the school plan and any corrective action taken have not caused the school to gain accreditation. The Conferees do not intend to require the Secretary to contract with an outside entity if accreditation of the school can be gained through application of corrective actions.

With respect to public school choice:

The Conferees intend tribal governing bodies or school boards to establish reasonable parameters on the distance the school to which the child wishes to transfer is from the originating school. The Conferees do not intend this public school choice provision to provide an option to transfer to any school irrespective of the distance or costs associated with travel to such school.

21. The Senate amendment, but not the House bill, states that nothing in this section alters or otherwise affects the rights, remedies, and procedures afforded to school employees.

HR

22. The House bill, but not the Senate amendment, requires the Secretary to establish consistent reporting standards for fiscal control and fund accounting.

SR

23. Using similar language, both the House bill and the Senate amendment require the Secretary to implement Bureau academic standards and accreditation standards.

LC

24. Using similar language, both the House bill and the Senate amendments contain certain prohibitions related to the closure of BIA funded schools.

HR

25. Using similar language, both the House bill and the Senate amendment require the Secretary to promulgate regulations for the closure, transfer, consolidation, or substantial curtailment of BIA schools.

LC

26. Using similar language, both the House bill and the Senate amendment require notification for the reason for closure. The House bill requires notification to the local school board of a closure 6-months prior to the end of the school year.

LC

27. Using similar language, both the House bill and the Senate amendment require reports whenever a Bureau funded school is closed, transferred to another authority, or its program is actively curtailed.

LC

28. Both the House bill and the Senate amendment prohibit actions to close, transfer authority over, consolidate or substantially curtail Bureau funded schools until the end of the full first academic year after a negative report is made. The House bill refers to irrevocable action while the Senate amendment refers to irreversible action.

SR

29. Using similar language, both the House bill but and the Senate amendment allow the closure of a Bureau funded school or school program operated after January 1, 1999, or a school board operated under a grant with the approval of a tribal governing body.

LC

30. Using similar language, both the House bill and the Senate amendment establish the factors to be used in reviewing applications for schools that are not Bureau funded or for the expansion of a Bureau funded school.

LC

31. Both the House bill and the Senate amendment require the Secretary to make a determination with respect to an application within 180 after submission, and treats the application as approved if the Secretary takes no negative action within that time.

LC

32. Using similar language, both the House bill and the Senate amendment sets forth requirements for applications.

LC

33. Using similar language, both the House bill and the Senate amendment set forth requirements on the Secretary for disapproval of applications. If an application is disapproved, the Secretary must state objections in writing, provide assistance to the applicant to overcome the objections, and provide the applicant with a hearing.

HR

34. Using similar language, both the House bill and the Senate amendment set forth timeframes for successful applications to go into effect.

LC

35. The House bill but not the Senate amendment requires maintenance on privately funded expansions to be paid for with non-Bureau funds.

HR/SR to insert the following language for (6):

"STATUTORY ADMINISTRATION.—Nothing in this section or any other provision of law, shall be construed to preclude the expansion of grades and related facilities at a Bureau funded school, if such expansion is paid for with non-Bureau funds. Subject to the availability of appropriated funds the Secretary is authorized to provide the necessary funds needed to supplement the cost of operations and maintenance of such expansion."

36. The Senate amendment but not the House bill requires funds provided to be apportioned and retained at the schools.

HR

37. Using similar language, both the House bill and the Senate amendment allow all federal funds received for educational or related services to be used for schoolwide projects.

LC

38. Using different language, the House bill and the Senate amendment require the Comptroller General, in consultation with Indian tribes and school boards, to study and report on the adequacy of funding and formulas used for the funding of Bureau funded schools.'

SR with amendment to strike the first paragraph of the House language and insert the following in its place:

"(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau funded schools, taking into account unique circumstances applicable to Bureau funded schools. The study shall analyze existing information gathered and contained in germane studies that have been conducted or are currently being conducted in regards to Bureau funded schools."

39. Both the House bill and the Senate amendment require the Secretary to revise standards for home-living situations. The House bill, but not the Senate amendment, requires consultation. In addition, the House bill requires that such criteria serve as minimum standards.

LC

40. Using identical language, both the House bill and the Senate amendment require the Secretary to implement these standards immediately upon their issuance.

LC

41. Using different language, both the House bill and the Senate amendment require the Secretary, at the time of each budget submission, to submit a plan to bring all Bureau funded schools providing home-living situations into compliance with the home-living standards developed under this section. Both the House bill and the Senate amendment provide for the same information to be reported.

SR

LC—consistent throughout part (no budget reference).

42. The House bill allows for the waiver of home-living standards in the same manner as a tribal governing body may waive accreditation standards. The Senate amendment allows for the waiver of home-living standards under certain criteria.

HR

43. Using similar language, both the House bill and the Senate amendment prohibit the Secretary from closing Bureau funded schools for failure to meet home-living standards. The House bill references schools in operation prior to January 1, 1987, while the Senate amendment references schools in operation prior to July 1, 1999.

HR

44. The House bill, but not the Senate amendment codifies regulations under Part 32 of Title 25 of the Code of Federal Regulations (CFR). The House bill further defines regulations.

SR on (a); LC on (b) for placement.

45. Using slightly different language, both the House bill and the Senate amendment require the Secretary to establish geographical attendance area for Bureau schools, and allows tribal governing bodies to establish such boundaries in the event that more than one tribe occupies a geographical area.

LC

46. Using different language, both the House bill and the Senate amendment prohibit the Secretary from revising attendance without the consent of tribal governing bodies unless certain criteria are met. The House bill references July 1, 2001. The Senate bill references July 1, 1999. Both the House bill and the Senate amendment allow tribal governing bodies to petition the Secretary for boundary changes.

SR

47. Using slightly different language, both the House bill and the Senate amendment allow parents the choice of Bureau funded schools, regardless of geographic boundaries, if the tribal governing body approves a resolution allowing such choice.

LC

48. Using slightly different language, both the House bill and the Senate amendment require the Secretary to provide funding for eligible Indian child to attend a Bureau funded school regardless of whether they reside within the geographical attendance area. In addition, both deny funding for transportation of such children unless authorized by the tribal governing body.

LC

49. Using slightly different language, both the House bill and the Senate amendment require that the geographical attendance area be co-terminous with the boundaries of the reservation, in the event that a single school serves a reservation.

LC

50. Using different language, both the House bill and the Senate amendment require schools with home-living situations to accommodate students requiring special emphasis programs, regardless of geographic boundaries, and requires coordination among interested parties.

LC

51. The Senate amendment, but not the House bill, requires the General Accounting Office (GAO) to conduct a study of the physical needs of facilities at Bureau funded schools. This study makes comparisons with school funded by the Department of Defense, and must be submitted to the relevant committees of Congress within two years of the date of enactment.

HR with an amendment to insert "accurate," before "relevant" in (2)(B); insert "and

the HELP Committee" before "of the Senate" in (4); also in (4), end the sentence after "Secretary" and strike "who, in turn" and insert "The Secretary".

52. The Senate amendment but not the House bill requires the Secretary to establish a negotiated rule making committee to compile a catalog of the condition of Bureau funded schools and a school construction and replacement report. These reports must be submitted to the relevant Congressional committees and other entities not later than 24 months after establishment of the negotiated rulemaking committee.

HR with an amendment on placement.

LC—place in over all negotiators provisions.

53. The Senate amendment but not the House bill requires the Secretary to develop a facilities information systems support database to maintain and update information contained in the facilities reports. The system is to be updated every 3 years, monitored by the GAO, and the information is to be made available to Bureau funded schools and other interested parties, and to Congress.

HR

54. Using slightly different language, both the House bill and the Senate amendment require the Secretary to bring Bureau funded school facilities into compliance with health and safety codes. The House bill references the "No Child Left Behind Act of 2001", while the Senate amendment references the "Native American Education Improvement Act of 2001".

LC

55. Using almost identical language, both the House bill and the Senate amendment require the Secretary to submit a plan to bring all Bureau funded education facilities into compliance with health and safety standards. Such plan must be submitted to the appropriate committees of Congress at the time of the annual budget request.

LC

56. Using similar language, both the House bill and the Senate amendment require the Secretary to establish and publicly report the system used to establish priorities for the replacement and construction of Bureau funded schools. Both the House bill and the Senate amendment further require the establishment of a long term plan for construction and replacement of Bureau schools.

LC

57. Using similar language, both the House bill and the Senate amendment allow for the closure or consolidation of Bureau funded schools in the event of conditions that threaten health and safety. In addition, the Senate amendment requires that the Bureau health and safety officer and an individual designated by the Tribe determine that such conditions exist.

HR with an amendment to strike "and" and insert "or" in (A);

Insert a new (iv): "be designated at the beginning of the school year." in (B).

58. Both the House bill and the Senate amendment require inspection of the facility by two individuals to determine if a health or safety hazard requires a facilities closure. The House bill requires the Bureau officer to be accompanied by an appropriate tribal, county, municipal, or State health or safety officer. The Senate amendment requires an individual designated by the tribe. The House bill further requires the inspection to occur within 30 days after the finding of the hazard. The House bill prohibits further negative action unless both inspectors concur that a health or safety threat exists. The Senate amendment provides for different action in the case of non-concurrence.

HR with an amendment to strike "In" and insert "After" before "making"; and insert "Such inspection shall be completed as soon as possible but in no case later than 20 days after the date on which the action described in paragraph (1) is taken." as the last sentence in (C).

59. The Senate amendment, but not the House bill, require notification of the tribal governing body in the case that the two inspectors do not concur (see note 56).

HR

60. The Senate amendment but not the House bill requires the tribal governing body to make the determination regarding closure or curtailment in the case that 2 health and safety inspectors do not concur (see note 58).

HR

61. The House bill requires that consolidation or curtailment immediately halt, or that the facility be reopened if the Bureau health and safety inspector does not find conditions present an immediate health or safety hazard. The Senate amendment requires that if the inspectors agree that a health or safety condition exists, or if the tribal governing body makes such a determination, that the facility shall be closed immediately.

HR with an amendment to insert House (B) to end of Senate (F) as new (1).

62. Both the House bill and the Senate amendment require that in the event of a closure or curtailment that will exceed 1 year, the Secretary shall issue a report to Congress. The House bill requires the report within 6 months, while the Senate amendment requires the report within 3 months. The Senate amendment also requires the report to go to other interested parties, requires more reporting elements, and outline steps that the effected school, designated school board, or tribal governing body may take to continue its program during the closure.

HR

63. The Senate amendment, but not the House bill, requires that all funds allocated for operations or maintenance be distributed under a formula, and prohibits these funds from being used for administrative purposes by the Bureau.

HR

64. Using different language, both the House bill and the Senate amendment prohibit the Secretary from withholding funds for maintenance, facilities or roads without the consent of the school.

LC

65. Using slightly different language both the House bill and the Senate amendment prohibit any reduction in federal facilities funding due to the receipt of facilities funding from a State or other source.

LC

66. Using slightly separate language, both the House bill and the Senate amendment require the Secretary to vest in the Assistant Secretary for Indian Affairs all functions with respect to the formulation and establishment of policy and procedure to carry out Indian education programs.

LC

67. Using slightly different language, both the House bill and the Senate amendment require the transfer of all personnel directly and substantially involved in the provision of Indian education programs to the Office of Indian Education Programs. The transfer is to occur within 6 months of the date of enactment, and is to be overseen by the Assistant Secretary for Indian Affairs.

HR

68. The Senate amendment but not the House bill subjects all functions related to education that are located at the Area or Agency level and carried out by an education line-officer to contracting under the Indian Self-Determination and Education Assistance Act, unless the Secretary determines the function to be inherently a federal function.

HR with an amendment to strike "section 1139(9)" and insert "section 1139(11).

69. Both the House bill and the Senate amendment set forth the same responsibilities for personnel under the direction of the Office of Indian Education Programs.

LC

70. Using slightly different language, both the House bill and the Senate amendment require an annual plan for the construction, improvement, operation and maintenance of facilities to be submitted annually with the budget.

LC

71. Using similar language, both the House bill and the Senate amendment require the Assistant Secretary to establish procedures for the uniform upkeep of Bureau funded education facilities. The Senate amendment further requires the Assistant Secretary to hold a series of meetings to receive comment.

LC

72. Using similar language, both the House bill and the Senate amendment set forth criteria for the implementation of maintenance.

LC

73. Using identical language, both the House bill and the Senate amendment require the implementation of this provision as soon as practicable after the date of enactment.

LC

74. Using similar language, both the House bill and the Senate amendment require the Director to develop mechanisms and guidelines for the acceptance and use of gifts and bequests to benefit particular schools or education programs. The Senate Amendment exempts gifts below $5000 from these guidelines.

HR

75. Using similar language, both the House bill and the Senate amendment clarify the use of the term function for the purposes of this section.

LC

76. Using similar language, both the House bill and the Senate amendment require the Secretary to establish a formula for determining the minimum annual funding required to sustain each Bureau funded school. The House bill and the Senate amendment require the Secretary to consider the same criteria, except that the Senate amendment adds funding to comply with accreditation standards to the list.

LC

77. Using similar language, both the House bill and the Senate amendment require the Secretary to revise the funding formula to take into account revisions in academic and accreditation standards.

HR

78. The House bill and Senate Amendment allow the Secretary to consider other factors, but the Senate Amendment includes the GAO study and comparing BIA schools to DOD schools.

SR

79. Using similar language, both the House bill and the Senate amendment require a revision of the formula established in this subsection to reflect the revision of standards.

SR

80. Both the House bill and the Senate amendment require the pro rata distribution of general local operational funds to Bureau funded schools.

LC

81. Using similar language, both the House bill and the Senate amendment establish the same formula for the distribution of Bureau funds.

SR

82. Both the House bill and the Senate amendment allow school boards to reserve funds for certain purposes. The Senate amendment, but not the House bill requires agency school boards to provide training for new school board members and recommends, but doesn't require training for tribal governing bodies that operate as school boards.

HR

83. Using similar language, both the House bill and the Senate amendment provide for the reservation of funds for emergencies.

LC

84. Using similar language, both the House bill and the Senate amendment provide for the distribution of supplemental appropriations.

LC

85. Using similar language, both the House bill and the Senate amendment define "eligible Indian student". The Senate amendment, but not the House bill, defines an eligible Indian student as a student who is enrolled in a BIA funded school.

HR

86. Using similar language, both the House bill and the Senate amendment set forth criteria under which a Bureau school can charge tuition, and circumstances under which a non-Indian student can attend a Bureau school.

LC

87. Using almost identical language, both the House bill and the Senate amendment allow not more than 15 percent of funding under this section to remain available without fiscal year limitation.

LC

88. Using similar language, both the House bill and the Senate amendment provide funding for students at the Richfield Dormitory. The Senate amendment prohibits the payment of administrative costs associated with the instruction of these students.

HR

89. Using similar language, both the House bill and the Senate amendment provide a formula for the payment of administrative cost grants for both direct and indirect costs. The House bill, but not the Senate amendment, subjects the grants to the availability of appropriated funds.

SR

90. Using different placement, both the House bill and the Senate amendment contain specific criteria for the payment of administrative cost grants (see note 91).

LC

91. Using different placement, both the House bill and the Senate amendment contain specific criteria for the payment of administrative cost grants (see note 90).

LC

92. Using similar language, both the House bill and the Senate amendment provide for no reduction in amounts received by grant or contract schools, and provide for a determination of the grant amount.

LC

93. The Senate amendment, but not the House bill, provides that funding shall be ratably reduced in the event of insufficient appropriations. The House bill has a similar provision under authorization of appropriations (see note 98).

LC

94. Using similar language, both the House bill and the Senate amendment provide an administrative cost percentage rate.

LC

95. Using similar language, both the House bill and the Senate amendment have provisions relating to the use and treatment of funds.

LC

96. The Senate Amendment references section 106 of ISDEAA, while the House bill references section 105 of ISDEAA.

HR

97. The House bill, but not the Senate amendment, requires the director to conduct a study to ensure that administrative cost grants will be based on criteria that ensure adequate but not excessive funding.

SR

98. Both the House bill and the Senate amendment authorize such sums as are necessary for the payment of administrative cost grants under this section. In addition, the House bill provides for the ratable reduction of funds in the event appropriations are insufficient. The Senate has a similar provision earlier in the section (see note 93).

LC

99. Using different language, both the House bill and the Senate amendment apply the provisions of this section (administrative cost grants) to schools receiving assistance under the Tribally Controlled Schools Act of 1988.

LC

100. The Senate amendment, but not the House bill, requires the Secretary to request full funding for administrative cost grants in budget submissions on an annual basis beginning with the President's budget request for fiscal year 2002.

HR with an amendment to insert "at the discretion of the Secretary," before "the Secretary shall submit".

101. Using similar language, both the House bill and the Senate amendment require the Assistant Secretary to establish within the Office of Indian Education Programs a Division of Budget Analysis. The Division is to report on projected amounts necessary to provide educational programs in Bureau funded schools.

LC

102. Using similar language, both the House bill and the Senate amendment establish the timing of the availability of Bureau education funds to schools.

HR

103. The House bill requires the Secretary to publish the allotment of 85 percent of allocated funds for schools not later than July 1 of each fiscal year. The Senate amendment requires the Secretary to publish the allotments of 80 percent of such funds.

HR

104. The House bill requires the Secretary to publish the allotment of the remaining 15 percent of such funds, adjusted to reflect actual student attendance not later than September 30. The Senate amendment includes a similar provision, requiring the publication of the remaining 20 percent of funds, and sets forth a timeline for the return of over awards.

HR

105. Using similar language, both the House bill and the Senate amendment allow the supervisor of a Bureau funded school to expend an aggregate amount of not more than $50,000 per year to acquire materials, supplies, equipment, services, operation, and maintenance without competitive bidding, and sets forth criteria under which this authority may be exercised.

HR with and amendment to insert "operated" after "Bureau" in paragraph (3)(A).

106. The House bill, but not the Senate amendment, sets forth procedures in the event of a sequestration of funds.

SR

LC to update references.

107. Using similar language, both the House bill and the Senate amendment require Bureau operated schools to develop a financial plan and expend federal funds in accordance with that plan. The House bill refers to all Bureau operated schools, which the Senate amendment refers to each Bureau school which receives an allotment under section 1126.

LC

108. The Senate amendment, but not the House bill requires financial plans to comply with all applicable Federal and tribal laws.

HR

109. The House bill, but not the Senate amendment, prohibits funds received for self-determination grants under the Indian Self-Determination and Education Assistance Act from being used for technical education and training in the field of education by the Bureau, unless expended under a plan agreed to by the tribe or tribes affected.

HR

110. Using different language, both the House bill and the Senate amendment allow funds to be expended for tribal divisions of education and development of tribal codes of education. The House bill references section 104 of the ISDEAA while the Senate amendment references section 103 of such Act.

HR

111. Using similar language, both the House bill and the Senate amendment allow the Secretary to supply technical assistance and training at the request of a local school board.

LC

112. Using similar language, both the House bill and the Senate amendment provide for summer programs of instruction and set forth criteria under which they may be provided.

LC

113. Using similar language, both the House bill and the Senate amendment allow for cooperative agreements between Bureau funded schools and local public school districts, and set forth criteria under which they may be entered into.

HR

114. Using identical language, both the House bill and the Senate amendment allow a student to keep the product or result of a project in which the student participated and sets forth criteria under which this may occur.

LC

115. Using different language, both the House bill and the Senate amendment exempt funds received by Bureau funded schools under this part from being considered federal funds if used to meet matching funds requirements of other federal programs. In addition, the Senate amendment exempts Bureau funded schools from such requirements, and prohibits the entity administering the program from considering the exemption when awarding such grants.

HR with an amendment to strike paragraph (2).

116. Using similar language, both the House bill and the Senate amendment set forth a federal policy of facilitating Indian control in all affairs relating to Indian education, requires consultation with tribes,

and sets forth requirements for such consultation.

HR

117. Using similar language, both the House bill and the Senate amendment set forth requirements for the hiring and employment of Indian education personnel.

LC

118. The House bill, but not the Senate amendment, requires that a list of qualified and interviewed applicants be maintained in the Office of Indian Education Programs of applicants that have applied at the national level and that are interested in working anywhere within the United States.

HR

119. The House bill requires that before an individual may be employed in an education position in the Office of the Director, the national boards representing all Bureau schools must be consulted. The Senate amendment requires that all employment decisions be in compliance with applicable federal, State, and tribal laws.

HR

120. Using different language, both the House bill and the Senate amendment require that applicants at the local level state whether they have applied at the national level, and allows for discipline or discharge in the event of a false statement.

LC

121. The Senate amendment but not the House bill sets forth procedures for the appeal of employment decisions.

HR

122. Using similar language, both the House bill and the Senate amendment set forth procedures in the event that the adoption of new rates of pay lead to increases.

LC

123. The House bill but not the Senate amendment sets forth procedures for determination of pay rates based on merit and advancement, and preclude such adjustments from effecting certain individuals employed on October 1, 1979.

LC on placement.

124. Both the House bill and the Senate amendment allow the Secretary to pay a post-differential rate not to exceed 25 percent if warranted by conditions of environment or work, and set forth provisions under which post-differential pay may be granted.

LC

125. Using similar language, both the House bill and the Senate amendment sets forth provisions for the supervisor of a school to grant differential pay.

HR

126. Using similar language, both the House bill and the Senate amendment provide for the liquidation of remaining leave upon termination and the transfer of sick leave upon transfer, promotion, or reemployment.

LC

127. Using similar language, both the House bill and the Senate amendment provide that an educator that voluntarily terminates employment before the expiration of a contract is ineligible for reemployment in another post prior to the expiration of the term of the contract.

LC

128. Using similar language, both the House bill and the Senate amendment set forth terms and conditions for dual compensation of educators, the acceptance of voluntary services, proration of pay, lump sum payments of salary, the payment of stipends, and the applicability of this section to individual employees based on employment status as of October 31, 1979.

LC

129. The House bill provides for definitions. The Senate amendment provides definitions using different placement.

SR

LC on placement

130. The Senate amendment, but not the House bill puts certain restrictions on furloughs without consent, and provides for stipends for instructors that become certified by the National Board on Professional Teaching Standards.

HR

LC to conform (r) with resolution of note 294 in Title II.

131. Using slightly different language, both the House bill and the Senate amendment require the Secretary to establish a computerized information system within the Office of Indian Education Programs. The House bill requires its establishment not later than July 1, 2003, while the Senate amendment requires establishment not later than 12 months from the date of enactment. Both require maintenance of the same information.

HR

132. The House bill requires implementation in Bureau field offices and Bureau funded schools not later than July 1, 2004, while the Senate amendment requires such implementation not later than July 1, 2003.

HR

133. The House bill but not the Senate amendment requires the Secretary to cause various divisions of the Bureau to formulate uniform procedures and practices with respect to education functions and to report them to Congress.

HR

134. Using almost identical language, both the House bill and the Senate amendment requires the Secretary to implement a policy for the recruitment of Indian educators.

LC

135. Using almost identical language, both the House bill and the Senate amendment require the Secretary to report on the state of education within the Bureau. The House requires this report on a biennial basis, while the Senate amendment requires an annual report.

HR

136. Using different language, both the House bill and the Senate amendment require plans required under this Act to be submitted to Congress with the budget request. The House bill also requires the submission of information on funds provided to previously private schools and the needs and costs of maintenance for Tribally Controlled Community Colleges.

HR

137. Using slightly different language, both the House bill and the Senate amendment require the Inspector General ensure financial and compliance audits of each Bureau school at least once every 3 years.

LC

138. The Senate amendment but not the House bill requires the Director to conduct a comprehensive evaluation of Bureau operated schools every 3 to 5 years.

HR

139. Using slightly different language, both the House bill and the Senate amendment require the Secretary to prescribe regulations to ensure the constitutional and civil rights of Indian students, and prohibit the Secretary from promulgating unless they are necessary to ensure compliance with specific provisions of this Act. The House bill requires a comment period of at least 90 days on such regulations while the Senate amendment requires a comment of at least 120 days. Using different placement, both the House bill and the Senate amendment require regulations issued to cite specific legal authority. In addition, the House bill states that this Act shall supercede any conflicting provision of law.

SR with an amendment to strike "90" and insert "120".

140. Using different language, both the House bill and the Senate amendment require negotiated rulemaking and public comment prior to publishing proposed regulations.

HR with an amendment to strike Senate (c)(2) and insert House (b)(2) in its place and apply 18 month deadline to House language.

141. Both the House bill and the Senate amendment require meetings to comply with the Federal Advisory Committee Act.

LC

142. The Senate amendment but not the House bill authorizes appropriations for negotiated rule making, provide that provisions under this section supercede conflicting provisions of law, and prohibit the Secretary from modifying regulations promulgated under this section only in accordance with this section.

HR with an amendment to strike paragraph (4) and insert the following language:

"(4) SPECIAL RULE.—The Secretary shall carry out this section using the general administrative funds of the Department of the Interior. In accordance with subchapter III of chapter 5 of title 5, United States Code, and section 7(d) of the Federal Advisory Committee Act, payment of costs associated with negotiated rulemaking shall include the reasonable expenses of committee members."

And to include (d)(1) and (2) striking "provisions of law (including any conflicting".

143. Using almost identical language, both the House bill and the Senate amendment authorize early childhood development programs.

LC

144. The House bill authorizes $10 million for FY 2002, and such sums as are necessary for fiscal years 2003 through 2006 for early childhood development programs. The Senate amendment authorizes such sums as may be necessary for fiscal years 2002 through 2006.

HR

145. Using different language, both the House bill and the Senate amendment allow grants for the development and operation of tribal departments and divisions of education.

HR

146. The House bill but not the Senate amendment allows funds to be used to comply with regulations under section 103(a) of the Indian Self-Determination and Educational Assistance Act.

HR

147. Both the House bill and the Senate amendment set forth different priorities for grants.

HR

148. Both the House bill and the Senate amendment authorize $2 million for FY 2002 and such sums as necessary for FY 2003 through 2006 for tribal departments or divisions of education.

LC

149. Using similar language, both the House bill and the Senate amendment contain similar definitions.

LC

150. The Senate amendment but not the House bill defines the term "complementary educational facilities."

HR

151. The Senate amendment, but not the House bill, defines "Director."

HR

152. The House bill but not the Senate amendment defines the term "family literacy service."

SR

153. The Senate amendment but not the House bill defines the term "inherently Federal functions."

HR

154. The Senate bill but not the House amendment defines the term "regulation."

HR with an amendment to insert the following language:

"(15) REGULATION.—

"(A) IN GENERAL.—The term "regulation" means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this Act.

"(B) RULE OF CONSTRUCTION.—Nothing in the definition contained in subparagraph (A), or any other provision of this title, shall be construed to prohibit the Secretary from issuing guidance, internal directive or other documents similar to the documents found in the Indian Affairs Manual (Bureau of Indian Affairs)."

155. Both the House bill and the Senate amendment amend the Tribally Controlled Schools Act of 1988.

LC

156. Using similar language, both the House bill and the Senate amendment have identical findings.

HR/SR to eliminate findings and with an amendment to insert the following language:

"DECLARATION OF POLICY

"(a) Recognition. Congress recognizes that the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control and that the United States has an obligation to assure maximum Indian participation in the direction of educational services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities.

"(b) Commitment. Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children through the establishment of a meaningful Indian self-determination policy for education that will deter further perpetuation of Federal bureaucratic domination of programs.

"(c) National Goal. Congress declares that a national goal of the United States is to provide the resources, processes, and structure that will enable tribes and local communities to obtain the quantity and quality of educational services and opportunities that will permit Indian children—

"(1) to compete and excel in areas of their choice; and

"(2) to achieve the measure of self-determination essential to their social and economic well-being.

"(d) Educational Needs. Congress affirms—

"(1) true self-determination in any society of people is dependent upon an educational process that will ensure the development of qualified people to fulfill meaningful leadership roles;

"(2) the special and unique educational needs of Indian people, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities; and

"(3) that the needs may best be met through a grant process.

"(e) Federal Relations. Congress declares a commitment to the policies described in this section and support, to the full extent of congressional responsibility, for Federal relations with the Indian nations."

157. Using similar language, both the House bill and the Senate amendment have the same declaration of policy.

HR with an amendment (see language from note 156).

158. Using similar language, both the House bill and the Senate amendment provide for grants to Indian tribes and tribal organizations for school operations.

LC

159. The Senate amendment, but not the House bill, waives the Tort Claims Act for programs operated by a tribally controlled school if the program is not funded by a federal agency.

SR

160. Using almost identical language, both the House bill and the Senate amendment provide for federal funds to be included in the grant.

LC

161. Using similar language, both the House bill and the Senate amendment set forth accounting provisions for funds used for improvement or repair, alteration or renovation health or safety, or new construction. The Senate amendment, but not the House bill, sets out various requirements for construction and facilities improvement projects.

HR with an amendment to insert the following language at the end of (A): "Upon completion of a project for which a separate account is established under this paragraph, the portion of the grant related to such project may be closed out upon agreement by the grantee and the Secretary."

162. Using almost identical language, both the House bill and the Senate amendment set forth application procedures and processes for grant schools.

LC

163. The Senate amendment, but not the House bill, requires the application to be approved by the tribal governing body.

SR

164. The Senate amendment, but not the House bill, states that nothing in this subsection shall be construed as making a tribe act as a surety for a grantee, and attempts to clarify that existing surety requirements are not required.

SR

165. Using similar language, both the House bill and the Senate amendment sets forth criteria under which schools eligible to be grant schools remain eligible and criteria under which grant status may be revoked.

LC

166. The Senate amendment, but not the House bill, requires a biennial compliance audit.

HR with an agreement to insert the following Report Language:

Report Language:

In establishing the requirements for the biennial compliance audit, the Conferees expect the Secretary, through regulation, to establish a reasonable threshold that would exempt purchases of less than $5000 for this audit.

167. The Senate amendment, but not the House bill, requires the school seeking accreditation to remain under the standards of the Bureau until the school is accredited.

HR with an agreement to insert the following Report Language:

Report Language:

In determining which circumstances are under the control of the school board, the Conferees intend that circumstances such as insufficient funding for school programs, inability to recruit certified teachers and administrators, and facilities that do not meet accreditation standards shall not be considered within the control of the school board.

168. The Senate amendment, but not the House bill, states that a positive assessment by an impartial evaluator shall not affect a revocation of a determination of eligibility.

HR

169. The Senate amendment, but not the House bill, provides a hearing upon request of the school or governing body.

HR

170. Using similar language, both the House bill and the Senate amendment set forth payment criteria.

LC

171. The House bill requires that a first payment be made to schools not later than July 15 of each year, in an amount equal to 85 percent of the amount to be received for the year. The Senate amendment requires that the payment be made not later than July 1 of each year in an amount equal to 80 percent of the amount the grantee is eligible to receive for the year. Both the House bill and the Senate amendment require that the remainder be paid not later than December 1 of each year.

LC for consistency.

172. The Senate amendment, but not the House bill, provides for the return of excess funds.

HR

173. The Senate amendment, but not the House bill, prohibits states from taking into account assistance made under this part and provides for penalties in the event that they do.

SR

174. Using almost identical language, both the House bill and the Senate amendment apply certain provisions of the Indian Self-Determination and Education Assistance Act to schools funded under this part, allow schools to elect to be grant rather than contract schools, and provide for carryovers and transfers.

LC

175. The Senate amendment requires an election to take effect on the 1st day of July following the election. The House bill requires an election to take effect on October 1 of the fiscal year succeeding the fiscal year in which the election is made or 60 days after the election.

HR

176. The Senate amendment, but not the House bill, provides that any tribe or tribal organization that assumes operation of a Bureau school as a grant school shall be eligible for facilities improvement.

HR

177. Using almost identical language, both the House bill and the Senate amendment set forth the role of the Director, sets forth the Secretary's ability to issue regulations, and provides for the establishment of endowment programs funded with non-federal funds.

LC

178. The House bill, but not the Senate amendment, states that regulations shall not have the standing of Federal statute for the purposes of judicial review.

HR

179. Using almost identical language, both the House bill and the Senate amendment set forth Definitions.

LC

180. The Senate amendment but not the House bill provides a definition of the term "Indian."

HR

181. The Senate amendment but not the House bill provides a definition of the term "tribal governing body."

HR

182. The Senate amendment but not the House bill allows the Ojibwa Indian School to use funds received under this Act to enter into a lease agreement with Saint Ann's Catholic Church.

HR

183. The Senate amendment but not the House bill amends the Augustine F. Hawkins—Robert T. Stafford Elementary and Secondary to prohibit the Secretary from disqualifying certain individuals from continued receipt of general assistance payments under certain circumstances.

HR

184. The House bill but not the Senate amendment places certain limitations on reductions of administrative funds to the Bureau for failure to meet accountability provisions contained in the No Child Left Behind Act of 2001.

HR

Title IV, Part A—Innovative Programs (Block Grant)

(New Title V, Part A)

1. House bill "Innovative Programs" is Part A of Title IV. Senate amendment "Innovative Education Program Strategies" is Subpart 4 of Part B of Title V.

LC

2. House bill, but not Senate amendment, contains findings.

HR

3. Senate amendment, but not House bill, includes support for local reform efforts that are consistent with and support statewide reform efforts.

HR

4. Similar provision except that House bill, but not Senate amendment, mentions school improvement initiatives based on scientifically based research.

SR

5. Identical provision.

LC

6. House bill, but not Senate amendment, mentions the need to meet the educational needs of all students, including youth at-risk.

SR

7. Senate amendment, but not House bill, includes support for programs to improve school, student, and teacher performance, including professional development activities and class size reduction.

HR

8. Similar provision except that House bill refers to 'State' while Senate amendment refers to 'State educational agency' (this continues throughout each bill).

HR

9. Virtually identical provisions.

LC

10. Similar provisions.

SR with an amendment to insert the following language:

"SEC. 4112. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) Distribution Rule.—

"(1) Allocation of base amounts.—From the amount made available to the State under this subpart for fiscal year 2002, and from the amount made available to the State for any succeeding fiscal year up to the amount available for fiscal year 2002, the State educational agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the jurisdictions of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per-pupil allocations to local educational agencies that have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(A) children living in areas with high concentrations of economically disadvantaged families;

"(B) children from economically disadvantaged families; and

"(C) children living in sparsely populated areas."

11. House bill, but not Senate amendment, requires that 100% of funds above the FY 01 level be distributed to LEAs for local innovative assistance programs.

SR with an amendment to insert the following language:

"(2) Allocations of increased amounts.—From the amount made available to the State under this subpart for any fiscal year that exceeds the amount made available for fiscal year 2002, the State educational agency shall distribute the following percentages to local educational agencies on the same basis as funds are allocated under paragraph (1):

"(A) At least 50 percent in the case of a State receiving the minimum allocation under section 4111(b); and

"(B) 100 percent in all other cases."

12. House bill limits State administrative funds at 25% of State share. Senate amendment limits State administrative funds a 15% of State share.

HR

13. Virtually identical provisions.

SR with an amendment to strike "State" and insert "State educational agency" each place it occurs; LC to continue this change throughout this Part.

14. Virtually identical provisions.

LC

15. Similar provisions.

LC

16. Senate amendment, but not House bill, includes support for effective schools programs.

SR

17. Senate amendment, but not House bill, allows States to use funds to design and implement high-quality yearly student assessments.

HR

18. Senate amendment, but not House bill, allows States to use funds to support implementation of State and local standards.

HR

19. Identical provision.

LC

20. House bill stipulates that if a State seeks to receive assistance under this subpart, the individual, entity, or agency responsible for public elementary and secondary education policy under the State constitution or State law shall submit to the Secretary an application. Senate amendment requires the State to submit an application.

HR

21. Senate amendment, but not House bill, designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this subpart

HR

22. House bill requires an annual summary of how assistance is contributing toward improving student achievement. Senate amendment requires a biannual submission of data on the use of funds, services, and students served.

SR

23. Similar provisions.

LC

24. House bill describes the annual statewide summary (required in (a)(1) above). Senate amendment contains no such description of the biannual submission of data (required in (b)(2) above).

SR with amendment to insert "annually" after the word "submitted".

25. Identical provision.

LC

26. House bill specifies that an LEA may not be audited more than once every 5 years if its average grant is less than $5,000. Senate amendment specifies that an LEA that receives an average grant of less than $10,000 for 3 fiscal years may not be audited more than once every 5 years.

HR

27. Similar provision.

LC

28. Similar use of funds regarding teachers and professional development.

HR/SR with amendment to insert the following combined language:

"(1) programs to recruit, train, and hire highly qualified teachers to reduce class size, especially in the early grades, and professional development activities carried out in accordance with Title II, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards;"

29. Similar use of funds regarding technology activities.

HR

30. Similar use of funds regarding acquisition of instructional and educational materials, including library services.

SR

31. House bill, but not Senate amendment, contains use of funds regarding promising education reform projects.

SR with an amendment to strike "effective schools and".

32. Similar use of funds regarding programs to improve the academic performance of educationally disadvantaged students.

HR

33. House bill provides for programs to combat illiteracy. Senate amendment provides for programs to improve the literacy skills of adults.

HR

34. Identical provision.

LC

35. House bill, but not Senate amendment, provides for programs for the planning, designing, and initial implementation of charter schools.

SR

36. Identical provision.

LC

37. House bill, but not Senate amendment, provides for community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities.

SR

38. Identical provision.

LC with an amendment to include the following report language:

The conferees recognize that entrepreneurial education has largely been absent from current educational curriculums. In light of the rapidly changing economy and emphasis on new technologies, the conferees note that it is increasingly important to stimulate entrepreneurial thinking and the consideration at an early age of business ownership as a viable option. The conferees agree

that encouraging the distribution of innovative entrepreneurial education programs that teach basic business skills and the development of sound business plans to secondary school age students is essential to expanding future opportunities and prosperity.

39. House bill, but not Senate amendment, provides for activities to promote, implement, or expand public school choice.

SR

40. House bill, but not Senate amendment, provides for programs to hire and support school nurses.

SR

41. House bill, but not Senate amendment, provides for programs to expand and improve school-based mental health services.

SR

42. House bill, but not Senate amendment, provides for alternative educational programs for those students who have been expelled or suspended from their regular educational setting.

SR

43. House bill, but not Senate amendment, provides for programs to establish or enhance pre-kindergarten programs for children ages 3 through 5.

SR with an amendment to strike "ages 3 through 5".

44. House bill, but not Senate amendment, provides for academic intervention programs that are operated jointly with community-based organizations.

SR

45. House bill, but not Senate amendment, provides for CPR training in schools.

SR

46. House bill, but not Senate amendment, provides for programs to establish smaller learning communities.

SR

47. Senate amendment, but not House bill, provides for activities that encourage and expand improvements throughout the LEA.

HR with an amendment to strike "performance" and insert "academic achievement".

48. Senate amendment, but not House bill, provides for initiatives to generate, maintain, and strengthen parental and community involvement.

HR with an amendment to strike "including initiatives . . . birth through 5".

49. Senate amendment, but not House bill, provides for programs and activities that expand learning opportunities through best practice models.

HR

50. Senate amendment, but not House bill, provides for programs to provide same gender schools and classrooms.

HR

51. Senate amendment, but not House bill, provides for service learning activities.

HR

52. Senate amendment, but not House bill, provides for school safety programs.

HR

53. Senate amendment, but not House bill, provides for programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content.

HR

54. Senate amendment, but not House bill, provides for supplemental educational services.

HR

55. Senate amendment, but not House bill, requires local innovative assistance programs to be tied to promoting high academic standards, used to improve student performance, and be part of an overall education reform strategy.

HR with an amendment to insert "achievement" before "standards" in (A) and strike "performance" and insert "academic achievement" in (B).

56. Senate amendment, but not House bill, requires the Secretary to issue guidelines for LEAs.

HR with an amendment to strike "the Better Education for Students and Teachers" and insert "this" and strike "specific award criteria and other".

LC for subsection cite (b)(1)(L).

57. Virtually identical provision, except House bill includes 'religious organizations' as a possible nonprofit agency.

HR

58. Similar provisions.

LC

59. House bill, but not Senate amendment, requires local applications to provide assurances that programs, services, and activities will be evaluated annually.

SR with amendment to insert Senate language from Note 22 and add at the end a new (I):

"(H) provides assurance that—

"(i) programs, services and activities will be evaluated annually;

"(ii) such evaluation will be used to make decisions about appropriate changes in program services and activities for the subsequent year;

"(iii) such evaluation will describe how assistance under this subpart affected student academic achievement, and will include, at a minimum, information and data on the use of funds, the types of services furnished, and the students served under this part; and

"(iv) such evaluation will be submitted to the State in the time and manner requested by the State.

"(I) if appropriate, describe how applicants seeking funds under section 5331(b)(1)(L) will comply with guidance issued by the Secretary regarding same gender schools and classrooms under section 5331(c)."

60. Senate amendment, but not House bill, allows allocations of funds to programs for 3 years.

SR

61. Similar provisions.

LC

62. Virtually identical provisions.

LC

63. Virtually identical provisions.

LC

64. Virtually identical provisions.

LC

65. Identical provisions.

LC

66. Virtually identical provisions.

LC

67. Senate amendment, but not House bill, authorizes local funds for construction of small schools.

HR with an agreement to move to section 5121 (State Uses of Funds) amended to read as follows:

"(7) Support for the program described in section 321 of H.R. 5656, the Labor-Health and Human Services-Education Appropriations Act, 2001, as incorporated into P.L. 106-554, the Consolidated Appropriations Act, 2001."

68. Identical definition.

LC

69. Identical definition.

LC

70. Similar definitions (House bill defines term under general provisions).

SR

71. House bill authorizes $450 million for FY 02 and such sums as may be necessary for each of FY 03 through FY 06. Senate amendment authorizes $850 million for FY 02 and such sums as may be necessary for each of next 6 succeeding fiscal years.

SR

72. Senate amendment, but not House bill, contains provision regarding duration of assistance.

SR

LC—Add the following language to section 5121 (State Uses of Funds):

"(8) Support for programs to assist in the implementation of the policy described in section [Unsafe School Choice Policy in General Provisions], which may include payment of reasonable transportation costs and tuition costs for such students."

LC—Redraft (25) in section 5131 (Local Uses of Funds):

"(25) School safety programs, including programs to implement the policy described in section [Unsafe School Choice Policy in General Provisions], and which may include payment of reasonable transportation costs and tuition costs for such students."

73. House bill authorizes "Arts Education" as Subpart 2 of Part A of Title IV. Senate amendment authorizes "Arts in Education" as Subpart 3 of Part F of Title XVI.

HR/SR with an agreement to move to Subpart 15 of Title V, Part D (FIE).

74. House bill and Senate amendment contain various findings.

HR/SR (no findings)

75. Similar provisions except that Senate amendment contains an additional purpose to support the national effort to enable all students to demonstrate competence in the arts.

SR with an amendment to insert Senate (3) after House (2).

76. Similar provisions.

SR

77. House bill uses the term 'States' and Senate amendment uses the term 'State educational agencies.'

HR

78. Similar provisions.

LC

79. House bill, but not Senate amendment, authorizes a use of funds for planning, developing, acquiring, expanding, improving, or disseminating model school-based arts education programs.

SR with amendment to insert the following combined language:

"(2) planning, developing, acquiring, expanding, improving, or disseminating information about, model school-based arts education programs;"

80. Senate amendment, but not House bill, authorizes a use of funds for the development of, and dissemination of information about, model arts education programs.

SR

81. Similar provisions.

SR with an amendment to include the following report language:

For the purpose of this Subpart, the Conferees expect the Department to continue a close consultative relationship with federal agencies or institutions that have expertise in arts education including the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, VSA Arts, and the National Gallery of Art. The Department may also consult with other arts education professional organizations and organizations representing the arts including the Arts Education Partnership, the National Association for Music Education, and State and local arts agencies.

82. Similar provisions.

HR

83. Similar provisions.

LC

84. House bill, but not Senate amendment, includes a supplement/not supplant provision.

SR

85. Senate amendment, but not House bill, contains a special rule that if the amount made available to carry out this subpart for any fiscal year is $15,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

HR

86. House bill lists general agencies and institutions with which activities must be coordinated. Senate amendment lists the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, VSA Arts, and the National Gallery of Art with which activities must be coordinated.

SR with an agreement to include the following report language:

For the purpose of this Subpart, the Conferees expect the Department to continue a close consultative relationship with federal agencies or institutions that have expertise in arts education including the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, VSA Arts, and the National Gallery of Art. The Department may also consult with other arts education professional organizations and organizations representing the arts including the Arts Education Partnership, the National Association for Music Education, and State and local arts agencies.

87. House bill and Senate amendment authorize this program at such sums (Senate amendment authorization is listed as part of the LIFE program (FIE)).

HR/SR (no authorization because moved to FIE).

88. House bill authorizes "Gifted and Talented Children" as Subpart 3 of Part A of Title IV. Senate amendment authorized "Gifted and Talented Children" as Part E of Title XVI.

HR/SR with an agreement to move to Subpart 6 of Title V, Part D (FIE).

89. Identical short title.

LC

90. House bill and Senate amendment contain similar findings.

HR/SR (no findings)

91. Similar purpose except that House bill explicitly mentions scientifically based research.

SR

92. Senate amendment, but not House bill, triggers a formula grant program once the appropriation equals or exceeds $50 million.

SR

93. Similar provision.

LC

94. Virtually identical provisions.

LC

95. Virtually identical provisions.

LC

96. Similar provisions except that House bill, but not Senate amendment, requires that research be scientifically based.

SR with an amendment to add special rule and additional use of funds (specifically a special rule to provide that all funding above FY 2001 level be awarded to SEAs and/or LEAs on a competitive basis for use of funds under House section 4164(b) and add non-duplicative use of funds (2) and (4) from Senate section 11422(b) to House section 4164(b)).

"SPECIAL RULE.—For fiscal year 2002 and succeeding fiscal years, the Secretary shall use funds above the fiscal 2001 appropriation to award grants, on a competitive basis, to State educational agencies and/or local educational agencies to implement activities described under [House] section 4164(b)."

Add non-duplicative use funds of from Senate section 11422(b) to House section 4164(b):

"(6) Making materials and services available through State regional educational service centers, institutions of higher education, or other entities.

"(7) Providing funds for challenging, high-level course work, disseminated through technologies (including distance learning), for individual students or groups of students in schools and local educational agencies that do not have the resources otherwise to provide such course work."

97. Similar provisions.

HR

98. Virtually identical provisions except that House bill specifically references scientifically based research.

SR

99. Virtually identical provisions.

LC

100. Similar provisions.

LC

101. Virtually identical provisions.

LC

102. Similar provisions.

LC

103. Senate amendment, but not House bill, provides that amounts appropriated above FY 01 level be dedicated toward competitive grant awards for activities described in Section 11422 (formula grant program).

SR (see note 96).

104. Senate amendment, but not House bill, provides for a formula grant program.

SR

105. House bill defines terms in general provisions.

SR

106. House bill authorizes such sums as may be necessary to carry out this Subpart for each of fiscal years 2002 through 2006. Senate amendment authorizes $170 million for each of fiscal years 2002 through 2008.

HR/SR (no authorization because moved to FIE).

107. House bill, but not Senate amendment, assures continuation of awards granted prior to date of enactment.

SR

Title IV, Part B—Charter Schools

(New Title V, Part B)

1. Under the House bill, the Public Charter Schools program is a "part". Under the Senate amendment, it is a "chapter".

SR

2. The House bill, but not the Senate amendment, has a Findings subsection.

HR

3. The House bill and Senate amendment Purpose sections are identical except that the House version adds the term "academic" after "student" in purpose (2).

LC

4. The House bill and Senate amendment Program Authorized sections are identical except that the Senate amendment version adds "(other than funds reserved to carry out section 5115 (b))" after "section 5121" in (e)(1).

HR

5. The House bill uses the term "academic achievement" after "student" in (b)(3)(A)(i), while the Senate amendment uses the term "performance".

LC

6. The House bill, but not the Senate amendment, includes an assurance under (d) CONTENTS OF APPLICATIONS (3) pertaining to precharter planning grants and subgrants.

(See note 18)

SR

7. The House bill and Senate amendment have identical (a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES except that the House bill adds the term "academic" after "state" and "student" in (a)(1) and uses the terms "academic achievement" after "student" in (a)(7). In (a)(7), the Senate amendment uses the term "performance" instead of "academic achievement."

LC

8. The House bill, but not the Senate amendment, explicitly prohibits a local educational agency from deducting funds for administrative fees or expenses from a subgrant awarded to an eligible applicant under (4) ADMINISTRATIVE EXPENSES.

SR with an amendment to insert after "an eligible applicant" in (4) "unless such applicant enters voluntarily into a mutually agreed upon arrangement for administrative services with the relevant LEA. Absent such approval the LEA shall distribute all such grant funds to the grantee without delay."

9. The House bill and Senate amendment have identical (6) DISSEMINATION language except that the House bill uses the term "academic" after "student" in (A)(i) and the terms "academic achievement" after "student" in (B)(ii). In (B)(ii), the Senate amendment uses the term "performance" instead of "achievement".

LC

10. The Senate amendment, but not the House bill, adds "(other than funds reserved to carry out section (b))" after "chapter" in (a).

SR with amendment to move section 5115(b)(6) to (a) of the National Activities section.

11. The Senate amendment, but not the House bill, includes outdated language pertaining to a 4-year national study in (a)(1)(B)(2).

SR

12. The House bill adds the term "academic" after "student" in (a)(2). The Senate amendment does not include the term "academic" in (a)(3).

LC

13. The Carper-Gregg amendment to the Senate amendment cites the Per-Pupil Facilities Aid Programs subsection as the "Charter Schools Equity Act" and states that the purposes of this subsection are:

(A) to help eliminate the barriers that prevent charter school developers from accessing the credit markets, by encouraging lending institutions to lend funds to charter schools on terms more similar to the terms typically extended to traditional public schools; and

(B) to encourage the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

However, this language does not amend the Elementary and Secondary Education Act.

HR/SR with an amendment to move (B) to General Purpose section.

14. The Senate amendment, but not the House bill, includes (b) PER-PUPIL FACILITIES AID PROGRAMS under Section 5115, National Activities.

HR with an amendment to add "includes or" in section 5115(b)(3)(B)(iii).

15. The House bill, but not the Senate amendment, deletes the following outdated language: "not later than 6 months after the date of the enactment of the Charter School Expansion Act of 1998" in (a).

SR

16. The House bill, but not the Senate amendment, requires the transfer of records to a private school upon the transfer of the student from a charter or public school to the private school (with the written consent of a parent of the student), in accordance with applicable State law.

HR (with understanding—discussion about record transfer in Safe and Drug Free).

17. The House bill defines a charter school as a public school "that admits students on the basis of a lottery or in another non-discriminatory manner consistent with State law, if more students apply for admission than can be accommodated" in (1)(H). The Senate amendment does not include the phrase "or in another non-discriminatory manner consistent with State law."

HR with Report Language:

“The Conferees encourage the Secretary to help ensure that public charter school admissions policies are consistent with federal and state law, while preserving the particular mission of a charter school to the maximum extent possible.”

18. The House bill and Senate amendment have different definitions of an "eligible applicant" in (3).

SR

19. The House bill authorizes the Public Charter Schools program at $225 million for FY 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years. The Senate amendment authorizes the Public Charter Schools program at $400 million, $200 million of which is reserved specifically for this chapter (other than the Per-Pupil Facilities Aid Programs). Any remainder above the $200 million is reserved to carry out the Per-Pupil Facilities Aid Programs. The Senate amendment authorizes the Public Charters Schools program at such sums as may be necessary for each of the 6 succeeding fiscal years.

HR with an amendment to strike $400 million and insert $300 million (first $200 million going to charters and next $100 million going to per pupil) with increases thereafter being split 50/50.

Report Language:

Charter schools are public schools, yet lack the bonding and taxing authority traditionally available to school districts to finance their facilities. As a result, charter schools are forced to use operating revenues that are intended to be spent in the classroom to pay rent or to make debt payments for facilities. States have the primary obligation to address this inequity. But, to stimulate state initiatives, this legislation authorizes a limited-term federal role in encouraging states to establish or expand per pupil facilities aid programs.

Conferees support significant funding increases for the charter school program in order to free up resources, as quickly as possible, for the per-pupil financing program, a program that assists charter schools in meeting their operating needs, so that charter school resources may be better spent on academic activities.

20. The House bill, but not the Senate amendment, includes a Continuation of Awards section.

SR

21. The Senate amendment, but not the House bill, includes Chapter II—Credit Enhancement Initiatives to Promote Charter School Facility Acquisition, Construction, and Renovation.

HR with an amendment to (1) strike all and insert Charter School Facility Financing Demonstration Project language from last year's Omnibus Appropriations; (2) authorize the Demonstration Project for $150 million in FY 02 and such sums in FY 03; and (3) include the following report language:

Report Language:

As stated in report language last year (P.L. 106–554), the Credit Enhancement Program for charter school facilities falls under the administrative responsibility of the Secretary of Education.

Title IV, Part C—Magnets

(New Title V, Part C)

1. The Senate amendment, but not the House bill, consolidates the Findings and Statement of Purpose into one section.

HR

2. The House bill and Senate amendment each have 4 findings but only the first finding is the same in both, except that the Senate amendment adds "Nation's" in front of "schools."

HR with an amendment to: take Senate (1); take House (2), (3), and (4)(A); insert as new language:

"(B) to ensure that all students have equitable access to a quality education that will prepare them to function well in a technologically oriented and a highly competitive economy comprised of people from many different racial and ethnic backgrounds.

"(C) to continue to desegregate and diversify schools by supporting magnet schools, recognizing that such segregation exists between minority and nonminority students as well as among students of different minority groups. Desegregation efforts through magnet programs are a significant part of our Nation's effort to achieve voluntary desegregation in schools and help to ensure equal educational opportunities for all students."

3. Under Statement of Purpose, the Senate amendment, but not the House bill, includes "which shall assist in the efforts of the United States to achieve voluntary desegregation in public schools" at the end of (1).

HR

4. The Senate amendment adds the term "local" to "content standards" and "student performance standards" in (2), while the House bill adds the term "academic" after "State" and "academic achievement" after "student".

LC

5. The House bill, but not the Senate amendment, adds "that promote diversity and increase choices in public elementary and secondary schools and educational programs" at the end of (3).

SR

6. The Senate amendment includes the phrase "technological and career" before "skills" in (4). The House bill uses the word "technical" instead.

HR with an amendment to strike “career” and insert “professional”.

7. The Senate amendment, but not the House bill, includes two additional purpose statements. See (5) and (6).

HR

8. Under the Elibibility section in (1), the Senate amendment, but not the House bill, adds the word "schools" following "elementary".

SR

9. Under the Information and Assurances part in (1)(B), the House bill, but not the Senate amendment, adds the term "academic" after "student."

LC

10. In (1)(D) the House bill reads: "how funds under this part will be used to improve student academic performance for all students attending the magnet schools." The Senate amendment reads: "how funds under this subpart will be used to implement services and activities that are consistent with other programs under this Act, and other Acts, as appropriate, in accordance with the provisions of section 5506;."

HR/SR with an amendment to combine House and Senate (D), and to strike “the magnet schools” and insert “magnet school programs”.

LC—“section 5506”; New citation.

11. In (2)(B), the House bill reads: "employ fully qualified teachers in the courses of instruction assisted under this part;." The Senate amendment reads: "employ State certified or licensed teachers in the courses of instruction assisted under this subpart to teach or supervise others who are teaching the subject matter of the courses of instruction;."

SR

12. In (2)(E), the Senate amendment, but not the House bill, includes "consistent with desegregation guidelines and the capacity of the project to accommodate these students" following the word "project".

HR

13. The Senate amendment, but not the House bill, includes (c) SPECIAL RULE.

HR

14. Under the Priority section, the Senate amendment, but not the House bill, includes two additional priorities. See (4) and (5).

SR

15. Under the Use of Funds section in (a)(3), the House bill uses the phrase "fully qualified." The Senate amendment uses the phrase "certified or licensed by the State."

SR

16. Under the Use of Funds section in (a)(5), the House bill states "for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended." The Senate amendment states "to include professional development, which professional development shall build the agency's or consortium's capacity to operate the magnet school once Federal assistance has terminated;."

SR

17. The Senate amendment, but not the House bill, includes two additional uses of funds. See (6) and (7).

HR

18. Under (b) SPECIAL RULE, the House bill, but not the Senate amendment, adds the phrase "to improving the students" academic performance based on the State's challenging academic content standards and student academic achievement standards or" after the word "related" and before the word "to."

SR

19. The House bill also includes the phrase "vocational and technical skills," while the Senate amendment includes the phrase "vocational, technological and career skills."

HR with an amendment to strike “career” and-insert “professional”.

20. Under the Prohibitions section, the House bill includes the headline (a) TRANSPORTATION and an additional prohibition—

"(b) PLANNING.—A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for such project."

The Senate amendment does not include the headline or the additional prohibition.

HR

21. Under (b) LIMITATION ON PLANNING FUNDS, the Senate amendment includes the phrase "(professional development shall not be considered as planning for purposes of this subsection)" and limits planning funds to "25

percent of such funds for the second year, and 15 percent of such funds for the third such year." The House bill does not include the above phrase and limits planning funds to "15 percent of such funds for the second such year, and 10 percent of such funds for the third such year."

HR with an amendment to strike "25" and insert "15".

22. Under (d) TIMING, the House bill provides for the Secretary to make awards no later than July 1 of the applicable fiscal year, while the Senate amendment provides that the awards are to be made not later than June 1 of the applicable fiscal year.

SR

23. The Senate amendment includes **SEC. 5140. INNOVATIVE PROGRAMS**. The House bill repeals this program.

SR

24. Under the Evaluations section in (a) RESERVATION, the House bill refers to "section 4312(a)" where as the Senate refers to "section 5142(a)." Also, the House bill uses the phrase "technical assistance, and dissemination projects with respect to magnet school projects and programs assisted under this part." Following the word "evaluations,". The Senate amendment uses the phrase "of projects assisted under this subpart and to provide technical assistance for grant recipients under this subpart."

SR

25. Under (b) CONTENTS (3), the Senate amendment, but not the House bill, adds the word "schools" after "elementary." The Senate amendment, but not the House bill, includes an additional provision in (b) CONTENTS. See (5).

SR

26. The Senate amendment, but not the House bill, includes (c) DISSEMINATION.

HR

27. Under the Authorization of Appropriations; Reservation section, the House bill authorizes $125 million for fiscal year 2002 and "such sums as may be necessary for each of 4 succeeding fiscal years." The Senate amendment authorizes $125 million for fiscal year 2002 and "such sums as may be necessary for each of the 6 succeeding fiscal years."

LC

28. House billl transfers and continues current law.

HR/SR with an agreement to move to Subpart 20 of Title V, Part D (FIE).

29. Senate amendment rewrites the Women's Educational Equity Act.

HR/SR with an agreement to move to Subpart 20 of Title V, Part D (FIE).

30. House bill authorizes $3 million for FY 02 and such sums as may be necessary for each of the four succeeding fiscal years.

HR/SR (no authorization because moved to FIE).

31. Senate amendment authorizes such sums as may be necessary for FY 02 and for each of the 6 succeeding fiscal years.

HR/SR (no authorization because moved to FIE).

32. The House bill, but not the Senate amendment, includes **SEC. 423. CONTINUATION OF AWARDS**.

SR

Title V, Part A, subparts 1, 3, 4, 5—Safe and Drug Free Schools

(New Title IV, Part A)

1. (Title) House bill includes Safe and Drug-Free and 21st Century Community Learning Centers as separate subparts in the same act with separate funding authorizations. Senate amendment maintains these two programs as separate acts.

HR with an amendment to treat Safe and Drug-Free and 21st Century as separate parts.

2. (Findings) House bill contains no findings.

SR

3. (Purpose) House bill and Senate amendment contain similar provisions.

House bill includes before and after school activities as a purpose of the Act.

Senate amendment specifies types of programs (i.e.: alternative education, rehabilitation).

Senate amendment also references development and implementation of policy at local level.

HR with an amendment to insert "and communities" after "involve parents," in the lead-in;

Insert "to foster a safe and drug-free learning environment which supports academic achievement," after "efforts and resources" in the lead-in.

Strike everything after "early intervention" in (1).

Strike everything after "prevention including" in (2) and insert "community-wide drug and violence prevention planning and organization activities."

4. (State Grant Funds) House bill authorizes $475 million for Safe and Drug-Free State Grants for FY 2002 and such sums for 4 following years.

Senate amendment authorizes $700 million for Safe and Drug-Free State Grants for FY 2002 and such sums for 6 following years.

HR with an amendment to authorize appropriations at $650 million in FY 2002 and such sums in each of the 5 succeeding fiscal years.

5. (National Programs Funds) House bill authorizes $60 million for national programs for Safe and Drug-Free and 21st Century Community Learning Centers programs combined for FY 2002 and such sums for 4 following years

Senate amendment authorizes $150 million for Safe and Drug-Free national programs for FY 2002 and such sums for 6 following years.

HR/SR with an amendment to authorize appropriations of such sums in FY 2002 and each of the 5 succeeding fiscal years.

6. (Coordinator Funds) Senate amendment authorizes $75 million for a national coordinator initiative for FY 2002 and such sums for 6 following years. House bill has no provision.

SR

7. (Domestic Violence Funds) Senate amendment authorizes $5 million for Domestic Violence Witness Program for FY 2002–2004. House bill has no provision.

SR

8. (Suicide Prevention Funds) Senate amendment authorizes $25 million for Suicide Prevention Program for FY 2002 and such sums for 6 following years. House bill has no provision.

SR

9. (Guam, etc. Set-aside) House bill provides for the greater of 1% or $4.75 million for grants to Guam, American Samoa, Virgin Islands, and Northern Marianna Islands.

Senate amendment provides 1% for grants to the same jurisdictions.

SR

10. (Indian Set Aside) House bill provides for the greater of 1% or $4.75 million for grants for Indian Youth.

Senate amendment provides 1% for such grants.

SR

11. (Impact Evaluation Funds) Senate amendment allows the Secretary to reserve up to $2 million for a national impact evaluation.

HR with an amendment to move the National Impact Evaluation authorization and appropriation to National Activities.

12. (Native Hawaiians Set-aside) Similar provisions.

LC

13. (Safe Schools/Healthy Students Funds) House bill provides for continued funding of Safe Schools/Healthy Students.

SR with an amendment to take reservation from the national activities funds.

14. (Fed to State Formula) House bill and Senate amendment contain similar provisions.

HR to Senate formula and include a hold harmless to FY2001 amount

15. (Reallotment) House bill provides for an annual reallotment.

Senate amendment provides for reallotment every two years.

HR/SR to retain both.

16. (Definitions) House bill defines native Hawaiian.

Senate amendment defines state and local educational agency.

LC throughout and eliminate if identical to general definition.

17. (Limitation) House bill contains no similar provision.

HR

18. (Gov Programs) Similar set-aside for governor's programs.

House bill specifies that awards are to be made based on quality and how well aligned with principles of effectiveness and includes LEAs as participants.

Senate amendment lists specific elements to be described in a state plan:

—how programs will be coordinated so as not to be duplicative of state and local efforts;

—how populations not normally served will be served;

—how governor will monitor the performance of and provide technical outreach to recipients;

—how participation of CBOs will be maximized;

—how funds will support community-wide drug and violence prevention activities;

—how parental input will be sought.

SR with an amendment to strike House language and insert the following:

"SEC. 5112. RESERVATION OF STATE FUNDS FOR SAFE SCHOOLS.

"(a) STATE RESERVATION FOR THE GOVERNOR.—

"(1) IN GENERAL.—The chief executive officer of a State may reserve not more than 20 percent of the total amount allocated to a State under section 5111(b) for each fiscal year to award competitive grants and contracts to local educational agencies, community-based organizations (including community anti-drug coalitions), other public entities and private organizations, and consortia thereof. Such grants and contracts shall be used to carry out the comprehensive state plan through programs or activities that complement and support activities of local educational agencies described in section 5115. Such officer shall award grants based on—

"(A) the quality of the activity or program proposed; and

"(B) how the program or activity meets the principles of effectiveness described in section 5114(a)"

19. (Gov Programs) House bill gives special consideration to programs providing and incorporating mental health services.

Senate amendment gives priority to those not normally served and, to those needing special services.

HR with amendment to strike and replace with the following language:

"(2) PRIORITY.—In making such grants and contracts, a chief executive officer shall give priority to illegal drug use and violence prevention programs and activities for—

"(A) children and youth who are not normally served by State or local educational agencies; or

"(B) populations that need special services or additional resources (such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

"(3) SPECIAL CONSIDERATION.—In awarding funds under subparagraph (A), a chief executive officer shall give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention that includes providing and incorporating mental health services related to drug and violence prevention in their program.

"(4) PEER REVIEW.—Grants or contracts awarded under this subpart shall be subject to a peer review process."

20. (Gov Programs) Senate bill requires peer review of grants awarded by chief executive officers.

HR with an amendment to strike Senate language.

21. (Gov Admin) House bill allows 1% for administration expenses.

Senate amendment allows 5% for administration expenses, and authorizes the chief executive officer to award grants to state, county, or local law enforcement agencies to carry out drug and violence prevention activities.

SR with an amendment to set administrative costs at not more than 3 percent.

22. (Gov Applic) House bill contains no similar provisions.

SR

23. (Gov Activities) House bill contains no similar provisions.

HR with amendment to strike language and insert:

"Grants and contracts under section [gov reservation] shall be used to implement drug and violence prevention activities, such as:

—activities that complement and support activities of local education agencies under section [LEA uses of funds], including developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

—Dissemination of information about drug and violence prevention.

—Development and implementation of community-wide drug and violence prevention planning and organization."

24. (SEA Funds) House bill provides 95% of an amount reserved for state and local programs (80%) to be sent to the local level.

Senate amendment provides for 91% of the amount reserved for state and local programs (80%) to be sent the local level.

HR with an amendment to strike language and insert the following:

"(1) IN GENERAL.—A state educational agency shall distribute not less than 93 percent of the amount available under section [ ] to its local educational agencies."

Report Language

"The Conferees wish to clarify that at all times a State educational agency must distribute at least 93 percent of the funds it receives to the local educational agencies."

25. (SEA Funds) House bill allows 4% for state activities.

Senate amendment allows 5% for state activities.

SR with an amendment to strike the language and insert the following:

"(2) STATE ACTIVITIES.—A state educational agency shall use not more than 5 percent of the funds made available under section [ ] for activities described in subsection (c)."

26. (SEA Funds) House bill allows 1% for administration expenses.

Senate amendment allows 5% for administration expenses and uniform reporting system.

SR with an amendment to strike the language and insert the following:

"(3) STATE ADMINISTRATION.—

"(A) IN GENERAL.—A state educational agency shall use not more than 3 percent of the funds made available under section [ ] for state administration, including implementation of the Uniform Management Information and Reporting System.

"(b) SPECIAL RULE.—For fiscal year 2002, a state educational agency may use an additional 1 percent of the amount made available under section [ ] for implementation of the Uniform Management Information and Reporting System."

27. (State Activ) Similar provisions, but House bill authorizes generally, whereas Senate amendment specifies types of activities and services.

SR with an amendment to strike language and insert the following:

"(1) IN GENERAL.—A State shall use a portion of the funds described in subsection (b)(2), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance and training, evaluation, program improvement services, and coordination activities for local educational agencies, community-based organizations, and other public and private entities.

"(2) ACTIVITIES.—Such uses shall meet the principles of effectiveness described in section 5115(a), shall complement and support local uses of funds under section 5115(b), and otherwise shall further the purposes of this part, and may include, among others,

"(A) identification, development, evaluation, and dissemination of drug and violence prevention strategies, programs, activities, and other information;

"(B) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

"(C) and financial assistance to enhance drug and violence prevention resources available in areas that serve large numbers of low-income children, are sparsely populated, or have other special needs."

28. (Data Collection) Senate amendment contains no similar provision.

HR with an amendment to strike the Senate language and insert the following language:

"(2) UNIFORM MANAGEMENT INFORMATION AND REPORTING SYSTEM.—

"(A)(1) INFORMATION AND STATISTICS.—In carrying out its responsibilities under [state admin], a state shall implement a uniform management information and reporting system.

"(2) A State may use funds described in subsection (b)(3), either directly or through grants and contracts, to establish and implement a uniform management information and reporting system, to include information on—

"(i) truancy rates;

"(ii) the frequency, seriousness, and incidence of violence and drug related offenses resulting in suspensions and expulsion in elementary and secondary schools in States;

"(iii) the types of curricula, programs, and services provided by the chief executive officer, state educational agency, local educational agencies, and other recipients of funds under this part; and

"(iv) the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities."

"(B) COMPILATION OF STATISTICS.—The statistics shall be compiled in accordance with definitions as determined in the State criminal code, but shall not identify victims of crimes or persons accused of crimes. The collected data shall include, incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

"(C) REPORTING.—Such data and statistics shall be reported to the public and the statistics referenced in (A)(2)(i) and (ii) shall be reported on a school-by-school basis.

"(D) LIMITATION.—Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices with respect to crimes on school property or school security."

29. (Persistently Dangerous) Senate amendment contains no similar provision.

HR with an amendment to insert the following language in General Provisions—

"UNSAFE SCHOOL CHOICE POLICY

"(a) POLICY.—Each State receiving funds under this Act shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary and secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school.

"(b) CERTIFICATION.—As a condition of receiving funds under this Act, a State shall certify in writing to the Secretary that the State is in compliance with this section.

30. (State Application) Similar provisions aligned.

HR with amendment to strike and insert the following language:

"SEC. 5113. STATE APPLICATION.

"(a) IN GENERAL.—In order to receive an allotment under section 4111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

"(1) contains a comprehensive plan for the use of funds by the State educational agency and the chief executive officer to provide safe, orderly, and drug-free schools and communities through programs and activities that complement and support activities of local educational agencies under section 5115(b), that comply with the principles of effectiveness under section 5115(a), and that otherwise are in accordance with the purposes of this part;

"(2) describes how activities funded under this subpart will foster a safe and drug free learning environment that supports academic achievement;

"(3) provides an assurance that the application was developed in consultation and coordination with appropriate State officials and others, including the chief executive officer, the chief State school officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the

State board of education, or their designees, and representatives of parents, students, and community-based organizations;

``(4) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies and other programs, as appropriate, in accordance with the provisions in section 8306;

``(5) provides an assurance that the State will cooperate with, and assist, the Secretary in conducting data collection as required by section 5116(a);

``(6) provides an assurance that the local educational agencies in the State will comply with the provisions of section 8503 pertaining to the participation of private school children and teachers in the programs and activities under this subpart;

``(7) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

``(8) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities and the prevalence of risk factors, including high or increasing rates of reported cases of child abuse or domestic violence, or protective factors, buffers or assets or other variables identified through scientifically based research in the school and community;

``(9)(A) provides a statement of the State's performance measures for drug and violence prevention programs and activities to be funded under this part that shall be focused on student behavior and attitudes and be derived from the needs assessment, be developed in consultation between the State and local officials, and that consist of—

``(i) performance indicators for drug and violence prevention programs and activities; and

``(ii) levels of performance for each performance indicator;

``(B) a description of the procedures the State will use for assessing and publicly reporting progress toward meeting those performance measures; and

``(11) provides an assurance that the State application will be available for public review after submission of the application.

``(12) a description of the special outreach activities that will be carried out by the State educational agency and the state chief executive officer to maximize the participation of community-based nonprofit organizations of demonstrated effectiveness which provide services in low-income communities, such as mentoring programs;

``(13) a description of how funds will be used by the state educational agency and the state chief executive officer to support, develop, and implement community-wide comprehensive drug and violence prevention planning, organization, and activities;

``(14) a specific description of how input from parents will be sought regarding the use of funds by the state educational agency and the state chief executive officer;

``(15) includes any other information the Secretary may require.

``(b) [Sea Section of Application].—A State's application under this section shall also contain a comprehensive plan for the use of funds described in [ ] developed by the SEA that

``(1) describes how the State educational agency will review applications and allocate funds to local educational agencies, including how the agency will receive input from parents in such review;

``(2) describes how the SEA will monitor the implementation of activities under this part, and provide technical assistance under this part for local educational agencies, community-based organizations, other public entities, and private organizations under this subpart;

``(c) [Gov Section of Application].—`A State's application under this section shall also contain a comprehensive plan for the use of funds described in [ ] developed by the chief executive officer that includes, with respect to each activity—

``(1) a description of how funds reserved under section 4114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based drug and violence prevention activities and how those funds will be used to serve populations not normally served by the State and local educational agencies, such as school dropouts, suspended and expelled students, and youth in detention centers;

``(2) a description of how the chief executive officer will award funds under section 4114(a) and implement a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds.''

31. (State Application) Senate amendment similar to House bill section 5112(c)(1)

HR/SR to strike all.

32. (State Applic Review/Approval) House bill provides that application deemed approved if no response within 90 days.

Senate amendment provides for peer review.

SR with an amendment to strike language and insert the following language:

``(b) GENERAL APPROVAL.—A State educational agency's application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120 day period beginning on the date that the Secretary receives the application, that the application is in violation of this part.

``(c) DISAPPROVAL.—The Secretary shall not finally disapprove an application, except after giving the State educational agency notice and opportunity for a hearing.

``(d) SPECIAL RULE.—If the Secretary finds that the application is not in compliance, in whole or in part, with the provisions of this part, the Secretary shall:

``(1) implement the procedures described in subsection (c); and

``(2) notify the State educational agency of the findings of non-compliance where such notification shall—

``(A) cite the specific provisions in the application that are not in compliance; and

``(B) request additional information, only as to those noncompliant provisions, needed to make the application compliant.

``(e) If the State educational agency does not respond to the notification described in subsection (d)(2) within 45 days, such application is not approved.

``(f) If the State educational agency does respond to the Secretary's notification described in subsection (d)(2) within 45 days with the requested information necessary to make the application compliant, the Secretary shall approve or disapprove such application not later than 45 days following its resubmission or the end of the 120 period described in subsection (b), whichever is later.''

33. (State Applic Review/Approval) Senate amendment contains no similar provision.

HR

34. (Interim Application) House bill contains no similar provision.

HR

35. (LEA Grants) House bill sends 95% of 80% to local educational agencies, with 60% based on title I and 40% based on school enrollment.

Senate amendment sends 91% of 80% to local educational agencies, under one of two formulae:

70% school enrollment and 30% state determined/greatest need based on objective data.

70% greatest need competition based on objective data and 30% state determined additional need based on objective data.

SR

36. (Local Admin) Senate amendment contains no similar provision.

SR with an amendment to strike "1" and insert "2" in its place.

37. (Reallocation) Similar provisions.

Senate amendment also has provision reallocating funds if local educational agency declines to apply or if application is disapproved.

SR with an amendment inserting Senate (e) after House (3).

38. (Reallocation) Similar provisions.

LC

39. (LEA Application) Similar provisions.

LC

40. (LEA Applic) Similar provisions, but Senate amendment specifies that consultation be done with an ``advisory council,'' which has a membership similar to the organizations listed in House bill, but also includes representatives of business, the medical professional, and law enforcement.

Senate amendment outlines specific duties of the advisory council.

SR with amendment to strike (c)(1)(A) and insert the following language:

``(A) IN GENERAL.—A local educational agency shall develop its application through timely and meaningful consultation with State and local government representatives, representatives of schools to be served (including private schools), teachers and other staff, parents, students, community-based organizations, and others with relevant and demonstrated expertise in drug and violence prevention activities (such as medical, mental health, and law enforcement professionals).''

41. (Consultation) Senate amendment contains no similar provision.

SR

42. (LEA Applic) Similar provisions aligned.

SR with an amendment to strike House (d)(1) and insert the following language:

``(d) CONTENTS OF APPLICATIONS.—

``(1) IN GENERAL.—An application submitted by a local educational agency under this section shall contain—

``(A) an assurance that the activities or programs to be funded comply with the principles of effectiveness described in section [ ] and foster a safe and drug-free learning environment that supports academic achievement.

``(B) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

``(1) how the plan will be coordinated with programs under this Act, other Federal, State, and local programs for drug and violence prevention, in accordance with the provisions of section 8306;

"(ii) the local educational agency's performance measures for drug and violence prevention programs and activities, that shall consist of—

"(I) performance indicators for drug and violence prevention programs and activities; including

"(aa) specific reductions in the prevalence of identified risk factors;

"(bb) specific increases in the prevalence of protective factors, buffers, or assets if any have been identified; or

"(II) levels of performance for each performance indicator;

"(iii) how such agency will assess and publicly report progress toward attaining its performance measures;

"(iv) the drug and violence prevention activity or program to be funded, including how the activity or program will meet the principles of effectiveness described in section 5115(a), and the means of evaluating such activity or program; and

"(v) how the services will be targeted to schools and students with the greatest need;

"(C) a specification for how the results of evaluation of the effectiveness of the prevention program will be used to refine, improve, and strengthen the program;

"(D) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

"(E) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this title;

"(F) an assurance that drug and violence prevention programs supported under this part convey a clear and consistent message that acts of violence and the illegal use of drugs are wrong and harmful;

"(G) an assurance that the applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes—

"(i) appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

"(ii) security procedures at school and while students are on the way to and from school;

"(iii) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments; and

"(iv) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

"(v) a code of conduct policy for all students that clearly states responsibilities of students, teachers, and administrators in maintaining a classroom environment that allows a teacher to communicate effectively with all students in the class, allows all students in the class to learn, has consequences that are fair and appropriate, considers the student and the circumstances of the situation, and is enforced accordingly;

"(H) an assurance that the application and any waiver request will be available for public review after submission of the application; and

"(I) such other assurances, goals, and objectives identified through scientifically based research as the State may reasonably require in accordance with the purpose of this part."

43. (LEA Applic Review/Approval) House bill deems local application to be approved if approved if no response by 90 days.

Senate amendment requires peer review and provides factors for determining approval: quality of plan; extent of problem assessment; use of objective data and community input; measurable goals and objectives; use of scientifically based program.

HR with an amendment to strike in Senate (c)(2)(A) "and the extent . . . identified needs."; and insert "and the extent to which the application meets the Principles of Effectiveness in section ( )."

Insert the following language:

"(a) CONSIDERATIONS.—

"(i) GENERAL APPROVAL.—A local educational agency's application submitted pursuant to subsection [ ] shall be deemed to be approved by the SEA unless the SEA makes a written determination, prior to the expiration of the 120 day period beginning on the date that the SEA receives the application, that the application is in violation of this part.

"(ii) DISAPPROVAL.—The SEA shall not finally disapprove an application, except after giving the applicant notice and opportunity for a hearing.

"(iii) SPECIAL RULE.—If the SEA finds that the application is not in compliance, in whole or in part, with the provisions of this part, the SEA shall:

"(I) implement the procedures described in subsection (c); and

"(II) notify the applicant of the findings of non-compliance where such notification shall—

"(A) cite the specific provisions in the application that are not in compliance; and

"(B) request additional information, only as to those noncompliant provisions, needed to make the application compliant.

"(iv) If the applicant does not respond to the notification described in subsection (iii)(II) within 45 days, such application is not approved.

"(v) If the applicant does respond to the SEA's notification described in subsection (iii)(II) within 45 days with the requested information necessary to make the application compliant, the SEA shall approve or disapprove such application not later than 45 days following its resubmission or the end of the 120 period described in subsection (b), whichever is later."

44. (LEA Applic Review/Approval) Similar provisions.

HR/SR to strike all language

45. (Principles of Effectiveness) Senate amendment contains no similar provision.

SR with an amendment to insert:

"(D) Be based on an analysis, of data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence, or protective factors, buffers or assets or other variables identified through scientifically based research in schools and communities in the State."

"(E) Include meaningful and ongoing consultation with and input from parents in the development of the application and administration of the program or activity."

Report Language—

The Conferees wish to clarify that the principles of effectiveness established under section [ ] are intended to increase the efficacy of drug and violence prevention activities in states, communities, and schools, but are not intended to result in the Secretary requiring State or local educational agencies to use specific programs.

46. (LEA Required Activ) Similar provisions.

SR with an amendment to strike language in section 5115 (b)(1)(A) and replace with "foster a safe and drug-free learning environment that supports academic achievement;" and to strike the language in section 5115(b)(1)(C)(i) and replace with "prevent or reduce violence; the use, possession, and distribution of illegal drugs; and delinquency; and".

47. (LEA Uses of Funds) Similar provisions.

See Senate amendment section 4303, p. 72, Note #85.

See Senate amendment section 1115B.

SR with amendment to strike House language in insert the following language:

"LOCAL ALLOWABLE USES OF FUNDS

* * * * *

(2) "AUTHORIZED ACTIVITIES.—Each local educational agency, or consortium of such agencies, that receives a subgrant under this subpart may use such funds to carry out activities that comply with the principles of effectiveness described in section 5115(a), such as—

(A) Age appropriate and developmentally based activities that—

"(i) address the consequences of violence and the illegal use of drugs, as appropriate.

"(ii) promote of a sense of individual responsibility.

"(iii) teach students that most people do not illegally use drugs

"(iv) teach students to recognize social and peer pressure to use drugs illegally and the skills for resisting illegal drug use

"(v) teach students about the dangers of emerging drugs

"(vi) engage students in the learning process

"(vii) incorporate activities in secondary schools that reinforce prevention activities implemented in elementary schools.

"(B) Activities that involve families, community sectors (which may include appropriately trained seniors), and a variety of drug and violence prevention providers in setting clear expectations against violence and illegal use of drugs and appropriate consequences for violence and illegal use of drugs.

"(C) drug and violence prevention information dissemination to schools and the community.

"(D) professional development and training for and involvement of school personnel, pupil services personnel, parents, and interested community members in prevention, education, early identification and intervention, mentoring, or rehabilitation referral, as related to drug and violence prevention.

"(E) Drug and violence prevention activities that may include

"(i) Community-wide planning and organization activities to reduce violence and illegal drug use, which may include gang activity prevention

"(ii) (I) IN GENERAL.—To the extent that expenditures do not exceed 20 percent of the amount made available to a local educational agency under this subpart (except that this subparagraph shall not apply to (e)), student and school security activities, including—

"(a) acquiring and installing metal detectors, electronic locks, surveillance cameras, or other related equipment and technologies;

"(b) reporting criminal offenses on school property;

"(c) developing comprehensive school security assessments;

"(d) supporting safe zones of passage activities that ensure that students travel safely to and from school, which may include bicycle and pedestrian safety program; and

"(e) hiring and mandatory training, based on scientific research, of school security personnel (including school resource officers) who interact with students in support of youth drug and violence prevention activities under this part that are implemented in the school.

"(2) LIMITATION.—A local educational agency shall only use funds received under this part for activities described in (1)(a) through (d) if funding for such activities is not received from other federal agencies.

"(3) SPECIAL RULE.—Not more than 40 percent of the amount made available to a local educational agency under this part may be spent on activities described in (e).

"(4) DEFINITION.—A school resource officer is a career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department to a local educational agency to work in collaboration with schools and community based organizations to

"(a) Educate students in crime prevention and safety;

"(b) Develop or expand community justice initiatives for students; and

"(c) Train students in conflict resolution, restorative justice, and crime awareness.

Legislative Counsel to redraft to reflect the agreement that the activities of (a) through (d) cannot exceed 20 percent and (a) through (d) in conjunction with (e) cannot exceed 40 percent.

"(iii) expanded and improved school-based mental health services related to illegal use of drugs and violence, including early identification of violence and illegal drug use, assessment, and direct or group counseling services provided to students, parents, families, and school personnel by qualified school based mental health services providers

"(iv) conflict resolution programs, including peer mediation programs that educate and train peer mediators and a designated faculty supervisor and youth anti-crime and anti-drug councils and activities

"(v) alternative education programs or services for violent or drug abusing students that reduce the need for suspension or expulsion or that serve students who have been suspended or expelled from the regular educational settings, including programs or services to assist students to make continued progress toward meeting the state academic achievement content standards and to reenter the regular education setting

"(vi) counseling, mentoring, referral services, and other student assistance practices and programs, including assistance provided by qualified school based mental health services providers and the training of teachers by school based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs

"(vii) programs that encourage students to seek advice from and to confide in a trusted adult regarding concerns about violence and illegal drug use

"(viii) drug and violence prevention activities designed to reduce truancy'

"(ix) age-appropriate, developmentally based violence prevention and education programs that address victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;

"(x) consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or the inspecting of a student's locker for weapons or illegal drugs or drug paraphernalia, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect

"(xi) emergency intervention services following traumatic crisis events, such as a shooting, major accident, or a drug-related incident, that have disrupted the learning environment

"(xii) establishing or implementing a system for transferring suspension and expulsion records, consistent with 20 U.S.C. 1232g, by a local educational agency to any public or private elementary or secondary school

"(xiii) developing and implementing character education programs as a component of a drug and violence prevention program that take into account the views of parents of the students for whom the program is intended and such students, such as a program described in[character education cite]

"(xiv) establishing and maintaining a school safety hotline

"(xv) community-service, including community-service performed by expelled students, and service-learning projects

"(xvi) conducting a nationwide background check of each local educational agency employee, regardless of when hired, and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted of a crime that bears upon the employee's fitness—

"(1) to have responsibility for the safety or well-being of children

"(2) to serve in the particular capacity in which the employee or prospective employee is or will be employed, or

"(3) to otherwise be employed at all by the local educational agency

"(xvii) programs to train school personnel to identify warning signs of youth suicide and to create an action plan to help youth at risk of suicide

"(xviii) programs that respond to the needs of students who are faced with domestic violence or child abuse

"(F) the evaluation of any of the activities authorized under this subsection and the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives"

Report Language:

The Conferees support the ability of local educational agencies to address the needs of students who are victims of varying situations involving violence and drug abuse (such as familial drug abuse and dating violence) and to promote safe environments for students.

48. (School Uniforms) House bill contains no similar provision.

HR

49. (Impact Eval) Senate amendment provides for the Secretary in consultation with the National Advisory Committee to conduct an independent biennial report with specific required elements, including data collected by the NCES under (a)(2)

House bill for NCES to collect data and the Secretary to report on certain data.

HR with an amendment to insert "and drug use" after "combat violence" in (1); insert "comply with the Principles of Effectiveness" after "agency programs" in (A); strike (A)(i) through (v) and strike (B); in (C) insert "illegal" before "presence" and strike "firearms" and insert "weapons"; and in (D) strike "voluntary".

50. (State Report) Similar provisions, but House bill requires a state report every 3 years and Senate amendment requires a state report every 2 years.

HR

51. (LEA Report) Similar provisions, but Senate amendment contains a January 1 deadline.

HR

52. (Native Hawaiians) House bill contains no similar provision.

HR

53. (National Programs) House bill limits evaluation to effectiveness.

Senate amendment authorizes prevention programs.

HR with an amendment to strike "at all educational levels from preschool through the post-secondary level."

54. (Coordination) Senate amendment contains a similar provision in (a).

HR

55. (National Activities) House bill addresses demonstration and evaluation.

Senate amendment addresses information dissemination, child abuse prevention, program evaluation, direct services, and other activities.

HR with an amendment to strike all and insert—

"SECTION 5131. NATIONAL ACTIVITIES.

* * * * *

"(3) PROGRAMS—Activities described in paragraph (1) may include—

"(A) the development and demonstration of innovative strategies for the training of school personnel, parents, and members of the community for drug and violence prevention activities, based on state and local needs;

"(B) the development, demonstration, scientifically based evaluation, and dissemination of innovative and high quality drug and violence prevention programs and activities, based on State and local needs, which may include—;

"(i) alternative education models, either established within a school or separate and apart from an existing school, that are designed to promote drug and violence prevention, reduce disruptive behavior, to reduce the need for repeat suspensions and expulsions, to enable students to meet challenging State academic standards, and to enable students to return to the regular classroom as soon as possible;

"(ii) community service and service-learning projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

"(iii) video-based projects developed by noncommercial telecommunications entities that provide young people with models for conflict resolution and responsible decision-making; and

(iv) child abuse education and prevention programs for elementary and secondary students

"(C) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination;

"(D) the provision of information on violence prevention and education and school safety to the Department of Justice for dissemination

"(E) technical assistance to chief executive officers, State agencies, local educational agencies, and other recipients of funding under this part to build capacity to develop and implement high-quality, effective drug and violence prevention programs consistent with the principles of effectiveness.

"(F) assistance to school systems afflicted with especially severe drug and violence problems, including for the hiring of drug prevention and school safety coordinators, or to support crisis situations and appropriate response efforts;

"(G) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes;

"(H) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems; and

"(I) other activities in accordance with the purposes of this part, based on State and local needs.

Report Language.—"The Conferees understand that children are especially susceptible to the terrible emotional and mental anguish that terrorist attacks can cause. The Conferees intend that crisis situations may include terrorist attacks and that the Secretary may use funds to support school based mental health services for children and school personnel to respond to the mental health needs resulting from a terrorist attack."

56. (Peer Review) Similar provisions.

LC

57. (Gun Free Schools) Similar provisions, excepted as noted.

Senate amendment only allows modification of 1 year expulsion rule when modification is in writing.

Senate amendment denies funds to LEAs without policy, whereas House bill affirms requirement.

HR with an amendment to strike "weapon" and insert "firearm" throughout and to strike Senate (Sec. 4202 (b) and insert current law 14602(b).

58. (Gun Free Schools) Similar provisions.

LC

59. (Gun Free Schools) Similar provisions.

LC—use firearm

60. (Gun Free Schools) Senate amendment provides for an annual report from the state to the Secretary.

HR

61. (Gun Free Schools) Senate amendment provides exception for weapon lawfully stored in vehicle or approved by LEA.

HR

62. (Gun Free Schools) Similar provisions.

LC

63. (Gun Free Schools) Similar provisions.

See Senate amendment sec. 17(d) for similar home school provision.

SR

64. (Definitions) Similar provisions.

See side-by-side HR/SR with an amendment:

Strike House section 5151(1);

Strike Senate section 4131(1);

SR to House section 5151(2), (3), (4);

HR on Senate section 4131(2)(C);

HR on Senate section 4131(3);

LC on House section 5151(5) and Senate section 4131(4);

HR on Senate section 4131(5), (6), (7);

LC on House section 5151(6) and Senate section 4131(8);

SR on House section 5151(7);

SR on House section 5151(8) with an amendment to strike "guidance";

LC on House section 5151(9) [eliminate if identical to general definition]

65. (Message and Materials) Similar provisions.

Senate amendment allows Secretary to evaluate curricula.

SR with an amendment in (a) to insert "and violence" after "Drug"; to strike "is" after "drugs"; and to insert "and acts of violence are" after "drugs".

SR on (b).

66. (Parental Consent) Senate amendment contains no similar provision.

SR

67. (Prohibited Uses) Similar provisions.

HR with an amendment to strike "alcohol, tobacco, or"

68. (IDEA) House bill requires each State to require LEAs to have a policy permitting school personnel to discipline children with a disability and without a disability in the same manner in situations involving weapons, illegal drugs or controlled substances, or aggravated assault or battery.

Senate amendment allows SEAs and LEAs to implement uniform policies regarding discipline and order for all children.

HR/SR to strike both

69. (IDEA) House bill and Senate amendment allow disciplinary action to be modified on a case-by-case basis.

HR/SR to strike both

70. (IDEA) Similar provisions.

HR/SR to strike both

71. (IDEA) House bill allows educational services to cease if the State does not require continued services for children with children without disabilities who are expelled or suspended.

Senate amendment requires continuation of services when the behavior is a manifestation of the child's disability. If behavior is not a manifestation of the child's disability, the same disciplinary procedures that would apply to a non-disabled child may be applied.

HR/SR to strike both

72. (IDEA) House bill contains no similar provision.

SR

73. (IDEA) Senate amendment contains no similar provision.

HR

74. (IDEA) House bill contains no similar provision.

SR

75. (Coordinator Initiative) House bill contains no similar provision.

HR with an amendment to include this initiative as an allowable program under the national authority.

76. (Advisory Committee) House bill contains no similar provision.

HR and include the following as Report Language:

The Conferees intend that the Advisory Council provide advice to the Secretary regarding the improvement of drug and violence prevention programs, and that grantmaking authority rests solely with the Secretary.

77. (Hate Crime) House bill contains no similar provision.

HR

78. (Domestic Violence) House bill contains no similar provision.

HR with an agreement to move to Subpart 17 of Title V, Part D (FIE).

79. (Community Service) House bill contains no similar provision.

HR with an amendment to include this initiative as an allowable program under the national authority.

80. (Suicide Prevention) House bill contains no similar provision.

SR

81. (Mental Health) House bill contains no similar provision.

HR with an agreement to move redrafted provision to Subpart 14 of Title V, Part D (FIE).

82. (Quality Rating) House bill contains no similar provision.

SR

83. (School Safety and Violence Prevention) House bill contains no similar provision, but generally is duplicative of Safe and Drug-free state grants program.

SR

84. (School Uniforms) House bill contains no similar provision.

SR

85. (Discipline Records Transfers) House bill contains similar provision; see House bill section 5115(b)(2)(O), p. 33, Note #47.

HR

86. (Background Checks) House bill contains no similar provision.

HR

87. (Reporting of School Violence) House bill contains a similar use of funds in state grant program; see House bill section 5115(b)(2)(R), p.33, Note #47

SR

88. (Security Technology Center) House bill contains no similar provision.

HR with an amendment to include this initiative as an allowable program under the national authority.

89. (Local Security Program) House bill contains no similar provision.

SR with an amendment to include as an allowable use of local funds subject to the 20 percent cap.

90. (Advisory Report) House bill contains no similar provision.

SR

91. (School Safety Enhancement) House bill contains no similar provision.

SR

92. (National Center for School and Youth Safety) House bill contains no similar provision.

HR with an amendment to include this initiative as an allowable program under the national authority.

93. (Safe Communities, Safe Schools) House bill contains no similar provision.

SR

94. (Environmental Tobacco) House bill contains no similar provision.

HR

95. (Environmental Tobacco) House bill contains no similar provision.

HR

96. (Environmental Tobacco) House bill contains no similar provision.

HR

97. (Alcohol Abuse) House bill contains no similar provision.

HR with an amendment to include this initiative as an allowable program under the national authority.

Title V, Part A, subpart 2—21st Century Schools

(New Title IV, Part B)

1. Senate amendment maintains both the 21st Century Community Learning Centers program and the Safe and Drug-Free Schools and Communities as separate programs.

House bill includes both programs under one act.

SR with an amendment to make it a separate part.

2. Similar provisions, but House bill focuses services on students, and Senate amendment includes families and students.

HR to Senate purpose.

HR with an amendment to add "counseling programs" in list under (2).

HR with an amendment to strike in (3) "lifelong learning and" and add " and related educational" after "literacy".

Report Language:

The Conferees recognize that counseling programs may include mental health services.

3. Senate amendment authorizes awards to CLCs that serve students who primarily attend schoolwide schools or schools with a high percentage of students from low income families.

SR

(House bill primarily targets schools eligible for schoolwide programs under section 1114 in state application—see section 5122.)

4. Both House bill and Senate amendment provide for reservations and continuation grants—see House bill section 5111 (4).

Senate amendment allows 1% for outlying areas and BIA.

HR

5. Both House bill and Senate amendment send funds to States based on a formula. House bill sends funds based 50% on school-age population and 50% on Title I, part A.

Senate amendment sends funds based on Title I, part A.

Similar provisions.

Similar provisions—see House bill section 5151 (9).

HR

6. Senate amendment contains no similar provision.

SR

7. Senate amendment contains no similar provisions.

SR

8. Senate amendment contains no similar provision.

SR with an amendment to allow 2% for state administration.

9. House bill allows 4% for monitoring, evaluations, and technical assistance.

SR with amendment to include Senate section 1607 (b) (1) (A) and (B) to House 5121 (c) (2).

SR with an amendment to include Senate 1607 (b) (2) to House 5121 (c) (3) (A) and (B) with 3% for State activities.

Senate amendment allows 3% for planning, peer review, and supervision and 3% for evaluation, training, and technical assistance.

10. House bill and Senate amendment contain similar provisions, additionally:

HR/SR with an amendment to insert the following language:

"SEC. 5122. STATE APPLICATION.

"(a) IN GENERAL.—In order to receive an allotment under section 5121(a) for any fiscal year, a State Educational Agency shall submit to the Secretary, at such time as the Secretary may require, an application that—

"(1) designates the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part;

"(2) describes how the State Educational Agency will use funds received under this part, including funds reserved for State-level activities;

"(3) contains an assurance that the State Educational Agency will make awards under this part only to eligible entities that propose to serve—

"(A) students who primarily attend—

"(i) schools eligible for schoolwide programs under section 1114; or

"(ii) schools that serve a high percentage of students from low-income families; and

"(B) the families of students described in subparagraph (A);

"(4) describes the procedures and criteria the State Educational Agency will use for reviewing applications and awarding funds to eligible entities on a competitive basis, which shall include procedures and criteria that take into consideration the likelihood that a proposed center will help participating students meet local content and performance standards by increasing their academic performance and achievement;

"(5) describes how the State Educational Agency will ensure that awards made under this part are—

"(A) of sufficient size and scope to support high-quality, effective programs that are consistent with the purpose of this part; and

"(B) in amounts that are consistent with section [1608(b)];

"(6) describes the steps the State Educational Agency will take to ensure that programs implement effective strategies, including providing ongoing technical assistance and training, evaluation, and dissemination of promising practices;

"(7) describes how funds under this part will be coordinated with programs under this Act, and other programs; as appropriate, in accordance with the provisions of section 8306;

"(8) contains an assurance that the State Educational Agency—

"(A) will make awards for programs of 3 to 5 year duration; and

"(B) will require each eligible entity seeking such an award to submit a plan describing how the center to be funded through the award will continue after funding under this part ends;

"(9) contains an assurance that funds appropriated to carry out this part will be used to supplement, and not supplant, other Federal, State, and local public funds expended to provide programs and activities authorized under this part and other similar activities;

"(10) contains an assurance that the State Educational Agency will require eligible entities to describe in their applications under section 1609 how the transportation needs of participating students will be addressed;

"(11) provides an assurance that the application was developed in consultation and coordination with appropriate State officials, including the chief State school officer, and other state agencies administering before and after school (including during summer recess periods) programs, the heads of the State health and mental health agencies or their designees, representatives of teachers, parents, students, the business community, and community-based organizations;

"(12) describes the results of the State's needs and resources assessment for before and after school activities, which shall be based on the results of on-going State evaluation activities;

"(13) describes how the State Educational Agency will evaluate the effectiveness of programs and activities carried out under this part which shall include at a minimum—

"(A) a description of the performance indicators and performance measures that will be used to evaluate programs and activities; and

"(B) public dissemination of the evaluations of programs and activities carried out under this part; and

"(14) provides for timely public notice of intent to file application and an assurance that the application will be available for public review after submission of the application."

House bill primary targets students at schoolwide eligible schools.

Senate amendment targets students who attend schoolwide schools or schools with students from low-income families.

Similar provisions are aligned.

See House bill sec. 5123(d).

See House bill sec 5123(b)

11. No similar Senate amendment provision.

SR with amendment to strike House language and insert the following language:

"(b) GENERAL APPROVAL.—A State educational agency's application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120 day period beginning on the date that the Secretary receives the application, that the application is in violation of this part.

"(c) DISAPPROVAL.—The Secretary shall not finally disapprove an application, except after giving the State educational agency notice and opportunity for a hearing.

"(d) SPECIAL RULE.—If the Secretary finds that the application is not in compliance, in whole or in part, with the provisions of this part, the Secretary shall:

"(1) implement the procedures described in subsection (c); and

"(2) notify the State educational agency of the findings of non-compliance where such notification shall—

"(A) cite the specific provisions in the application that are not in compliance; and

"(B) request additional information, only as to those noncompliant provisions, needed to make the application compliant.

"(e) If the State educational agency does not respond to the notification described in subsection (d)(2) within 45 days, such application is not approved.

"(f) If the State educational agency does respond to the Secretary's notification described in subsection (d)(2) within 45 days with the requested information necessary to make the application compliant, the Secretary shall approve or disapprove such application not later than 45 days following its resubmission or the end of the 120 period described in subsection (b), whichever is later."

12. House bill distributes 95% to the local level. Senate amendment distributes 94% to the local level.

SR

13. House bill and Senate amendment contain similar provisions aligned, additionally:

House bill includes principles of effectiveness requirements and limits to before and after school activities.

HR/SR with an amendment to insert the following language: (APPLICATION) SECTION 5125

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—To be eligible to receive an award under this part, an eligible entity shall submit an application to the State at such time, in such manner, and including such information as the State may reasonably require. Each such application shall include—

"(A) a description of the before and after school activity to be funded including—

"(i) an assurance that the program will take place in a safe and easily accessible facility;

"(ii) a description of how students participating in the program carried out by the center will travel safely to and from the center and home;

"(iii) a description of how the eligible applicant will disseminate information about the project (including its location) to the community in a manner that is understandable and accessible.

"(B) a description of how the activity is expected to improve student academic performance;

"(C) an identification of Federal, State, and local programs that will be combined or coordinated with the proposed program in order to make the most effective use of public resources;

"(D) an assurance that the proposed program was developed, and will be carried out, in active collaboration with the schools the students attend;

"(E) a description of how the activity will meet the principles of effectiveness described in [section 5124];

"(F) an assurance that the program will primarily target students who attend schools eligible for schoolwide programs under section 1114 and the families of such students;

"(G) an assurance that funds under this part will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this part, be made available for programs and activities authorized under this part; and in no case supplant Federal, State, local, or non-Federal funds;

"(H) a description of the partnership between a local educational agency, a community-based organization, and another public entity or private entity, if appropriate;

"(I) an evaluation of the needs, available resources, and goals and objectives for the proposed community learning center and a description of how the program proposed to be carried out in the center will address those needs (including the needs of working families); and

"(J) a demonstration that the eligible entity has experience, or promise of success, in providing educational and related activities that will complement and enhance the students' academic performance and achievement and positive youth development;

"(K) a description of a preliminary plan for how the center will continue after funding under this part ends; and

"(L) an assurance that the community will be given notice of an intent to submit an application and that the application and any waiver request will be available for public review after submission of the application; and

"(M) if the entity plans to use senior volunteers in activities carried out through the center, a description of how the entity will encourage and use appropriately qualified seniors to serve as the volunteers;

"(N) such other information and assurances as the State may reasonably require.

14. (I) appeared in an accepted amendment in the Senate amendment, but was not executed in the correct section in the engrossed Senate amendment—see page 1185 of Senate Amendment.

HR

15. House bill and Senate amendment contain similar provisions, but Senate amendment also includes "unit of general purpose local government."

SR with an amendment to change "private organization" to "private entity" and move to 21st Century definitions; and strike the "and" after "community-based organization,"

16. House bill requires peer review for local applications, while the Senate amendment authorizes 3% of a State's allocation for peer review, among other activities—see Senate amendment sec. 1607(b)(1).

SR

17. House bill requires equitable geographical distribution.

Senate amendment requires urban/rural equitable distribution—see Senate bill sec. 1606(5)(B).

SR with an amendment to add at end "including urban and rural communities".

18. House bill provides for awards of 3-5 years.

Senate amendment provides for awards of up to 4 years—see Senate sec. 1601(5)(A).

SR

19. House bill and Senate amendment contain similar provisions.

LC

20. House bill gives a priority to programs proposing to serve students who attend schools identified as needing improvement under section 1116 and schoolwides under section 1114.

Senate amendment gives an equal priority to title I schools, community-based organizations, and consortia of the two.

HR with an amendment to take House language but strike "proposing to" and add "that will".

HR with an amendment to substitute the following for Senate language:

(b) PRIORITY.—In making awards under this part, the SEA shall give priority to applications submitted jointly by LEAs receiving funds under Title I part A and community based organizations or other public or private entities.

Special Rule—The SEA shall provide the same priority described in (b) to an LEA which applies and demonstrates that it is unable to partner with a community based organization that is in reasonable geographic proximity and of sufficient quality to meet the requirements of this part.

21. Senate amendment allows for centers to be located outside of a school building if accessible and as effective as school-based program.

House bill is silent on the location of a program.

HR with an amendment to strike Senate language and to insert the following language:

"(c) APPROVAL OF CERTAIN APPLICATIONS.—The SEA may approve an application under this subpart for a program to be located in a facility other than an elementary school or a secondary school, only if the program will be at least as available and accessible to the students to be served as if the program were located in the school."

22. House bill contains no similar provision.

HR with an amendment to move to section 5124(c) of the House bill, and substitute the following language:

"Programs that provide after-school activities for LEP students that emphasize language skills and academic achievement."

Report Language:

The language expands the authorized activities to include those projects with emphasis on language skills and academic achievement programs for limited English proficient students. Such activities may include activities to successfully negotiate the classroom and school culture and environments that may be unfamiliar to LEP children and their families, such as standardized tests; the roles of teachers, classroom aides, and school administrators; student conduct codes; and after-school sports, music, and clubs.

23. Senate amendment contains no similar provision.

SR with amendment to add at end of (1) "or may not come from Federal or State sources".

24. Senate amendment contains no similar provision.

SR with an amendment to strike "extended learning opportunities" and add "opportunities for academic enrichment" in (a)(1)(B) and (a)(2) with LC to make conforming amendments to this term.

Insert in (a)(1)(A) "(including summer school programs)" following "after school programs and activities".

25. House bill requires that activities provide for extended learning and academic reinforcement.

HR

26. Senate amendment contains no similar provision, but see Senate amendment sec. 1602 for similar list of activities.

SR with an amendment to insert following language:

"(LOCAL ACTIVITIES) SECTION 5124

"(c) AUTHORIZED ACTIVITIES.—Each eligible entity that receives a subgrant under this part may use such funds to carry out a broad array of activities, such as—

"(1) before and after school activities (including summer school programs) that advance student achievement, including—

"(A) remedial education activities and academic enrichment learning programs, including providing additional assistance to students in order to allow them to improve their academic achievement;

"(B) math and science education activities;

"(C) arts and music education activities;

"(D) entrepreneurial education programs;

"(E) tutoring services (including those provided by senior citizen volunteers) and mentoring programs;

"(F) recreational activities;

"(G) telecommunications and technology education programs;

"(H) expanded library service hours;

"(I) programs that promote parental involvement and family literacy; and

"(J) programs that provide assistance to students who have been truant, suspended, or expelled to allow them to improve their academic achievement; and

"(K) drug and violence prevention programs, counseling programs, and character education programs; and

"(2) establishing or enhancing programs or initiatives that improve academic achievement."

27. Similar definitions aligned:

House bill assists students, while the Senate amendment assists students and families of such students.

See House bill section 5122(a)(1).

HR with an amendment.

HR on "(2) Covered Program".

SR on "(4) State".

Insert the following language:

Definition of Community Learning Center:

For the purpose of this part, a 'community learning center' is an entity that assists students to meet state and local academic achievement standards in core academic subjects, such as reading and mathematics, by providing them with opportunities for academic enrichment activities and a broad array of other activities (such as drug and violence prevention, counseling, art, music, recreation, technology, and character education programs) during non-school hours or periods when school is not in session (such as before and after school or during summer recess) that reinforce and complement the regular academic programs of the schools attended by the students served; and

offers families of students served in such center opportunities for literacy and related educational development.

28. House bill authorizes $900 million for fy2002 and such sums for 4 following years—see House bill sec. 5003.

Senate amendment authorizes $1.5 billion for fy 2002 and such sums for following 6 years.

HR to strike and insert the following authorizations—FY02–$1.25 billion, FY03–$1.5 billion, FY04–$1.75 billion; FY05–$2 billion, FY06–$2.25 billion, FY07–$2.5 billion

29. House bill contains no similar provisions.

SR

Title V, Part B—Enhancing Education Through Technology

(New Title II, Part D)

1. The House bill has 8 purposes and no goal. The Senate amendment has 1 purpose and 2 goals.

HR/SR with an amendment to insert the following language:

Combination of House (1) and Senate (a):

Purposes:

"To provide assistance to States and localities for the implementation and support of a comprehensive system that effectively uses technology in elementary and secondary schools to improve student academic achievement."

Maintain House (2)-(8)

Goals:

"The primary goal of this part is to improve student academic achievement through the use of technology in elementary and secondary schools. The further goals of this part are to assist every student in crossing the digital divide by ensuring that every child is technologically literate by the time the child finishes the 8th grade, regardless of the child's race, ethnicity, gender, income, geography, or disability and to encourage the effective integration of technology resources and systems with teacher training and curriculum development to establish research-based methods that can be widely implemented into best practices by State and local educational agencies."

2. The House bill authorizes the State Technology grant program for 5 years. The Senate amendment authorizes it for 7 years.

LC

3. The House bill includes $24.5 million for the Ready To Learn, Ready To Teach program in this section. The Senate amendment includes $50 million for a Ready to Learn program in section 11209 and $45 million for a Ready To Teach program in section 11258.

HR/SR with an amendment to strike all language. (See notes 78–82).

4. The House bill provides that not more than 5 percent may be made available for activities of the Secretary under subpart 2. The Senate amendment provides that not more than .5 percent of the funds appropriated under subsection (a) may be used for the activities of the Secretary under section 2311.

SR with an amendment to strike 5% and insert 2%.

5. The House bill reserves $15 million out of national activities for a national technology study, but allows for other uses of funds out of national activities. The Senate amendment requires all funds under section 2311 to be used for an independent longitudinal study of effective uses of technology.

SR (LC to draft legislative language)

Policy: No more than 15 million over the course of authorization.

6. The Senate amendment limits recipients to using not more than 5 percent of the funds made available under this part for administrative costs or technical assistance. The House bill allows States to use up to 5 percent of their allocation for State activities under section 5215(b), of which only 40 percent may be for administrative costs.

HR with an amendment to insert "5% total, up to 3% administration".

7. The House bill and Senate amendment have completely different definitions.

SR with an amendment to move House (1) to General Provisions;

Strike "scientifically-based research" (3)(A) and insert "a review of relevant research";

At end of (4)(A) insert "and" and strike "and" in (4)(B) and insert "or".

LC—ensure that language is drafted so that the LEA is the fiscal agent of an eligible local partnership.

8. Also, see notes (32) and (43) in Title 8 for the general definitions of a "public telecommunications entity" and "technology."

SR—(see note 7).

9. The House bill has a federal to state formula based 50 percent on Title I and 50 percent on student age population. The Senate amendment has a federal to state formula based 100 percent on Title I.

HR

10. The House bill reserves ½ of 1 percent of funds for the Bureau of Indian Affairs and outlying areas. The Senate amendment reserves 0.75 percent for the Bureau of Indian Affairs and remains silent on outlying areas. However, the Senate amendment includes "outlying areas" in its definition of a "State" in section. 3 Definitions.

SR with an amendment to allocate BIA .75 percent

11. The Senate amendment allows continuation grants for sections 3136 and 3122. Under section 5212, the House bill allows two-year (or the duration of the original grant period if shorter) continuation grants for section 3132 (a)(2).

HR with an amendment to strike reference to section 3122.

12. The House bill and Senate amendment have similar reallotment of unused funds provisions.

SR

13. The Senate amendment prohibits a State whose minimum is below ½ of 1 percent to receive a grant. The House bill prohibits a State grant to be less than ½ of 1 percent.

SR with an amendment to allocate BIA .75 percent

14. The Senate amendment, but not the House bill, requires the Secretary to give priority when awarding grants to SEAs whose applications outline a strategy to carry out part E.

SR

15. The House bill requires the States to send out 60 percent of the funds to the LEAs based on Title I and to compete the remaining 40 percent. The Senate amendment requires the States to compete 100 percent of funds.

SR with an amendment to strike "60" in Sec. 5212 (a)(2)(A) and insert "50"; and strike "40" in Sec. 5212(a)(2)(B) and insert "50"; insert the following Special Rule:

"(x)(1) SPECIAL RULE.—In awarding a grant under section (competitive pot) the State educational agency shall—

(A) determine which local educational agencies received an allocation under section (formula pot) that is not of sufficient size so as to allow for an effective and sufficient investment consistent with the purpose of this part;

(B) give a priority to applications which received the amount described in subparagraph (A); and

(C) determine the minimum amount for awards under section (competitive pot) to ensure grants are of sufficient size so as to be effective.

(2) INSUFFICIENT AMOUNT.—The State educational agency shall determine the sufficiency of amounts described in paragraph (1)(A) by taking into consideration the amount received by local educational agencies under section (formula pot) and whether such amount is of sufficient size so as to allow for an effective and sufficient investment consistent with the purpose of this part."

16. The Senate amendment includes Sufficiency, Priority, Distribution, and Technical Assistance language under this section. The House bill includes similar "Sufficiency" and "Technical Assistance" language in section 5213 (8) and (9). The House bill has no Priority language under this section but places some emphasis on high-need LEAs in section 5213(b)(3). The House bill has no Distribution language.

HR with an amendment to strike (C).

17. The House bill includes Continuation of Award language under this section.

HR

18. Although similar in some instances, the House bill and Senate amendment have different State Application requirements.

HR/SR with an amendment to:

Maintain House (a);

Combine House (b) with Senate (1–8);

Insert the following language for notes 18–28:

State Applications

"Each State application submitted under this section shall include the following:

"(1) an outline of the State's long-term strategies for improving student academic achievement including technology literacy, through the effective use of technology in classrooms throughout the State, including through improving the capacity of teachers to effectively integrate technology into the curricula and instruction;

"(2) a description of the State's goals for using advanced technology to improve student achievement aligned to challenging State academic standards and student academic achievement standards;

"(3) a description of how the State will take steps to ensure that all students and teachers in the State, particularly those residing in or teaching in districts served by high-need local educational agencies, have increased access to technology;

"(4) a description of the process and accountability measures that the State would use to evaluate the effectiveness of the integration of technology;

"(5) a description of how the State would encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous curricula through the use of technology and distance learning technologies, particularly for those areas of the State that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources;

"(6) an assurance that financial assistance provided under this subpart shall supplement, and not supplant, State and local funds;

"(7) a description of how the plan incorporates teacher education, professional development and curricular development, and how the State would work to ensure that teachers and principals in a State receiving funds under this part are technologically literate;

"(8) a description of how the State educational agency would provide technical assistance to applicants, especially those with the highest number or percentage of children in poverty or with the greatest need for technical assistance and (its) capacity for providing such assistance;

"(9) a description of technology resources and systems for the purpose of establishing best practices that can be widely implemented by State and local educational agencies;

"(10) a description of long-term strategies for financing technology to ensure that all students, teachers, and classrooms would have access to technology;

"(11) a description of strategies for using technology to increase parental involvement;

"(12) a description of how the SEA would ensure that each grant awarded using funds described under section 5212(a)(2)(B) is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purpose of this part effectively;

"(13) a description of how the State will ensure ongoing integration of technology into instructional strategies and school curricula in all schools in the State, so that technology will be fully integrated into those schools by December 31, 2006; and

"(14) a description of how the local educational agency will provide incentives to teachers who are technologically literate to encourage such teachers to remain in rural and urban areas, if applicable.

"(15) a description of how public and private entities would participate in the implementation and support of the plan."

19. The House bill and Senate amendment have similar language regarding long-term strategic plans.

HR/SR—See note 18.

20. The House bill and Senate amendment have similar language regarding the use of technology to improve student academic achievement and the teachers' ability to incorporate technology into the curricula and instruction.

HR/SR—See note 18.

21. The Senate amendment has duplicative provisions regarding teacher training, curricular development and use of technology resources and systems. See provisions (2) and (8). The House bill has no similar provisions.

HR/SR—See note 18.

22. The Senate amendment includes a provision regarding parental involvement. The House bill mentions it as an allowable State activity in section 5215(a)(3)(B)(i).

HR/SR—See note 18.

23. The Senate amendment requires States to develop a technology financing strategy to provide access to all students, teachers, and classrooms. The House bill requires States to describe how they will ensure increased access for all students and teachers particularly in high-need LEAs. The House bill also has language in section 5215(a)(2) on creating public-private partnerships to help high-need districts acquire technology.

HR/SR—See note 18.

24. The Senate amendment requires participation by private school teachers and students. The House bill has similar participation requirements in the General Provisions (title 8). See note 97.

HR/SR—See note 18.

25. The House bill and Senate amendment have similar supplement not supplant language.

HR/SR—See note 18.

26. The Senate amendment, but not the House bill, gives the Secretary the option to require other information on how States will provide assistance to LEAs that have the highest numbers or percentages of children and demonstrate the greatest need for technology, in order to improve student academic achievement.

HR/SR—See note 18.

27. The House bill has more specific language than the Senate amendment on the integration of technology, including a goal of December 31, 2006, accountability for such integration and its impact on student academic achievement.

HR/SR—See note 18.

28. The House bill, but not the Senate amendment, requires the States to describe how they will encourage distance learning and the delivery of specialized and rigorous academic courses, particularly for those areas that would not otherwise have access to such courses and curricula due to geographic isolation or lack of resources.

HR/SR—See note 18.

28. The House bill, but not the Senate amendment, has a goal of teachers and principals being computer-literate and proficient (as determined by the State) by December 31, 2006.

HR/SR—See note 18.

29. The House bill, but not the Senate amendment, includes Deemed Approval, Disapproval and Dissemination of Information on State Applications language.

SR with amendment (this agreement would be based on the agreement to have one policy throughout the bill on this issue and is what we agreed to in 21st Century Community Learning Centers Note #11) to strike House language and to insert language to read as follows:

"(b) GENERAL APPROVAL.—A State educational agency's application submitted pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120 day period beginning on the date that the Secretary receives the application, that the application is in violation of this part.

(c) DISAPPROVAL.—The Secretary shall not finally disapprove an application, except after giving the State educational agency notice and opportunity for a hearing.

(d) SPECIAL RULE.—If the Secretary finds that the application is not in compliance, in whole or in part, with the provisions of this part, the Secretary shall:

(1) implement the procedures described in subsection (c); and

(2) notify the State educational agency of the findings of non-compliance where such notification shall—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to those noncompliant provisions, needed to make the application compliant.

(e) If the State educational agency does not respond to the notification described in subsection (d)(2) within 45 days, such application is not approved.

(f) If the State educational agency does respond to the Secretary's notification described in subsection (d)(2) within 45 days with the requested information necessary to make the application compliant, the Secretary shall approve or disapprove such application not later than 45 days following its resubmission or the end of the 120 day period described in subsection (b), whichever is later."

30. Although similar in many instances, the House bill and Senate amendment have different application requirements.

HR/SR with an amendment to insert the following language for notes 30–48: And insert at the very end of the Technology section the Internet Filtering language verbatim from the FY 01 Omnibus Appropriations bill.

"LOCAL APPLICATION

"Each local application described in this section shall include the following:

"(1) A description of how the applicant will use Federal funds provided under this subpart to improve the academic achievement, including technology literacy, of all students and to improve the capacity of all teachers to provide instruction through the use of technology.

"(2) A description of the applicant's specific goals for using advanced technology to improve student achievement aligned to challenging State academic content and student academic achievement standards.

"(3) A description of how the applicant will take steps to ensure that all students and teachers in schools served by the local educational agency have increased access to educational technology, including how it would use funds under this subpart, such as in combination with other funds, to help ensure that students in high poverty and high needs schools, or schools identified for improvement under section 1116, have access to technology and teachers are prepared to integrate technology effectively into instruction.

"(4) A description of how the applicant will—

"(A) promote teaching strategies and curricula, based on a review of relevant research, which effectively integrate technology into instruction, leading to improvements in student academic achievement as measured by challenging State academic content and student academic achievement standards; and

"(B) provide ongoing, sustained professional development for teachers, principals, administrators, and school library media personnel served by the local educational agency to further the effective use of technology in the classroom or library media center, and if applicable include a list of those entities that will partner with the local educational agency in providing ongoing sustained professional development;

"(5) A description of the type and costs of technologies to be acquired, including services, software, and digital curricula, including specific provisions for interoperability among components of such technologies.

"(6) A description of how the local educational agency will coordinate the technology provided pursuant to this part with other grant funds available for technology from other Federal, State, and local sources.

"(7) A description of how the applicant will integrate technology (including software and other electronically delivered learning materials) across the curriculum and a time line for such integration.

"(8) A description of how the applicant will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology and distance learning, particularly for those areas that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

"(9) A description of how the local educational agency will ensure the effective use of technology to promote parental involvement and increase communication with parents, including a description of how parents will be informed of the use of technologies so that the parents are able to reinforce at home the instruction their child receives at school.

"(10) A description of how programs will be developed in collaboration with existing adult literacy service providers to maximize the use of such technologies.

"(11) A description of the accountability measures and process the applicant will use for the evaluation of the extent to which funds provided under this subpart were effective in integrating technology into school curriculum, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

"(12) A description of the supporting resources, such as services, software, other electronically delivered learning materials, and print resources, that will be acquired to ensure successful and effective uses of technologies.

31. The House bill and Senate amendment require an application that is consistent

with the objectives found in the state-wide plan.

HR/SR—See note 30.

32. The House bill and Senate amendment require an explanation of how technology will improve student academic achievement and classroom instruction. The Senate amendment also includes improving technology literacy to that requirement.

HR/SR—See note 30.

33. The Senate amendment requires grantees to have reviewed relevant research. The House bill requires "scientifically-based research" in several provisions.

HR/SR—See note 30.

34. The House bill and Senate amendment require information about how technology will be integrated into the curriculum. However, the House bill requires a timeline and attention to emerging technologies.

HR/SR—See note 30.

35. The Senate amendment requires technology to improve parental involvement and communication. The House bill has parental involvement language in sections 5215(a)(3)(B)(i) and 5216(a)(2)(i).

HR/SR—See note 30.

36. The Senate amendment, but not the House bill, requires parents to be informed of technology uses so it can be reinforced at home.

HR/SR—See note 30.

40. The Senate amendment requires information on what type of technology is acquired and how it will be interoperable. The House bill only requires interoperability with previous title III technology funds.

HR/SR—See note 30.

41. The House bill and Senate amendment focus on professional development. However, the House bill focuses on teachers and principals, while the Senate amendment focuses on teachers, administrators, and library staff. The Senate amendment also requires a list of partner entities that provide professional development.

HR/SR—See note 30.

42. The Senate amendments, but not the House bill requires a description of the projected cost of technologies to be acquired and related expenses needed to implement the plan.

HR/SR—See note 30.

43. The House bill and Senate amendment require coordination with other Federal, State and local funds. The House bill specifically references titles II, IV, IDEA, and Vocational Education.

HR/SR—See note 30.

44. The House bill and Senate amendment somewhat similar language requiring an evaluation of how technology was integrated into the curriculum and its impact on teaching and students meeting State standards. The Senate amendment has duplicative evaluation in section 2308(a).

HR/SR—See note 30.

45. The Senate amendment requires participation by private school teachers and students. The House bill has similar participation requirements in the General Provisions (title 8). See note 97.

HR/SR—See note 30.

46. The House bill, but not the Senate amendment, requires applicants to take steps to ensure that all student and teachers, particularly those in high-poverty and high-need schools, have increased access to technology.

HR/SR—See note 30.

47. The House bill, but not the Senate amendment, requires the local applicants to describe how they will encourage distance learning and the delivery of specialized and rigorous academic courses, particularly for those areas that would not otherwise have access to such courses and curricula due to geographic isolation or lack of resources.

HR/SR—See note 30.

48. The House bill, but not the Senate amendment, has a second requirement for consistency with State-wide technology priorities and requires integration with previous technology funds.

HR/SR—See note 30.

49. The Senate amendment, but not the House bill, includes language on the Formation of Consortia and Coordination of Application Requirements.

SR with an amendment to add the following at the end of Sec. 5212. Use of Allotment by State . . .

"Special Rule: A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, educational service agencies, libraries, or other educational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, institutions of higher education, educational service agencies, libraries, or other appropriate educational entities to provide services for the teachers and students in a local educational agency at the request of such local educational agency."

LC—ensure that language is drafted so that the LEA is the fiscal agent of the consortium.

50. The House bill, but not the Senate amendment, includes a section on State Activities. See notes (6), (22), (23) and (35).

SR with an amendment to insert "or other technologies" after "Internet" in (3)(B)(i); Strike (b).

51. Under this section, the House bill allows States to help LEAs provide access to technology to all students, including students with disabilities and limited English proficiency.

SR

52. Under this section, the House bill allows States to provide greater access to technology through libraries and with the support of the private sector. The Senate amendment requires States to describe how libraries can help increase access to technology under section 2305(4) and allows libraries to be part of a consortium with LEAs under section 2307(b). The Senate amendment also retains the Community Technology Centers as a separate program.

HR with an amendment to strike requirement that States describe how libraries can help increase access to technology under section 2305(4).

53. Under this section, the House bill allows States to collaborate with other States on distance learning.

SR

54. Although similar in substance, the House bill and Senate amendment have different local uses of funds.

HR/SR with an amendment to insert the following language for notes 54–67:

"LOCAL ACTIVITIES

"(a) PROFESSIONAL DEVELOPMENT.—A recipient of funds made available under section 5212(a)(2)(A) shall use not less than 25 percent of such funds to provide ongoing, sustained and intensive, high-quality professional development, consistent with section 2033 (as applicable), in the integration of advanced technologies (including emerging technologies) into curriculum and in using those technologies to create new learning environments, such as professional development in the use of technology to—

"(1) access data and resources to develop curricula and instructional materials;

"(2) enable teachers—

"(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

"(ii) to retrieve Internet-based learning resources; and

"(3) lead to improvements in classroom instruction in the core academic subject areas, which effectively prepare students to meet challenging State academic content and student academic achievement standards, including increasing student technology literacy.

WAIVER.—Subsection (a) does not apply to a recipient of funds under section 5212(a)(2)(A) that demonstrates, to the satisfaction of the State educational agency, that such recipient already provides sustained and intensive, high quality professional development to all teachers in core curriculum subjects based on review of relevant research in the integration of technology (including emerging technologies) into the curriculum.

"(b) OTHER ACTIVITIES.—In addition to the activities described in subsection (a), a recipient of funds distributed by a State under section 5212(a)(2)(A) shall use such funds to carry out other activities consistent with this subpart, which may include the following:

"(1) The establishment or expansion of initiatives, particularly those involving public-private partnerships, designed to increase access to technology for students and teachers, with special emphasis on the access of high-need schools to technology.

"(2) Adapting or expanding existing and new applications of technology to enable teachers to increase student academic achievement including technology literacy through the use of teaching practices that are based on a review of relevant research and are designed to prepare students to meet challenging State academic content and student academic achievement standards, and for developing and utilizing innovative distance education strategies to deliver rigorous academic programs to areas who otherwise would not have access to such courses.

"(3) Acquiring proven and effective curricula that include integrated technology and are designed to help students achieve challenging State academic content and student academic achievement standards.

"(4) Utilizing technology to develop or expand efforts to connect schools and teachers with parents and students to promote meaningful parental involvement and foster increased communication about curriculum, assignments, and assessments between students, parents, and teachers, and assist parents to understand the technology being applied in their child's education so that parents are able to reinforce their child's learning.

"(5) Preparing one or more teachers in elementary and secondary schools as technology leaders who are provided with the means to serve as experts and train other teachers in the effective use of technology and providing bonus payments to recognized technology leaders.

"(6) Acquiring, adapting, expanding, implementing, repairing and maintaining existing and new applications of technology, to support the school reform effort and improve student academic achievement, including technology literacy.

"(7) Acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software and other electronically delivered learning materials, for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and college counseling centers, or in school library media centers, in order to improve student academic achievement;

"(8) Using technology to collect, manage, and analyze data to inform and enhance teaching and school improvement efforts.

"(9) Implementing enhanced performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which education technology funded under this subpart has been successfully integrated into teaching strategies and school curriculum, has increased the ability of teachers to teach, and has enabled students to meet challenging State academic content and student academic achievement standards.

"(10) Developing, enhancing or implementing information technology courses."

55. The House bill requires that local educational agencies use at least 20 percent of their allocated funds for professional development predicated on scientifically based research and linked with professional development under Title II. The Senate amendment requires that local educational agencies use at least 30 percent of their allocated funds for professional development.

HR/SR—See note 54.

56. The House bill has more specific requirements of professional development funds than the Senate amendment and allows States to waive the 20 percent requirement for LEAs that demonstrate that they are doing enough already on professional development.

HR/SR—See note 54.

57. The House bill's (c)(4) and the Senate amendment's (a)(8) are identical provisions.

HR/SR—See note 54.

58. The Senate amendment has duplicative provisions in (a)(3) and (a)(9).

HR/SR—See note 54.

59. The Senate amendment, but not the House bill, has a requirement for connectivity with wide area networks. However, the House bill allows funds to be used for acquiring technology in general.

HR/SR—See note 54.

60. The House bill allows using funds for maintaining educational technology. The Senate amendment requires using funds to repair and maintain school technology equipment.

HR/SR—See note 54.

61. The House bill allows using funds for analyzing, collecting, and managing data for general school reform. The Senate amendment requires it.

HR/SR—See note 54.

62. The House bill, but not the Senate amendment, allows using funds for initiatives, particularly for public-private partnerships, designed to increase access for high-need LEAs.

HR/SR—See note 54.

63. The House bill, but not the Senate amendment, allows using funds to acquire proven and effective criteria that included integrated technology.

HR/SR—See note 54.

64. The House bill, but not the Senate amendment, allows using funds to determine the effectiveness of technology funded under this subpart.

HR/SR—See note 54.

65. The House bill, but not the Senate amendment, allows funds to be used to develop teachers as technology leaders to help train other teachers.

HR/SR—See note 54.

66. The House bill allows using funds to increase access to technology in high-need LEAs, especially through technology centers in partnerships with libraries and private sector support. The Senate amendment retains the Community Technology Centers.

HR

67. The Senate amendment's allowable uses of funds include to increase parent and teacher communication and to help parents under the technology being used, so they can reinforce it.

HR/SR—See note 54.

68. The House bill and Senate amendment require the Secretary to conduct a similar longitudinal study. However, the House bill includes specific provisions relating to the establishment of a review panel under (a)(1)(C) and reporting requirements under (a)(1)(D).

SR with an amendment to strike "the effect of . . . academic achievement;" and insert Senate (A) as part of House (A) and insert Senate (B) as end part of House (A) with the following changes: strike "performance" and insert "academic achievement" and strike "and related 21st century skills;"

Keep House (C) and (D), but House (D) becomes new (E);

Insert as new (D): "consult with other interested Federal departments or agencies, State and local educational practitioners and policy makers (including teachers, principals and superintendents) and experts in technology regarding the study."

Keep Senate (b)(2).

69. The House bill, but not the Senate amendment, requires using "scientifically based research methods and control groups."

SR

70. The House bill, but not the Senate amendment, includes general language pertaining to the funding of national technology initiatives under (a)(2) and provides for technical assistance under (a)(3).

SR with an amendment to strike House (a)(2).

71. The Senate amendment includes "dissemination" requirements under (b)(2). The House bill includes "evaluation and dissemination" requirements under (b)(3).

HR

72. The House bill, but not the Senate amendment, includes specific "use of funds" language under (b).

HR

73. The House bill includes "requirements for recipients of funds" under (b)(2), including evaluation requirements. The Senate amendment includes similar requirements in section 2308, which applies to LEAs that receive competitive grants under section 2304(a)(2)(A). However, in section 2308(c) the Senate amendment includes a specific sanction for the lack of measurable improvements within 3 years that the House bill does not.

HR/SR with an amendment to strike all language.

74. The Senate amendment, but not the House bill, includes a separate Accountability section.

Also see note (73).

SR

75. Under this section, the Senate amendment provides technical assistance in (d). The House bill requires it under State Activities. Also see note (6).

SR

76. The Senate amendment, but not the House bill, includes this National Evaluation of Technology Plans section.

SR with an amendment to put in national evaluation; insert "particularly in rural areas" after "funds" in (a)(3)—see note 68.

77. The Senate amendment, but not the House bill, includes this National Education Technology Plan section.

HR with an amendment to strike all language and insert the following:

"SEC. 2310. NATIONAL EDUCATION TECHNOLOGY PLAN.

"(a) In General.—Based on the nation's progress and an assessment by the Secretary of the continuing and future needs of the nation's schools in effectively using technology to provide all students the opportunity to achieve challenging State academic content standards, the Secretary shall update and publish in a form readily accessible to the public the national long-range technology plan not later than 12 months after the date of enactment of this Act.

"(b) Content of the Plan.—The plan shall include a description of the manner in which the Secretary will promote higher academic achievement through the integration of advanced technologies, including emerging technologies, into the curriculum, increased access to technology for teaching and learning for schools with a high number or percentage of children from low-income families and the use of technology to assist in the implementation of State systemic reform strategies. The plan shall also describe joint activities of the Department of Education and other federal departments or agencies that will promote the use of technology in education."

Report Language:

The Conferees intend that the National Education Technology Plan be conducted by the Secretary in consultation with other federal departments or agencies, State and local education practitioners, and policymakers, including parents, teachers, principals, and superintendents, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving federal assistance and providers of technology services and products. In addition, the plan should describe the manner in which the Secretary will work with and promote the exchange of information among educators, State and local educational agencies, and appropriate representatives of the private sector, including the Universal Service Administrative Company, and other relevant entities on the effective use of technology in improving teaching, academic achievement and technology literacy. The bill requires the Secretary to report on joint activities regarding educational technology of the Department of Education and other federal agencies, and the Conferees intend that all relevant federal agencies be involved. The plan must be published in a form readily accessible to the public and submitted to the President and the House Committee on Education and the Workforce and the Senate Committee on Health, Education, Labor and Pensions.

78. Although both the House bill and Senate amendment reauthorize the Ready To Learn program, each does it differently.

HR/SR with an amendment to strike all language and insert the following:

"SEC. 11202. READY TO LEARN.

"(a) Program Authorized.—

"(1) In general.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in paragraph (3) to—

"(A) develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate student academic achievement.

"(B) facilitate the development directly, or through contracts with producers of children and family educational television programming, of educational programming for preschool and elementary school children; and accompanying support materials and services that promote the effective use of such programming;

"(C) facilitate the development of programming and digital content especially designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet, containing Ready to Learn-based children's programming and resources for parents and caregivers;

"(D) enable eligible entities to contract with entities (such as public telecommunications entities) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming; and by the most appropriate distribution technologies; and

"(E) develop and disseminate education and training materials, including interactive programs and programs adaptable to distance learning technologies that are designed to (i) promote school readiness; and (ii) promote the effective use of materials developed under subparagraphs (B) and (C) among parents, teachers, Head Start providers, Even Start providers, providers of family literacy services, child care providers, early childhood development personnel, elementary school teachers, public libraries, and after-school program personnel caring for preschool and elementary school children.

"(2) Availability.—In making such grants, contracts, or cooperative agreements under this section, the Secretary shall ensure that eligible entities make programming widely available, with support materials as appropriate, to young children, their parents, child care workers, and Head Start providers, Even Start providers, and providers of family literacy services to increase the effective use of such programming.

"(3) Eligible entities.—To be eligible to receive a grant under this subsection, an entity shall be a public telecommunications entity which is able—

"(A) to demonstrate a capacity for the development and national distribution of educational and instructional television programming of high quality which is accessible by a large majority of disadvantaged preschool and elementary school children;

"(B) to demonstrate—

"(i) a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality;

"(ii) consistent with the entity's mission and nonprofit nature, a capacity to negotiate such contracts in a manner which returns to the entity an appropriate share of any ancillary income from sales of any program-related products; and

"(iii) a capacity to localize programming and materials to meet specific State and local needs and provide educational outreach at the local level.

"(4) Coordination of Activities.—An entity receiving a grant, contract, or cooperative agreement from the Secretary under this section shall work with the Secretary and the Secretary of Health and Human Services to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) coordinate with Federal programs that have major training components for early childhood development, including programs under the Head Start Act and Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990, regarding the availability and utilization of materials developed under paragraph (1)(E) to enhance parent and child care provider skills in early childhood development and education.

"(b) Applications.—Each entity desiring a grant, contract, or cooperative agreement under subsection (a) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(c) Reports and Evaluation.—

"(1) Annual report to secretary.—An eligible entity receiving funds under this section shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds provided under subsection (a), including—

"(A) the programming that has been developed directly or indirectly by the eligible entity, and the target population of the programs developed;

"(B) the support and training materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(C) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(D) the initiatives undertaken by the eligible entity to develop public-private partnerships to secure non-Federal support for the development, distribution, and broadcast of educational and instructional programming.

"(2) Report to congress.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

(A) a summary of activities assisted under subsection (a);

"(B) a description of the education and training materials made available under subsection (a)(1)(E), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such subsection.

"(d) Administrative Costs.—With respect to the implementation of this section, eligible entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

"(e) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated to carry out this section, such sums for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(2) Funding rule.—Not less than 60 percent of the amounts appropriated under subsection (a) for each fiscal year shall be used to carry out subparagraphs (B), (C), and (D) of subsection (a)(1)."

79. The House bill combines the Ready To Learn program with the Telecommunications Demonstration Project for Mathematics and a new digital content allowable use of funds for a total authorization level of $24.5 million. The Secretary is only required to fund the Ready To Learn program. Under the Senate amendment, the Ready To Learn program and the former Telecommunications Demonstration Project for Mathematics, renamed Teacherline, are two separate programs. Ready To Learn is authorized at $50 million and Teacherline, which includes digital content, is authorized at $45 million.

HR/SR with an amendment to move Ready to Teach to Subpart 8 of Title V, Part D, amended to read as follows:

"SEC. 11252. READY TO TEACH.

(a) Grants Authorized.—The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based program to improve teaching in core curriculum areas. The program shall be designed to assist elementary school and secondary school teachers in preparing all students for achieving challenging State academic content and student academic achievement standards in core curriculum areas.

"(b) Programming.—The Secretary is also authorized to award grants to eligible entities described in section 11255(b) to develop, produce, and distribute innovative educational and instructional video programming that is designed for use by kindergarten through grade 12 schools and based on challenging State academic content and student academic achievement standards. In making the grants, the Secretary shall ensure that eligible entities enter into multiyear content development collaborative arrangements with State educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies and organizations.

"SEC. 11253. APPLICATION REQUIRED.

"(a) In General.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under section 11252(a) shall submit an application to the Secretary. Each such application shall—

"(1) demonstrate that the applicant will use the public broadcasting infrastructure, the Internet, and school digital networks, where available, to deliver video and data in an integrated service to train teachers in the use of materials and learning technologies for achieving challenging State academic content and student academic achievement standards;

"(2) ensure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, and State or local nonprofit public telecommunications entities;

"(3) ensure that a significant portion of the benefits available for elementary schools and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

"(4) contain such additional assurances as the Secretary may reasonably require.

"(b) Sites.—In approving applications under section 11252(a), the Secretary shall ensure that the program authorized by section 11252(a) is conducted at elementary school and secondary school sites across the Nation.

"(c) Application.—Each eligible entity desiring a grant under section 11252(b) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 11254. REPORTS AND EVALUATION.

"An eligible entity receiving funds under section 11252(a) shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under section 11252(a), including—

"(1) the core curriculum areas for which program activities have been undertaken and the number of teachers using the program in each core curriculum area; and

"(2) the States in which teachers using the program are located.

"SEC. 11255. DIGITAL EDUCATIONAL PROGRAMMING.

"(a) AWARDS.—The Secretary shall award grants under section 11252(b) to eligible entities to facilitate the development of educational programming that shall—

"(1) include student assessment tools to give feedback on student performance;

"(2) include built-in teacher utilization and support components to ensure that teachers understand and can easily use the content of the programming with group instruction or for individual student use;

"(3) be created for, or adaptable to, challenging State academic content standards and student academic achievement standards; and

"(4) be capable of distribution through digital broadcasting and school digital networks.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under section 11252(b), an entity shall be a local public telecommunications entity as defined by section 397(12) of the Communications Act of 1934 that is able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality.

"(c) COMPETITIVE BASIS.—Grants under section 11252(b) shall be awarded on a competitive basis as determined by the Secretary.

"(d) DURATION.—Each grant under section 11252(b) shall be awarded for a period of 3 years in order to allow time for the creation of a substantial body of significant content.

"SEC. 11256. MATCHING REQUIREMENT.

"Each eligible entity desiring a grant under section 11252(b) shall contribute to the activities assisted under section 11252(b) non-Federal matching funds equal to not less than 100 percent of the amount of the grant. Matching funds may include funds provided for the transition to digital broadcasting, as well as in-kind contributions.

"SEC. 11257. ADMINISTRATIVE COSTS.

"With respect to the implementation of section 11252(b), entities receiving a grant from the Secretary may use not more than 5 percent of the amounts received under the grant for the normal and customary expenses of administering the grant."

80. The Senate amendment, but not the House bill, includes extensive findings for both programs.

SR

81. The House bill, but not the Senate amendment, further streamlines language contained in current law.

HR/SR (see note 78–79).

82. The House bill, but not the Senate amendment, requires eligible applicants to demonstrate, consistent with the entity's mission and nonprofit nature, a capacity to negotiate contracts in a manner, which returns to the entity an appropriate share of any ancillary income from sales of any program-related products.

SR

83. The Senate amendment, but not the House bill, restores the Community Technology Centers program. However, section 3 in the House bill includes one-year continuation of grants language.

HR with an amendment to move redrafted provision to Subpart 11 of Title V, Part D (FIE).

84. The Senate amendment, but not the House bill, restores the Preparing Tomorrow's Teachers To Use Technology program. However, section 3 in the House bill includes one-year continuation of grants language.

HR with an amendment to re-designate the "Preparing Tomorrow's Teachers to Use Technology" program to Title II of the Higher Education Act and authorize such sums as may be necessary for FY 2002 and 2003. (Need to add continuation language for current grantees.)

85. Under section 2242, only (c) TECHNOLOGY PREPARATION applies to the technology portion of this bill.

LC

86. The Senate amendment, but not the House bill, restores the Star Schools Program. However, section 3 in the House bill includes one-year continuation of grants language.

HR with an agreement to move redrafted provision to Subpart 7 of Title V, Part D (FIE).

87. The Senate amendment, but not the House bill, includes a new Rural Technology Education Academies program.

SR with an agreement to insert the following Report Language:

Report Language:

The Conferees recognize that schools in rural areas and small towns often require additional assistance to implement an advanced technology curriculum. Due to the isolated nature of many small, rural towns, technology can offer rural students academic opportunities that they otherwise would not have. Ensuring that rural students are technologically literate is vitally important because it improves academic performance and helps students participate in the highly competitive economy of the 21st Century.

88. The House bill, but not the Senate amendment, redesignated the Internet filtering language in title III of current law to title V, Part B.

LC

89. The Senate amendment, but not the House bill, includes this provision of incentives language.

SR (See also Note 65)

Title V, Part C—Character Education

(New Title V, Part D, Subpart 3)

1. House bill authorizes "Character Education" under Title V, Part C. Senate amendment authorizes "Partnerships in Character Education" as Subpart 5 of Part F of Title XVI.

HR/SR with an agreement to move to Subpart 3 of Title V, Part D (FIE).

2. Senate amendment, but not House bill, contains a short title.

SR

3. House bill refers to "Character Education Program" and Senate amendment refers to "Partnerships in Character Education Program."

HR

4. House bill authorizes the Secretary to make grants to State educational agencies, local educational agencies, or consortia of such agencies for the design and implementation of character education programs. Senate amendment authorizes the Secretary to award grants to eligible entities for the design and implementation of character education programs.

HR

5. Senate amendment contains no similar provision.

SR with an amendment to strike "for the core academic subjects" in (A).

6. Senate amendment contains no similar provision.

SR

7. House bill authorizes 5-year grants. Senate amendment authorizes 3-year grants.

SR

8. Senate amendment, but not House bill, sets minimum grant amount for eligible entities at $500,000.

HR

9. Senate amendment, but not House bill, defines eligible entity.

HR with an amendment to strike "another" and insert "one or more" and strike "organization and entity" and insert "organizations or entities" in (D).

10. House bill and Senate amendment allow each agency or consortium receiving assistance under this section to contract with outside sources, including institutions of higher education and private and nonprofit organizations, for the purposes of evaluating the program; and measuring the success of such program in fostering the elements of character.

SR

11. House bill, but not Senate amendment, provides that outside sources may include religious organizations and adds language to the evaluation for measuring the integration of such program into the curriculum and teaching methods of schools.

SR with an amendment to strike "(including religious organizations)" in House (1); LC strike "agency or consortium" and insert "eligible entity" throughout this Part.

12. House bill, but not Senate amendment, allows each agency or consortium receiving assistance under this section to contract with outside sources, including institutions of higher education and private and nonprofit organizations (including religious organizations), for assistance in developing secular curricula, materials, teacher training, and other activities related to character education; and integrating secular character education into the curriculum and teaching methods of schools where the program is carried out.

SR with an amendment to strike "(including religious organizations)" in House (2).

13. Similar provision.

SR with an agreement to add the following report language:

The Conferees note that when selecting elements of character the applicants may use a scientifically based coherent, established classification system with standardized definitions whose elements are grounded in reliable and valid measures, and whose elements contribute to human thriving, productivity, well-being, and social harmony.

14. Similar provision.

LC

15. House bill, but not Senate amendment, requires the agency or consortium receiving assistance to consider the views of the parents or guardians of the students to be taught under the program.

SR with an amendment to strike "or guardians" after "parents" and insert "and the students," after "of the students".

16. Identical provision.

LC

17. Identical provision.

LC

18. Identical provision.

LC

19. Similar provision.

HR

20. Identical provision.

LC

21. Similar provision.

HR

22. House bill, but not Senate amendment, includes ``giving'' as an example element of character.

SR

23. House bill contains no similar provision.

HR with an amendment to strike "10" and insert "3" in (1).

24. Similar provision.

LC

25. Under House bill, but not Senate amendment, the application must demonstrate that the program for which the assistance is sought has clear goals and objectives that are based on scientifically based research.

SR

26. Under Senate amendment, but not the House bill, the application must contain a description of any partnerships or collaborative efforts among the organizations and entities of the eligible entity.

HR

27. Similar provision.

SR

28. Senate amendment, but not House bill, requires applications to describe how parents, students, and other members of the community will be involved in the design and implementation of the program and how the eligible entity will work with the larger community to increase the reach and promise of the program.

HR

29. Senate amendment, but not House bill, requires applications to describe the curriculum and instructional practices that will be used or developed.

HR

30. Senate amendment, but not House bill, requires applications to describe the methods of teacher training and parent education that will be used or developed.

HR

31. House bill requires applications to describe how the program will be linked to broader educational reforms that are being instituted by the applicant or its partners; and applicable State academic content standards for student achievement. Senate amendment requires applications to describe how the program will be linked to other efforts in the schools to improve student performance.

SR with an amendment to strike "applicable" in (ii).

32. House bill contains no similar provision.

HR with an amendment to strike "goals and" in (E)(i).

33. House bill provides that in selecting agencies or consortia to receive assistance under this section from among the applicants for such assistance, the Secretary shall use a peer review process that includes the participation of experts in the field of character education. Senate amendment provides that the Secretary shall select, through peer review, eligible entities (see (f)(1) below).

SR with an amendment to insert "and development." after "character education" in (A).

34. Similar provision.

SR

35. Senate amendment, but not House bill, requires the Secretary to consider the extent to which the program fosters character in students and the potential for improved student performance.

HR

36. Similar provision.

HR

37. Senate amendment, but not House bill, requires the Secretary to consider the quality of the plan for measuring and assessing success.

HR

38. Similar provision.

LC strike "goals" and insert "objectives".

39. House bill contains no similar provision.

HR

40. House bill requires the Secretary to ensure, to the extent practicable, that the programs assisted under this section are equitably distributed among the geographic regions of the United States, and among urban, suburban, and rural areas. Senate amendment requires the Secretary to ensure, to the extent practicable, that programs serve different areas of the Nation, including urban, suburban, and rural areas; and serve schools that serve minorities, Native Americans, students of limited-English proficiency, disadvantaged students, and students with disabilities.

SR

41. House bill requires each agency or consortium to submit to the Secretary, not later than 5 years after the initial grant, a report containing an evaluation of each program assisted. The report must also evaluate the degree to which each program attained the goals and objectives for the program. Senate amendment requires each eligible entity receiving a grant to submit to the Secretary a comprehensive evaluation of the program, including the impact on students, teachers, administrators, parents, and others by the second year of the program and not later than 1 year after completion of the grant period.

HR with an amendment to insert "end of the" before "second year" in (A)(i).

42. Senate amendment contains no similar provision.

HR

43. House bill contains no similar provision.

HR with an amendment to insert the following language:

``(2) NATIONAL RESEARCH, DISSEMINATION, AND EVALUATION—

``(A) IN GENERAL.—The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, tribal organizations, or other public or private agencies or organizations to carry out research, development, dissemination, technical assistance, and evaluation activities that support or inform State and local character education programs. The Secretary shall reserve not more than 5 percent of the funds made available under this section to carry out this paragraph.

``(B) USES.—Funds made available under subparagraph (A) may be used—

``(i) to conduct research and development activities that focus on matters such as—

``(I) the extent to which schools are undertaking character education initiatives;

``(II) the effectiveness of instructional models for all students, including students with physical and mental disabilities;

``(III) materials and curricula that can be used by programs in character education;

``(IV) models of professional development in character education;

``(V) the development of measures of effectiveness for character education programs which may include the factors described in paragraph (3); and

``(VI) the effectiveness of State and local programs receiving funds under this section.

``(ii) to provide technical assistance to State and local programs, particularly on matters of program evaluation;

``(iii) to conduct evaluations of State and local programs receiving funding under this section which may be conducted by a national clearinghouse under (B)(iv); and

``(iv) to compile and disseminate, through a national clearinghouse or other approaches—

``(I) information on model character education programs;

``(II) information about quality character education materials and curricula;

``(III) research findings in the area of character education and character development; and

``(IV) any other information that will be useful to character education program participants, educators, parents, administrators, and others nationwide.

``(C) PRIORITY.—In carrying out national activities under this paragraph, the Secretary shall seek to enter into partnerships with national, nonprofit character education organizations and institutions of higher education with expertise and successful experience in implementing character education programs that have had an effective impact on schools, students (including students with disabilities), and teachers or character education program evaluation and research. In carrying out national activities under (B)(iv), the Secretary shall seek to enter into partnership with a national, nonprofit character education organization that will disseminate information about the range of model character education programs, materials, curricula, and other information useful to educators, parents, administrators, and others nationwide.

``(D) REPORT.—Each agency, entity, or organization that receives a grant under this paragraph shall submit an annual report to the Secretary that—

``(i) describes the progress of the grantee in carrying out research, development, dissemination, evaluation, and technical assistance under this paragraph;

``(ii) identifies unmet and future information needs in the field of character education; and

``(iii) if appropriate, describes the progress of the grantee in carrying out the requirements of (B)(iv), including a listing of—

``(I) the number of requests for information received by the grantee in the course of carrying out such requirements;

``(II) the types of organizations making such requests; and

``(III) the types of information requested.

``(3) FACTORS.—Factors which may be considered in evaluating the success of programs funded under this section may include—

``(A) discipline issues;

``(B) student performance;

``(C) participation in extracurricular activities;

``(D) parental and community involvement;

``(E) faculty and administration involvement;

``(F) student and staff morale; and

``(G) overall improvements in school climate for all students, including students with physical and mental disabilities.''

44. Senate amendment contains no similar provision.

SR with an amendment to insert the following language:

"(g) PERMISSIVE MATCH.—

"(1) IN GENERAL.—The Secretary may require eligible entities to match funds awarded under this subpart with non-Federal funds, except that such match may not exceed the amount of the grant award.

"(2) SLIDING SCALE.—The amount of a match under paragraph (1) shall be established based on a sliding fee scale that takes into account—

"(A) the poverty of the population to be targeted by the eligible entity; and

"(B) the ability of the eligible entity to obtain such matching funds.

"(3) IN-KIND CONTRIBUTIONS.—The Secretary shall permit eligible entities to match funds in whole or in part in the form of in-kind contributions.

"(4) CONSIDERATION.—Notwithstanding this subsection, the Secretary shall not consider an eligible entity's ability to match funds when determining which eligible entities will receive awards under this subpart."

45. House bill authorizes $50 million for FY 02 and such sums as may be necessary for each of FY 03 through FY 06. Senate amendment authorizes such sums as may be necessary for Part F for FY 02 and for each of the 6 succeeding fiscal years (Character Education is Subpart 5 of Part F).

HR/SR (no authorization because moved to FIE).

Title V, Part D—Counseling

(New Title V, Part D, subpart 2)

1. House bill contains findings. Senate amendment contains no similar provision.

HR

2. House bill and Senate amendment contain similar provisions.

SR

3. House bill and Senate amendment contain similar provisions. House bill contains a priority for applicants that provide information on their ratios of students to service providers.

SR

4. House bill and Senate amendment contain similar provisions.

LC

5. House bill and Senate amendment contain similar provisions.

LC

6. House bill and Senate amendment contain similar provisions.

LC

7. Senate bill does not contain a similar provision.

SR

8. House bill does not contain an application requirement.

HR with an amendment in (b)(2)(A) to strike “personal, social . . . development” and insert “counseling”; to strike (b)(2)(D) and insert “describe how the local educational agency will involve community groups, social service agencies, and other public and private entities in collaborative efforts to enhance the program and promote school-linked services integration”; to strike (b)(2)(E); in (b)(2)(H) strike all after “to supplement” and insert “and not supplant other Federal, State, or local funds used for providing school-based counseling and mental health services to students; and”; to strike (b)(2)(I) and insert “assure that the applicant will appoint an advisory board composed of interested parties, including parents, teachers, school administrators, counseling services providers under (c)(4), and community leaders to advise the local educational agency on the design and implementation of the program”

9. House bill and Senate amendment contain similar provisions, with those provisions aligned:

House bill mentions "counseling and educational" services.

Senate amendment mentions "personal, social, emotional, and educational" services.

House bill includes "child and adolescent psychiatrists."

House bill allows services to be provided in settings that meet the range of needs. Senate amendment provides for specific settings.

House bill provides for training for teachers to identify and intervene with students at risk of violent behavior. Senate amendment includes other pupil services personnel, teachers, and instructional staff.

House includes child and adolescent psychologists as providers.

Senate amendment includes institutions of higher education, business, labor organizations, and "promotes school-linker services integration."

House bill provides for specified ratios of students to providers. Senate amendment contains no similar provision.

House bill mentions that providers must spend a "majority" of their time in activities directly related to counseling. Senate amendment contains no similar provision.

SR with an amendment:

Insert Senate (c)(1):

In House (4) strike “and” before “child and adolescent psychiatrists” and insert “or other qualified psychologists” after “child and adolescent psychiatrists”;

Strike House (7) and insert “include in-service training appropriate to the activities funded under this Act for teachers, instructional staff, and appropriate school personnel, including in-service training in appropriate identification and early intervention techniques by school counselors, school social workers, school psychologists,, child and adolescent psychiatrists and other qualified psychologists;

In House (9) after “program” insert “and promote school-linked services integration”

Report Language:

A comprehensive counseling program addresses the individual and educational needs of students in a variety of settings in the school and is well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other appropriate school personnel. The program involves collaborative efforts with community groups, social service agencies and other public and private entities to enhance the program and promote school-linked service integration.

10. House bill limits administration expenses to 3%.

Senate amendment limits administration expenses to 5%.

SR with an amendment to strike “3” and insert “4”

11. House bill and Senate amendment contain similar provisions, with those provisions aligned.

House bill includes a definition of "child and adolescent psychiatrist."

Senate amendment includes a definition of "supervisor."

SR with an amendment to insert in (2)(B) “in school psychology” after “certification”. Insert “other qualified psychologist means an individual who has demonstrated competence in counseling children in a school setting and who is licensed in psychology by the State in which the individual works; and practices in the scope of the individual's education, training, and experience with children in school settings;

12. House bill requires a report on ratio of student to providers within one year.

Senate amendment requires a report on progress at the end of grant.

SR with an amendment to insert “a report evaluating the programs assistant pursuant to each grant under this subpart and” after “publicly available”.

13. House bill contains no similar provision.

SR

14. House bill and Senate amendment contain similar provisions.

HR/SR with an agreement to move to Subpart 2 of Title V, Part D (FIE).

15. House bill contains no similar provision.

HR with an amendment to set the trigger at $40 million.

Title V, Part E—Mentoring

(New IV, Part A, within subpart 2)

1. House bill and Senate amendment contain similar provisions.

SR with an amendment to strike “an individual” and insert “a responsible adult, postsecondary school student, or secondary school student” in (2).

2. House bill and Senate amendment contain similar provisions.

SR with an amendment to strike “caring individual” and insert “mentor;” in (1).

3. House bill and Senate amendment contain similar provisions, but the House bill allows secondary students to serve as mentors along with adults.

SR with an amendment in (a)(1) to strike “responsible adults or students in secondary school” and insert “mentors”.

4. House bill and Senate amendment contain similar provisions.

LC

5. House bill and Senate amendment contain similar provisions.

LC

6. House bill and Senate amendment contain similar provisions, but the House bill allows secondary students to serve as mentors along with adults.

LC

Report Language:

The Conferees wish to recognize the expertise and experience of mentoring organizations, such as Big Brothers Big Sisters of America, Camp Fire Boys and Girls, Boys and Girls Clubs, National Mentoring Partnership, the Young Men's Christian Association, National Association for the Advancement of Colored People, Aspira, League of United Latin American Citizens, 100 Black Men of America and National 4–H Council, in providing training and technical support for mentoring programs. These organizations have a long history of supporting mentoring for youth and have established networks of mentoring organizations.

7. House bill and Senate amendment contain similar provisions.

LC

8. House bill and Senate amendment contain similar provisions.

LC

9. House bill and Senate amendment contain similar provisions.

LC

10. House bill and Senate amendment contain similar provisions.

LC

11. House bill and Senate amendment contain similar provisions.

LC

12. House bill and Senate amendment contain similar provisions.

LC

13. House bill and Senate amendment contain similar provisions.

LC

14. House bill and Senate amendment contain similar provisions.

HR/SR to delete (Staff to write letter to GAO).

15. House bill and Senate amendment contain similar provisions.

HR/SR to strike both and treat program as an allowable activity under the national authority in the Safe and Drug-Free Schools and Communities Act

16. The Senate amendment requires the Secretary to make grants to Big Brothers/Big Sisters to provide technical assistance to grant recipients under (a) through mentoring development centers located in various cities in the US. Funds, in amounts determined by the Secretary, would come from the authorization for Part G. House bill contains no similar provision.

SR

Title VI—Impact Aid

(New Title VIII)

1. The House bill and the Senate bill have similar provisions make a small modification to the "hold harmless" formula for distributing funds under Section 8002 (payments for federal acquisition of real property).

SR

In the amendments to paragraph (1) of section 8002(h), the House bill refers to being determined pursuant to "statute" while the Senate amendment refers to "law."

2. The House bill, but not the Senate bill, contains a provision to extend the filing deadline for a school district in Colorado that missed both: (1) its FY 1999 Section 8002 application deadline, and (2) a statutory exemption to that exception deadline granted as part of the FY 2001 Department of Education Appropriations Act. The district would be paid from FY 2001 funds.

SR with an amendment to insert the following language:

"(b) APPLICATIONS FOR PAYMENT.—

"(1) WARNER PUBLIC SCHOOLS, MUSKOGEE COUNTY, OKLAHOMA.—Notwithstanding any other provision of law, the Secretary of Education shall treat as timely filed an application under section 8003 (20 U.S.C. 7703) from Warner Public Schools, Muskogee County, Oklahoma, for a payment for fiscal year 2002, and shall process that application for payment, if the Secretary has received the fiscal year 2002 application not later than 30 days after the date of the enactment of this Act.

"(2) PINE POINT SCHOOL, SCHOOL DISTRICT 25, MINNESOTA.—Notwithstanding any other provision of law, the Secretary shall treat as timely filed an application under section 8003 (20 U.S.C. 7703) from Pine Point School, School District 25, Minnesota, for a payment for fiscal year 2000, and shall process that application for payment, if the Secretary has received the fiscal year 2000 application not later than 30 days after the date of the enactment of this Act."

3. This provision is similar to language regarding the change to Section 8002 (h)(4)(B). This is addressed in Section 601 (House Bill). See note 1.

SR

4. The Senate bill, but not the House bill provides for an additional year of eligibility as "federal property" at a reduced payment level, for property that the federal government transfers to a non-federal entity.

HR

5. Both the House and Senate bills contain identical language expanding the number of small school districts which are guaranteed a 40 percent LOT payment.

HR/SR—to be taken out.

6. Both bills contain identical language modifying the definition of a "heavily impacted school district" to include school districts that have no taxing authority and whose boundaries are coterminous with those of an island held in trust by the federal government as being eligible for "heavily impacted" payments.

LC

7. Using different language, both the House bill and the Senate amendment amend Section 8007(b) of current law. The House provisions refer to "School Facility Emergency and Modernization Grants," while the Senate amendment refers to "School Facility Modernization Grants.".

SR

8. Both the House bill and Senate amendment reserve 60 percent of the amount appropriated under subsection 8014(e) for competitive construction grants. The House bill directs the Secretary to award grants to LEAs for emergency repairs of school facilities as well as for the modernization of school facilities. The Senate bill directs the Secretary to make grants to LEAs only for the modernization of school facilities, but has a reservation of funds for emergency repairs in a different part of the bill (see note 9).

SR

9. The Senate amendment, but not the House bill, allocates 10 percent of the funds reserved for modernization for grants to LEAs described in paragraph (2)(A) (federal property), 45 percent for LEAs described in paragraph (2)(B) (Indian land), and 45 percent for LEAs described in paragraph (2)(C) (civilian "a" and military). The Senate amendment further reserves 10 percent of the funding allocated to Indian lands districts, and 10 percent of the funding allocated to Military districts for emergency grants which are not subject to specific award criteria.

SR

10. The House bill, but not the Senate amendment, requires the Secretary to give priority to grants for emergency situations when making awards under this subsection.

SR

11. The Senate amendment, but not the House bill, allows funds reserved for Indian land or military districts to be used for modernization of schools on or near federal property, but only if the school itself has 25 percent of its average daily attendance composed of federally impacted students.

SR with an amendment to allow individual schools that would otherwise qualify for an emergency grant or modernization grant but are in a school districts that fails to qualify, to apply for such a grant as if they were a "expanded definition school district" (see description of structure below). In order to qualify under this provision, a school must be at least 40 percent impacted, and be part of an LEA that has no bonding capacity or that has used up at least 75 percent of their bonding capacity, and has an assessed value of taxable property per student in the school district that is in the lowest 50 percent of school districts within the state.

Note: Below is the policy and structure for construction; final legislative language is still to be written:

Overall structure—

One pot for all qualifying entities to share;

Emergency projects are funded first in the order of severity with projects in LEAs that have no practical capacity to issue bonds or limited capacity to issue bonds (House definitions) funded first, and expanded definition LEAs (those that don't meet House definition but meet the definition below) funded second if money remains, and funded only under the same criteria that apply to districts with limited capacity to issue bonds.

Modernization projects are funded if money remains after all emergency applications are funded. The same criteria apply for modernization grant and emergency grants. LEAs with no practical capacity to issue bonds or limited capacity to issue bonds (House definitions) are funded first, and expanded definition LEAs (those that don't meet House definition but meet definition below) are funded second if money remains.

Expanded definition districts are districts that are at least 40 percent impacted, have used up to at least 75 percent of their bonding capacity, and have an assessed value of taxable property per student in the school district that is in the lowest 50 percent of school districts within the state.

Leg. Counsel to craft above language. May need some sort of a special rule, or it might be better to just insert parts of agreement into suitable sections of the bill.

12. Both the House bill and the Senate amendment list eligibility requirements.

LC

13. The House bill but not the Senate amendment lists eligibility requirements for emergency grants. An LEA may be eligible if it receives formula grants under subsection (a), has an emergency condition which threatens the health or safety of students and personnel, and meets one of three conditions: (1) it has no practical capacity to issue bonds; (2) it has a limited capacity to issue bonds with a requirement that the LEA has used at least 75 percent of its bonding capacity; or (3) it is a heavily impacted district.

SR with amendment LC to craft language reflecting the eligible pool as outlined in the policy above.

14. The House bill, but not the Senate amendment, requires that for an entity to be eligible for an emergency grant, that it be eligible to receive formula grants for construction under subsection (a).

HR with amendment LC to craft language reflecting the eligible pool as outlined in the policy above.

15. Both the House bill and the Senate amendment list eligibility requirements for Modernization Grants.

LC

16. The House bill, but not the Senate amendment states that in order to receive a modernization grant, the LEA must meet the same criteria as those eligible for an emergency grant, except for having a school facility emergency, or must qualify as a federal lands district. The Senate amendment lists slightly different criteria with different placement (see note 17).

SR (per structure outlined in note 11).

17. The House bill and the Senate amendment have identical eligibility requirements for federal property districts.

LC

18. The Senate amendment provides that in order to be eligible for a modernization grant, an LEA and the facility to be modernized must be at least 25 percent impacted by certain types of connected students.

SR (per structure outlined in note 11).

19. The House bill, requires that in order to be eligible for a modernization grant, the LEA must have facility needs resulting from actions of the federal government. The Senate amendment requires this as a criteria for consideration by the Secretary (see note 26).

SR with an amendment to strike "actions of the federal government" and insert in its place "a federal presence".

20. The House bill, but not the Senate amendment, defines the terms lack of practical capacity to issue bonds and minimal capacity to issue bonds.

SR (per structure outlined in note 11).

LC—May need to recede with an amendment to define districts that can receive funding only after those with limited or no practical bonding capacity are funded.

21. Both the House bill and the Senate amendment set forth award criteria. The House bill sets forth criteria for both emergency and modernization grants. The Senate bill requires the Secretary to review applications from federal lands districts, Indian lands districts, and military districts.

LC

Report Language:

The Conference Report requires the Secretary to consider the severity of the need for modernization, which may be measured by factors such as overcrowding or the potential for overcrowding. The conferees note that such overcrowding may arise from housing privatization undertaken by the Department of Defense.

22. The House bill requires the Secretary to take into account the ability of a school district to pay for either a modernization project or an emergency project. The Senate bill requires the Secretary to take into account the districts ability to pay for modernization projects.

SR

23. The House bill, but not the Senate amendment, sets forth the following criteria to measure an LEAs ability to carry out a project, including its bonded indebtedness; its assessed value of real property per student, compared to the state average; the LEAs total tax rate for school purposes compared to the state average; and funds available to the LEA from other sources.

SR

24. Using different language, both the House bill and the Senate amendment require the Secretary to consider the lack of taxable property due to a federal presence and the impact of federally connected children.

SR

25. Using different language, both the House bill and the Senate amendment require the Secretary to consider the threat that a condition poses to health or safety, and overcrowding as evidenced by the use of portable facilities.

SR with amendment to insert (D)(ii).

26. The Senate amendment requires the Secretary to take into account facility needs resulting from the federal government. The House bill requires that facility needs result from the federal government in order to be eligible (see note 19).

SR (per note 19).

27. The House bill but not the Senate amendment requires the Secretary to consider the LEAs inability to maximize the use of technology or offer curriculum due to physical facility limitations.

SR

28. Both the House bill and the Senate amendment require the Secretary to consider the age of the facility to be modernized.

LC

29. Using different language, both the House bill and the Senate amendment provide additional award provisions.

LC

30. The House bill limits the amount of the cost of a project that may be funded under this subsection to 50 percent for LEAs that have limited bonding capacity or that qualify solely because they are heavily impacted. The Senate amendment limits the federal share to 50 percent for all projects.

SR

31. The House bill limits the amount an LEA may receive under this subsection for LEAs having limited bonding capacity or that qualify solely because they are heavily impacted to $3 million over a 5-year period. The Senate amendment limits the amount any LEA may receive to $5 million over a 2-year period.

HR/SR with an amendment to allow these districts to receive up to $4 million in a 4-year period.

32. The House bill allows the use of in-kind contributions to meet the match required of LEAs. The Senate amendment has a similar provision with different placement (see note 30).

SR

33. Both the House bill and the Senate amendment contain certain prohibitions on the use of funds under this subsection. These provisions are placed differently. The House bill prohibits funds from being used for facilities for which the LEA does not hold the title, or stadiums or other facilities primarily used for events for which admission is charged. The Senate amendment prohibits funds under this subsection from being used for the acquisition of real property, athletic and similar facilities for which admission is charged, and requires that all projects carried out with funds provided under this subsection to comply with relevant environmental law and regulation.

LC—merge the language from both bills.

34. Using slightly different language, both the House bill and the Senate amendment prohibit LEAs receiving funds under this subsection from supplanting funds that would otherwise be spent for facilities construction or modernization.

LC

35. The House bill but not the Senate amendment prohibits emergency grants under this subsection from being used for the replacement of an existing facility unless such replacement is more cost effective than repair of the existing facility.

SR

36. The House bill requires that emergency grants for which funding is not available shall be considered in the following year at the request of the LEA. The Senate amendment requires that an eligible entity that applies for a grant which is not funded shall have its grant application considered for the following fiscal year. The Senate amendment places this provision differently than the House bill.

HR

37. The House bill and the Senate amendment require LEAs seeking a grant under this subsection to submit an application to the Secretary.

LC

38. The House bill and the Senate amendment require different information to be submitted to the Secretary. The House bill requires applicants to submit information related to the award criteria. In the case of emergency grants, it requires a description of the hazard, and a signed statement certifying the deficiency. In the case of a modernization grant, the House bill requires an explanation for the need for the project and the age of the facility, a description of the project including a cost estimate, and a description of ownership interest in the facility.

LC—merge the lists of both bills.

39. The Senate amendment requires the submission of a listing of the facilities to be modernized and the percentage of federally impacted children, a description of the ownership of the property, a description of how the LEA meets the award criteria, a description of the project, and a cost estimate for the project.

LC—merge the two.

40. The Senate amendment requires LEAs applying for an emergency grant to submit a signed statement certifying the deficiency. This is similar to one of the provisions for emergency grants under the House bill (see above).

SR with an agreement to add report language.

Report Language:

The Conferees would urge the Department when awarding grants under section 8007(b) of the Impact Aid Program that every effort be made to insure that emergency grant application requests from all eligible categories of school districts are given equal consideration, subject to the requirements of that subsection.

41. The Senate amendment, but not the House bill, requires the Secretary to make every effort to meet fully the needs of Indian lands and Military Impacted school districts.

SR

42. The Senate amendment requires the Secretary to give priority based on severity of emergency if more than one grant application is received from an Indian lands or military district. The priority is based upon severity of the emergency and when the application was received. The house bill contains an absolute priority for emergency situations under subsection (b)(2).

HR

43. The House bill, but not the Senate amendment, requires the Secretary to report annually to the appropriate committees of Congress a justification of grants made under this subsection for the previous fiscal year. The House bill further defines the appropriate congressional committees.

SR

44. The House bill, but not the Senate amendment, increases the authorization for appropriation for Impact Aid construction to $150 million for FY 2002, and such sums as necessary for the four succeeding fiscal years.

SR

45. Both the House bill and the Senate bill have virtually identical language to clarify that Section 8009 (equalized states) payments are exempt from state equalization. The House bill, but not the Senate amendment, includes a reference to section 8003(b)(2).

SR

46. Both the House bill and the Senate bill contain language to authorize the program through 2006.

SR with amendment to change word "six" to "seven".

47. The House bill, but not the Senate bill contains language to transfer and redesignate the program.

LC

48. The House bill, but not the Senate bill contains a provision to provide that funds appropriated under the current placement of the Impact Aid program in Title VIII of the ESEA will be available under that program as redesignated as Title VI.

LC

Report Language:

Language was included in the FY 2001 National Defense Authorization Act to reauthorize the Impact Aid program. As part of the reauthorization, language was included in Section 8002(j) to authorize Section 8002 (payments relating to federal acquisition of real property) funding for the Centennial School District in Bucks County, Pennsylvania due to their unique situation. The Centennial

School District is the only school district in the nation where the only military facility that was located entirely within the boundaries of the school district was realigned as a part of base realignment and closure (BRAC), but the school district continues to educate the children of families who continue to live on that property even though the parent(s) are stationed at a federal facility located outside the boundaries of the school district. The Commander of that federal facility has stated that this current situation will continue for the foreseeable future. By moving the language of Section 8002(j) of the Impact Aid Program to Part D of Title V, the Fund for the Improvement of Education (FIE), it is not the intent of the conferees to in any way affect the authorization for funding Section 8002(j) and in no way minimizes the ability of members to seek funding for the authorization on an annual basis.

49. The House bill, but not the Senate bill contains language regarding a Sense of Congress that the Impact Aid program should be fully funded.

HR

Title VII—Flexibility and Accountability
(New Title VI, Part A)

1. The House bill and the Senate amendment locate this part regarding rewards and sanctions pertaining to educational achievement in the States in different parts of each piece of legislation.

HR

2. The House bill and the Senate amendment have different section headings regarding financial awards to states.

HR/SR with amendment to strike all language

3. The House bill and the Senate amendment use the same name for these awards. However, the House bill requires the Secretary of Education to make the awards, while the Senate amendment allows the Secretary to decide whether to make the awards. In addition, both the Senate amendment and the House bill refer to the use of a peer review process to make awards, although the House provision is located in subsection (f). See note 21. Finally, the Senate amendment has the Secretary make awards to States making the most progress improving educational achievement, while the House bill refers to States making significant progress.

HR/SR with an amendment to strike all language.

4. The House bill requires the Secretary to give greatest weight to the criteria in paragraph (b)(1) of the House bill, which the Senate also does, but in subparagraph (a)(2)(B) of the Senate bill. See note 14.

HR/SR with an amendment to strike all language.

5. The House bill specifically refers to the two groups listed, while the Senate amendment refers to groups by reference to Title I, part A, which includes, in addition to the groups listed in the House bill, the following: students with disabilities, students with limited English proficiency, migrant students and students by gender.

HR/SR with an amendment to strike all language.

6. The House bill, but not the Senate amendment, refers to the assessments under section 1111 of Title I, part A. The Senate amendment, but not the House bill, refers to students reaching the State defined level of proficiency, which, by inference, includes the assessments required under Title I, part A.

HR/SR with an amendment to strike all language.

7. Both the House bill and the Senate amendment require the Secretary to examine a State's performance on NAEP 4th and 8th grade assessments in reading and math. However, the House bill refers to a specific school year in which 4th and 8th grade NAEP assessment data must be examined, while the Senate amendment refers to the 2nd year after which assessment data is first available for all States under NAEP in 4th and 8th grade.

HR/SR with an amendment to strike all language.

8. The House bill, but not the Senate amendment, allows States to choose another assessment to NAEP that meets the criteria described in subclauses (b)(B)(ii)(I)—(VIII) of the House bill.

HR with an amendment to strike all language.

9. The House bill and the Senate amendment require the Secretary to also examine the progress of all the State's students (as opposed to specific groups, see note 5). Also, the House bill and Senate amendment differ in a similar manner as previously detailed in notes 6–8.

HR/SR with an amendment to strike all language.

10. The House bill and the Senate amendment are the same.

HR/SR with an amendment to strike all language.

11. The House bill, but not the Senate amendment, allows the Secretary to consider the factors listed in paragraphs (1) and (2) following in the House bill. The Senate amendment, but not the House bill, requires the Secretary to consider the factors listed in clauses (iv) and (v) following in the Senate bill.

HR with an amendment to strike all language.

12. The House bill and the Senate amendment are the same.

HR/SR with an amendment to strike all language.

13. The House bill and the Senate amendment are substantially the same with minor, technical differences in wording.

HR/SR with an amendment to strike all language.

14. See note 4.

SR with an amendment to strike all language.

15. The House bill does not contain a similar provision.

SR with an amendment to strike all language.

16. The Senate amendment does not contain a similar provision.

HR with an amendment to strike all language.

17. The House bill does not contain a similar provision.

SR with an amendment to strike all language.

18. The House bill does not contain a similar provision.

SR with an amendment to strike all language.

19. The House bill does not contain a similar provision; however, see section 7104 of the House bill for authorization levels. See note 46.

SR with an amendment to strike all language.

20. The Senate amendment does not contain a similar provision.

HR with an amendment to strike all language.

21. See note 3 regarding the peer review process.

HR with an amendment to strike all language.

22. The House bill, but not the Senate amendment, contains a subsection requiring the Secretary to make grants to states to offset the cost of administering the alternative assessment to NAEP.

HR with an amendment to strike all language.

23. The House bill and Senate amendment have different section headings.

HR/SR with an amendment to strike all language.

24. The House bill and the Senate amendment are substantially the same with the following exceptions: The Senate amendment allows the Secretary to reduce State administration funds "by not more than 30 percent", while the House bill does not contain similar discretion for the Secretary; and the Senate amendment, but not the House bill, requires the Secretary to make any reductions in State administrative funds in the "subsequent fiscal year".

HR/SR with an amendment to strike all language.

25. The House bill does not contain a similar provision, but the House bill and the Senate amendment require the Secretary to examine similar measures of student performance. See notes 26 and 27.

SR with an amendment to strike all language.

26. The House bill and the Senate amendment refer to "adequate yearly progress" as defined under Title I, part A, section 1111, although the Senate reference is more specific. (In addition, the House bill and Senate amendment differ in their provisions regarding adequate yearly progress pursuant to each respective Title I, part A provisions.) Also see note 5 regarding the number of groups required to be included by the House bill and Senate amendment.

HR/SR with an amendment to strike all language.

27. See notes 7 and 8 regarding the differences in the House bill and Senate amendment provisions regarding what the Secretary must examine to determine, in this case, sanctions.

HR/SR with an amendment to strike all language.

28. The House bill, but not the Senate amendment, allows the Secretary to increase the reduction in a State's administrative funds by not more than an additional 45% for the two years following the initial period described in subsection (a) of the House bill. The Senate amendment, but not the House bill, requires the Secretary to reduce a State's administrative funds by not more than 75% in the subsequent fiscal year for another year or years following the initial period described in subsection (a) of the Senate amendment.

HR/SR with an amendment to strike all language.

29. The Senate amendment does not contain a similar provision.

HR with an amendment to strike all language.

30. The Senate amendment does not contain a similar provision.

HR with an amendment to strike all language.

31. The House bill, but not the Senate amendment, requires the Secretary to reduce a State's administrative funds by an additional 20% above the reductions determined in subsections (a) and (b) if the State has failed to make adequate yearly progress regarding the acquisition of English proficiency by students with limited English proficiency pursuant to Title I, part A. The Senate amendment, but not the House bill, requires the Secretary to determine whether a State has met its performance objectives

under Title III of the Senate bill regarding the acquisition of English proficiency by limited English proficient students as part of the initial period described in subsection (a).

HR/SR with an amendment to strike all language.

32. The House bill does not contain a similar provision.

SR with an amendment to strike all language.

33. The Senate amendment does not contain a similar provision.

HR with an amendment to strike all language.

34. The House bill and the Senate amendment have different section headings.

HR

35. The House bill and the Senate amendment are substantially the same with minor wording differences. In addition, the House bill refers specifically to standards and assessments required by section 1111 of Title I, part A, while the Senate amendment refers to standards and assessments added to ESEA current law by the Senate amendment.

SR

36. The House bill allows funds provided under this section to be used to pay for the costs of the administration of the required assessments if the State has already developed the required standards and assessments, while the Senate bill allows the provided funds to be used for administration regardless of the status of development of standards and assessments. The Senate provision is located in subparagraph (a)(3)(B) following. Otherwise, the House bill and the Senate amendment are the same regarding carrying out other activities under this part.

SR

37. The House bill and the Senate amendment are substantially the same with minor wording differences.

SR

38. The Senate amendment does not contain a similar provision. However, the Senate amendment does reference all assessments required in paragraph (a)(1). See note 35.

SR

39. See note 36 regarding administration of assessments.

SR

40. The Senate does not contain similar provisions as the House bill in subparagraphs (C)–(H) following.

SR with an amendment to insert ", including professional development activities aligned with state academic achievement standards and assessments" at the end of House (F) and to strike subparagraph (H) and insert the following:

"(H) improving the dissemination of information on student achievement and school performance to parents and the community, including the development of information and reporting systems designed to identify best educational practices based upon scientifically based research or to assist in linking records of student achievement, length of enrollment, and graduation over time."

41. The House bill does not contain a similar provision. However, see subsection 7104(b) of the House bill and note 50.

SR

42. The House does not contain a similar provision.

SR

43. The House contains a similar provision, but it is located in paragraph 7104(a)(3) of the House bill. See note 48.

SR

44. The House bill and the Senate amendment include a provision to provide one-time bonuses to States that complete their assessments ahead of the deadline established in Title I, part A of each piece of legislation. However, there are substantial differences between the two provisions. The Senate amendment, but not the House bill, establishes a specific school year by which the Secretary shall make the one-time bonus payments. The Senate amendment, but not the House bill, conditions these bonuses upon the assessments being "particularly high quality" and which are the most successful in assessing the "range and depth of student knowledge and proficiency".

HR/SR with an amendment to strike all language.

45. See notes 3 and 21.

SR with amendment to insert the following from Title I-A note 438 as new subsection:

"(#–LC) GRANTS FOR ENHANCED ASSESSMENT INSTRUMENTS.

"(a) From funds appropriated under [reference to Title VII note 48], the Secretary shall award, on a competitive basis, grants to States submitting an application in such time and in such manner that the Secretary may require that demonstrates to the satisfaction of the Secretary that the requirements of this section and part will be met to—

"(1) enable States (or consortia of States) and local educational agencies (or consortia of local educational agencies) to collaborate with institutions of higher education, other research institutions, or other organizations to improve the quality, validity and reliability of State academic assessments beyond the requirements for such assessments described in section 1111[(b)(3)];

"(2) measure student academic achievement using multiple measures of student academic achievement from multiple sources;

"(3) chart student progress over time; and

"(4) evaluate student academic achievement through the development of comprehensive academic assessment instruments such as performance and technology-based academic assessments.

"(d) APPLICATION.—Each State wishing to apply for funds under this [paragraph] shall include in its State plan such information as the Secretary may require.

"(f) ANNUAL REPORT.—Each State or local educational agency receiving a grant under this [section] shall submit an annual report to the Secretary describing its activities, and the result of those activities, under the grant.

46. The House bill and the Senate amendment authorize appropriations for the same general purposes with minor, technical differences in cross-references. In addition, the House bill authorizes less than the Senate amendment. The Senate amendment, but not the House bill, contains an additional authorization of appropriations under section 6201 in subsection (e).

HR/SR with amendment to strike all language

47. The House bill, but not the Senate amendment, authorizes $69 million in FY 02 and such sums through FY 06 for NAEP and the alternative assessment described in subparagraph (b)(1)(B). The Senate amendment, but not the House bill, authorizes $110 million in FY 02 and such sums for the succeeding 6 fiscal years for NAEP only.

HR with an amendment to strike "110,000,000" and insert "72,000,000".

48. The House bill and the Senate amendment are similar with the exception of technical differences in cross-references. In addition, the House bill authorizes such sums through FY 05, while the Senate amendment authorizes such sums for the succeeding 6 fiscal years.

HR with amendment to strike paragraph (3) and insert the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph [(1)], there are authorized to be appropriated $490,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years."

49. The House bill contains a similar provision, but it is located in subsection 7103(a) of the House bill. See notes 35–40.

SR

50. The House bill and the Senate amendment establish how funds appropriated shall be distributed between the States. However, there are substantial differences between the two provisions. The House bill, but not the Senate amendment, allocates half of the appropriated funds evenly between the states and half on the population of children aged 5 to 17 in each State. The Senate amendment, but not the House bill, allocates a set amount of $3 million per State and allocates any remaining funds based on the number of children enrolled in public schools in grades 3 through 8.

HR with amendment to, out of the $490 million authorized (at note 48): from amounts equal to or less than the trigger amount described in Title I–A for that fiscal year: (1) reserve ½ of 1 percent for Interior (BIA); (2) reserve ½ of 1 percent for Outlying Areas; (3) provide each State $3 million; (4) allocate remaining funds, after the application of (1), (2) and (3), to each State based on the State's public school student population in grades 3–8; AND from funds greater than the I–A trigger: (5) allocate funds for approved applications under Enhanced Assessment Instruments (see note 45) according to the quality, needs and scope of the State application. In determining the grant amount, the Secretary shall include any funds the State would have received under (6) of this paragraph; and (6) allocate any remaining funds after funds are allocated in (5) to each State based on population described in (4), except that States which received a grant under (5) receive none of these remaining funds.

51. The House does not contain a similar provision.

HR

52. The House bill, but not the Senate amendment, contains this part allowing SEAs and LEAs flexibility in targeting and transferring federal funding.

SR with amendment to strike subparagraphs (A)–(C) of subsection (a)(1) and insert:

"(A) Section 2113(a)(3) of Part A of Title II (Teachers);

"(B) Section 2412(a)(1) of Part D of Title II (Technology);

"(C) Sections 4112(a)(1) (with the agreement of the Governor) and 4112(c)(1) of Part A, and section 4202(c)(3) of Part B of Title IV (Safe and Drug Free and 21st Century); and

"(D) Section 5112(b) of Part A of Title V (Innovative Programs)."

and with amendment to strike subparagraphs (A)–(C) of subsection (b)(2) and insert:

"(A) Section 2121 of Part A of Title II (Teachers);

"(B) Section 2412(a)(2)(A) of Part D of Title II (Technology);

"(C) Section 4112(b)(1) of Part A of Title IV (Safe and Drug Free); and

"(D) Section 5112(a) of Part A of Title V (Innovative Programs)."

53. The House bill and the Senate amendment have different headings and titles and locate this part in different parts of each piece of legislation.

HR/SR with amendment to insert new title: "State and Local Flexibility Demonstration" and SR with amendment to insert "State and" before "Local" in the Short Title.

54. The Senate amendment, but not the House bill, allows SEAs, as well as LEAs, to participate and therefore meet the specific requirements. The House bill only allows LEAs. This difference is consistent in the provisions throughout these parts except as otherwise noted.

HR

55. The House bill and the Senate amendment are substantially the same with minor wording differences.

SR

56. The Senate amendment does not contain a similar provision.

SR

57. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment adds "educators" and "administrators" to the list.

HR

58. The House bill and the Senate amendment are similar with the exception that the House bill refers to "maximum freedom", while the Senate amendment refers to "greater flexibility".

HR

59. The House bill refers to "Federal barriers", while the Senate amendment refers to barriers in general. The House bill refers to effective programs, while the Senate amendment refers to effective reform. In addition, the Senate amendment, but not the House bill, refers to equality of student opportunity and accountability for student progress.

HR with amendment to strike "of equality".

60. The House bill and the Senate amendment are substantially the same with minor wording differences.

HR

61. The House bill and the Senate amendment are similar with the exception that the Senate amendment, but not the House bill, refers to "low-income and minority students".

HR with amendment to strike "performing" and insert "achieving".

62. The House bill and the Senate amendment have different headings.

HR/SR with amendment to insert new section heading of "Local Flexibility Demonstration".

63. The House bill and the Senate amendment are similar with the exceptions that the House bill, but not the Senate amendment, references the State's definition of adequate yearly progress and with a technical difference in cross-references.

SR with amendment to insert "on a competitive basis" after "shall".

64. The House bill, but not the Senate amendment, requires the Secretary to enter into performance agreements with not more than 100 LEAs. The Senate amendment, but not the House bill, requires the Secretary to select not more than 7 SEAs and 25 LEAs for performance agreements. In addition, the House bill and the Senate amendment require the Secretary to consider geographic distribution (however, these provisions differ, see note 73), while the Senate amendment, but not the House bill, also conditions the Secretary's approval of LEA participation. See note 74.

SR with amendment to strike "100" and insert "150" and to insert "on a competitive basis" after "shall" and to add "consistent with [paragraph (2)—notes 73 and 74] after first reference to "local educational agencies".

65. The House bill, but not the Senate amendment, specifically requires the submission of a proposed performance agreement to the Secretary. Otherwise, the provisions are similar.

SR

66. The House bill, but not the Senate amendment, requires a plan by the LEA to meet the State's definition of adequate yearly progress. The Senate amendment, but not the House bill, requires the SEA or LEA to exceed the State's definition of adequate yearly progress by a statistically significant amount while also meeting the various requirements in sections 1111 and 1116 of Title I, part A, of the Senate amendment.

SR

67. The House bill does not contain a similar provision.

SR

68. The House bill, but not the Senate amendment, requires the LEA to notify the "State". The Senate amendment, but not the House bill, requires the SEA to notify a list of other entities described in subclauses (I) and (II) following of the Senate amendment.

SR

69. The House bill does not contain a similar provision.

SR

70. The House bill does not contain a similar provision.

SR

71. The House bill and the Senate amendment are similar with a minor wording difference.

LC

72. The House bill does not contain a similar provision.

HR

73. The House bill, but not the Senate amendment, allows the Secretary to enter into no more than 2 performance agreements per state for the first three years after the bill has been enacted, and subsequent to this period, the Secretary can enter into no more than 100 agreements total, regardless of the number of agreements per state, so long as there is an equitable distribution between urban and rural areas. The Senate amendment, but not the House bill, requires the Secretary to ensure equitable distribution of selected agencies if more than 7 SEAs or 25 LEAs apply. In addition, the Senate amendment, but not the House bill, requires the Secretary to ensure equitable distribution of agencies between urban and rural areas if more than 25 LEAs apply.

SR with amendment to insert that there must be no less than 4, but no more than 10 local flexibility demonstration districts in the 7 State Flexibility Demonstration States (for a total of 70 districts) and that at least half of the districts must be districts with a poverty percentage of 20% or higher. If districts do not sign up for local flexibility in each of the 7 flex demo States, those districts may not be reallocated to non-flex demo States.

74. The House bill does not contain a similar provision.

SR with amendment to insert that non-flex demo States may have up to 3 local flex demo districts per State, up to a total of 80 districts nationally.

75. The House bill contains a similar provision in subparagraph (b)(1)(B). See note 68.

SR

76. The House bill contains a similar provision in (b)(1)(B), although the House bill refers to "State". See note 68.

SR

77. The House bill does not contain a similar provision.

SR

78. The House bill does not contain a similar provision.

SR

79. The House bill does not contain a similar provision.

SR

80. The House bill does not contain a similar provision.

SR

81. The House bill does not contain a similar provision.

SR

82. The House bill and the Senate amendment are similar with minor wording differences in this provision and the next.

SR

83. The House bill and the Senate amendment are substantially the same with minor, technical differences in wording and cross-references.

SR

84. The House bill and the Senate amendment are substantially the same with minor, technical differences in wording and cross-references.

SR

85. The House bill and the Senate amendment require a five-year plan and a description of how funds will be combined and used, although the Senate provision is located in clause (D)(iii) following and refers to exceeding adequate yearly progress by a statistically significant amount. The House bill, but not the Senate amendment, lists a number of necessary requirements in the five-year plan. The Senate amendment outlines the necessary requirements in the clauses (i)—(v) following of the Senate amendment.

SR with amendment to insert "for any educational purpose authorized under this Act" after "scope of the performance agreement".

86. The House does not contain similar provisions as the Senate amendment in clauses (i)—(v) following of the Senate amendment with the exception indicated in note 87 regarding Senate amendment clause (iii).

SR

87. See note 85.

SR

88. The House bill and the Senate amendment are substantially similar with the exception that the Senate amendment, but not the House bill, requires an assurance of the opportunity to comment on the proposed consolidation of funds. The Senate amendment, but not the House bill, specifically mentions the SEA opportunity to comment on the distribution and use of funds to be consolidated.

SR with amendment to strike "in accordance with State law".

89. The House bill and the Senate amendment are the same.

SR

90. The House bill and the Senate amendment are substantially the same with a minor wording difference.

SR

91. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment is more specific as to equitable participation provisions for funds consolidate and used under the performance agreements. See note 119.

SR with amendment to insert "consistent with section [Gen. Prov. Reference]" after "schools".

92. The Senate amendment does not contain a similar provision.

SR

93. The House bill does not contain a similar provision.

HR with amendment to strike "State educational agency" and insert "local educational agency".

94. The House bill does not contain a similar provision.

SR

95. The House bill and the Senate amendment are substantially the same with the following exceptions: (1) The Senate amendment, but not the House bill, requires the report to be disseminated to the extent practicable in the parents' language; and (2) The House bill contains a general requirement that the report details how achievement has improved and gaps have been closed, while the Senate requires a number of specific items related to student achievement as detailed in clauses (i)–(iii) following of the Senate amendment.

SR with amendment to strike "agrees that" and insert "shall," and to strike "the local educational agency shall" before "disseminate".

96. The House bill does not contain a similar provision.

SR

97. The House bill does not contain a similar provision.

SR

98. The House bill does not contain a similar provision.

SR

99. The House bill does not contain a similar provision.

SR

100. The House bill requires the Secretary to approve a proposed performance agreement 60 days after receipt of the agreement, while the Senate amendment requires approval 90 days after the deadline established by the Secretary. The Senate amendment, but not the House bill, refers to a "complete" performance agreement.

SR with amendment for LC to make consistent with 21st Century "deemed approved" language.

101. The Senate amendment, but not the House bill, contains a provision requiring the Secretary to establish a peer review process to review proposed performance agreements.

HR

102. The House bill and the Senate amendment are substantially the same with the following exceptions: (1) The House bill requires the Secretary to amend the performance agreement if the requirements described in paragraphs (2)(A) and (B) following of the House bill are met, while the Senate amendment allows the SEA to amend contingent on the requirements described in paragraphs (2)(A) and (B) following of the Senate amendment; and (2) There is a technical difference in cross-references.

SR with amendment to strike "State" and insert "local educational agency".

103. The House bill and the Senate amendment are substantially the same with the following differences: (1) The House bill refers to the "State" being held accountable, while the Senate amendment refers to the SEA being held accountable; and (2) There is a technical difference in cross-references.

SR with amendment to strike "a State seeks" and insert "a local educational agency seeking" and to strike "State" and insert "local educational agency" before "will be held"

104. See note 100 regarding differences in the time provided the Secretary. In addition, the Senate amendment, but not the House bill, allows the Secretary to provide the SEA with documentation that the amendment plan "no longer has substantial promise" of meeting this part's requirements and refers to exceeding adequate yearly progress.

SR with amendment for LC to make consistent with 21st Century "deemed approved" language.

105. The House bill and the Senate amendment are substantially the same with minor, technical differences in wording.

SR with amendment for LC to make consistent with 21st Century "deemed approved" language.

106. The House bill does not contain a similar provision.

SR

107. The House bill, but not the Senate amendment, addresses the reinstatement of program requirements on the LEA once a program is removed from a performance agreement beginning on the effective date of the executed amendment. The Senate amendment, but not the House bill, addresses the execution of adding or removing programs on the first day of the first full academic year following the approval of the amendment.

SR

108. The House bill and the Senate amendment are similar. However, the House bill, but not the Senate amendment allows the LEA to use its consolidated funds for any purpose in the House bill. The Senate amendment, but not the House bill, allows the SEA to use its consolidated funds for any purpose of the eligible programs listed in subsection 5705(b) and contingent upon paragraph (3) of the Senate amendment.

SR with amendment to strike ", subject to subsection (c),".

109. The House bill and the Senate amendment are substantially the same with the exceptions of minor wording differences and that the House refers to the "State", while the Senate refers to the SEA.

SR with amendment to strike "State" and insert "local educational agency".

110. The House bill does not contain a similar provision.

SR

111. The House bill refers to provisions in the House bill as eligible, while the Senate amendment refers to provisions in law as eligible. In addition, the Senate amendment, but not the House bill, specifies that "only" those funds available in FY 02 and succeeding fiscal years are eligible to be consolidated.

SR

112. The House bill does not contain a similar provision. The Senate amendment includes as eligible programs: Title I, part A, Even Start, 21st Century Community Learning Centers, Comprehensive School Reform, School Dropout Prevention.

SR

113. The House bill refers to the whole of Title II of the House bill (regarding Teachers), while the Senate amendment refers to certain parts of Title II of the Senate amendment (regarding Teachers and Technology).

SR with amendment to insert "Section 2121 of Part A of" before "Title II" (Teachers);

114. The House bill does not contain a similar provision. The Senate amendment includes Bilingual Education as an eligible program.

SR

115. The House bill refers to part A of Title IV of the House bill (regarding Innovative Programs Block Grant), while the Senate amendment refers to subpart 3 of part A of Title V of the Senate amendment (regarding Public School Choice), and subpart 4 of part B of title V (regarding Innovative Programs Block Grant)

SR with amendment to strike paragraph (2) and insert: "(2) Section 2412(a)(2)(A) of Part D of Title II (Technology);"

116. The House bill refers to subpart 1 of part A of Title V of the House bill (regarding Safe and Drug Free Schools), while the Senate amendment refers to subpart 1 of part A of Title IV of the Senate amendment (regarding Safe and Drug Free Schools).

SR with amendment to strike paragraph (3) and insert "(3) Section 4112(b)(1) of Part A of Title IV (Safe and Drug Free);"

117. The House bill refers to part B of Title V of the House bill (regarding Technology). The Senate amendment refers to part C of Title II of the Senate amendment (regarding Technology) in paragraph (2). See note 113.

SR with amendment to strike paragraph (4) and insert "(4) Section 5112(a) of Part A of Title V (Innovative Programs)."

118. The House bill does not contain similar provisions as the Senate amendment in paragraphs (6)–(8) following of the Senate amendment.

SR

119. The Senate amendment, but not the House bill contains a subsection applying specific equitable participation provisions for funds consolidated and used under the performance agreements. See note 91.

SR

120. The House bill does not contain a similar provision.

SR

121. The House bill does not contain a similar provision.

SR

122. The House bill does not contain a similar provision.

SR

123. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment, but not the House bill, conditions the LEA administrative reservation on paragraph 5709(e)(2) regarding sanctions.

SR

124. The House bill, but not the Senate amendment, requires the Secretary to terminate a performance agreement before the five-year ending point of the agreement if the LEA has failed to make adequate yearly progress for three consecutive years. The Senate amendment, but not the House bill, requires the Secretary to terminate a performance agreement if, after the first full year of the SEA's performance agreement, the SEA fails to make its definition of adequate yearly progress for 2 consecutive years thereafter or fails to exceed its definition of adequate yearly progress by a statistically significant amount for three consecutive years thereafter. Both the House bill and the Senate amendment require the agency under review to be given notice and the opportunity for a hearing.

SR with amendment to strike "permitting" and insert "requiring".

125. The House bill does not contain a similar provision.

HR with amendment to strike "State educational agency" and insert "local educational agency"

126. The House bill does not contain a similar provision.

HR with amendment to strike all references to "State educational agency" and insert in all cases "local educational agency".

127. The House bill and the Senate amendment are substantially the same with the following exceptions: (1) The House bill refers to meeting "achievement goals", while the Senate amendment refers to meeting the State's definition of adequate yearly progress; (2) Minor differences in wording and a technical difference in cross-references; and (3) The House bill refers to the LEA complying with the program requirements previously contained in the performance agreement after the agreement has

ended, which the Senate also does in subsection (d) below.

SR

128. The House bill does not contain a similar provision.

SR

129. The Senate amendment, but not the House bill, refers to the "first day of the first full academic year". Otherwise, the House bill and the Senate amendment are substantially the same, although the House bill contains this provision in subsection (b). See note 126.

SR

130. The House bill does not contain a similar provision.

SR

131. The House bill, but not the Senate amendment requires the Secretary to renew for one additional five-year term a performance agreement with an agency that has "met or substantially met" its performance goals at the end of the original agreement. The Senate amendment, but not the House bill, requires the Secretary to renew for one additional five-year term a performance agreement with an agency that has exceeded the adequate yearly progress in the agreement by a statistically significant amount.

SR with amendment to strike "State educational agency" and insert "local educational agency".

132. The House bill and the Senate amendment are substantially the same with minor wording differences.

SR

133. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment, but not the House bill, does not allow for a renewal if the required information is not provided to the Secretary within 60 days of the end of the term of the original performance agreement.

SR

134. The House bill and the Senate amendment are substantially the same with a technical difference in cross-references.

LC

135. The Senate amendment does not contain a similar provision.

SR

136. The House bill and the Senate amendment are substantially the same with a technical difference in cross-references. (In addition, the House bill and Senate amendment differ in their provisions regarding adequate yearly progress pursuant to each respective Title I, part A provisions.)

LC

137. The Senate amendment does not contain a similar provision.

HR

138. The House bill does not contain a similar provision.

SR with amendment to insert State flexibility demonstration, State accountability for AYP, and changes to NAEP and NAGB in NESA:

(1) State flexibility Demonstration:

The purpose of this part is to allow 7 States additional flexibility in the use of federal funds for State administration and State activity funds. If a State chooses to participate, it does not affect how much money they receive—the same federal formulas apply.

Eligible Programs:

Part A of Title I—State administration only (Education for the Disadvantaged);

Part B of Title I (Reading First and Even Start);

Section 2113(a)(3) of Part A of Title II (Teachers);

Section 2412(a)(1) of Part D of Title II (Technology);

Sections 4112(a)(1) (with the agreement of the Governor), 4112(c)(1), and 4112(b)(2) of Part A of Title IV (Safe and Drug Free Schools);

Section 4202(c)(2) and (3) of Part B of Title IV (21st Century Community Learning Centers);

Sections 5112(a) and 5112(b) of Part A of Title V—State administration, State activity and Local activity funds (Innovative Programs Block Grant).

Title V Block Grant—If the State educational agency includes the local activity funds, it must ensure 85% of pre-FY 2002 funds are sent locally and 100% of funds above the FY 2002 funds are sent locally.

Agreement with the Secretary—The State educational agency would apply to the Secretary to be able to take advantage of this flexibility.

Use of Funds—Similar to the schoolwide provision which allows consolidation of federal dollars at the school level, funds could be used for any educational activity authorized under H.R. 1, to meet the general purposes of the program funds included in the waiver, in order to improve academic achievement and close achievement gaps.

Approval—The Secretary may approve the application only if the Secretary determines that such application demonstrates substantial promise of carrying out the education reform goals of the State.

Reporting—States would annually report to the Secretary on how they are using these funds in accordance with their waiver.

Termination—The Secretary will terminate the State flexibility under this part if the State fails to meet adequate yearly progress for 2 consecutive years or for non-compliance with the terms of the application.

Alignment—State flexibility demonstration States must have no less than 4, but no more than 10, local flexibility demonstration districts in alignment with the State flexibility demonstration, and that at least half of the districts must be districts with a poverty percentage of 20% or higher. Districts participating in the State flex demo State must align with the State flexibility demonstration for the State to be eligible to participate in State flex. Additional local flex demo districts beyond the minimum 4 districts required under the State flex demo may sign up at any point, up to a total of 10 districts, so long as they are in alignment with the State flex demo.

Districts in a State that is participating in State flex, that are not part of the State flex demo (i.e., not the initial 4 or among the 10 total) may benefit from the State flex demo dollars (which is not inclusive of the local flex demo dollars).

Districts that join the State in the State flex demo (i.e., the initial 4 or among the 10 total) shall submit their performance agreements in conjunction with the State application for State flex. The State shall submit a "consolidated" application including the district information for those districts participating.

States have priority in signing up for the State flex demo over districts wishing to sign up for the local flex demo so as to encourage alignment between the State and districts. If the State has not notified the Secretary of their interest to participate in State flex in [6] months after enactment, the districts in that State may submit performance agreements to the Secretary.

(2) And State accountability for AYP language:

"SEC. . STATE ACCOUNTABILITY FOR ADEQUATE YEARLY PROGRESS.

"(a) Accountability for Adequate Yearly Progress.—After a State has had its plan approved under Title I and Title III of this Act and such plans have been implemented for 2 years, the Secretary shall review whether the State has met its adequate yearly progress definition under section 1111 [(b)(2)] of this Act for each of the groups of students described in section 1111 [(b)(2) . . . (the 4 accountability subgroups)] and meet its annual measurable objectives under section [Title III] of this Act.

"(b) Determination.—The Secretary shall use a peer review process to review, based on data from the State assessments administered pursuant to section 1111 of this Act, whether a State has failed to make its definition of adequate yearly progress for two consecutive years, and to review, based on data from the evaluations in section [Title III] of this Act, whether a State has failed to meet its annual measurable objectives under section [Title III] of this Act for two consecutive years.

"(c) Technical Assistance.—(1) Based on the determination described in subsection (b), the Secretary shall provide technical assistance to a State that has not met its definition of adequate yearly progress no later than the beginning of the next school year following the school year in which the determination described in subsection (b) is made.

"(2) The technical assistance described in paragraph (1) shall:

"(A) be valid, reliable and rigorous; and

"(B) provide constructive feedback to help the State meet its definition of adequate yearly progress.

"(3) Based on the determination described in subsection (b), the Secretary may provide technical assistance to a State that has not met its annual objectives in section [Title III] no later than the beginning of the next school year following the school year in which the determination in subsection (b) was made.

"(4) The technical assistance described in paragraph (1) shall:

"(A) be valid, reliable, and rigorous; and

"(B) provide constructive feedback to help the State meet its annual measurable objectives in section [Title III]."

Report Language:

"Just as schools and districts that fail to make adequate yearly progress for student academic achievement for two consecutive years must develop improvement plans, Conferees expect States that continually fail to make adequate yearly progress to develop and implement strategies that will enable the State to make adequate yearly progress and that specifically address issues that prevented the State from making such progress."

(d) Report to Congress.—Beginning with the 2005–2006 school year, the Secretary shall submit an annual report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate containing—

(1) a list of each State that has not met its definition of adequate yearly progress based on the determination described in subsection (b);

(2) a list of each State that has not met its annual measurable objectives under section [—Title III];

(3) the information reported by the State to the Secretary pursuant to section 1119 [—teacher accountability]; and

(4) a description of any technical assistance provided pursuant to subsection (c)

Report Language:

Conferees stress that a fundamental purpose of Title I as established under this Act is to hold States, local educational agencies and schools accountable for improving the academic achievement of all students, and for identifying and turning around low-performing schools. As a result, Conferees expect States to meet their definition of adequate yearly progress to the same degree as local school districts and schools. The Conferees further urge Congress and the Secretary to thoroughly examine the data collected from the State assessment systems and factor such information into future discussions on accountability measures for States, which should include consideration of the use of fiscal sanctions to hold those States that continually fail to meet their definition of adequate yearly progress and fail to improve the academic achievement of all students accountable.

(3) Sections 411 and 412 of the NESA are amended to read as follows:

"SEC. 411. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

"(a) ESTABLISHMENT.—The Commissioner shall, with the advice of the National Assessment Governing Board established under section 412, and with the technical assistance of the Advisory Council established under section 407, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress, which collectively refers to a national assessment, State assessments, and a long-term trend assessment in reading and mathematics.

"(b) PURPOSE; STATE ASSESSMENTS.—

"(1) PURPOSE.—The purpose of this section is to provide, in a timely manner, a fair and accurate measurement of student academic achievement and reporting trends in such achievement in reading, mathematics, and other subject matter as specified in this section. The Commissioner, in carrying out this purpose, shall—

"(A) use a random sampling process which is consistent with relevant, widely accepted professional assessment standards and that produces data that is representative on a national and regional basis;

"(B) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools at least once every two years, in grades 4 and 8 in reading and mathematics;

"(C) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools in reading and mathematics in grade 12 in regularly scheduled intervals, but at least as often as such assessments were conducted prior to the enactment of [HR 1];

"(D) to the extent time and resources allow, and after the requirements described in subparagraph (B) are implemented and then the requirements described in subparagraph (C) are met, conduct additional national assessments and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in grades 4, 8, and 12 in public and private schools in regularly scheduled intervals in additional subject matter, including writing, science, history, geography, civics, economics, foreign languages, and arts, and the trend assessment described in subparagraph (F);

"(E) conduct the reading and mathematics assessments described in subparagraph (B) in the same year, and every other year thereafter, to thereby provide for one year in which no such assessments are conducted in between each administration of such assessments; and

"(F) continue to conduct the trend assessment of academic achievement at ages 9, 13, and 17 for the purpose of maintaining data on long-term trends in reading and mathematics.

[Report Language: "The Conferees intend the long-term trend assessment will continue to be administered in the same manner as prior to the enactment of [NCLB/BEST]. Further, the Conferees intend that NAGB shall formulate policy for the long-term trend assessment."]

"(G) include information on special groups, including, whenever feasible, information collected, cross tabulated, compared, and reported by race or ethnicity, socioeconomic status, gender, disability and limited English proficiency; and

"(H) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis and that includes trend lines;

"(2) STATE ASSESSMENTS.—(A) The Commissioner—

"(i) shall conduct biennial State academic assessments of student achievement in reading and mathematics in grades 4 and 8 as described in paragraphs (1)(B) and (1)(E);

"(ii) may conduct the State academic assessments of student achievement in reading and mathematics in grade 12 as described in paragraph (1)(C);

"(iii) may conduct State academic assessments of student achievement in grades 4, 8, and 12 as described in paragraph (1)(D); and

"(iv) shall conduct each such State assessment, in each subject area and at each grade level, on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

"(B)(i) States participating in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(3).

"(ii) Such agreement shall contain information sufficient to give States full information about the process for decision-making (which shall include the consensus process used), on objectives to be tested, and the standards for random sampling, test administration, test security, data collection, validation, and reporting.

"(C)(i) Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

"(ii) A State participating in the biennial academic assessments of student achievement in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if it has an approved plan under section 1111 of the Elementary and Secondary Education Act of 1965.

"(3) PROHIBITED ACTIVITIES.—

"(A) The use of assessment items and data on any assessment authorized under this section by an agent or agents of the Federal Government to rank, compare, or otherwise evaluate individual students or teachers, or to provide rewards or sanctions for individual students, teachers, schools or local educational agencies is prohibited.

"(B) SPECIAL RULE.—Any assessment authorized under this section shall not be used by an agent or agents of the Federal Government to establish, require, or influence the standards, assessments, curriculum, including lesson plans, textbooks, or classroom materials, or instructional practices of States or local educational agencies.

"(C) APPLICABILITY TO STUDENT EDUCATIONAL DECISIONS.—Nothing in this section shall prescribe the use of any assessment authorized under this section for student promotion or graduation purposes.

"(D) APPLICABILITY TO HOME SCHOOLS.—Nothing in this section shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, nor shall any home schooled student be required to participate in any assessment referenced or authorized under this section.

"(4) In carrying out any assessment authorized under this section, the Commissioner, in a manner consistent with subsection (c)(2), shall—

"(A) use widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and ensure that any academic assessment authorized under this section be tests that do not evaluate or assess personal or family beliefs and attitudes or publicly disclose personally identifiable information;

[Report language: The Conferees wish to clarify that this provision does not prohibit the use of essay, extended response, or short answer test items, nor does it prohibit the use of test items which require a student to analyze a passage of text, or to express opinions provided that such test items are developed consistent with widely accepted professional assessment standards. Further, it does not preclude the use of non-intrusive, noncognitive questions, approved by the National Assessment Governing Board, whose direct relationship to academic achievement has been demonstrated and is being studied as part of the National Assessment of Educational Progress for the purposes of improving such achievement.]

"(B) only collect information that is directly related to the appraisal of academic achievement, and to the fair and accurate presentation of such information; and"

[Report Language: The Conferees wish to clarify that "fair and accurate presentation" is intended to mean that the data and information resulting from the implementation of this section, whether aggregated at the national, regional, or State level, are valid and reliable and reported to the public in a manner that is impartial and free of misinterpretation, such as ensuring the statistical accuracy of the data and information and not ranking State performance.]

"(C) collect information on race, ethnicity, socioeconomic status, disability, limited English proficiency, and gender.

"(5) TECHNICAL ASSISTANCE.—In carrying out any assessment authorized under this section, the Commissioner may provide technical assistance to States, localities, and other parties.

"(c) ACCESS.—

"(1) PUBLIC ACCESS.—Except as provided in paragraph (2), parents and members of the public shall have access to all assessment data, questions, and complete and current assessment instruments of any assessment authorized under this section. The local educational agency shall make reasonable efforts to inform parents and members of the public about the access required under this paragraph.

"(A) The access described in this paragraph shall be provided within 45 days of the date the request was made, in writing, and be made available in a secure setting that is convenient to both parties."

[Report Language: "The Conferees intend the access provided in subsection (c)(1) to be arranged by the Department of Education."]

"(B) To protect the integrity of the assessment, no copy of the assessment items or assessment instruments shall be duplicated or taken from the secure setting.

"(2) Parents and members of the public may submit written complaints to the National Assessment Governing Board.

"(A) The National Assessment Governing Board shall forward such complaints to the Commissioner of the National Center of Education Statistics, the Secretary of Education, and the State and local educational agency from within which the complaint originated within 30 days of receipt of such complaint.

"(B) The National Assessment Governing Board, in consultation with the Commissioner of the National Center for Education Statistics, shall review such complaint and determine whether revisions are necessary and appropriate. As determined by such review, the Board shall revise, as necessary and appropriate, the procedures or assessment items that have generated the complaint and respond to the individual submitting the complaint, with a copy of such response provided to the Secretary, describing any action taken, not later than 30 days after so acting.

"(C) The Secretary shall submit a summary report of all complaints received pursuant to subparagraph (A) and responses by the National Assessment Governing Board pursuant to subparagraph (B) to the Chairman of the House Committee on Education and the Workforce, and the Chairman of the Senate Committee on Health, Education, Labor, and Pensions.

"(D) Special rule.—(i) The Commissioner may decline to make widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, for a period, not to exceed ten years after initial use, cognitive questions that the Commissioner intends to reuse in the future.

"(ii) Notwithstanding clause (i), the Commissioner may decline to make cognitive questions widely available as described in clause (i) for a period longer than ten years if the Commissioner determines such additional period is necessary to protect the security and integrity of long-term trend data."

[Report Language: "The Conferees wish to clarify that the access described in paragraph (1) shall continue to be provided to parents and members of the public who request it in writing to all cognitive questions and complete and current assessment instruments of any assessment authorized under this section, including those test items that the Commissioner intends to withhold pursuant to subparagraph (G)."]

"(2) Personally identifiable information.—

"(A) The Commissioner shall ensure that all personally identifiable information about students, their academic achievement, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5, United States Code.

"(B) Neither the National Board, the Commissioner, nor any contractor or subcontractor shall maintain any system of records containing a student's name, birth information, Social Security number, or parents' name or names, or any other personally identifiable information.

"(3) Any unauthorized person who knowingly discloses, publishes, or uses assessment questions, or complete and current assessment instruments of any assessment authorized under this section may be fined as specified in section 3571 of title 18, United States Code or charged with a class E felony.

"(d) Participation.—

"(1) Voluntary participation.—Participation in any assessment authorized under this section shall be voluntary for students, schools and local educational agencies.

"(2) Student participation.—Parents of children selected to participate in any assessment authorized under this section shall be informed before the administration of any authorized assessment, that their child may be excused from participation for any reason, is not required to finish any authorized assessment, and is not required to answer any test question.

"(3) State participation.—

"(A) Participation in assessments authorized under this section, other than reading and mathematics in grades 4 and 8, shall be voluntary.

"(B) For reading and mathematics assessments in grades 4 and 8, the Secretary shall enter into an agreement with any State carrying out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will participate in the assessment.

"(4) Review.—Representatives of State and local educational agencies or the chief State school officer shall have the right to review any assessment item or procedure of any authorized assessment upon request in a manner consistent with subsection (c), except the review described in subparagraph (1)(E) of subsection (c) shall take place in consultation with the representatives described in this paragraph.

"(e) Student achievement levels.—

"(1) Achievement levels.—The National Assessment Governing Board, established under section 412, shall develop appropriate student achievement levels for each grade or age in each subject area to be tested under assessments authorized under this section, except the trend assessment described in subsection (b)(1)(F).

"(2) Determination of levels.—

"(A) Such levels shall be determined by—

"(i) identifying the knowledge that can be measured and verified objectively using widely accepted professional assessment standards;

"(ii) developing achievement levels that are consistent with relevant widely accepted professional assessment standards and based on the appropriate level of subject matter knowledge for grade levels to be assessed, or the age of the students, as the case may be.

"(iii) after the determinations described in clauses (i) and (ii), such levels shall be further devised through a national consensus approach; and"

[Report language: The national consensus approach shall include, but not be limited to, parents, concerned members of the public, teachers, principals, local school administrators, curriculum specialists, and experts described in section 412(e)(1)(E).]

"(iv) used on a trial basis until the Commissioner determines, as a result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public. The Commissioner and the Board shall ensure that reports using such levels on a trial basis do so in a manner that makes clear the status of such levels.

"(B) Such levels shall be updated as appropriate by the National Assessment Governing Board in consultation with the Commissioner.

"(3) Reporting.—After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f), the Commissioner shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

"(4) The National Assessment Governing Board shall provide for a review of any trial student achievement levels under development by representatives of State educational agencies or the chief State school officer in a manner consistent with subsection (c), except the review described in subparagraph (1)(E) of subsection (c) shall take place in consultation with the representatives described in this paragraph.

"(f) Review of National and State Assessments.—

"(1) In general.—(A) The Secretary shall provide for continuing review of any assessment authorized under this section, and student achievement levels, by one or more professional assessment evaluation organizations.

"(B) Such continuing review shall address—

"(i) whether any authorized assessment is properly administered, produces high quality data that are valid and reliable, is consistent with relevant widely accepted professional assessment standards, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation); and

"(ii) whether student achievement levels are reasonable, valid, reliable, and informative to the public;

"(iii) whether any authorized assessment is being administered as a random sample and is reporting the trends in academic achievement in a valid and reliable manner in the subject areas being assessed;

"(iv) whether any of the test questions are biased, consistent with section 412(e)(4);

"(v) whether the appropriate authorized assessments are measuring, consistent with section 411, reading ability and mathematical knowledge.

"(2) Report.—The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate, the President, and the Nation on the findings and recommendations of such reviews.

"(3) Use of findings and recommendations—The Commissioner and the National Assessment Governing Board shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner carries out the National Assessment.

(g) "Coverage Agreements.—

"(1) Department of Defense schools.—The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary and secondary schools operated by the Department of Defense.

"(2) BUREAU OF INDIAN AFFAIRS SCHOOLS.—The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

"SEC. 412. NATIONAL ASSESSMENT GOVERNING BOARD.

"(a) ESTABLISHMENT.—There is established the National Assessment Governing Board (hereafter in this title referred to as the "Board"), which shall formulate policy guidelines for the National Assessment.

"(b) MEMBERSHIP.—

"(1) APPOINTMENT AND COMPOSITION.—The Board shall be appointed by the Secretary and be composed of—

"(A) two Governors, or former Governors, who shall not be members of the same political party;

"(B) two State legislators, who shall not be members of the same political party;

"(C) two chief State school officers;

"(D) one superintendent of a local educational agency;

"(E) one member of a State board of education;

"(F) one member of a local board of education;

"(G) three classroom teachers representing the grade levels at which the National Assessment is conducted;

"(H) one representative of business or industry;

"(I) two curriculum specialists;

"(J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;

"(K) one nonpublic school administrators or policymakers;

"(L) two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal;

"(M) two parents who are not employed by a local, State or federal educational agency; and

"(N) two additional members who are representatives of the general public, and who may be parents, but who are not employed by a local, State, or federal educational agency.

"(2) ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH.—The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

"(3) SPECIAL RULE.—The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

"(c) TERMS.—

"(1) IN GENERAL.—Terms of service of members of the Board shall be staggered and may not exceed a period of 4 years, as determined by the Secretary.

"(2) SERVICE LIMITATION.—Members of the Board may serve not more than two terms.

"(3) CHANGE OF STATUS.—A member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

"(4) CONFORMING PROVISION.—Members of the Board previously granted 3 year terms, whose terms are in effect on the date of enactment of the Department of Education Appropriations Act, 2001, shall have their terms extended by one year.

"(d) VACANCIES.—

"(1) IN GENERAL.—

"(A) The Secretary shall appoint new members to fill vacancies on the Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

"(B) Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Board vacancy.

"(C) The Secretary's appointments shall maintain the composition, diversity, and balance of the Board required under subsection (b).

"(2) ADDITIONAL NOMINATIONS.—The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

"(e) DUTIES.—

"(1) IN GENERAL.—In carrying out its functions under this section the Board shall—

"(A) select the subject areas to be assessed (consistent with section 411(b)(1));

"(B) develop appropriate student achievement levels as provided in section 411(e);

"(C) develop assessment objectives consistent with the requirements of this section and test specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards;

"(D) develop a process for review of the assessment which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

"(E) design the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other technical experts who engage in large scale surveys, including the Advisory Council established under section 407;

"(F) consistent with section 411, measure student academic achievement in grades 4, 8, and 12 in the authorized academic subjects;

"(G) develop guidelines for reporting and disseminating results;

"(H) develop standards and procedures for regional and national comparisons; and

"(I) take appropriate actions needed to improve the form, content, use, and reporting of results of any assessment authorized by section 411 consistent with the provisions of this section and section 411.

"(2) DELEGATION.—The Board may delegate any of the Board's procedural and administrative functions to its staff.

"(3) ALL COGNITIVE AND NON COGNITIVE ASSESSMENT ITEMS.—The Board shall have final authority on the appropriateness of all assessment items.

"(4) PROHIBITION AGAINST BIAS.—The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological.

"(5) TECHNICAL.—In carrying out the duties required by paragraph (1), the Board may seek technical advice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

"(6) REPORT.—Not later than 90 days after an evaluation of the student achievement levels under section 411(e), the Board shall make a report to the Secretary, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

"'(f) PERSONNEL.—

"(1) IN GENERAL.—In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

"(2) STAFF.—

"(A) The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

"(B) Such appointments may include, for terms not to exceed three years and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) COORDINATION.—The Commissioner and the Board shall meet periodically—

"(1) to ensure coordination of their duties and activities relating to the National Assessment; and

"(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board.

"(h) ADMINISTRATION.—Only sections 10, 11, and 12 of the Federal Advisory Committee Act shall apply with respect to the Board.

Title VIII—General Provisions

(New Title IX)

1. The House bill and the Senate amendment have identical definitions of "average daily attendance" with a small technical difference in wording in paragraph (D).

HR

2. The House bill and the Senate amendment have identical definitions of "average per pupil expenditure."

LC

3. The House bill, but not the Senate amendment, includes a definition of "beginning teacher."

SR

4. The House bill and the Senate amendment have identical definitions of "child."

LC

5. The House bill, but not the Senate amendment includes a definition of "child with a disability."

SR with an amendment that the term "child with disability" means the same as such words in section 602 of the Individuals with Disabilities Education Act.

6. The House bill and the Senate amendment have identical definitions of "community-based organization."

LC

7. The House bill and the Senate amendment have identical definitions of "consolidated local application" with a technical difference in cross-references.

LC

8. The House bill and the Senate amendment have identical definitions of "consolidated local plan" with a technical difference in cross-references.

LC

9. The Senate amendment notes that the application is submitted after consultation with the Governor. The House bill does not have such a provision in the definition. However, see note 65 relating to consolidated state applications under section 8302 of the House bill.

SR

Report Language:

The Conferees recognize the importance of federal funds working in conjunction with state education reform efforts. It is the intent of the Conferees that consultation with the Governor by the State educational agency on the federal education plans be a meaningful and regular collaboration.

LC—insert in alphabetical order the following definition for Core Academic Subjects:

"(#) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography."

10. The Senate amendment notes that the plan is submitted after consultation with the Governor. The House bill does not have such a provision in the definition. However, see note 65 relating to consolidated state applications which references consultation with the Governor in the House bill.

SR

11. The House bill and the Senate amendment have identical definitions of "county."

LC

12. The House bill and Senate amendment are similar with the exception that the House bill covers more programs.

HR/SR with an amendment as follows:

(#) COVERED PROGRAM.—The term "covered program" means each of the programs authorized by—

(A) part A of title I; [Disadvantaged]

(B) subpart 3 of part B of title I; [Even Start]

(C) part C of title I; [Migrants]

(D) part D of title I; [Neglected & Delinquent]

(E) part F of title I; [Comprehensive School Reform]

(F) part A of title II; [Teachers]

(G) part D of title II; [Technology]

(H) part A of title III; [Bilingual]

(I) part A of title IV; [Safe & Drug Free]

(J) part B of title IV; [21st Century Schools]

(K) part A of title V; and [Block Grant]

(L) subpart 2 of part B of title VI. [Rural]

13. The House bill and the Senate amendment are substantially similar with the exception that the Senate amendment includes expenditures for health services, while the House bill does not. The House bill, but not the Senate amendment excludes expenditures from funds received under Title I. The reference to part A of title IV in the House bill and the reference to subpart 4 of part B of title V are references to the same thing—the innovative grants program.

HR on 11 (A)

SR on 11 (B)

14. The House bill and the Senate amendment are identical.

LC (fit between definitions at note 14 and 15) insert the following definition for the term distance learning: "the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications."

15. The House bill and the Senate amendment are identical.

LC

16. The House bill, but not the Senate amendment, includes a definition of "effective schools program."

SR

17. The House bill and the Senate amendment are identical.

LC

18. The House bill, but not the Senate amendment, includes a definition of "essential components of reading instruction."

SR with an amendment to move definition approved to Title I, Part B notes 117–119:

"(18) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term "major components of reading instruction" means systematic instruction that includes—

(A) phonemic awareness;

(B) phonics;

(C) vocabulary development;

(D) reading fluency, including oral reading skills; and

(E) reading comprehension strategies.

LC—insert in alphabetical order the following definition for Exemplary Teacher:

(#) EXEMPLARY TEACHER.—The term 'exemplary teacher' means a teacher who—

"(i) is a highly qualified teacher such as a master teacher;

"(ii) has been teaching for at least 5 years in a public or private school or institution of higher education;

"(iii) is recommended by administrators and other teachers who are knowledgeable of the individual's performance;

"(iv) is currently teaching and based in a public school; and

"(v) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs mentoring, develops curriculum, and offers other professional development."

19. The House bill, but not the Senate amendment, includes a definition of "family literacy services"

SR

20. The House bill and the Senate amendment are identical.

LC

21. The House bill, but not the Senate amendment, includes a definition of "fully qualified."

LC—insert in alphabetical order the following definition for Highly Qualified:

(#) HIGHLY QUALIFIED.—The term "highly qualified teacher"—

(A) when used with respect to any public elementary or secondary school teacher means that—

(i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing exam, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, means that the teacher meets the requirements set forth in the State's public charter school law; and,

(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

(B) when used with respect to—

(i) an elementary school teacher that is new to the profession, means that the teacher holds a bachelor's degree and has demonstrated, by passing a rigorous State test or tests, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum. This requirement shall be considered to be met if a teacher has passed a state-required licensure or certification test or tests, in reading, writing, mathematics, and other elements of the basic elementary school curriculum;

(ii) a middle or secondary school teacher that is new to the profession, means that the teacher holds at least a bachelor's degree and demonstrates a high level of competency in each of the subject areas in which he or she teaches through—

(I) a passing level of performance on a rigorous State academic subject area test in each of the subject areas in which he or she provides instruction. This requirement shall be considered to be met if a teacher has passed a state-required licensure or certification test or tests in each of the subject areas in which he or she provides instruction; or

(II) completion, in each of the subject areas in which he or she provides instruction, of: an academic major, a graduate degree, successful completion of coursework equivalent to an undergraduate major, or advanced certification or credentialing.

(C) When used with respect to an elementary, middle, or high school teacher that is not new to the profession means that the teacher holds a bachelor's degree and has—

(i) met the applicable standard in (B)(i) or (B)(ii), which includes an option for a test, or

(ii) demonstrates competence in all the subjects he or she teaches based on a high objective uniform state standard of evaluation that:

(aa) is set by the State for both grade appropriate academic subject area knowledge and teaching skills;

(bb) is aligned with State content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

(cc) provides objective, coherent information about teachers' attainment of core content knowledge in the subject or subjects they teach;

(dd) is applied uniformly to all teachers in the same subject and the same grade level throughout the state;

(ee) shall take into consideration, but not be based primarily on, the time the teacher has been teaching in the subject area;

(ff) shall be made available to the public upon request; and

(gg) may involve multiple, objective measures of teacher competency.

Report Language:

With respect to the alternative standard in subsection (C)(ii), the conferees intend that elementary school teachers would meet this standard by demonstrating appropriate knowledge and teaching skills for the grade levels and subjects they teach.

22. The House bill and Senate amendment are identical.

LC

23. The House bill and Senate amendment are identical.

LC with an amendment to change "section 101" to "section 101(a)"

24. The House bill, but not the Senate amendment, includes a definition of "limited English proficient student."

SR with an amendment to include the following language:

"(4) LIMITED ENGLISH PROFICIENT.—The term 'limited English proficient' means an individual—

"(A) who is aged 3 through 21;

"(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

"(C)(i) who was not born in the United States or whose native language is a language other than English:

"(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

"(II) who comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

"(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

“(D) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual—

“(i) the ability to meet the State’s proficient level of performance on State assessments described in section 1111(b)(3);

“(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

“(iii) the opportunity to participate fully in society.

25. The House bill and the Senate amendment are identical with the exception that the House bill includes educational service agencies or consortium of such agencies in this definition under (D).

LC; SR with an amendment to add subsection (e) as follows:

“(e) The term includes the State Educational Agency in a State in which the State Educational Agency is the sole educational agency for all public schools.”

26. The House bill and the Senate amendment are substantially the same. However, the Senate amendment limits application of this definition to mentoring other than teacher mentoring.

SR with an amendment:

(26) MENTORING.—The term ‘mentoring’ means, except when used to mean ‘teacher mentoring,’ a process by which a responsible adult, postsecondary student, or secondary student works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

27. The House bill, but not the Senate amendment, includes a definition of “Native American” and “Native American language.”

SR

28. The House bill and the Senate amendment have identical definitions of “other staff.”

LC

29. The House bill, but not the Senate amendment, would limit eligibility for the Marshall Islands, Federated States of Micronesia, and Palau through fiscal year 2003. The House bill uses the descriptor the “freely associated states” while the Senate amendment does not.

SR with an amendment:

Outlying Area: The term outlying area means the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121(b)(1) and any other discretionary grant program, includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau until agreed provisions for future United States education assistance under a separate agreement for the extension of United States assistance under the Compact of Free Association for each of the freely associated States enters into effect after the date of enactment of this Act.

Report Language:

The Conferees intend that the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau shall remain eligible for grants as provided for in section 1121(b)(1) and for any other discretionary grant program under the Elementary and Secondary Education Act to the extent such programs, grant assistance, and services are provided to the States and local governments of the United States and residents of such States for which a freely associated state or its citizens were eligible on October 1, 1999. This eligibility shall continue through the period of negotiations referred to in section 231 of the Compact of Free Association and shall end once agreements for the extension of United States education assistance under the Compact of Free Association enters into effect. The Conferees understand that the federal financial assistance under the Compact of Free Association for the Republic of the Marshall Islands and the Federated States of Micronesia expires on September 30, 2003 and urge that an agreement regarding future assistance is submitted to the Congress for approval at least one year before that date. The Conferees strongly urge that the agreement be ratified by the Congress prior to September 30, 2003. The Conferees also recognize that the federal financial assistance under the Compact of Free Association for the Republic of Palau is set to expire in 2009 and strongly urge that an agreement regarding future assistance for Palau is submitted to the Congress for approval at least one year before that date. The Conferees strongly urge that the agreement be ratified by Congress prior to that date. The Conferees strongly recommend that any Compact enacted after the date of enactment of this Act provide sufficient funds for education to the Freely Associated States and the Republic of Palau so that funds under the Elementary and Secondary Education Act will no longer be needed for these purposes.

30. The House bill and the Senate bill are substantially the same, with the exception that the House bill further sets forth examples of a person standing in loco parentis.

SR

31. The Senate amendment, but not the House bill, includes a definition of “parental involvement.”

HR with an amendment:

“(#) PARENTAL INVOLVEMENT.—The term ‘parental involvement’ means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—

“(A) that parents play an integral role in assisting their child’s learning;

“(B) that parents are encouraged to be actively involved in their child’s education at school;

“(C) that parents are full partners in their child’s education included, as appropriate, in decision-making and on advisory committees to assist in the education of their child;

“(D) the carrying out of other activities, such as those described in section 1118.

Report Language:

The conferees believe that parents must be integrally involved in their child’s education in order for that child to increase their academic achievement. The conferees expect that principals, teachers, and school administrators involve parents in school activities, particularly those involving academic achievement and take advantage of their knowledge and expertise.”

LC—insert in alphabetical order the following definition for Poverty Line:

“(#) POVERTY LINE.—The term ‘poverty line’ means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.”

LC—insert in alphabetical order the following definition for Professional Development:

“(#) PROFESSIONAL DEVELOPMENT.—The term ‘professional development’ means activities that—

“(A) improve and increase teachers’ knowledge of the subjects they teach and to enable teachers to become highly qualified;

“(B) are an integral part of broad schoolwide and districtwide educational improvement plans;

“(C) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student achievement standards;

“(D) improve classroom management skills;

“(E) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher’s performance in the classroom, and are not one-day or short-term workshops or conferences;

“(F) support the recruiting, hiring, and training of highly qualified teachers, including teachers highly qualified through State and local alternative routes;

“(G) advance teacher understanding of effective instructional strategies based on scientifically based research for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;

“(H) are aligned with and directly related to—

“(i) State academic content standards, student academic achievement standards, and assessments; and

“(ii) the curricula and programs tied to the standards described in clause (i) except when used for activities described in subparagraphs (f) [teaching in different learning styles] and (G) [student behavior] of section 2031(a)(3) [see pages 25–26 of Title II side-by-side];

“(I) are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;

“(J) are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to such children, including the appropriate use of curriculum and assessments;

“(K) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and its applications are effectively used in the classroom to improve teaching and learning in the curriculum and core academic areas in which the teachers provide instruction;

“(L) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student achievement, with the findings of such evaluations used to improve the quality of professional development;

“(M) provide instruction in methods of teaching children with special needs.

“(N) include instruction in the use of data and assessments to inform and instruct classroom practice;

“(O) include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

“(P) may include the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

"(Q) may include the creation of programs for paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers; and

"(R) may include activities that provide follow-up training to teachers who have participated in professional development activities which are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom."

Report Language for Professional Development definition:

The Conferees note that classroom-focused activities are those activities which are directly tied to what teachers do in their classrooms and directly linked to the school's standards for student learning.

32. The Senate amendment, but not the House bill, includes a definition of "public telecommunications entity.

HR with an amendment to add "(12)" after "397".

33. The House bill and Senate amendment are identical with a minor technical difference in the cross reference to the Individuals With Disabilities Education Act.

LC

34. The House bill and the Senate amendment include an identical definition of "pupil services."

LC

35. The House bill, but not the Senate amendment includes a definition of "reading."

SR with an amendment to move definition to note 121 Title I, Part B:

"(32) Reading.—The term 'reading' means a complex system of deriving meaning from print that requires all of the following:

"(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected in print.

"(B) The ability to decode unfamiliar words.

"(C) The ability to read fluently.

"(D) Sufficient background information and vocabulary to foster reading comprehensions.

"(E) The development of appropriate active strategies to construct meaning from print.

"(F) The development and maintenance of a motivation to read."

36. The House bill, but not the Senate amendment, includes a definition of "rigorous diagnostic reading and screening assessment tools."

HR/SR with an amendment to move to note 122 of Title I, Part B:

"Screening assessment.—The term "screening reading assessment" means assessments that are—

"(A) valid, reliable, and based on scientifically-based reading research; and

"(B) a brief procedure designed as a first step in identifying children who may be at high risk for delayed development or academic failure and in need of further diagnosis of their need for special services or additional reading instruction.

"Diagnostic reading assessment.—The term 'diagnostic reading assessment' means assessments that are—

"(A) valid, reliable, and based on scientifically-based reading research;

"(B) used for the purpose of

"(i) identifying a child's specific areas of strengths and weaknesses so that they have learned to read by the end of the third grade;

"(ii) determining any difficulties that a child may have in learning to read and the potential cause of such difficulties; and

"(iii) helping to determine possible reading intervention strategies, and related special needs.

"Classroom-based instructional assessment.—The term 'classroom-based instructional assessment' means—

"(A) evaluations of children's learning based on systematic observations by teachers of children performing academic tasks that are part of their daily classroom experience; and

"(B) are used to improve instruction in reading, including classroom instruction."

37. The House bill includes a precise list of criteria of "scientifically based research" while the Senate amendment includes a generalized definition.

SR with an amendment:

"(34) Scientifically based research.—The term 'scientifically based research'—

"(A) means the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

"(B) includes research that—

"(i) employs systematic, empirical methods that draw on observation or experiment;

"(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

"(iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers and across multiple measurements and observations and across studies by the same or different investigators;

"(iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random assignment experiments, or other designs to the extent such designs contain within-condition or across condition controls;

"(v) ensure experimental studies are presented in sufficient detail and clarity to allow for replication, or at a minimum offer the opportunity to build systematically on its findings; and

"(vi) has been accepted by a peer reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, scientific review."

38. The House bill and Senate amendment are identical.

LC

39. The House bill and Senate amendment are identical.

LC

40. The House bill and the Senate amendment are identical.

LC

41. The House bill and Senate amendment are identical.

LC

42. The Senate amendment, but not the House bill, includes a definition of "teacher mentoring." See note 26 above on mentoring

HR with an amendment in (31)(A) to strike "beginning" and insert "especially beginning teachers" after "teachers" and in (31)(A)(ii)(I), to strike "mentor" and insert "exemplary".

Report Language:

The Conferees intend that a teacher mentoring program should be available to all teachers who need it, and have emphasized the needs of beginning teachers. This added emphasis should not be read to exclude veteran teachers from mentoring programs, but rather to acknowledge the significant needs of beginning teachers. Data show that half of all beginning teachers in high-poverty schools drop out of teaching within five years, and 20 percent of all new teachers leave teaching within three years. Furthermore, less than half of teachers in low-performing schools, which are also likely to be high-poverty schools, are likely to receive any additional professional development. While beginning teachers need the help and support that a high quality mentoring program can provide, the Conferees believe federal support for mentoring programs should not be limited to beginning teachers only. Veteran teachers can also benefit from sustained high quality mentoring and coaching efforts.

A number of recent surveys of teachers demonstrate that veteran teachers want the type of sustained professional development that they get by working with successful teachers. Furthermore, there are a variety of existing professional development models that have demonstrated the benefits of providing mentoring and coaching to experienced teachers, among them the El Paso Collective for Education Excellence, which pairs veteran math and science teachers with experienced teaching coaches.

Rather than single out any one group of teachers for additional support and assistance, the Conferees believe that any teacher, be it a beginning teacher who is struggling to handle a class alone for the first time and is at risk of dropping out of teaching, or one who has taught for multiple years, who has shown difficulty in advancing the knowledge and abilities of his or her students, should receive high quality professional development, which may include being paired with a mentor or coach. Therefore, the Conferees note that mentoring services be provided to, but not be limited to beginning teachers (teachers who have been in the classroom less than 3 years).

The Conferees also note that teacher mentoring programs should be part of an ongoing developmental induction process. Effective induction processes should be a continuous process throughout a teacher's time as a beginning teacher. This is to provide the teacher with the most support possible to enable the teacher to fully adapt to the teaching profession and increase the likelihood the teacher will continue in the teaching profession.

43. The House bill and the Senate amendment are similar. Both describe technology as meaning state-of-the-art technology products and services, but the Senate amendment lists many examples of state-of-the-art technology products and services.

SR with an amendment to strike "latest".

Report Language:

The Conferees intend the definition of technology to include computer hardware, software and other electronically delivered learning materials, web-based and other digital learning resources, including on-line classes, interactive tutorials, and interactive tools and virtual learning environments, hand-held devices, wireless technology, voice recognition systems and high quality digital video, distance learning networks, visualization, modeling and simulation software and learning focused digital libraries and information retrieval systems, closed circuit television systems, educational television, and radio programs and services, cable television, satellite, copper and fiber optic transmission, video, audio, and CD-ROM discs, and video and audio tapes. The Secretary may incorporate additional specific emerging technologies into the definition of technology.

44. The House bill, but not the Senate amendment, notes that Parts B, C, D, and E

of Title VIII do not apply to Title VI (Impact Aid).

SR/LC

45. The House bill, but not the Senate amendment, includes a provision regarding the application of the provisions to Bureau of Indian Affairs schools.

SR

46. The House bill and Senate amendment are identical with the exception that there are different provisions of applicability in paragraph (2).

SR

47. The House bill and the Senate amendment's uses of funds are substantially the same, with the exception that the House bill has a longer list of additional uses of funds.

SR

48. The House bill and the Senate amendment are identical.

LC

49. The House bill and the Senate amendment are identical.

LC

50. The House bill and the Senate amendment are identical.

LC

51. The Senate amendment, but not the House bill, authorizes the consolidation of funds made available under Title I to develop standards and assessments.

HR with an amendment to strike "amounts made available" and insert "funds described in subsection (a)".

52. The House bill and Senate amendment are identical.

LC

53. The House bill and the Senate amendment are substantially identical with the exception that the Senate amendment limits this authority to "covered programs" while the House bill applies to programs under the Act. The House bill refers to "any fiscal year" and the Senate amendment does not.

SR

54. The House bill and the Senate amendment are identical with technical differences in the cross reference to the Act.

LC

55. The House bill and the Senate amendment are identical.

LC

56. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment refers to "covered programs" and the House bill refers to the administration of the programs at the school district and school levels. There are other technical differences.

SR

57. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment refers to "covered programs."

SR

58. The Senate amendment, but not the House bill, provides for an administrative funds study.

SR

59. The House bill and Senate amendment are substantially the same with the exception of technical differences in citation.

LC (Need to say McKinney-Vento)

60. The House bill and Senate amendment are identical.

LC

61. The House bill and Senate amendment are identical.

LC

62. The House bill and the Senate amendment are identical.

LC

63. The Senate amendment, but not the House bill, includes a provision on unneeded program funds. See note of Title VII, Part B of the House bill for comprehensive transferability authority.

SR

64. The House bill and the Senate amendment are similar with the exception that the Senate bill refers to encouraging greater cross—program coordination, planning, and service delivery while the House bill refers to greater coordination between programs and greater flexibility to State and local authorities through the consolidation of State and local plans, applications, and reporting. The Senate amendment refers to integrating Federal programs with programs carried out with State and local funds.

HR with an amendment to strike Senate's section 5501 and replace with the following:

SEC. 8301. PURPOSE.

It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery, to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting, and to enhance the integration of programs under this Act with State and local programs.

65. The House bill and the Senate amendment are substantially the same with technical differences and the Senate amendment referring to "covered programs" while the House bill does not. The House bill allows a consolidated State plan for any program under the Act.

HR

66. The Senate amendment, but not the House bill, specifically names Even Start and the Neglected and Delinquent Youth program as additional programs. Both the House bill and Senate amendment allow the Secretary to designate other programs.

HR with an amendment to strike "of Dropping Out".

67. The House bill and Senate amendment are substantially the same with technical differences in wording.

HR

68. The House bill and the Senate amendment are identical.

LC

69. The House bill and the Senate amendment are identical with a technical difference in the cross reference to the preceding paragraph.

LC

70. The House bill and the Senate amendment are substantially the same with the exception that the Senate amendment includes the parenthetical "(including assurances of compliance with applicable provisions regarding participation by private school children and teachers)."

HR

71. The House bill, but not the Senate amendment, includes a provision on consolidated reporting to the Secretary.

SR

72. The House bill and the Senate amendment are identical with the exception that the House bill makes reference to the State educational agency consulting with the Governor. There are technical differences in the cross-references.

SR

73. The Senate amendment, but not the House bill, includes additional coordination requirements relative to health and social service programs and reporting thereon.

SR

74. The House bill and the Senate bill are substantially the same with the exception that the Senate bill refers to "covered" programs. The House bill makes the consolidated plans and applications available to the Governor, but the Senate amendment has no such provision.

HR with an amendment to insert the following sentence at the end of section 5505 (a): "The State educational agency shall make any consolidated local plans and applications available to the Governor."

75. The House bill and the Senate amendment are substantially the same with the exception of technical differences in cross-references. The House bill, but not the Senate amendment, makes clear that a State may not require separate plans to be submitted.

SR

76. The House bill and the Senate amendment are substantially the same with the exception that the House bill references consultation with the Governor.

SR

77. The House bill refers to "State" while the Senate amendment refers to "State educational Agency."

HR

78. The House bill and the Senate amendment are substantially the same but with the following exceptions: (1) the House bill refers to applicants other than a State while the Senate amendment refers to applicants other than a State educational agency; (2) in paragraphs (6)(A) and (B), the House bill refers to reports to the Governor and the State educational agency while the Senate amendment refers only to the State educational agency.

Note 78—HR on 5506(a)(1)-(5) and SR with an amendment on 5506 (a)(6)(A) and (B) to read as follows regarding Governors:

(6) the applicant will—

(A) make reports to the State educational agency (which agency shall make such report available to the Governor) and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

(B) maintain such records, provide such information, and afford access to the records as the State educational agency (after consultation with the Governor) or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

LC on 5506(a)(7) and 5506(b).

79. The House bill and the Senate amendment are substantially the same except that the House bill refers also to the Carl D. Perkins Vocational and Technical Education Act of 1998.

HR

80. The House bill and the Senate amendment: (1) have similar provisions in subparagraph (A) but with technical differences; (2) have differences in subparagraphs (B) and (C), except that subparagraph (C) of the House bill is similar to subparagraph (D) of the Senate amendment; (3) are different in that subparagraph (D) of the House bill has no comparable provision in the Senate amendment; and (4) are different in that the House has no subparagraphs (E) and (F) while the Senate amendment does.

HR with an amendment as follows:

1. (B)(i)(ii) with the following changes: insert "statutory or regulatory" after "Federal" in (B) and strike the "or" and insert "and" in (B)(i).

2. Insert following combination of House (C) and Senate (E):

"(# LC) describes, for each school year, specific, measurable educational goals for the State educational agency and for each local educational agency, Indian tribe, or school that would be affected by the waiver and the methods to be used to annually measure such progress for meeting such goals and outcomes;"

13. Insert House provision (D):

"Explains why the waiver will assist the State educational agency and each affected local educational agency, Indian tribe, or school in reaching such goals."

LC—(Senate F becomes E).

81. The House bill and Senate amendment have identical requirements for additional information to be submitted with a waiver request.

LC

82. The House bill and Senate amendment are substantially the same with minor technical differences.

LC

83. The House bill and the Senate amendment are identical with the exception of technical differences in cross-references. The House bill, but not the Senate amendment, prohibits a waiver of the activities under section 8513. The Senate amendment, but not the House bill, includes a prohibition on the waiver of the selection of school attendance areas in paragraph (10).

SR with an amendment to insert Senate paragraph (10)

84. The House bill provides for a waiver period of 5 years. The Senate amendment provides for a waiver period of 3 years.

SR with an amendment to go to 4 years

85. The authority to extend a waiver for a longer period is identical in the House bill and Senate amendment.

LC

86. The House bill and the Senate amendment have identical provisions on reports submitted by a local educational agency to a State educational agency.

LC

87. The House bill and the Senate amendment have identical provisions on the submission of State educational agency reports to the Secretary.

LC

88. The House bill and the Senate amendment have identical provisions on the submission of reports by Indian tribes to the Secretary.

LC

89. The House bill and the Senate amendment have identical provisions on reports the Secretary submits to Congress.

LC

90. The House bill and the Senate amendment on termination of waivers are substantially the same with the exception that the House bill includes a notice and opportunity for a hearing.

SR

91. The House bill and the Senate amendment have identical provisions for the publication of waivers that have been granted in the Federal Register.

LC

92. The Senate amendment, but not the House bill, moves the authorization of the Education Flexibility (Ed Flex) Partnership Act of 1999 (P.L. 106–25) into the Elementary and Secondary Education Act and makes changes to the law. The House bill makes no changes to the Education Flexibility Partnership Act of 1999 and keeps it as a free-standing authorization.

SR

93. The Senate amendment specifies the requirements to be met to become an "eligible state." See also section 1111(b)(7) of Title I, Part A of the Senate amendment which stipulates that a state shall not be eligible for designation as an Ed Flex state until the state develops assessments aligned with the state's content standards in at least mathematics and reading or language arts.

SR

94. The Senate amendment extends the authorization period for Ed Flex through FY2008. Current law authorization is through FY2004.

HR/SR with an amendment to be placed in Amendments to Other Statutes:

"SEC . AMENDMENT TO EDUCATION FLEXIBILITY ACT OF 1999.

Section 4 of the Education Flexibility Act of 1999 is amended by replacing section (b) with the following provision (b):

"(b) INCLUDED PROGRAMS.—The statutory or regulatory requirements referred to in subsection (a)(1)(A) are any such requirements for programs that are authorized under the following provisions and under which the Secretary provides funds to State educational agencies on the basis of a formula:

"(1) Part A (other than sections 1111 and 1116), subpart 3 of part B, and parts C, D, and F of title I of the No Child Left Behind Act of 2001;

"(2) Subpart 2 of part A of title II of the No Child Left Behind Act of 2001;

"(3) Subpart 1 of part D of title II of the No Child Left Behind Act of 2001;

"(4) Subpart 4 of part B of title III of the No Child Left Behind Act of 2001 if the funding trigger in section 3001 of the No Child Left Behind Act of 2001 is not reached;

"(5) Subpart 1 of part A of title IV of the No Child Left Behind Act of 2001;

"(6) Part A of title V of the No Child Left Behind Act of 2001; and

"(7) The Carl D. Perkins Vocational and Technical Education Act of 1998."

95. The House bill and the Senate amendment include identical provisions on maintenance-of-effort.

LC; HR

96. The House bill and the Senate amendment include identical provisions on reductions in funds in the case of a local educational agency's failure to meet maintenance-of-effort requirements.

LC; HR

97. The House bill and the Senate amendment have identical waiver provisions.

LC; HR

98. The House bill and the Senate amendment are identical with the exception of technical differences in cross-references.

LC

99. The House bill and the Senate amendment are substantially the same with the exception that the House bill refers to "another entity" while the Senate amendment does not have such terms. In addition, the Senate Amendment limits equitable participation of teachers and other educational personnel to training and professional development services.

SR with an amendment to strike "." at end of provision and insert: ", and provide their teachers and other education personnel serving such children training and professional development services under such program."

100. The House bill and the Senate amendment are identical.

LC

101. The House bill and the Senate amendment are identical with the exception that the House bill requires services and benefits to be provided in a timely manner.

SR

102. The House bill and the Senate amendment on expenditures are identical.

LC

103. The House bill and the Senate amendment are identical with the exception that the House bill refers to an entity.

SR

104. The House bill and the Senate amendment have the equitable participation requirements applicable to the same as well as different programs. The House bill, but not the Senate amendment, includes the 21st Century Community Learning Centers and technology programs.

HR/SR with an amendment as follows:

(b) APPLICABILITY.—

(1) IN GENERAL.—This section applies to programs under—

(A) part B, subparts 1 and 3 of title I; [Reading First and Even Start]

(B) part C of title I; [Migrants]

(C) part A of title II; [Teachers]

(D) part B of title II; [Math/Science]

(E) part D of title II; [Technology]

(F) part A of title III; [Bilingual]

(G) part A of title IV; and [Safe & Drug Free]

(H) part B of title IV. [21st Century Schools]

105. The House bill and Senate amendment have an identical definition of "eligible children."

LC

106. The House bill and the Senate amendment have substantially the same consultation provisions with the exception that the House bill includes consultation requirements for who will provide services in subparagraph (C), how results of assessments will be used to improve services in subparagraph (D), the size and scope of equitable services in subparagraph (E) and how and when decisions will be made in subparagraph (F).

SR

107. The House bill, but not the Senate amendment, includes a provision governing disagreements between private school officials and agencies, consortia and entities with respect to the provision of services through a contract.

SR

108. The House bill and the Senate amendment are identical with the exception that the House bill ensures that consultation continues throughout the implementation and assessment of activities and refers to an entity.

SR

109. The House bill and the Senate amendment have identical provisions on the content of discussions during the consultations.

SR/LC

110. The House bill and Senate amendment have identical provisions on the public control of funds.

LC

111. The House bill and the Senate amendment have identical provisions on the public control of funds.

SR/LC

112. The House bill and the Senate amendment have identical language on the provision of services with the exception that the House bill refers to an "other entity" in clause (ii).

SR/LC

113. The House bill and the Senate amendment have identical provisions on standards for bypass with the exception that the House bill also refers to "other entity." There are technical differences in the two versions in cross-references. The House bill includes factors the Secretary shall consider in making his determination in paragraph (3) while the Senate does not.

SR

114. The House bill and the Senate amendment are identical with technical differences in cross-references and the House bill refers to an "entity" while the Senate amendment does not.

SR/LC

115. The House bill and the Senate amendment have identical provisions on appeals to the Secretary.

LC

116. The House bill and the Senate amendment are identical with the exception of technical differences in cross-references and the House bill refers to "entity" while the Senate bill does not.

SR/LC

117. The House bill and Senate amendment are identical.

LC

118. The House bill and the Senate amendment have identical provisions on petitioning for review of decisions with the exception that the House bill also refers to an entity.

SR/LC

119. The House bill and the Senate amendment have identical provisions on findings of fact.

LC

120. The House bill and the Senate amendment have identical provisions on jurisdiction.

LC

121. The House bill and the Senate amendment have identical provisions on determinations by the Secretary with the exception that the House bill also refers to an "entity." There are technical differences in the cross-references.

SR/LC

122. The House bill and the Senate amendment have identical provisions on payments from State allotments.

LC

123. The House bill and the Senate amendment have identical provisions on prior determinations with the exception of technical differences in cross-references to the Act.

LC

124. The House bill and the Senate amendment are identical.

LC

125. The House bill and the Senate amendment are similar. The House bill has a similar provision in Title I, Part H in section 1805. Both the House bill and the Senate amendment reference how home schools are treated under state law.

SR with an amendment:

SEC. . PRIVATE, RELIGIOUS, AND HOME SCHOOLS.

(a) Applicability to Non-Recipient Private Schools.—Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act, nor shall any student who attends a private school that does not receive funds or services under this Act be required to participate in any assessment referenced in this Act.

(b) Applicability to Home Schools.—Nothing in this Act shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, nor shall any home schooled student be required to participate in any assessment referenced in this Act.

(c) Rule of Construction on Prohibition of Federal Control Over Nonpublic Schools.—Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

(d) Rule of Construction on State and Local Educational Agency Mandates.—Nothing in this Act shall be construed to require any State or local educational agency that receives funds under this Act to mandate, direct, or control the curriculum of a private or home school, regardless or whether or not a home school is treated as a private school under state law, nor shall any funds under this Act be used for this purpose.

126. The House bill and the Senate amendment are identical with the exception of technical differences.

SR with an amendment (included in new language at note 125)

127. The House bill, but not the Senate amendment, includes a provision on the privacy of assessment results. The House bill has an identical provision in section 1807 of Title I, Part H. The Senate amendment includes a similar provision in section 1111(j)(1)(F) but with reference to section 445 instead of section 444.

HR with an amendment to insert:

"SEC. . PRIVACY OF ASSESSMENT RESULTS.

"Any results from individual assessments referenced in this title which become part of the education records of the student shall have the protections as provided in section 444 of the General Education Provisions Act."

128. The House bill and the Senate amendment are identical with the exception that the House bill includes other Acts in addition to the No Child Left Behind Act.

SR with an amendment (included in new language at note 125)

129. The Senate amendment, but not the House bill, includes a second provision relating to recipient nonpublic schools that is identical to the House bill. The Senate amendment, but not the House bill; includes rule of construction regarding a superseded provision.

SR (included in new language at note 125)

130. The House bill makes funds under the Act conditional upon a local educational agency submitting to the Secretary a certification that no policy of the agency prevents or otherwise denies participation in constitutionally protected prayer in public schools. Under the Senate amendment a state or local educational agency is ineligible for ESEA funds if a Federal court adjudges the agency to have willfully violated a Federal court order with respect to school prayer.

HR/SR with an amendment:

(Ratified October 30, 2001)

"Sec. . (a) Guidance.—The Secretary shall provide and revise guidance, every two years by September 1, to State educational agencies, local educational agencies and the public on constitutionally protected prayer in public schools, including making such guidance available on the Internet. Such guidance shall be reviewed, prior to distribution, by the Office of Legal Counsel of the U.S. Department of Justice prior to distribution for verification that the guidance represents the current state of the law concerning constitutionally protected prayer in public schools.

(b) Certification.—As a condition of receiving funds under this Act, a local educational agency shall certify in writing to the State educational agency that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public schools, as detailed in the guidance required under subsection (a). Such certification shall be provided annually by October 1. The State educational agency shall report to the Secretary by November 1 of each year a list of those local educational agencies that have not filed the certification or against which complaints have been made to the State educational agency that certain local educational agencies are not in compliance with this section.

(c) Enforcement.—The Secretary is authorized and directed to effectuate subsection (b) by issuing, and securing compliance with, rules or orders with respect to a local educational agency that fails to certify, or is found to have improperly certified, that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public schools."

131. The House bill and the Senate amendment are identical with technical differences.

SR with an amendment to strike "emphasizes" and insert "includes" in paragraph (3).

132. The House bill and the Senate amendment are identical.

LC

133. The Senate amendment, but not the House bill, includes a provision regarding state and local educational agency mandates with respect to home school or private school curricula.

HR with an amendment (included in new language at note 125)

134. The House bill includes a prohibition with respect to Federal mandates, direction, and control while the Senate amendment includes a rule of construction.

SR/HR with an amendment (new statutory and report language below covers notes 134, 135, 140, 141)

Include in Title VIII:

SEC. . PROHIBITIONS ON FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.

(a) General Prohibition.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under the Act.

(b) Prohibition on Endorsement of Curriculum.—Notwithstanding any other prohibition of law, no funds provided to the Department of Education under this Act may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary or secondary school.

(c) Prohibition on Requiring Federal Approval or Certification of Standards.—

(1) In general.—Notwithstanding any other provision of Federal law, no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

(2) Rule of construction.—Nothing in this subsection shall be construed to affect requirements under title I or title VII of this Act.

(d) Rule of Construction on Building Standards.—Nothing in this Act shall be construed to mandate national school building standards for a State, local educational agency, or school.

Report Language:

The Conferees intend that subsection (b) does not prohibit the Department from identifying and disseminating information about successful or promising instructional educational practices, to the extent practicable, based on scientifically based research.

Include in Title I, Part H:

SEC. . PROHIBITION OF FEDERAL MANDATES, DIRECTION, OR CONTROL.

Nothing in this title or title VI Part A shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or academic achievement standards and assessments, curriculum, or program of instruction.

SEC. . RULE OF CONSTRUCTION ON EQUALIZED SPENDING.

Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

135. The House bill, but not the Senate amendment, includes rules of construction on federal mandates and control, equalized spending, and building standards.

SR/HR with an amendment (See new language in note 134)

136. The House bill, but not the Senate amendment, includes a provision on rulemaking.

SR

Report Language:

This section directs the Secretary to issue regulations under this Act only to the extent that they are necessary to ensure that there is compliance with the specific requirements and assurances of the Act. The conferees do not intend this language to prohibit the Secretary from issuing regulations that are reasonably necessary to ensure timely and orderly grant-making, high-quality applications that respond to priority needs, or grantee accountability. Rather, the conferees intend this section to constrain the Secretary's ability to issue regulations that would impose upon grantees additional substantive programmatic requirements or limitations that are not necessary to ensure compliance with the specific requirements and assurances imposed by the statute.

137. The House bill, but not the Senate amendment, includes a report on audits.

HR

138. The House bill authorizes a study of testing by the Secretary and the Senate amendment authorizes the Secretary to give a grant to the National Research Council of the National Academy of Sciences to conduct an ongoing evaluation of high-stakes assessments. There are substantial differences in the House bill and Senate amendment.

HR/SR with an amendment to strike all language and insert the following and to move to Title I, Part E:

"SEC. . ASSESSMENT EVALUATION.

"(a) IN GENERAL.—The Secretary shall conduct an independent study of assessments used for State accountability purposes and for making decisions about the promotion and graduation of students. Such research shall be conducted over a period not to exceed 5 years and shall address the components described in subsection (c).

"(b) CONTRACT AUTHORIZED.—The Secretary is authorized to award a contract, through a peer review process, to an organization or entity capable of conducting rigorous, independent research. The Assistant Secretary of Educational Research and Improvement shall appoint peer reviewers to evaluate the applications for this contract. The study shall—

"(1) synthesize and analyze existing research that meets standards of quality and scientific rigor; and

"(2) evaluate assessment and accountability systems in state educational agencies, local educational agencies, and schools; and

"(3) make recommendations to the Department and to the Committee on Education and the Workforce of the United States House of Representatives and the Committee on Health, Education, Labor, and Pensions of the United States Senate, based on the findings of the study.

"(c) COMPONENTS OF THE RESEARCH PROGRAM.—The study described in subsection (a) shall examine—

"(1) the effect of the assessment and accountability systems described in section (b) on students, teachers, parents, families, schools, school districts, and States, including correlations between such systems and

"(A) student academic achievement, progress to the State-defined level of proficiency, and progress toward closing achievement gaps, based on independent measures;

"(B) changes in course offerings, teaching practices, course content, and instructional material;

"(C) changes in turnover rates among teachers, principals, and pupil-services personnel;

"(D) changes in dropout, grade-retention, and graduation rates for students; and

"(E) such other effects as may be appropriate;

"(2) the effect of the assessments on students with disabilities;

"(3) the effect of the assessments on low, middle, and high socioeconomic status students, limited and nonlimited English proficient students, racial and ethnic minority students, and nonracial or nonethnic minority students;

"(4) guidelines for assessing the validity, reliability, and consistency of those systems using nationally recognized professional and technical standards; and

"(5) the relationship between accountability systems and the inclusion or exclusion of students from the assessment system; and

"(6) such other factors as the Secretary finds appropriate.

"(d) REPORTING.—Not later than 3 years after the contract described in section (b) is awarded, the organization or entity conducting the study will submit an interim report to the Committee on Education and the Workforce of the United States House of Representatives and the Committee on Health, Education, Labor, and Pensions of the United States Senate, and to the President and the States, and shall make the report widely available to the public. The organization or entity shall submit a final report to the same recipients as soon as possible after the completion of the study. Additional reports may be periodically released as necessary.

"(e) RESERVATION OF FUNDS.—The Secretary may reserve up to 15 percent of the funds authorized to be appropriated for part E of title I to carry out the study, except such reservation of funds shall not exceed $1,500,000."

139. The Senate amendment, but not the House bill, includes an authorization for a study of the costs of conducting student assessments under section 1111. See note 137 above which includes cost elements as a component part of another study.

SR

Report Language:

The Conferees intend the General Accounting Office (GAO) to conduct a study of the costs to States of developing and administering the academic assessments required under section 1111(b) of Title I of this Act. The GAO should determine the anticipated aggregate cost for all States to develop and administer such assessments, as well as the portion of the cost that is expected to be incurred in each of the fiscal years 2002 through 2008. The GAO should determine such costs for each State and the factors that may explain cost variations States. The Conferees expect the GAO to report the results of such study to the House Education and the Workforce Committee and the Senate Health, Education, Labor, and Pensions Committee no later than one year after the date of enactment of this Act.

140. The House bill, but not the Senate amendment, includes a prohibition on Federal government approval of standards. The House bill, but not the Senate amendment, includes a rule of construction relative to Title I. The Senate amendment contains a limitation on conditions which is similar in section 1111(h).

SR/HR with an amendment (See new language at note 134)

141. The House bill, but not the Senate amendment, includes a prohibition on the endorsement by the Federal government of curriculum. A related provision is included in the Senate amendment in section 15.

SR/HR with an amendment (See new language at note 134)

142. The House bill and Senate amendment have similar rules of construction regarding databases of personally identifiable information, but with technical differences.

HR

143. The House bill includes a provision which requires secondary schools that receive funds under the Elementary and Secondary Education Act to permit armed services recruitment activities on school grounds in a manner reasonably accessible to all students at the school. The Senate amendment prohibits Department of Defense funds from being provided to higher education institutions that deny or that effectively prevent the Secretary of Defense from obtaining for military recruiting purposes, entry to campuses or access to students or access to directory information pertaining to students. The Senate amendment includes an exemption provision, a provision regarding covered students, procedures to making determinations, and a definition of "directory information."

HR/SR with an amendment to read as follows:

(Ratified on October 30, 2001).

SEC. . ARMED FORCES RECRUITERS ACCESS TO STUDENTS AND STUDENT RECRUITING INFORMATION.

"(a) POLICY.—

"(1) Notwithstanding section 444(a)(5)(B) of the General Education Provisions Act, each local educational agency receiving assistance under this Act shall provide, upon a request made by military recruiters or institutions of higher education as defined by section 101(a) of the Higher Education Act, access to secondary school student names, addresses, and telephone listings.

"(2) A parent or student may request that the student's name, address, and telephone listing under subparagraph (1) not be released without prior written parental consent, and the local education agency shall notify parents of such option.

"(3) Each local educational agency receiving assistance under this Act shall provide military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of those students.

"(b) NOTIFICATION.—The Secretary of Education, in consultation with the Secretary of

Defense, shall, not later than 120 days after the enactment of this Act, notify principals, school administrators, and other educators about the requirements of this section.

"(c) EXCEPTION.—The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces and which objection is verifiable through the corporate or other organizational documents or materials of that school.

"(d) SPECIAL RULE.—A local educational agency prohibited by Connecticut state law (either explicitly by statute or through statutory interpretation of the State Supreme Court or State Attorney General) from providing military recruiters with information or access as required by this section shall have until May 31, 2002 to comply with such requirements.

144. The Senate amendment, but not the House bill, includes: (1) findings relative to Armed Forces and recruitment; (2) a requirement for states to report to the Secretary a list of schools that do not allow access to military recruiters; and (3) a program for making awards to states and schools for the purpose of educating principals, administrators and others about career opportunities in the Armed Forces.

SR

(Ratified on October 30, 2001).

145. The House bill, but not the Senate amendment, includes a severability clause.

SR

146. The House bill, but not the Senate amendment, encourages the Secretary to promote education savings accounts.

HR

147. The House bill, but not the Senate amendment, includes a Sense of the Congress provision on American made steel. Subsections (a) and (b) relate to the Sense of Congress.

HR

148. The House bill, but not the Senate amendment, requires school systems that receive funding under the Act to use American made steel and to comply with the Buy America Act.

HR

149. The House bill, but not the Senate amendment, includes a Sense of the Congress provision on paperwork reduction.

HR

150. The Senate amendment, but not the House bill, includes findings and a Sense of the Senate provision regarding tax relief for K-12 education expenses.

SR

151. The Senate amendment, but not the House bill, includes findings and a Sense of the Senate provision relating to tax relief for non-reimbursed education expenses of educators.

SR

152. The Senate amendment, but not the House bill, includes findings and a Sense of the Senate provision regarding postal rates for educational materials.

SR with report language to be added under Reading (Title I, Part B, note 164)

Report Language:

In the 2000 rate case, the U.S. Postal Service levied an 18% increase on mail sent under Bound Printed Matter (BPM), the class of mail under which books are sent to our nation's schools, libraries, literacy, and early childhood programs. This increase, the highest of any category, has had a direct impact on the ability of several literacy and free book programs to deliver their services. It has come to the attention of the Conferees that the US Postal Service intends to again increase the rates charged for bound printed matter, including books. Given the educational importance of the 100 million books shipped to children annually under this rate, the Conferees urge the U.S. Postal Service and Congress to take action to ensure the continued affordability of books for all of America's children.

153. The Senate amendment, but not the House bill, includes findings and a Sense of the Senate provision relating to campaign finance reform legislation.

SR

154. The Senate amendment, but not the House bill, includes a Sense of the Senate provision that nothing in the Act or any provision of law shall discourage the teaching of the Bible in any public school.

SR

155. The Senate amendment, but not the House bill, includes a Sense of the Senate provision relating to science education.

SR

156. The Senate amendment, but not the House bill, includes a Sense of the Congress provision regarding the study of the Declaration of Independence, the United States Constitution, and the Federal Papers.

SR

157. The Senate amendment, but not the House bill includes findings and a Sense of the Congress provision relating to the provision of educational materials which increase the awareness of students about the contributions of veterans to the nation.

SR

158. The Senate amendment, but not the House bill, includes findings and a Sense of the Senate provision regarding the benefits of music and arts education.

SR

159. The House bill and the Senate amendment both prohibit any mandatory nationwide test or certification of teachers. There are technical differences in the two bills. The House bill, but not the Senate amendment, includes a provision on the prohibition on withholding of funds relating to teacher or paraprofessional certification.

HR with an amendment to insert House (b) after Senate (b).

160.The House bill and the Senate amendment have similar provisions on the prohibition of national testing with technical differences in the two versions. The Senate amendment, but not the House bill, includes an exception for the National Assessment of Educational Progress and the Third International Math and Science Study. The House bill, but not the Senate amendment, makes an exception for tests "specifically and explicitly authorized by law."

SR with an amendment (see language below) and report language:

SEC. 8603. PROHIBITION ON FEDERALLY SPONSORED TESTING.

(a) GENERAL PROHIBITION.—Notwithstanding any other provisions of Federal law and except as provided in subsection (b), no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(b) EXCEPTIONS.—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6) et seq.) and administered to only a representative sample of pupils in the United States and in foreign nations.

Report Language:

The prohibition on federally sponsored testing does not apply to a test that is specifically and explicitly authorized by law, inclusive of the National Education Statistics Act of 1994.

161. The Senate amendment, but not the House bill, includes a rule of construction on the prohibition of discrimination relative to the fifth and 14th Amendments.

HR

162. The House bill, but not the Senate amendment, includes a Sense of the Congress provision relating to memorials on campus.

HR

163. The House bill and Senate amendment include Sense of the Congress and Sense of the Senate provisions, respectively, regarding 95 percent of federal education funds being used for improving academic achievement in the classroom. The Senate amendment includes findings while the House bill does not.

HR/SR to strike all language.

164. The House bill, but not the Senate amendment, includes a provision on the evaluation of Elementary and Secondary Education Act programs. The Senate amendment does continue some evaluations specific to individual programs.

SR

165. The House bill, but not the Senate amendment, transfers comprehensive regional assistance centers from Title XIII of the Elementary and Secondary Education Act to Title VIII.

HR

166. The Senate amendment, but not the House bill, provides for those grants or contracts entered into relating to section 3141 (current law Title III of ESEA is Regional Technical Support and Professional Development) or part A or C of Title XIII (current law part A is Comprehensive Regional Assistance Centers and part C is Eisenhower Regional Mathematics and Science Education Consortia) before enactment of this Act, to be continued for the duration of such contract and award. The Senate amendment authorizes such sums for this purpose. The Senate amendment, but not the House bill, repeals this provision contingent upon enactment of a law that reauthorizes a provision of the Educational Research, Development, Dissemination, and Improvement Act of 1994 and, provided such enactment occurs after the date of enactment of the Better Education for Students and Teachers Act. See also section 3 of the House bill relating to a transition rule for multiyear grants.

HR/SR with an amendment to be placed in Amendments to Other Statutes:

"CERTAIN MULTIYEAR GRANTS AND CONTRACTS

"SEC . IN GENERAL.—The Educational Research, Development, Dissemination, and Improvement Act of 1994 is amended by adding the following provision after Part I.

"PART J—CERTAIN MULTIYEAR GRANTS AND CONTRACTS

"SEC. 1001. (a) IN GENERAL.—Notwithstanding any other provision of law, from funds appropriated under subsection (b), the Secretary—

"(1) shall continue to fund any multiyear grant or contract awarded under section 3141, and Part A and Part C of title XIII, of the Elementary and Secondary Education Act of 1965 as such provision was in effect on the day preceding the date of the enactment of the [SHORT TITLE], for the duration of that multiyear award in accordance with its terms; and

"(2) may extend, on a year-to-year basis, any multiyear grant or contract awarded under an authority described in paragraph (1) that expires after the enactment of [SHORT TITLE], but before the enactment of successor authority to the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out subsection (a)."

167. The House bill, but not the Senate amendment, transfers the national diffusion network from Title XIII of the Elementary and Secondary Education Act to Title VIII.

HR

168. The House bill, but not the Senate amendment, transfers the Eisenhower Regional Mathematics and Science Education Consortia from Title XIII of the Elementary and Secondary Education Act to Title VIII.

HR

169. The House bill, but not the Senate amendment, transfers the Technology-Based Technical Assistance program from Title XIII of the Elementary and Secondary Education Act to Title VIII.

HR

170. The House bill, but not the Senate amendment, transfers the Regional Technical Support and Professional Development program from Title III of the Elementary and Secondary Education Act to Title VIII.

HR

LC—Add the following provisions in General Provisions where most appropriate:

"SEC. . (a) UNSAFE SCHOOL CHOICE POLICY.—Each State receiving funds under this Act shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary and secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school.

(b) CERTIFICATION.—As a condition of receiving funds under this Act, a State shall certify in writing to the Secretary that the State is in compliance with this section."

CIVIL RIGHTS OF BENEFICIARIES

"SEC. . (a) IN GENERAL.—Nothing in this Act shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendment of 1972), national origin, or disability in any program funded under this Act.

"(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require the disruption of services to a child or the displacement of a child enrolled in or participating in a program administered by an eligible entity, as defined in section 1116 of title I and Part B of title V, at the commencement of the entity's participation in a grant under section 1116 of title I or part B of title V.

Title IX—Miscellaneous Provisions

(Subsumed in Various Titles)

1. The House bill, but not the Senate amendment, makes several changes to the National Education Statistics Act (NESA) which relate to the use of the National Assessment of Educational Progress (NAEP) for purposes of rewards and sanctions under Title VII of the House bill and requiring NAEP to be administered annually in reading and math.

HR (separate changes to NAEP now going in Title VI, Part A)

2. The House bill, but not the Senate amendment amends the General Education Provisions Act to give parents the right to access instructional materials, and to require parental consent prior to giving or administering certain surveys, evaluations, medical tests, treatments or immunizations to minors.

HR/SR with an agreement to move to Title X, Amendments to Other Statutes and with an amendment to strike all language and insert the following:

"SEC. . STUDENT PRIVACY, PARENTAL ACCESS TO INFORMATION, AND ADMINISTRATION OF CERTAIN PHYSICAL EXAMINATIONS TO MINORS.

Section 445 of the General Education Provisions Act (20 U.S.C. 1232h) is amended as follows—

"(a) Strike items (1) through (7) of subsection (b) and replace with the following items (1) through (8)—

"(1) political affiliations or beliefs of the student or the student's parent;

"(2) mental or psychological problems of the student or his family;

"(3) sex behavior or attitudes;

"(4) illegal, anti-social, self-incriminating or demeaning behavior;

"(5) critical appraisals of other individuals with whom respondents have close family relationships;

"(6) legally recognized privileged or analogous relationships, such as those with lawyers, physicians, and ministers;

"(7) religious practices, affiliations, or beliefs of the student or student's parent; or

"(8) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),"

"(b) Redesignate subsections (c) through (e) as subsections (d) through (f), respectively, and insert the following as subsection (c)—

"(c) DEVELOPMENT OF LOCAL POLICIES CONCERNING STUDENT PRIVACY, PARENTAL ACCESS TO INFORMATION, AND ADMINISTRATION OF CERTAIN PHYSICAL EXAMINATIONS TO MINORS.—

"(1) Except as provided in subsections (a) and (b), a local educational agency that receives funds under any applicable program shall develop and adopt policies, in consultation with parents, regarding—

"(A) the right of a parent of a student to inspect upon the request of the parent a survey created by a third party before the survey is administered or distributed by a school to a student, and any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received;

"(B) arrangements to protect student privacy that are provided by the agency in the event of the administration or distribution of a survey to a student containing one or more of the following items, including the right of a parent of a student to inspect upon the request of the parent any survey containing one or more of the following items—

"(i) political affiliations or beliefs of the student or the student's parent;

"(ii) mental or psychological problems of the student or his family;

"(iii) sex behavior or attitudes;

"(iv) illegal, anti-social, self-incriminating or demeaning behavior;

"(v) critical appraisals of other individuals with whom respondents have close family relationships;

"(vi) legally recognized privileged or analogous relationships, such as those with lawyers, physicians, and ministers;

"(vii) religious practices, affiliations, or beliefs of the student or student's parent; or

"(viii) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program); and

"(C) the right of a parent of a student to inspect upon the request of the parent any instructional material used as part of the educational curriculum of the student, and any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received;

"(D) the administration of physical examinations or screenings that the school or agency may choose to administer to a student;

"(E) the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling or giving such personal information to others for such purpose, including arrangements to protect student privacy that are provided by the agency in the event of the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling or giving such information to others for such purpose; and

"(F) the right of a parent of a student to inspect upon the request of the parent any such instrument used in the collection of personal information in subsection (E) before the instrument is administered or distributed to a student, and any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

"(2) NOTIFICATION OF POLICIES AND SPECIFIC EVENTS TO PARENT.—(A) The policies developed by a local educational agency under subsection (c)(1) shall provide for reasonable notice of the adoption of such policies directly to the parents of students enrolled in schools in that agency. At a minimum, such notice shall be provided at least annually at the beginning of the school year as well as within a reasonable period of time after any substantive change in such guidelines and shall offer the parent an opportunity to opt his or her child out of participation in (and for the purpose of subparagraph (i) shall offer students of an appropriate age an opportunity to opt out of participation in)—

"(i) activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling or giving such personal information to others for such purpose;

"(ii) any survey containing one or more items listed in subsection (c)(1)(B); and

"(iii) any non-emergency, invasive physical examination or screening that is required as a condition of attendance and administered by the school and scheduled by the schools in advance, and is not necessary to protect the immediate health and safety of the student or other students.

"(B) NOTIFICATION OF SPECIFIC EVENTS.—The local education agency shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when the following activities are scheduled or expected to be scheduled—

"(i) activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling or giving such personal information to others for such purpose;

"(ii) any survey containing one or more items listed in subsection (c)(1)(B); and

"(iii) any non-emergency, invasive physical examination or screening that is required as a condition of attendance and administered by the school and scheduled by the schools in advance, and is not necessary to protect the immediate health and safety of the student or other students.

"(3) Existing guidelines.—A local educational agency or institution need not develop and adopt new guidelines if the state educational agency or local educational agency has policies in place covering the requirements of subsection (c)(1) on the day of the enactment of the [Short Title], but shall provide reasonable notice of such existing policies to parents and guardians of students as set forth in subsection (c)(2).

"(4) Exceptions.—

"(A) Educational products or services.—Section (c)(1)(E) shall not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following—

"(i) college or other post-secondary education recruitment or military recruitment;

"(ii) book clubs, magazines, and programs providing access to low-cost literary products;

"(iii) curriculum and instructional materials used by elementary and secondary schools;

"(iv) tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of aggregate data;

"(v) the sale by students of products or services to raise funds for school—or education-related activities; and

"(vi) student recognition programs.

"(B) State law exception.—The provisions of subsection (c) shall not—

"(i) be construed to preempt provisions of State law that require parental notification; or

"(ii) apply to any physical examination or screening that is permitted or required by State law, including those physical examinations or screenings that are permitted without parental notification.

"(5) Definitions.—(A) Local educational agency. For the purpose of subsection (c), the term 'local educational agency' means any elementary, middle, or secondary school, and any school district or local board of education that is the recipient of funds under any applicable program, but does not include postsecondary institutions.

"(B) Instructional material. For the purpose of subsection (c), the term 'instructional material' means instructional content that is provided to a student regardless of its format, including printed or representational materials, audio/visual materials, and materials in electronic or digital formats (such as materials accessible through the internet), but does not include academic tests or academic assessments.

"(C) Invasive physical examination. For the purpose of this section, the term 'invasive physical examination' means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include hearing, vision, or scoliosis screenings.

"(D) Parent. For the purpose of this section, the term 'parent' includes a guardian.

"(E) Personal information. For the purpose of this section, the term 'personal information' means individually identifiable information including—

"(i) a student or parent's first and last name;

"(ii) a home or other physical address including street name and name of city or town;

"(iii) a telephone number; or

"(iv) a Social Security number.

"(F) Student. For the purpose of this section, the term 'student' means any elementary or secondary school student.

"(G) Survey. For the purpose of this section, the term 'survey' includes an evaluation.

"(6) General provisions.—(A) In general.—(i) Nothing in this section shall be construed to supercede section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

"(ii) Subsection (c)(1)(D) shall not apply to surveys administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(B) Student rights. The rights provided to parents under this section transfer to the student once the student turns 18 years old, or is an emancipated minor at any age.

"(C) Information activities. The Secretary shall annually inform each State educational agency and each local educational agency of the educational agency's obligations under sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g).

"(D) Funding. A State educational agency or local educational agency may use funds provided under part A of title V of the [Short Title] to enhance parental involvement in areas affecting children's in-school privacy.".

Report Language:

The Conferees intend that the term "condition of attendance" includes any action, whether overt or implicit, by a school or local educational agency in the announcement, scheduling, or administration of a non-emergency, invasive physical examination or screening which states or implies that the school—or local educational agency-administered examination or screening is required, compulsory, or may not be opted out of by the parent.

3. Both the House bill and the Senate amendment are identical in this section.

Notes 3–7: agreement to move to Title IX, General Provisions;

Notes 3–5, HR/SR with an amendment;

Notes 6–7, SR with an amendment;

(Ratified October 30, 2001).

"SEC. . EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES.

"(a) Short Title.—This section may be cited as the "Boy Scouts of America Equal Access Act."

"(b) In General.—Notwithstanding any other provision of law, no public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or a limited public forum shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 of the United States Code as a patriotic society, that wishes to conduct a meeting within that designated open forum or limited public forum, including for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 of the United States Code as a patriotic society.

Nothing in this section requires any school or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 of the United States Code as a patriotic society.

"(c) Termination of Assistance and Other Action.—

"(1) Departmental action.—The Secretary is authorized and directed to effectuate subsection (b) by issuing, and securing compliance with, rules or orders with respect to a public elementary school, public secondary school, local educational agency, or State educational agency that receives funds made available through the Department of Education and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (b).

"(2) Procedure.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), through the Office of Civil Rights and in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1). If the public school or agency does not comply with the rules or orders, then notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to the school or any school served by the agency.

"(3) Judicial review.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d-2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act..

"(d) Definitions and Rule.—

"(1) Definitions.—In this section:

"(A) Elementary school; local educational agency; secondary school; State educational agency.—The terms 'elementary school', 'local educational agency', 'secondary school', and 'State educational agency' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 [update cite].

"(B) Secretary.—The term 'Secretary' means the Secretary of Education.

"(C) Youth group.—The term 'youth group' means any group or organization intended to serve young people under the age of 21.

"(2) Rule.—For purposes of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory."

4. The House bill and the Senate amendment address access to and use of school facilities by the Boy Scouts of America or of youth groups that prohibit the acceptance of homosexuals, or individuals who reject the Boy Scouts' or the youth group's oath of allegiance to God and country. The two provisions are substantially the same with minor technical differences.

HR/SR with an amendment (see note 3).

5. The House bill and the Senate amendment have same effective date with exception that the House uses the clause "notwithstanding section 5."

HR/SR with an amendment (see note 3).

6. The Senate amendment, but not the House bill, includes a second provision on the Boy Scouts. A short title is included in section 1501 of the Senate amendment but not the House bill.

SR with an amendment (see note 3).

7. The Senate amendment, but not the House bill, addresses equal access to the use of school facilities by the Boy Scouts or any other group, regardless of the groups' sexual orientation.

SR with an amendment (see note 3).

8. The House bill repeals Parts A and C of Title II and Title VI of the Goals 2000: Educate America Act. The Senate amendment repeals all of the Goals 2000: Educate America Act.

SR and an agreement to move to Title X's repeals section.

9. The House bill, but not the Senate amendment, repeals the Troops to Teachers Program Act of 1999.

LC and an agreement to move to Title X's repeals section.

10. The House bill repeals Title IX; Parts A, B, C, D, F, G, I, J, and L of Title X; Titles XI,; Title XII; the title heading of Title XIII and sections 13001 and 13002; and Title XIV. The Senate amendment repeals Titles IX through XIV.

LC and an agreement to move to Title X's repeals section.

11. The Senate amendment, but not the House bill, includes several provisions relating to the collection of information from students which is used for commercial purposes.

HR/SR (see note 2).

12. The Senate amendment, but not the House bill, requires State and local educational agencies that receive funds under the Act to develop and adopt guidelines to protect student privacy.

HR/SR (see note 2).

13. The Senate amendment but not the House bill includes a separate public school choice program.

HR with an agreement to move to Title V, part B; and with an amendment to strike "125,000,000" and to insert "100,000,000"; to strike "each subsequent fiscal year" and to insert "such sums as may be necessary for each of the six succeeding fiscal years".

Report Language:

The Conferees agree that the term "school construction" does not refer to minor renovations or repairs conducted in a school or classroom or to the leasing or purchase of modular classroom facilities which are understood to be appropriate capacity-enhancing activities that enable high-demand public school to accommodate transfer requests under the program. The Conferees intend that students who transfer to another public school shall be enrolled in classes and other activities in the same manner as all other children at the public school.

14. The Senate amendment, but not the House bill, authorizes parental information and resource centers.

HR with an agreement to move to Subpart 16 of Title V, Part D (FIE) and an agreement to reduce the reservation for the Parents as Teachers program from 50 percent to 30 percent.

15. The Senate amendment, but not the House bill, authorizes a new summer academic enrichment program.

SR

16. The Senate amendment, but not the House bill, authorizes a dropout prevention program.

HR with an agreement to move to Title I, Part G and an authorization of $125 million for FY 2002 and such sums for each of the 5 succeeding fiscal years.

17. The Senate amendment, but not the House bill, authorizes a new grant program relating to advanced placement courses.

HR with an agreement to repeal current Higher Ed Act AP program and move this new program to Title I, part H; funded at such sums as necessary for FY 2002 and the 5 succeeding fiscal years.

18. The Senate amendment, but not the House bill, authorizes the Secretary of Education to award grants to the National Student/Parent Mock Election, a nonprofit organization, to promote voter participation in American elections.

HR with an agreement to move to Subpart 1 of Title V, Part D (FIE) as a general use of funds.

19. The Senate amendment, but not the House bill, includes a new program for the teaching of traditional American History.

HR with an agreement to move to Subpart 5 of Title II, Part C.

20. The Senate amendment, but not the House bill, includes a new program to promote economic and financial literacy.

HR with an agreement to move to Subpart 13 of Title V, Part D (FIE).

21. The Senate amendment, but not the House bill, authorizes the Director of the National Institutes of Health and the Secretary of Education to jointly conduct a study on how exposure to violence through movies, music, television and other media affects children's cognitive development. The Senate amendment also amends the National Education Statistics Act to require the Commissioner of Education Statistics to gather data on how much time children spend on various forms of entertainment.

HR/SR with an amendment to strike all language and add the following provision at Subpart 1 of Title V, Part D (FIE).

"SEC. XXXX. STUDIES OF NATIONAL SIGNIFICANCE.

(a) STUDIES.—The Secretary shall conduct the following studies of national significance:

"(1) Study regarding the health and learning impacts of environmentally unhealthy public, school buildings on students and teachers. The study shall include the following information—

"A. The characteristics of public elementary and secondary school buildings that contribute to unhealthy school environments.

"B. The health and learning impacts of environmental unhealthy public school buildings on students that are attending or that have attended such schools.

"C. Recommendations to Congress on how to assist schools that are out of compliance with Federal or State health and safety codes, and a cost estimate of bringing up environmentally unhealthy public school buildings to minimum Federal health and safety building standards.

"(2) Study regarding how exposure to violent entertainment (such as movies, music, television, Internet content, video games, and arcade games) affects children's cognitive development and educational achievement.

"(3) Study regarding the prevalence of sexual abuse in schools, including recommendations and legislative remedies for the problem of sexual abuse in schools.

"(4) Study on the most accurate measures of the rate at which students drop out of and graduate from (including on-time graduation from) schools in the United States.

"A. As part of the study, the Secretary shall examine longitudinal means of measurement that follow individual student progress, beginning with seventh grade and continuing through graduation from secondary schools, and what states can do to establish or strengthen such systems.

"B. Not less than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study and any recommendations that the Secretary may have regarding the subject of the study.

"(b) COMPLETION DATE.—The studies under subsections (a)(i)-(iii) shall be completed not later than 18 months after the enactment of the No Child Left Behind Act of 2001.

"(c) PUBLIC DISSEMINATION.—The Secretary shall make the study under (a)(i) available for public consumption through the Educational Resources Information Center National Clearinghouse for Educational Facilities of the Department of Education."

22. The Senate amendment, but not the House bill, includes findings regarding sexual abuse in schools, and an authorization for the Secretary of Education in conjunction with the Attorney General, to conduct a comprehensive study of the prevalence of sexual abuse in schools and to prepare a report thereon for submission to relevant Congressional committees and others.

HR/SR to strike all language (see note 21)

23. The Senate amendment, but not the House bill, authorizes a study of whether Federal income tax incentives that provide education assistance affect higher education tuition rates.

SR

24. The Senate amendment, but not the House bill, includes an authorization for the Fund for the Improvement of Education, a Secretarial discretionary grant program.

HR with an agreement to move to Subpart 1 of Title V, Part D (FIE) amended to read as follows:

"TITLE V, PART D—FUND FOR THE IMPROVEMENT OF EDUCATION

"PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

"SEC. XXXX. FUND FOR THE IMPROVEMENT OF EDUCATION.

"(a) PROGRAMS AND PROJECTS AUTHORIZED.—

"(1) IN GENERAL.—From funds appropriated under this part, the Secretary is authorized to support nationally significant programs and projects to improve the quality of elementary and secondary education at the State and local levels and help all children meet challenging academic content and achievement standards.

"(2) METHODS FOR CARRYING OUT PROGRAMS AND PROJECTS.—The Secretary is authorized to carry out such programs and projects directly, or through grants to or contracts with States or local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

"(b) USES OF FUNDS.—The funds appropriated under this part may be used for any of the following activities and programs:

"(1) Activities to promote systemic education reform at the State and local levels, including scientifically based research, development, and evaluation designed to improve:

"(A) student academic achievement at the State and local level; and

"(B) strategies for effective parent and community involvement.

"(2) Programs at the State and local levels which are designed to yield significant results, including programs to explore approaches to public school choice and school-based decision-making.

"(3) Recognition, which may include financial awards to States, local educational agencies, and schools that—

"(A) have made the greatest progress in improving the academic achievement of economically disadvantaged students and students from major racial and ethnic minority groups and in closing the academic achievement gap for those groups of students farthest away from the proficient level on the academic assessments administered by the State under section 1111 of Title I; or

"(B) are nominated by the States in which the schools are located or, in the case of a Bureau of Indian Affairs funded school, by the Secretary of the Interior, because they have made the greatest progress in improving the academic achievement of economically disadvantaged students and students from major racial and ethnic minority groups and have closed the academic achievement gap for those groups of students farthest away from the proficient level on the academic assessments administered by the State under section 1111 of Title I.

"(4) Scientifically based studies and evaluations of education reform strategies and innovations, and the dissemination of information on the effectiveness of such strategies and innovations.

"(5) The identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools, including projects to evaluate the effectiveness of using the best practices of exemplary or Blue Ribbon Schools to improve academic achievement.

"(6) Activities to support Scholar-Athlete Games programs, including the World Scholar-Athlete Games and the U.S. Scholar-Athlete Games.

"(7) Programs to promote voter participation in American elections through programs such as the National Student/Parent Mock Election and Kids Voting USA.

"(8) demonstrations relating to the planning and evaluations of the effectiveness of projects under which local educational agencies or schools contract with private management organizations to reform a school or schools.

"(9) Other programs and projects that meet the purposes of this section.

"SEC. XXXX. GENERAL PROVISIONS.

"(a) Awards Made on Competitive Basis.—The Secretary may:

"(1) make awards under this part on the basis of competitions announced by the Secretary, and;

"(2) support meritorious unsolicited proposals.

"(b) Special Rule.—The Secretary shall ensure that programs, projects, and activities supported under this part are designed so that their effectiveness is readily ascertainable, and shall ensure that such effectiveness is assessed using rigorous, scientifically based research and evaluations.

"(c) Peer Review.—The Secretary shall use a peer review process in reviewing applications for assistance under this part and in recognizing States, local educational agencies and schools under section XXXX (b)(3) [Recognition] only if funds are used for such activity, and may use funds appropriated under this part for the cost of such peer review.

"(d) Applications.—An applicant for an award under this part shall submit an application which—

"(1) establishes clear goals and objectives for its project under this part which are based on scientifically based research; and

"(2) describes the activities it will carry out in order to meet the goals and objectives described in paragraph (1).

"(e) Evaluations.—A recipient of an award under this part shall—

"(1) evaluate the effectiveness of its project in achieving the goals and objectives stated in its application; and

"(2) report to the Secretary such information as may be required, including evidence of its progress toward meeting such goals, to determine the project's effectiveness.

"(f) Dissemination of Evaluation Results.—The Secretary shall provide for the dissemination of the evaluations of projects funded under this part by making the evaluations publicly available upon request, and shall publish public notice that the evaluations are so available.

"(g) Matching Funds.—The Secretary may require recipients of awards under this part to provide matching funds from non-Federal sources.

"(h) Special Rule.—The requirements of (d) [Applications], (e) [Evaluations], and (f) [Dissemination of Evaluation Results] shall not apply to activities described in section XXXX (b)(3) [Recognition].

"SEC. XXXX. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part the following amounts:

$550 million for FY 2002
$575 million for FY 2003
$600 million for FY 2004
$625 million for FY 2005
$650 million for FY 2006
$675 million for FY 2007."

25. The Senate amendment, but not the House bill, authorizes the Secretary of Education to award grants to a specific non-profit organization for the purpose of reimbursing such organization for the costs of conducting scholar-athlete games.

HR with an agreement to move to Subpart 1 of Title V, Part D (FIE) as a general use of funds.

26. The Senate amendment, but not the House bill, authorizes a Physical Education for Progress program.

HR with an agreement to move to Subpart 10 of Title V, Part D (FIE).

27. The Senate amendment, but not the House bill, authorizes a Smaller Learning Communities program. Similar activities are included in Title V, Part B, Subpart 4, Chapter 5 (use of funds under innovative education program strategies) of the Senate amendment.

HR with an agreement to move to Subpart 4 of Title V, Part D (FIE).

28. The Senate amendment, but not the House bill, authorizes a study of the health and learning impacts of dilapidated or environmentally unhealthy public school buildings upon students.

HR/SR to strike all language (see note 21).

29. The Senate amendment, but not the House bill, establishes a new program relating to improving the energy-efficiency and environmental soundness of school buildings.

HR with an agreement to amend and move to Subpart 18 of Title V, Part D (FIE).

Title IX, Part A, Subpart 2—Homeless Education

(New Title X, Part C)

SR for short title

1. House bill contains findings.

HR

2. Senate amendment does not contain similar provisions.

HR

3. House bill contains a purpose.

HR

4. Senate amendment contains no similar provision.

HR

5. House bill and Senate amendment contain identical provision that clarifies that homelessness alone is not sufficient reason to separate students from the mainstream school environment (strikes 'should not be' and replaces with 'is not').

SR with an amendment to insert "appropriate" before "public education" in House paragraph (1) and insert "appropriate" before "public education" in House paragraph (2).

6. House bill and Senate amendment are identical.

LC

7. House bill and Senate amendment are identical.

LC

8. House bill increases the amount of McKinney-Vento funding available to small States to one-half of one percent of the overall appropriation, or $125,000, whichever is greater.

SR with an amendment to set small state minimum at $150,000 or ¼ of 1% of the total appropriation, whichever is greater, except that no state shall receive less than it received in FY 2001.

9. Senate amendment makes $100,000 available to small States.

SR—See Note 8.

10. House bill and Senate amendment strike Palau from receiving funds.

LC

11. House bill requires the Secretary to transfer 1% to the Department of Interior by replacing "is authorized to" with "shall."

SR

12. Senate amendment authorizes the transfer.

SR

13. Virtually identical provisions.

LC

14. House bill provides States with greater flexibility to use McKinney-Vento funds for statewide support and technical assistance activities.

SR

15. Senate amendment has a reservation of funds for statewide activities.

SR

16. House bill prohibits states that receive McKinney funds from segregating homeless students, except for short periods of time for health and safety emergencies or to provide temporary, special, supplementary services. However, separate schools established before the enactment of the law are excluded from this prohibition and may continue to receive McKinney funds.

HR

17. Senate amendment prohibits states that receive McKinney funds from segregating homeless students, except for short periods of time for health and safety emergencies or to provide temporary, special, supplementary services. However, a State that has a separate school for homeless children or youth that was operated in fiscal year 2000 in a covered county (San Joaquin County, CA; Orange County, CA; San Diego County, CA; and Maricopa County, AZ) is excluded from this prohibition and may continue to receive McKinney funds as long as such schools and the LEAs that homeless children enrolled in the separate school are entitled to attend meet the requirements set forth in this section.

HR

18. House bill and Senate amendment contain virtually identical language that revises the provisions for the Coordinator of Education of Homeless Children and Youth, however, House bill requires that this information be gathered "to the extent possible."

HR

"It is the intention of the conferees that the Office of the Coordinator shall coordinate with the State Educational Agency, state social services agencies, and other agencies, including agencies providing mental health services, to provide services to homeless children, youth, and families."

19. House bill requires Coordinators to provide technical assistance to ensure that LEAs comply with paragraphs 3 through 7 of the State plan.

SR (Accept both provisions—notes 19 & 20).

20. Senate amendment requires Coordinators to provide technical assistance to ensure that LEAs comply with the prohibition on segregating homeless students. House bill and Senate amendment revise the State plan.

HR (Accept both provisions—notes 19 & 20).

21. House bill and Senate amendment revise the State plan.

LC

22. House bill requires the State plan to describe procedures that ensure that homeless youth and youth separated from the public schools are identified and accorded equal access to appropriate secondary education and support services.

SR

23. House bill adds immunization and medical records to the list of problems which may cause enrollment delays. Senate amendment does not.

SR

24. House bill adds uniform or dress code requirements to the list of problems which may cause enrollment delays. Senate amendment does not.

SR

25. House bill and Senate amendment contain similar language requiring the State plan contain assurances that SEAs and LEAs will adopt policies and practices to ensure that homeless children and youth are not segregated on the basis of their status as homeless.

HR on Senate (i).

SR on House (J) (ii).

26. House bill requires the State plan to contain assurances that the State and school districts will adopt policies and practices to ensure that transportation is provided to and from the school of origin.

SR

27. Senate amendment contains no similar provision.

SR

28. Virtually identical provisions.

LC

29. House bill requires State plan to describe technical assistance the State will offer LEAs.

SR

30. Senate amendment contains no similar provision.

SR

31. House bill and Senate amendment revise LEA requirements with virtually identical provisions.

LC

32. Senate amendment requires LEAs to consider the wishes of unaccompanied youth in placement decisions.

SR

33. House bill requires that parents, guardian, or unaccompanied youth are given written notice of right of appeal.

SR

34. Senate amendment contains no similar provision.

SR

35. House bill contains language regarding enrollment decisions for unaccompanied youth. Senate amendment does not contain this provision.

SR with an amendment to (B)(iii) to add "considers the views of such unaccompanied youth" after "subparagraph."

36. Senate amendment specifies that the student shall be referred to the appropriate authorities if the child or youth needs to obtain immunizations.

SR

37. House bill specifies that the student shall be referred to the liaison if the child or youth needs to obtain immunizations.

SR

38. House bill contains language requiring ordinarily kept records of students be maintained so that they are available when a child or youth enters a new school or school district.

SR

39. House bill provides that written explanation of right of appeal is provided to the parent or guardian.

SR

40. Senate amendment contains no similar provision.

SR

41. House bill specifies that the local liaison carries out the dispute resolution process.

SR

42. Senate amendment contains no similar provision.

SR

43. House bill provides LEA authority to require submission of contact information.

SR with an amendment to strike all after "information" in (H).

44. Senate amendment contains no similar provision.

SR with an amendment as noted in Note 43.

45. House bill and Senate amendment are identical.

LC

46. House bill and Senate amendment contain virtually identical language.

LC

47. House bill contains language on inter-district coordination.

SR

48. Senate amendment contains no similar provision.

SR

49. House bill and Senate amendment contain similar provisions except that House bill adds "reasonable proximity."

SR

50. House bill and Senate amendment revise the duties of the local liaison with virtually identical language.

LC

51. House bill provides that the liaison coordinate with school personnel and other entities to identify homeless children.

SR with an amendment to strike "an" and insert "a full and" before "equal".

52. House bill requires the liaison to inform students about transportation services.

SR

53. Senate amendment contains no similar provision.

SR

54. House bill requires notice for all LEAs.

SR

55. Senate amendment requires notice for LEAs receiving assistance under this subtitle.

SR

56. House bill and Senate amendment are identical.

LC

57. House bill and Senate amendment revise LEA services for homeless children and youth with virtually identical language.

SR

58. Similar provisions.

LC

59. House bill and Senate amendment are identical.

LC

60. House bill revises the LEA application language.

SR

61. Senate amendment makes a minor modification to current law that is similar to language in House bill.

LC

62. House bill and Senate amendment are virtually identical.

LC

63. House bill revises language regarding grants awarded to LEAs.

LC

64. House bill and Senate amendment are virtually identical.

LC

65. House bill and Senate amendment contain language for determining the quality of applications that are virtually identical.

LC

66. Senate amendment specifies that case management services may be a factor used in determining quality.

SR with an amendment to add "such as the extent to which the local educational agency provides case management or related services to homeless children and youth who are unaccompanied by a parent or guardian" after "program" in House (G).

(Adding Senate (G) to end of House (G)).

67. House bill contains no similar provision.

SR with an amendment as noted in Note 66.

68. House bill revises LEA authorized activities. Senate amendment does not.

SR

69. House bill provides for outreach assistance to unaccompanied youth.

SR

70. Senate amendment contains no similar provision.

SR

71. House bill revises Secretarial Responsibilities section.

SR

72. House bill requires the Secretary to provide and disseminate notice of educational rights of homeless children.

SR

73. Senate amendment contains no similar provision.

SR

74. Senate amendment contains a requirement for the Secretary to develop and issue school enrollment guidelines for homeless children and youth.

HR with an amendment to strike "more quickly" and insert "immediately".

75. House bill contains language requiring the Secretary to disseminate information regarding the rights of homeless children and youth (see "Sec. 724(c) NOTICE" above).

HR with an amendment as noted in Note 74.

76. House bill and Senate amendment contain virtually identical language regarding information collection and dissemination.

LC

77. House bill and Senate amendment contain virtually identical language regarding a report from the Secretary on the education of homeless children and youth.

LC

78. House bill specifically mentions "children and youth who are living in doubled-up accommodations."

HR

79. House bill uses term "individuals" and Senate amendment uses term "children and youth."

HR

80. Similar provisions.

HR

81. Identical provision.

LC

82. Similar provisions.

HR

83. Identical provision.

LC

84. House bill authorizes $60 million for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

HR

85. Senate amendment authorizes $70 million for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

HR with an amendment to strike "6" and insert "5".

Amendments to Other Statutes

(New Title X, Part G)

1. The Senate amendment, but not the House bill, amends the term "qualified entity" of the National Child Protection Act of 1993

SR with an amendment to insert:

"SEC. ( ) BACKGROUND CHECKS.—Section 5(9) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(9)) is amended—

"(1) in subparagraph (A)(i), by inserting "(including an individual who is employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel)" before the semicolon; and

"(2) in subparagraph (B)(i), by inserting "(including an individual who seeks to be employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel)" before the semicolon."

"SEC. ( ) COORDINATOR FOR THE OUTLYING AREAS.—The Department of Education Organization Act is amended by adding at the end of Title II of such Act the following:

"SEC. 220. COORDINATOR FOR THE OUTLYING AREAS

"(a) ESTABLISHMENT.—The Secretary shall designate an office of the Department to coordinate the activities of the Department as they relate to the Outlying Areas.

"(b) APPOINTMENT.—The head of the office designated under subsection (a) shall appoint, not later than 3 months after the date of enactment of [the Act] a coordinator for the Outlying Areas who shall be a person with substantial experience in the operation of Federal programs in the Outlying Areas.

"(c) DUTIES.—The Coordinator for the Outlying Areas shall—

"(1) serve as the principal advisor to the Department on federal matters affecting the Outlying Areas;

"(2) evaluate on a periodic basis the needs of education programs in the Outlying Areas;

"(3) assist with the coordination of programs which serve the Outlying Areas; and

"(4) provide guidance to programs within the Department that serve the Outlying Areas.

"(d) DEFINITION.—For the purposes of this section, the term "Outlying Areas" includes Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Marianas Islands, but does not include the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau."

2. The Senate amendment, but not the House bill, amends the Individuals With Disabilities Education Act to add a new chapter 3 to part D of IDEA relating to improving early intervention, educational, and transitional services.

SR

3. The Senate amendment includes findings regarding IDEA.

SR

4. The House bill does not contain a similar provision.

SR

5. The Senate amendment would amend IDEA to allow LEAs to treat as local funds up to 55 percent of funding increases beyond the amount received in FY2001 and to petition the State to waive the 55% cap. It would also allow the Secretary to prohibit the LEA from supplanting funds if it does not meet part B requirements.

SR

6. The House bill does not contain a similar provision.

SR

7. The Senate amendment would amend IDEA to make funding of part B mandatory for fiscal years 2002—2011.

SR

8. The House bill does not contain a similar provision.

SR

9. Senate returns IDEA part B to a discretionary program for FY2012 and subsequent years. House contains no similar provision.

SR

10. The Senate amendment, but not the House bill, includes amendments to the Omnibus Crime Control and Safe Streets Act of 1968 relating to school resource officers.

SR

11. The Senate amendment, but not the House bill, amends the Higher Education Act to create a new program of loan forgiveness for Head Start teachers.

SR

12. The Senate amendment, but not the House bill, includes amendments to the Economic Espionage Act of 1966 relating to Boys and Girls Clubs.

SR

13. The Senate amendment, but not the House bill, includes amendments to the Carl D. Perkins Vocational and Technical Education Act of 1998

SR

14. The Senate amendment, but not the House bill, reauthorizes the National Environmental Education Act, including comprehensive changes.

SR

15. The Senate amendment, but not the House bill, includes amendments to the Federal Insecticide, Fungicide, and Rodenticide Act.

SR

16. The Senate amendment, but not the House bill, amends section 112(f)(1) of the Kids 2000 Act

SR

LC: Add following provision.

"SEC. . (a) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following: "Under Secretary of Education".

(b) EFFECTIVE DATE.—This Act shall take effect on the first day of the first pay period that begins on or after the date of enactment of this Act."

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
THOMAS E. PETRI,
MARGE ROUKEMA,
HOWARD "BUCK" MCKEON,
MIKE CASTLE,
LINDSEY GRAHAM,
VAN HILLEARY,
JOHNNY ISAKSON,
GEORGE MILLER,
DALE E. KILDEE,
MAJOR R. OWENS,
PATSY T. MINK,
ROBERT E. ANDREWS,
TIM ROEMER,
Managers on the Part of the House.

EDWARD KENNEDY,
CHRISTOPHER DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PATTY MURRAY,
JOHN EDWARDS,
HILLARY RODHAM CLINTON,
JOSEPH LIEBERMAN,
EVAN BAYH,
JUDD GREGG,
BILL FRIST,
MIKE ENZI,
TIM HUTCHINSON,
JOHN WARNER,
KIT BOND,
PAT ROBERTS,
SUSAN COLLINS,
JEFF SESSIONS,
MIKE DEWINE,
WAYNE ALLARD,
JOHN ENSIGN,
Managers on the Part of the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 1 minute a.m.), the House stood in recess subject to the call of the Chair.

□ 0835

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HASTINGS of Washington) at 8 o'clock and 35 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 107-335) on the resolution (H. Res. 314) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 107-336) on the resolution (H. Res. 315) waiving points of order against the conference report to accompany the bill (H.R. 1), to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON S. 1438, NATIONAL DEFENSE AUTHORIZATION ACT OF 2002

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 107–337) on the resolution (H. Res. 316) waiving points of order against the conference report to accompany the Senate bill (S. 1438) to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LUTHER (at the request of Mr. GEPHARDT) for today on account of family matters.

Mr. BISHOP (at the request of Mr. GEPHARDT) for today after 4:00 p.m. on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FORD) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. KIND, for 5 minutes, today.

Mr. RODRIGUEZ, for 5 minutes, today.

(The following Members (at the request of Mr. ROYCE) to revise and extend their remarks and include extraneous material:)

Mr. OSBORNE, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mr. ROYCE, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. TIAHRT, for 5 minutes, today.

Mr. BOEHNER, for 5 minutes, today.

Mr. BRADY of Texas, for 5 minutes, today.

Mr. WATTS of Oklahoma, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. SESSIONS, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1519. An act to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists; to the Committee on Agriculture.

S. 1729. An act to provide assistance with respect to the mental health needs of individuals affected by the terrorist attacks of September 11, 2001; to the Committee on Energy and Commerce.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 10. An act to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

H.R. 1230. An act to provide for the establishment of the Detroit River International Wildlife Refuge in the State of Michigan, and for other purposes.

H.R. 1761. An act to designate the facility of the United States Postal Service located at 8588 Richmond Highway in Alexandria, Virginia, as the "Herb Harris Post Office Building".

H.R. 2061. An act to amend the charter of Southeastern University of the District of Columbia.

H.R. 2540. An act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

H.R. 2716. An act to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

H.R. 2944. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes.

ADJOURNMENT

Ms. PRYCE of Ohio. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 36 minutes a.m.), the House adjourned until today, Thursday, December 13, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4801. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of Operating Permit Program; District of Columbia [DC–T5–2001–01a; FRL– 7112–3] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4802. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of Operating Permit Program; Virginia [VA–T5–2001–01a; FRL–7112–5] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4803. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of the Operating Permits Program; State of Hawaii [HI062–OPP; FRL–7111–5] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4804. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Full Approval of 40 CFR Part 70 Operating Permits Program; Minnesota [FRL–7111–7] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4805. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Full Approval of Operation Permit Program; Wisconsin [FRL–7111–8] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4806. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Full Approval of 40 CFR Part 70 Operating Permits Program; Indiana [IN003; FRL–7111–9] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4807. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Full Approval of 40 CFR Part 70 Operating Permits Program; Illinois [FRL–7112–1] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4808. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Full Approval of Operating Permit Program; Michigan [FRL–7111–6] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4809. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule— Minnesota; Final Approval of State Underground Storage Tank Program [FRL–7110–8] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4810. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Approval of Operating Permits Program; State of Vermont [VT–021–1224a; A–1–FRL–7110–2] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4811. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of the Operating Permits Program for the Pinal County Air Quality Control District, Arizona [AZ060–OPP; FRL–7112–8] received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4812. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of Operating Permits Program in Alaska [FRL–7113–9] received December 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4813. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Full Approval of Operating Permits Program; State of New York [NY002; FRL–7113–3] received December 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4814. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Full Approval of Operating Permit Program; New Jersey [NJ002; FRL–7113–1] received December 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4815. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of Operating Permits Program; State of Oklahoma [OK–FRL–7113–7] received December 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4816. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of Operating Permits Program; State of Texas [TX–002; FRL–7113–6] received December 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4817. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of the Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, Arizona [AZ062–OPP; FRL–7113–4] received December 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4818. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of Title V Operating Permits Programs; Clark County Department of Air Quality Management, Washoe County District Health Department, and Nevada Division of Environmental Protection, Nevada [NV 063–Pt70; FRL–7113–8] received December 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4819. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of 34 Operating Permits Programs in California [CA065–Pt70; FRL–7113–5] received December 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4820. A letter from the General Counsel, Department of the Treasury, transmitting a draft bill which would modify the current process by which Federal agencies are billed, and make payment, for water and sewer services provided by the District of Columbia; to the Committee on Government Reform.

4821. A letter from the Secretary, Department of Energy, transmitting the semi-annual report regarding programs for the protection, control and accountability of fissile materials in the countries of the former Soviet Union, pursuant to Public Law 104–106, section 3131(b) (110 Stat. 617); jointly to the Committees on Armed Services and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for Printing and reference to the proper calendar, as follows:

Mr. STUMP: Committee of Conference. Conference report on S. 1438. An act to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 107–333). Ordered to be printed.

[Filed on December 13 (legislative day of December 12), 2001]

Mr. BOEHNER: Committee of Conference. Conference report on H.R. 1. A bill to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind (Rept. 107–334). Ordered to be printed.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 314. Resolution providing for the consideration of motions to suspend the rules (Rept. 107–335). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 315. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind (Rept. 107–336). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 316. Resolution waiving points of order against the conference report to accompany the bill (S. 1438) to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 107–337). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Mrs. Capps, Mr. Reyes, Ms. Brown of Florida, and Mrs. Davis of California):

H.R. 3461. A bill to amend title 38, United States Code, to add the disease of Amyotrophic Lateral Sclerosis to the diseases presumed to be service connected when incurred by veterans of the Persian Gulf War; to the Committee on Veterans' Affairs.

By Mrs. CAPPS (for herself, Mr. Shimkus, Mr. Waxman, Mr. Pickering, Ms. Eshoo, Mrs. Morella, Mr. Shows, Mr. Platts, Mr. Rush, Mr. McGovern, Ms. Lee, Ms. Watson, Mr. Holt, Mr. Stark, Mr. Filner, and Mr. Lantos):

H.R. 3462. A bill to amend the Public Health Service Act to provide grants for public access defibrillation programs and public access defibrillation demonstration projects, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DEUTSCH (for himself, Mr. Green of Texas, Mr. Frost, Ms. Lee, and Mr. Lipinski):

H.R. 3463. A bill to amend the Internal Revenue Code of 1986 to provide protections for participants in cash or deferred arrangements under section 401(k) with respect to the acquisition and holding of employer securities; to the Committee on Ways and Means.

By Mr. FARR of California (for himself, Ms. Watson, Mr. Waxman, Ms. Lee, Mr. George Miller of California, Mrs. Napolitano, Mr. Stark, Mr. Berman, Mr. Deutsch, Mrs. Capps, Mr. Sherman, Mrs. Morella, Mr. Blumenauer, Ms. Woolsey, Mr. Wexler, Mr. Filner, Mrs. Maloney of New York, Mr. Shays, Mr. Pallone, Mr. Doyle, Mr. Kucinich, Mrs. Johnson of Connecticut, Mr. Honda, Mr. Traficant, Ms. Rivers, Ms. Eshoo, and Mr. Greenwood):

H.R. 3464. A bill to amend title 18, United States Code, to prohibit interstate-connected conduct relating to exotic animals; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. Osborne):

H.R. 3465. A bill to further facilitate service for the United States, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Armed Services, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS (for himself, Mr. Camp, and Mr. Barcia):

H.R. 3466. A bill to amend the Emergency Food Assistance Act of 1983 to permit States to use administrative funds to pay costs relating to the processing, transporting, and distributing to eligible recipient agencies of donated wild game; to the Committee on Agriculture.

By Mr. FALEOMAVAEGA:

H.R. 3467. A bill to amend title 49, United States Code, to permit individuals who are nationals of the United States to be hired as airport security screening personnel; to the Committee on Transportation and Infrastructure.

By Ms. HARMAN (for herself and Ms. Lofgren):

H.R. 3468. A bill to authorize the President to convene military tribunals for the trial outside the United States of persons other than United States citizens and lawful resident aliens who are apprehended in connection with the September 11, 2001, terrorist attacks against the United States; to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LEE (for herself, Mr. Greenwood, and Ms. Woolsey):

H.R. 3469. A bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes; to the Committee on Energy and Commerce.

By Mr. McINTYRE:

H.R. 3470. A bill to clarify the boundaries of Coastal Barrier Resources System Cape Fear Unit NC0907P; to the Committee on Resources.

By Mr. MOORE (for himself, Mr. Leach, Mr. Lewis of Georgia, Mr. Frost, Mr. Moran of Virginia, Mr. Dicks, Mr. Boswell, Mr. Lampson, Ms. Solis, Ms. McCarthy of Missouri, Ms. Berkley, Mr. Etheridge, Mr. Israel, Mr. Sandlin, and Mr. Carson of Oklahoma):

H.R. 3471. A bill to expand coverage options for unemployed workers to receive and pay for COBRA health insurance benefits, and to provide for a program of enhanced unemployment coverage; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MURTHA:

H.R. 3472. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to make grants to designated eligible entities for the design and implementation of innovative models of patient care that are conducive to retention and recruitment of nurses, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PICKERING (for himself, Mr. Turner, Mr. Peterson of Pennsylvania, Mr. Schaffer, Mr. Baldacci, Mr. Bartlett of Maryland, Mr. Sanders, Mrs. Emerson, Mr. Frost, Mr. Udall of New Mexico, Mr. Sandlin, Mr. Lampson, Mr. Stupak, Mr. LaHood, Mr. Olver, Mr. Rehberg, Mr. Kennedy of Minnesota, Mr. Baird, Mrs. Clayton, Mr. Larson of Connecticut, Mr. McGovern, Mr. Delahunt, Mr. Capuano, Mr. Markey, Mr. Frank, Mr. Neal of Massachusetts, Mr. Oberstar, Mr. Pomeroy, Mr. Allen, Mr. Peterson of Minnesota, Mr. Sabo, Mr. Cannon, and Mr. Gilchrest):

H.R. 3473. A bill to amend the Consolidated Farm and Rural Development Act to authorize the National Rural Development Partnership, and for other purposes; to the Committee on Agriculture.

By Mr. SMITH of Washington:

H.R. 3474. A bill to amend the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act to require that labeling required under those Acts identify products processed or manufactured in a territory of the United States; to the Committee on Energy and Commerce.

By Mr. BURTON of Indiana (for himself, Mr. Pallone, Mr. Cannon, Mr. Istook, Mr. Paul, and Mr. Horn):

H.R. 3475. A bill to amend the Internal Revenue Code of 1986 to provide that amounts paid for foods for special dietary use, dietary supplements, or medical foods shall be treated as medical expenses; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.J. Res. 78. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes; to the Committee on Appropriations.

By Mr. BOEHLERT (for himself, Ms. Eddie Bernice Johnson of Texas, Mr. Faleomavaega, Mr. Cummings, Mr. Lantos, Ms. Lee, Mr. Maloney of Connecticut, Ms. Millender-McDonald, Mr. Owens, Mr. Sanders, Mr. Watt of North Carolina, and Mr. Wynn):

H. Con. Res. 287. Concurrent resolution expressing the sense of Congress relating to efforts of the Peace Parks Foundation in the Republic of South Africa to facilitate the establishment and development of transfrontier conservation efforts in southern Africa; to the Committee on International Relations.

By Ms. WOOLSEY (for herself, Ms. Lee, Mr. DeFazio, Mr. Evans, Mr. McDermott, Mr. Fattah, Mr. Hinchey, Mr. Farr of California, Mr. Doggett, Mr. McGovern, Ms. McKinney, Mr. Sabo, Ms. Schakowsky, Mr. Nadler, Mr. Markey, Mr. Barrett, Mr. Holt, Ms. Watson, Mr. Olver, Mr. Frank, Mr. Lewis of Georgia, Ms. Baldwin, Ms. Rivers, Mr. Payne, Mr. Blumenauer, Mr. Filner, Mr. Tierney, Ms. Hooley of Oregon, and Mr. Rangel):

H. Res. 313. A resolution expressing the sense of the House of Representatives regarding the continued importance of the Anti-Ballistic Missile Treaty; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Ms. Watson and Mr. Brady of Pennsylvania.

H.R. 122: Mr. Wicker.

H.R. 179: Ms. Ros-Lehtinen.

H.R. 250: Mr. Sherman.

H.R. 394: Mr. Rogers of Kentucky, Mr. Schrock, Mr. Graves, and Ms. Pryce of Ohio.

H.R. 664: Mr. Shimkus.

H.R. 774: Mrs. Emerson.

H.R. 978: Mrs. Lowey.

H.R. 1011: Mr. Bryant.

H.R. 1089: Mr. Strickland.

H.R. 1097: Mr. Wynn and Mr. Blagojevich.

H.R. 1158: Mr. Fletcher.

H.R. 1255: Mr. Levin.

H.R. 1287: Mr. Duncan.

H.R. 1330: Mr. Allen.

H.R. 1476: Ms. Lofgren.

H.R. 1810: Mr. Conyers and Mr. Jackson of Illinois.

H.R. 1887: Mrs. Thurman.

H.R. 1944: Mr. Wamp.

H.R. 1961: Mr. Baca and Mr. Hall of Texas.

H.R. 1990: Mr. Becerra.

H.R. 2037: Mr. Sam Johnson of Texas, Mr. Boozman, Mr. Ortiz, and Mr. Sherwood.

H.R. 2109: Mr. Stearns, Mr. Shaw, Ms. Brown of Florida, Mr. Young of Florida, Mr. Boyd, Mr. Wexler, and Mr. Crenshaw.

H.R. 2117: Mr. Maloney of Connecticut.

H.R. 2148: Mr. Lipinski.

H.R. 2162: Mr. Gutierrez.

H.R. 2173: Ms. Lee.

H.R. 2219: Mr. Tierney, Mr. Waxman, Mr. Saxton, and Mr. Payne.

H.R. 2235: Mr. Greenwood.

H.R. 2349: Mr. Watt of North Carolina.

H.R. 2352: Ms. Lee and Mr. Owens.

H.R. 2434: Mr. Pastor, Mr. Hoeffel, Mrs. Lowey, and Mr. Boehlert.

H.R. 2537: Mr. Walden of Oregon.

H.R. 2573: Mr. Price of North Carolina.

H.R. 2592: Mr. George Miller of California.

H.R. 2677: Ms. Pelosi.

H.R. 2692: Ms. Kaptur.

H.R. 2735: Mrs. Clayton, Mr. Peterson of Minnesota, Mr. Rush, Ms. Carson of Indiana, Mr. Ford, Mr. Jackson of Illinois, Ms. McKinney, and Mr. Traficant.

H.R. 2835: Mrs. Wilson and Ms. Hooley of Oregon.

H.R. 2908: Mr. Lewis of Georgia, and Mr. Price of North Carolina.

H.R. 2931: Mr. Kerns and Mr. Lewis of Kentucky.

H.R. 3014: Mr. Pascrell and Ms. DeLauro.

H.R. 3025: Mr. Udall of Colorado and Mr. Simmons.

H.R. 3054: Mr. Kennedy of Minnesota, Mr. Royce, Mr. Meeks of New York, Mr. Sweeney, Mr. Etheridge, Ms. Eshoo, Mr. Allen, Mr. Matsui, Mr. Farr of California, and Mr. Dingell.

H.R. 3087: Mr. Kennedy of Rhode Island.

H.R. 3131: Mr. Graham and Ms. Slaughter.

H.R. 3154: Mr. Ehrlich, Mr. Faleomavaega, and Mr. Petri.

H.R. 3193: Mr. Frank, Ms. Jackson-Lee of Texas, Mr. Rothman, Ms. Rivers, Mrs. Capps, Mr. Vitter, and Mrs. Lowey.

H.R. 3194: Ms. McKinney, Mr. Wynn, Mr. Smith of New Jersey, Mr. Hall of Ohio, Mr. Owens, and Mr. Underwood.

H.R. 3205: Mr. Goode and Mr. McGovern.

H.R. 3238: Mrs. Napolitano and Mrs. Christensen.

H.R. 3257: Ms. McCarthy of Missouri.

H.R. 3267: Mr. McNulty, Mr. Markey, and Ms. Roybal-Allard.

H.R. 3270: Mr. McHugh.

H.R. 3284: Ms. Lee.

H.R. 3331: Ms. Roybal-Allard.

H.R. 3337: Mr. Owens, Mr. Andrews, Mr. Frost, and Mrs. Thurman.

H.R. 3340: Mr. Tom Davis of Virginia, Mr. Wynn, and Mr. Moran of Virginia.

H.R. 3341: Mr. DeFazio, Mr. Lantos, Mr. George Miller of California, and Mrs. Thurman.

H.R. 3351: Mr. Kanjorski, Mr. Lipinski, Mr. Traficant, Ms. McCarthy of Missouri, Mr. Graham, Mr. Becerra, Mr. Larson of Connecticut, Mr. John, Mr. Gutierrez, Mr. Price of North Carolina, Mrs. Jones of Ohio, Mr. Hobson, Mr. Kennedy of Minnesota, Mr. Cramer, Mr. Green of Wisconsin, Mr. Capuano, Mr. Hinojosa, Mr. Blagojevich, and Mr. Linder.

H.R. 3359: Mr. Shows, Mr. Kanjorski, Mr. Ford, Mr. Shimkus, and Mr. Kennedy of Rhode Island.

H.R. 3360: Mr. Keller, Mr. Sabo, Mr. Weldon of Florida, Mr. McHugh, Mr. Lewis of Georgia, Mr. Davis of Florida, Mr. Engel, Mrs. Lowey, Ms. McKinney, Mr. Rangel, Mr. Snyder, Mr. Deutsch, Mr. McGovern, Mr. Crowley, Mr. Saxton, Ms. McCollum, Mr. Crenshaw, Mr. Jeff Miller of Florida, Mr. Putnam, Mr. Kennedy of Minnesota, Mr. Wexler, and Mr. Ganske.

H.R. 3368: Ms. Woolsey.

H.R. 3376: Mr. Saxton, Mr. Frelinghuysen, and Mr. LoBiondo.

H.R. 3379: Mr. Fossella, Mr. King, Mr. Serrano, Mr. Grucci, Mrs. McCarthy of New York, Mr. Ackerman, Mr. Meeks of New York, Mr. Crowley, Mr. Nadler, Mr. Weiner, Mr. Towns, Mr. Owens, Ms. Velázquez, Mrs. Maloney of New York, Mr. Rangel, Mr. Engel, Mrs. Lowey, Mrs. Kelly, Mr. Gilman, Mr. McNulty, Mr. Sweeney, Mr. Boehlert, Mr. McHugh, Mr. Walsh, Mr. Hinchey, Mr. Reynolds, Ms. Slaughter, Mr. LaFalce, Mr. Quinn, and Mr. Houghton.

H.R. 3414: Mr. HILLIARD, Ms. SCHAKOWSKY, Ms. MCCARTHY of Missouri, and Mr. JOHNSON of Illinois.

H.R. 3415: Mr. JACKSON of Illinois, Mr. BARRETT, Mr. BROWN of Ohio, Mrs. CHRISTENSEN, Ms. LEE, Mr. TRAFICANT, Mr. LIPINSKI, and Mrs. JONES of Ohio.

H.R. 3459: Mr. BONIOR.

H.J. Res. 75: Mr. VITTER, Mr. KENNEDY of Minnesota, and Mr. TERRY.

H. Con. Res. 99: Mr. FILNER, Mr. SANDERS, and Mr. OWENS.

H. Con. Res. 199: Mr. LEVIN and Mr. DOYLE.

H. Con. Res. 240: Ms. SCHAKOWSKY.

H. Con. Res. 249: Mr. KENNEDY of Rhode Island, Mr. BONIOR, Mr. CHAMBLISS, Mr. MASCARA, Mr. PALLONE, and Mr. ROTHMAN.

H. Con. Res. 267: Mrs. THURMAN.

H. Con. Res. 271: Mr. BRYANT.

H. Con. Res. 284: Mr. VITTER and Mr. BACA.

H. Res. 295: Mr. GRUCCI.

EXTENSIONS OF REMARKS

TRIBUTE TO CHALDEAN FEDERATION OF AMERICA IN RECOGNITION OF THEIR 20TH ANNIVERSARY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize the 20th Anniversary Celebration and 9th Annual Awards Banquet of the Chaldean Federation of America. This anniversary marks 20 years of the federation's distinguished commitment to the Chaldean community in Michigan and 9 years of presenting awards to exemplary citizens within the community.

The Chaldean Federation of America was established in 1980 as a nonprofit organization, as part of the nationwide group of the Association of Chaldean Americans. The federation is a beacon of support for Chaldean American citizens living in the metropolitan Detroit area, providing valuable assistance to the Chaldean American community. Today the Chaldean Federation of America represents over 120,000 Chaldean Americans living in the Detroit metropolitan area.

Community and public service are tenets of the Chaldean Federation of America. Their organization provides help for Chaldeans seeking to adjust comfortably into American society. The organization is also involved in numerous community action programs, including, but certainly not limited to, serving needy families, protecting civil and legal rights of all Chaldenas promoting volunteer opportunities, offering language enhancement classes, promoting greater understanding of cultural differences, and working with youth to ensure they have an equal opportunity. Services like these are why we must all look with great pride upon the work on behalf of the community done by the Chaldean Federation of America.

Without an organization like the Chaldean Federation of American, the large population of Chaldean Americans living in Michigan would be without one of the greatest resources within the community. Too often we tend to ignore minority groups, forcing them to live in isolation from the whole community. The Chaldean Federation of America is committed to breaking down walls that at times exist between communities, fostering great understanding of cultural differences, and providing Chaldean Americans with valuable services that benefit not only Chaldeans, but the entire community.

Mr. Speaker, I rise to congratulate the Chaldean Federation of America for 20 years of outstanding support in the community and I ask that all of my colleagues join me in recognition of their hard work and dedication.

RECOGNIZING RED RIBBON WEEK AND ENCOURAGING AMERICA'S YOUTH TO STAY DRUG-FREE

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mrs. EMERSON. Mr. Speaker, earlier this fall I was invited to share a Red-Ribbon Week Message with students in Missouri's Eighth Congressional District. Although my congressional responsibilities required me to remain in Washington, I wanted to share with our students why I believe its so important to learn from your parents, teachers, community leaders and your peers about the danger of drugs and why you should stay away from drugs—now and forever.

I know that it seems like parents, educators, and grownups have been telling you forever that drugs lead you one way—the wrong way. You might even think that you've heard it all before and that we are nagging you because we keep bringing it up. I mean you get it from everywhere right? Your parents tell you at the dinner table about the dangers of drugs. Your teachers tell you at school that drugs lead you to a life of loss and destruction. And others, like your local law enforcement officers tell you that drugs lead to death and destruction.

Well, you know that? They are all right. And believe it or not, they aren't hollering at you just because they have to, they are hollering at you because they love and care about you and they want you to have productive, happy and healthy lives.

Now, even though I think parents, teachers, and other grown ups are doing a good job of warning you about the dangers of drug use, I believe kids can help keep other kids from using drugs. In fact, I think that each of you can lead the way in the fight against drugs by teaming up and sending the rest of America a message. The message is this—not everyone is trying drugs and using drugs is not normal. And to prove that point, you aren't going to use drugs—and neither are your friends.

It works like this. Imagine that you are at a party or just hanging out with a group of kids after school. Someone, maybe even another student, starts smoking marijuana. They ask you to join in. They tell you it's great, that it won't hurt you and that you are a loser if you say no. What would you do?

You know deep down that the best thing to do is say no and walk away. But as a mom, and believe it or not, someone who was once a kid, I know that it's really tough to be the only one that says no. You feel alone and you feel like everyone else won't think you're very cool.

But you know what? If you, as friends make a pact to be a team—to say no and leave—then you have made a real statement. Not only are drugs not okay for you, but they aren't okay for your friends either. These tips and suggestions were developed by students like you. They call it, "keepin it REAL." And for them, REAL stands for:

R: Refuse—a simple "no" goes a long way—but it goes even further when you all say "no" together.

E: Explain—You can say, "I am not that kind of person, or that is not for us." And if you are forceful, your "no" will go a very long way.

A: Avoid—You know just as well as the police and others, that there are places where the likelihood that drugs are around is more prevalent in some places than others. If you know where those places are, then you'll know to avoid them. In other words, stay away.

L: Leave—Like the story I mentioned earlier, you can leave—and you should leave.

You can keep it real, and you can get some of the support you need in that effort from your parents, your teachers, your teammates and others in the community. One of the organizations in your area that is helping out is PAWSPT/Narc with a Bark. PAWSPT or Prevention Awareness With Students, Parents and Teachers is a unique program using trained canines to sniff out drugs in your school. They also come into your schools to teach you about the danger of drug use. The program is run by Rosa and Doug Wallis and is a great effort on their part to open up the lines of communications about drugs and drug use prevention. I encourage every one of you to learn more about what they've been doing to help keep drugs out of your schools.

Mr. Speaker, before I go, I want to leave the children of Missouri's Eighth District and the children of our Nation with one more thought. You students are the most valuable and important resource that we have—you are the future leaders of our country. But this year, more than 2.4 million students just like you will try drugs. But if you all team up and stand together to refuse, explain, avoid, and leave drug-related situations, then you have a REAL chance to have a wonderful life full of promise, hope and success. I believe you can do it and so do your teachers, parents, and your community leaders. We're depending on you and if you need help, then I hope you know, you can depend on us.

IN RECOGNITION OF CHARLES COUNTY PUBLIC SCHOOLS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. HOYER. Mr. Speaker, I rise today to give recognition to Charles County public schools. The Charles County public schools received the Daisy Bates National School District Award for its minority achievement program. Under the direction of Superintendent

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

James E. Richmond, Charles County public schools have made the success of all students a major priority, and addressing the performance of minority students is a major component of this effort. Charles County public schools has developed a 5-year plan for academic achievement, personal responsibility, and career readiness. In this plan, everyone is responsible for successful attainment of the objectives. The superintendent, board members, instructional staff, principals, certificated and support staff, all play major roles in addressing the "success for all" approach.

Designing programs that best meet the needs of the students is a major key of their success. In order to make programs like these work, systems must first look at the needs of the students and then develop the programs. Charles County public schools sought to fit the program to the students, not the students to the program. Their programs are successful because of the dedication and commitment of their teachers. They truly believe that all children can and will learn to read if given instruction and additional time to read and write in an environment that supports and challenges them. This system provides continuous training for teachers and assistants, limits class size, and provides current, appealing, and appropriate materials for their schools.

Mr. Speaker, and colleagues, please join with me in wishing the Charles County public schools continued success and congratulations on their achievements toward the academic success of their students.

TRIBUTE TO MAYOR NANCY HEIL

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to a tireless worker and a devoted public servant. After eighteen years of public service, Nancy Heil, who began her service on the city council in 1983 and has served as Mayor of Westminster, Colorado, for six years, is retiring.

Throughout her public career, Mayor Heil's priority has been preserving the quality of life for Westminster residents. During the forty years she has called Westminster her home, she has watched it grow from a small suburban town of 12,000 residents to a city of over 100,000. Ensuring that people are still able to enjoy the lifestyle they came to Westminster for has always been of top importance to the Mayor. She has been a constant, positive force in the community, displaying an unmatched passion for the welfare of her citizens.

Mayor Heil was a leader in focusing attention on the importance of removing the radioactive wastes from the U.S. Department of Energy's Rocky Flats Nuclear Weapons Facility—which is located just west of Westminster. She spoke out about the importance of finding secure locations to remove the dangerously contaminated material from such a well-populated urban area and thereby safeguard the millions of people in the Denver-metro area.

She was also one of the leaders and original proponents of preserving the open space resources at Rocky Flats and in calling for the site to be transformed into a National Wildlife Refuge once it is cleaned up and closed. In such a fast growing area of the Denver metropolitan region, Mayor Heil saw an opportunity to keep much of this area as a natural asset for future generations.

Through her ability to forge coalitions and collaborate with neighboring communities, Mayor Heil was able to bring out the best in other leaders and ensure that it was always the citizens that benefited. I am proud to have had the opportunity to work with a community leader of her quality. She put the people first and I consider it an honor to represent her and her community in Congress. She is an example of what we all should look for in our leaders: commitment, selflessness, and passion. It is with great pleasure that I take this opportunity to recognize her and thank her for her years of dedicated service. The city of Westminster and indeed the state of Colorado have greatly benefited from her contributions and leadership. Her talents and resourcefulness will be sorely missed.

Her accomplishments and the esteem in which she is held were recently reported in the Denver Post. For the information of our colleagues, I am attaching a copy of that report.

[From the Denver Post, December 11, 2001]

HEIL LEAVES OFFICE ON HIGH NOTE

(By George Lane)

WESTMINSTER—When Nancy Heil first took her seat on the City Council in 1983, she might have been one of the most naive politicians around.

Consider that she wondered if "Dr. Cog" might be a family physician. DRCOG is the acronym for the Denver Regional Council of Governments.

Since then, Heil's growth and political maturity have resulted in her twice being named Westminster Woman of the Year and becoming the city's first elected mayor.

Now, after almost two decades of service, in the middle of the term to which she was elected in 1999, Heil is resigning from office Dec. 31. She says it's time for something new.

"These are extraordinary times, and they have caused me to re-think the importance of the office of mayor," she said during a recent interview. "I have willingly given 18 years of my life to work for the city I love. I have given it my best, and now I believe it is time for me to take a new direction."

Councilman Ed Moss, recently elected major pro tem, will complete Heil's unexpired term, as dictated by the city charter.

Government observers here say following Heil won't be easy.

"Nancy, she's a class act," said Adams County Commissioner Elaine Velente. "Her shoes are going to be tough to fill. I think she's done a tremendous job representing the city of Westminster."

Heil was a teacher in upstate New York before she met her husband, Jay, and moved to Colorado. Jay Heil is a Colorado native who went back East for dental school. The couple now have four adult children.

The mayor said that Westminster was a town of about 15,000 people when she moved here about 40 years ago, and there was almost no place to live. She now points proudly at a city of more than 100,000, the Westin Hotel that opened several years ago and Westminster Mall, where sales tax has been Westminster's major source of revenue for a number of years.

The mayor said she has resolved some health problems over the past few years. During the past year, she also has faced a sometimes-divided City Council over whether one of their own should be removed because of expense-account irregularities.

"She had a good vision for the city, wanted the city of improve its image and it did, wanted the city to be known as a good place to live and I think she achieved that," said Vi June, mayor from 1985 to 1991.

HONORING DR. HUGH C. AVALOS OF CHICAGO, ILLINOIS

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. WELLER. Mr. Speaker, I rise today to recognize and honor Dr. Hugh C. Avalos of Morris, Illinois as he prepares to retire at the end of this year. For more than 40 years, Dr. Avalos has served his community in a great many ways.

First and foremost, Dr. Avalos has always demonstrated the greatest concern for and commitment to his patients. A physician of great skill, Dr. Avalos received a solid education at the University of Mexico, the Little Company of Mary Hospital in Chicago and Cook County Hospital in Chicago. Dr. Avalos has displayed his professional dedication throughout his career by pursuing additional educational opportunities on four continents and winning Board certification in English, Spanish and German.

Although not a native of Morris, Illinois, Dr. Avalos has spent the past 42 years working to better his adopted community. Active membership in service organizations such as the Moose, Shriners and especially Rotary International, which he served as president of the local club, has been a large part of his volunteer efforts along with important leadership positions at the local bank and hospital.

A very special interest of Dr. Avalos, though, has been serving the youth of the City of Morris. For more than 30 years, Dr. Avalos used his considerable professional skills to protect the health and condition of the youth of Morris as the team physician for the Morris Community High School football, basketball and baseball teams.

From a personal perspective as a resident of Morris, I am proud to have been able to consider Dr. Avalos a good friend now for well over a decade. I am well aware of the great esteem in which he is held by his patients and our community as a whole. It gives me great pleasure to both congratulate Dr. Avalos on a tremendous professional career and also to wish him much happiness during his retirement years.

Mr. Speaker, using the life and career of Dr. Hugh Avalos as an example, I urge the Members of this body to identify, recognize and honor other individuals in their own districts whose actions have greatly benefitted our communities and nation.

RECOGNIZING MARY BESS, CHIEF FINANCIAL OFFICER, ON HER RETIREMENT FROM MADISON MEDICAL CENTER (FREDERICKTOWN—MADISON COUNTY)

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mrs. EMERSON. Mr. Speaker, H. Jackson Brown Jr's book On Success reminds us to "remember that overnight success usually takes about fifteen years." Well, if that is the case, then Mary E. Bess is an overnight success and then some. Having served the Madison Medical Center in Fredericktown for 25 years, Mary is retiring and leaving her position as Chief Financial Officer of the Center.

As Mary retires and leaves the day to day work at the Madison Medical Center, she leaves an indelible mark on the entire Madison County region. For 25 years she has dedicated her professional life to improving health care affordability, accessibility and service. Her contributions have been a source of great pride and satisfaction for the Madison Medical Center and have resulted in such community-wide recognition as the Administrative Management Award for her hard work as a health care provider in Madison County.

There is no doubt that Mary, a graduate of Greenville High School, who has spent a great deal of time and energy helping others, will not simply rest on laurels now that she is retiring. Instead, I'm sure that she will spend time on both new activities and favorite pastimes. Specifically, I am referring to enjoying time with those people who mean the most to her—her husband Hershel and her children, David and Dennis. But most of all, I am certain that those individuals who will benefit the most from her retirement will be her four grandchildren: Mallory, Chelsea, David Scott and Dustin.

It's often been said that success is not measured by great wealth or material treasures. Instead, success is measured on the person you are, the life you live, and how your life influences the lives of others. If that is true, and I believe that it is, then we are all richer for knowing Mary Bess.

While Mary may be leaving the Madison Medical Center, her contributions to the organization are timeless and will endure. She leaves the Madison Medical Center far stronger, smarter and richer than it was when she joined it and that is a legacy for which she can be proud.

Mr. Speaker, on this very special occasion, I ask that all of my colleagues join me in congratulating Mary on this milestone and wish her every happiness for the future.

DANGER AHEAD: SOCIAL SECURITY PRIVATIZATION IS BREAKING THE PROMISE

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Ms. SCHAKOWSKY. Mr. Speaker, I am pleased that the House is considering a resolution stating our commitment to maintain the promise of Social Security by guaranteeing lifetime, inflation-proof benefits to current and future beneficiaries.

I am not surprised that we feel the need to do so tonight in light of today's dangerous recommendations by the President's Social Security Commission, that we feel the need to reaffirm our commitment to Social Security on the same day that the Commission is suggesting that we break that promise.

We should assure Americans—current retirees, future retirees, persons on disability, survivors and dependents—that we will not abandon them, cut their benefits, raise their retirement age, change benefit formulas, reduce COLAS, or take any other step that jeopardizes their financial security.

We should assure Americans that we will reject the recommendations of the President's Social Security Commission.

We all know that this Commission was handpicked to include only those who favor privatization and individual accounts. It does not include representatives of seniors'groups, women's groups, or consumer groups. It held closed-door sessions in subcommittee meetings" designed to circumvent government in the sunshine requirements. But even this Commission agrees that you cannot have privatization without cutting benefits.

Two weeks ago, I had the opportunity to meet with members of the Commission at an event sponsored by the Women's Caucus. At that meeting, we were told that the Commission's recommendations would not guarantee current benefits to all current and future retirees. We were told that only those 55 years or older would be guaranteed current benefits. For everyone else, benefit levels could be lower.

In fact, the Commission's recommendations would lower Social Security benefits for future beneficiaries by between 30 percent to 48 percent. Who would be hurt? Persons with disabilities, children, low-wage workers, persons of color and women.

As we know, Social Security is of special importance to women, who are 60% of all recipients. Without Social Security, over half of older women would live in poverty. Women understand that value of Social Security, we know that we must protect it now and in the future.

Therefore, we should listen to what women's groups have to say about the Commission's recommendations issued today.

Martha Burk, chair of the National Council of Women's Organizations, says that "The President's Social Security Commission proposes major cuts in guaranteed benefits that will not be made up by the stock market gains from individual accounts."

Heidi Hartmann, head of the Institute for Women's Policy Research, says that the recommendations "risk the future economic security of younger workers, particularly women.

They are joined in opposing these recommendations by groups like the Older Women's League, the National Organization for Women, the American Association of University Women, and Business and Professional Women, USA.

In light of the widespread public opposition to privatization, I am not surprised that the Republican leadership is bringing up a resolution that distances this body from the Commission's recommendations.

I only hope that we will do more than voice our commitment to the future of social Security. I hope that we will put privatization proposals to rest for good.

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

SPEECH OF

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. GILMAN. Mr. Speaker, I commend the diligent efforts of Chairman THOMAS, my colleagues and their staff members in drafting and sponsoring H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001.

H.R. 3005 is being referred to as the most environmentally and labor responsive legislation regarding Trade Promotion Authority (Fast Track) to be sponsored by the U.S. Congress. However, I share the concerns raised by many of my constituents that H.R. 3005's labor and environmental standards do not go far enough to ensure a level playing field in our proposed trade agreements.

H.R. 3005 refers to environmental and labor provisions as negotiating objectives. Our trade history reveals that during the past 25 years including labor rights, and now environmental rights, as "negotiating objectives" do not guarantee that these provisions will actually be included in any proposed trade agreements. The geopolitical and trade landscape has changed, of the 142 members comprising the World Trade Organization (WTO), 100 are classified as developing nations and 30 are referred to as lesser-developed nations. Why is this important? It is important because with China's accession into the WTO, the 130 nations will become more forceful in promoting their trade agendas, and an opportunity for a more favorable trade agreement becomes apparent if a nation lowers its environmental and labor standards. Many nations' standards are sub-standard at best.

As drafted, the overall negotiating objective of H.R. 3005 is to promote respect for worker rights. My constituents report that the worker rights provisions do not guarantee that "core" labor standards are included in the corpus of prospective trade agreements. By core labor standards, I refer to the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work: freedom of association, the right to organize and for collective bargaining, and the rights to be free from child labor, forced labor and employment discrimination, which many people throughout the world are confronted with.

My constituents are troubled that H.R. 3005 does not require a signatory to an agreement to improve or even to maintain that its domestic laws comport with the standards of the International Labor Organization, in practice an incentive is created for lowering them. Among H.R. 3005's principle objectives is a provision entitled labor and the environment, which calls for the signatories to trade agreements to enforce their own environment and labor laws. The United States, as a leader in the global trade community must set the example by raising the labor and environmental standards of its trading partners. In the end, it will be the United States who is called upon to provide the resources to clean-up environmental disasters.

Through their first-hand accounts, my constituents report that workers in many nations that we seek to enter into bi-lateral and multilateral trade agreements are subjected to exploitation, harassment and worse for exercising their rights to collective bargaining, and are forced to work under abusive conditions. For example, in our own hemisphere more than 33% of the complaints filed with the International Labor Organization's Committee on Free Association originate in the Andean region. I understand that new labor laws in Bolivia, Ecuador, Columbia and Peru undermine the right to collective bargaining, and there are scores of reports from NGO's regarding unconscionable violations of the most fundamental rights for workers and their union representatives. The AFL–CIO reports that since January 2001, more than 93 union members in Columbia have been murdered, while the perpetrators have gone unpunished.

How the United States engages in trade negotiations and its practices are crucial not only for our future, but for our democratic process. How our nation conducts itself is scrutinized world-wide, in essence, we must set the right example. Events at the recent World Trade Organization negotiations in Doha, Qatar have made this fact even more apparent. The WTO is seeking to adopt a worldwide "Investor-State Clause" in the next round of discussions. This clause was written into Chapter 11 of the North American Free Trade Agreement (NAFTA) for the purpose of protecting businesses from expropriation by foreign governments. What it has been used for, however, is completely different from its originally stated purpose.

Cases such as Methanex v. United States and its progeny are dispositive of harmful effect of the unbridled power of ill thought out provisions of trade legislation. Methane, the producer of MTBE an additive used to make gasoline burn cleaner, was leaking from a storage tank and into the water supply in California. Governor Davis acted promptly, and after further testing banned MTBE. Methanex, a Canadian Corporation, brought an action against California/United States in July 1999, not in our courts, but pursuant to NAFTA's Chapter 11 foreign investor clause. According to William Greider's October 15th article in The Nation, "under this provision a foreign investor can sue a national government if their company's property assets, including the intangible property of expected profits, are damaged by laws or regulations of virtually any kind." Greider further reveals that Methanex, through its Washington D.C. powerhouse law firm, used tribunal established through NAFTA, where the proceeding are secret (unless the parties agree to public disclosure).

Greider goes on, "As nervous Members of Congress inquire into what they unwittingly created back in 1993, critics explain the implications: 'Multinational investors can randomly second-guess the legitimacy of environmental laws or any other public-welfare or economic regulation, including agency decisions, and even jury verdicts. . . . the open ended test is whether the regulation illegitimately injured a company's investments and can be construed as tantamount to expropriation, though no assets were physically taken.' "

This Chapter 11 case and many others like it are now pending and/or being heard before these arbitral panels. Methanex is seeking 970 million dollars. This is an outrage and an assault on our legal system. To add insult to injury, the drafter of the provision, now in private practice, readily admits that it was an intended consequence of NAFTA, rather an unintended consequence as most people believed it to be.

All cases finalized thus far have been either judged in favor of the business interest or settled out of court. The end result is a direct subversion of the right of people to protect from polluters the air they breathe, the water they drink, and the food they eat. In effect, this clause allows the democratic processes we hold so dear to be subverted.

Mr. Speaker, we must seek out ways to make trade compatible with conservation of the environment and by adhering to core labor and environmental standards that are both incorporated into the body of a trade agreement and enforceable.

A TRIBUTE TO MR. CAREY RAMIREZ

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mrs. LOWEY. Mr. Speaker, I rise in tribute to Carey Ramirez, one of the many true heroes who emerged from the devastation of September 11th.

Mr. Ramirez, a 25-year-old hospice nurse employed by the Hospice of New York and working out of the Margaret Tietz Center for Nursing Care Inpatient Hospice Unit, was on a bus, traveling to his NYU Nursing Education program at the time of the attack on the World Trade Center.

Seeing the smoke and flame, Mr. Ramirez urgently requested the bus driver to stop to allow him to investigate the situation. He was dressed in his nursing whites and carrying a stethoscope, and was anxious—like so many health care and rescue personnel—to help people in Lower Manhattan.

Mr. Ramirez, without hesitation or thought of his own well-being, found himself at the South Tower, identified himself to authorities and proceeded to look for individuals to assist. He was at 4 World Trade Center when the South Tower collapsed. With his own life in danger, he found and rescued two women, one of whom was blind.

Carey's heroic effort was captured by CNN and People magazine, and was also featured in U2's music video "Walk On". He was seen assisting both women—his arm locked with the arm of the blind woman, the other woman clinging to his backpack. All were covered with ash.

There were many such heroes on that terrible day. But what has impressed me about this young man is his continued unassuming demeanor and belief that he is not a hero—just a New Yorker who put other New Yorkers' well-being ahead of his own.

In my judgement, Carey Ramirez is a hero and I am pleased and honored to recognize him today.

TAKE THE FIELD REBUILDS HIGH SCHOOL ATHLETIC FIELDS IN NYC

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, on November 8 the House adopted the VA, HUD and Independent Agencies Appropriation Conference Report. This bill included an allocation of $500,000 for Take the Field, a tremendously worthwhile and effective program aimed at rebuilding the outdoor athletic fields of all New York City's public high schools.

I would like to thank the distinguished Chairman of the Appropriations Committee, Mr. YOUNG, my distinguished colleague from Wisconsin, Mr. OBEY, my distinguished colleague from New York, Mr. WALSH, the Chairman of the Veterans Affairs, HUD and Independent Agencies Subcommittee, and also the Ranking Minority Member, from West Virginia, Mr. MOLLOHAN, for their efforts in making this allocation possible.

I would also like to commend three extraordinary business and community leaders, Preston Robert Tisch, Richard Kahan and Tony Kiser, who founded this public/private partnership and have worked selflessly and relentlessly to promote its success. Thanks to their efforts, Take the Field is already off to a promising start. Seven outdoor athletic facilities—at least one in each borough—have already been rebuilt.

Take the Field is committed to rebuilding 52 of 60 outdoor facilities over a four-year period. The average cost of each field reconstruction project is $2 million, bringing the total cost just over $100 million. The $500,000 allocation that this bill provides will actually provide $2 million for Take the Field, thanks to the City of New York, which has provided this tremendous undertaking with a three to one challenge grant.

In the next few years, Take the Field can reverse more than a quarter of a century of neglect and deterioration of our public school athletic fields and provide students with access to a broad range of athletic activities that can improve their health, motivate their desire for academic excellence and keep them away from drugs and violence. The allocation contained in this bill will help accomplish this.

TRIBUTE TO SERGEANT DOUGLAS BAUM

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. HUNTER. Mr. Speaker, today, as our Nation's armed forces make America proud by fighting the war on terrorism, I wanted to recognize the parents of a young man who gave his life for our country during the war in Vietnam. Clayton and Eleanor Baum live in my district, in La Mesa, California. Their son, Sergeant Douglas Baum, was killed on November 18, 1967, in the central highlands of South Vietnam, Dak To.

Sgt. Baum was 20 years old and, according to author Edward F. Murray, founder and president of the Medal of Honor Historical Society, was one of the most popular members of the Army's 173rd Airborne Brigade, Alpha Company 503. As a soldier, Sgt. Baum had earned the Army Commendation Medal, the Bronze Star, the Silver Star and the Purple Heart. Sgt. Baum was due for rotation and had begun to send his belongings to his parents when he was killed defending the lives of those in his squad.

After Sgt. Baum's death, members of the 173rd Airborne contacted Clayton and Eleanor to let them know how much Douglas meant to them, praising his bravery and leadership. People like Sgt. Darrell Cline, who has stayed in contact with the Baums and arranged for them to attend several of the national events for the 173rd, and Tom Means, a member of Sgt. Baum's squad who searched 25 years to meet Clayton and Eleanor just to tell them how much he thought of their son.

Those who attacked us on September 11th have severely underestimated the resolve of today's forces who carry on the legacy of soldiers like Sgt. Douglas Baum. America's military follows a proud tradition of service and dedication. Like those that came before them they fight to defend our country and they sacrifice to preserve our freedom. Clayton and Eleanor, words cannot express the gratefulness we have for Douglas' sacrifice. On behalf of a grateful country and community we say thank you, his service has helped make America strong.

FROM INFAMY TO A BETTER WORLD, REVISITING PEARL HARBOR

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Ms. SCHAKOWSKY. Mr. Speaker, I rise in remembrance and observance of Pearl Harbor Day, a terrible day in our country's history. On this day, 60 years ago, the greatest generation was called into action. They answered this call, and changed the world forever.

On the morning of Sunday, December 7, 1941, the Japanese fleet crossed the Pacific Ocean. They attacked and crippled the US Pacific Fleet. The attackers bombed our docked ships, and a nearby military airfield. Eight American battleships and 13 other naval vessels were sunk or badly damaged, almost 200 American aircraft were destroyed and approximately 3,000 naval and military personnel were killed or wounded. The attack marked the entrance of the United States into the war.

The Axis Powers marched across Europe toward world domination. The tripartite represented one of the darkest and most evil forces the world has ever known. Nazi Germany had begun the systematic extermination of Jewish men, women and children. The Axis Powers moved to conquer, rule, and destroy to gain the world, under a flag of greed and hate.

American forces joined freedom-loving nations already fighting. Our soldiers fought valiantly from the shores of Normandy to the Battle of Midway. They fought not to show U.S. might, nor to win possessions. The American soldiers fought to preserve and protect the right of people to live freely.

In the years following the defeat of the Axis Powers, the world would change shape. Borders would open, stimulating a wave of freedom strong enough to tear down walls and break barriers. People from different corners of the earth would be connected like never before. America would build a strong relationship with Japan and its other, and unite much of the world to destroy the vice of communism.

Today, Americans look upon the events of December 7, 1941 in a new light. In retrospect, we understand the distant stare that beset our father's, mother's, grandfather's, and grandmother's eyes as they told stories of where they were, and what they were doing on that day 60 years ago. It is with new ears that we hear the trembling voices that described the terror and uncertainty that jolted the country when an enemy attacked us on our ground. It is with gratitude and the utmost respect that we remember those who fought, and those who were lost for the love of our nation.

We move forward more vigilant, more aware, and more determined. As we pay tribute to those we lost at Pearl Harbor, we stand with a new pride in America. Our hopes and prayers go out to those who are deployed, even now, to carry the torch in the fight for freedom. At the dawning of a new day of uncertainty, we can look to the American values of freedom, justice, and equality to lead us to peace and security. We remember the bravery of our soldiers that suffered so, to make our world better.

WELCOMING OF THE CAPITOL HOLIDAY TREE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. DINGELL. Mr. Speaker, I rise this afternoon to share with my colleagues the remarkable story of the 2001 Capitol holiday tree. The holiday tree is a sixty-seven year old, 74-foot white spruce, that was cut on the Ottawa National Forest in the Western Upper Peninsula, in the great state of Michigan. Tonight at 5:00 p.m., the Speaker will throw a switch and illuminate this magnificent tree for the world to see.

It is with a great sense of pride that I inform my colleagues that this is the fifth time that the state of Michigan has provided the Capitol holiday tree. This year's tree is aptly named the "Tree of Hope," and will be displayed on the lawn of the U.S. Capitol until early January.

Before arriving in Washington, D.C., the tree traveled throughout Michigan and stopped in 10 communities, including beautiful Monroe, in my congressional District.

The tree will be decorated with 6,000 handcrafted ornaments provided by Michigan residents. And I would draw my colleagues' particular attention to the beautiful ornament provided by Monroe County Community College, a fine institution of higher learning in Michigan's 16th District. The ornament was designed by Jerry Morse, the graphic arts designer at the college, and constructed by Matt and Pam Hart of Temperance. I ask my colleagues to join me in recognizing this fine craftsmanship.

The Tree of Hope is a beautiful symbol of Michigan's vision of peace and optimism for the new millennium. The people of Michigan have provided their unique wishes and dreams of a better tomorrow with the 6,000 handcrafted ornaments that will adorn the tree. It is a fitting message of peace for the holiday season.

I ask my colleagues to join me in recognizing the Capitol holiday tree from the great state of Michigan, and the magnificent ornament from Monroe.

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 2001

Mr. UDALL of New Mexico. Mr. Speaker, I believe that international trade is very important to improving our nation's economy and would gladly vote for a bill encouraging Fair Trade around the globe. I have been proud to cast pro-trade votes in this House before; however, I cannot support the Thomas bill, and I urge my colleagues to vote no. If given the chance, I would like to have an up or down vote on the Rangel substitute, but the Majority has produced an unfair, undemocratic rule, with little meaningful debate allowed.

I support trade agreements that provide important safeguards to protect the rights of American working families as well as the rights of our trading partners' workers. I also support trade agreements that protect the global environment. I cannot, however, support this Fast Track authority because it will weaken our ability to exercise our Constitutional duty to provide oversight of the executive branch. I believe that any special authority granted to the President should be conditioned upon certain basic requirements that the United States only enter into agreements that are mindful of the need to protect the workers in all countries participating in the agreement as well as the global environment. These safeguards must be in the core text of the bill, not promised in future negotiations.

I believe, though, that our debate today is about more than H.R. 3005. The Majority Party has failed to provide for our nation's immediate needs. Our country has many pressing, economic needs that remain unmet by the Leadership of this House. We must act now to raise the living standards of workers—both here at home, and abroad. The time to act is long overdue.

The Majority Party has done nothing to address many of those needs. It has done nothing to help the thousands of unemployed Americans who have lost their jobs in the Bush recession. It has done nothing to help workers with their emergency health care needs. It has done nothing to pass an economic stimulus that really helps working families.

I urge my colleagues to vote no on the Thomas bill, and I urge the Majority to give us a fair vote on a fair trade bill—the Rangel substitute.

AMENDING INTERNAL REVENUE CODE TO SIMPLIFY REPORTING

SPEECH OF

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MANZULLO. Mr. Speaker, of the many Federal regulations with which colleges and universities are required to comply, one of the most onerous is that associated with the HOPE scholarship and lifetime learning tax credit. Originally enacted as part of the Taxpayer Relief Act of 1997, the tax credits were intended to give parents back more of their hard-earned money, up to $1,500 for the first 2 years of college, so that they could better afford to send their children to school.

While we were successful in providing, this tax relief for students and families, we discovered an unintended consequence: an unfunded mandate burdening, colleges, trade schools, community colleges, and universities in the form of a reporting requirement administered by the IRS.

I became aware of this regulatory issue during the fall of 1997. I was discussing several concerns with Dr. La Tourette, president of Northern Illinois University. While talking about the merits of the HOPE scholarship, he dropped the bombshell on me and informed us of the new Federal requirements forcing all 6,000 institutions of higher education in this country to collect unprecedented information on their students and disseminate that information to the IRS.

I knew compliance with the reporting requirement would be expansive and expensive and would ultimately be borne by the very families that they were trying to help with the HOPE scholarship program. Both large and small institutions have been hit hard by the reporting requirement. The cost to schools to implement and abide by these regulations will soar into the hundreds of millions of dollars. And, of course, they will be passed on to the consumers of education, which are the parents and the students.

Since my conversation with Dr. La Tourette, I have worked with members of the higher education community and with Commissioner Charles Rossotti of the IRS to simplify the reporting requirements and ease the burden of the regulations on the colleges and universities of this country. Today, I am proud to say that H.R. 3346 is the product of a partnership that evolved between the IRS, the Treasury Department, the higher education community, and myself, and this can serve as a model for how we can positively impact higher education in the future by working together.

Specifically, while H.R. 3346 maintains the reporting requirement, the bill eliminates certain elements of the law such as reporting a third party's Social Security number, and changes others, such as allowing schools to report the amount students are billed or the amount they are paid. It is my hope that the simplifications instituted as part of H.R. 3346 will make the reporting significantly easier on colleges and universities.

Early estimates from Northern Illinois University predict that as a result of the passage of this bill, this school could avoid a one-time cost of approximately $90,000. This includes the costs of program computer systems to accommodate requirements included in the original legislation that are not included in the pending legislation, as well as what it would cost initially to implement Social Security number reporting of the taxpayer claiming the student as a dependent.

Additionally, the university would have incurred ongoing costs on an annual basis for solicitation and data entry of the student-reported information, and those costs are estimated at $30,000 a year. The University of California's system expects to save $1 million in the first year alone as a result of H.R. 3346. Overall, the savings the schools will attain as a result of this legislation are very significant. When we consider that most institutions of higher education would incur costs of similar proportion, the impact is particularly traumatic.

I would be remiss if I did not take a moment to heartily thank Commissioner Rossotti with whom we met on no less than three different occasions in order to fashion this legislation. I also want to thank Judy Dunn, Curt Wilson and Beverly Babers of the staff. I would like to thank Northern Illinois University, both former president Dr. La Tourette and current president Dr. John Peters and Kathe Shinham from the school for their insights and efforts as we have worked to craft this legislation. This bill is a memorial to Dr. Ruth Mercedes-Smith, former president of Highland Community College, who was killed in a car accident several months ago. Her support for our work was invaluable. Also, Dr. Chapdelaine of Rock Valley Community College, Dr. LaVista of McHenry Community College, Jacquelyn Ito-Woo of the University of California, and Mary Bachinger and Anne Gross of the National Association of Colleges and University Business Officers. All of these groups worked tirelessly together in order to craft the legislation. It took us 4 years to do it. During that period of time, the IRS worked with us, they withheld the implementation of these regulations because they knew that the goal was worthy. Lastly, I want to thank Sarah Giddens of our staff who, for 4 years, tirelessly worked on this legislation, dogging it dot by dot, i by i, in the hundreds of meetings, literally, that she had and the hours that she poured into this piece of legislation.

Mr. Speaker, it is a great piece of legislation. Instead of spending money on regulatory compliance, the schools can spend that money doing what they do best, and that is educating the kids.

TRIBUTE TO DANIEL HENRY PETITHORY

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. OLVER. Mr. Speaker, I rise today to honor Sergeant 1st Class Daniel Henry Petithory. Sergeant Petithory was killed December 5, 2001, while serving in the Army's Fifth Special Forces Group near Kandahar, Afghanistan as part of Operation Enduring Freedom. He was one of the first military casualties of the conflict in Afghanistan.

Sergeant Petithory was born and raised in Cheshire, MA, in northern Berkshire County. A graduate of Hoosac Valley High School, he enlisted in the Army upon graduating from high school in 1987.

He attended Air Assault School at Fort Rucker, AL, and later served as a military police officer stationed at Fort McClelland, AL. He was a member of the special reaction team at Fort McClelland.

Sergeant Petithory served in contingency operations in Kuwait, Haiti, Africa, and throughout southwest Asia. He became a Green Beret, and at the time of his death he was serving as a communications expert with the Fifth Special Forces Group stationed at Fort Campbell, KY.

He leaves behind his parents, Louis and Barbara Petithory of Cheshire, a brother, Michael, and a sister, Nicole.

Our Armed Forces were deployed to Afghanistan in our struggle against international terrorism, Daniel Petithory died to help bring freedom to the Afghan people, and he fought to guarantee the peace and security for all American citizens.

Daniel Petithory's death is a great loss for his hometown and his country. America owes him a tremendous debt for his work protecting our Nation and fighting terrorism. Sergeant Petithory's willingness to risk his life in service to his country demonstrates his courage and patriotism. His heroism will not be forgotten.

TRIBUTE TO JOHN H. "JACK" RUST, JR.

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to pay tribute to John H. "Jack" Rust Jr., who for the last 4½ years has represented Virginia's 37th House District in the General Assembly with flair and acumen. While Jack's tenure in the state House comes to an end in January 2002, his contributions to his constituents will remain for decades to come.

Elected to Virginia's House of Delegates in December 1996, Jack served on both the Joint Subcommittee to Study Revising the State Tax Code and the Finance Subcommittee Studying Tax Structure. From there, he championed a restructuring of Virginia's tax system because he saw an opportunity to bring a more equitable share of state revenues back to Fairfax County by changing the way income taxes are collected and distributed.

Quickly assuming a high-visibility position within the Assembly, Jack's clout came from his intelligence and legislative expertise. Understanding that legislating is about inclusion, not exclusion, Jack was able to move beyond the usual rhetoric of the political process and work with his Democratic counterparts to negotiate compromises and build coalitions that resulted in many legislative victories for Northern Virginia. Able to quickly grasp any situation and understand all of the nuances of a particular piece of legislation, Jack earned a rock-solid reputation for taking a quiet and measured approach to the most controversial of issues.

I also want to acknowledge Jack's efforts to bring new voters into the political process. He was a leading force behind the creation of the Commonwealth's first majority Hispanic district, and held dozens of town hall meetings with Asian, Latino, and African-American leaders. He encouraged the printing of sample ballots in Spanish and Korean. And he did these things without fanfare or bravado, because that was his style. This is the rare public servant who cares more about doing good than getting credit.

Mr. Speaker, in closing, I want to emphasize that Jack Rust, in only a few terms, has enough public accomplishments to last a lifetime. I know my colleagues will join me in congratulating and thanking Jack for all he has done for the city of Fairfax, Fairfax County, and the Commonwealth of Virginia, and wish him the best in his future endeavors.

SAFEGUARDING FREEDOM AND DEMOCRACY

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Ms. SCHAKOWSKY. Mr. Speaker, it is with great pride that I rise to honor and thank the U.S. Capitol Police for their around the clock commitment to maintaining the safety and security of the U.S. Capitol, Members of Congress and the thousands of staff and visitors who occupy the grounds daily.

On September 11, the USCP rose to the challenge. In the face of uncertainty and while our nation was under attack, the men and women of the Capitol Police remained behind as the Capitol compound was evacuated, while working to ensure our safety. On that day, every member of the House and Senate, staff, and visitors witnessed the bravery and commitment of the Capitol Police.

Today we mark three months since the terrorist attacks on the Pentagon and New York City. Since 9–11, twelve-hour days, six-day weeks, overtime and cancelled vacations are the norm, not the exception for the Capitol Police. This resolution, H. Res. 309, is a small token signifying that your dedication and personal sacrifices have not gone unnoticed. I thank you for your service to us, to our community and to our great nation and I urge all Members to vote in support of this important resolution.

GEORGE WILL ON "A PLAN FOR ARAFAT"

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. LANTOS. Mr. Speaker, last weekend was a particularly horrible chapter in the ongoing strife in the Middle East. In a wave of violence, Palestinian terrorist suicide bombers killed 25 innocent Israeli children, women, and men as they were going about their daily activities—walking in a pedestrian mall and riding a public bus. The terrorist organization, Hamas, has taken "credit" for these deplorable acts. Their targeting civilians of all ages and walks of life is part of their cowardly and vicious attempt to destroy the State of Israel. Such acts cannot be tolerated.

Mr. Speaker, George F. Will has written a particularly insightful piece in the December 4th issue of the Washington Post. He spells out the misguided and dangerous actions of Yasser Arafat and the Palestinian Authority which have prevented peace from being attained in that very volatile region of the world, and he stresses the need for Israel aggressively to protect herself.

Where hope for a peaceful Middle East settlement once existed after the Madrid Conference in 1991 and the Oslo Agreement in 1993, we now find an environment of hate for Israel and the United States which has been fertilized and nourished by such debacles as the United Nations World Conference Against Racism, which was held in Durban, South Africa last summer.

Mr. Speaker, I was present at Durban for this conference, and I fully concur with George Will's assessment that this was truly not a conference against racism, but rather a racist conference! I have rarely seen such anti-Semitic and anti-Israel venom spewed as I did at that conference. Because of the level of hatred and the lack of fairness, the United States Government walked out of the conference. I was greatly disappointed that we had no choice but to walk out because this was an opportunity to deal meaningfully with the many problems of racism, discrimination, and xenophobia which the world faces. Instead of addressing these problems, the conference was hijacked by Arab extremists determined to single out and politically punish Israel, our only democratic ally in the Middle East.

Mr. Speaker, I urge my colleagues to read George Will's excellent and thought-provoking article, and I ask that the text be placed in the RECORD.

[From the Washington Post, Dec. 4, 2001]

A PLAN FOR ARAFAT

(By George F. Will)

Coming from the territory for which Yasser Arafat is responsible, terrorists last weekend killed 26 Israelis, a portion of Israel's population that is equal to 1.240 Americans. America is projecting power halfway around the world to collapse the Taliban regime because it harbors terrorists. It would be disgusting for America to call for Israeli "restraint" and to disapprove if Israel cleanses its back yard of Arafat's Palestinian Authority regime that welcomes terrorists except when, to distract America, it yet again promises to pass a few through the revolving doors of PA jails.

It is time for a novel approach to the war between Israel and Arafat's Palestinian Authority. The approach should begin with wisdom from a Donald Westlake crime novel mordantly titled "What's The Worst That Could Happen?" Westlake's amiable crooks want to rob a Las Vegas Casino, but don't know how. One of them says he has a lot of ideas, but Westlake writes: "A whole lot of ideas isn't a plan. . . . Ideas without a plan is usually just enough boulders to get you into the deep part of the stream, and no way to get back."

The latest U.S. idea is to send retired Marine Gen. Anthony Zinni to pick up the shards of the last idea, which was to send CIA Director George Tenet to implement former Senator George Mitchell's idea for a cease-fire followed by a cooling-off period followed by "confidence-building" measures. The idea of the Mitchell plan is that neither side is to blame—neither Israel, which wants to exist, nor the Palestinians who do not want it to; neither the Palestinians who want to plant nail bombs on buses, nor Israel, which would prefer the Palestinians not do that. Rather, a mutual lack of "confidence" is to blame.

There is this much truth in that idea: the Palestinian Authority lacks confidence in Israel's willingness to commit suicide, and Israel lacks confidence that the PA will stop insisting on suicide as part of a "peace" agreement.

The idea behind dispatching Mitchell was to pick up where Dennis Ross left off. (Did you know that Donald Rumsfeld was special emissary to the Israeli-Palestinian conflict in 1983–84? There were many emissaries before him, and have been many since.) Ross's task, which he undertook with the energy and wisdom of a beaver, was to oversee the Oslo "peace process," which turned on Arafat's renunciation of violence. That process has required lots of overseeing, considering that terrorists have killed more Israelis in the eight years since Oslo began in 1993 than in the 45 years of Israel's existence before that.

The idea behind Oslo was for Israel to "take a risk for peace"—as though getting on a bus, visiting a pizzeria or disco, and walking down a street are not risky enough for Israelis. Israel would take a risk by yielding something tangible, control of land, for something intangible, Arafat's promises of peace. Israel did that. The current war refutes the Oslo idea.

The idea behind Oslo was to capitalize on the "spirit of Madrid," an Israeli-Palestinian conference convened in 1991, in the aftermath of the Gulf War. The idea behind Madrid was. . . . Does anyone remember?

You must remember this. On Aug. 31, Arafat, world's senior terrorist, did a star turn—at one point strolling with America's senior friend of terrorists, Jesse Jackson—in Durban, South Africa, at a U.N. orgy of hate directed against Israel and the United States and bearing an Orwellian title: World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. It was the kind of sewer of ideas that prepares the climate for the sort of things that happened in America 11 days after the conference opened, and what happened last weekend in Israel.

Now Israel should be as bold in its self-defense as America is being in its. In 1982, Israel drove Arafat and his thugs from Lebanon to Tunisia. He and his thugocracy have earned another expulsion from the eastern end of the Mediterranean. If he cannot control his territory, it is in anarchy and Israel must subdue it. If he can control it but won't, he has earned expulsion under the principle America cites in expelling the Taliban from power.

If expulsion strikes the U.S. State Department as, well, immoderate, here is a moderate version of the idea. When next the peripatetic Arafat flies off to visit world capitals, Israel should not let him come back: He cannot land in PA territory if Israel does not let him.

That is more than an idea. It is a plan.

IN HONOR OF STEPHEN V. BARBARO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Stephen V. Barbaro in recognition of his commitment to his community.

Stephen V. Barbaro was born and raised in New York City. He went to Midwood High School. After graduation he went on to receive his bachelor's degree from St. John's University. Following college, he received his Juris Doctorate from Brooklyn Law School. He is married to Margaret L. Pecoraro. Margaret is also an attorney. They are the proud parents of three wonderful children, Stephanie, Katherine, and Stephen Joseph.

Stephen has been a practicing attorney for almost twenty years. He is a partner in Alter & Barbaro, Esq., a well-known law firm with offices in Canarsie and Brooklyn Heights. He is engaged in a general practice, which include real estate, landlord tenant law, and general litigation.

Together with his partner, Mitch Alter, Stephen has been involved in numerous community activities and programs. They have a high school internship program; a minority scholarship program; and a computer literacy program. Their voluntary activities are designed to provide young people with increased opportunities as well as a chance to learn real world skills.

Mr. Speaker, Stephen V. Barbaro has been a dedicated community businessman and active volunteer during his twenty years of practicing law. As such, he is more than worthy of receiving our recognition today. I urge my colleagues to join me in honoring this truly dedicated man.

THE HEALTH CARE SAFETY NET IMPROVEMENT ACT OF 2001

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. UPTON. Mr. Speaker, I rise in strong support of the Health Care Safety Net Improvement Act of 2001. This legislation reauthorizes the Consolidated Health Centers program, the National Health Service Corps, and several programs vital to access to care in rural America. It also provides statutory authority for and direction to the Health Resources and Services Administration's Office for the Advancement of Telehealth and provides for a study on overcoming the barriers that many migrant farm workers and their families experience in seeking health care services as they move from state to state. Taken together, these programs and activities will help to strengthen our nation's health care delivery system by improving access to care and quality of care in our rural and inner-city medically underserved communities.

Health centers are located in 3,000 rural and urban communities throughout the country and provide quality primary and preventive health services to over 10 million low-income and uninsured patients. With the number of uninsured in this nation growing by more than 100,000 per month, it is estimated that 53 million people will lack health insurance by 2007. Health centers have played and will continue to play a vital role in addressing this serious problem.

We are fortunate in my Southwest Michigan district to have two strong networks of community and migrant health centers providing care to over 40,000 people. These centers and the people they serve benefit greatly from the doctors and dentists who are participating in the National Health Service Corps Loan Repayment program.

As Chairman of the Energy and Commerce Committee's Telecommunications and the Internet Subcommittee and a senior member of its Health Subcommittee, I have been particularly interested in the role that rapidly emerging telehealth technologies can play in increasing access to care and quality of care in rural and inner-city America. I was pleased to work with my colleagues on the Committee to include provisions in the Health Care Safety Net Improvement Act formally authorizing the Office for the Advancement of Telehealth (OAT). The OAT is currently the focal point for the telehealth activities and programs across federal agencies. It was instrumental in the formation of the Joint Working Group on telemedicine, for which it provides both leadership and staffing.

One of the greatest barriers to recruiting physicians to our rural communities is the sense of isolation they may feel in their practices. Telehealth services can address that barrier by linking rural primary care physicians and their patients with specialists in major medical centers across the nation. Further, one of the looming threats to access to care and quality of care is the growing shortage of nurses, pharmacists, and clinical laboratory personnel. Telehealth services can address this problem by bringing education and training programs right into local communities.

I hope everyone will join me today in strongly supporting the Health Care Safety Net Improvement Act. This bipartisan, thoughtful and innovative legislation will improve access to care and quality of care for millions in urban and rural America.

IN HONOR OF DARREN PEARSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise today to honor Mr. Darren Pearson in recognition of his community service as well as his successful real estate businesses in Brooklyn and Queens, NY.

Mr. Pearson's businesses include a full-service real estate firm, apartment building management, and construction and maintenance. Before becoming involved in real estate, Darren worked as an account executive for Amergold Corp. He also worked for Vanguard Oil as a fuel salesman in the commercial and barge departments. His duties included fuel sales to Con Edison, PSE&G, and LILCO. He was subsequently promoted to director of public relations for Vanguard and was responsible for the home oil transfer program, which provided oil to needy families at either a discount or no cost. His success in that position led to his promotion to vice president of procurement and industrial sales for Vanco Oil Co., a subsidiary of Vanguard.

Darren is active in the Brooklyn and Manhattan communities. He is the chairman of the Men's Caucus for Congressman TOWNS, a member of 100 Black Men, Inc., and New York State Senator David Patterson's Progressive Professional Network. As a young businessman, Darren hires and trains college-bound students as trainees in real estate management and office administration.

Mr. Speaker, Darren Pearson is a young entrepreneur committed to working with his community and promoting opportunities for others. As such, he is more than worthy of receiving this recognition, and I urge my colleagues to join me in honoring this remarkable man.

IN HONOR OF ERNEST A. SAMPSON III

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Ernest A. Sampson, III, in recognition of his dedication to his community.

Ernest A. Sampson, III, was born in New York City. He is the youngest of three children born to Fay and "the late" Ernest Sampson. He received his early education in the New York City Public School System. He graduated from Cardinal Hayes High School in the Bronx, and went on to receive his Bachelor of Arts Degree in Funeral Service Administration from St. John's University in 1986. During his junior year, he attended the American Academy McAllister Institute. During his senior year, he apprenticed at his grandfather's funeral home "The James H. Willie Funeral Home, Inc."

Ernest is a Master Mason hailing from African Lodge 459#63 in Brooklyn, NY. He receives his religious instruction from the Lord Jesus Christ through Archbishop Roy E.

Brown, Pastor of Pilgrim Assemblies International.

Ernest with the support of his mentor, James H. Willies, established Sampson Funeral Service in March of 1993. Being committed to community service, he conducts numerous seminars, educating people on city burial programs and what do when the Lord calls someone home, Ernest has also spoken at several public schools to young children on their career day. In early 2001, Ernest cited by the Mayor and Councilwoman Annette Robinson as a "Man Of Courage." Ernest is the proud husband of Debbie Sampson and the proud father of Ernest IV, Sheniqua, Alyssia, Tiara and his spiritual daughter, Alexis.

Mr. Speaker, Ernest A. Sampson, III is a hard working man of God, dedicated to his family and his community. As such he is more than worthy of receiving our recognition today. I urge my colleagues to join me in honoring this truly remarkable man.

STATEMENT IN SUPPORT OF THE NURSE REINVESTMENT ACT

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. PITTS. Mr. Speaker, I rise in support of this important legislation, the Nurse Reinvestment Act, to help relieve America's nursing shortage.

Every American should be concerned about the growing shortage of nurses. Just as more Americans are reaching their golden years, fewer nurses are graduating from nursing schools to provide them the quality health care they earned and deserve.

Less well known, but of equal severity and concern, is the fact that there is a shortage of nurse anesthetists in America. Certified Registered Nurse Anesthetists, or CRNAs, provide 65 percent of anesthetics in the U.S., and are the sole anesthesia provider to 70 percent of U.S. rural hospitals. They are the military's predominant anesthesia provider, especially on U.S. Navy ships and at forward-deployed locations, serving our men and women in uniform as we are united in America's war on terror. They are registered nurses, who go on to complete masters-level education and certification in nurse anesthesia, and are considered a type of advanced practice nurse, licensed to practice in all 50 states. America's 28,000 CRNAs meet the most stringent continuing education and recertification requirements in anesthesia care. And with all this, the Institute of Medicine reported in its landmark survey of medical errors, To Err Is Human, that anesthesia care is 50 times safer than 20 years ago.

And there are not enough CRNAs today. The growth in the number of Medicare-eligible Americans compounds the growth in the number of surgical procedures requiring anesthetics. A 2001 survey of nurse anesthetist managers reported a 250 percent increase in CRNA vacancies among those managers reporting vacancies just since 1997. America's 83 accredited schools of nurse anesthesia are graduating more CRNAs, just not enough to keep up with growing demand. In real life, this means surgeries get delayed, operating rooms lie unused, and hospitals and patients suffer, for a lack of a sufficient number of nurse anesthetists. We simply need to educate more of them.

This important legislation helps relieve the nursing shortage, and the CRNA shortage, in several important ways. It expands the authorization of the existing Nurse Loan Repayment program, so that nurses, including CRNAs, can work off their obligations in a greater range of health care sites with shortages, such as rural hospitals, Ambulatory Surgical Centers, and Critical Access Hospitals. It authorizes scholarships for nurses, including CRNAs, who agree to work in shortage areas. It provides important new incentives to educate nursing faculty, and to reach out to young people with the information they need to consider nursing as a positive, challenging, and life-changing career that is both economically secure and flexible.

This is only the beginning of our work on relieving this critical shortage. In 2002, Congress is due to consider reauthorizing of existing nurse education programs, Title VIII of the Public Health Service Act. I hope that as we reauthorize the Title VIII programs, we can look for creative ways to expand the number of nurses in America, while growing our ranks of advanced practice nurses such as nurse anesthetists.

I want to thank several Members for their excellent work on this bill; Chairman BILLY TAUZIN and Ranking Member JOHN DINGELL of the Energy and Commerce Committee and Chairman MICHAEL BILIRAKIS and Ranking Member SHERROD BROWN of the Subcommittee on Health, as well as Congresswomen KELLY and CAPPS, original cosponsors of this legislation.

IN HONOR OF RAYMOND T. PEEBLES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Raymond T. Peebles in recognition of his commitment to using his architectural skills to keep building his community in a positive direction.

Raymond T. Peebles is a long time resident of Brooklyn. He is also a registered architect in New York and Connecticut. He sees his profession as serving the various communities of New York City. Established in 1972, his firm, Peeble Architect PC, has worked with community groups in the design of new housing developments, churches, and the renovation and rehabilitation of brownstones. Over the years the firm has expanded its expertise to include health facilities, cabarets, and multiuse structures. To fulfill the demand for childcare centers and houses of worship, Mr. Peebles created a division of his firm exclusively for the design and construction of churches and day care centers.

Community groups that have worked successful with Mr. Peebles include the Northeast Brooklyn Housing Development, West Harlem Group Assistance, Prince Hall Mason and Miracle Makers, Inc. Raymond is active in professional organizations such as the American Institute of Architects where he is a corporate member, and the Brooklyn Chapter of the American Institute of Architects. He also serves on the Metrotech Advisory Board, and the Mayor's Small Business Advisory Board as well as the Association of Minority Businesses & Contractors.

Raymond is also active in his community serving on Community Board #9 and on the Board of the Magnolia Tree Earth Center. His goal is to establish an entrepreneurial environment for creative self-development with the community.

Mr. Speaker, Raymond T. Peebles is a successful businessman who has a vision for his community and he is acting on that vision. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly community oriented business leader.

IN HONOR OF VIVIAN YVETTE BRIGHT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Vivian Yvette Bright in recognition of her tireless work and dedication on behalf of her church and her community.

Vivian Yvette Bright wears numerous hats. She is committed to the never-ending fight for her community and the development of our youth. She believes that it is important to try and do as much as you can for as many as you can for as long as you can. This is illustrated by her exhaustive list of associations. Vivian is a life member of Zeta Phi Beta Sorority, Inc. and past President of Delta Alpha Zeta Chapter; life member of the National Council of Negro Women; Chairperson of the Board of Directors of the Cypress Community Day Care Center; Trustee of Addiction Research & Treatment Center/Urban Research Institute; member, Board of Directors of the Brooklyn NAACP; Community Board #5 Vice President and Chair of the Land Use Committee; President of the Leadership Council of Open Communities of Brooklyn, Inc.; Business Manager of the Concerned Women of Brooklyn—among many other affiliations. In addition, since 1989, she has served as the Business Administrator and Director of the Community and Family Life Center of the Berean Missionary Baptist Church.

Vivian has also received countless awards for her outstanding work—some of which include: Brooklyn Navy Yard Community Leadership; the Lucille Rose Humanitarian Award—NAACP; Governor Carey International Year of the Child Award; New Horizons Village Homeowners Leadership Award; as well as a long list of awards from New York's many distinguished elected officials.

Vivian is a remarkable woman with unbelievable stamina; her many successes and honors come from hard work and a strong education. She received her Masters of Science in Human Resources Management from the New School for Social Research; she graduated in the first class of the Pratt Institutes Community Economic Development Program; and also holds a BS in accounting; Vivian is also listed in "Who's Who of American Women". On top of her many other accomplishments, Vivian is a proud wife and mother receiving constant support from her husband of 42 years, Lonnie Bright and their children, Gary, Teresa, Marvin, Jamal, and Tiffany.

Mr. Speaker, Vivian Yvette Bright is a tireless leader in her community. As such, she is more than worthy of receiving our recognition. I urge my colleagues to join me in honoring this truly remarkable woman.

EXPRESSING SENSE OF CONGRESS HONORING THE CREW AND PASSENGERS OF UNITED AIRLINES FLIGHT 93

SPEECH OF

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 2001

Ms. PELOSI. Mr. Speaker, I am honored to be a cosponsor of this resolution memorializing the heroic crew and passengers of United Airlines Flight 93.

On September 11, as the fourth hijacked airplane, United Flight 93, flew west and then southeast, the passengers called friends and family on the ground. They learned the terrible news: hijackers had crashed three other airplanes into the World Trade Center towers and the Pentagon. They knew their plane would also be turned into a fearsome weapon.

The hijackers underestimated the indomitability of the American spirit. We may never know the whole story of the events on Flight 93 after the hijackers seized control. However, the phone calls and the cockpit voice recorder have given us the heart of it: the passengers and crew knew they had to act, and they did. They talked, and they prayed, and then they rushed the cockpit to try to stop the hijackers. A few minutes later, the plane crashed to the ground in rural Pennsylvania.

The nation salutes the crew and passengers of Flight 93 for their bravery in the face of overwhelming danger and almost certain death. If the flight had continued on its path toward the Nation's Capital, many more lives would have been lost. We might also have lost either the U.S. Capitol or the White House, the most powerful symbols of our nation, and known the world over as symbols of the world's greatest democracy.

I especially wish to acknowledge the heroism of Mark Bingham from San Francisco. Six feet five inches tall, Mark had played rugby in college. At thirty-one years old, he was CEO of his own public relations firm. On the street late one night, he had wrestled a gun from the hands of a mugger. He was a risk-taker, a man who lived life to the fullest. I had the opportunity to join his partner, Paul Holm, and his family and friends in celebrating his life at a memorial service in San Francisco. Our hearts go out to them for their loss of this brave man.

House Concurrent Resolution 232 expresses the sense of the Congress that the United States owes its deepest gratitude to the passengers and crew of Flight 93, and calls for the placement of a memorial plaque on the grounds of the U.S. Capitol. It is with both great sadness and deep appreciation that I cast my vote for this resolution.

IN HONOR OF FR. JAMES E. GOODE OFM, PH.D.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Father James E. Goode, OFM, Ph.D. in recognition of his dedication and commitment to his community, his faith, and in his work in the battle against AIDS.

Father James E. Goode, OFM, Ph.D. is the leading Black Catholic Evangelist in the United States. He is known as the Dean of Black Catholic Evangelists having preached the first Black Catholic Revival in America (1974). The first Black Catholic Revival was held at Our Lady of Perpetual Help Church in the Archdiocese of Chicago. Father Goode has preached all over the world and is one of the most sought after African American Catholic priests. Father Goode and Rev. Jesse Jackson preached at the Vatican during the Black American Voices in Rome celebration, an event that was sponsored by the Vatican and the City of Rome.

Father Goode was an elected member of the New York City Community School Board in District 16 for two terms. He was the former President of the San Francisco Housing Authority Commission. He also headed the first San Francisco Mayor's Task Force on Drug Addiction and served as a Commissioner for Children, Youth and Families. He was also a Commissioner for the San Francisco Delinquency Prevention Commission, as well as the San Francisco AIDS Council.

Father Goode is a native of Roanoke, Virginia and a proud Franciscan Friar of the Order of Friars Minor, Province of the Immaculate Conception in New York City (ordained May 13, 1974, NYC). He has earned his Doctor of Philosophy, with a major in Psychology, from Union Graduate School, his Master of Theology, from the University of the State of New York, St. Anthony Theological Seminary, his Master of Divinity, from the University of the State of New York, St. Anthony Theological Seminary, his Master of Arts in Educational Psychology: from the College of Saint Rose, Albany, New York, and his Bachelor of Arts, from the University of the State of New York, Immaculate Conception Seminary.

He was the Founding Pastor of the Faith Community of Black Catholics, Our Lady of Charity (1974) in the Diocese of Brooklyn. Under his leadership this declining parish came alive and became authentically Black and Catholic. Our Lady of Charity became a model for Black Catholic worship, education, community outreach and ecumenism. Father Goode assisted the larger Black Catholic Community of Brooklyn by serving on many boards and councils. He was the first chairman of the Office of Black Ministry in the Diocese of Brooklyn. By God's grace and mercy and through Father Jim Goode's gift of preaching and healing, thousands have come home to the Catholic faith. His motto: "Blessed Assurance Jesus is mine and no matter how hard the task or how difficult the moment I am ready to go in your name". He is a longtime activist and leader of Social Justice and Peace. His untiring efforts to combat and correct some of society's most urgent problems have been his life's mission. This activism has led him to develop the 1st Annual AIDS Summit for Black Catholics on Saturday, December 1, 2001. The theme of the conference is: "Lift every life, help is on the way."

Mr. Speaker, Franciscan Father Jim Goode's entire priestly life has been dedicated to the spiritual and psychological growth and development of his people. He is a voice for the voiceless in their quest for human rights. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable man.

DENNIS O'DELL: VETERANS COME FIRST!

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. FILNER. Mr. Speaker and colleagues, I rise today to recognize and honor Mr. Dennis O'Dell of San Diego County who has been selected as the winner of the 2001 Maxine Waters Award for Courage, to be presented by AMVETS Post #66 on January 12, 2002 in Cathedral City, California.

Dennis O'Dell is a resident of my Congressional District. He was born in September, 1949 in Maryville, Missouri to Doris V. Shell O'Dell and Norman C. O'Dell. His father was awarded the Purple Heart, the Bronze Star, and the European-African-Middle East Theater Campaign Medal, along with others honors. Dennis was raised in El Segundo, California and attended El Segundo High, El Camino College in Torrance, and Penn Valley College in West Los Angeles.

He served in the United States Marine Corps and received his honorable discharge in 1969. He began a career as a policeman in Missouri in 1979 and, after being wounded three years later, he became a business owner in Missouri.

However, his roots were calling him back to California, and he returned in 1983, working for a Security Company in Beverly Hills and for the Santa Monica Airport Police. In 1986, he went to work for the Department of Veterans Affairs as a Police Officer, was promoted to Police Detective a year later, and to Criminal Investigator in 1993. While working on criminal cases at the West LA VA Medical Center, Long Beach VA Medical Center, and the Sepulveda VA Medical Center, he had a conviction rate of 90%. He retired from the VA Police Department in 1995 after re-injuring his old wound while arresting three suspects who were attempting to sell drugs on the VA hospital grounds, and he has dedicated the past several years to veterans' causes. He is also a champion of the rights of workers, serving for several years as Union President/Business Agent of American Federation of Government Employees (AFGE), Local 1061, at all veterans' hospitals in Southern California. He won 90% of his labor grievances with management during his term and helped to bring the Union local out of trusteeship and return it to the members.

Dennis has been a Life Member of the California Narcotic Officers Association and of AMVETS Post#2 in Culver City. He is a member of the VVA Chapter #53 in Redondo Beach, the American legion Post #46 in Culver City, the Marine Corps League of San Diego East County, the Hermosa Beach Veterans Memorial Commission, the AMVETS National Committee on Homeless Veterans, the Advisory Committee of the VA Greater Los Angeles Health Care System, and the Los Angeles County Veterans Advisory Committee. He has held elective office of the California Democratic Veterans Caucus.

He serves on the Board of New Directions, a long-term program for homeless veterans with drug and alcohol addiction with a spectacular success rate of 85%. He helped New Directions raise $5 million to restore a 60,000 sq. foot, three story building with the assistance of Congresswoman MAXINE WATERS and Senator DIANNE FEINSTEIN, and helped to guide the donation of a new state of the art kitchen by AMVETS Department of California Service Foundation.

Dennis is immediate Past State Commander of AMVETS, which has over 10,000 members in California. During his term, more women, people of color and gays joined AMVETS than any period in history. He also served AMVETS as Post #2 Commander, District 2 Finance Officer, Southern Area Commander, California Department Commander, and Trustee of the AMVETS Department of California Service Foundation.

Through his participation in these many organizations, his achievements for veterans are too numerous to mention. He helped to get Veterans' Memorials in Hermosa Beach and in Palm Springs, and wheel chair buses for the VA in West Los Angeles and for the State Veterans Home in Chula Vista. He has handed out over 4000 blankets to homeless veterans, he started a web site for California AMVETS, and helped in writing a Veteran Plank for the California Democratic Party Platform.

The Maxine Waters Award for Courage, which Dennis is receiving, is named for Congresswoman MAXINE WATERS, Representative of California's 35th Congressional District who has been invited to attend the award ceremony. Dennis made headlines when he gave a key to Congresswoman WATERS so she could make an unannounced inspection of a VA hospital locked-down psychiatric ward. The Congresswoman found the conditions deplorable, and sweeping reform took place. Dennis has shown other courageous action by walking with MAXINE WATERS and the Rev. Jesse Jackson, with the news media, from his union headquarters to the Director's Office of the West Los Angeles VA Medical Center to hand over thousands of pages of documents to the Director showing the alleged misappropriation of funds and misuse of VA land at this Medical Center. He undertakes these courageous actions despite the fact that he has had severe heart problems.

As a Member of the House of Representatives Veterans' Affairs Committee, I thank Dennis O'Dell for his dedication and for his achievements on behalf of our nation's veterans. I am pleased to recognize Dennis O'Dell for his service to veterans and to congratulate him as the recipient of the Maxine Waters Award for Courage.

IN HONOR OF MARCUS R. HABEEB

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Marcus R. Habeeb in recognition of his dedication and commitment to creating funding opportunities for those in need.

Marcus R. Habeeb is a proud product of New York's education system. As he tried to decide on a career path, he received a paralegal certificate from Adelphi University. Once he recognized that the law was not for him, he changed his focus and received a Finance degree from Baruch College, followed by a Master's of Business Administration from the same institution.

Over the past twenty years, Marcus has developed and broadened the scope of his expertise. Beginning in 1980, as an Accounts Receivable/Computer Operator, Marcus has steadily increased his responsibility and broadened his portfolio. He followed his first job, with a position as an Assistant Controller, where he was responsible for the financial management of a fine jewelry manufacturer. A few years later, he moved on to a position as a Chief Financial Officer, for a company in a difficult financial situation. Marcus was able to work with the bank and other creditors to recover potentially large losses. He moved from this position to Senior Vice-Presidency for a financial institution. While there he built a small Asian bank into a very important player on Wall Street. In his next position, he expanded his scope of responsibilities yet again, as the Operations Manager for Hometrust Mortgage Bank. While there, Marcus began to focus increasingly on marketing strategies, investor relations, and home mortgages. He has used this experience, most recently, in creating his own business, P & R Funding. Finally, Marcus is able to bring together all of the knowledge that he has accrued over his twenty year journey to independence to focus on developing financing and business products for those in need.

Marcus is also the proud husband, of fifteen years to Annie, and the father of two children.

Mr. Speaker, Marcus R. Habeeb has dedicated himself to business and his community. As such, he is more than worthy of receiving this recognition today and I urge my colleagues to join me in honoring this truly remarkable man.

IN HONOR OF JAMES BUTLER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of James Butler in recognition of his lifetime of outstanding service.

Jim Butler, is the President of a 10,000 member union, Local 420 Municipal Hospital Workers Union, DC 37, AFSCME, AFL–CIO. He has had a lifelong interest in the living and working conditions of the people around him. For over 40 years he has played a leadership role in the struggle to improve those conditions.

Since beginning his career at Local 420 as a union organizer in 1954, Butler has been a tireless fighter for better pay, health, education and other benefits for hospital employees. Gains for workers in these areas are the most obvious marks of his leadership. "I never felt better," said President Butler," than when we were able to win respect for hospital workers."

Over the last several years, Jim Butler and his local have waged a battle against threats to privatize public hospitals in New York City. The Local saw their efforts pay off with a victory in stopping the privatization of Coney Island Hospital, and the recent victory in saving Brooklyn Central Laundry, and 200 member jobs with no layoffs. Jim Butler is currently engaged in a boycott at several hospitals against the contracting out of employee cafeterias to fast food operation such as McDonald's and Burger King.

No less important, however, are his contributions to the community which the hospital workers serve. Butler has been the driving force behind the union's frequent demonstrations and rallies for social justice. Under his leadership, Local 420's political action also makes itself felt in voter education and registration drives. Annually the Local registers thousands of voters and directly involves hundreds of union members in political campaigns. The Local was a key supporter in the historic campaign to elect the first African-American Mayor of the City of New York, the Honorable David N. Dinkins.

Jim Butler has long been part of the struggle for equal opportunity for minorities within the labor movement through active membership in the Coalition of Black Trade Unionists, PUSH, NAACP, Urban League, and SCLC Labor Committees. He served on the executive board of CBTU's New York Chapter. He also served as a member of the New York Consumer Assembly's Board of Directors.

Butler is the recipient of numerous awards and honors from civil rights, labor and community organizations, including the Labor Committee of the NAACP, the New York and Jamaica (Queens) chapters of the NAACP, the CBTU New York Chapter, Memphis Municipal Workers Local 1733, the Coalitions of Labor Unions Women, New York State's Black and Puerto Rican Caucus, the Hispanic Labor Committee, the Harlem YMCA, Queensborough Women's Clubs, the Negro Labor Council, the Community Leadership Network, and Central Baptist Church's honoree for Outstanding Christian Leader.

Jim Butler has been the President of Local 420 for 27 years and on August 18, 1999 he was elected as a International Vice President to the "mother union", AFSCME. Jim resides in Astoria, Queens, NY with his wife, Eloise.

Mr. Speaker, because of his dedication to helping health care workers and fighting for social justice, Jim Butler is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable leader.

IN MEMORY OF BONNIE SCANLAN

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. BECERRA. Mr. Speaker, I rise today to pay a heartfelt tribute to Bonnie Scanlan, a dear friend and civic-minded individual who worked tirelessly for the community of Echo Park in the City of Los Angeles, California. On Sunday, October 7, 2001, we lost Bonnie after a characteristically valiant fight for life following a massive heart attack. Bonnie was laid to rest Saturday, October 13, 2001 at Rose Hills Cemetery in Whittier, California; we are comforted knowing that today she rests in peace.

Bonnie Susan Gerzofsky was born in Brooklyn, New York on January 28, 1946 to Molly and Leonard Gerzofsky, already parents to toddler Stan. When she was in the fifth grade her family moved to Alhambra, California. From All Souls Catholic School and San Gabriel Mission High School, Bonnie went on to graduate from Pasadena City College and then become a social worker for the County of Los Angeles.

She later married John Scanlan, together raising their three children Johnna, John and Stephan. Bonnie was a very hands on mom; she passed on her family's love of baseball to her boys, teaching them how to catch. She passed on the importance of community involvement to her children, as Bonnie's mother had to her, serving as Troop Leader during her daughter's days in the Brownies and the Girl Scouts. Bonnie was very proud of her family, especially her grandsons Christopher and Tommy. Perhaps the only love equal to that for her family, baseball and helping others was Bonnie's love for her ancestral homeland of Ireland.

Ownership in a Domino's Pizza brought Bonnie to the community of Echo Park in the late 1980's. Even though Bonnie remained a resident of the nearby city of San Gabriel, she felt that as a business owner in Echo Park she had a responsibility to the community and its people. Bonnie's contributions are countless: helping to organize the Echo Park Pride Day, donating a monthly "Pizza Night" to the Chris Brownlie AIDS Hospice, holding a food drive at her pizza establishment every year during the holidays, feeding hungry police and firefighters during times of tragedy and crisis, and bringing the Los Angeles Philharmonic Musicmobile to the children at Mayberry School. It seems you could always count on her to support any cause that helped young people in the neighborhood and, of course, to dole out those pizzas whenever and wherever the need arose.

In 1998 Bonnie was elected President of the Echo Park Chamber of Commerce, a position she held at the time of her death. She invigorated the Chamber: reviving the community Holiday Parade, instituting the Jackie Finer-Reed Scholarship, starting the Echo Park business district's "Face Lift" program, and organizing the yearly Echo Park Night at Dodger Stadium. And, yes, there were always pizzas at every event.

I feel deeply privileged to have known Bonnie. She was a trusted friend. She was blessed with a kind, honest heart. And, as all who knew her will attest, she spoke her mind. How I miss that. . . .

On December 9, 2001, the community of Echo Park paid tribute to Bonnie Scanlan by dedicating this year's Holiday Parade in her memory. Bonnie served posthumously as Grand Marshal with her family riding the parade route in her stead. The people of Echo Park may not realize it, but Bonnie always felt that the community did more for her than she ever did for the community.

Mr. Speaker, it is with great pride, yet profound sorrow, that I ask my colleagues to join me today in saluting Bonnie Scanlan, an exceptional human being. She left us too soon, with so much to do and so much to say. I will forever remember this beloved friend fondly.

IN HONOR OF AUDREY LEE JACOBS, MBA, JD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Audrey Lee Jacobs in recognition of her outstanding service to the community.

Audrey Lee Jacobs, MBA, JD is the President and CEO of Lyndon Baines Johnson Health Complex, Inc. In her short tenure, LBJ has made significant gains. Due in large part to Ms. Jacobs' strong business acumen, commitment and leadership, LBJ has earned an 11% increase in patient visits and produced a profit in fiscal year 2000—the first such increases in a number of years; established financial and operational, established a staff development and training program with Medgar Evers College and Wyckoff Heights Medical Center.

This child of Brooklyn's 10th Congressional District, having spent a number of years working throughout the United States for several of the world's largest corporations, is pleased to have returned to serve the community in which she was born. Ms. Jacobs attended the New York City public school system, graduating from Andrew Jackson High School as one of the top students in her class. She attended Vassar College on a full scholarship and majored in psychology.

Along the way, Ms. Jacobs developed a keen interest in business as she watched her entrepreneurial parents establish and run their own small businesses. When asked why she chose a business career, Ms. Jacobs remarked, "I have always found business to be an exciting, challenging and rewarding environment where I could use all of my talents and enjoy myself at the same time". She began her career in marketing working for several multi-national corporations, including Mobil Oil Corporation and AT&T. In 1985, with those experiences under her belt and the desire to expand her knowledge in business, Ms. Jacobs entered one of the top business schools in the country, the University of Texas at Austin. In 1988, when she was awarded the Master in Business Administration degree from the University, she decided to enter a law school instead of immediately re-entering the corporate world. In the fall of 1988, Ms. Jacobs enrolled in the law school of her choice, Columbia University School of Law.

Having studied corporate law, Ms. Jacobs "cut her teeth" at two prestigious Park Avenue law firms. Shortly after receiving the Juris Doctor Degree from Columbia in 1991, Ms. Jacobs joined the mayoral administration of David N. Dinkins. Serving as an assistant to the president of the NYC Health & Hospital Corporation. When the Dinkins administration ended, Ms. Jacobs returned to the practice of law.

Though the years, Ms. Jacobs has been active in the alumni associations of Vassar and Columbia Law School; and she has raised funds for many community and political organizations. She has acted as a mentor to countless youth and has served as a volunteer lawyer with legal clinics representing the poor.

Mr. Speaker, Audrey Lee Jacobs is a Brooklyn success story. She has spent many years building an exemplary academic record and professional career and now she has come home to Brooklyn to share her success with her home community. As such she is more than worthy of receiving this recognition and I urge my colleagues to join me in honoring this truly remarkable woman.

IN HONOR OF JEHNEL DENISE BANNISTER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Jehnel Denise Bannister in recognition of her religious commitment and service to her community.

Jehnel Denise Bannister was born on January 28, 1967. She was raised by her mother, Dolores Autry, and is the older of two children. She graduated from St. Augustine's College in Raleigh, North Carolina, in 1989 where she received a Bachelor of Science Degree in Business Administration. Jehnel is currently employed as a Vocational/Recreational Counselor for the Project Return Foundations Women's Day Treatment Program.

In 1991, she became a member of the New Canaan Baptist Church under the leadership of Rev. Richard J. Lawson. Jehnel is also very active in her community in many other ways; she is a member of the A.L.C. Coral Ensemble, the Putnam Avenue Block Association, and a supervisor of the Youth United in the Body of Christ (which is a body of young

Christians trying to make a difference in her church and her community).

Jehnel enjoys working and making a difference in the lives of young people. She believes that it is important to bridge the gap between the youth and the older members of the church.

Jehnel's favorite scripture is "I can do all things through Christ who strengths me". (Philippians 4:13)

Jehnel believes that whatever God has for her is for her, so she does not worry about people and circumstances. Jehnel just continues to trust in God.

Mr. Speaker, Jehnel Denise Bannister is a young woman of faith who is committed to her church and her community. As such, I believe that she is more than worthy of receiving our recognition today. I urge my colleagues to join me in honoring this truly spiritual woman.

TRIBUTE TO KENNETH R. KNOX OF GRAND TRUCK WESTERN RAILROAD AND CANADIAN NATIONAL RAILWAYS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize Mr. Kenneth R. Knox upon his retirement from the rail industry after 36 years of service to the Grand Trunk Western Railroad and Canadian National Railways. It is truly an honor to thank Mr. Knox for 36 years of hard work and devotion to the railroad industry.

Beginning his career in the railroad industry as a Yard Helper with Grand Trunk Western Railroad in 1965, Mr. Knox immediately began rising up the ladder because of his well-founded knowledge and expertise. Ever misunderstood, the rail industry in the United States is one of the most important vehicles of U.S. commerce and is the remaining connection between our glorious industrial age past and the future of industry in America. Our railways are a symbol of American freedom and prosperity to the hard-working women and men that staff and service this important part of American society.

During his time in the railroad industry, Mr. Knox served also as Yardmaster, Assistant Trainmaster, Trainmaster, Terminal Manager, District Manager, Superintendent Agreement Administration, Manager of Labor Relations, up to his service as Manager of Operations for the Crew Management Center/Rail Traffic Control. Always dedicated to his job, Mr. Knox is well-liked and respected among all segments of the rail industry, especially by coworkers, upon his retirement he will be missed not only because his friendship with fellow workers, but also because of the knowledge and expertise he brings to work with him every day. His colleagues and I must truly respect the imprint he has left behind.

In addition to his dedication to the railroad industry, his dedication to family and friends and religion is second to none. I wish to thank Mr. Kenneth Knox for his 36 years of toil and sweat in the rail industry, and I ask that my colleagues join me in wishing Mr. Knox a happy and healthy retirement.

COMMENDING THE CONTRIBUTION OF WESTFIELD WORKS WONDERS

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 2001

Mr. MALONEY of Connecticut. Mr. Speaker, it is an honor to bring to the attention of the House of Representatives and the American people an event that will raise money for schools, hospitals and charities in Connecticut. The Westfield Works Wonders charity event took place on November 18, 2001 with the goal of raising $400,000.

This annual event has raised over $1.2 million since its inception four years ago. An event of this magnitude is possible through the cooperation of the four Westfield Shoppingtowns in Enfield, Meriden, Trumbull and Milford. These malls join forces for the event by extending their hours of operation and donating their workforce.

I would like to commend the thousands of workers, volunteers and hundreds of non-profit organizations who serve their community through this event. This event embodies the spirit of community that will see our Nation through this troubling time.

On behalf of the people of Connecticut's 5th District, I congratulate and thank all of the citizens who participate in the Westfield Works Wonders event for the wonderful contributions they have made to our community and country.

DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 2001

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in strong support of H.R. 3447, the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001. This important legislation makes changes to and additions of several important health benefits for our Nation's veterans.

I would like to thank the Chairman and Ranking Member of the Veterans' Affairs Committee, Mr. SMITH and Mr. EVANS, and the Chairman and Ranking Member of the Health Subcommittee Mr. MORAN and Mr. FILNER, and my colleagues on the Committee for their work on this bill.

Although there are several important health benefit enhancements in this bill, I would like to speak specifically about the provisions regarding VA nurse retention and recruitment, which are taken from a bill that Representatives SUE KELLY, CAROLYN MCCARTHY, MIKE DOYLE, and I introduced on October 3, 2001.

The legislation we introduced, H.R. 3017 the Department of Veterans Affairs Nurse Recruitment and Retention Enhancement Act of 2001, is companion legislation to S. 1188, which was introduced by Senator JAY ROCKEFELLER on July 17, 2001.

S. 1188, H.R. 3017, and now the provisions in H.R. 3347 seek to address the current nursing shortage in the VA health care system, and to ensure that the shortage is not exacerbated.

The provisions in H.R. 3347 modify existing scholarship and debt reduction programs for VA nurses, requires the VA to establish staffing standards at VA health care facilities, makes pay more consistent for various VA health professionals, and rectifies unequal retirement policies to improve retention of nurses in the VA health care system.

This legislation also requires the VA to report to the Committee on Veterans' Affairs regarding VA nursing issues, including the use of overtime by licensed nursing staff and nursing assistants in each facility in order to help determine what can be done to reduce the amount of mandatory overtime.

This legislation is a critical step in addressing the nursing shortage in the VA health care system. I urge my colleagues to support H.R. 3347 and support our VA nurses and health care system, as well as the men and women who have fought for our country and now receive care at these facilities.

TRIBUTE TO CENTRAL ELEMENTARY SCHOOL

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 2001

Mr. ROGERS of Kentucky. Mr. Speaker, today I want to recognize, and offer my congratulations to, Central Elementary School, located in Paintsville, Kentucky. Earlier this year, students from Central Elementary participated in the national We the People * * * Project Citizen competition in San Antonio, Texas and were awarded honorable mention for their project, Speed Limit Signs. I was very gratified to learn of this and want to take this time to congratulate the teachers and students of Central Elementary affiliated with this program.

They are: Paula Goss, Annette Rouse, Brooke Bergeron, Katie Borders, Kalylia Brachett, Chelsea Burchett, Kelsea Castle, Shaina Kestner, Matthew Oney, Zac Sergent, Brittany Skaggs, Jasmine Watson, Chelsea Webb, and David Zitzelberger.

Project Citizen is a valuable program and I support it. Administered by the Center for Civic Education and funded through the Department of Education, Project Citizen is designed to engage public school students and their teachers and parents in important public policy issues. During competitions, students select an issue, study its affect on local communities, and share their findings. Schools invited to participate at the national conference won their state competitions.

Mr. Speaker, civic education and participation in the democratic process is vital to the stability of our Nation, and we must encourage people of all age groups, especially young students, to assume a role in local, state, and federal affairs. We the People * * * Project Citizen fosters this, and I hope the more schools will decide to participate in this program. Again, I want to congratulate the students and teachers of Central Elementary.

They and all participants deserve our thanks and respect.

PERSONAL EXPLANATION

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 2001

Mr. EVERETT. Mr. Speaker, last Thursday, family illness necessitated my return to Alabama. Thus, I was unable to vote during rollcall No. 482 (On Agreeing to the Conference Report for the District of Columbia Appropriations for Fiscal Year 2001, HR 2944). Had I been present, I would have voted "no."

TRIBUTE TO THE MICHIGAN CHRONICLE 65TH ANNIVERSARY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize the *Michigan Chronicle*, which celebrated its 65th Anniversary on Friday, September 21, 2001. Truly a milestone occasion, 2001 marks 65 years of outstanding commitment to its readership and dedicated journalism.

Pioneered from the Detroit edition of the famous *Chicago Defender*, the *Michigan Chronicle* has come to signify excellence in African-American journalism in its 65 years of commitment to the African-American community in Michigan.

Printed for the first time in 1936, as part of the *Chicago Defender*, the paper gained immediate importance in the African-American community and became an institution in Detroit. Independently established from the *Chicago Defender* in 1937, the paper's first editor, Louis Martin, created the cornerstone of excellent journalism, with just under 1000 paid subscriptions that year. The paper, not seen by many as respectable journalism, was building interest in the community and became known as "the colored paper." Soon after, paid subscriptions grew to 15,000 in 1940; 25,000 in 1944, and to today's readership of 47,000. In 1984, Sam Logan was named Vice President and General Manager of the Michigan Chronicle. His ingenuity took the paper to new heights, moving the paper to the four color format and computer-based journalism.

Longworth Quinn became the General Manager in 1944, and eventually was promoted to publisher of the ever-growing *Michigan Chronicle*. He dedicated his life to the paper and the communities it represents and informs, training young journalists to follow in his footsteps. He served at the helm for 42 years until his passing. This year, the Longworth M. Quinn Community Service Award will be presented to an individual in the Detroit Metro area that embodies Mr. Quinn's commitment to community, diversity, and serving the public through volunteerism.

Dedicated to helping promising scholars, the *Michigan Chronicle* will also be a proud sponsor of the John H.H. Sengstacke Scholarship Award. This award will be given to an outstanding high school student in Wayne, Oakland, or Macomb County to help in the pursuit of a journalism degree.

Today the *Michigan Chronicle* is making new headway under publisher Alisa M. Giddens. I believe she has the vision to expand readership, help end racial prejudice, and provide true public service through journalism to the African-American communities in Michigan. I ask that all my colleagues join me in celebrating the *Michigan Chronicle's* 65 years of journalistic excellence.

PAYING TRIBUTE TO DIANA STOUT

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Ms. Diana Stout of Charleston, West Virginia for being elected the National President of the Ladies Auxiliary to the Veterans of Foreign Wars.

Since 1914, the Ladies Auxiliary VFW represents the families of those who have sacrificed for our country. The organization fosters our American heritage by conducting an annual patriotic ceremony and providing financial assistance for the preservation of this nation's most treasured symbol of freedom, the Statue of Liberty.

In her acceptance speech, Ms. Stout introduced her theme, Liberty and Justice for All, which is derived from her background in law and one of the Auxiliary's main objects, to maintain and extend the institutions of American freedom and equal rights and justice to all men and women.

During her 2001–02 term office, Ms. Stout will be advocating the programs of the Ladies Auxiliary, including the raising of $3 million for the Auxiliary Cancer Aid and Research program for the 14th consecutive year, assisting veterans and their families and volunteering in our communities.

As a charter Member of the Sperry-Davis Auxiliary to VFW Post 9151 of Salem, West Virginia she joined on the eligibility of her father, Thair Stout, who served in World War II. Stout was named Outstanding State President when she served in that capacity in 1986–87 and has served a total of seven terms as Auxiliary President and two terms as District President.

Stout was appointed to serve as State Secretary for three years and was elected to represent West Virginia and Virginia on the National Council of Administration. She was national chairman for the Southern Conference on the Publicity and Legislative programs and in 1988–89 she served as National Legislative Director.

After working as a secondary school mathematics teacher, she decided to attend West Virginia University College of Law and is currently employed as the General Counsel of the Treasurer's Office for the State of West Virginia. She belongs to the American Bar Association, the West Virginia Bar Association, the National Association of Bond Lawyers, and the Laudati Honor Society.

Therefore Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to Ms. Diana Stout for her election of National President of the Ladies Auxiliary to the Veterans of Foreign Wars.

IN HONOR OF DENISE PETERSON-PENDARVIS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Denise Peterson-Pendarvis in recognition of her long term commitment to her community.

Denise Peterson-Pendarvis attended New York City Public Schools, namely P.S. 287, P.S. 307; Junior High School 265 and Fort Hamilton High School. Later, Ms. Peterson-Pendarvis obtained a Bachelor's of Science Degree in Criminal Justice from John Jay College of Criminal Justice. In 1992, she received her Juris Doctor Degree from Seton Hall Law School in Newark, NJ.

Ms. Peterson-Pendarvis is currently a Government Relations Liaison at KeySpan Corporation. In this position she represents the corporation in its work with federal, state, and local governments. Prior to joining KeySpan, she worked for the New York City Board of Education as a Special Education Suspension Hearing Officer. She also worked as a Court Attorney for the late Civil Court Judge Ralph Sparks, Judge Kathym Smith and the Pro Se Attorney at Bronx County Landlord/Tenant Court. Ms. Peterson-Pendarvis also worked for many years as an assistant in my office.

In addition, to her full-time job, Ms. Peterson-Pendarvis is the President of the Board of Directors of Ryerson Towers where she has resided for the past twenty years. She is responsible for inter alia, overseeing operations and management of the $5 million corporation. She serves as Secretary on the Board of Directors of the Marcus Garvey Nursing Home; and recently joined the Board of Directors of the Lyndon Baines Johnson Health Complex. She is also a board member of the Clinton Hill Consortium of Homeowners Inc. a newly formed organization that advances the concerns of the cooperators of the Clinton Hill/Fort Greene area.

In 1978, Ms. Peterson-Pendarvis became interested in "politics" and its relationship to the community. Since that time, she has coordinated numerous successful campaigns for all levels of elective office. Denise has proven leadership, organizational, and advocacy skills. She is constantly assisting those who may be less fortunate. She remains aware of where she came from and appreciates those who supported and guided her along the way.

Mr. Speaker, Denise Peterson-Pendarvis is a tireless worker and community leader. As such, she is more than worthy of receiving our recognition today. I urge my colleagues to join me in honoring this truly remarkable woman.

RECOGNIZING THE CONTRIBUTION OF CONNECTICUT'S FIREFIGHTERS

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 2001

Mr. MALONEY of Connecticut. Mr. Speaker, it is an honor to bring to the attention of the House of Representatives and the American people the names of a few of the many firefighters that risked their lives to rescue victims during the attacks of September 11. I would like to take this opportunity to recognize the bravery of these individuals.

John P. Bolton served as a firefighter for the United States Military Academy for four years and is an eleven-year veteran of the Danbury Volunteer Fire Department, Engine 9. Firefighter Bolton spent four days doing search and rescue at the World Trade Center. He helped save two New York City firefighters who were trapped in the Towers. Firefighter Bolton suffered injuries as a result of his selfless actions.

Fritz Ludwig and Eric Masters are five-year veterans of the Southbury Volunteer Fire Department. Firefighter Ludwig and Firefighter Masters participated in search and rescue efforts in the following days after the attacks. They helped rescue two New York City firefighters that were trapped in the collapsed Towers.

The following members of the Danbury Volunteer Fire Department went beyond the call of duty during the terrorist attacks at the World Trade Center the week of September 11, 2001. They all performed search and rescue in a hostile and dangerous environment: Karl Leach is a seventeen-year veteran and member of Engine 10; Doug Evanuska is a ten-year veteran and member of Engine 10; Don Fredericks is an eight-year veteran and member of Engine 10; Jodie Gomez is a three-year veteran and member of Engine 10; Rob Natale is a three-year veteran and member of Engine 10; Scott Warner is a two-year veteran and member of Engine 10; David Hull is an eleven-year veteran and member of Engine 9; Mark Mederios is a four-year veteran and member of Engine 9; Jeffrey Matson is an eleven-year veteran and member of Engine 9; Christine Colla is an eight-year veteran and member of Engine 9, and Glen Lake is a four-year veteran and member of Engine 9.

On behalf of the people of Connecticut's 5th District, I wish to express my deepest thanks to these heroic individuals. The contributions they made to our community and country at the risk of their own peril cannot be measured.

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